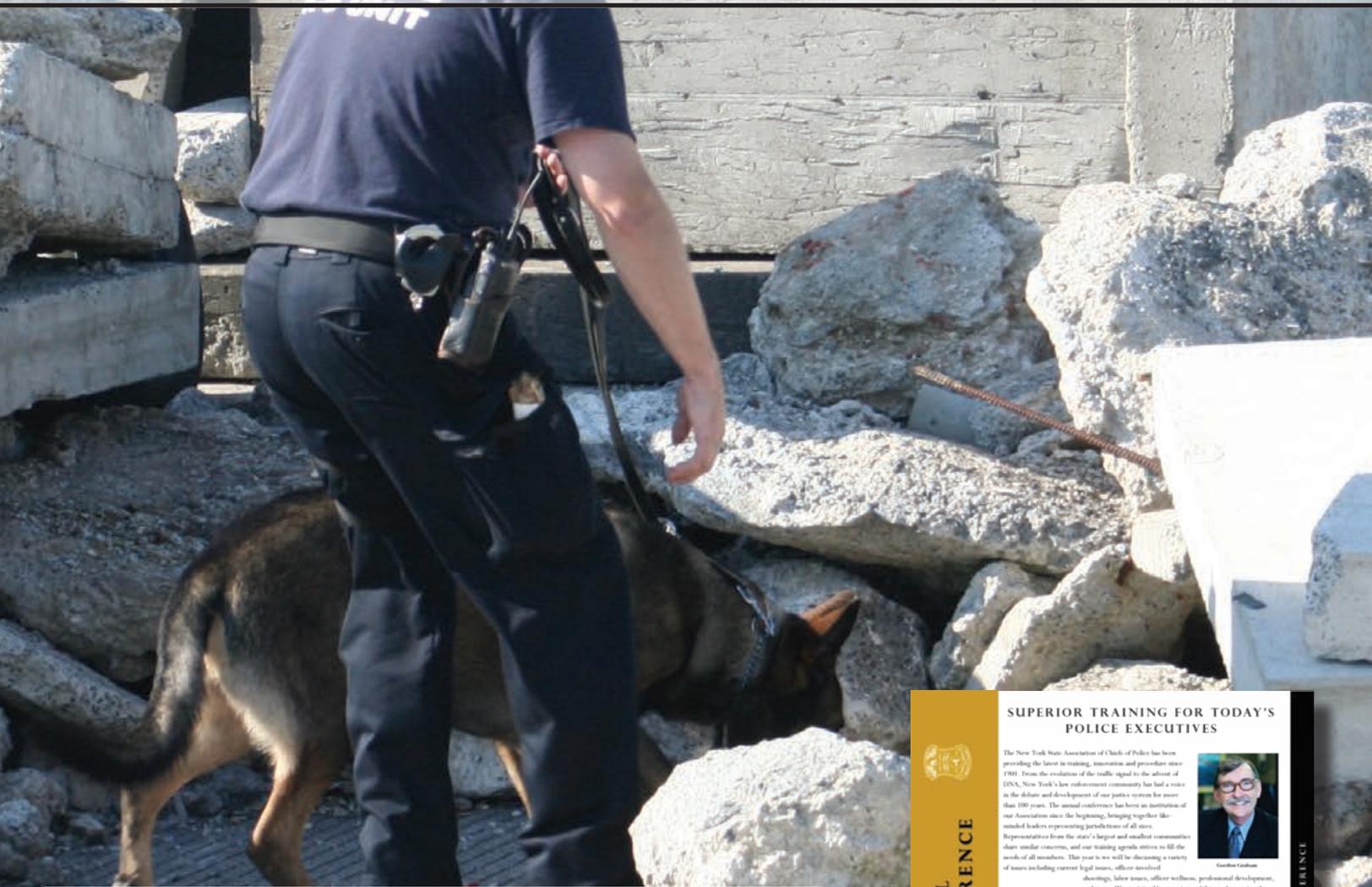


# The New York State Chief's Chronicle



Serving New York's Police Executives Since 1901

June 2016



Inside:  
The New York State Preparedness Training Center

Asset Forfeiture Program is Back  
Counsel's Corner: PERF's Guiding Principles on Use of Force  
Annual Training Conference Information  
New York State Crash Data Now Online  
DMV Crackdown Nets 81 Arrests in "Operation Prevent"

2016 ANNUAL TRAINING CONFERENCE

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The New York State Association of Chiefs of Police has been providing the latest in training, innovation and procedure since 1901. From the evolution of the traffic signal to the advent of DNA, New York's law enforcement community has had a voice in the debate and development of our justice system for more than 100 years. The annual conference has been an institution of our Association since the beginning, bringing together like-minded leaders representing jurisdictions of all sizes. Representatives from the state's largest and smallest communities share similar concerns, and our training agenda strives to fill the needs of all members. This year is no exception as we will be discussing a variety of issues including current legal issues, officer-involved shootings, labor issues, officer wellness, professional development, and more. We are joined by primary exhibitors showcasing the latest in technology, products and services. These resources are available to answer your questions about their products and services to make your job easier.

**Chuck Winkler**  
Police Executive Research Forum

This year's agenda is packed with high profile presenters. Back by popular demand, the ever-popular Gordon Graham speaks on risk management in his unique and dynamic way. One opening day we are joined by Chuck Winkler of the Police Executive Research Forum as our keynote presenter. Chief Michael Brandt, Esq. brings relevant discussions on Agency Risk and Liability Management. Are you using body worn cameras in your agency or thinking about it? Be sure to join us for a panel discussion on helping police chiefs, legal counsel, and I&A Program representatives. Our friends from the Division of Homeland Security will talk about integrating I&A with law enforcement during active shooter incidents. And there's much more – details inside.

Gordon Graham

The conference culminates with our formal installation banquet on Wednesday evening. This year we are honored to have two keynote speakers: New York State Lieutenant Governor Katherine Mitchell and U.S. Attorney William Mitchell. We will install new officers and say thank you to those whose terms are ending.

Join us at The West Regency Buffalo Hotel and Conference Center in Buffalo, New York. The facilities provide an excellent atmosphere for learning and networking. Be sure to register soon.

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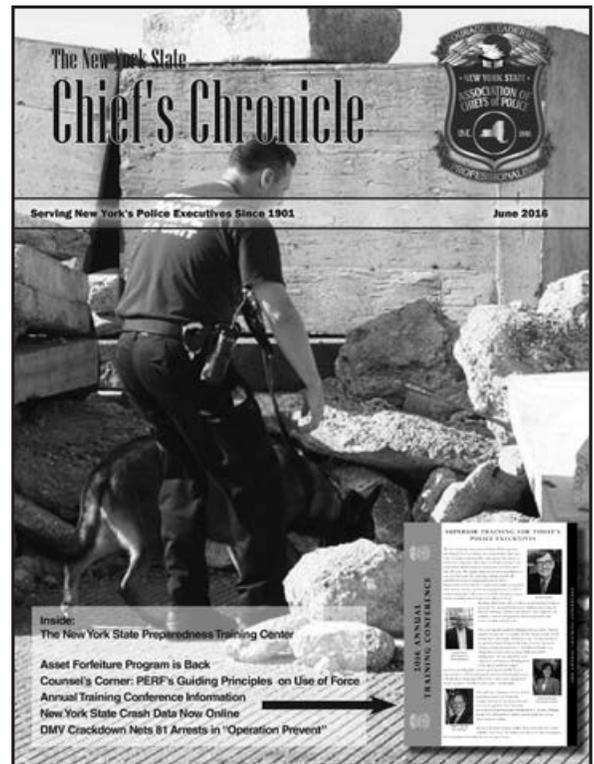
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# On the Cover:

Learn about the New York State Preparedness Training Center: Jonathan Kozlowski of Law Enforcement Product News shares his story about the training programs available at the SPTC in Oriskany, New York. Several chiefs got a special tour of the SPTC – check out those photos inside. ATF has announced the 2016 Raven’s Challenge, an interoperability exercise at four locations in the United States, including the SPTC in Oriskany.

Learn more about the PERF Guiding Principles on use of force in Counsel’s Corner. The Asset Forfeiture program has returned to regular operations. Since our last edition when we discussed the rescission, the program is back and disbursements are being made again. Details on all of these stories, plus detailed information about our annual training conference and more, inside.



## NPSTC Honors Many Achievements of Chief Harlin McEwen and David Buchanan

**N**PSTC’s Governing Board and the many friends of Chief McEwen and Mr. Buchanan said farewell at the meeting held at IWCE on Friday, March 25, as the two retire from their leadership roles with NPSTC. The Board honored these two men with the NPSTC Lifetime Achievement Award. The award reflects the many years the recipient has worked for the interests of public safety communications nationwide. The recipient shall have positively influenced nationwide policy in many ways over his/her lifetime, which as a result, has demonstrably improved public safety communications. This award is not given annually, but rather as determined by the NPSTC Governing Board.



*Chief Harlin McEwen*

To further honor the exceptional work Chief McEwen has accomplished, the Board created a brand new award, the Harlin R. McEwen Award.

This award was created in honor of Chief Harlin R. McEwen, a founding member of the NPSTC Governing Board and an individual

who volunteered his skills, talent, and time working tirelessly for over half a century in the interest of nationwide public safety communications. The recipient must match the commitment and leadership shown by Chief McEwen. The recipient must also be someone of excellent character, have demonstrated an unwavering sense of community over self, have outstanding ethics throughout his/her career, share the same kind of passion as Chief McEwen, and have advanced the nationwide public safety communications community in a highly significant way. This award is not given annually, but rather as bestowed in very special cases by the NPSTC Governing Board.



*David Buchanan*

Both men expressed their great appreciation to an enthusiastic round of applause, saying the awards reflect the combined efforts and hard work of those in this community.

Originally published on March 31, 2016 by National Public Safety Telecommunications Council. Reprinted with permission.

# President's Report



## PRESIDENT'S REPORT

BY ASST. CHIEF STEPHEN CONNER, PRESIDENT

**H**ow often, especially in recent years, has your agency been put in an operational position to police public gatherings in which individuals are displaying their First Amendment right to free speech or “protest”? As we all know, free speech is one thing, but how often do we find the situation teetering on the edge of public disorder? Demonstrations in New York City, Chicago and Baltimore are classic examples of this fine line between free speech and civil unrest and I can only imagine what the cities of Cleveland and Philadelphia will be like in just a few weeks as the host cities of the Republican and Democratic Conventions. The bigger question is not “can we police these gatherings?”, but rather, “are our department’s prepared to deal with the distinction between protected speech and civil unrest?”

The First Amendment provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of

delivered, unless of course it leads to unrest, but the perception that it is okay to state your feelings two inches from the face of one of our brother or sister officers. You get a sense that their message is not for the targeted audience but for the front line officers that are simply protecting the rights of those gathered. We have seen over the last few months in cities across the United States where political candidates have drawn people en masse to state their views for or against the candidates. That’s fine, but once again, why is the line crossed into the close proximity to where our officers are offering protection for all people at the site? I have personally had my patience tested with such scenarios, so I don’t author these thoughts from second hand information, but as someone who stood face to face with individuals as a song of hatred towards police made popular on a You Tube video sung by a Hollywood actor (whose name I refuse to write) was sung directly at me and my officers. Not a fun tour that day!

