

The New York State

Chief's Chronicle



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September 2016



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Annual Conference Highlights



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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

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@nycchiefs.org

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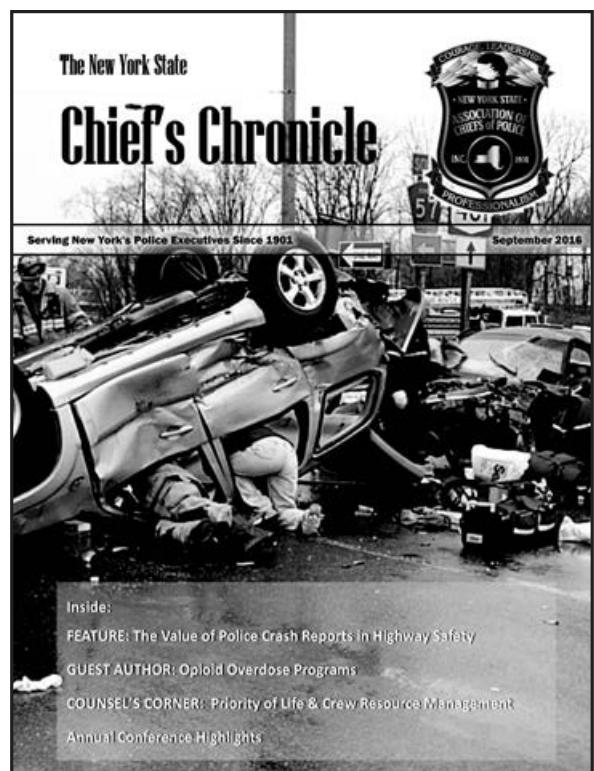
On the Cover:

Did you know that traffic engineers read the narratives of the crash reports prepared by police? Our “routine” MV104A reports are used to aid decisions on highway design, mitigation work, and construction projects. We are relaunching our podcast series on *The Value of Police Crash Reports in Highway Safety* to help officers understand the critical importance of their field work in reporting accurate crash data.

Meet our new President, Chief David Zack of Cheektowaga Police Department. In his article he reflects on the challenges facing police officers in today’s society, and how the comments and actions of our national leaders shape perceptions, accurate or not.

Read about our annual training conference in Buffalo, including the recognition of two police officers who were awarded with the Medal of Honor; and the presentation of our Persons of the Year award to Michael and Barbara Biasotti.

Chief/Ret. Michael Ranalli’s *Counsel’s Corner* is about the concept of priority of life and crew resource management. Guest author Sgt. Will Doherty, Esq. (Floral Park PD) discusses how the state’s Opioid Overdose Prevention Programs are putting lifesaving Naloxone in the hands of police officers – and how they have become the first police department to train and provide Naloxone to the community.



A Heartfelt Letter to Law Enforcement



Shelby Shrull

Editor’s Note: We recently received this letter from Shelby Shrull. Her goal was to send the letter to a few police stations in every state. We are pleased to provide it to our statewide membership so that it will reach the more than 500 agencies in New York State.

To the men and women that woke up one day and decided to protect and serve their communities, thank you.

Most people don’t have the strength or the courage to protect our country or our cities. People like you saw a need, and knew you could handle it, thank you for that. In the midst of the controversy going on in the United States, I just wanted to show you all love, and say thank you. Thank you for making the choice every day to get up and do what you do. I can’t even begin to put myself in your shoes.

Thank you to your families. Thank you to the ones who answer dispatch calls. Thank you to the officers that have had to deal with terrible, life changing experiences. Your job is difficult but you all do it anyways. Every single job duty in the department and out of the department is important. I know there is so much that you all do for us that no one sees.

I know without police officers and the military, this world would be an even more dangerous place. I just want you all to know that you are appreciated. You are needed, you are important, and I can’t thank you enough for what you have decided to do for people you don’t even know.

I’m so sorry for the pain you all must feel right now. I wish I could do more, or have better words to write to say thank you. I am praying for our country, for protection over your communities, over your departments, and over you.

**With love,
Shelby Shrull**

Peace I leave with you; my peace I give you. I do not give as the world gives. Do not let your hearts be troubled and do not be afraid. – John 14:27

I have told you these things, so that in me you may have peace. In this world you will have trouble. But take heart! I have overcome the world! - John 16:33

President's Report

BEER SUMMIT II??



PRESIDENT'S REPORT

BY CHIEF DAVID ZACK, PRESIDENT

The relationship between President Barack Obama and police got off to a rocky start. On July 16, 2009, just over six months into his first term, Harvard Professor Henry Louis Gates, a personal friend of the President, was arrested at his home by the Cambridge Police. Before all facts were known, the President commented on the arrest by saying the Cambridge Police "acted stupidly" when arresting the professor. The arresting officer, Sergeant James Crowley was white, while Professor Gates was African American. Being an unusual step for a President to comment on a local law enforcement matter of such small scope, it raised questions with police and the public as to his motivation for doing so.

Law enforcement immediately took umbrage with the President's remark and rallied to Sergeant Crowley's defense. Within days the President expressed regret for his comments and invited Professor Gates and Sgt. Crowley to the White House Rose Garden to discuss their differences over a cold beer. Media framed this folksy meeting the "Beer Summit" which delighted the President's critics. Professor Gates and Sgt. Crowley seemingly patched up their differences during the meeting. However, the discomfort between the President and law enforcement was just beginning.

The President's nomination of Eric Holder for United States Attorney General was greeted with bipartisan support. The International Association of Chiefs of Police along with the National Association of Police Organizations supported it, as well. The glow that accompanied Mr. Holder's appointment faded quickly.

In his first major speech after assuming his duties, Mr. Holder gave a controversial speech where he referred to the United States as "a nation of cowards" when discussing racial issues. I took exception to that comment. Law enforcement officers regularly discuss potential sources of racial tension in our respective communities. Having attended scores of community forums, I've had hundreds of productive conversations with leaders in the minority community throughout my career. Many of my colleagues have done likewise. The newly minted top law enforcement officer in the nation was sending caustic messages to police and the public at large, and it was a sign of things to come.

During the 2008 presidential election, Mr. Holder refused to prosecute members of the New Black Panther Party for voter intimidation in Philadelphia. The Black Panthers and law enforcement have a history that can accurately be described as hostile. The "Fast and Furious" scandal followed, which indirectly resulted in the murder of Border Patrol Agent Brian Terry. Having refused to turn over documents related to the scandal, Mr. Holder would be held in contempt of Congress, marking the first time a sitting presidential cabinet member had been so. As a proponent of greater police transparency, Mr. Holder's actions appeared hypocritical.

The relationship between police and Mr. Holder, and by extension the President, deteriorated further during the Trayvon Martin/George Zimmerman case in Sanford, Florida and the Michael Brown case in Ferguson, Missouri. Both cases involved remarks made by the President and Mr. Holder emphasizing that institutional racism may have played a part in their shootings, while seemingly minimizing the actions of both young men prior to their tragic deaths. Mr. Holder launched federal investigations into both cases. No evidence of civil rights violations would be discovered in either. Although exonerated of wrongdoing, Sanford Police Chief Bill Lee was fired, and Ferguson Police Officer Darren Wilson, who acted in self-defense when he fired on Michael Brown, lost his career, and now lives a life fearful of retribution.

Equally troubling was a meeting the President had with Ferguson protesters prior to the grand jury verdict on Officer Wilson. It was

Perhaps the "teachable moment" of the "Beer Summit" is that civil and respectful discussions between the police and the minority communities they serve can make a difference. Much can be learned from seeing through the eyes of another. Life experience can create perceptions that may not always fit reality.

through Al Sharpton that the President encouraged protesters to "stay the course" in pursuing what they were advocating. Though the majority of protesters in Ferguson were non-violent, others were promoting lawlessness and violence, and it was widely reported that the movement in its early stages was being co-opted by professional agitators from outside of Ferguson, whose goals were more nefarious. ►



Photo: Pond5/JGroup

Mr. Obama's message was genuine and obviously directed to those that wanted good things to come out of Ferguson. However, those with bad intentions could corrupt those comments to justify acts of violence so far and warrant others. Over 100 businesses had been looted and destroyed in the St. Louis area prior to this meeting, and it should not be forgotten that Officer Wilson's life was being threatened, and his whereabouts openly sought by the more radical elements in Ferguson. The President needed to be more careful with his words.

In his time as Attorney General, Mr. Holder opened more than 20 investigations of state and local law enforcement agencies regarding civil rights patterns or practices in violation of the Constitution or federal law. This was the highest number in the history of the Justice Department. Former NYPD Commissioner Howard Safir and current Milwaukee County Sheriff David Clarke accused Holder of conducting "witch hunts" against police officers. The fates of Chief Lee and Officer Wilson give that viewpoint traction.

Mr. Holder's words and actions have much to do with the frosty relationship between law enforcement and President Obama. But the President never wavered in his support for his Attorney General. The President should not be faulted for his loyalty. President George W. Bush was also a frequent defender of his cabinet appointees as are all Presidents.

What is inexplicable, however, is his Administrations' seeming fondness for Al Sharpton. The controversies surrounding Sharpton, perhaps one of the most divisive figures in American politics/media, should have marginalized him long ago, yet he has been given new life by a White House that apparently sees him as playing a key role in improving race relations in America. The President has to know the law enforcement community, and a vast majority in our country views Al Sharpton less favorably.

When the "Beer Summit" took place in 2009, I confess the whole premise seemed silly and I felt it wrong for the President to inject himself into a relatively minor local law enforcement issue. Perhaps he was angry over the arrest of a friend, he may have been caught off guard by a reporter's question; or, perhaps he saw an opportunity to create dialogue about an issue to which he feels deeply connected - that minorities feel they are treated unfairly by the police who serve their communities. At this point the President's motivation doesn't matter. What truly matters is the future of our nation. In retrospect, the "Beer Summit" may have had more value than originally thought.

Most people don't know what became of the relationship between Professor Gates and Sergeant Crowley. I did a bit of internet research out of curiosity. "He and I have gotten to know each other and we have very friendly communication" said Professor Gates in

an NPR radio segment in July of 2011. After the "Beer Summit", the Sergeant requested that the two meet at the Professor's favorite Cambridge pub. The Professor obliged and was surprised by what he called a "very kind and generous gesture" by the Sergeant...a gift of the handcuffs used in his arrest. Professor Gates donated the cuffs to the National Museum of African American History and Culture.

