

# The New York State Chief's Chronicle



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September 2015

A close-up photograph of a person's hands on a car's black steering wheel. The person is holding a black smartphone in their left hand, which is positioned as if they are using it. The car's dashboard and a portion of the interior are visible in the background. The overall image has a slightly blurred, dynamic feel.

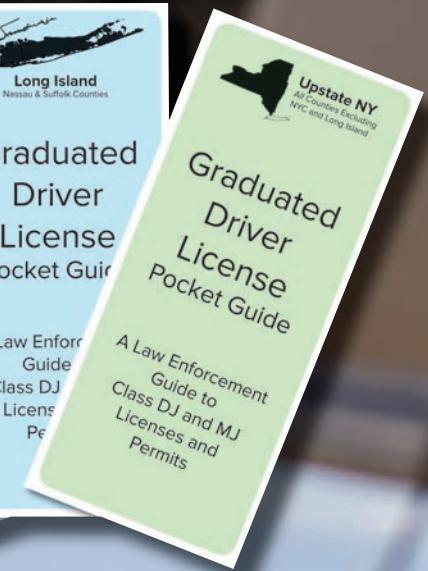
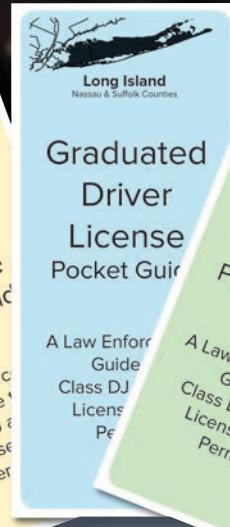
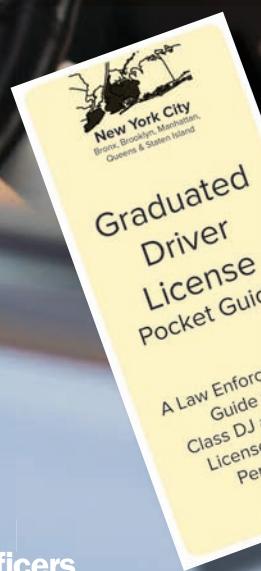
**New Graduated Driver Licensing Guides for Police**

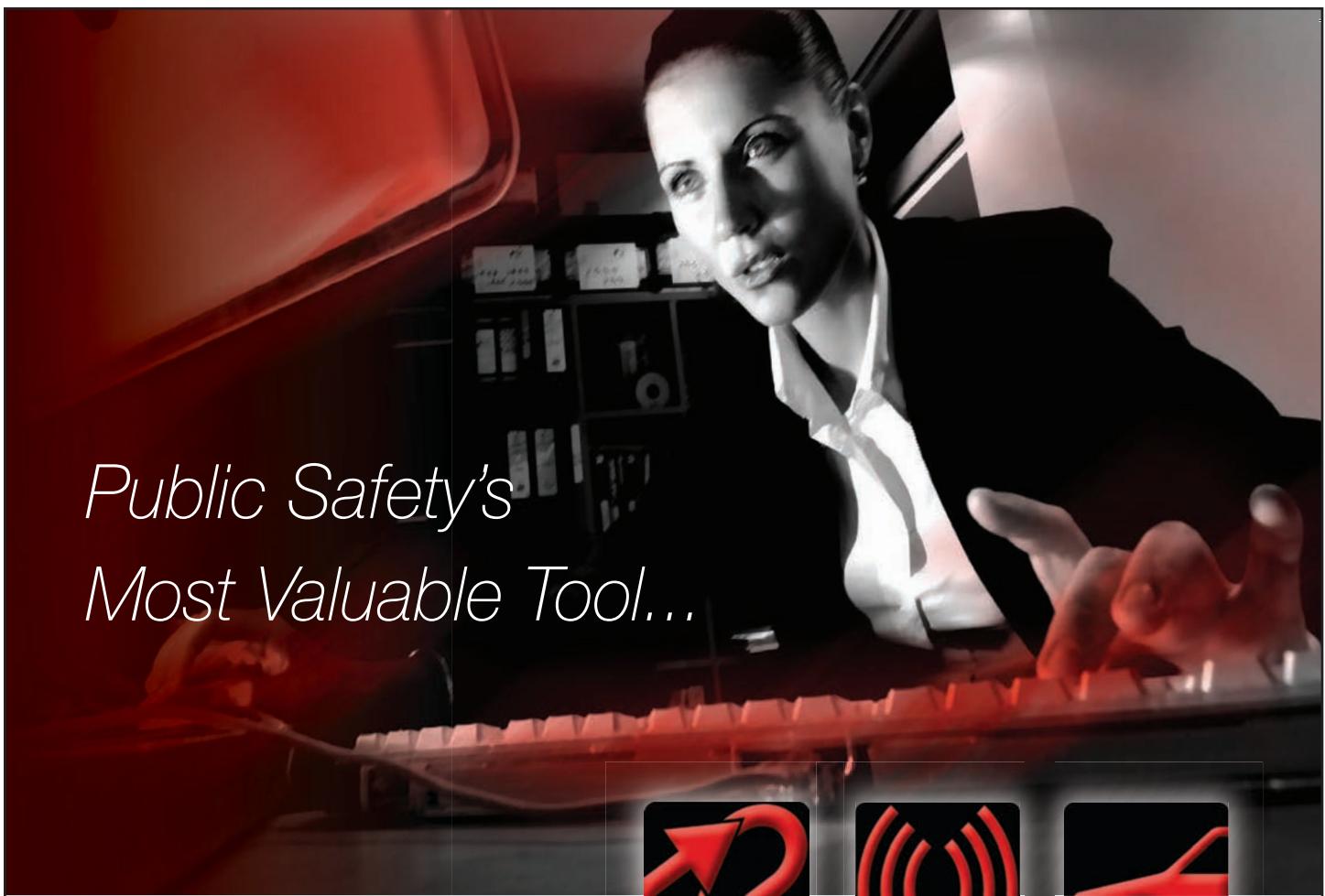
**Medal of Honor Recipients Lauded for Heroic Actions**

**Training Conference Highlights**

**Conner Inducted as New President**

**Board of Elections Opinion on Campaigns by Police Officers**





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# contents

VOLUME 3 • ISSUE 3 • FALL 2015



## In this issue

**3 PRESIDENT'S REPORT**  
*By Chief Stephen W. Conner*

**7 EXECUTIVE DIRECTOR'S REPORT**  
*By Margaret E. Ryan*

**9 COUNSEL'S CORNER**  
*By Chief Michael Ranalli, Esq.*

**11 NEW GRADUATED DRIVER LICENSING LAW POCKET GUIDE FOR LAW ENFORCEMENT**  
*By Stephanie McHugh*

**12 ASST. CHIEF STEPHEN CONNER INDUCTED AS NEW PRESIDENT**

**13 CONSTANTINE LEADERSHIP IN LAW ENFORCEMENT AWARD PRESENTED TO SCHENECTADY COP**

**14 MAYOR KATHY SHEEHAN APPOINTS BRENDAN J. COX AS ALBANY POLICE CHIEF**

**15 ANNUAL TRAINING CONFERENCE A SUCCESS**

**16 REMEMBERING THE WEBSTER TRAGEDY**  
*By Mark A. Spawn*

**18 POLICE CHIEF MEETS WITH RELIGIOUS LEADERS IN ISRAEL**

**21 DEPARTMENTS RECOGNIZED IN SEX OFFENDER MANAGEMENT PROGRAM**

**23 CONSIDERATIONS FOR BODY CAMERAS**

**26 A LOOK AT THE VIOLENT DEATH CRISIS**

**27 BOARD OF ELECTIONS RENDERS OPINION ON CAMPAIGNING ACTIVITIES**

**28 NCMEC'S READINESS PROJECT PREPARES LAW ENFORCEMENT FOR A CRITICALLY MISSING CHILD INCIDENT**  
*Submitted by: NCMEC*

**29 FIGHT CRIME: INVEST IN KIDS UPDATE**  
*By Jenn O'Connor, State Director*

**31 NEW YORK STATE PARTNERS WITH PROJECT LIFESAVER INTERNATIONAL**

**32 A LOOK BACK**

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A publication of the  
New York State Association of Chiefs of Police, Inc.  
2697 Hamburg Street, Schenectady, NY 12303  
Office: 518-355-3371  
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Do you have an interesting law enforcement story or research paper, photographs of member activities or field scenes? Call the Editor: Mark A. Spawn at 323-474-6651 or [editor@nychiefs.org](mailto:editor@nychiefs.org)

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# On the Cover:

With motor vehicle crashes being the primary cause of death for 16 and 17 year olds, enforcement of licensing laws is imperative to protect our youth. The law and rules governing new drivers has changed in recent years. That, along with regional restrictions have made this a complicated arena. New pocket guides developed by the State will help law enforcement to better understand and enforce graduated licensing laws.

Also inside, highlights from our annual training conference, including two recipients of the Association's Medal of Honor, and two agencies certified in our Sex Offender Management program. Learn about a recent Board of Elections opinion affecting the rights of police officers in certain political campaigns, and restrictions under the Election Law.



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# President's Report

## How Does NYSACOP Conduct Business?

BY CHIEF STEPHEN W. CONNER, PRESIDENT



## PRESIDENT'S REPORT

Fellow NYSACOP members, I would once again like to state that it is an honor to be entrusted with the duties and responsibilities of the President's office for our great Association. During the past year I accompanied Executive Director Margaret Ryan and Immediate Past President, Mike Ranalli to some of the Zone meetings. At those meetings I took only a few minutes of time to explain the inner workings of our Association from a perspective of what our Board of Governors do for you, the membership. On those occasions I was approached by members stating that, although they had some idea of what we do, the explanation of our roles was informative. I would like to expand on that topic in this article.

Our Board of Officers consist of the President, First, Second and Third Vice Presidents, the Immediate Past President and of course the Executive Director. We have a Board of Governors which represents ten separate zones and I recommend you refer to the NYSACOP website under the "Board of Governors" tab to locate where exactly your respective agency falls. Each Board member, Zone representative, and their contact information is listed. Aside from Zone representatives our Association is also represented by a Deputy Director, Director of Research and Development, Liaison to Governor's Traffic Safety Committee, Retired Members Representative, Liaison to the United States Attorney's Office, and lastly, the newly added Liaison to the New York Police Department. All of the Board of Officers and Board of Governors including the Retired Members Representative are voting members. Our only salaried employees are the Executive Director, Deputy Director, and our secretary. Our members that represent the Governors Traffic Safety Council and Research and Development are compensated through grant funding.

The Board of Governors participate in various committees that are set forth in the By-Laws on an annual basis. The committees consist of Elections, Ethics, Expo, Financial Advisory, Law and Legislative, Nominating, Program, and lastly, the Resolutions Committee. There are no scheduled meetings for these committees but we either meet in person or communicate by conference calls to discuss issues of concern that arise. Furthermore, we have Board members who participate in the Accreditation Council, the Justice Task Force, Municipal Police Training Council, and MAGLOCLEN. So you can see there is a lot going on.

The Board meets as a whole four times a year in Schenectady and a separate meeting is conducted at the annual training conference. Without getting into specifics, we follow a strict agenda that places all Board of Officers and Board members in a positions to discuss new and old business that impacts law enforcement. What I would like to speak to at this time is just how our Board representatives obtain the issues or information for these meetings. Fellow Association members - that information comes from you!

As I related in my remarks at the annual conference, the first time I met our former Executive Director, John Grebert, he explained to me that our Association is only as good as the "active" participation that the membership provides. I know that our Board of Governors either chair or participate in meetings with your respective Zones and that is the forum where topics need to be discussed for statewide awareness. I encourage you to make your Zone representative aware of areas of concern that the complete Board needs to hear. Last year there was an agency in the northern part of the state that had an issue with the Commission of Corrections concerning lockups and the monitoring of female prisoners. This led to a meeting of the NYSACOP Board of Officers with the executives of the Commission of Corrections and although nothing has changed, the response from our Association was necessary. We are constantly monitoring and discussing effects of the repeal of §207-M of the General Municipal Law in an effort to show elected officials how our salary and compensation protections have been removed while at the same time politicizing the Chief's position. Other areas such as potential consolidation plans, upcoming retirements and uniformity are topics that make up just some of the meeting agenda.