Sound tactics, communications and a lot of patience are critical in these situations and as police leaders we are front and center in making a statement in how these situations will proceed. Hopefully we are in front of the situation by reaching out for the leadership of the groups. Discussions on what will be tolerated and what will not be tolerated is essential. When permits are required, what are the stipulations? Does the group want to be arrested? My agency has run into situations where people want to voice their First Amendment rights but want no part of being arrested and then of course you have your “professional” protesters who are ready and willing to cross the line, break the law and be arrested. Please be prepared for the legal representatives with these groups, or as I call them, “the green hats” to never be accountable for the actions of the group, but to certainly be vocal when proper police actions becomes necessary.

These expressions of free speech or “protest” can happen in your municipality, hopefully with advance warning. But who’s to say that an incident will not manifest into a protest because of something that just occurred. An unfavorable school board vote, the passing of local legislation or even as a result of police action. The goal of law enforcement will be to “protect life and property” and to “ensure that all privacy, civil rights, and civil liberties protections are upheld.” (*The Role of Law Enforcement at First Amendment Events*). I have been involved in situations where the tide has turned on protesters and in the end put our forces in a situation where we mediated, protected the protesters and



the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.<sup>1</sup> The key word that I am focusing on is “peaceably”. The interpretation of the First Amendment as related to police actions was covered in a 2011 Department of Justice recommendations, “The Role of Law Enforcement at First Amendment Events”.<sup>2</sup> It should be noted that these recommendations were published prior to the 2014 acts of civil unrest in Missouri.

I believe the biggest challenge we face in law enforcement in dealing with free speech is not necessarily the message being

ultimately ejected both protesters and anti-protesters. The situation changed in a split second and I find it curious that incidents like this have not made their rounds into the media!

One of the areas that will certainly land departments in hot water is when we police an event with any type of unnecessary documentation that relates to race, ethnicity, religion, political favor, or sexual habits, to name just some of the areas. From an agency perspective, our officers must not let their personal, religious, or political views cloud the manner in which they handle themselves. The final point is that we should anticipate our actions to be captured on video, so these types of interactions need to be legally correct from a law enforcement perspective. This is not meant to diminish the fact when the situation becomes criminal, law enforcement must and will do what is necessary to resolve the situation.

Well, enjoy your summer as you ponder these thoughts and with the annual NYSACOP conference right around the corner, I hope

*“I have been involved in situations where the tide has turned on protesters and in the end put our forces in a situation where we mediated, protected the protesters and ultimately ejected both protesters and anti-protesters. The situation changed in a split second and I find it curious that incidents like this have not made their rounds into the media!”*

you have already registered and I am looking forward to seeing you all in Buffalo. It has been a very quick year for me, as your President, and I am honored to be part of such an elite group of professional, police leaders. Be safe!

<sup>1</sup> whitehouse.gov; Accessed April 14, 2016

<sup>2</sup><https://it.ojp.gov/documents/d/Recommendations%2for%20First%20Amendment-Protected%20Events%20for%20state%20and%20local%20Law%20Enforcement.pdf>; Accessed April 14, 2016



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# Executive Director's Report



## EXECUTIVE DIRECTOR'S REPORT

BY MARGARET E. RYAN

It's homework time at my house and a lively conversation erupts. Spelling, math, ELA, science, and social studies. "Why do I have to do all of this?" As a future leader, you should have a solid background in all of these areas since the career crystal ball has yet to be invented. As a Police Administrator, administrative, financial, operational, planning, wellness are essential components in managing a department. While it's our duty as police administrators to serve and protect, it's also our duty to hire those police recruits following provisions outlined in law and statutes. Warrant and arrest preparation may be thought of as a uniformed officer's task, but the administration, training and legal skill set for that preparation begins at the top. As administrators, we cultivate fresh ideas while fostering the next generation of department leaders. New legal cases impacting law enforcement happen daily, and as Police Administrators, managing Policy & Oversight, Training & Education, Officer Safety & Wellness, Building Trust & Legitimacy, Technology & Social Media, and Community Policing & Crime Reduction are all part of the daily tasks.

In May 2015, the Final Report of the President's Task Force on 21st Century Policing (Report)<sup>1</sup> was published. The Report focused on six areas referred to as "Pillars". Each Pillar is a major topic area which addressed an important aspect of policing and police-community relations. The Report offers a unique opportunity for departments, municipal officials and community members alike, to review and examine the functionality of a department. In addition, the Report looks to provide officers with the necessary tools and information to increase their efficiency and effectiveness while building trust within their communities. The public's perception of police legitimacy is fundamental to effective policing and maintaining safe communities. Over the last two decades, law enforcement agencies and individual law enforcement officers have been the subject of intense public scrutiny. The litigious condition of our society has been a key factor in this scrutiny. The very nature of police work from use of force and arrests often lends itself to complaints and lawsuits from those with whom law enforcement officers have contact with. Who can doubt that the people recruited into a police agency and their performance affects the quality of that agency's performance in profound ways?

New York Conference of Mayors (NYCOM) President Richard

B. Milne recently stated, "While it is our duty to serve the residents of our cities and villages in the most cost-efficient manner that we can, it is also our duty to provide the services they desire... It is our duty to provide emergency services that protect our homes, properties and lives. It is our duty to provide or support the opportunity for police protection."<sup>2</sup> Looking back to my homework conversation, spelling and articulation are important for that school essay, but also for the annual police departmental report. If you used to hate math class, you probably realize now that decimals have a point and mathematical equations factor into our daily lives. Compiling statistics on known overtime specific events provides for articulate conversations with elected officials during budget sessions. But what about those unknown events? Managing those

*The public's perception of police legitimacy is fundamental to effective policing and maintaining safe communities.*

events and managing the collaborative work with stakeholders in a community is part of managing a police department. The science of data driven policing and the social science of officer wellness now factored into the equation. While managing a police department is complex, it is our duty to provide the best service to our residence.

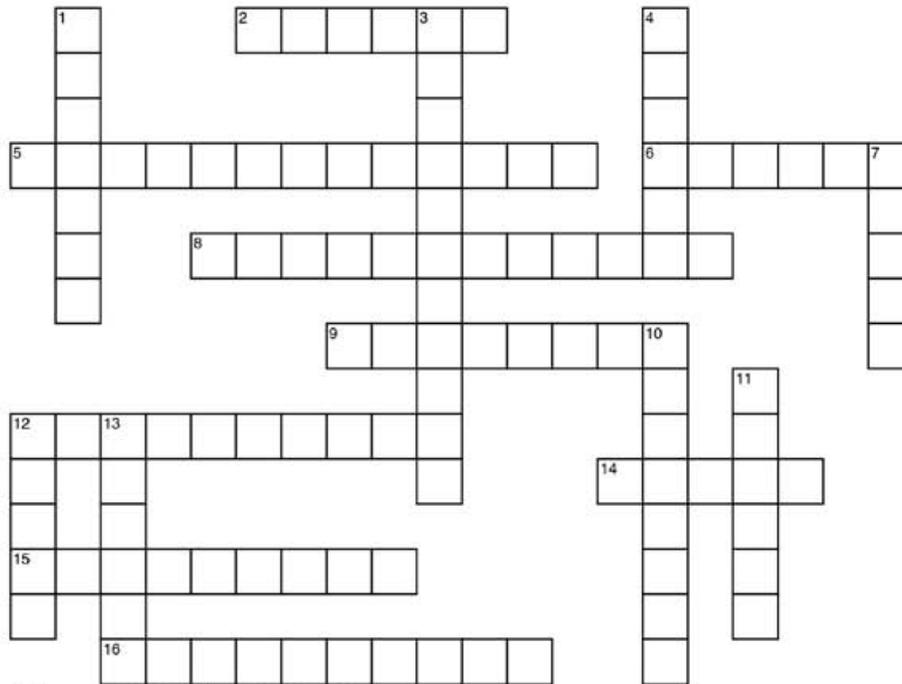
Whether or not you agree with the entire Final Report, managing the components of the six Pillars is necessary. Homework is complete and we're off for a walk thru the neighborhood to continue our discussion and to stay fit and well. After all, shouldn't we lead by example?

<sup>1</sup> [www.cops.usdoj.gov/policingtaskforce](http://www.cops.usdoj.gov/policingtaskforce)

<sup>2</sup> NYCOM Municipal Bulletin, Winter 2016

# Important Dates in Law Enforcement History

Source: National Law Enforcement Officers Memorial Fund, Washington, D.C.; Important Dates in Law Enforcement History; Updated April 14, 2014



<http://www.nleomf.org/facts/enforcement/impdates.html>

## ACROSS

- 2 - Sheriff Cornelius Hogeboom of Hudson, New York, was shot on October 22, 1791 as he attempted to serve a writ of ejection becoming the first known law enforcement officer to be \_\_\_\_\_ in the line of duty.
- 5 - The first national police group is formed in 1893, the National Chiefs of Police Union, which would later become the \_\_\_\_\_ Association of Chiefs of Police. For the first time, police leaders met regularly to share ideas.
- 6 - In September 1971, seven Correctional Officers were killed during the riots at the \_\_\_\_\_ State Prison in upstate New York: William Quinn, Edward Cunningham, John D'Archangelo Jr, Richard Lewis, Carl Valone, Ronald Werner and Harrison Whalen.
- 8 - In 1929, Federal Agent Elliot Ness begins his legendary law enforcement career and is picked to lead a group of agents nicknamed "The \_\_\_\_\_" - Marty Lahart, Sam Seager, Barney Cloonan, Lyle Chapman, Tom Friel, Joe Leeson, Paul Robsky, Mike King, Bill Gardner, Al 'Wallpaper' Wolff and two other associates, Frank Basile and Jim Seeley.
- 9 - The Department of \_\_\_\_\_ Security is formed in 2002 to lead the unified national effort to secure America.
- 12 - On September 24, 1789, the United States Congress creates the first Federal law enforcement officer, the United States Marshal. Thirteen U.S. Marshals were appointed by President George \_\_\_\_\_.
- 14 - From April 1, 1878 - April 28, 1881, notorious outlaw \_\_\_\_\_ the Kid kills six law enforcement officers in New Mexico: Deputy James W. Bell, Sheriff William Brady, Deputy James Carlisle, Deputy George Hindman, Deputy Marshal Robert Olinger and Deputy Robert Beckwith.
- 15 - The deadliest day in law enforcement history occurred on September 11, 2001 when 72 officers were killed while responding to the \_\_\_\_\_ attacks on America.
- 16 - On April 6, 1970, four California Highway Patrolmen, James Pence, Roger Gore, Walt Frago and George Alleen died in a 4 minute gun battle with two heavily-armed suspects. The Newhall Incident, as it became known, reverberated throughout the law enforcement community and led to major reforms in training procedures, firearms use, and arrest \_\_\_\_\_.