Perhaps the "teachable moment" of the "Beer Summit" is that civil and respectful discussions between the police and the minority communities they serve can make a difference. Much can be learned from seeing through the eyes of another. Life experience can create perceptions that may not always fit reality. Bias is an inherent weakness that exists within us all and needs to remain in check.

Race is a difficult subject to discuss and the discussions seem to be far more productive in smaller groups, away from the prying eyes of "journalists." The media was kept at a distance during that afternoon in the Rose Garden. President Obama, Vice-President Biden, Professor Gates and Sgt. Crowley are the only ones who know what was said. There was no bombastic pundit analysis to inform us of who was right and who was wrong. The politically correct police were left holding an empty bag, as well.

President Obama is a sincere and likeable man...a guy you could have a beer with. He cares about his legacy. As a Chief of Police, albeit in a small Town, I care about mine. Neither of us wishes to be remembered as a person who created division within the nation or the community. If I had the chance to sit with him one on one I'd give him my thoughts about Holder's time as Attorney General. I'd

If I had the chance to sit with him (President Obama) one on one I'd give him my thoughts about Holder's time as Attorney General. I'd be curious if he would have handled matters in Ferguson differently. I'd ask him, "What is the deal with Al Sharpton?"

be curious if he would have handled matters in Ferguson differently. I'd ask him, "What is the deal with Al Sharpton?" I'd tell him I didn't feel he was visible enough when NYPD Police Officer's Wenjian Liu and Rafael Ramos were assassinated in December of 2014. I'd tell him that the first half of his memorial service speech in Dallas after the murders of Police Officers Lorne Ahrens, Michael Smith, Michael Krol, Patrick Zamarripa and Brent Thompson was very moving, but the second half seemed more appropriate for another time and place. I'd tell the President that I think his Task Force on 21st Century Policing did a pretty decent job creating a reasonable blueprint for the future. I'd let him know that his open letter to police officers following the murders of Baton Rouge Police Officer's Montrell Jackson, Mathew Gerald, and Brad Garafola was inspiring and very much appreciated. I'd tell the President I don't feel he has "blood on his hands." Then it would be my turn to listen.

Executive Director's Report



BY MARGARET E. RYAN

EXECUTIVE DIRECTOR'S REPORT

Police Chiefs and Police Executives from across New York State have played a pivotal role in criminal justice for more than a century. As I mentioned in the March 2016 edition of the *Chief's Chronicle*, the New York State Association of Chiefs of Police divides New York State into ten zones. After recently completing the 116th Annual Training Conference in Buffalo and Zone 10, let's continue across the state and make a visit to our next zone. Zone 9, which is comprised of Orleans, Genesee, Wyoming, Monroe, Livingston, Wayne, Ontario, Yates and Seneca counties, is where the history of NYSACOP began. Founded in 1901, the idea of such an organization began in the mind of Joseph P. Cleary, Chief of Police, Rochester. Chief Cleary discovered that the sentiment he and many others in law enforcement had was mutual. Chief Cleary succeeded in gathering together the chiefs of the police departments of several cities and villages from across the State to formulate plans to place the organization on a path forward. The first meeting in the History of the Association was held in that city on Saturday, November 30, 1901.

1939 brought us back to Zone 9 and Rochester once again was the site of the 39th Annual Convention. Dr. Theron Kilmer of New York City addressed the Association membership on drinking and driving issues in New York State suggesting that "We have come to the point where we must be up to date in determining alcoholism in the automobile driver. We must meet in a certain and scientific manner. I hope New York State will adopt legislation embodying the use of bodily-fluid tests in the alcoholic driver."¹ During the 1930's, in addition to police chiefs and legislators in New York embracing the science of chemical tests, other states began concentrating on the conditions surrounding automobile accidents including California, Indiana, Illinois, Iowa, Massachusetts, Missouri, Ohio, Texas and Wisconsin. In today's world, not only are police officers in New York State still enforcing the drinking and driving laws discussed at the 39th Annual Conference, but enhancing and expanding those discussions and laws to include underage drinking and drugged driving. Traffic safety is not just a term, but rather a way of life, and too often death, for not only law enforcement in 1939, but law enforcement and the general public today. The 1939 New York State Commissioner of Motor Vehicles Carroll Mealey reminds us that even today, DMV

has no enforcement powers subject to traffic law enforcement powers, but law enforcement officers who are charged with enforcing the law and the common sense of the motoring public that keeps our roadways safe.

In 2016, the New York State Public Safety Broadband Working Group continues to progress with communications options that integrate data and voice within the national FirstNet project. Zone 9 once again jumps into the conversation. The City of Geneva, Ontario County, had the first two-way radio in the State. After many obstacles to overcome including finances, radio licenses and training and technical expertise, the installation of the radio system was completed. Today the mission of the First Responder Network Authority, known as FirstNet, is to build the nation's first high-speed wireless broadband network dedicated to public safety. Technical expertise from law enforcement and police executives is being sought to promote a communications system that will give New York the greatest benefits. A radio operating licensing procedure has been in existence since before the World Wars, and with many modifications over the years, who would have guessed in the 1930's that this discussion would not only be continuing but would include the terms wireless and broadband communications?

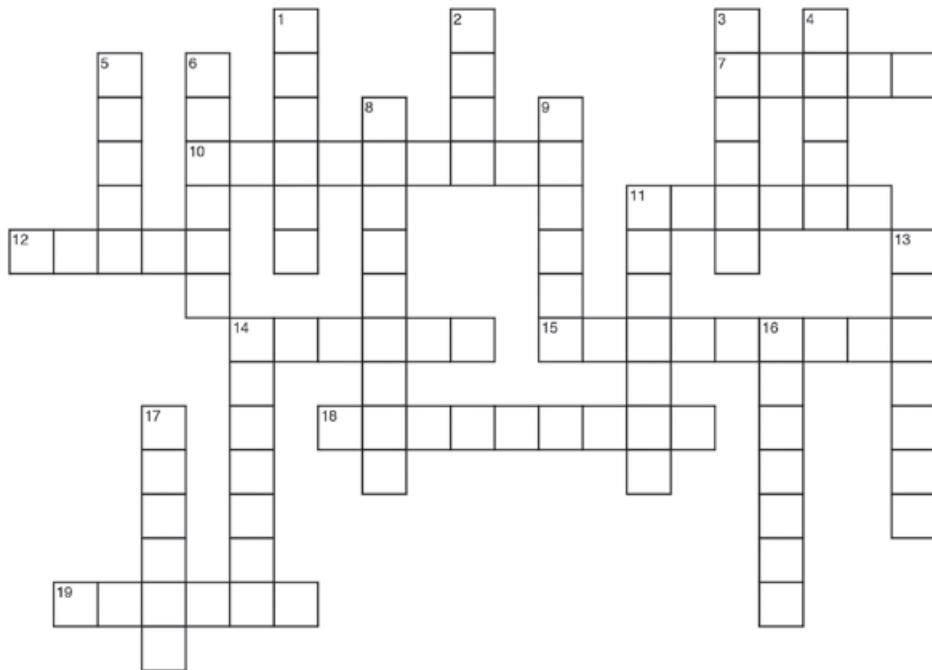
Today, the 3rd Vice President Chief Patrick Phelan (Greece) and Zone 9 Representative Shawn Heubusch (Batavia) serve in the NYSACOP Board of Governors. In 1932 the Greece Police Department was formed and today serves one of the largest towns in New York State. Their Community Services Unit participates in the "Healthy Highway" program, a partnership between the Greece Police Department and the Healthy Highway Company. Officers and Healthy Highway Staff work with elementary school staff and children to encourage and assist children with developing and practicing a healthy lifestyle.

In Batavia, they encourage citizens to embrace the department and take a proactive approach to assist with public safety. The Rochester area has also been the host of three Annual Conferences in 1939, 1965 and 2010. Our Association has a wealth of history and law enforcement dedication from the inception of the Association to the present in Zone 9.

¹ New York State Association of Chiefs of Police 1939 conference publication

FBI: Famous Cases and Criminals

Source: Federal Bureau of Investigation www.fbi.gov/history/famous-cases; Accessed July 22, 2016



ACROSS

7 - The collapse of _____ in December 2001 precipitated what would become the most complex white-collar crime investigation in the FBI's history.
10 - The lone bomber dubbed the _____ terrorized the nation for nearly 20 years, planting bombs that killed three Americans and injured many more before his capture in 1996.
11 - D.B. _____ hijacked and parachuted out of an airplane in 1971 with a bag full of stolen cash has never been seen again in one of the great unsolved mysteries in FBI history.
12 - The most notorious crime couple in American history, Bonnie & _____, died as they lived-in a hail of bullets.
14 - A 1963 bombing of the Baptist Street _____ in Birmingham by the KKK claims the lives of four African-American girls.
15 - The bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995 was the deadliest act of homegrown _____ in U.S. history, resulting in the deaths of 168 people.
18 - John Herbert _____, Jr. was a Midwestern bank robber, auto thief, and fugitive who captured the national imagination until the FBI caught up with him in 1934.
19 - A 1950 robbery of a Brinks bank in _____ by men in masks sets of a massive search for those responsible.

DOWN

1 - After conducting some 25,000 interviews and running down tens of thousands of investigative leads, the FBI found that Lee Harvey _____ acted alone.
2 - Using intelligence, the FBI uncovered an espionage ring run by Julius and Ethel Rosenberg that passed secrets on the atomic _____ to the Soviet Union.
3 - Lester Gillis, a/k/a "Baby Face" _____ -was a ruthless and violent gangster who killed three FBI agents and many others before being taken down in a fireflight with the Bureau in 1934.
4 - On February 2, 1980, the world learned of our high-level investigation into public corruption and organized _____, infamously code-named ABSCAM.
5 - George "Machine Gun" _____ and his gang kidnapped a wealthy oil magnate in 1933 and as legend has it, famously gave agents their "G-men" moniker upon his arrest.
6 - The bombing of the New York City World Trade Center in 1993 by Ramzi _____ and his conspirators killed six people and injured thousands.
8 - On December 21, 1988, Pan Am Flight 103 exploded over _____, Scotland, killing all 259 people on board-including 189 Americans-and 11 Scots on the ground.
9 - CIA case officer Aldrich Ames spied for the Russians for nearly a decade before his _____ in 1994.
11 - When the son of famed aviator _____ Lindbergh was kidnapped in 1932, the FBI and its new crime laboratory played a key supporting role.
13 - The FBI and its partners finally put away John Gotti, a ruthless New York mobster and head of the _____ crime family in the 1990s.
14 - Alphonse Gabriel "Al" Capone rose to infamy as a gangster in _____ during the 1920s and early 1930s.
16 - Between 1996 to 1998, bombs exploded four times in Atlanta and Birmingham, killing two and injuring hundreds and setting off what turned out to be a five-year manhunt for the suspected bomber Eric Robert _____.
17 - The kidnapping of Patty _____, the granddaughter of a newspaper magnate, in 1974 becomes one of the strangest cases in FBI history.