I have been on the Board long enough to see the change in the tone of our meetings. There were times when the flow of the meeting seemed cordial because, at the end of the day, we are friends. That has changed to one of vocal disagreements, recommendations and advice, but nevertheless productive. In other words, I see the Zone reps doing their jobs in making your local issues known to all. This is what we as a Board are elected to do. Standing pat in the current environment with all of the other challenges we are facing on a daily basis is just unacceptable. As an Association we will continue to strive in being part of the process and not simply accepting of the results. Recently, on two occasions, the entire Board was speaking with the Deputy Director of Public Safety and the Commissioner of DCJS requesting a rather quick response on the independent monitor issue. The conversation was lively and all voices from our Association were heard in unison on our opinion that the District Attorneys of our counties are quite capable to investigate instances of unarmed civilian encounters resulting in deaths with police. There already existed a way for the governor to invoke a review of this process. We stood by our collective decision.

So this is a "Readers Digest" version of how are Board operates. The relevant point from this article is that we do not make decisions inside a bubble. Your voice resides within your Board of Governors zone representative. We speak as one voice with full participation. I encourage you to follow our Chiefly Speaking editions because the Executive Director and myself are inclined to use our meeting topics for those articles.

— Stay safe!



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# Executive Director's Report



## EXECUTIVE DIRECTOR'S REPORT

BY MARGARET E. RYAN

**A**s I sit in Saratoga Springs during our 2015 Annual Training Conference and prepare not only for this article but for the rest of 2015, I can't help but be excited and proud to be a part of law enforcement in New York State. We have such a diversity of agencies across the state with nearly 560 law enforcement agencies statewide. From the largest city with approximately 35,000 uniformed members, the state police with nearly 5,000 sworn members, to more than 60 agencies with less than 5 sworn members each. Yet, we have a common goal, that no matter what size the law enforcement agency, we take an oath to provide public service "to the best of my ability". I wonder what event will be the next major story in the news or on my twitter feed (@NYSACOP). But I also wonder how we can continue to stand strong as law enforcement executives from across the state, especially with some of those major news stories happening all too close to home.

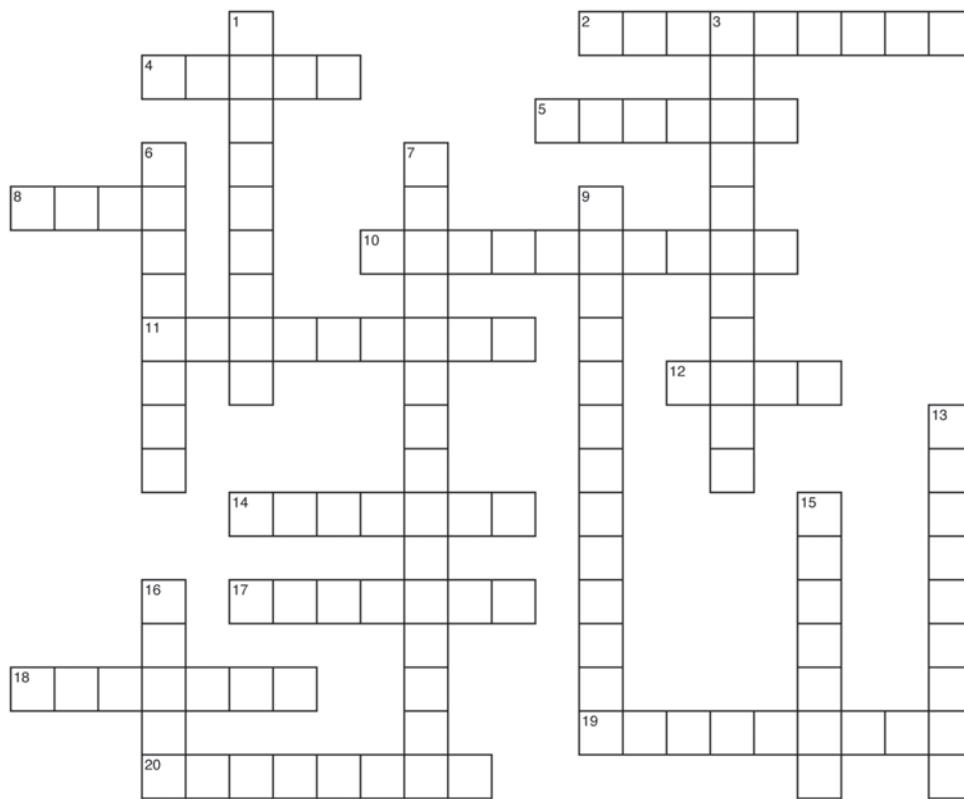
As training conference speaker and Lexipol co-founder Gordon Graham reminds us, "Every day is a training day", so we can get

better and better and better at what we do. The 2015 NYSACOP training conference theme, "A Distinguished History – A Progressive Future", illustrates collaboration, cooperation and partnerships necessary for our longevity as an association, as well as necessary for law enforcement today. Whether you are a Police Chief, Commissioner, Superintendent, Commanding Officer, Sergeant, Lieutenant, Captain or some rank in between, our NYSACOP membership collaborates, cooperates and partners every day. Community policing happens in our local communities and across the state every day. Policy making happens in our own departments, in our own municipalities and on a statewide venue every day. As I reflect on this and look ahead at the remainder of 2015 and to 2016 and beyond, I want to engage our members, our communities and our leaders by fostering an understanding of collaboration, cooperation and partnerships on the remarkable work we do as a law enforcement community in New York State.

As training conference speaker and Lexipol co-founder Gordon Graham reminds us,

*“Every day is a training day”*

# Digital Evidence



Source: National Institute of Justice - Special Report: April 2008; Electronic Crime Scene Investigation; A Guide for First Responders, 2nd Ed.

## ACROSS

- 2 - Digital evidence must be handled carefully to preserve the \_\_\_\_\_ of the physical device as well as the data it contains.
- 4 - Thumb drives are small, lightweight, removable data storage devices with USB connections. These devices, also referred to as \_\_\_\_\_ drives, are easy to conceal and transport. They can be found as part of, or disguised as, a wristwatch, a pocket-size multitool such as a Swiss Army knife, a keychain fob, or any number of common and unique devices.
- 5 - Hard \_\_\_\_\_ are data storage devices that consist of an external circuit board; external data and power connections; and internal magnetically charged glass, ceramic, or metal platters that store data.
- 8 - Memory cards are small \_\_\_\_\_ storage devices commonly used with digital cameras, computers, mobile phones, digital music players, personal digital assistants (PDAs), video game consoles, and handheld and other electronic devices.
- 10 - In addition to the legal ramifications of improperly accessing data that is stored on a computer, first \_\_\_\_\_ must understand that computer data and other digital evidence are fragile.
- 11 - Peripheral devices are equipment that can be \_\_\_\_\_ to a computer or computer system to enhance user access and expand the computer's functions.
- 12 - The first responder must have proper authority, such as plain \_\_\_\_\_ observation, consent, or a court order, to search for and collect evidence at

an electronic crime scene.

- 14 - Potentially valuable digital evidence including dates, times, and system configuration settings may be lost due to prolonged \_\_\_\_\_ if the batteries or power source that preserve this information fails. Where applicable, inform the evidence custodian and the forensic examiner that electronic devices are battery powered and require prompt attention to preserve the data stored in them.
- 17 - Only properly \_\_\_\_\_ personnel should attempt to examine and analyze digital evidence.
- 18 - Removable media are cartridges and disk-based data storage \_\_\_\_\_. They are typically used to store, archive, transfer, and transport data and other information. These devices help users share data, information, applications, and utilities among different computers and other devices.
- 19 - Business environments frequently have complicated configurations of multiple computers \_\_\_\_\_ to each other, to a common server, to network devices, or a combination of these. Securing a scene and collecting digital evidence in these environments may pose challenges to the first responder. Improperly shutting down a system may result in lost data, lost evidence, and potential civil liability.
- 20 - Digital \_\_\_\_\_ is information and data of value to an investigation that is stored on, received, or transmitted by an electronic device.

**DOWN**

- 1 - Some digital evidence requires special collection, \_\_\_\_\_ and transportation techniques.
- 3 - Digital evidence, and the computers and electronic devices on which it is stored, is fragile and sensitive to extreme temperatures, humidity, physical shock, static \_\_\_\_\_, and magnetic fields.
- 6 - External hard drives increase the computer's data storage \_\_\_\_\_ and provide the user with portable data. Generally, external hard drives require a power supply and a universal serial bus (USB), FireWire, Ethernet, or wireless connection to a computer system.
- 7 - Data can be damaged or altered by \_\_\_\_\_ fields such as those generated by static electricity, magnets, radio transmitters, and other devices.
- 9 - A computer system and its components can be valuable evidence in an \_\_\_\_\_.
- 13 - Be alert to the crime scene environment. Look out for pieces of paper with possible \_\_\_\_\_, handwritten notes, blank pads of paper with impressions from prior writings, hardware and software manuals, calendars, literature, and text or graphic material printed from the computer that may reveal information relevant to the investigation.
- 15 - A computer \_\_\_\_\_ consists of two or more computers linked by data cables or by wireless connections that share or are capable of sharing resources and data.
- 16 - The first responder must be able to identify the authority under which he or she may \_\_\_\_\_ evidence and should follow agency guidelines, consult a superior, or contact a prosecutor if a question of appropriate authority arises.

**WORD BANK:** Capacity, connected, data, devices, drives, electricity, electromagnetic, evidence, flash, integrity, investigation, network, networked, packaging, passwords, responders, seize, storage, trained, view.

**Solution on page 30**

# Counsel's Corner



## *Different Rules When Dealing With the Mentally Ill?*



BY CHIEF MICHAEL D. RANALLI, ESQ.

**A**n May 18, 2015, the Supreme Court of the United States decided the case of City and County of San Francisco v. Sheehan.<sup>1</sup> This case had the potential to be an important one for law enforcement and how we would respond to mentally ill persons in crisis. The case was intended to present two critical issues to the Supreme Court. The first was whether Title II of the Americans with Disabilities Act of 1990 (ADA)<sup>2</sup> requires “officers to provide accommodations to an armed, violent, and mentally ill suspect in the course of bringing the suspect into custody”.<sup>3</sup> Only a public entity is required to comply with the ADA and the officers would not be individually liable under this theory. The second question was whether officers were required by the Fourth Amendment to accommodate her disability, which the officers could be individually liable for. Neither issue was fully decided by the court. For reasons to be explained below, the Supreme Court dismissed the first issue as improvidently granted. As to the second issue, the Court merely decided that requiring such accommodation was not clearly established law and granted summary judgment to the officers and the City. The Court declined to decide the underlying question as to whether providing an accommodation to mentally ill persons should be established law. This will now leave both issues to continue to be litigated among the Federal Circuit Courts.

### THE INCIDENT:

Teresa Sheehan suffers from a schizoaffective disorder. At the time of the incident in 2008, she lived in a group home for people dealing with mental illness. On the day in question, a social worker attempted to visit Sheehan because she was not taking her medicine and showing other signs of deterioration. Upon receiving no answer to his knock, the social worker opened the door with a key, finding Sheehan laying on her bed. Sheehan then screamed at the social worker, telling him to leave, that she had a knife, and would kill him if she had to. The social worker left and slammed the door shut behind him. He then began clearing the building of other people and completed an application for an evaluation and treatment order. The social worker indicated on the application that Sheehan was a danger to others but did not indicate whether she was a danger to herself.

Two officers arrived and went to her room, opening the door with a key. Sheehan reacted violently, approaching the officers with a 5 inch blade kitchen knife and screaming she would kill them and to get out. The officers immediately retreated into the hallway and called for backup, leaving Sheehan in her room with the door

closed. Up to this point the officers did not have their weapons drawn. Concerned that Sheehan might gather more weapons and/or that she may flee out a window, the officers decided they could not wait. The plan was for one officer to push the door open and the other to spray Sheehan with pepper spray. Both officers had their weapons out. The door was opened and Sheehan once again began yelling at them. The officer applied the pepper spray, but Sheehan would not drop the knife and kept coming at them. One officer shot her twice but she still did not drop the knife, causing the other officer to fire as well. Sheehan then finally fell and was disarmed. She survived the shooting and subsequently brought this suit.<sup>4</sup>

*...Sheehan would not drop the knife and she kept coming at them. One officer shot her twice but she still did not drop the knife, causing the other officer to fire as well. Sheehan then finally fell and was disarmed.*

### COURT RULINGS:

The District Court granted summary judgment to the City and the officers, holding the officers did not need to first determine whether their actions would comply with the ADA before taking action to protect themselves or others. The court also found the officers did not violate the Fourth Amendment due to their concerns she may escape, hurt herself, or whether there may have been someone else in the room she could hurt.