## DOWN

- 1 - Dallas Police Officer J.D. Tippit is shot and killed by Lee Harvey Oswald on November 22, 1963 after Oswald assassinates President John F. \_\_\_\_\_.
- 3 - On December 16, 1891, City Health Dept. Inspector Marie Owens is appointed to the Chicago Police Department as a police officer assigned to the Detective Bureau, becoming the nation's earliest-known female sworn law \_\_\_\_\_ officer.
- 4 - On September 20, 1974, Officer Gail Cobb of the Metropolitan Police Department of Washington, D.C., is shot and killed while attempting to apprehend a robbery suspect. Officer Cobb is the first of 55 African-American \_\_\_\_\_ officers to be killed in the line of duty.
- 7 - Police start wearing soft body \_\_\_\_\_ in 1974 to protect themselves against handgun assaults.
- 10 - On February 28, 1993, four Special Agents of the U.S. Bureau of Alcohol, Tobacco and Firearms (ATF) were killed attempting to execute a search warrant at the Branch \_\_\_\_\_ compound in Waco, Texas: Todd McKeehan, Robert J Williams, Conway LeBleu, and Steven Willis.
- 11 - In 1895, Future President Theodore Roosevelt begins his three-year term of \_\_\_\_\_ Commissioner in New York City.
- 12 - On October 26, 1881, Legendary Lawman \_\_\_\_\_ Earp, along with his brothers Virgil and Morgan and John Henry "Doc" Holliday, win the Wild West era's most famous gunfight at the O.K. Corral
- 13 - On April 14, 1865, the day he was shot by the assassin John Wilkes Booth, President Abraham Lincoln approves the formation of what is now the United States \_\_\_\_\_ Service.

**WORD BANK:** Armor, attica, billy, davidian, enforcement, female, homeland, international, kennedy, killed, police, secret, techniques, terrorist, untouchables, washington, wyatt.

**Solution on page 40**

# Counsel's Corner



## *Adding Perspective to the PERF Guiding Principles on Use of Force: What Police Administrators Should Consider*



BY CHIEF MICHAEL D. RANALLI, ESQ.

In January 2016, the Police Executive Research Forum (PERF) released a report entitled *Critical Issues in Policing Series: Taking Policing to a Higher Standard – 30 Guiding Principles (January PERF 30)*. A considerable amount of controversy resulted in the wake of the release, generating a stream of articles and commentaries in both mainstream media and police trade magazines and websites. Most of those praising the report were from the mainstream media, while the criticism came from police circles, including attorneys who defend officers and municipalities.

Then in March, PERF released a more in depth version of the report, *Guiding Principles on Use of Force (March PERF 30)*. This version addresses some of the criticisms of the January report and attempts to clarify PERF's intentions. Even the *March PERF 30*, however, requires further development and analysis because the principles and supporting content within it vary from straightforward recommendations (many of which should be nothing new to contemporary police trainers and administrators) to recommendations that are well-intended but not suitable for immediate adoption by agencies since further context is required.

After the release of the *January PERF 30*, I immediately became concerned that some police administrator's may—after all the criticism and pressure to change practices placed on the police over the last two years—rush to adopt all of the principles as individual, standalone concepts. This fear was confirmed, to some extent, by news articles regarding agencies that are immediately adopting the principles, as well as in casual conversations I had with officers from several departments. My suggestion: If you have not read either of the PERF reports, do not read the *January PERF 30*. If you have read it, disregard it and focus instead on the *March PERF 30*. But even so, this report must be viewed with a very critical eye because some of the principles are expansive, conclusory statements that do not provide sufficient basis for complete understanding of the principles' intended scope, let alone adoption. Instead, we should view the report as a piece of the ongoing dialogue on police use of force, not as the answer.

It is not my intent to criticize PERF and their efforts in the face of the controversies of the past few years. It is commendable for PERF to attempt something of this magnitude and importance. While I have concerns about how some of the principles may be interpreted and haphazardly adopted, some of the intended changes to police behavior are valid and worthy of consideration. Instead, my intent is to try to give some perspective, from the view of a police trainer and attorney, as to how the principles

should be interpreted and considered for application to agency policy and operations.

It is not possible to cover all 30 principles within this article, but

*...this report (March PERF 30) must be viewed with a very critical eye because some of the principles are expansive, conclusory statements that do not provide sufficient basis for complete understanding of the principles' intended scope...*

I will focus on what I perceive as some of the most critical policy-related principles for police administrators to understand.

### **General concepts and observations.**

Before jumping to the specific principles, we need to consider some general concepts:

- Although the 30 principles are laid out in a linear fashion and appear to stand alone, many of them are merely pieces of a much larger organizational cultural puzzle. Some are so intertwined with the others that they must be embedded within all training efforts (see my discussion below on sanctity of life), if even adopted at all (see my discussion below on the *Graham v. Connor* standard).
- Although some of the principles *appear* to be complete concepts, they are not, and they leave many unanswered questions that must be considered prior to successful application. Administrators, along with trainers and subject matter experts, must scrutinize each principle and ask how each can

be effectively understood and applied by line officers. The introductory comments to the *March PERF 30* indicate the primary focus of the report is on dealing with the mentally ill and subjects who are not armed or are armed with something other than a gun. This purported intended focus, however, is lost in the expansive language of some of the principles.

- Many of the principles appear to require officers to attend classroom and reality-based training off-shift. While to some

*Objective reasonableness is derived from the reality that human beings (officers) have to make split-second, life-or-death decisions based on what is known to them at that moment in time. Graham focuses on a fraction of a timeline in a law enforcement intervention event. The manner in which this principle is written may allow for inappropriate changes to policy pertaining to the legal standards for use of force, when the focus really needs to be on the tactics and decision making leading up to the need and/or decision to use force.*

extent this will be the case, many of the principles can be addressed through proper supervision and by retooling current training techniques. For the past several years, my presentations have included a discussion of the importance

of examining the *process* that officers followed, not just focusing on the result. I have also stressed the importance of candid communication between agency supervisors and officers in ensuring the proper process is followed in any given situation where there is discretionary time available.

- Agency policies should require supervisory review of high-risk situations and the processes followed by the officers involved in them, even if there was a good result. Effective, respectful and honest communication must follow such a review. Training is about learning, and effective feedback and communication will facilitate learning. This will be a component of my presentation at the 2016 New York State Association of Chiefs of Police (NYSACOP) Conference in Buffalo.

I will now review select principles related to policy.

**#1) The sanctity of human life should be at the heart of everything an agency does.**

Sanctity of life is, or should be, important to law enforcement officers already, but making it clear in mission statements, policy and training is important. How it is drafted and implemented is the real issue. As written, this principle is capable of being interpreted by the media and civilians incorrectly, leading to the mistaken belief that officers always control the decision to use force. Instead it is usually dictated by the actions of the subject involved. Officers, by contrast, will commonly place themselves at unnecessary risk and ignore the fact that their own lives are subject to the same sanctity.

Sanctity of life is critical, but it is not absolute. What needs to be included within the principle is the concept of *Priority of Life* (POL). POL is a 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 and officers involved to bring the situation to a successful conclusion. Some persons (e.g., violent criminals, suicidal subjects who threaten the safety of 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. But this is not always possible.

So this first principle is valid in concept, but subject to misapplication, and needs to be further developed with an understanding of POL.

On page 14 of the *March PERF 30*, the following statement appears in bolded letters: "At the heart of many of these concerns is officer safety, and the fear that any changes to use of force practices could put officers in danger ... But our research has led us to an alternate conclusion: that changing how agencies approach certain types of critical incidents can *increase officer safety* in those situations." I could not agree with this statement more and that's why I feel it is absolutely critical to include the concept of POL in any discussion related to sanctity of life. 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.

An agency merely stating, “We believe in the sanctity of human life” is not a concept that can be applied by officers in a practical or functional manner. Sanctity of human life is the basis for which POL exists, but both must be discussed and trained on together to be successfully adapted into departmental operations and day-to-day supervision, as PERF is suggesting in the commentary to this principle. (This topic will also be discussed in my presentation at this year’s NYSACOP conference.)

One final note on this principle deals with PERF’s comment that emphasis should also be on “...the importance of treating all persons with dignity and respect.” Consistent with prior PERF publications on legitimacy and procedural justice and the reality of police work, treating all persons with dignity and respect should be a standalone principle. All interactions, both internally between agency members and externally with the public, require dignity and respect, not just critical incidents.

**#2) Agencies should continue to develop best policies, practices, and training on use-of-force issues that go beyond the minimum requirements of *Graham v. Connor*.**

In the *January PERF 30*, Guiding Principle #2 stated: “Departments should adopt policies that hold themselves to a higher standard than the legal requirements of *Graham v. Connor*.” The first sentence of the accompanying discussion read “*Agency use-of-force policies should go beyond the legal standard of ‘objective reasonableness’ outlined in the 1989 U.S. Supreme Court Decision Graham v. Connor*” (emphasis added). This statement generated many critical responses from law enforcement commentators.

The *March PERF 30* reflects some modified wording, but the principle remains potentially misleading because a use of force policy should be based on the law. *Graham v. Connor* and objective reasonableness apply to that moment in time during an incident when an officer decides to use physical force or deadly physical force. That is the law and we should not create a separate standard in our own policies. My concern is that administrators will fail to recognize that the use of force decision is legally different from tactical decisions made by officers *before* a use of force incident. Objective reasonableness is derived from the reality that human beings (officers) have to make split-second, life-or-death decisions based on what is known to them at that moment in time. *Graham* focuses on a fraction of a timeline in a law enforcement intervention event. The manner in which this principle is written may allow for inappropriate changes to policy pertaining to the legal standards for use of force, when the focus really needs to be on the tactics and decision making leading up to the need and/or decision to use force.

This is not just a matter of semantics, nor am I being hyper-technical about this principle. It is critical that administrators understand the impact of any changes they make. Consider a simple analogy: I was driving down a city street with cars parked on both sides of the road. Out of my peripheral vision I noticed a blur of rapid motion heading toward the roadway and directly into the path of my vehicle. As happens in human beings when they have limited time to respond to a perceived threat or problem, my mid-brain took over and my foot immediately depressed the brake pedal. This

occurred without conscious or cognitive thought processes at all. Instead, the emergency response that has developed in our species to help us survive immediate threats activated and responded. Our mid-brain essentially processes the visual stimuli and places



*pond5/ivelinradkov*

it quickly in context, which in this setting was that it could be a child, an animal, or something that could damage the vehicle and potentially cause an accident. As a result, I slammed on the brakes without “thinking” about it. And then I watched the plastic shopping bag blow across the road in front of me, unharmed by my vehicle.

My mid-brain was obviously wrong, but it did exactly what it is programmed to do. Under the perceived circumstances and a lifetime of learning and defensive driving courses, the response was objectively reasonable. What if I was speeding at the time? Would that change the fact that—at the precise moment in time that my brain perceived the movement and processed the possible risks—the response was objectively reasonable? The answer is no.

Although this is merely an analogy and not a use of force situation, it reflects precisely how the rule of *Graham v. Connor* is applied. This is made clear in the U.S. Supreme Court language of the case, quoted in the *March PERF 30* on page 35:

*The “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.<sup>1</sup>*

Now let’s look at a real law enforcement example that we, as a profession, could be handling better. I, as a police officer, rush into a house that contains a suicidal person armed with a knife, knowing there is no one else at risk in the residence. As I enter the living room, the person charges at me with the knife and I fire my service weapon in response, hitting the subject and injuring or killing him. At the precise moment in time that I decided to use deadly physical force, was I at risk of serious physical injury or death? The answer is yes, and the courts, in all likelihood, would find that firing my weapon was an objectively reasonable response and was not a violation of current Fourth Amendment standards.