WORD BANK: Arrest, bomb, boston, charles, chicago, church, clyde, cooper, crime, dillinger, enron, gambino, hearst, kelly, lockerbie, nelson, oswald, rudolph, terrorism, unabomber, yousef.

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Counsel's Corner



Priority of Life and Crew Resource Management: Partners in Reducing Risk



BY CHIEF/RET. MICHAEL RANALLI, ESQ., PROGRAM MANAGER – LEXIPOL

In my last Counsel's Corner article ("Adding Perspective to the PERF Guiding Principles on Use of Force: What Police Administrators Should Consider," June 2016), I briefly discussed the importance of understanding the concept of *Priority of Life* (POL), which I also addressed in my presentation at the recent NYSACOP conference in Buffalo and during a recent Lexipol webinar.

Some readers may be familiar with POL, while it may be new for others. Regardless, I think it merits a closer look not only in light of the recent national discussion around police use of force, but because this concept has a powerful potential to enhance officer safety.

As I stated in the previous article, sanctity of life is, or should be, important to law enforcement officers already. How such a concept is drafted and implemented is the real issue, and one that officers need assistance with. This is where I feel the integration of POL into day-to-day law enforcement operations can help. Although our focus tends to gravitate to incidents where force and deadly force is used, application of POL needs to be an ongoing communication process between supervisors and subordinates and between peers—regardless of whether the incident outcome was "bad" or "good." Without a discussion about POL, unsafe habits are reinforced because nothing "bad" happens—until the one incident that ends tragically.

REVIEW OF POL

At the heart of POL is the recognition that officers may be faced with situations where the actions and decisions of other persons will require a prioritization of the lives of *all* persons involved to bring the situation to a successful conclusion. The safety of hostages, innocent persons and officers typically takes priority over the safety of individuals engaged in criminal behavior or over persons in crisis who are creating a risk or threat to other persons. Put another way, some persons (e.g., violent criminals, subjects who threaten the safety of themselves and/or others) are lower in the application of the principle of POL in a situation *created by that person*.

This does not mean that such a person's life is not valued. Instead it is an acknowledgment of the reality that some situations require an officer to make decisions that should be consistent with proper POL. In such case, if necessary, the POL will dictate the need to use some level of force to terminate a threat to innocent persons and/or officers. The ideal result, and the primary goal,

is that everyone involved survives the critical incident since preservation of life is a basic tenet of law enforcement. But this is not always possible.

Proper application of POL should also take into account the issue of discretionary time. When an officer has discretionary time, the situation reasonably appears to allow for time to consider possible available options and alternative methods of completing the task. Situations that do not afford discretionary time require an immediate response, without time to safely or effectively consider other options or alternative methods. In these situations, officers may need to assume additional risk in order to protect innocent human life. In situations where discretionary time exists, officers may be able to maintain equal priority of life with involved innocent persons.

The reality is that in some of the situations where officers must use deadly physical force, they have actually compromised their own POL and placed themselves in a situation where they are now at risk and have no choice but to use force. This is sometimes called "officer-created jeopardy" and in almost every such case the officer has in fact violated what should be the sacred concept of POL. An understanding of POL by officers, supplemented by consistent and timely supervisory feedback, can help to minimize such occurrences.

APPLICATION OF POL

Whenever possible, no human life should be put at risk—including the person creating the situation—if it is not reasonable and necessary under the circumstances as they appear to the officers involved. Proper application of POL and discretionary time to a situation involves an understanding of the interrelationship of the following principles:

- **Appropriate legal foundation** – this is the basis for the justification of any law enforcement response. The officer's proposed actions or entry upon property should reasonably appear to be consistent with law.
- **Appropriate safety foundation** – the proposed actions should take into consideration the safety of those involved as well as the officer. If officers unnecessarily place themselves at risk, they may also place innocent persons at risk.
- **Appropriate goals and objectives for proposed actions** – the proposed action may reasonably appear to be legal but the goals and objectives still need to justify the proposed action in light of the predictable risk the action would involve.

The lack of an appropriate legal foundation may terminate any further immediate response (e.g., a situation on private property with no warrant or other legitimate means to enter or arrest). The safety of all involved and the goals and objectives of the proposed action are closely interrelated. Enforcement of a minor offense or the protection of personal property may not justify placing an officer or other person at foreseeable risk, while the imminent use of deadly force by one person on an innocent person may justify the assumption of significant risk by an officer.

When I was first exposed to the concept of POL immediately after the Columbine shooting, it was presented in a simplistic linear fashion. Officers now had to understand that the traditional rigid POL hierarchy—(1) police officers, (2) innocent persons, (3) criminal suspects—was no longer viable; (1) and (2) needed to be reversed. Thus, our response to active-shooter events changed from “surround, secure and wait for SWAT” to “take immediate action.”

FIGURE 1

Innocent Persons

Police Officers

Criminal Suspects/Persons in Crisis

essentially be back to Figure 1, and the officer would have to assume personal risk to assist the victim, assuming that the circumstances still warrant it.

In this example, it is the suspect who is causing the risk to the victim and, potentially, to the officer upon arrival. That suspect, therefore, is driving the incident and considerations of his safety would be the lowest of those involved. But this does not mean that his safety is totally discounted; it is just lower in priority in the decision-making process, assuming the officer properly applies POL and arrives safely.

POL involves the perception of and/or allocation of risk by determining who, if anyone, is currently at risk. In other words, must officers act now and, if so, at what risk and to whom? Is assuming the risk necessary? Note: Placing suspects and persons in crisis on the same hierarchical level, as shown in figures 1 and 2, does not mean that they are necessarily treated the same. POL is about the perception of risk as well as the source and type of risk. It is not necessarily about culpability. Placing persons in crisis within the discussion of POL is a recognition of the fact that the police are typically the first responders in such cases, and this is where a lot of litigation arises from.

FIGURE 3

Innocent Persons

Officers/Persons in Crisis

POL, however, is far more complicated than just placing neat categories of persons in a linear hierarchy. For example, it appears to be simple to graphically represent POL post-Columbine:

But what if an officer is dispatched to a violent domestic dispute where it is clear that the female resident is at imminent risk? Figure 1 would clearly fit, correct? Not necessarily. At least, not immediately upon dispatch. Assume the officer is the only officer available, making it absolutely imperative that she arrives safely. Initially then, until the officer arrives on the scene, the officer would have the greatest POL, as represented by Figure 2:

FIGURE 2

Police Officers

Innocent Persons

Criminal Suspects/Persons in Crisis

Change the above domestic scenario to an officer responding to a “check the welfare” call for a potentially suicidal person. After safely arriving and discovering that the person is alone and in crisis, but has no known or visible weapons, the perception of risk will change accordingly, as represented in Figure 3. Until or if circumstances change, the POL is relatively equal for the only persons involved, and the officer should take no action to put himself or herself at risk. Nor would he be justified in putting the person in crisis at risk.

Now let's say the person pulls out a large knife he had secreted in his chair and indicates he just wants to be left alone. The perception of risk now changes once again. The officer's POL should rise above that of the person, as in Figure 2, and a tactical retreat could be considered. This would probably escalate into a larger incident, and how it is handled should be subject to the process described in the next section.

CREW RESOURCE MANAGEMENT (CRM) AND POL

CRM is a training procedure that is designed to use interpersonal communication and group decision-making to try to prevent tragedies based on human error. It is primarily used by commercial airline crews, the U.S. Air Force and Air Guard, and U.S. Navy flight crews. While a detailed overview of CRM

If the officer drives at excessive speed and in an unsafe manner, she would be putting both herself *and* the victim at *risk*. Getting there is the priority. Once the officer arrives, *then* we would

is beyond the scope of this article, the essence of it is that CRM creates a culture where a person of any rank can speak up when they perceive an error may be about to be made by another crew member. It is a very effective process that keeps perfectly good airplanes from crashing into the ground for no reason other than someone made a mistake. CRM definitely has application to law enforcement, especially during an incident where discretionary time exists. In fact, it needs to be used every day, even during normal routine operations.

A recent study by U.S. DOJ Community Oriented Policing Services (COPS) and the National Law Enforcement Officers Memorial Fund (COPS/NLEOMF)¹ of 684 law enforcement deaths from 2010 to 2014 revealed that 78 of those cases involved officers who were killed in vehicle crashes while responding to calls. Of those, 53% were killed while responding to "officer needs assistance" calls. In addition, 45 of the 78 fatalities were in single-vehicle crashes. Finally, 20% of the officers killed were not wearing seat belts. On another note, the researchers identified 132 cases in which officers were killed while on a call for service or during self-initiated activity. All but three of those officers were killed by gunfire, and 14% of them were not wearing body armor.



Photo: Pond5/mcarrel

This data, along with the data summarized in the 2006 DOJ study entitled *Violent Encounters*² as to the behavioral descriptors of officers who were killed and/or assaulted, indicates officers are sometimes doing things they should not be (excessive speed) or not doing something they should be doing (wearing body armor). Both studies also reference the fact that victim officers sometimes do not wait for back-up when it is available, and some do not always follow established rules and procedures. These studies also indicate that the day the officers were killed or assaulted was not the first time they did not follow policy or procedures, and therefore previously violated the concept of POL without correction. We, as a profession, must recognize this reality. First-line supervisors and *peer officers* need to actively engage such officers and show them that they are placing themselves at risk for insufficient reason. POL can be the template to start such discussions, but an organizational culture that embraces CRM is also needed. The result can be increased officer safety as well as reduced liability.

In the domestic example above, if CRM existed in that agency, the responding officer's supervisor may have already looked at available GPS speed data on that officer and previously discussed the risk involved with responding to such calls at excessive speeds. Further, the supervisor would have recognized the need to make sure all officers understand this and included it in subsequent training as well as enforcing it in practice. The officer, therefore, would be applying POL out of *habit*, lowering her risk of being included in future LODD studies.