The Ninth Circuit vacated the District Court ruling in part, finding the ADA's accommodation requirement should apply to anything a public entity does. While the Ninth Circuit did agree that exigent circumstances could be applied to the reasonableness of officers' actions under the ADA, they concluded a jury should have decided whether the officers should have accommodated her by using what

would be considered de-escalation techniques. The court appeared to rely on the opinion rendered by a police expert which indicated the officers did not follow their training by not using techniques designed to minimize risk when dealing with the mentally ill. The Ninth Circuit also held that a jury could determine that the officers needlessly provoked Sheehan by entering the room a second time with ““no objective need for immediate entry.””<sup>5</sup> The court went further to hold it was clearly established law that an officer cannot enter the residence of an irrational, armed, mentally ill person without an objective reason to do so.<sup>6</sup>

When the Supreme Court agreed to hear this case, San Francisco had argued in its petition that Title II of the ADA did not apply to officers responses to incidents such as this, regardless of whether they involve subjects who are mentally ill. Based on this, the Court granted certiorari. San Francisco, however, subsequently accepted that the ADA does apply to arrests. Their argument then became that if a person is not a “qualified individual”, a public entity is not required to provide services for a person who poses a “direct threat” to the safety of others. The City further argued Sheehan posed such a threat and no accommodation was necessary. Since all the parties actually argued or accepted that the ADA would apply to arrests, no contrary view was argued. But this issue was what the court did want argued and was why the court agreed to hear the case in the first place. The Supreme Court, therefore, dismissed the ADA question as improvidently granted.<sup>7</sup>

As to the second issue under the Fourth Amendment, the Supreme Court ruled the officers were entitled to qualified immunity, disagreeing with the Ninth Circuit that failure to accommodate Sheehan’s mental illness and entering her room violated clearly established Fourth Amendment law. In addition, both entries into the room were part of a continuous and ongoing situation, and the ultimate use of force was objectively reasonable due to the need to protect themselves. The Court further explained that failure of an officer to follow training, especially generalized training, is not enough to defeat qualified immunity. The mere production of an expert report criticizing the officers’ actions is also not sufficient.

### ANALYSIS:

The issue of whether the ADA requires yet another level of scrutiny, and how officers must respond to this, is complicated. The issues pertaining to the ADA have been litigated since the 1990’s, and a review of those cases is beyond the scope of this article. Suffice it to say, the exact questions raised in this case have not been clearly answered. Specifically, our own 2<sup>nd</sup> Circuit Court of Appeals<sup>8</sup> has not directly addressed the issue. To further complicate the matter, officers may also be subject to a common law negligence claim for their tactics leading up to the use of deadly physical force.

When it comes to use of force cases under the Fourth Amendment, the Supreme Court consistently applies the objective reasonableness standard.<sup>9</sup> Law enforcement is granted considerable leeway in such cases due to the fact we must deal with rapidly unfolding situations and make “split second” decisions. Further, courts are not allowed to use the benefit of hindsight in an objective reasonableness analysis under the Fourth Amendment. The realistic result of this, however, can be the officers being exonerated while the public considers the result questionable, or illegitimate. Legitimacy is a broad and multifaceted term and I have discussed it in prior Chief’s Chronicle articles<sup>10</sup>. The concept has been embraced in the Final Report of the President’s Task Force on 21<sup>st</sup> Century Policing and is one to which all police administrators should be paying attention. In addition, the concept of “de-escalation” of incidents received considerable attention in

the final report of the Task Force. Simply put, because the courts may find our actions to be legal, we are not excused from looking at the underlying process followed by the officers in determining if we could have done things better.

The Sheehan case, as with many other use of force cases decided by the Supreme Court, set forth the law. What such cases do not do is set forth the elements of legitimacy. While case law will solely focus on the facts of the case and apply the law to those facts, we in law enforcement have to look beyond that limited analysis. To truly learn to improve our operations, we must not limit ourselves to just look at what happened in the case. We must also look at what could have happened. To achieve legitimacy, as that word is used in this context, it is my opinion we need to focus on three essential components of our proposed actions. When there is discretionary time in which a plan can be formulated, we should have:

1. A sound legal foundation (as legal as possible<sup>11</sup>)
2. A sound safety foundation with established priority of life
3. Proposed actions which have a legitimate purpose (law enforcement and public safety purpose)

The facts of Sheehan exemplify a commonly repeated situation to which law enforcement officers must respond. A mentally ill person is in crisis and the police are called and asked to assist. Unfortunately, some of these incidents result in the officers using force or deadly physical force against the person in crisis. In

*When there is discretionary time in which a plan can be formulated, we should have:*

- 1. A sound legal foundation*
- 2. A sound safety foundation with established priority of life*
- 3. Proposed actions which have a legitimate purpose*

many of those situations the officers are legally exonerated, but the families are left to comprehend the fact the police that were called in to assist end up taking the person’s life. There are times where this simply cannot be helped due to the circumstances. The variations of the facts of these cases can differ dramatically, but the ones most easily analyzed are those where a person in crisis is contained within a room or residence.

In such cases, there must be an analysis of possible plans of action under the three elements set forth above. In addition, the supervisor involved should listen to input from other officers, especially if an officer with Crisis Intervention Training is available. First, would you be legally justified to enter? The reality is that in many of these cases, with a person in immediate crisis, the answer would likely be yes due to the emergency doctrine and/or exigent circumstances. This could be true regardless of whether the person

is perceived as a threat to themselves and/or others.

If legality is established, things can now quickly fall apart. If it appears the person is alone in the premises with access to weapons, would proper priority of life dictate immediate officer entry? In the Sheehan case, the officers ended up shooting her. This result, however, should be ignored to properly analyze the response and learn from it for future similar incidents. What occurred was a tragic event and I do not mean to downplay that result. What the officers did, however, was to place themselves below Sheehan in the priority of life. If Sheehan was positioned closer to the door when it was opened it would be entirely possible for her to have attacked one of the officers with the knife before the officers could effectively respond. This is what could have happened and Sheehan would probably have ended up shot anyway. It is my experience that proper priority of life is not emphasized enough in officer training and decision making. Clearly, if there is reason to believe a third person could be at risk within, then the officers do fall below the innocent person at risk in the priority of life analysis.<sup>12</sup> , When this is not the case, however, officers may inadvertently put themselves at needless risk by reacting too quickly.

Once a proper legal foundation and proper priority of life are established, the question now becomes not necessarily what can we do, but what should we do? Take into consideration the inconsistency in what can frequently happen: we rush entry to attempt to help the person in crisis and then end up injuring or killing them, typically within the confines of the law pertaining to the use of force. The result does not match the intent, with the public viewing the police action as illegitimate. This is not to say this can be avoided in all cases. Anyone who has worked in law enforcement knows this is clearly not true. But if officers take full advantage of discretionary time, slow things down, contain the person as well as possible, and work through all of the possible options, legitimacy can be obtained – even if a tragedy still results. What is common in the situations I am focusing on is that the officers reacted immediately. The benefit of time can truly be a gift to officers in such situations and we must train them to use it.

**CONCLUSION:**

Situations involving persons with mental illness who are in crisis

are common and occur in many different factual variations. This area is currently one of the most scrutinized in the law and in the public right now and this will not change. While the Supreme Court did not answer the specific questions initially presented in the Sheehan case, this does not mean that we should ignore it and conduct business as usual. The concept of legitimacy should dictate that police administrators should still use the issues presented for their own internal review of practices and procedures. Learning to more effectively utilize discretionary time can provide officers with a more solid legal foundation, proper priority of life, and purposeful actions that are both legal and legitimate.

<sup>1</sup>135 S.Ct. 1765 (2015)

<sup>2</sup>42 U.S.C. §12132

<sup>3</sup>City and County of San Francisco v. Sheehan, 135 S.Ct. at 1772.

<sup>4</sup>Id. at 1769 - 1771

<sup>5</sup>Id. at 1772, quoting the Ninth Circuit opinion.

<sup>6</sup>If an officer(s) violates a constitutional right of a person, and that constitutional right is clearly established, then a motion for summary judgment would be denied and the officer(s) would not be entitled to qualified immunity.

<sup>7</sup>Another related issue was not briefed and argued, and that was whether a public entity could be vicariously liable for actions taken by police officers who are deliberately indifferent under the ADA. The Supreme Court has never previously addressed this issue either and chose not to in the absence of “adversarial briefing”.

<sup>8</sup>See Anthony v. City of New York, 339 F.3d 129 (2<sup>nd</sup> Cir. 2003) and Nicholas v. City of Binghamton, 2012 WL 3261409 (N.D.N.Y. 2012) (not reported in F.Supp. 2d))

<sup>9</sup>Graham v. Connor, 490 U.S. 386 (1989)

<sup>10</sup>June 2015 Chiefs Chronicle President's Message

<sup>11</sup>See my Counsel's Corner article in the June 2015 article for an understanding of the concept “as legal as possible.”

<sup>12</sup>This is further complicated by the officer's contention that they did not know if someone else was in the room with Sheehan. Considering that by the time of the second entry by the officers, both the social worker and the officers had viewed the room, the officers could have reasonably discounted this possibility.

# Resource for Background Investigations

## To: New York State Police Chiefs

**BY DEP. COMM. MICHAEL WOOD, NYS DIVISION OF CRIMINAL JUSTICE SERVICES**

I would like to make sure you are all aware of a resource that is available to your agencies during the hiring process, specifically background investigations.

The National Decertification Index (NDI) is a national registry of law enforcement certificate or license revocation actions relating to officer misconduct. Hosted on a secure website by the International Association of the Directors of Law Enforcement Standards and Training (IADLEST), records contained in the NDI are provided by participating state government agencies responsible for licensing or revoking law enforcement certificates.

The NDI currently contains over 19,000 actions reported by 38 states. It is important to note that inclusion in the database does

not necessarily preclude any individual from appointment as an officer, just that there is an incident on his/her record that should be investigated in more detail.

While New York State does not contribute to the NDI due to current law, the index is accessible to law enforcement agencies in New York and may be of assistance to you in the event your agency may be evaluating a potential police candidate from another state. Access is free of charge and IADLEST membership is not required.

Additional information on the NDI, including how your agency can gain access, may be found by logging onto <https://www.iadlest.org/> and clicking on the link to the decertification database.



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# New Graduated Driver Licensing Law Pocket Guide for Law Enforcement

STEPHANIE MCHUGH, NEW YORK STATE DEPARTMENT OF HEALTH, BUREAU OF OCCUPATIONAL HEALTH & INJURY PREVENTION

**M**otor vehicle crashes are the number one cause of death for 16 and 17 year-olds. As a police officer, how often have you been at the scene of a fatal crash involving a teenager or young driver? These are not “accidents.” They happen too often because of the deadly combination of inexperience and poor decision-making.

One tool at your disposal to help prevent these tragedies is enforcement of the Graduated Driver’s Licensing Law – GDL. The New York State (NYS) GDL is designed to provide time for young people to gain critical experience in various traffic scenarios in a safe and somewhat controlled manner. Each provision of the GDL presents proven strategies to reduce injury and death among young drivers, their passengers, and others on the road.

While the GDL law is effective at lowering teen crash risk, it is a sometimes confusing system of driving restrictions that differ depending on where in NYS the teen is driving, stage of licensure, and time of day. Parents, young drivers, law enforcement officers, and injury prevention practitioners find the law difficult to understand, which results in a lack of enforcement and compliance. To achieve the maximum benefit from GDL, ensuring compliance with protective restrictions must occur.

Representatives from NYS Department of Health, NYS Governor’s Traffic Safety Committee, NYS Department of Motor Vehicles (DMV), New York State Police, and NYS Association of Chiefs of Police formed the Young Driver Team to support initiatives to reduce teen driving-related crashes, fatalities and injuries on NYS roadways. The Team reviewed NYS DMV ticketing data for 16- and 17-year-old drivers statewide and found that the number of tickets issued to this age group is declining and that tickets are being issued incorrectly for “unlicensed operation” instead of “operating/violation of restrictions” - VTL § 509 (3). This could be due to a variety of factors, including difficulty in identifying the age of a driver subject to the GDL and lack of awareness or understanding of the GDL law provisions.