But should I have rushed in like that? The answer is no, but such a situation is happening over and over again across the country.<sup>2</sup> ►

This *should* be a violation of your crisis response policy and if it is not, then you need to follow PERF's suggestion and revise your policy and your training. But here is the critical point all administrators need to understand: *The rule of Graham v. Connor has nothing to do with that decision to enter the house because it only applies to the moment in time that an officer perceives he/she is at risk of serious physical injury or death and uses force.*

Agencies may interpret Guiding Principle #2 as encouraging them to change their use of force policies to require a higher legal standard than *Graham*. Such a change is not appropriate and will not solve the real problem, just as the state cannot effectively pass a law prohibiting a driver from slamming on his/her brakes unless there is an *actual* child, animal or property damage risk, instead of just a *perceived* one. Such is the nature of the rule of objective reasonableness and *Graham v. Connor*.

We absolutely should review how we handle certain situations and change tactics, training and policy where appropriate. As PERF correctly points out, the goal of such a process would be to teach our officers not to put themselves so quickly into situations where they must make split-second decisions. But that in no way, shape or form should involve creating a *higher legal standard* on officers who are susceptible to mistakes when under high-stress conditions. We need to attempt to eliminate situations involving officer-created jeopardy as much as possible, but there will always be instances when an officer may, in good faith, misread, misunderstand or otherwise walk into a situation and face an imminent life-or-death decision. Officers are not perfect and the law acknowledges this, and so should our use of force policies. This does not mean, however, that agencies should not review and critique the tactics and decisions used by an officer, compare them to other operational policies (e.g., crisis response, barricade subject) and potentially use the incident as a learning event for the entire agency.

PERF correctly points out that *Graham* does not, within the content of the decision, provide detailed guidance to officers or trainers. In the years since the case was decided, however, there have been countless decisions by the U.S. Supreme Court, federal circuit courts of appeals, district courts and state courts. Those cases provide fact patterns that can be used to train objective reasonableness. Many of those cases also provide training material on the tactics and decisions made by the officers leading up to the use of force. Trainers and administrators, however, must understand the difference between the two.

**#3) Police use of force must meet the test of proportionality and #4) Adopt de-escalation as formal agency policy.**

I am taking these two principles together because neither one can be effectively applied by officers as presented in the report. The explanation for #3 focuses on "minor offenses." On page 39 the authors state, "Under the concept of proportionality, officers would recognize that even though they might be legally justified in using force as the situation escalates, given the minor nature of the underlying event, a more appropriate and proportional response would be to step back and work toward de-escalation." Proportionality, as the term should be considered, already falls within the purview of a *Graham* objective reasonableness analysis and that is where it should remain. Proper use of force training should already encompass this and we do not need to add complication to the concept.

Let's look at a predictable situation that could arise. A particular

traffic corridor has been the scene of a number of personal injury and fatal accidents, with the primary cause being the pedestrians crossing the roadway without using a crosswalk or paying proper attention. Police officials meet with community leaders to discuss the problem, and a plan is developed that includes directed enforcement. Officers are instructed that they may use discretion with cooperative violators and either issue a warning or an appearance ticket at the scene.

Officers approach a violator who blatantly walked in front of a vehicle, causing the driver to slam on his brakes. The violator is immediately abusive and uncooperative with the officers, refusing any requests to provide his name or any other information, making it impossible to issue an appearance ticket at the scene. The officers then decide to lawfully make a custodial arrest for this "minor offense" after repeatedly explaining to the violator that he could leave with an appearance ticket. By now other people have gathered around and begin recording the incident. The violator sees the gathering people and suddenly begins to violently resist, screaming that he is being beaten by the police.

Is this scenario included in the intent of the combined application of PERF's principles? Backing away and losing whatever control the officer may have over the person may actually place the officers in jeopardy. If they back away, are they ignoring the underlying need for the enforcement action (saving pedestrian lives)? Should only people who cooperate be issued tickets? How do we define a policy dealing with de-escalation so that officers will clearly know when it should or should not apply?

The real key here, and what needs to be an essential component of any officer's decision-making process in relation to enforcement, is the purpose of the initial encounter itself: Is it lawful and for a *legitimate* (e.g., non-discriminatory) purpose? If the enforcement purpose passes the test of legitimacy, then the resulting scenario will be driven, to a large extent, by the violator. Yes, an officer must take the time to calmly speak with such an uncooperative person, explain the purpose of the encounter and what the officer's intent is (in this case, to issue an appearance ticket), and make it clear to the person that the decision is theirs to make. In use of force training, this would be considered "transferring the force decision" to the person. On the other hand, rushing into a house where a suicidal subject is alone and armed may not be legitimate and may be a violation of proper POL.

I was surprised that PERF did not include a discussion of legitimacy with these and other principles. Legitimacy of purpose can support legitimacy of specific police actions, even though those actions may appear in isolation to be excessive. Officers do sometimes respond in an overly aggressive manner and/or take no time to try to talk a person down. That must change, but these principles are not comprehensive enough for practical implementation and are not the appropriate way to address the issue. All possible scenarios must be carefully thought through before administrators make policy changes or trainers develop lesson plans. Policy and training must clearly reflect what is intended. Many of the police videos that have gone viral involve officers who are attempting to enforce a "minor offense" that is legitimate and, if the person cooperated as the vast majority do, would have resulted in the violator going on his/her way with minimal delay. Yes, officers need to take these situations slowly and not make decisions out of anger or frustration. But ultimately,

legitimate enforcement actions must be completed and officers need to clearly know what is expected of them.

### **#8) Shooting at vehicles must be prohibited.**

My issue with Guiding Principle #8 is simple: Policy language that definitively prohibits an action will inevitably result in a situation where an officer violates the policy under reasonable circumstances, which in turn can create issues that must be dealt with if litigation results. In fact, the report acknowledges in a quote on page 46 that, “A strict policy does not mean there will never be an exception to the rule.” If you *know* this will reasonably happen, I cannot grasp why any administrator would want to create such a policy.

PERF is correct to identify shooting at vehicles as a problem. Officers are being killed by vehicles when they may have been able to get out of the way instead of shooting at them.<sup>3</sup> Clearly officers need to be trained that squaring up and shooting at a vehicle racing at you does not make sense, but the reality is that they may be responding to years of range training where we are programmed to shoot at the threat. Carefully crafted policy language<sup>4</sup>, combined with proper training, can meet the intent of this principle while not creating a situation where an officer will violate the policy. Supervisory review and training can ensure officer actions meet the intent of the policy.

Administrators reviewing this principle should also understand that the U.S. Supreme Court has *never* issued a blanket ruling that it is permissible for officers to shoot at vehicles. They have instead only ruled it was allowed in certain cases and under specific sets of circumstances that meet the *Graham* standard of objective reasonableness.<sup>5</sup>

### **Additional principles.**

I have only addressed five of the 30 Guiding Principles here, but that is not to imply that the others don’t merit discussion. Some of the other principles make sense, but may not be able to be adapted by all agencies for legitimate reasons. Others, like “duty to intervene” and “rendering first aid,” should be nothing new to agencies and should have been in policy and practice already.

The *March PERF 30* also presents a Critical Decision-Making Model. I would have to see how an officer would be trained on this decision-making model to make an educated decision about it, but on its face it seems difficult to adapt without a long-term commitment designed to integrate it into all agency operations.

In regards to training and tactics, PERF calls for eliminating the “21-foot rule” and “drawing a line in the sand,” replacing them with distance, cover and time. No contemporary trainer should be teaching these concepts as always being interrelated, but that does not mean that they don’t have merit. The “21 foot *concept*” can help officers understand why distance, cover and time are necessary. And “drawing a line in the sand” falls, once again, within the *Graham* objective reasonableness standard.

### **Conclusion: What the report does not do.**

All police administrators should read the *March PERF 30* and consider the principles with a critical eye. The principles are not the answer to all of our problems, although some do effectively point out trouble areas. *Remember*: Change policy with caution and think through all operational changes prior to making such changes. The focus should be on whether officers will clearly understand what is expected from them.

PERF’s effort could have had more impact if it had squarely

addressed the fact that out of millions of police contacts per year nationwide, a tiny fraction of them involve the use of force. Many of those that do involve force are because the person being contacted made the decision to resist arrest. I do wish, since this report is read by many outside of the law enforcement community, that PERF had also issued a challenge to our elected officials and asked that they make public statements condemning the behavior of persons who clearly refuse to comply with the lawful commands of officers. This has been sorely missing for the last couple of years and our officers are seeing the result: people who feel entitled and emboldened to challenge officers. Such attitudes do nothing but create flash points that perpetuate the problem.

Finally, one of the stated focal points of the report is situations where subjects are unarmed (which we may not know until after the incident) or are armed with something other than a firearm. Yet any discussion regarding the fact that such a person can still be a deadly threat is buried in the introductory comments. The media and the public clearly do not understand this concept and have a false expectation that we can somehow disarm such people at will. What also needs to be understood, but is not clear in the principles, is that not all agencies are created equal. Most of the police agencies in the United States are small and do not have an emergency services unit, or readily available Crisis Intervention Teams. In fact, some officers may not even have backup immediately available. Administrators must take this into consideration when reviewing the PERF principles. Operating alone will understandably impact the force decisions an officer must make—to be wrong in your choice can just add another name to a wall.

The bottom line: Use the PERF use of force principles as one part in your agency’s continuous quality improvement process, not as the complete answer.

### **(Endnotes)**

<sup>1</sup> *Graham v. Connor*, 490 U.S. 386 (1989)

<sup>2</sup> See my Counsels Corner article in the September 2015 issue of the Chief’s Chronicle in which I discuss the case of *City and County of San Francisco v. Sheehan*, 135 S.Ct. 1765 (2015).

<sup>3</sup> See Philip D. Wright, FBI Law Enforcement Bulletin, *Officer Survival Spotlight: The 4,000-Pound Bullet*, April 2016. Accessed April 13, 2016; <https://leb.fbi.gov/2016/april/officer-survival-spotlight-the-4000-pound-bullet>

<sup>4</sup> The Town of Glenville Police Department Use of Force Policy contains the following language, which was left intact from the Lexipol New York Law Enforcement Policy Manual: “Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants *when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle*, or if deadly force other than the vehicle is directed at the officer or others. Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle” (emphasis added; note that content is consistent with *Graham* standard while still conveying the policy preference to get out of the way).

<sup>5</sup> See *Plumhoff v. Rickard*, 134 S.Ct. 2012 (2014) and *Mullenix v. Luna*, 136 S.Ct. 305 (2015).

# New York State DMV Announces 81 Arrests During the Latest Round of “Operation Prevent” Underage Drinking Sweeps

*Department of Motor Vehicles Investigators Team Up with State Liquor Authority and Local Law Enforcement to Conduct Sweeps in Cortland, Niagara Falls, Oswego, and Saratoga Springs*

The New York State Department of Motor Vehicles (DMV) announced 81 weekend arrests during the latest round of “Operation Prevent” sweeps, which are designed to deter underage drinking in local communities and keep New York’s roadways safe. From Thursday, March 31 through Saturday, April 2, investigators from DMV’s Division of Field Investigation teamed up with the State Liquor Authority (SLA) and local law enforcement agencies to conduct sweeps in Cortland, Niagara Falls, Oswego, and Saratoga Springs, during which dozens of fake IDs were confiscated.