In the person-in-crisis example, until he pulled out the knife the officer would know to take his time, request assistance, and continue to speak with the person in a nonthreatening manner. There would be no reason to use force or otherwise put either person at risk. Once he pulled the knife, the situation changes and now the officer's first thought—under POL previously reinforced by good training and CRM—is to keep himself safe since there is no one else at risk *except the person causing the risk*.

This is not to say we want to see the person take his own life. But history has shown that pointing firearms at people in such an emotional state does not work out well, and can result in the police killing the person who they are trying to stop from taking their own life. But what also needs to be emphasized in a POL discussion regarding such a situation is that the person with the knife would likely be able to charge the officer with the knife before the officer would even have a chance to fire or otherwise stop the charge. By focusing on his safety, the officer applies appropriate POL while also having potentially the best chance of de-escalating the situation. Once the officer attains a safer position, the situation will now best be handled by responding officers and supervisors utilizing POL through the process of CRM.

During the course of this article, I have not mentioned one case nor cited any law, because the application of POL does not contradict the objective reasonableness standard set by *Graham v. Connor* and supported by many other cases. What POL and CRM can add, however, is to lay the groundwork to reduce potential liability, increase officer safety, and reduce the risk that an officer will have to make and defend a split-second, life-or-death decision. Sometimes it can be enough just to do the right thing, without knowing the exact reasons why.

Author's Note: The topic of Priority of Life was presented in a Lexipol webinar on July 27, 2016. You do not need to be a Lexipol customer to view a recording of the POL webinar, which can be accessed at <https://attendee.gotowebinar.com/register/5805053433674010882>

¹ Breul, N. and Keith, M. *Deadly Calls and Fatal Encounters: Analysis of U.S. law enforcement line of duty deaths when officers responded to dispatched calls for service and conducted enforcement (2010-2014)*. A joint project by the U.S. DOJ Community Oriented Policing Services (COPS) and the National Law Enforcement Officers Memorial Fund.

² Pinizzotto, A., Davis, E., and Miller, C. (2006) *Violent Encounters: A Study of Felonious Assaults on Our Nation's Law Enforcement Officers*. Clarksburg, WV: U.S. Department of Justice, at Chapter 2.

The Value of Police Crash Reports in Highway Safety

Audio Podcasts Stress Important Role of Police in Highway Safety

BY: MARK A. SPAWN, DIRECTOR OF RESEARCH AND TRAINING

The MV104A is among the most common reports used by police in New York State. But did you know how they influence engineering, roadway design, signal timing, and repairs? Listen to traffic safety engineers, planners and law enforcement experts from New York State discuss the value of the MV104A in highway safety. In 2012, the New York State Association of Chiefs of Police (NYSACOP), New York State Department of Transportation (NYSDOT), New York State Department of Motor Vehicles (NYS DMV) and Governor's Traffic Safety Committee (GTSC) released a special audio podcast series titled, *The Value of Police Crash Reports*. The productions are still relevant as just as important as ever. The series of audio interviews contains twelve titles:

The Value of Police Crash Reports – Information from each report helps experts address specific problem locations and trends in crash types or patterns. The NYSDOT traffic engineers, highway designers and planners also rely on accurate crash data to make highways safer. Accurate data determines the use of millions of tax dollars for improvements and mitigation efforts on our roads. (Featuring: Sandra Misiewicz, Transportation Planner for the Capital District Transportation Committee, Albany, NY; Frank Pearson, Regional Traffic Engineer, New York State Department of



Photo: Fulton Police

Transportation, Long Island, NY; Todd Stauring, Civil Engineer in the Planning Group of New York State Department of Transportation, Hornell, NY; Michael McMullen, Office Manager of the Crash Records Center at the New York State Department of Motor Vehicles; Bill Leonard, Director of the Motor Carrier Compliance Bureau of the New York State Department of Transportation, Albany, NY)

Location, Location, Location! - Reporting accurate crash locations is critical to identifying highway safety issues for a given location. These specific locations can then be analyzed by engineers, designers and planners to apply appropriate, site specific remediation. Federal Safety funding is available for identified problem sites. Learn more about the impact of a detailed Narrative; the effectiveness of Geo-coding; use of the Incident Location Tool (ILT) in TRaCS; proper identification of Reference Markers and how Traffic Regulation is impacted by accurate identification of crash locations. (Featuring: Frank Pearson, Regional Traffic Engineer, New York State Department of Transportation, Long Island, NY; Todd Stauring, Civil Engineer in the Planning Group of New York State Department of Transportation, Hornell, NY; Sgt. James Daily, New York State Police, Albany, NY; Andrew Sattinger, Transportation Analyst, New York State Department of Transportation, Albany, NY; Matthew Roe, Planning and Research Manager of New York City Department of Transportation, NYC)

Crash Reports and TRaCs – The Incident Locator Tool is the mapping tool within TRaCS which provides the officer with GPS functionality to locate the crash on a map. Along with improvements to the locator tool, the new diagramming tool and its uses are described. In addition, improvements to the data transfer process and other features which will be helpful to officers are explained. (Featuring: Sgt. James Daily, New York State Police, Albany, NY; Andrew Sattinger, NYS Dept. of Transportation, Albany, NY)

Left Turn or Right Angle Crash? - Engineers describe the difference, and the importance of distinguishing a left turn crash

The series includes:

1. *The Value of Police Crash Reports*
2. *Location, Location, Location!*
3. *Crash Reports and TRaCs*
4. *Left Turn or Right Angle Crash?*
5. *Commercial Vehicles & the MV104S*
6. *Pedestrian and Bicycle Crashes*
7. *Coding Your Crash Reports*
8. *Public Property Damaged in Crashes*
9. *Fatal Crashes*
10. *Police-Involved Crashes; Driver Reviews*
11. *Duplicate Records*
12. *Crash Data Creates Real Change*

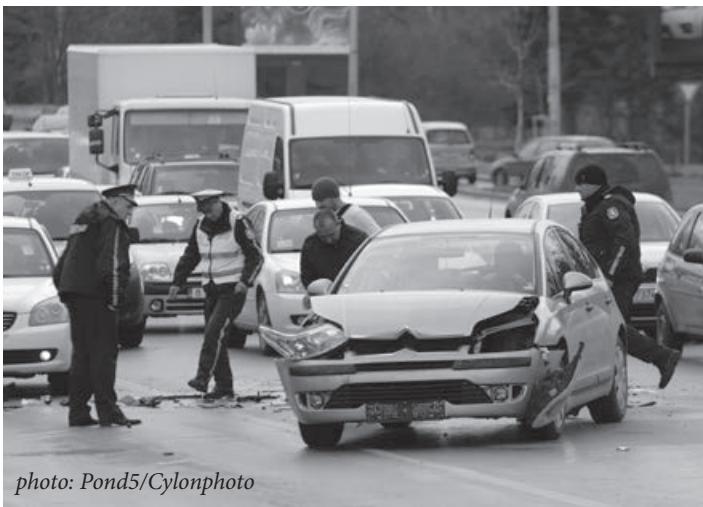


photo: Pond5/Cylonphoto

from a right angle crash. (Featuring: Todd Stauring, Civil Engineer in the Planning Group of New York State Department of Transportation, Hornell, NY; Frank Pearson, Regional Traffic Engineer, New York State Department of Transportation, Long Island, NY)

Commercial Vehicles and the MV104S - Along with identifying problem areas on the highway, crash data is used, along with inspection data, to rate Commercial Trucks and Busses. Accurate, timely data from crash reports provides data on severity and frequency of crashes. This information may prompt any of 21 commercial vehicle interventions, whether it be compliance reviews, warning letters or civil penalties. The definition of a Commercial Motor Vehicle is also clarified along with a Motor Carrier. Qualifying accidents also require MV104S. (Featuring: Bill Leonard, Director of the Motor Carrier Compliance Bureau of the New York State Department of Transportation, Albany, NY)

Pedestrian and Bicycle Crashes - Vulnerable Road Users -pedestrians, bicyclists and motorcyclists -make up about three quarters of all traffic fatalities and a large portion of injuries and severe injuries in NYC. This podcast explains how remediation can only be implemented with the detail found in the MV104A on 'Pedestrian Action', 'Diagrams' and 'Narratives'. Sample remediation is given to illustrate the kind of information which is meaningful to planners and engineers in determining exactly where the problem lies. (Featuring: Matthew Roe, Planning and Research Manager of New York City Department of Transportation)

Coding Your Crash Reports - There are several boxes on the MV104A which require a numeric code from the investigating officer. These codes play a critical role to analysts and engineers. Danielle Besso describes how these codes influence her work in analyzing crash locations. (Featuring: Danielle Besso, Regional Safety Evaluation Engineer of New York State Department of Transportation, Binghamton, NY)

Public Property Damage - Damage to guide rails, signs, culverts, barriers, utility poles, bridges is costly to the taxpayer and can also impact the safety of our roads. The Damage Recovery program at NYSDOT projects recovery costs for 2011 to exceed \$15M. And this is a fraction of potential recovery costs. The usefulness of property damage data entered in 'Collision Type' and 'Second Event' on the MV104A is explained. (Featuring: Andrew Sattinger, Transportation Analyst, New York State Department of Transportation, Albany, NY)

Fatal Crashes - The MV104D is filed together with the MV104A for fatal crashes. Data entered into these reports is collected in the Fatality Analysis Reporting System (FARS). The NYSDMV disseminates FARS data to various entities to improve the safety of our vehicles and our roads. For example, auto manufacturers receive this data in order to improve the safety of automobiles.

Learn how crash data contributed to the addition of safety devices on automobiles and trucks. FARS data is also used in performance measures, to evaluate how well we are doing in keeping our roads safe for the traveling public, nationwide. (Featuring: Louise Cesare, Supervisor of the Fatality Analysis Reporting System at the New York State Department of Motor Vehicles, Albany, NY; Michael McMullen, Office Manager of the Crash Records Center at the New York State Department of Motor Vehicles)

Police-Involved Crashes; Driver Reviews - Frequent at-fault crashes help the DMV identify drivers who are subject to an N-3 credit review. If crash reports indicate that the driver was not contributing to the crash, then it is not held against the driver. Similarly, when an officer is involved in a crash, the MV104L must be filed when responding to the scene of an accident, disaster, police call, and when pursuing suspected violators of the law. If the officer is not at fault, this crash will be excluded from the officers'

Click on APB Podcast from nychiefs.org or go to the iTunes Store and search for "New York State Association of Chiefs of Police" under the podcast section for all of our free podcasts.