To address these barriers to enforcement, the Team is developing a pocket guide for law enforcement officers about the restricted activities and violations for Class DJ and MJ permits and licenses. Three versions of the guides are being developed - one for each GDL region of the state – Long Island, New York City, and Upstate (all counties excluding the five Boroughs and Long Island). Law enforcement officers provided feedback on the guides’ design and content at the 2015 Empire State Law Enforcement Traffic Safety Conference. Printed copies the guides will be available from the NYS Department of Health



## NEW YORK STATE VEHICLE AND TRAFFIC LAW

**§509(3) Whenever a permit or license is required to operate a motor vehicle, no person shall operate any motor vehicle in violation of any restriction contained on, or applicable to, the permit or license.**

in late summer. Electronic copies will also be available on the NYS Department of Health’s website and other partner websites. Similar cards will be developed for parents of teen drivers and will also be available from the NYS Department of Health.

While discretion is the hallmark of policing, issuing a warning to a young driver instead of a traffic infraction circumvents the GDL safeguards and reduces the intent and safety benefit of this statute. The Young Driver Team encourages law enforcement officers to use the pocket guide, once available, to enforce the GDL law.

For questions or to request copies of the pocket guides, please contact Stephanie McHugh with the New York State Department of Health, at 518-402-7900 or [Stephanie.McHugh@health.ny.gov](mailto:Stephanie.McHugh@health.ny.gov) or Dominick Macherone, GTSC Law Enforcement Liaison from the NYS Association of Chiefs of Police, at 518-474-5111 or [Dominick.Macherone@dmv.ny.gov](mailto:Dominick.Macherone@dmv.ny.gov).

# Asst. Chief Stephen Conner Inducted as New President

SARATOGA SPRINGS, NEW YORK

Police leaders from across New York State gathered on July 15 for installation ceremonies at the 115th annual conference of the New York State Association of Chiefs of Police (NYSACOP). President Michael Ranalli (Chief, Glenville PD),



*Incoming President Stephen Conner is congratulated by MTA Chief Michael Coan during the installation banquet of the Association in Saratoga Springs, NY.*

*(Photo: Andrew Ranalli)*

emceed formal banquet which featured welcoming addresses by New York State Police Superintendent Joseph D'Amico and NYSACOP Executive Director Margaret Ryan.

At the banquet, Exec. Dir. Ryan presented Pres. Ranalli with a ceremonial gift from the Association to commemorate the

completion of his term of office. Several zone representatives were sworn in. The oath of office was given to incoming President, Assistant Chief Stephen Conner of the Metropolitan Transit Authority PD (MTA PD) by Chief Mark Coan (MTA PD). The keynote address was delivered by U.S. Attorney Preet Bharara who also administered the oath of office to several Board members whose terms began or were renewed.

Pres. Stephen Conner has a distinguished career with the MTA PD where he has served for 30 years. He spent 12 years as a supervisor in the MTA PD Detective Division of which the last five he was the commanding officer. From 2007 through 2014 he commanded the uniformed patrol forces covering the New York City metropolitan area and the lower Hudson Valley for the Metro North Commuter Rail System. Currently he holds the position of Chief of Administration. He joined the NYSACOP Board of Governors in 2007 and held the position of Zone 3 representative. He has a Bachelor's degree in Criminal Justice from Aspen University, is also a graduate of Session 229 of the FBI National Academy and is a member of the International Association of Chiefs of Police, Westchester County Chief's Association and one of the founding members of the Stephen P. Driscoll Fraternal Order of Police Lodge 704. Steve and his wife Laura of 27 years have two grown daughters who have successful professional careers.

Opening ceremonies were held on Monday, July 13 and included addresses by New York State Deputy Secretary for Public Safety Terence O'Leary, New York State Division of Criminal Justice Services Executive Deputy Commissioner Michael Green and others. Featured keynote speakers were NYPD Commission William Bratton and NYPD Deputy Commissioner for Intelligence John Miller.

Police executives have attended the NYSACOP conference for high caliber training on the latest issues in contemporary policing. This year's conference includes topics include counterterrorism, facial recognition technologies, legal issues, use of force investigations, command transitions, officer safety, and other professional development topics.



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# Constantine Leadership in Law Enforcement Award Presented to Schenectady Cop

## *Sgt. Ryan Macherone also Recipient of Human Rights Award*

**S**chenectady Police Sgt. Ryan Macherone is the recipient of two prestigious awards. He received the first ever Thomas A. Constantine Leadership in Law Enforcement Award as well as the Justice Award from the Schenectady County Human Rights Commission.

To qualify for the Thomas A. Constantine Leadership in Law Enforcement Award, an officer "...must demonstrate the highest standards as exemplified by the career of Thomas A. Constantine, Superintendent New York State Police, U.S. Drug Enforcement Agency Administrator, Oversight Commissioner Northern Ireland Policing, and a Policy and Public Affairs Professor. This Officer

must demonstrate integrity, professionalism, leadership, honesty, dedication, and operate within the bounds of the strictest constitutional, legal, and ethical standards."

Former Superintendent Thomas A. Constantine died on May 3, 2015 following a brief illness. According to the New York State Police press release at the time of his death, Constantine joined the State Police in 1962 rising through the ranks to eventually serve as Troop Commander, Staff Inspector, Lieutenant

Colonel, and Colonel. Constantine was nominated by Gov. Mario Cuomo in 1986 to become Superintendent of the State Police. He retired in 1994, and was appointed Administrator of the U.S. Drug Enforcement Administration by President Bill Clinton, a position he held until his retirement in 1999. Constantine also served as Oversight Commissioner for a major reform of provincial policing in Northern Ireland, and as a professor at University of Albany's Rockefeller College of Public Affairs and Policy.

Chief Brian Kilcullen addressed those in attendance at a ceremony hosted by Schenectady Police, and specifically the Constantine family, saying, "The Department is grateful to the Constantine family for recognizing our efforts to hold ourselves to standards exemplified by your father, husband, and grandfather. We are honored to have among our members individuals worthy of recognition in his name." Kilcullen continued, "When the department's command staff was first approached by the Constantine family expressing their desire to recognize one of our member's in Mr. Constantine's name, we really were overcome by an incredible sense of honor and pride. For the 'First Family' of law enforcement to put their name on an award bestowed upon a member of our Department spoke volumes to us. To me, it meant all the hard work of the fine men and woman of the Schenectady Police Department had been recognized by someone other than those within the Department. So I'd like to thank each and every one of you for helping us get to where we are today."

Tom Constantine's son, Tom Constantine, Jr., said, "Dad cherished the Schenectady area. It was fitting that we recognize the Schenectady

Police Department because they are doing the right thing. We wanted to recognize someone who is making a continuing difference in the community." Constantine, Jr. said it is their plan to recognize an officer annually.

Sgt. Ryan Macherone received the award at an ceremony held at the Glen Sanders Mansion in Scotia, New York on May 14. Chief Kilcullen noted that Macherone holds one of the most difficult assignments in the Department, saying, "He always operates within the bounds of the strictest constitutional, legal, and ethical standards. He embodies integrity, professionalism, leadership, honesty, and dedication - the kind of officer of Mr. Constantine would be proud of."

Kilcullen said, "He routinely volunteers with the Special Olympics and has coordinated the Department's involvement in the Law Enforcement Torch Run for Special Olympics. He has recruited for and served as a 'waiter' at Applebee's, working for tips that are donated to Special Olympics. He adopted a Special Olympian, spending at least one day a month with him, usually shooting hoops and going to lunch or dinner. Last summer, he helped organize a community-police youth basketball league at Jerry Burrell Park. He solicited



*From left: Sgt. Ryan Macherone, Mrs. Ruth Constantine, Tom Constantine, Jr., Chief Brian Kilcullen.*



*From left: Angelica Morris, Sgt. Ryan Macherone, Chief Brian Kilcullen, Dominick Macherone*

other volunteers from the department to participate, and pretty much spent his Saturday's last summer at the park. He's doing the same this summer. He knew that a little bit of his time would pay dividends for the Department and the profession.

Macherone was also this year's recipient of the Schenectady County Human Rights Commission's Justice Award. Executive Director Angelica Morris of the Schenectady County Human Rights Commission, presented the award to Macherone in a separate ceremony. Morris said, "For 32 years the Schenectady Human Rights Commission has been honoring outstanding citizens serving Schenectady. Sgt. Macherone demonstrates exemplary service to the inner city youth of Schenectady."

Sgt. Macherone is an 8-year veteran of the Schenectady Police Department. He is the son of Dominick (Dep. Chief/Ret., Glenville PD) and Chris Macherone of Scotia, New York.

# Mayor Kathy Sheehan Appoints Brendan J. Cox as Albany Police Chief

## *Born and Raised in Albany, Cox has Risen Through the Ranks*

PRESS RELEASE, CITY OF ALBANY, NY



*Chief Brendan Cox*

**O**n June 17, Albany Mayor Kathy Sheehan announced that she appointed Brendan J. Cox as the Albany Police Department's Chief of Police. Cox has served as Assistant Chief of Police and then Deputy Chief of Police under former Chief Steven Krokoff, and has held the position of Acting Chief of Police since Krokoff's retirement in March.

"Brendan Cox is an integral part of the department's leadership team and is highly respected in the community," Mayor Sheehan said. "He is committed to community policing that addresses the root causes of crime and builds stronger communities. I have the utmost confidence in his leadership and look forward to the contributions he will make as Chief in the coming years."

Deputy Chief Cox was born and raised in Albany and has served his entire career in the Albany Police Department, moving up police ranks since he joined the force in 1994. "I am honored and humbled by this opportunity to continue my service to the

City of Albany," Deputy Chief Cox said. "My goal is to work inside and outside the Albany Police Department to keep people safe and to continue to build the relationships we've forged with the community that reduce crime and improve the quality of life."

Over the course of his career Deputy Chief Cox has overseen APD's Special Operations, its Children's and Family Services Unit, and its Detective Division. He also served as the APD representative on the Albany Community Police Advisory Committee, which works to strengthen the relationship between residents and the APD.

Cox, who holds a Master's degree in Public Administration, is a graduate of the Police Executive Research Forum's Senior Management Institute for Police. He says he will continue to build upon APD's strategic plan, which includes: the protection of safe travel for vehicles, bicycles, and pedestrians; building trusting relationships between Albany youth and police; and working with all stakeholders to build healthy, safe, and positive communities throughout the City.

Under City Code, the Albany Common Council can confirm or reject the appointment within 45 days of receiving written notification, but if the Council doesn't act within that timeframe, the appointment is considered confirmed.



# Annual Training Conference an Overwhelming Success

## Diverse Topics and High Profile Speakers

BY: MARK A. SPAWN, DIRECTOR OF RESEARCH AND TRAINING, NEW YORK STATE ASSOCIATION OF CHIEFS OF POLICE

The annual training conference of the New York State Association of Chiefs of Police (Association) was held from Sunday, July 12 through Wednesday, July 15. By all accounts, it was an awesome event highlighted by noted speakers, relevant topics and several networking opportunities. On Sunday evening, the President's Reception was held at our host hotel, The Saratoga Hilton on Broadway in beautiful Saratoga Springs.

Opening ceremonies included the drill and ceremony brought by the New York State Police Honor Guard and the National Anthem sung by Brenden Dailey of Saratoga Springs. Rabbi Joel Gold offered the invocation.

Welcoming comments and presentations were offered by President Michael Ranalli (Chief, Glenville PD), Executive Director Margaret Ryan (Chief/Ret., Dryden PD), State Police Superintendent Joseph D'Amico, Deputy Secretary for Public Safety Terence O'Leary, Executive Deputy Commissioner Michael Green (Division of Criminal Justice Services), Assistant Chief John Catone (Saratoga Springs), Mayor Joanne Yepsen (Saratoga Springs), and Dan Stevens (Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network - MAGLOCLEN). The keynote addresses were delivered by NYPD Commissioner William Bratton and Deputy Commissioner for Intelligence John Miller. Bratton spoke about contemporary issues in policing and gave an overview of a new action plan for NYPD called, *The Five T's*. These include Tackling Crime, Technology, Training, Terrorism, and Trust. According to the NYPD publication provided by the Commissioner, the strategy includes "...a neighborhood policing plan that is rooted in local communities and tied to local concerns; a revolution in NYPD technology, bringing its full capabilities to police officers in the field; field training for recruits and recurring training for veterans; a reset of NYPD's working relationships with its federal, state, and local partners; and a compact endorsed both by communities and cops to deal fairly with each other".<sup>1</sup>

Deputy Commissioner John Miller spoke about terrorism on the home front and the motivation by ISIL to bring individualized acts of terror to the United States. Miller said that these unsophisticated attacks can be more difficult to detect than large scale, organized attacks which require more planning and preparation.