“Underage drinking is harmful to our youth and can lead to devastating consequences on our roadways,” said DMV Executive Deputy Commissioner Terri Egan. “As winter turns to spring and summer, our investigators will be out in force to prevent needless tragedies from happening and keep our youth out of harm’s way.”

Operation Prevent investigations are conducted year-round, not only at bars and drinking establishments, but also at concerts, events, or wherever underage patrons are likely to gather.

## **NIAGARA FALLS OPERATION PREVENT SWEEP**

On March 31, DMV and SLA investigators, in cooperation with the Niagara Falls Police Department, conducted a sweep at Karma Lounge in Niagara Falls. An undercover SLA officer entered the establishment and observed sales to underage patrons, in addition to a number of patrons using fraudulent identification to buy alcohol. Investigators from all three agencies then entered and checked all patrons for identification, making 14 arrests for possession of fraudulent licenses. Of the confiscated licenses, three were from Pennsylvania and Connecticut, two were from Delaware and New Jersey, and one of each were from New York, Illinois, Maine, and Colorado.

## **SARATOGA SPRINGS OPERATION PREVENT SWEEP**

On April 1, DMV investigators, in cooperation with SLA and the Saratoga Springs Police Department, arrested ten individuals attempting to use fraudulent driver licenses to purchase alcohol at Putnam Den, Tin and Lint Company, The Reserve, and Saratoga City Tavern. DMV investigators confiscated a number of counterfeit licenses, including four from Pennsylvania, two from Maryland, and one each from Delaware, New York (older style), and Rhode Island. Another arrest was made for possession of another’s driver license. In addition, four people were arrested:

two for felony possession of a forged instrument and two for false impersonation, a misdemeanor.

## **OSWEGO OPERATION PREVENT SWEEP**

On April 1, DMV investigators, in cooperation with the City of Oswego Police Department, conducted Operation Prevent Sweeps in the City of Oswego at The Raven and Alley Cat. Investigators arrested 23 individuals for attempting to use fraudulent driver licenses to purchase alcohol. Ten counterfeit driver licenses were seized from Connecticut, six from Pennsylvania, and one each from New Jersey, South Carolina, Illinois, and Maryland. Three people possessed the genuine licenses of others.

## **CORTLAND OPERATION PREVENT SWEEP**

On April 2, DMV investigators, in cooperation with the City of Cortland Police Department, conducted Operation Prevent operations at the Red Jug Pub, Stone Lounge, Dark Horse Tavern, and Hairy Tony’s Basement, all in Cortland. The details led to the arrests of 30 individuals and resulted in the confiscation of 30 false driver licenses. These included 12 from Connecticut, seven from Pennsylvania, six from New Jersey, two from New York, and one from Rhode Island. Two individuals possessed other people’s genuine licenses.

All individuals arrested during Operation Prevent are criminally charged with violations of section 509 of the NYS Vehicle and Traffic Law. They are also subject to administrative violations that can result in the revocation of their license privilege for a minimum of 90 days and up to one year.

“Keeping alcohol out of the hands of underage youth is a top priority for the New York State Liquor Authority,” said **Vincent Bradley, Chairman of the New York State Liquor Authority**. “We will continue to work with the DMV and our partners in law enforcement across the state to ensure alcohol is purchased responsibly by adults only.”

Operation Prevent investigations are funded by the Governor’s Traffic Safety Committee (GTSC) to deter underage drinking and keep New York’s roadways safe. DMV also conducts operations at the request of bar owners, law enforcement, and the SLA in larger cities and college towns.

For more information on DMV, visit [dmv.ny.gov](http://dmv.ny.gov).

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# Asset Forfeiture Program is Back

BY MARK A. SPAWN

Last December, budget legislation took \$1.2 billion from the Asset Forfeiture Program which caused the Department of Justice to announce that they were deferring all Equitable Sharing payments on December 21. This was a surprise to many, including the IACP which was not consulted or informed about the rescission until it was too late. Since that time there has been a lot of reaction from the law enforcement community concerned about the impact of the deferral of payments and the future of the Equitable Sharing program. NYSACOP conducted a survey which provided feedback from our members about the value and utility of the Asset Forfeiture program in operations. Criminal proceeds were used by agencies for investigations, training, travel and transportation, drug awareness and gang based education programs, support of community based programs, and technology such as Tasers, body worn video, and more. Some of our respondents noted that their participation in joint task force operations relied on asset forfeiture and were threatened by the rescission. Good news came in a letter from the DOJ on March 28 from Chief M. Kendall Day of the Asset Forfeiture and Money Laundering Section of the U.S. Department of Justice saying that they were "...resuming equitable sharing payments to State, local, and tribal agencies."<sup>1</sup>

Just days before DOJ announced the resumption of payments, NYSACOP shared the comments and article from the March edition of the *Chief's Chronicle* with the International Association of Chiefs of Police (IACP). The IACP had been advocating for restoration of payments since the announcement in December. What was the turning point? We may never know for certain, but I'm hopeful that Congress will have a better understanding of what local law enforcement does with forfeited proceeds. How effective can task forces be without participation by state, county and local law enforcement? I found it interesting that the recent letter from DOJ included a comment about that. Chief Day said, "The Depart-

*Some of our respondents noted that their participation in joint task force operations relied on asset forfeiture and was threatened by the rescission.*

ment is grateful to our partners for standing by us on our federal law enforcement task forces while the deferral was in effect."<sup>2</sup> Trust me, I don't fault DOJ for what happened – I'm confident that they were dealt that hand and had to be the bearer of the bad news. But there remains some sentiment that the program is unjust. The Washington Post reported about the reinstatement of the program in their March 28 edition saying, "The Justice Department has announced that it is resuming a controversial practice that allows police departments to funnel a large portion of assets seized from cit-

izens into their own coffers under federal law."<sup>3</sup> In my experience, and for several of my colleagues with whom I have spoken about asset forfeiture, the "citizens" are often the subject of felony level crimes, and the "coffers" are segregated bank accounts, closely monitored and reported, from which expenditures can be made for valid and specific law enforcement purposes. While there certainly are forfeiture cases in which persons are not charged in a crime for which assets are seized, my experiences are that such cases were the exception – not the rule.



*Pond5/5@Harvepin*

According to DOJ, they restarted the Equitable Sharing process immediately. DOJ also said they "...will first process payments that were ready for payment prior to the deferral decision on December 21, 2015...", and "any sharing payments approved after December 21, 2015 will be paid on a 'first in, first out' basis."<sup>4</sup>

What's the future of the program? DOJ noted on their Fact Sheet, "We would not have restarted equitable sharing payments right now unless we were confident the Assets Forfeiture Fund will remain solvent through (the) remainder of the fiscal year, which ends on September 30, 2016." They added, "Assuming our budget request to Congress is enacted, we also anticipate fully funding the Equitable Sharing Program in Fiscal Year 2017."<sup>5</sup>

Let's hope that we do not have to fight for this program again. Let's hope that Congress understands that forfeited criminal proceeds are put to good use in local communities, allowing departments to conduct investigations, purchase equipment, provide training, and support community programs which they would otherwise be unable. After all, these funds are used in support of some of the same initiatives being advanced by the government – body worn cameras, de-escalation training, crisis intervention, joint operations, community policing, and integration with our constituents. Let's hope that there is a better understanding that revocation of forfeited proceeds to locals would have a detrimental effect on the communities that cannot afford to lose any more resources. Let's hope.

<sup>1</sup> Letter from U.S. Dept. of Justice; Day, M. Kendall, Chief, Asset Forfeiture and Money Laundering Section; March 28, 2016

<sup>2</sup> Letter from U.S. Dept. of Justice; Day, M. Kendall, Chief, Asset Forfeiture and Money Laundering Section; March 28, 2016

<sup>3</sup> Ingraham, Christopher. (March 28, 2016). The Feds Have Resumed a Controversial Program That Lets Cops Take Stuff and Keep It. The Washington Post. Retrieved from <https://www.washingtonpost.com/news/wonk/wp/2016/03/28/the-feds-have-resumed-a-controversial-program-that-lets-cops-take-stuff-and-keep-it/> March 28, 2016

<sup>4</sup> DOJ Fact Sheet; March 28, 2016

<sup>5</sup> DOJ Fact Sheet; March 28, 2016

# ATF's National Center for Explosives Training and Research Announces 2016 Raven's Challenge Interoperability Exercise

*Exercises in Texas, New York, Florida, and Washington*

**B** ATF Public Affairs Division - Washington DC – April 15, 2016 - The Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) National Center for Explosives Training and Research (NCETR), in partnership with the U.S. Army, HQDA G-38 and Joint Program Office for Countering Improvised Explosive Devices, announce the 2016 Raven's Challenge X Interoperability Exercise, a national training event to prepare and counter the threat of improvised explosive devices. The exercise will run between April 17 and June 24 at venues in Fort Wolters, Texas; the New York State Preparedness Training Center, Oriskany, N.Y.; Camp Blanding JRTC, Fla., and the SATSOP Nuclear Power Plant, Elma, Wash.

The Raven's Challenge Interoperability Exercise began in 2004 as an ATF-led joint military explosive ordnance disposal (EOD) and public safety bomb squads (PSBS) training event in Seattle, Wash. The exercise matured into what is now the largest EOD/PSBS training exercise in the world.

The Interoperability Exercise is an annual, interagency counter-IED exercise that incorporates scenarios focused on capabilities between public safety bomb squads and military EOD units in operational environments. The Raven's Challenge exercise involves military EOD from all four services (Active Duty and National Guard), state and local PSBS, the Department of Defense, Department of Justice, Department of Homeland Security (DHS), international law enforcement, and military and industry partners. The close collaboration and participation of these organizations is a testament to the counter-IED expertise and professionalism of all involved and the importance of the subject matter. Raven's Challenge objectives tie directly to guiding policy regarding counter-IED national preparedness efforts.

Last year's 2015 Raven's Challenge was an overwhelming success which resulted in the training of more than 1000 law enforcement and military EOD technicians from the United States, Canada, Mexico, the United Kingdom, and Australia. Participants traveled to the four venues and participated in select IED challenges, including IEDs encountered in a maritime environment, vehicle-

borne IEDs, and IED attacks on transportation systems. The training increased the interoperability and familiarity of local law enforcement agencies throughout the United States and prepared military participants to fight and win on today's global IED battlefield. This year's event promises to be just as challenging.

The exercise is funded by the U.S. Army and is organized by a multi-agency team involving ATF, the Federal Bureau of Investigation, the U.S. Army, the Transportation Security Administration as well as Immigration and Customs Enforcement of DHS, the United States Secret Service, and state and local law enforcement agencies throughout the country.

Raven's Challenge continues to grow public safety partnerships between international, state and local jurisdictions for the prevention, protection, mitigation and response of man-made threats our nation and communities face. Raven's Challenge is also in direct support of the National Preparedness Goal formed out of the President's 2011 published Presidential Policy Directive-8: National Preparedness, which describes the nation's approach to preparing for the threats and hazards that pose the greatest risk to the security of the United States. This full-scale exercise embodies the highest level of effort to achieve the overall goal of national preparedness.