- *Did you know traffic engineers read your narratives?*
- *Did you know that a crash involving a lawn service pickup with trailer may require the MV104S Truck and Bus Supplement?*
- *What's the difference between a left turn crash and a right angle crash?*
- *Did you know that when you check "public property damaged", engineers go out to check damages on state highways?*
- *How many agencies do you think use police crash reports in making decisions for multi-million dollar construction projects, signal and sign decisions, crosswalk assessments, and more?*
- *When involved in a line-of-duty crash, does your agency complete the MV104L accurately so the crash does not become part of your driver license abstract?*

external driver license abstract. (Featuring: Michael McMullen, Office Manager of the Crash Records Center at the New York State Department of Motor Vehicles)

Duplicate Records - When tickets and crash reports contain illegible or erroneous information, and when drivers provide multiple identities, constructing a single accurate record is problematic. Law enforcement can take certain steps to ensure the quality of information recorded on Uniform Traffic Tickets and MV104As. (Featuring: Debbie Langevin, Director of Ticketing at the New York State Department of Motor Vehicles, Albany, NY)

Crash Data Creates Real Change - Two examples of specific crash problem sites are discussed in detail. One location had been ranked the top pedestrian crash location in NYC for more than a few years. Details of the various methods used to determine all contributing factors of the problem are described. Using crash data in a mapped form, together with details on pedestrian action, road geometry and crosswalk visibility issues, planners were able to take corrective actions at the site and reduce pedestrian crashes by 80%. Another site on Interstate 88, near Horseheads, New York, had been identified as a Priority Investigation Location (PIL). Discussed are remediations applied after determining accidents were occurring on a curve and with problematic roadway geometry, together with information on time of day. (Featuring: Matthew Roe, Planning and Research Manager of New York City Department of Transportation;

Todd Stauring, Civil Engineer in the Planning Group of New York State Department of Transportation, Hornell, NY)

The timely and accurate reporting of traffic crashes is a routine function for police, and the impact of our reports are far reaching. This podcast series will help to reinforce the basics, as well as some unique and complex parts of crash reporting. It is important for law enforcement officers to understand that crash reports are used by many others, and the quality of the information we collect identifies hazardous locations, roadway and vehicle defects, effects construction projects, and also helps police analyze locations requiring enforcement. Since being released in 2012, the audio series have received more than 50,000 hits. These podcasts have become an important resource for New York's law enforcement community in ensuring the safety of our streets and highways.



MPTC Releases Unmanned Aerial Vehicle Policy

BY: NYS DIVISION OF CRIMINAL JUSTICE SERVICES



Photo: Pond5/galimovma79

Around the country, the usage of unmanned aerial vehicles (UAVs) by law enforcement officers has become more commonplace. UAVs enhance law enforcement's ability to respond to: incidents, search and rescue missions and tactical deployments. They also serve as a force multiplier increasing law enforcement's efficiency. While the benefits of this new technology have already been realized it is still a new and evolving field, thus making it critical to equip law enforcement with guidelines on the utilization of UAVs. It was only in December of 2015 that the FAA issued their registration and marking requirements for UAVs which requires FAA registration, identification markings and FAA flight authorization.

To that end, the Municipal Police Training Council (MPTC) adopted an Unmanned Aerial Vehicle Model Policy during their June 2016 meeting to provide guidance to agencies. Although law enforcement agencies are not obligated to use the model policy,

agencies are encouraged to customize these protocols to meet their regional needs, while being mindful of the intent of the policy. The protocols identified in the policy support law enforcement by providing agencies with guidance on the following key issues:

- Federal Aviation Administration (FAA) Registration and Certification Requirements
- Procedures for Administration of an Unmanned Aerial Vehicle program
- Unmanned Aerial Vehicle Audit Protocol
- Procedures for Use of an Unmanned Aerial Vehicle
- Digital Multimedia Evidence Storage and Retention

Questions regarding the model policy should be directed to Michael-Sean Spence at 518-457-7625 or via e-mail at michael-sean.spence@dcjs.ny.gov. You may also download the model policy or view additional MPTC model policies and guidelines on the eJusticeNY Integrated Justice Portal via accessing resources > reference library > law enforcement > MPTC.

Persons of the Year

Biasotti's Recognized for Advocacy on Mental Illness Reforms

BY: MARK A. SPAWN, DIRECTOR OF RESEARCH, DEVELOPMENT AND TRAINING

At the annual training conference in Buffalo on July 13, the Association's Person of the Year Award was presented to Michael and Barbara Biasotti. Mike recently retired as the Police Chief of New Windsor PD where he began his law enforcement career in 1977. He has been a member of the Association since 1988 and served as President. Barbara is a former school psychologist, with a background in nursing, also. The Biasotti's have been staunch advocates for progressive changes in our nation's mental health programs and policies, including urging reforms to the New York State Assisted Outpatient Treatment statute, known as Kendra's Law.

Mike is Vice President for the Treatment Advocacy Center, a nonprofit organization dedicated to eliminating barriers to the timely and effective treatment of severe mental illness, and he is a member of Crisis Intervention Team International. Mike and Barbara are both members of the National Alliance on Mental Illness, and regularly participate in IACP discussions on the law enforcement response to mental illness. Together, Mike and Barbara have travelled to many states, given several interviews to regional and national audiences, and testified before Congress. A few years ago, our Association formed a Committee on Untreated Mental Illness, which is chaired by Mike. The Committee is a vehicle for the Association to enlighten the public and policymakers about the myriad of issues involving persons with serious mental illness. President Stephen Conner (Asst. Chief MTA PD) said, "The Biasotti's have led efforts and discussions with state officials, advocating for reforms, and taking the conversation well beyond New York State."

Mike and Barbara are not just advocates, they are parents of a daughter with mental illness. Their advice and counsel has been sought by many because of their experiences: as a law enforcement



The Biasotti's are presented with the Persons of the Year Award at the Association's annual banquet in Buffalo. From left: President Stephen Conner, Michael and Barbara Biasotti, Exec. Director Margaret Ryan.

officer, a psychologist, and most important, as a family member. They have a unique understanding of the real-world implications of mental illness – the obstacles and bureaucracy to get services for people in crisis, a system that promotes freedom over safety, the lack of services and funding for proactive mental health care. But they also understand the services and solutions that can work.

President Conner continued, "This is a topic that won't go away. Mike, Barbara, and all of us, want to be sure that we are doing the right things at the right time, to protect the public, and to protect persons with mental illness."

The annual training conference is the Association's premier training event, with a contemporary agenda of emerging issues in law enforcement and public safety. The keynote speaker at the banquet was U.S. Attorney William Hochul.

SAVE THE DATE:

WEDS., MAY 3, 2017

LAW ENFORCEMENT EXPO

ALBANY, NEW YORK

Medal of Honor: A Tale of Perseverance, Teamwork, and Survival

Troy Officers Under Fire and Shot, Stop Armed Carjacker

Shortly before 11:00 PM on August 22, 2015, Troy police received a report of an attempted carjacking at gunpoint. Officer Joshua Comitale responded to the area of the call and spotted a man matching the suspect's description. Comitale radioed his location to dispatch and went to approach the man. At the same time and from another direction, Officer Chad Klein arrived in the area and attempted to block an avenue of escape with his patrol car. The suspect approached Officer Klein and fired upon the officer before he could exit his cruiser. With a serious

gunshot wound to his left shoulder and bleeding profusely, Klein drove away from the suspect and went to assist Officer Comitale. Comitale, immediately upon seeing the suspect shoot Klein, fired on the suspect striking him in the hip and causing him to fall down. A firefight ensued between the suspect and Officer Comitale in which more than 25 rounds were fired. Comitale was struck in both legs. The suspect, sustaining four additional gunshot wounds after the first shot, died at a local hospital.

Chief John Tedesco said that the officers are still on medical leave as they recuperate from their wounds. Each has required surgery and physical therapy in their recovery. When asked about the actions of his officers that day, Tedesco said, "I have not seen such a classic act of bravery in my entire career. After Officer Klein was shot, Officer Comitale immediately returned fire." Chief Tedesco continued, "And with Officer Klein seriously bleeding from his shoulder wound, he goes to Officer Comitale's aid to make sure that he is okay. The bravery of Officers Klein and Comitale continues as demonstrated by their ardent efforts to return to duty. The acts for which these two officers are being recognized and their refusal to accept their injuries justifies my regard for them as heroes."

President Stephen Conner said, "There are many inspirational stories of courage and

bravery by police officers. When they go above and beyond the call of duty in protecting our communities and their fellow officers, the least we can do is recognize their heroic deeds. Their actions are truly honorable, and it is our honor to recognize them for the sacrifices they have made, and continue to make, in service to the public."



Officer Joshua Comitale
Troy Police Department

*The acts for which these two officers are being recognized and their refusal to accept their injuries justifies my regard for them as heroes" –
Chief John Tedesco, Troy PD*

Executive Director Margaret Ryan said, "Our Medal of Honor program allows us to recognize the heroic acts of our state's finest police officers. The unselfish actions by Officers Comitale and Klein were extraordinary – literally, courage under fire."

The Medal of Honor of the New York State Association of Chiefs of Police is reserved for officers who perform an act of heroism above and beyond the call of duty. A committee reviewed the nomination of Officers Klein and Comitale and endorsed the recognition for both officers. The award will be presented to the officers at the annual training conference of the Association on July 12, 2016.



The shooting scene on 112th Street in Troy where officers engaged in a barrage of gunfire with the suspect. Several rounds struck the buildings in the background.

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Annual Conference Held in Buffalo

BY: MARK A. SPAWN, DIRECTOR OF RESEARCH AND TRAINING
PHOTOGRAPHS: DOMINICK MACHERONE

The annual conference has been an institution of the New York State Association of Chiefs of Police since 1901, bringing together like-minded leaders representing jurisdictions of all sizes. Representatives from the state's largest and smallest communities share their concerns, and our training agenda strives to fill the needs of all members. This year we discussed a variety of topics including contemporary legal issues, liability and risk management, labor law, officer wellness, body worn cameras, disability awareness, joint responses to active shooters, victim services, professional development, and more.



President Stephen Conner addresses delegates and guests during opening ceremonies in Buffalo. Seated from left: Incoming President David Zack (Cheektowaga PD), Vice President Michael Lefancheck (Baldwinsville PD), and Vice President John Aresta (Malverne PD).

On opening day, President Stephen Conner (Asst. Chief, MTA PD) provided delegates with a summary of the past year's events and the challenges facing law enforcement. Executive Director Margaret Ryan welcomed attendees and gave an overview of the conference agenda, activities and events.