**Commissioner William Bratton addresses members during opening ceremonies.**

(Photos: Andrew Ranalli)

The afternoon included meetings of the Association's newly formed Major Cities section, and the annual State University of New York Chiefs meeting. Several members attended a golf event at the Saratoga Lake Golf Club, followed by a barbecue at the Nanola Restaurant for all delegates and guests.

The second day of our training agenda included a non-stop lineup of speakers and presentations. President Michael Ranalli started the day with a session on decision making, addressing issues related to organizational culture and officer safety in the response to various incidents. Eric Daigle, Esq. spoke about investigations involving use of force, and also addressed contemporary issues relating to body cameras including privacy concerns and data storage. Attendees were treated to lunch by Lexipol. Peter Roth, Vice President of Market Development, and Mark Stefanik, Business Development Executive, addressed the audience, speaking about the Lexipol's risk management policies and scenario-based training bulletins.

During the afternoon, presentations were made to two agencies which successfully completed the Association's Best Practices in Sex Offender Management program. Certificates were awarded to Chief Jeffrey Rowley and Sgt. Lance Edwards of Olean Police Department, and to Chief Gerald Gill of the Lancaster Police Department (see story on page 21).



**John Miller (left) speaks with members John Aresta (center) and Miguel Bermudez (right).**

Two police officers from member agencies were recognized with the Association's Medal of Honor which is awarded to officers who perform heroic acts above and beyond the call of duty. Recipients of the Medal of Honor were Officer John Scaramuzzino of the Utica Police Department, and Officer Zachary McKinnon of the City of Poughkeepsie Police Department (see story on page 17).

A presentation by Kevin Crews of *Watch Systems* followed. He spoke about their product, *Offender Watch*, a sex offender registration and notification system used by law enforcement

**ANNUAL TRAINING CONFERENCE, continued on Page 19**

# REMEMBERING THE WEBSTER TRAGEDY

## An Interview with Chief/Ret. Gerald Pickering

BY: MARK A. SPAWN, DIRECTOR OF RESEARCH AND TRAINING, NEW YORK STATE ASSOCIATION OF CHIEFS OF POLICE

When firefighters responded to an early morning car fire in a community outside of Rochester, New York, they had no idea that it was a trap. An ex-con allegedly shot and killed his sister, and then set a car and house on fire. Former Webster Police Chief Gerald Pickering remembers the tragic day in a video production recently released by the New York State Association of Chiefs of Police (Association). Pickering describes the events from the moment the call was received, to the emergency response, the shooting, and the aftermath. In particular, he remembers the firefighters who were killed and injured.

### THE SCENE

Firefighters from the West Webster Fire Department were dispatched to the fire on Lake Road in the Rochester suburb at about 5:30 AM on Christmas Eve in 2012. The first arriving pumper



*Chief/Ret. Gerald Pickering,  
Webster Police Dept.*



*Windshield of Pumper 125*

was driven by Michael J. Chipperini, a volunteer firefighter for the West Webster Fire Department (WWFD) and a lieutenant with the Webster Police Department. Another WWFD firefighter, Tomasz M. Kaczowka, responded as the emergency medical services fly car. Both firefighters were killed – ambushed by an ex-con who was

## RADIO TRAFFIC

### FIRE PUMPER 125:

*“Alright, be advised, I’m struck in the lower leg, knee area, and the lower left back.”*

### DISPATCHER:

*“10-4 brother, hang tight.”*

### FIRE PUMPER 125:

*“We are being shot at, multiple fire down, multiple firemen shot, I am shot. I think we need an assault rifle. We have multiple firemen down. Working fire.”*

### DISPATCHER:

*“Understood, 1232, did you copy, multiple firemen down, multiple firemen shot with a working fire.”*

lying in wait.

Pickering noted, “The first fire pumper on the scene was driven by one of my lieutenants, Mike Chipperini, who soon realized they were taking fire, but thought the shots were coming from where the car was burning. He let the other firemen know they were being shot at. They unknowingly bailed out, right into the line of fire.”

When the first police officer arrived on the scene, he pulled his patrol car past the fire so the fire trucks would have access. The officer began to hear popping noises which he thought were exploding tires or the struts on the trunk lid, and then he started to

**WEBSTER TRAGEDY, continued on Page 22**

# Two Officers Receive Medal of Honor

## *Utica and Poughkeepsie Officers Lauded*

**Officers recognized for meritorious service – making a difference – protecting communities.**



**Off. John V. Scaramuzzino, Utica PD**

Officer John V. Scaramuzzino of the Utica Police Department was presented with the Medal of Honor for his prompt and alert actions on the night of October 11, 2014. Scaramuzzino was assigned to a special detail with his partner, New York State Trooper Christopher Swienton. At about 2:00 AM, the officers were conducting an area check in the 200 block of Bleecker Street which was a target area identified by crime analysts in the Gun Involved Violence Elimination (G.I.V.E.) project. As the officers neared Bleecker and Burnett Streets, they heard several gunshots. Scaramuzzino saw muzzle flashes and several people running, but was able to see the shooter and pursued him on foot. During the foot chase the suspect pointed a revolver at the officer. Scaramuzzino shot the suspect who was then incapacitated. The investigation determined that the suspect had shot four victims outside of the nightclub. Utica Police Chief Mark Williams applauded the work of his officer, saying, "Had it not been for the quick actions of Officer Scaramuzzino in stopping the attack, it is quite possible that lives would have been lost that night. He exemplifies professionalism and courage. I am very proud of him, and the city of Utica is fortunate to have him protecting our community." Association President Michael Ranalli said, "The Medal of Honor is our highest commendation for selfless acts performed in the line of duty. Officer Scaramuzzino is a shining example of the dedication and commitment of those law enforcement officers who protect our neighborhoods every hour of every day." Scaramuzzino, an 8 year veteran of the Utica Police Department, received the commendation with his family and Police Chief Mark Williams in attendance.

Officer Zachary McKinnon of the City of Poughkeepsie Police Department received the Medal of Honor for his actions which likely saved the life of a fellow officer. During the midnight shift on May 24, 2014, Officers Renee Knapp and Zachary McKinnon responded in their separate patrol cars to a call of an emotionally disturbed person. As Knapp arrived, she had not even exited her patrol car when she was being slashed with a box cutter by the subject. While Knapp tried to defend herself, McKinnon came to her aid and shot the man. Though fatally wounded, the man continued to slash out with the razor until he succumbed to his injuries. Police Chief Ronald Knapp said, "This incident demonstrates the rapidly evolving world of a police officer. At one moment, everything is peaceful, and the next, you are face to face with a person who wants to kill you."

McKinnon is a three year veteran of the Poughkeepsie Police Department. He accepted the Medal of Honor accompanied by his wife, Police Chief Ronald Knapp, and Capt. Thomas Pape in attendance.

Association Executive Director Margaret Ryan said, "We are pleased to recognize the heroic actions of these fine officers. They represent the highest standards of our profession, and this presentation today is just one way that we can thank them for their service, and also let the public know of the selfless actions taken by New York State's police officers on a regular basis."

The awards were presented on July 14 during the annual training conference of the Association whose membership consists of police executives throughout New York State and which has met every year since 1901.



**Off. Zachary McKinnon, Poughkeepsie PD**

# Police Chief Meets with Religious Leaders in Israel

BY: NEW YORK STATE ASSN. OF CHIEFS OF POLICE

**T**Chief Miguel Bermudez (Freeport PD) attended a conference in Israel from May 4-7 as a liaison to the North American Board of Rabbis (NABOR). The conference was developed to improve relationships between Rabbinic and Roman Catholic leaders.

Bermudez has known the president of NABOR, Rabbi Jay Rosenbaum, for over twenty years. Rosenbaum is from Temple Israel of Lawrence, and also serves as a police chaplain for the Freeport Police Department. Bermudez said, "When I became Chief of Police in 2010, we worked closely on several initiatives including high school student exchanges in Germany, Israel, and Italy as well security and terrorism concerns and recommendations for improving protection and safety at synagogues, especially during the high holy days."

The conference included a meeting of Rabbis and Bishops, with welcoming remarks by the Chief Rabbi of Jerusalem and a symphonic tribute and a prayer to the suffering of the innocents and of the martyrs of Rabbi Akiva. The participants also met in small groups to discuss various issues. The conference included special prayers and masses, with readings, blessings and songs.

Chief Bermudez noted, "One of the underlying themes was Tikkun Olam a Hebrew phrase meaning – repairing the world. It means that, while we come from different faiths, we all share the same fate."

The conference was attended by 400 persons, including 120 rabbis – 70 of whom were from the United States, 7 cardinals, 25 bishops, and 50 priests. Dignitaries in attendance included the Israeli Interior Minister, the Mayor of Jerusalem, renowned scholars and lay religious educators of both faiths. Also in attendance were Cardinal George Pell (Australia) who serves as the Prefect of the Secretariat for the Economy and whose duties include restructuring the Vatican Bank. Pell served as Pope Francis' representative. Also in attendance were Cardinal Christoph Schonborn the Archbishop of Vienna (pictured with Chief Bermudez), Cardinal Telesphore Toppo Ranchi (India), Cardinal Andrew Yeom Soo-Jung Archbishop (Seoul, South Korea), Cardinal Paul Josef Cordes, President Emeritus of the Pontifical Council, Bishop William Murphy (Rockville Center), Bishop Nicholas DiMarzio (Brooklyn), Rabbi Yitz Greenberg, Rabbi Jay Rosenbaum, Rabbi David Rosen, and Rabbi Pichas Goldschmidt, President of the European Conference of Rabbis and the Chief Rabbi of Moscow.

The conference commemorated the 50th Anniversary of Vatican II's *Nostra Aetate* which called for mutual understanding and respect between the two faiths, and the 70th anniversary of the end of the Holocaust.

Speaking about the goals of the conference, Chief Bermudez said, "This is only a beginning, more dialogue and future meetings are required but a huge step forward was taken in this



*Chief Miguel Bermudez*

unprecedented inter-religious gathering. It was a reflection upon the Catholic-Jewish relations and progress made as well as a deeper understanding of the two faiths."

The host of the conference was Kiko Arguello founder of the movement, the Neocatechumenal Way.

When asked about some of the most enlightening, thought-provoking or inspiring conversations at the conference, Bermudez said, "I was especially touched by the private conversations I had with the Princes of the Church, I found these Cardinals as you would expect pious and devout but also warm, engaging, and with a wonderful sense of humor as we spoke about issues that concern them from terrorism, hatred and injustice. We spoke about connecting with today's youth and the effects of social media."

The chief added, "I also had a poignant and moving conversation with an elderly Jewish couple who were survivors



*Chief Bermudez with Cardinal Schonborn  
at the conference in Israel*

of the Holocaust and they expressed to me their heartbreakingly tragic voyage as kids – from being hidden and protected by a Catholic Dutch family, eventually discovered and sent to a concentration camp and seeing every family member they ever knew killed and finally re-discovering each other, marrying and raising a family."

Chief Bermudez concluded by saying, "The discussions I had with the volunteer lay families from the Neocatechumenal Way were incredible stories of devotion and commitment to the Catholic beliefs and their dedication and success in launching and establishing faith based communities throughout the world."

agencies nationwide for the management of offenders and community notification. Next, Ian Hamilton of the International Association of Chiefs of Police (IACP) spoke about the IACP Center for Officer Safety and Wellness. According to the IACP website, “The Center for Officer Safety and Wellness was created in 2012 to centralize these efforts by promoting existing resources and encouraging a cultural shift within law enforcement agencies by emphasizing the values of safety, health, and wellness as they impact officer performance.”<sup>2</sup> Informational handouts were provided to attendees including a nutritional resource publication, an “Are You Ready for Duty?” poster, and a report on police suicide.

The next item on the agenda was a case study of an officer-involved shooting in Poughkeepsie presented by Chief Ronald Knapp and Captain Thomas Pape. They spoke about the incident which was the subject of the preceding Medal of Honor presentation to Officer Zachary McKinnon. In this case, two officers responded separately to a call of an emotionally disturbed man. As the officers arrived, the subject attacked one of the officers with a box cutter before she could exit her patrol car. McKinnon came to her aid, firing upon the attacker. The presentation by Knapp and Pape afforded attendees a unique perspective into the incident, including policy, pre-planning and follow-up.