The NCETR consolidates ATF's key explosives, fire, canine and response operations in Huntsville, Ala. NCETR consists of the Explosives Enforcement and Training Division, the Explosives Research and Development Division, and the Fire Investigation and Arson Enforcement Division, all located at Redstone Arsenal, along with the National Canine Division in Front Royal, Va. and the National Explosives Task Force in Washington, D.C. ATF provides outstanding training facilities and the unmatched expertise of its training staff in the delivery of life-saving advanced explosives and arson training for our nation's explosives handlers, bomb technicians, criminal investigators and our military's explosives ordnance disposal. The main NCETR facility and explosives ranges make this center an extremely unique resource in the fight against explosives-related violent crime and the whole-of-Government counter-IED effort.



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# Police Officer Produces Documentary About Real Cops

## *“Officer Involved” Relates the Impact of a Police Shooting*

Patrick W. Shaver is a police officer in the state of Georgia. He is Crisis Intervention Training certified (CIT) and a POST-Certified instructor. Prior to becoming a police officer, he received his Bachelor's Degree in Sociology from the University at Buffalo (UB) and Master's in Conflict Management at Kennesaw State University. His background includes study abroad in Ireland and Israel/Palestine and work as a licensed practical nurse and crisis counselor.



**Patrick Shaver.**  
Photo courtesy of Patrick Shaver.

### OFFICER INVOLVED

*Officer Involved* is an expository documentary-first that takes a human look at one of the most controversial topics in contemporary America, exploring the previously unseen perspectives of American Police Officers who have been involved in shootings in the line of duty. By comparing the words of experts in the field with the real-life testimony of those officers who have lived through these events, the film shines a light on the profound humanity of men and women in uniform. Filmed by an active-duty police officer and his wife, their endeavor transcends time and place as they bring together voices from across the geographical and age divide.

### ORIGINS

Prior to becoming a police officer, I had received my master's degree in conflict management and had experience as a crisis counselor and licensed practical nurse. After being on the job, I began to notice profound changes both internally and externally in the transition from civilian to police officer. It was a conversation with a friend that helped solidify the commitment to exploring the topic on film. In looking for a documentary that discussed the topic, we realized that there was little out there that looked at the decision to use force, let alone the impact of the job on the officer. We then began a journey to bring human voices together on film with the mission to discuss this little-shared experience. Having no sponsors, we relied on donors early on to help with fuel/lodging, but in the end we traveled over 24,000 miles and conducted over 90 interviews with officers, experts, and civilians.

### PRESENTATION

Each topic addressed on film by experts is punctuated by first-person interviews with police officers who have experienced the emotions, situations, and challenges presented. Over 25 police officers from across the United States walk the viewer through raw, emotional impacts as they recount how the officer broke the news to his family and children, how the officer experienced news media in the aftermath, what it is like to be charged or sued for their role, an overview of post-traumatic stress disorder, religious concerns of taking a life, returning to work, and moving on. Also presented during the film is a short sequence on public perception.

Officers who appear on film include those whose shootings received little attention to those whose incidents have garnered national outcry. One particular officer's case stands as an example of what can happen to a city in the aftermath of a shooting. Featuring the only interview with former Cincinnati Officer Stephen Roach, this sequence also gives voice to the pastor who led the community in protest and the judge who delivered the verdict, allowing the viewer a chance to objectively experience three perspectives in a very difficult case.

Featuring: Alexis Artwohl Ph.D., Lawrence Blum Ph.D., Professor David Klinger, Dr. Bill Lewinski,

Forensic Cognitive Scientist Dr. Matthew Sharps, Sheriff John Bunnell, and law enforcement officers from across the country.

### SCREENING

The film is in pre-screening while we apply to film festivals and screen the film at local departments across the country. We will be in New York August/September and are available to set up private screenings to departments and regions. All types of first responders and their families will be welcome. Screenings may be set up by contacting us at <http://www.officerinvolvedproject.com/screening/>



*Real-life testimonials bring the reality of police work to the screen. Photo courtesy of Patrick Shaver.*

# Pride Center Announces Cheektowaga Police Department Policy to Protect the Rights and Dignity of Transgender Individuals

The Pride Center of Western New York announces a new policy enacted today by the Cheektowaga Police Department to codify and protect the rights of transgender individuals who come in contact with law enforcement. The policy, signed by David J. Zack, Chief of the Cheektowaga Police Department, addresses the ways in which officers are expected to interact with transgender individuals, explicitly stating protocols to respect their identity in any contact with the department, including that officers are not permitted to treat the person's identity as a matter of suspicion.

"At a time when relations between the police and the citizens they serve have become strained, it is more important than ever for law enforcement to build trust and legitimacy," said Chief Zack. "These goals cannot be achieved if citizens do not believe they are being treated with dignity and respect by the officers they encounter. This policy was created to demonstrate that the Cheektowaga Police Department places a high priority on the rights of all citizens and insists that its officers act professionally and respectfully at all times."

In New York State, there is currently no law protecting transgender citizens from discrimination. An executive order from Governor Andrew Cuomo is currently in a public comment period through mid-December, and would extend some level of protection to transgender New Yorkers from a 1945 Human Rights Law. Passage of the Gender Expression Non Discrimination Act (GENDA) remains necessary to fully codify protection for transgender New Yorkers.

"I applaud Cheektowaga for taking this step to preserve the

dignity of transgender people and hope that other municipalities will follow their lead until the day gender identity is fully protected by state and federal law," said Patti Jones, chair of the Pride Center of WNY Board of Trustees.

Chief Zack drafted a policy based on research he conducted looking at other law enforcement agencies in the nation who had enacted similar policies and asked the Pride Center for input. The policy was reviewed by Damian Mordecai, program manager and Siobhan Fitzgerald-Matson, transgender wellness coordinator.

"Chief Zack contacted us a few weeks back to discuss the importance of creating a policy to be sure that transgender people are treated with respect by the Cheektowaga Police," said Matthew Crehan Higgins, senior director of the Pride Center of WNY. "He was very clear in saying that he did not feel that transgender people were any more likely to come in contact with law enforcement than other segments of the population, but that with an estimated quarter million people passing through Cheektowaga every day, it is important that they have policies in place that address appropriate interactions with everyone – and especially those people whose identities are not protected by existing laws."

The Pride Center of Western New York, Inc. (PWNY) is a 501(c)3 nonprofit organization whose mission is to work with the community to make Western New York a safe, health, and satisfying place for lesbians, gay men, bisexuals and transgender people to live, work and establish their families.

Reprinted with permission. Originally published November 23, 2015.

## From Prison to Police Chief

Quincy, Florida Police Chief Glenn Sapp has a unique story to becoming chief. He is the author of "From Prison to Promise: How I Went from Prison to Police Chief". He said, "My biological father was a convicted felon – a career criminal. His life ended in a state prison in Augusta, Georgia. Just before he died, my siblings and I went to the prison to visit him. It was a bittersweet reunion", he recalled. "I was twenty years old at the time and I told myself, if I ever have children, I will be a better parent." Chief Sapp added, "My life has been full of challenges but I wouldn't change a thing." He said there were several coaches and mentors in his neighborhood who guided him and gave him advice, which helped him along the way.



**Chief Glenn Sapp, Quincy, Florida**  
(Photo: Quincy PD)

Sapp reflected, "Every storm in life has a silver lining."

Chief Sapp and his wife of 30 years have three children, all college graduates. He said that he is proud to have kept the promise he made to himself to be a better parent. "It is a testament to faith, hope and courage. Something we as Chiefs should exemplify to our younger officers", he noted. Sapp, who previously served with the Tallahassee Police Department, is also a motivational speaker. Learn more about Chief Sapp's book at Amazon. His motivational presentations can be viewed on YouTube by searching for 'afro-popo'.

Thanks to NYSACOP Life Member Frank Vasquez who recently met Chief Sapp and shared his story.

# PERMA Members Learn About PTSD from Police Psychologists

Police and fire departments can significantly reduce the risks and costs of post-traumatic stress disorder (PTSD) in police officers and firefighters by cultivating and maintaining socially supportive work environment for these municipal workers, two experts have advised representatives from nearly two dozen New York public entities.



*Dr. William McIntyre (foreground) and Dr. David Kelley address an audience at PERMA headquarters on the topic of post-traumatic stress disorder. Photo: PERMA*

About 20 PERMA\* members gathered at PERMA's Latham headquarters March 31 for an intensive seminar from Dr. William McIntyre and Dr. David Kelley of Public Safety Psychology on the causes, symptoms, and management of PTSD in police and firefighters.

Dr. Kelley said PTSD is caused by a defect in the "flip and reset" function of those who serve in the line of duty. When police and firefighters are on duty, these men and women have to be ready to protect and fight. When they are off duty, they must flip and reset to a less vigilant mode in order to function properly in civilian life. Exposure to multiple traumatic incidents can cause a person to be less able to reset on a daily basis and more susceptible to PTSD.

Police and fire departments can assist their members' psychological health by

encouraging a socially supportive environment. A department's administration is frequently cited as the members' primary source of stress, so supervisors should be cognizant of each member's workload and should promote a peer support system.

"The message can be boiled down to three words: *You're not alone*," said Dr. Kelley.

Early detection of PTSD symptoms and intervention are key to prevention. In every aspect of a member's day-to-day life, peers and supervisors should be on the alert for abrupt shifts in behavior, and they should refer affected members to the appropriate support program as soon as possible. If this is not done or cannot be done, a member with advanced symptoms of PTSD should be removed from duty and referred to treatment.

PERMA members who attended the March 31 session by the experts from Public Safety Psychology were uniformly impressed. Evaluation comments heralded the presenters as "great" with "real life examples and experiences. Such an important topic." The size and setting of the class also drew praise: "Nice to have interaction with the class! Great facility – Glad I was able to attend!"

Last Thursday's session on PTSD was the last PERMA regional meeting until September. However, there will be eight educational workshops at the 2016 Annual Conference, May 26-27 at the Sagamore Hotel and Resort on Lake George in Bolton Landing, Warren County.

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**\*PERMA, Public Employer Risk Management Association, Inc.**

Public Employer Risk Management Association, Inc., headquartered in Latham, is the largest workers' compensation pool for public entities in New York State, providing benefits to municipal employees for over 30 years. Over 500 municipalities have chosen PERMA to manage their claims and ensure workplace health and safety.

Released April 6, 2016

Contact: Erin Harrington (eharrington@neami.com)



*Photo: PERMA*

# A Day at the State Preparedness Training Center

**SUBMITTED BY: NYS DIVISION OF HOMELAND SECURITY & EMERGENCY SERVICES**

On April 13, more than 20 members of the Northeastern Chiefs of Police Conference (NECOP) visited the State Preparedness Training Center (SPTC). Chief Peter Frisoni and the NECOP members toured the SPTC in the morning, followed by a luncheon and the regular Association meeting.