Highlights of the conference included the renowned Gordon Graham who spoke on risk management in his unique and dynamic way. Mr. Graham built on his presentation from last year, speaking about *Why Things Go Right and Wrong in Law Enforcement Operations, and Ethical Decision Making*. On opening day we were joined by Chuck Wexler of the Police Executive Research Forum as our keynote presenter. The agenda continued over the following days with Michael Ranalli, Esq. (Chief/Ret. Glenville PD) who discussed Agency Risk and Liability Management; IACP Past President Richard Beary addressed members about the issues facing today's police officers; and David Whalen of the First Responder Disability Awareness Training project spoke about issues facing disabled persons and how law enforcement can more effectively respond to them. Updates were also provided on FirstNet, the New York State Violent Death Reporting System, and the Office of Victim Services. Back by popular demand was Mary Louise Conrow who discussed a variety of labor issues including §207-c, Civil Service Law, and various procedural and negotiable items



Gordon Graham captivated the audience in his unique style. His presentation on Why Things Go Right and Wrong was the featured presentation on Wednesday, July 13.

relating to labor law.

Body Worn Cameras (BWCs) are in use in many police agencies, and more departments are planning to implement this technology. An informative panel discussion on the topic included BJA Director Denise O'Donnell, Dr. Chip Coldren (CNA for BJA), Chief/Ret. Michael Ranalli, Chief Mark Pacholec, Chief Miguel Bermudez, Chief Patrick Phelan, and Chief David Zack. Director O'Donnell and Dr. Coldren shared information about the BJA Body Worn Camera Implementation Toolkit (available online), and spoke about the extensive research that has gone into the development of the guidelines. If you are considering implementing body worn cameras within your department, you should check out the resources available from BJA. Our distinguished panelists spoke about their experiences with BWCs, including the pros and cons of this evolving technology.

Michael Cerretto (Director of Counterterrorism NYSDHSES) and Dr. Joseph Bart (UB) talked about the joint response of EMS with law enforcement during active shooter incidents. Major Robin Benziger (NYSP) spoke about time and career



Among the panelists for the session on Body Worn Cameras were, from left: Chief Patrick Phelan (Greece PD), Chief Miguel Bermudez (Freeport PD), and Dr. Chip Coldren (BJA).



Police executives from all parts of New York State attended the 116th annual conference of the Association in Buffalo, New York.

management, and was joined by Miles Anthony, a financial planner who is a former New York State Trooper. Crime analysis centers (CAC) were the subject of another presentation by Dave McBath of the North Country CAC in Malone, and Jamie Giannaresi of the Erie County CAC in Buffalo.

The Association was honored to bestow the Medal of Honor to two police officers from Troy Police Department. Officers Chad Klein and Joshua Comitale were presented with the award on Tuesday, July 12 during the conference. Troy Police Chief John Tedesco and Assistant Chief George VanBramer and family members accompanied the officers for the presentation. (See story on page 14).

During the week, special events included an excursion to Niagara Falls and the Maid of the Mist. Evening events were held at the Buffalo and Erie County Naval and Military Park, the Riverworks, and aboard the U.S.S. Little Rock.

A formal banquet capped off the four day conference. Delegates enjoyed a keynote address by the Honorable William Hochul, U.S. Attorney for the Western District of New York. He joined the



U.S. Attorney for the Western District of New York, William Hochul, addresses members and guests at the formal installation banquet which was held on Wednesday, July 13.

Department of Justice in 1987 as an Assistant U.S. Attorney for the District of Columbia. While in Washington he prosecuted an extensive array of violent and white collar criminal cases, and later specialized in the prosecution of first-degree and gang-related murder cases. He talked with delegates and guests about the current state of affairs with law enforcement, and the tremendous working relationship that his office has with the policing community. Mr. Hochul's wife, Lt. Governor Kathleen Hochul, was scheduled as co-keynote speaker, but was unavoidably detained and unable to attend the banquet.

Outgoing President Stephen Conner emceed the evening's events, which included the installation of Officers and Zone Representatives. The Association's Person of the Year award was bestowed upon Michael and Barbara Biasotti (see story on page 13). Tamae Memole of Fight Crime Invest in Kids NY acknowledged Chief Frank Fowler (Syracuse PD) as the recipient of the 2016 Champion for Children Award. This is the second time that Chief Fowler has been received this special recognition.



Incoming President David Zack is presented with his Presidential induction certificate by Exec. Director Margaret Ryan.

Incoming President David Zack was sworn in by U.S. Attorney Hochul. Chief Zack addressed the audience about the challenges facing today's law enforcement officers from a nation that seems to be divided by politics, culture and race. And, he noted, it was not the first time that our nation has faced such a challenge. "More than a century and a half ago this nation stood on the brink of collapse. A great leader of that period assessed that 'America will never be destroyed from the outside. If we falter and lose our freedoms, it will be because we destroyed ourselves', said President Zack, quoting Abraham Lincoln.

Zack continued, "We must make known our vast efforts to improve police and community relations, but not do so without addressing the fact that no solution to such a complex problem is fixed by one entity examining itself, while the other falls under the protection of media and politicians who have a very different version of what constitutes a peaceful protest or inflammatory speech. No wrong has ever been righted by appeasement of the mob and since Ferguson, Missouri this mob has been given far too much latitude and has been held accountable far too little." He added, "Doing all we can requires a game plan. Again, I look to Lincoln who said 'give me six hours to chop down a tree and I will spend the first four sharpening the axe.'"

President Zack challenged delegates to help create a plan for the future, enlisting the talents of our broad membership.

Premier exhibitors for our conference included IMPACT, Curaegis Technologies, Flying Cross, the New York State Division of Homeland Security and Emergency Services, Offender Watch, New York State Department of Labor, Tyler Technologies, Affinity Enterprises, Accident Supports Services International, Ltd., LeadsOnline, Digital Ally, Mutualink, Fight Crime Invest in Kids, The Bonadio Group, Blauer Manufacturing, American Military University, United public Safety, NYSP TRaCS, WatchGuard Video, LexisNexis, TASER, Harris Corporation, and Linstar. The New York State and Local Retirement System was on site to provide consultations with members. Dan Stevens and Ricky Smith of MAGLOCLEN provided technical assistance throughout the conference. North American Breweries was a major sponsor and host for our board and delegates. Watch our website for details of next year's conference which will be held in Syracuse, New York.

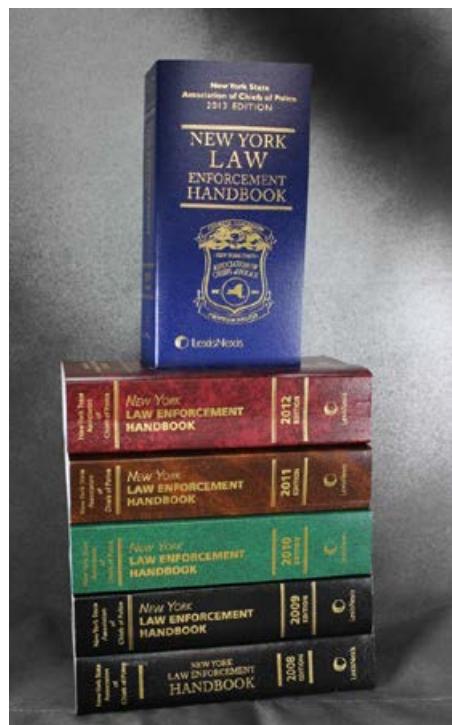


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Necessity is the Mother of Invention

Opioid Overdose Prevention Programs: The Latest Trend in Non-Traditional Community Policing Programs

BY SGT. WILLIAM DOHERTY, ESQ., FLORAL PARK POLICE DEPARTMENT



Sgt. Will Doherty,
Floral Park PD

About the author: Sgt. Doherty was a police officer in the New York City Police Department from 1998-2000. He transferred to the Floral Park Police Department (Nassau County) in 2000 where he is currently a patrol supervisor and a certified General Topics Police Instructor. He was a New York State certified Emergency Medical Technician – Critical Care (EMT-CC) from 1997-2010. He is a 2007 graduate of Pace

University School of Law and is admitted to practice law in the State of New York.

INTRODUCTION

Overdoses from heroin and other opiates continue to plague our society. In most of these communities, police departments are not only grouped among the “first responders” but they are actually the first to respond. As such, police officers have become increasingly trained to use and carry Naloxone¹ (Narcan²) to reverse the effects of a potentially fatal opioid overdose. Owing to the need for deployment of this lifesaving drug, many police departments have instructors³ who can train the officers and thereby authorize them to carry and use the Naloxone.

As with many other worthy programs, the public has reached out to police departments in an effort to become more educated in the use of Naloxone. Additionally, community groups frequently ask not only for some educational programs about Naloxone, but they also ask for training and the provision of Naloxone to them so that they can carry, possess and potentially use it. Prior to some recent legislation, it was not possible for police departments to provide this service to these well-intentioned groups. Now it is possible.

The purpose of this article is to introduce readers to the New York State Opioid Overdose Prevention Program regulations as a follow-on to the author’s previous article introducing Naloxone.

OPIATES AND OPIOIDS REVIEWED

A quick review of the term “opioid” may be in order. The term “opiate” is applied to any drug derived from the opium poppy. Morphine, codeine and heroin are examples of opiates. The term “opioid” is used to include these opiates as well synthesized drugs which behave in the same way as opiates. The effects of opioids in the brain can be threefold: 1) they have an analgesic—or pain-killing—effect; this is generally why opioids are *prescribed*, 2) they create euphoria—or a feeling of being high; this is generally why opioids are *abused* and 3) opioids suppress the person’s

drive to breathe. The drugs will tell the brain that the person can breathe less than it would normally. This becomes a problem when prolonged exposure causes the brain to signal the body to stop breathing or to breathe so little that the aided person becomes hypoxic (lacking oxygen in the blood system). A cascade effect results in brain damage, respiratory arrest, cardiac arrest and ultimately, death.