Wrapping up the day on Tuesday was a presentation by *Cold Justice*, by Producer Sam Bartolone and LAPD Homicide



*Jody Weis speaks about citizen expectations of law enforcement.*

Detective Orlando Martinez. They explained the documentary television production which provides assistance to local police agencies in helping them solve cases. The show has a celebrated track record. Since the premiere of *Cold Justice* on TNT in September 2013, former prosecutor Kelly Siegler and former Crime Scene Investigator Yolanda McClary have assisted local law enforcement in securing more than 22 arrests, 11 criminal indictments, 4 confessions, 3 guilty pleas and 3 convictions.

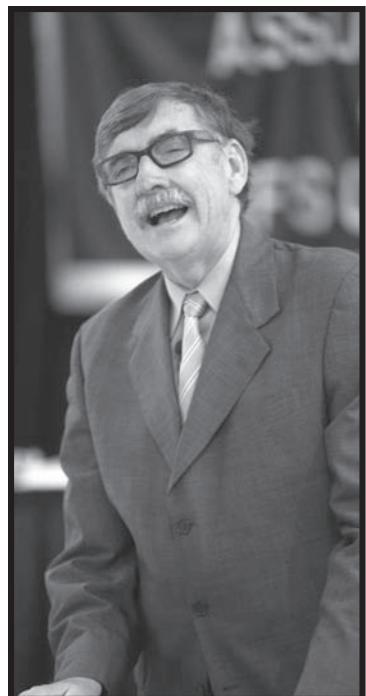
The final day of the conference was Wednesday, July 15, which began with a presentation by Jenn O’Conner, State Director of *Fight Crime Invest in Kids: NY*. She presented the Champion for Children Award to Chief Frank Fowler of the Syracuse

Police Department. Fowler urged members to enroll in *Fight Crime* as advocates for proactive programs for children. The next presentation was by Josh Isner of Taser who spoke about body worn video and cloud storage infrastructure. The morning was highlighted with a powerful presentation by Dr. Harvey Kushner, an expert in terrorism. As a recognized authority on terrorism, Dr. Kushner has advised elected officials, military personnel, and foreign governments as well as trained federal agencies from the DHS to the FBI. Kushner has given speeches across America, Europe, and Asia, addressing such diverse audiences as the FBI Academy in Quantico, Virginia; the Leadership Institute in Arlington, Virginia; U.S. Army Special Operations Command, the United Nations Office in Austria; and the National Security Bureau, in Warsaw, Poland. Dr. Kushner is recognized as one of the first terrorism experts to have warned about a secret terror network operating in the United States. In a 1991 law enforcement seminar sponsored by the FBI, he described in eerie detail how terrorists connected to a worldwide jihadist movement would soon attack the home front. In a briefing to federal agents in 1998, he warned of another attack on the World Trade Center.<sup>3</sup>

GTSC Liaison Dominick Macherone introduced Deputy Commissioner for Integrity Thomas Higgins for a presentation on recent advances in facial recognition technologies. The afternoon session was led by former FBI Agent and Chicago Police Superintendent Jody Weis who is a representative of Accenture. He addressed delegates on citizen’s expectations of law enforcement. A series of interviews with Supt. Weis can be found on the Association’s website, and in the *iTunes Store*. They include audio podcasts on a series of technology issues for police, and two video productions.

The renowned Gordon Graham spoke about creating and maintaining the high reliability organization. He began his law enforcement career in 1973 and rose through the ranks from street cop to supervisor. He completed law school and was the founder of Lexipol, a company designed to standardize law enforcement operations nationally. He was the first recipient of the Governor’s Award for excellence in California law enforcement training in 1995 and was the 2008 recipient of the lifetime achievement award in California Law Enforcement. Using his dynamic and comedic delivery, he talked about the importance of training and risk management.

The last session of the day was a presentation by Dr. James Brown (Utica College), Chief/Ret. Raymond Philo (Utica College; New Hartford PD/Ret.) and Vice President Anthony Callisto, Jr. (Syracuse University DPS). They discussed their research project



*Gordon Graham engaged the audience with humor during his presentation on risk management and creating reliable organizations.*

# McBath Retires from State Police

## Begins New Role as Crime Analysis Center Director

Lt. Col. David McBath retired on July 17 after more than 30 years of service with the New York State Police. McBath said, "It has been a great run and I truly value the many opportunities I have experienced, and the working relationship and friendships with all of you that have been created during my service with the state."

The former State Police executive began a new career with the Rochester Institute of Technology (RIT) serving as the first Director of the new North Country Crime Analysis Center in Malone, New York. In his new role McBath will be managing staff at the Crime Analysis Center in an effort to analyze crime within the northern region of the state, and share that information with federal, state and local law enforcement agencies in the 5 northern counties along the Canadian border.

### ANNUAL TRAINING CONFERENCE CONTINUED FROM PAGE 19



*Changing of The Guard – Outgoing President Michael Ranalli presents Incoming President Stephen Conner with a plaque commemorating the beginning of his term of office.*

on proactive management strategies for command transitions. Their work included a survey of law enforcement leaders, including NYSACOP members.

The installation banquet on Wednesday evening was preceded by a formal reception at the hotel. Attendees were treated to an inspirational presentation by the Metropolitan Transit Authority (MTA) Pipe and Drum Band, and posting of the flag by the MTA Honor Guard. The National Anthem was sung by talented MTA Police Officer J.W. Cortes who plays the role of Detective Alvarez on the television show, *Gotham*. The invocation and benediction was provided by Rabbi Joel Gold. President Michael Ranalli emceed the evening events with introductions of an esteemed dais including State Police Superintendent Joseph D'Amico, MTA Police Chief Michael Coan, and keynote speaker, United States Attorney Preet Bharara. Board members took their oath of office from Mr. Bharara, and Incoming President Assistant Chief Stephen Conner was sworn in by Chief Coan. In their remarks, Ranalli reflected on the prior year and the myriad of issues

facing law enforcement on a statewide and national scale. Conner remarked about the importance of the Association in representing the interests and concerns of our members. Honors were bestowed by Executive Director Margaret Ryan to both the outgoing and incoming presidents. In his address, U.S. Attorney Bharara spoke of his pride to be a member of the law enforcement community, and the importance of the police in the work of his office and for all federal prosecutors. Following the banquet, Mr. Bharara spent much time speaking with and taking pictures with our members and guests. An eloquent speaker, Bharara has become a champion of ethics and integrity in government and a well-respected leader in the law enforcement community.

Photographs taken throughout the four day event are available through our Instaproofs site. Details and a password were included in conference materials. The Association is grateful to our exhibitors, sponsors, the New York State and Local Retirement System, and MAGLOCLEN for their support of our conference.



*U.S. Attorney Preet Bharara was the keynote speaker at the installation banquet.*

<sup>1</sup>NYPD View Book, The Five Ts – by New York Police Department; 2015

<sup>2</sup><http://www.theiacp.org/CenterforOfficerSafetyandWellness>; July 20, 2015

<sup>3</sup><http://www.harveykushner.com/biography/bio.html>; June 1, 2015

# Departments Recognized in Sex Offender Management Program

## Olean and Lancaster Police Receive Certification

July 14th, 2015

The Olean and Lancaster Police Departments have been certified by the New York State Association of Chiefs of Police (Association) in a special sex offender management program. The certification recognizes that those agencies are

Chief Jeffrey L. Rowley of the Olean Police Department said, "This certification recognizes that the Olean Police Department is employing proactive and sound practices in managing sex offenders in their community. The officers of the Olean Police

Department are very serious about their commitment to protect our community. We are always working towards improving our ability to make Olean a safe place to live. We feel that the new procedures that we have implemented in the area of Sex Offender Management will do just that."

Sgt. Lance Edwards (Olean PD) is the Sex Offender Registration Act Compliance Officer for the police department. He handles all communications from the State for sex offenders in Olean, as well as preparing cases to be prosecuted when offenders fail or refuse to register. Sgt. Edwards ensures that the highest risk offenders appear frequently for address verification and for updated photography, according to state law.

Chief Gerald Gill of the Lancaster Police Department said, "The men and women of the Lancaster Police Department are committed to proactively monitoring the sex offenders who are registered in our community. We have a history of not only verifying the locations of offenders, but also for enforcement when they fail or refuse to comply with the law."

The Association's director of research, development and training, Mark Spawn noted that the Best Practices program takes several factors into consideration. "This program identifies important aspects of sex offender registration and gives agencies the ability to have an external validation of their processes."

Chief Gill, Chief Rowley and Sgt. Edwards were presented with a certificate in recognition of their department's certification at the annual training conference of the New York State Association of Chiefs of Police on July 14, 2015 in Saratoga Springs, New York.

In New York State, sex offenders are required to report changes in address and submit to regular photography at police stations. In addition to other registration requirements, high risk and predatory sex offenders are required to report to the local police station every 90 days. Failure to comply with these requirements can result in a felony arrest for a first offense.



*Presentations were made at the annual training conference. Pictured from left: President Michael Ranalli; Director of Research & Training Mark Spawn; Chief Jeffrey Rowley (Olean PD), Sgt. Lance Edwards (Olean PD), Chief Gerald Gill (Lancaster PD), and Zone Representative James Michel (Lackawanna PD).*

employing proactive practices in managing sex offenders in their community. The program was launched in 2009 to recognize police agencies that monitor sex offenders, provide community notification and conduct enforcement. Association Executive Director Margaret Ryan said, "Managing sex offenders continues to be an important function of law enforcement. Police are on the front lines in ensuring that offenders comply with the law and that citizens are informed about certain offenders living in their communities."

Association President Michael Ranalli (Glenville PD) said, "We commend the members of the Olean Police Department for the exceptional work they do in managing sex offenders in their community. It is important for the community to know that the City of Olean and Town of Lancaster not only have procedures for monitoring sex offenders, but that they routinely provide notification to their community and take action when offenders fail to register."

The policies and operations of both departments were assessed and found to be in compliance with the elements of the program. In addition to having a written policy pertaining to sex offender management, they were also required to provide proof of monitoring of offenders, community notification, cooperation with other agencies, and enforcement.

see firemen go down. He initially believed they were getting struck by shrapnel from the car exploding but then he saw a muzzle flash from just north of the fire scene. It was coming from an old railroad bed, where police later found out that a gunman had secreted himself in the rocks and boulders. He had a snipers nest prepared and was firing at the responding firemen.

Pickering stated that the police officer went to his patrol car and armed himself with a patrol rifle and began to engage the shooter, firing at muzzle flashes in the early morning darkness. Moments before, the officer had been standing directly in the line of fire, but was not shot at by the gunman until the officer fired. That changed. Pickering said, "Immediately the gunman began firing at the police officer. The officer heard rounds whizzing past him as he was firing at the gunman. The officer took cover as the gunman continued to fire at responding equipment."

Firemen were shot, the original fire was spreading to other structures, and they could not be sure where the gunman was hiding, so they could not allow any additional firefighters to attack the fire.

Pickering continued, "It was a chaotic scene. We had an active shooter – but this one was unusual because he was outside and we didn't know exactly where he was. We had two firemen shot and killed, two critically injured, and other fire units were still responding to the scene." He continued, "There was an off-duty Town of Greece police officer who came upon the scene and took fire from the shooter in his private vehicle. He backed up and shut down the road to prevent additional firefighters from responding."

Eventually, armored vehicles and a SWAT team arrived on the scene to rescue the injured and recover the deceased. Since firefighters were unable to attack the fire, seven other homes burned as a result of the original fire.

Pickering noted the courageous actions of Mike Chipperini, saying, "We don't know for sure, but we think Lt. Chipperini ran directly at the gunman to try to tackle him. He took one fatal shot to the head, probably within 10-15 feet of the gunman. We think he was trying to tackle the shooter, because Chipperini was unarmed."

Firefighter Tomasz M. Kaczokwa responded to the scene as the EMS fly car – as he was donning his gear, and apparently unable to hear the gunshots, he was struck twice and killed instantly.

### LESSON LEARNED

Pickering said that the first police officer was on the scene within 2-3 minutes of the call. He noted that it was that police officer who, within the first 10 minutes on the scene, likely changed the course of the assault and probably saved further people from being killed.