*The SPTC's Bob Stallman (center) provided NYSACOP members with a tour of CityScape, the SPTC's 44,000 square-foot indoor and outdoor training complex in Oriskany. The state-of-the-art training complex includes 24 simulated training venues including retail stores, restaurants, a high school, city-style apartments, a bank, courtroom and an interior shopping mall. CityScape's design includes 200 cameras, sound, lighting and other environmental special effects such as smoke generation giving law enforcement the ability to create and record scenario-based training in a realistic environment. Photo: Chet Lasell, Asst. Director of Public Information, NYS Division of Homeland Security and Emergency Services.*

*The SPTC offers courses such as Team Tactics for Patrol Officers, Vehicle Checkpoint Basic, and Advanced Active Shooters Scenario utilizing the CityScape training complex. Law enforcement also can conduct their own training courses in CityScape based on availability. Photo: Chet Lasell, Asst. Director of Public Information, NYS Division of Homeland Security and Emergency Services.*



*FBI Albany Division Special Agent Bomb Technician (SABT) David Acquavella (left) explains to NYSACOP members how state and local public safety departments would respond to the discovery of a nuclear or radiological device. The same day of the NYSACOP visit, several upstate New York bomb squads, the Department of Environmental Conservation Police, and the National Guard 2nd Civil Support Team were participating in an exercise conducted by the FBI and New York State Police in the SPTC's CityScape training complex. Photo: Chet Lasell, Asst. Director of Public Information, NYS Division of Homeland Security and Emergency Services.*

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*-Deputy Chief Henry, Nashville Police Department*

To register go to [bit.ly/SPSCNY](http://bit.ly/SPSCNY)  
Or for more information call Lt. Newman at Cheektowaga  
Police Department at (716)686-3963 or email at [CNewman@cpdny.org](mailto:CNewman@cpdny.org).

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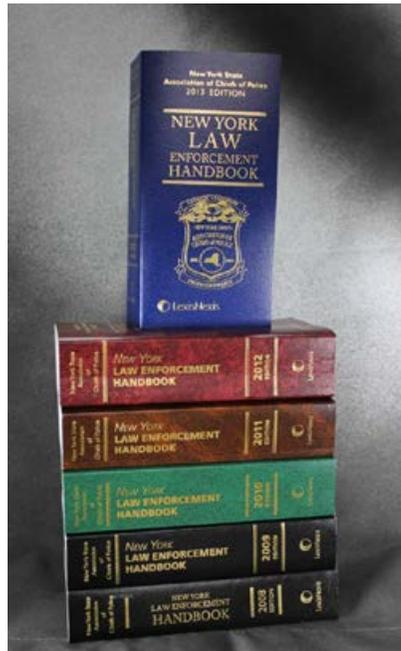
# NEW YORK STATE ASSOCIATION OF CHIEFS OF POLICE

## NEW YORK STATE LAW ENFORCEMENT HANDBOOK

### COMMONLY USED LAWS:

Available in February 2016, the New York State Law Enforcement Handbook has become one of the more popular resource items for New York State law enforcement officers. Used by street officers, detectives, commanders, probation, parole and prosecutors, it contains the Penal Law and CPL, along with frequently used sections of law:

- Agriculture & Markets Law
- Alcoholic Beverage Control Law
- Correction Law
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- Mental Hygiene Law
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- Public Health Law
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- **HIPAA** disclosures

- **Sex offender registration** guide
- **Supporting depositions** including passed school bus violations
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- Evidence change for **prostitution**
- **Good Samaritan 911 Law**
- and more!

**A convenient size (3 3/4" x 7 1/2"), the handbook fits easily into your field utility bag, briefcase, or glove compartment.**



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# SUPERIOR TRAINING FOR TODAY'S POLICE EXECUTIVES

The New York State Association of Chiefs of Police has been providing the latest in training, innovation and procedure since 1901. From the evolution of the traffic signal to the advent of DNA, New York's law enforcement community has had a voice in the debate and development of our justice system for more than 100 years. The annual conference has been an institution of our Association since the beginning, bringing together like-minded leaders representing jurisdictions of all sizes. Representatives from the state's largest and smallest communities share similar concerns, and our training agenda strives to fill the needs of all members. This year we will be discussing a variety of issues including current legal issues, officer-involved



**Gordon Graham**

shootings, labor issues, officer wellness, professional development, and more. We are joined by premiere exhibitors showcasing the latest in technology, products and software. These supporters are available to answer your questions about their products and services to make your job easier.



**Chuck Wexler**  
Police Executive  
Research Forum

This year's agenda is packed with high profile presenters. Back by popular demand, the ever popular Gordon Graham speaks on risk management in his unique and dynamic way. On opening day we are joined by Chuck Wexler of the Police Executive Research Forum as our keynote presenter. Chief Michael Ranalli, Esq. brings relevant discussion on Agency Risk and Liability Management. Are you using body worn cameras in your agency or thinking about it? Be sure to join us for a panel

discussion including police chiefs, legal counsel, and BJA Project representatives. Our friends from the Division of Homeland Security will talk about integrating EMS with law enforcement during active shooter incidents. And there's much more – details inside.



**Katherine Hochul**  
Lieutenant Governor



**William Hochul**  
U.S. Attorney

The conference culminates with our formal installation banquet on Wednesday evening. This year we are honored to have two keynote speakers: New York State Lieutenant Governor Katherine Hochul and U.S. Attorney William Hochul. We will install new officers and say thank you to those whose terms are ending.

Join us at The Hyatt Regency Buffalo Hotel and Conference Center in Buffalo, New York. The facilities provide an excellent atmosphere

for learning and networking. Be sure to register soon.

## 2016 ANNUAL TRAINING CONFERENCE



# JOIN US AT THE CONFERENCE

On behalf of the New York State Association of Chiefs of Police I would like to invite you to attend our 2016 Annual Training Conference in Buffalo. This is our premier event bringing together our colleagues from all parts of New York State for a diverse agenda of contemporary topics in law enforcement. This year's agenda includes everything from risk management, legal issues and policy, labor law, body worn cameras, response to active shooters, disability awareness, time management and personal development, and more. We are honored to have such high profile presenters including Lt. Governor Katherine Hochul, U.S. Attorney William Hochul, the renowned Gordon Graham, DCJS Executive Dep. Commissioner Michael Green and others to be announced. The conference will help you to be a better and more informed leader.



Asst. Chief Stephen Conner  
President

It has been my honor to serve as President of our distinguished organization over the past year and I look forward to seeing all of you at the conference.

## CONFERENCE SCHEDULE

Sunday, July 10	Registration 12 Noon-5 PM Board of Governors Meeting 3 PM President's Reception 6-8 PM
Monday, July 11	Opening Ceremonies Half Day Training Niagara Falls Bus Tour and Maid of the Mist Tour 1-5 PM Barbecue at Military Naval Park 5:30 PM
Tuesday, July 12	All Day Training & Networking Sessions
Wednesday, July 13	All Day Training & Networking Sessions Reception at 6 PM Installation Banquet at 7 PM

Please note: Schedule subject to change.

**NEW YORK STATE  
& LOCAL  
RETIREMENT  
SYSTEM**

Representatives from the New York State and Local Retirement System are slated to be on hand to provide information and estimates for you. To schedule an appointment for July 12 or 13, check in at the NYSACOP Registration Desk!

# THE HYATT REGENCY BUFFALO HOTEL & CONFERENCE CENTER

This year's conference is being held at the Hyatt Regency Buffalo Hotel and Conference Center, 2 Fountain Plaza, Buffalo, New York 14202. With a stay at Hyatt you'll be centrally located in Buffalo, steps from Fountain Plaza and minutes from Buffalo Niagara Convention Center. This spa hotel is within close proximity of Market Arcade Building and Statler Tower.

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Relax at the full-service spa, where you can enjoy massages, body treatments, and facials. If you're looking for recreational opportunities, you'll find an indoor pool and a 24-hour fitness center. This hotel also features complimentary wireless Internet access, concierge services, and gift shops/newsstands.

Enjoy a meal at one of the hotel's dining establishments, which include 2 restaurants and a coffee shop/café. From your room, you can also access room service (during limited hours). Quench your thirst with your favorite drink at a bar/lounge.

Book your reservation here no later than **June 9**: <https://resweb.passkey.com/go/NYSACP16> or Telephone: 716-855-4865 or Fax: 716-855-4958



DOWNLOAD THE UPDATED CONFERENCE ANNOUNCEMENT  
IN THE MEMBER'S AREA AT NYCHIEFS.ORG

# OPENING CEREMONIES & KEYNOTE ADDRESSES



Margaret E. Ryan  
Executive Director  
New York State Association  
of Chiefs of Police

On Monday morning (July 11), opening ceremonies include welcoming remarks by President Stephen Conner, Executive Director Margaret Ryan, Executive Deputy Commissioner Michael C. Green of the New York State Division of Criminal Justice Services, and other guests.

President Conner will be wrapping up his term at the conference and will provide delegates with a summary of the past year's events and challenges facing law enforcement. Executive Director Margaret Ryan will also welcome attendees and give an overview of the conference agenda, activities and events in the days ahead.



Asst. Chief Stephen Conner  
President  
New York State Association  
of Chiefs of Police

The conference program has been specially developed for New York's police executives. Topics on relevant issues in criminal justice are presented by experts in the field. The New York State Association of Chiefs of Police provides unparalleled education for today's police leaders.



Executive Dep. Commissioner  
Michael C. Green  
New York State  
Div. of Criminal Justice Services



## OPENING CEREMONIES & KEYNOTE ADDRESS

The New York State Association of Chiefs of Police is honored to have Chuck Wexler join us as the Keynote Speaker following Opening Ceremonies on Monday, July 11. Mr. Wexler has served as the Executive Director of the Police Executive Research Forum (PERF) since 1993. He leads a staff engaged in policing research, management studies and consulting for police agencies, publication of books and reports on critical issues in policing, police executive education, and policy development. Topics of PERF studies managed by Wexler in recent years include:



**Chuck Wexler**  
**PERF**

- Re-engineering police training on use of force and developing de-escalation strategies
- Strategies for rebuilding police-community trust
- Recommendations for police agencies considering body-worn cameras
- The heroin epidemic in many American communities
- The role of local police agencies in preventing and investigating cybercrime
- The response to critical incidents in Baltimore and St. Louis
- Mass shootings and the police response to “active shooter” situations
- U.S. Justice Department investigations of local police departments regarding civil rights violations
- Gun violence prevention

Join us on Monday morning as Mr. Wexler shares his insights into the contemporary issues facing law enforcement leaders.



**POLICE EXECUTIVE  
RESEARCH FORUM**

Presenters and Presentations subject to change.



**Got a Question? Need Help?**

**Call us at 518-355-3371**

## INSTALLATION BANQUET: KEYNOTE ADDRESSES



**Katherine Hochul**  
Lieutenant Governor

One of the great traditions of the New York State Association of Chiefs of Police is the formal installation banquet on the last day of the conference. We are grateful to have Lt. Gov. Katherine Hochul and U.S. Attorney William Hochul as our keynote speakers for this special event.

William Hochul is the U.S. Attorney for the Western District of New York. He joined the Department of Justice in 1987 as an Assistant U.S. Attorney for the



**William Hochul**  
United States Attorney  
Western District of NY

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.

Kathy Hochul's background includes services in the House of Representatives, as the Erie County Clerk, on the Hamburg Town Council, and as a Capitol Hill Staffer. She holds a Bachelor's Degree from Syracuse University and a J.D. from Catholic University in Washington, DC. In all of her positions in public office, Kathy has always fought for the underdog, while demonstrating willingness to take on hard fights and challenge the status quo. She has been married to her husband, Bill since 1984, and is the mother of Will and Katie.