SCOPE OF THE OPIOID PROBLEM IN NEW YORK

According to New York State⁴, deaths from heroin and opioid analgesics continue to increase. The numbers are startling. In 2013, there were 2,175 drug-related deaths, an increase of 40% from 2009. Of these, 637 (29%) were from heroin use – an increase of 13% from 2009 when 242 were reported. Opioid analgesics⁵ were the cause of 952 deaths in 2013, up 30% from 2009 when



Photo: Pond5/diego_cervo

there were 735 deaths due to opioid analgesics. In response to this problem, Naloxone was used in the pre-hospital setting 11,992 times in 2014, up 57% from 7,649 times used in 2013.⁶

On a local level, the problem is equally stark. In Nassau County (the County within which the author’s police department exists), there were 51 deaths from heroin in 2014, 44 in 2013 and 38 in 2012. Deaths due to other opioids (such as prescription analgesics), amounted to 123 in 2014, 115 in 2013, and 116 in 2012.⁷ In the Village of Floral Park alone there were 6 opioid overdose deaths between 2012 and 2014.⁸

WHAT POLICE DEPARTMENTS CAN DO

Since 2006, non-medical personnel have been allowed, under certain circumstances, to possess and administer Naloxone in the event of a potential opioid overdose. Although Naloxone is not a controlled substance, it does require a prescription or order be in place for it to be provided. This is no different than for any

other prescription medication. As such, a legislative avenue to get this invaluable tool into the hands of non-traditional healthcare providers (such as police officers on patrol) was necessary.

It is said that “Necessity is the mother of invention.” Certainly, out of necessity, legislation was born. Along with the legislation to put this lifesaving drug in the hands of non-medical personnel, the concept of Opioid Overdose Prevention Programs began. Basically, interested organizations can apply to register as an Opioid Overdose Prevention Program. When approved, these organizations can then possess Naloxone, train people in the community to use and possess it, and dispense it to them. This is an excellent program in which police departments should consider participating. General information, information about how to apply, curriculum requirements and liability issues will follow⁹.

OPIOID OVERDOSE PREVENTION PROGRAMS

These programs allow organizations that want to help stem the tide of opioid overdose to train members of their communities on the use of Naloxone and then dispense it to them. The benefit of this is that more Naloxone will be available to people who may be at risk, to their loved ones, or to other people with whom they interact. Undoubtedly, statistics will show over time that more overdoses were reversed and fewer people died from opioids due to this program.

In order to apply for registration as an Opioid Overdose Prevention Program, the interested organization must be a health care facility regulated by the NYS Department of Health under the Public Health Law¹⁰; a physician, physician assistant or other person authorized to prescribe Naloxone¹¹; a drug treatment program licensed under the Mental Hygiene Law¹²; a not-for-profit community organization incorporated under NYS law¹³; a local health department, public safety agency or local or state government agency¹⁴; an institution of higher learning¹⁵; a trade or vocational school¹⁶ or a registered pharmacy¹⁷.

Police departments fall into subsection “v” as a public safety agency. Each program must apply for registration and provide a Program Director¹⁸ and a Clinical Director¹⁹. The Program Director would be a member of the police department making application for registration. The Program Director has overall responsibility for management of the program, designing curriculum, issuing certificates of completion to trainees, reporting use of Naloxone and information related to training sessions conducted and keeping records. The Clinical Director must be a person licensed to prescribe Naloxone and is responsible for being a clinical advisor to the program, providing curriculum oversight, reviewing training protocols, reviewing reports of Naloxone administration and designating who can dispense, train on, and provide Naloxone. This designation is referred to as a “standing order” or “non-patient specific prescription” and allows the Clinical Director to basically prescribe the Naloxone to the Opioid Overdose Prescription Program who can then dispense it to people who attend training classes, called “Trained Overdose Responders”. The Clinical Director does not have to be present during training sessions conducted by the Program.

“TRAINED OVERDOSE RESPONDERS” – POSSIBLY THE MOST IMPORTANT COG IN THE WHEEL

The people that police departments (or any other registered program) train during community training sessions are statutorily referred to as “Trained Overdose Responders”²⁰. This is a legal term used in the legislation to describe the people who attend the Program’s Naloxone training, who would otherwise not have been able to possess and/or use Naloxone without an individual prescription from their own healthcare provider. In order to be a “Trained Overdose Responder” the person must have successfully completed a Naloxone course of instruction offered by a registered Opioid Overdose Prevention Program and thereby be authorized to possess the drug. Or, the person must be a public safety officer

...what is unique to this program is the ability for civilians to be trained in the use of Naloxone and be authorized to legally possess it.

who has attended a DCJS-approved Naloxone training session or a firefighter who has attended a “comparable curriculum approved by the department.”²¹

This term includes the “traditional” or “typical” persons who may have Naloxone and be able to use it – firefighters and police officers. However, what is unique to this program is the ability for civilians to be trained in the use of Naloxone and be authorized to legally possess it. The benefit of this statutory language is that people who may be at risk of witnessing a potentially fatal overdose can now avail themselves of programs near them, attend a training class, and carry lifesaving Naloxone with them. People such as teachers, nurses²², school officials (likely with permission of school districts only), mothers, fathers, siblings, counselors and any number of other people can now potentially save the life of a drug user who has overdosed and is approaching death. It should be noted that there is no prohibition on users attending the training classes themselves and keeping Naloxone available to themselves.

TRAINEE RESPONSIBILITIES

Obviously in order to be considered a “Trained Overdose Responder”, the person must have attended approved training²³. But additionally, they must refresh their knowledge and skills every two years (or demonstrate their skills and knowledge satisfactorily to the Program Director).²⁴ They must also ensure that they call 911, or otherwise initiate EMS and first responder response, upon using Naloxone²⁵. This is because, while Naloxone puts the drug user into immediate withdrawal and potentially saves their life, it is not considered definitive care and the person absolutely must be taken to an emergency room. The trainees must also comply with any policies developed by the Opioid Overdose Prevention Program that trained them.²⁶ It should be noted that record keeping and reporting requirements vis-à-vis Naloxone use remains the responsibility of the registered program. All the trainees have to do

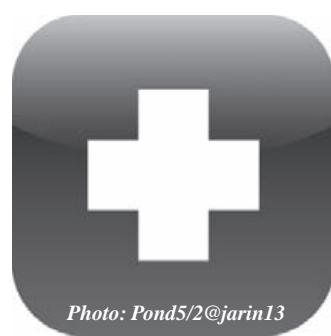


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is make certain that they notify EMS and first responders however they would do so in their area.

TRAINERS

The Program Director designates the trainers. As stated above, within a police department only a NYS DCJS-certified general topics police instructor can certify police officers. However, in the context of a police department that also operates an Opioid Overdose Prevention Program, this is not specifically required to train civilians. It is, however, the policy of the author's police department to use NYS DCJS-certified police instructors to train

This department, while small, has seen a comparative uptick in the use of Naloxone on the street by our own police officers. Additionally, public sentiment has been very supportive of our initiatives.

both police officers in-service as well as civilian trainees. In either case, the Program Director or Clinical Director may assume the role of the instructor. Whoever conducts the courses of instruction must have an excellent working knowledge of Naloxone and the ability to instruct on it in such a way as to provide a coherent and comprehensive course of study so that trainees will be able to go forth and use the Naloxone appropriately.

Because cessation of breathing is one of the most serious side-effects of an overdose, the ability to render aid to this emergency is also an important part of Naloxone training. Training in rescue breathing must be a part of any Naloxone training session. Full CPR and/or chest-compression-only CPR may become part of the curriculum in the future. All training sessions must include how to administer Naloxone as well as how to recognize a potential overdose.

RECORDS

Each Opioid Overdose Prevention Program must comply with the statutory record keeping requirements.²⁷ These include recording the names and dates of people trained, the dates that the trainees are provided with Naloxone, who provided the non-patient specific order (presumably the Clinical Director), maintaining procedures and policies, copies of all registration paperwork, documentation of review of Naloxone administration incidents and inventories of supplies.

SO, THE POLICE DEPARTMENT IS INTERESTED, WHAT NOW?

If a police department is interested in participating in this worthy program, application must be made to the Department of Health (DOH). The application and ancillary materials are available online at <http://www.health.ny.gov/forms/doh-4391.pdf>. Prior to filling this out, a Program Director and Clinical Director must be designated.²⁸ Sending the application to the DOH can be done electronically or otherwise, and approval takes only a matter of weeks. A certificate of registration with a registration number will be returned to the Program Director. This certificate must be conspicuously displayed wherever the program has a physical address, in the author's case it is on the desk in Police Headquarters. With the successful registration of the program, the police department can then go out into the community and conduct training sessions for civilians who are interested and are willing to comply with the requirements stated above. Additionally, the Naloxone can potentially be obtained by departments from the American Federation for AIDS Research (AmFAR) for little or no cost after they become registered. This will alleviate much of the cost concerns for police chiefs.

LIABILITY CONCERN

This is a very important issue, especially when attempting to recruit a Clinical Director and when training actual students. As per the NYS Public Health Law, "use of an opioid antagonist²⁹ pursuant to this section shall be considered first aid or emergency treatment for the purpose of any statute relating to liability. A recipient, opioid overdose prevention program, school district... in the state, or any person employed by such district, board or school under this section, acting reasonably and in good faith in compliance with this section, shall not be subject to criminal, civil or administrative liability solely by reason of such action."³⁰ According to the New York State Department of Health, the DOH interprets this liability protection to apply to Clinical Directors



Photo: Pond5/pixelaway

acting in good faith as well. This is important to explain to potential clinical directors who are rightfully conscious of liability exposure. Additionally, “Pursuant to Public Health Law Section 3309(2) the purchase, acquisition, possession or use of an opioid antagonist by an Opioid Overdose Prevention Program or a Trained Overdose Responder in accordance with this section and the training provided by an authorized Opioid Overdose Prevention Program shall not constitute the unlawful practice of a professional or other violation under title eight of the education law or article 33 of the public health law.”³¹

CONCLUSION

As of April 2016, the Floral Park Police Department has been registered by the Department of Health as an Opioid Overdose Prevention Program. The process was seamless and easy. This department, while small, has seen a comparative uptick in the use of Naloxone on the street by our own police officers. Additionally, public sentiment has been very supportive of our initiatives. As such, the Department decided that the ability to prevent overdose deaths by training the widest number of people possible was an imperative.³²

It is 2016 and police departments have to face the facts: preventing dice games on a foot post are part of our past and probably our future. However, the recurrent assignment to an overdose call has become a daily responsibility. In order to face this challenge, police departments must be equipped to address the problem. Previously, small police departments had to rely on larger agencies for this training and the equipment. With the advent of Opioid Overdose Prevention Programs, police departments and other like-minded organizations can equip and train themselves and other people of their community. There is absolutely no doubt that this will be one of the most beneficial, harm reduction-related, advancements in the justice system.