### THE GUNMAN

The gunman was later identified as William Spengler, age 62, who lived at the Lake Road address where the fire was started, with his sister. Spengler was convicted of manslaughter in the first degree for the killing of his 92-year-old grandmother in 1980. According to New York State Department of Corrections reports, Spengler was released in 1998. Pickering said, "Spengler had started the house on fire as well as the car – it burned fast because he poured accelerants on it." The shooter was a convicted felon, having served a prison sentence for the death of his 92-year-old grandmother in 1980. Pickering said that the shooter was well known in the neighborhood, and didn't hide the fact that he had killed his grandmother.

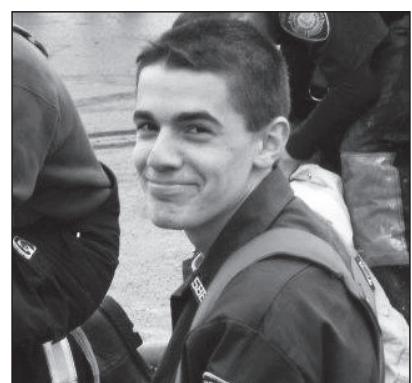
### A POSSIBLE MOTIVE

Chief Pickering noted that the shooter had several hundred rounds for his assault rifle, a shotgun, and a .38 caliber handgun, saying, "He had really prepared himself for a lengthy fight." He added, "Spengler left a note at the scene that said he intended to burn the neighborhood down and kill as many firemen as he could. He had

lived in his grandmother's home with his mother. In her waning years she often required the assistance of the ambulance, which is attached to the WWFD – She asked in her will that any donations be made to the fire department. We'll never really know, but we think that he had a grievance against the fire department that the money was sent to the FD instead of him." Pickering said that besides state prison, this was the only home Spengler had ever lived in, and he then co-owned it with his sister. He said, "She wanted to sell the property and split it because she was fearful of him – she slept with a .38 caliber handgun under her pillow. Her remains were found in the home with a .38 caliber hole in her skull. Our assumption is that he killed her, set the house and car on fire, summoned the fire department to the scene, to ambush the responding firemen."



*Michael J. Chipperini, Webster PD,  
West Webster FD*



*Tomasz M. Kaczokwa,  
West Webster FD*

### EPILOGUE

Pickering remembered that there was a massive response from a number of agencies on the federal, state and local level. He also noted that this incident brought the community closer together than ever before. Chief Pickering retired from the West Webster Police Department on January 3, 2015. He currently serves as the Deputy Director for Public Safety at the University of Rochester. He formerly served as a zone representative with the New York State Association of Chiefs of Police. His video interview was recorded while he was chief of police for the Town of Webster. The video production is presented in memory of Firefighters Michael J. Chipperini and Tomasz M. Kaczokwa, and as a tribute to their courageous service.

In this video Chief Pickering walks us through the story of The Webster Tragedy, utilizing photographs from the scene and radio traffic between fire, police and dispatchers. The professionalism of all of the responders and dispatchers is exemplary. They remained composed throughout the incident. It is a testament to the all of the disciplines involved. Every day, in every community, dedicated first responders and dispatchers stand ready to serve the public. This tragedy shines a light on the service and sacrifice made by those professionals and their loved ones. Mike Chipperini and Tomasz Kaczokwa embodied those traits – they served with honor and distinction – and that is their legacy to all others who continue to serve.

The free video can be found on the Podcast page of the website of the New York State Association of Chiefs of Police, on their YouTube Channel, or in the iTunes Store.

*Released by: New York State Association of Chiefs of Police, Inc.  
Written by: Mark and Jeanna Spaw*

*Release date: July 12, 2015*

*<https://youtu.be/pKj3j-UnS-0>*

# Considerations for Body Cameras

ASSOCIATION RELEASES VIDEO TO DISCUSS LAW ENFORCEMENT USE OF BODY CAMERAS



*South Euclid, Ohio Police body camera video*

The New York State Association of Chiefs of Police recently released a video to discuss issues associated with body cameras. Within the video are two real life scenes depicting the value of body worn cameras. First is the rescue of 18-month-old Baby Lily in Spanish Fork, Utah. Police and rescue crews responded to the scene of an overturned vehicle in the Spanish Fork River. The video recorded on an officer's body camera, shows Lily being retrieved from the vehicle and promptly taken to a waiting ambulance. She was rushed to the hospital and survived.

In this video you hear from representatives from Wolfcom, a California based camera manufacturer, about today's technology in body worn cameras, aspect ratio, memory, battery life, mounting options, night vision, GPS integration, location tagging, and management software.

Another incident captured by a body camera was an incident in South Euclid, Ohio in which police responded to a call of a home invasion. Upon their arrival they found a man stabbing a woman. One officer fired twice at the suspect, stopping the attack.

The video urges viewers to check out resources available from the U.S. Bureau of Justice Assistance including a body camera implementation guide, and the International Association of Chiefs of Police for a model policy.

Peter Austin Onruang, President of Wolfcom said, "A lot has changed with technology. Our cameras are actually GoPro quality with 1080p resolution."

Tiffany Wang, CEO of Wolfcom said, "Now you can have a small camera, 64 gigabytes, that can hold 34 hours of video, and your battery life is going to be a lot longer as well."

Junior Sutitanom, Technical Operating Officer for Wolfcom, said, "The big difference are your resolution, and capacity, for battery life and memory capacity, also different features like Wi-Fi, Bluetooth, LTE."

In the video, Lorena Golveo discusses issues associated with selecting a camera, along with considerations for local data storage versus cloud storage. "Pricing, durability, ease of use, what happens to the evidence, who's handling it? They separate a lot of times what the user can do with the footage, and what admin can do."

Sutitanom commented that the durability of today's cameras has improved, "...material has changed from different kinds of plastics that are used, and also materials of metal, that we use, so it passes drop-test and ruggedness."

Wang added, "We even get a lot of individual officers... will call to buy their own to protect themselves for the time being..."

Onruang summed up the value of body worn video for police, "It will see and remember what he forgot in that stressful situation, it will be the truth behind false accusations when he needs it the most."

You can view the video on our YouTube channel or by visiting <https://youtu.be/nJqEiSXBShA>.



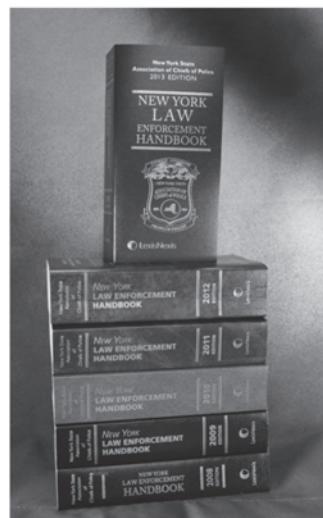
NEW YORK STATE ASSOCIATION OF CHIEFS OF POLICE

## NEW YORK STATE LAW ENFORCEMENT HANDBOOK

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Available in February 2015, the New York State Law Enforcement Handbook has become one of the more popular resource items for New York State law enforcement officers. Used by street officers, detectives, commanders, probation, parole and prosecutors, it contains the Penal Law and CPL, along with frequently used sections of law:

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# A Look at the Violent Death Crisis

## Reporting, and Prevention in New York State

**S**uicides, homicides, unintentional firearm discharge, death by legal intervention, and terrorism related deaths all define what it considered a “violent death.” Tragically, New York State fell victim to 2,838 of these violent death incidents in 2010. Nationally, more than 39,000 people died by means of suicide in 2011, while homicides claimed the lives of 17,000 people. In 2012, New York State saw its highest rate of suicide at 8.4



**NYVDRS: Together we can save a life**

deaths per 100,000 residents (about 1,645 deaths). The homicide rate was 3.5 deaths per 100,000 residents (about 685 deaths). These deaths are not only preventable, but they are often tolling (emotionally, physically, mentally, and financially) on not just the persons involved, but the state as a whole. However, without the proper surveillance and reporting, not much can be implemented in prevention techniques.

The National Violent Death Reporting System (NVDRS) is a data system that allows for reporting of violent deaths in 32 states. NVDRS currently is the only state-based reporting system. It allows for grouping data regarding violent deaths from various sources in a confidential and user-friendly database. NVDRS data describes the “who, when, where, and how” of violent deaths, which can lead to a better understanding of the “why”.

To prevent violent deaths, we must understand all the facts. Having this statewide system will enable law enforcement and public health officials to share information and develop a better understanding of the causes of violent deaths. Without this knowledge, our violence prevention policies and programs will remain less effective in the ability to eliminate or reduce violent deaths.

Prior to NVDRS, public health and law enforcement officials collected valuable information about violent deaths, but didn’t combine it into one comprehensive reporting system. Instead, data was held in a variety of different systems, and policy-makers lacked the clear picture necessary to develop effective violence prevention policies.

New York was granted the opportunity to become part of NVDRS in 2014, forming the New York Violent Death Reporting System (NYVDRS). The first step of our data collection process began in January 2015, with the continued receipt of death certificates on violent deaths from our vital records office. The death certificate only holds a limited amount of information, so it is important to reach out to other sources to see the entire picture. The second step involves contacting coroners, medical examiners, and law enforcement agencies for their incident reports. A law enforcement report may be able to inform us about past criminal history, weapons, and perpetrator information. A coroner or medical examiner report could tell us about toxicology, wound location, and cause of death. Additionally, these reports have narratives that give a clear summary of the incident. This information is transcribed into the standardized NVDRS database. Narratives may indicate additional crises. The coroner/medical examiner report may note that the victim had a history of depression. From the law enforcement report it could say the decedent disclosed suicidal thoughts to a relative. Circumstances together tell us the whole story.

The Department of Health (DOH) ensures confidentiality and protection of data received and entered. The NVDRS database is anonymous and confidential. To the extent that DOH’s records included personally identifiable information, DOH would not be compelled to produce the records pursuant to a FOIL request, as this would be deemed an unwarranted invasion of personal privacy. Confidentiality of victims and their families remains a priority within DOH.

The final step in this process is the interpretation of the data. In 2017, we will have finalized 2015 data which will allow us to analyze it for trends or questions of interest such as whether there is an increase in suicide in a certain area or age group, or were homicides are more likely to be committed by a family member in rural counties. Observing these trends can be useful for suicide prevention coalitions or law enforcement agencies to enact changes in their communities and policies. The key to effective prevention is recognizing the problem.

Preventing violence is the core mission of NVDRS. With more states getting funded, there is the possibility that we may be able to compare data nationwide and therefore establish better prevention measures. However, in order to obtain accurate data, we must create partnerships with our data providers to ensure complete information on each violent death that occurs in New York State. We cannot do this alone. Together, we could save a life.



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# Board of Elections Renders Opinion on Campaigning Activities

*The New York State Board of Elections rendered Opinion #1 on June 10, 2015 which revisits Opinion #1 of 2014 and cites other Opinions from the Board. The questions posed relate to issues that regularly surface when a sheriff campaigns for re-election, and when a police officer campaigns for election to other elective office. It is not unusual to find career law enforcement officers who are ready for retirement from police service but preparing for elective office. Certain questions have been raised as to the extent that a police officer or incumbent sheriff can campaign, in light of certain provisions of the Election Law. The following is the Opinion from the Board of Elections, reproduced here as in the original:*

## NEW YORK STATE BOARD OF ELECTIONS: 2015 OPINION #1

### Questions Presented:

Does New York State Board of Elections Opinion #1 of 2014 apply to: (1) the campaign activities of a Sheriff campaigning for election to the Office of Sheriff, or (2) the campaign activities of a police officer campaigning for his or her own election to other elective offices?

### Discussion:

In Opinion #1 of 2014, the Board opined that, pursuant to Election Law §17-110(1), a police officer may not endorse a political candidate, either verbally or by his or her own appearance at a campaign event, while in uniform, or similarly may not deliberately or knowingly appear in any political communication as so defined in Election law §14-106, while in uniform.

The question presented here is whether a sheriff<sup>1</sup> or other police officer campaigning for election can appear in uniform in the political communications of their own campaign for election? The Board is of the opinion that they can.

As the Board recently stated, "Election Law §17-110 makes it a misdemeanor for a police officer to engage in conduct which:

Uses or threatens or attempts to use his official power or authority, in any manner, directly or indirectly, in aid of or against any political party, organization, association or society, or to control, affect, influence, reward or punish, the political adherence, affiliation, action, expression or opinion of any citizen;" SBOE 2014 Opinion #1.

### The Board cited 1983 Opinion #9 and stated:

"The crux of the Opinion is contained in the following language: The Board is of the opinion that the political rights of a police officer have been expanded and that a police officer as a private citizen may now endorse a political candidate as long as the endorsement is not given in such a manner as to coerce or intimidate a voter to vote for a particular candidate. The act of endorsing, in and of itself, is not a violation of subdivision 1 of section 17-110 of the Election Law." (Emphasis added).

There is a material difference between a police officer appearing in uniform in the political communications of another candidate or political committee, whereby the authority of the officer's position exemplified by the uniform is applied in aid of political purpose, as opposed to appearing in uniform in one's own political

### **§17-110 Misdemeanors concerning police commissioners or officers or members of any police force.**

Any person who, being a police commissioner or any officer or member of any police force in this state:

1. Uses or threatens or attempts to use his official power or authority, in any manner, directly or indirectly, in aid of or against any political party, organization, association or society, or to control, affect, influence, reward or punish, the political adherence, affiliation, action, expression or opinion of any citizen; or
2. Appoints, promotes, transfers, retires or punishes an officer or member of a police force, or asks for or aids in the promotion, transfer, retirement or punishment of an officer or member of a police force because of the party adherence or affiliation of such officer or member, or for or on the request, direct or indirect, of any political party, organization, association or society, or of any officer, member of a committee or representative official or otherwise of any political party, organization, association or society; or
3. Solicits, collects or receives any money for, any political fund, club, association, society or committee, is guilty of a misdemeanor.

communications as an expression of experience or credential.

The Board holds the opinion that appearing in uniform in one's own political communications is not a *prima facie* misuse of official power or authority. A sheriff campaigning for election may appear in uniform in the political communications of his or her own campaign for election, and that fact alone would not constitute a violation of Election Law §17-110. However, the prohibitions found in §17-110(3) concerning solicitation, collection or receiving of money would still apply to the sheriff and the particular political communication. See, NYSBOE Opinion 1983 #8 and 1983 #5.

The New York State Constitution provides that sheriffs be elected every three or four years. See NY Const. Art. XIII §13(a). Thus the office of sheriff is constitutionally a political office. Although not identical in its breadth and language, the federal Hatch Act seeks to avoid the same evil which Election Law §17-110(1) precludes. In interpreting the Hatch Act and its prohibition of the use of "official power or authority" on the part of a sheriff in running for election, the United States Office of Special Counsel has ruled that the fact that the office of sheriff is an elected office makes the office "primarily a political one". See April 19, 2011 Opinion Letter to William R. Tompkins, OSC File Np. HA-10-3151. As the New York State Constitution calls for an elected sheriff, there is little reason to believe that the Legislature, which recognized that mandate in County Law §400 would intend to limit the full and free exchange of information as to qualifications by not allowing a sitting sheriff to run as a candidate in all respects, including wearing a uniform in campaign materials created in support of his/her re-election.

Similarly, other police officers or chiefs running for office in their own capacity, are not per se precluded from offering depictions of themselves in uniform as an illustration of their experience and credentials. A contrary conclusion would mean those in law enforcement who seek public office would be compelled to hide truthful depictions of their life's work.

Notably the issue here is similar to whether incumbent or former judges can wear judicial robes in their own political communications or campaign materials in which they are seeking election or re-election as judge. In applying their own rules in New York State, the Courts have found that it is permissible for incumbent or former judges to wear judicial robes in their own political communications or campaign materials. See New York State Advisory Committee on Judicial Ethics Opinions Nos. 05-101, 04-16, and 03-90.

Interpreting Election Law §17-110(1) to preclude the deliberate or knowing wearing of a police uniform in campaign literature, materials or productions created for other candidates fulfills the salutary purpose of election Law §17-110(1) while recognizing the state constitutional mandate of an elected sheriff and the rights of free speech and association of candidates. The Board observes Election Law 17-110(1) may

not in every instance operate as an absolute bar to incidental campaign activity by a police officer as part of his or her own campaign while in uniform. However, the statute is very clear that a police officer may not use his or her authority as a police officer "to control, affect, influence, reward or punish" in the electoral context. Such determinations must be made on the basis of the specific facts of each case, and police officers should exercise great care—particularly while in uniform, the cloak of authority—to comply with the prohibitions of Election Law 17-110(1).

This opinion clarifies the application of the Board's prior opinion (14-01) in the context of police officers in uniform as part of political communications related to their own campaign for public office. This opinion in no way stands for the proposition Election Law 17-110 (1) is inapplicable to a police officer candidate's own campaign for elective office.

#### STATE BOARD OF ELECTIONS

<sup>1</sup> The Board finds that as applied to Election Law §17-110, the position of Sheriff and Deputy Sheriff are synonymous to that of "Police Officer." See, N.Y. Op. Atty. Gen. 57, 1998.

## NCMEC's Readiness Project Prepares Law Enforcement for a Critically Missing Child Incident

**SUBMITTED BY: NCMEC**

When a child goes missing, the searching family is distraught, scared, and unsure what to do. A strong sense of fear overcomes residents who didn't think it could happen in their community, in their streets, in their backyard. The news story breaks and the media will be knocking on your door asking what you're doing to find the child. Are you ready?

The National Center for Missing & Exploited Children® is here to help. We're the largest nonprofit organization working with law enforcement on issues related to missing and sexually exploited children. We've been providing assistance to law enforcement and families for 31 years and have helped in the recovery of more than 205,000 children. We never stop searching for a child. We never give up hope on finding a child. We never charge for our services to help a find a missing child.

We know there are numerous peoples involved in the search for a missing child, and we want to ensure that everyone is prepared. For the telecommunicators who receive the 911 call, we want you to know the proper questions to ask to garner as much detail about the child and/or abductor as possible. For the first responders, we want you to know the proper protocols so you can make accurate decisions about the case, just as you would in other significant incidents. For the command staff, we want you to understand the nature and scope of the problem and what should be included in your written policy regarding missing children cases.

To prepare law-enforcement agencies across the United States to respond to a critically missing child incident in their



jurisdiction, NCMEC established the "Missing Kids Readiness Project." This project promotes best practices for responding to calls of missing, abducted and sexually exploited children. There are three criteria that must be met by a law enforcement agency or Public Safety

#### Answering Point:

1. The chief, sheriff or PSAP manager must complete our "Missing Children Chief Executive Officer Seminar" "classroom course or "Missing Children: Dynamics & Response for Command Personnel" training through our distance- learning program, "NCMEC University Online."
2. All sworn personnel/telecommunicators must complete our "Missing Children: Dynamics & Response for First Responders" training through "NCMEC University Online."
3. Agency adopts our model policy for law enforcement or the ANSI Standard for PSAP, or your policy must meet the critical elements established in each publication.

Once all three components are met, your agency will be recognized by NCMEC for demonstrating preparedness for responding to a missing child incident. In addition to receiving a certificate which can be displayed at your agency, your agency name will be added to our public website for your residents to see, so they know you're committed to protecting children.

For more information on the "Missing Kids Readiness Project," please visit our website, <http://www.missingkids.org/MKRP>. If you have any questions regarding the project or the application process, email [mkrp@ncmec.org](mailto:mkrp@ncmec.org).



# UPDATE



## CHAMPION FOR CHILDREN AWARD

We were pleased to present Syracuse Chief Frank Fowler with our annual Champion for Children award this summer. Even before he became one of our four Fight Crime co-chairs, Chief Fowler was one of our most active members. He has spoken at press events, participated in Editorial Board meetings, and joined our afterschool colleagues for both a state and a national forum in support of high-quality programs. Chief Fowler joined Monroe County District Attorney and Albany County Sheriff Craig Apple as this year's recipients.

## OUR PRIORITIES

We are preparing for the 2016 legislative session by focusing on three issues: high quality maternal, infant, and early childhood home visiting; Pre-K; and afterschool. As you know, it is essential to a child's success in school and in life to have access to these programs.

While we will have a budget proposal for each of these issues, we are also working on policy change. Please watch your e-mail for opportunities to lend your voice (in sign-on letters to decision-makers, attending legislative meetings in your community, and submitting Letters to the Editor and Opinion pieces). We hope to move past funding silos to true systems change—with your help!

## OUTREACH

If you are not a member, you probably heard from our national office this summer about joining. We urge you to do so! The more law enforcement voices we have around New York State, the better positioned we are to influence change and provide more high-quality supports to children and families. Thank you!



# UPDATE



*Jenn O'Connor  
State Director*



*Jenn O'Connor presents the Champion for Children Award to Syracuse Police Chief Frank Fowler at the New York State Association of Chiefs of Police Annual Conference in Saratoga Springs, New York.*



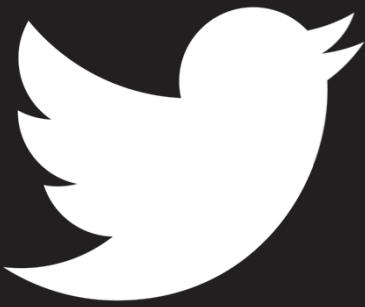
**DO YOU HAVE  
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## PUZZLE ON PAGE 6

### Digital Evidence

Solution:



FOLLOW US ON TWITTER:

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# New York State Partners with Project Lifesaver International

## *Providing Equipment, Training to Aid in Missing Child Searches*

NEW YORK STATE DIVISION OF CRIMINAL JUSTICE SERVICES



**Wrist worn device.**

**T**he New York State Division of Criminal Justice Services (DCJS) has partnered with Project Lifesaver International to provide 50 law enforcement agencies with equipment and training to help enhance the safety of children under 18 who may have autism, Down syndrome or another type of cognitive impairment that puts them at risk for wandering or becoming lost.

Through the partnership, nearly 600 personal transmitters and accompanying tracking technology have been provided to those agencies at no cost and will be distributed for free to children whose families qualify. Worn on either the wrist or ankle, each device emits a unique signal that can assist in locating a child who has wandered or become lost.

The following agencies are new to Project Lifesaver: sheriffs' offices in Allegany, Broome, Cattaraugus, Chautauqua, Clinton, Essex, Franklin, Fulton, Genesee, Hamilton, Herkimer, Montgomery, Orange, Putnam, Rensselaer, Rockland, Saratoga, Seneca, Sullivan, Washington and Wayne counties and the Nassau County Police Department each received 13 personal transmitters and accompany tracking technology. The New York City Police Department received a total of 65 devices, 13 for each of the city's five boroughs, and tracking technology.

Also, 27 existing partners each received 11 transmitter kits to add to their existing supply: sheriffs' offices in Albany, Cayuga, Chenango, Columbia, Cortland, Delaware, Erie, Greene,

Jefferson, Madison, Niagara, Oneida, Onondaga, Ontario, Oswego, Otsego, Schenectady, Schoharie, Schuyler, St. Lawrence, Steuben, Suffolk, Tompkins, Ulster, Warren, Westchester and Yates counties.

Transmitters provided through the partnership must be distributed to children, as approximately \$250,000 from the state's Missing and Exploited Children Special Revenue Fund was used to purchase the equipment. New Yorkers can opt to donate to the fund when they file their taxes. However, Project Lifesaver agencies can offer the service to adults with Alzheimer's disease, dementia or other cognitive impairments, if funding is available from other sources or families wish to pay for the technology.

More information about the program is available by visiting [www.projectlifesaver.org](http://www.projectlifesaver.org).

The Missing Persons Clearinghouse at DCJS also provides investigative and other support to law enforcement agencies, including administering alert programs that are activated when children with special needs or vulnerable adults go missing. Call 800-346-3543 or visit [www.criminaljustice.ny.gov](http://www.criminaljustice.ny.gov) and click the "Missing Persons" link in the horizontal menu for more information.



[www.projectlifesaver.org](http://www.projectlifesaver.org)

# A Look Back...



Chief Robert Glaser (Old Westbury PD) shared a couple of photographs with us of his grandfather who served with NYPD from August 24, 1915 to January 31, 1944. Patrolman John F. Glaser is shown in the group photograph taken in 1923 when the 13th Precinct was located at Delancey and Clinton Streets. He is also pictured in a 1923 NYPD individual portrait, and the smaller inset photo from 1915.

The portrait now hangs in Chief Glaser's office in Old Westbury, New York. Chief Glaser remembers that his grandfather's parents were from Germany and that his grandfather was the first generation to come to the United States. Although Chief Glaser was only five years old when his grandfather passed away, he remembers him fondly. He said, "I always looked up to him, and I'm sure that figured into my career path."

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