¹Naloxone is the generic name for the well-known opioid antagonist Narcan. Just as acetaminophen is to Tylenol, naloxone is to Narcan. Naloxone is a medication that has been used in hospitals and the pre-hospital emergency medical setting for more than 40 years. It is an opioid antagonist, which means that it works to block the effect of opioids on the brain.

² Narcan® is a registered trademark of Adapt Pharma, Radnor, PA.

³In order to train police officers, fellow police officers must be certified by the New York State Department of Criminal Justice Services (DCJS) as general topics police instructors.

⁴New York State Opioid Poisoning, Overdose and Prevention: 2015 Report to the Governor and NYS Legislature, New York State Department of Health, Aids Institute. This report contains extensive statistics and information that need not be repeated here. Readers can find the report at:http://www.health.ny.gov/diseases/aids/general/opioid_overdose_prevention/docs/annual_report2015.pdf

⁵The term “opioid analgesic” refers to prescription pain killers that can be lawfully obtained or possessed illegally without a prescription. Typically these medications contain multiple drugs such as acetaminophen (Tylenol) and a narcotic opioid pain killer (analgesic). Examples are synthesized opioids such as hydrocodone (Vicodin, Zohydro), oxycodone (OxyContin,

Percocet, Percodan), hydrocodone (Zohydro), oxymorphone (Opana), fentanyl and many others.

⁶These statistics are taken from the 2015 Report to the Governor and NYS Legislature, *supra*, in their entirety.

⁷Source:<http://www.nassaucountyny.gov/DocumentCenter/View/9390>.

⁸Source:<http://www.nassaucountyny.gov/DocumentCenter/View/9391>.

⁹This information and more is available at the NYS Health Department website in their “FAQ” document located at: http://www.health.ny.gov/diseases/aids/general/opioid_overdose_prevention/questions_answers.htm.

¹⁰10 NYCRR §80.138(a)(5)(i).

¹¹10 NYCRR §80.138(a)(5)(ii).

¹²10 NYCRR §80.138(a)(5)(iii).

¹³10 NYCRR §80.138(a)(5)(iv).

¹⁴10 NYCRR §80.138(a)(5)(v).

¹⁵10 NYCRR §80.138(a)(5)(vi).

¹⁶10 NYCRR §80.138(a)(5)(vii).

¹⁷10 NYCRR §80.138(a)(5)(viii).

¹⁸10 NYCRR §80.138(a)(6).

¹⁹10 NYCRR §80.138(a)(7).

²⁰10 NYCRR §80.138(a)(9).

²¹10 NYCRR §80.138(a)(9)(iii).

²²According to the DOH Questions and Answers document, “Professional scope of practice dictates what may and may not be done by various health care personnel in their roles within their respective professions. The Department’s opioid overdose regulations do not address scope of practice issues. There is no bar to a nurse becoming a trained overdose responder, so long as that trained overdose responder role is distinct from the role of practicing the profession of nursing. When the individual is functioning as a nurse (other than a nurse practitioner), he or she may only administer naloxone following a patient specific or non patient specific medical order.”

²³10 NYCRR §80.138(c)(3)(i).

²⁴10 NYCRR §80.138(c)(3)(ii).

²⁵10 NYCRR §80.138(c)(3)(iii).

²⁶10 NYCRR §80.138(c)(3)(iv).

²⁷10 NYCRR §80.138(c)(6).

²⁸In the case of the Floral Park Police Department’s Opioid Overdose Prevention Program, the author is the Program Director and a very civic-minded local physician, Dr. Anthony F. Cordaro, MD, serves as the Clinical Director. It should be noted that Dr. Cordaro has agreed to serve in this role as a kindness to his community and receives absolutely no remuneration for his pro-bono service.

²⁹i.e. Naloxone or Narcan.

³⁰NYS P.H.L. §3309(4).

³¹10 NYCRR §80.138(9).

³²As with previous Naloxone and overdose prevention-related initiatives, Mark Hammer of the NYS DOH has been a great help to the author. Mr. Hammer is the Director of Program Integration and Special Projects, Division of HIV, STD and HCV Prevention, AIDS Institute, New York State Department of Health. Inquiries regarding the New York States opioid overdose program may be directed to him at (212) 417-4669 or at overdose@health.ny.gov. He welcomes any inquiries.



Please Join Our Campaign to Stop Child Abuse!

New York State actually cut some funding to maternal, infant, and early childhood home visiting programs last year. Therefore, our top priority this year is preserving and then increasing funding for these programs, which are proven to decrease child abuse and neglect, as well as increase a plethora of positive outcomes.

In July, we released a report entitled *Home Visiting in New York: A Critical Crime Prevention Strategy*. In August, we are sending packets of information—including county-specific child maltreatment and fatality rates—to all Fight Crime members. In September, we will facilitate in-district visits between members and legislators.

We sincerely hope that you will join us in our fight!

Champion Award to Chief Fowler

For an unprecedented second year in a row, Syracuse Police Chief Frank Fowler won our Champion for Children award. Gov-

ernor Cuomo provided a citation to congratulate Chief Fowler on his efforts in support of children across the State. While the award and citation were presented in absentia at the Chiefs' Summer Conference, Fight Crime staff were joined by Syracuse Mayor Stephanie Miner for a formal presentation in August. We cannot thank Chief Fowler enough for his work on behalf of Fight Crime!

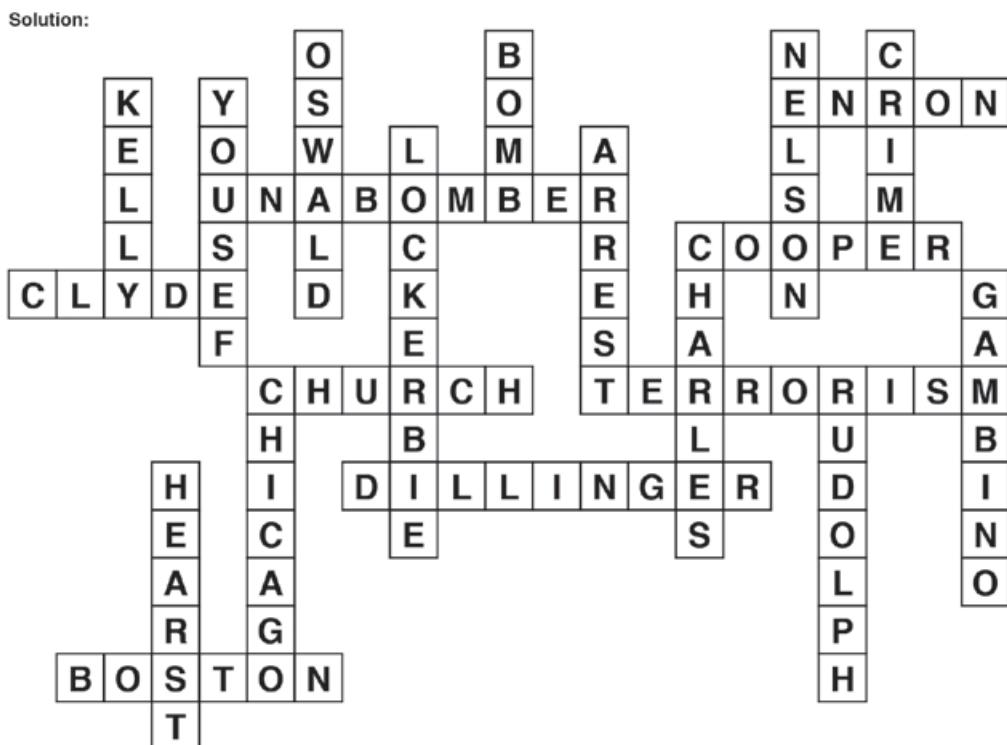


Jenn O'Connor
State Director

PUZZLE ON PAGE 6

FBI: Famous Cases and Criminals

Source: Federal Bureau of Investigation www.fbi.gov/history/famous-cases; Accessed July 22, 2016



Police Car Hiccups

POLICE OFFICER REPORT: High band antenna missing.
FLEET MANAGER: High band antenna found on roof after brief search.

POLICE OFFICER REPORT: Car 706 handles funny.
FLEET MANAGER: 706 warned to straighten up, and be serious.

POLICE OFFICER REPORT: RADAR hums.
FLEET MANAGER: Reprogrammed radar with lyrics.

POLICE OFFICER REPORT: Mouse in trunk.
FLEET MANAGER: Cat installed.

POLICE OFFICER REPORT: Noise coming from under instrument panel. Sounds like a gremlin pounding on something with a hammer.
FLEET MANAGER: Took hammer away from gremlin.

POLICE OFFICER REPORT: Left rear tire almost needs replacement.
FLEET MANAGER: Almost replaced left rear tire.

POLICE OFFICER REPORT: Test drive OK, except anti-sway control very rough.
FLEET MANAGER: Anti-sway not installed on this car.

POLICE OFFICER REPORT: Something loose in trunk.
FLEET MANAGER: Something tightened in trunk.

POLICE OFFICER REPORT: Dead bugs on windshield.
FLEET MANAGER: Live bugs on back-order.



POLICE OFFICER REPORT: Evidence of leak at gas line filter.
FLEET MANAGER: Evidence removed.

POLICE OFFICER REPORT: seat belt alarm volume unbelievably loud.
FLEET MANAGER: seat belt volume set to more believable level.

POLICE OFFICER REPORT: Unable to pivot RADAR on dash because of velcro.
FLEET MANAGER: That's what it's there for.

POLICE OFFICER REPORT: PA speaker inoperative.
FLEET MANAGER: PA speaker always inoperative in OFF mode.

POLICE OFFICER REPORT: Suspected crack in windshield.
FLEET MANAGER: Suspect you're right.



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- ✓ SITUATIONAL AWARENESS?
- ✓ WHAT'S HIS MENTAL STATE?
- ✓ WHAT IF HE RUNS?

- ✓ IS HE ARMED?
- ✓ PHYSICAL CAPABILITIES?
- ✓ CRIMINAL RECORD?
- ✓ IS BACK-UP NEEDED?



**USE HANDCUFFS
SEARCH THOROUGHLY**

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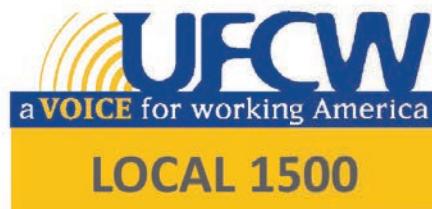
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