Please join us as U.S. Attorney Hochul, Lt. Gov. Hochul, and other dignitaries greet our delegates and guests at the formal event at which our new President and selected Board of Officers will take the oath of office.

Presenters and Presentations subject to change.

## CONFERENCE PRESENTATIONS



Gordon Graham

### **Why Things Go Right—Why Things Go Wrong**

Last year, Gordon Graham presented information to our group on “What Real Risk Management is All About” and “The Rules of Admiral Hyman Rickover.”

This year, Gordon will build upon this training and “fill in the blanks” with a more in-depth look into risk management focused on the multiple causes behind “Why Things Go Right and Wrong in Law Enforcement Operations.”

Most of what the women and men of American law enforcement do, they do right. There is a reason why this is true. But occasionally things go wrong - and there is a reason why. In this closer look at “operational risk management,” Gordon will explain why things go wrong - and more importantly what you can do as a Chief Officer to prevent problems from occurring.

Many police organizations train their people how to do things, but they do not train their people how to think. In this component of his program, Gordon will provide a proven “decision making process” that will better assure that good decisions are made by your personnel.

Gordon Graham is a 33 year veteran of California Law Enforcement. His education as a Risk Manager and experience as a practicing Attorney, coupled with his extensive background in law enforcement, have allowed him to rapidly become recognized as a leading professional speaker in both private and public sector organizations with multiple areas of expertise.

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### **First Responder Disability Awareness**

It is estimated that 50-80% of interactions by officers involve a person with a disability. The awareness program led by Niagara University addresses areas such as the initial response, challenges faced by persons with a disability, federal and state guidelines, victimization, working with service providers, and the latest initiatives and programs. This special session developed specially for law enforcement executives is hosted by David Whalen and provides an overview of the first responder course.



David Whalen

*Presenters and Presentations subject to change*

## CONFERENCE PRESENTATIONS

### Panel Discussion: Body Worn Cameras

This esteemed panel consisting of police executives and representatives from the Department of Justice’s Bureau of Justice Assistance will provide an overview of personal experiences—both positive and negative—with body worn cameras along with implementation considerations including policy, FOIL and privacy. Video segments will be shown to demonstrate the types of incidents captured using this technology. Questions will be taken from the audience. Panelists include: Chief David Zack (Cheektowaga PD), Chief Mark Pacholec (Orchard Park PD), Chief Patrick Phelan (Greece PD), Michael Ranalli, Esq. (Glenville PD/Ret.), Chief Miguel Bermudez (Freeport PD), and special guests from the BJA Body Worn Camera Project: Chip Coldren (Body Worn Camera Training & Technical Assistance Director), and Michael Roosa (Bureau of Justice Assistance).



Chief David Zack  
Cheektowaga PD



Chief Michael Ranalli, Esq.  
Glenville PD



James "Chip" R. Coldren, Jr.  
CNA Managing Director



Michael B. Roosa  
Senior Policy Advisor  
U.S. DOJ BJA OJP



Denise O'Donnell  
BJA Director



Chief Miguel Bermudez  
Freeport PD



Chief Mark Pacholec  
Orchard Park PD



Chief Patrick Phelan  
Greece PD

## CONFERENCE PRESENTATIONS: LEGAL ISSUES

### Agency Risk and Liability Management – Living Your Policies.

Law enforcement has faced renewed scrutiny as a result of several high profile events. Some of the scrutiny, and blame, is justified and some is not. Regardless, chiefs and administrators must adopt an attitude of continuous improvement and use their policies as the means to manage the risks to the agency and individual officers. Contemporary documents such as the Report of the President's Task Force on 21<sup>st</sup> Century Policing and the recent PERF report will be critically analyzed and discussed along with a dialogue of how proper integration and application of policy into decision making. Critical to this will be an understanding and integration of the application of the concept of **Priority of Life**, and how a lack of understanding of this concept has led to a number of tragedies. Examples of recent cases will be used to emphasize the importance of proper understanding of Priority of Life.



Chief Michael Ranalli, Esq.

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### Stop the Killing—Stop the Dying: Why Law Enforcement and EMS Task Force Integration Works



Michael Cerretto  
Director of  
Counterterrorism

Aggressive deadly behavior events with multiple casualties occur in the United States at an alarming rate. While law enforcement responds to address the assailant(s), EMS also arrives on scene to treat the injured. When seconds count, EMS needs to treat the injured in minutes—not hours—so it is critical that law enforcement and EMS form a rescue task force when responding to an incident. Learn how instructors from the State Preparedness Training Center train law enforcement and EMS to work together to form an integrated team that can create a warm zone so that EMS can stop the bleeding and save lives. Speakers: NYS Division of Homeland Security Director of Counterterrorism, Michael Cerretto, and Dr. Joseph Bart, DO, EMT-P, FACEP, UB MD Emergency Medicine.



Dr. Joseph Bart

Presenters and Presentations subject to change.

PREMIER  
EXHIBITORS

Enjoy an array of premier exhibitors who will be showcasing a variety of products, services and information. They will be available beginning Sunday, July 10 through Wednesday, July 13. Please stop by and thank them for supporting our annual conference.

## TIME MANAGEMENT & FINANCIAL SECURITY

### Managing Time and Setting Goals for Life and Career



**Major Robin H. Benziger**  
New York State Police

Sometimes we become so engaged in taking care of others, we forget to take care of ourselves. Major Robin Benziger discusses personal wellness: managing your time and setting goals both personally and professionally.

Do you wonder whether you have a good financial plan? Miles Anthony will share some tips and advice to help you in developing your own financial plan.



**Miles Anthony**  
Sr. Financial Services Rep.  
Principal Financial Group  
(NYSP/Retired)



*New York State Association of Chiefs of Police*

*A Proud Heritage – A Noble Calling*

# LABOR & EMPLOYMENT LAW

## Labor Issues and §207-c

Many of our members have asked for an update on labor and employment law. It continues to be a routine topic of discussion by many of our members—in the classroom or in networking sessions—about §207-c and other labor issues. Understanding the General Municipal Law, Labor Law, and Civil Service Law can be complicated, and understanding the answers can depend on a number of factors, including recent court and arbitration decisions.

We are honored to be joined by Mary Louise Conrow of Coughlin & Gerhart, LLP, Binghamton who will provide a comprehensive overview of 207-c, FMLA, Sections 71 and 72 of the Civil Service Law and areas which are mandatory subjects of negotiations.



Mary Louise Conrow, Esq.  
Coughlin & Gerhart, LLP

Ms. Conrow concentrates her practice in the labor and employment field, with emphasis on municipal liability, including police and fire disability and retirement claims, labor negotiations, Worker's Compensation and Social Security claims, arbitrations, grievances, discipline, NYSHR and PERB matters. She is a member of the Broome County Bar Association and the New York State Bar Association (Municipal Law Section and Labor Law Section). She is also a member of the New York State Association of Self-Insured Counties, Southern Tier Worker's Compensation Coalition (Past Chairperson), and the New York State Public Employer Labor Relations Association, and a member of the St. Bonaventure University National Alumni Association Board. She previously served as Risk Manager for Broome County, First Assistant Corporation Counsel for the City of Binghamton, and Assistant Broome County Public Defender.

Presenters and Presentations subject to change.

## CONFERENCE INFORMATION

**Who May Attend:** The Annual Training Conference is open to all NYSACOP members and their guests. The conference is not open to the general public. Admittance into the sessions requires a NYSACOP Training Conference badge. Conference badges and programs will be issued on-site only at the Conference Registration desk which will be open Sunday, 12–5 PM and Monday through Wednesday 8 AM—12 Noon.

**Advance Registration:** Advance registration saves you time and money. Go to our on-line registration site at <https://www.regonline.com/builder/site/?eventid=1814224>. Stop by the Advance Registration Table at the Conference to pick up your conference credentials and welcome bag. The deadline for Advance Registration is June 20. Registrations received after this date and on-site registrations are subject to additional fees. See schedule of fees on next page. Please remember that conference credentials allow entry to all conference functions except for the Monday afternoon excursion and other on-your-own events. All children registered for the Training Conference are cordially invited to attend the banquet and barbecue.

**Non-Members of NYSACOP:** If you are not a member of NYSACOP and wish to attend the Training Conference, you may register as a non-member/guest. Would you like to join our Association and save money on your conference registration? Call our office at 518-355-3371 to see if you are eligible for Active, Retired or Associate membership status.

**Conference Banquet:** The Installation Banquet will be held on Wednesday evening, July 13.

**Refunds:** Cancellations before June 20 will be reimbursed in full. Cancellations after June 20 are subject to a \$50 handling fee.

**Lodging at The Hyatt Regency Buffalo Hotel & Conference Center :** It is your responsibility to secure accommodations for the Training Conference. We have negotiated the following conference room rates at The Hyatt (does not include applicable taxes or parking fees). Please note that parking is limited at the hotel. For persons attending who are not registered at the Hyatt, there are municipal parking lots in the area.

### WHAT'S INCLUDED?

The 2016 Conference Registration fee includes the negotiated room rate at The Hyatt (you are required to secure your own hotel reservations), banquet ticket, President's reception, and barbecue. Other activities are not included in the registration or hotel fees.

New York State Association of Chiefs of Police  
**2016 TRAINING CONFERENCE REGISTRATION INFORMATION**

ADVANCE REGISTRATION saves you time and money!

Go to <https://www.regonline.com/builder/site/?eventid=1814224> to register for the conference. Registrations made prior to June 20 qualify for savings. If you need to register after June 20, please use of web link to register. Delegates may also register on-site. The registration desk will be open on Sunday, July 10 from 12:00 Noon to 5:00 PM, and Monday-Wednesday, July 11-13 from 8:00 AM—12: Noon.

Please note that this is your registration for the Training Conference only. *You are required to make your own hotel registrations at The Hyatt Regency Buffalo Hotel and Conference Center.*

REGISTRATION CATEGORY	ADVANCE REG. (SAVE \$50 WHEN YOU REGISTER BEFORE JUNE 20)	REGULAR OR ON-SITE REGISTRATION	SINGLE DAY* ADVANCE REGISTRATION WHEN YOU REGISTER BEFORE JUNE 20	SINGLE DAY* REGULAR OR ON-SITE REGISTRATION
ACTIVE MEMBER	<b>\$200</b>	<b>\$250</b>	<b>\$100</b>	<b>\$150</b>
ACTIVE RETIRED MEMBER	<b>\$150</b>	<b>\$200</b>	<b>\$75</b>	<b>\$125</b>
ASSOCIATE MEMBER AND ADDITIONAL EXHIBITORS	<b>\$200</b>	<b>\$250</b>	<b>\$100</b>	<b>\$150</b>
NON-SWORN GUEST OF A REGISTERED MEMBER does not include training certificate	<b>\$200</b>	<b>\$250</b>	<b>\$100</b>	<b>\$150</b>
SPOUSE does not include training certificate	<b>\$150</b>	<b>\$200</b>	<b>\$100</b>	<b>\$150</b>
NON-MEMBER—includes 2017 MEMBERSHIP DUES (\$25 off your first year dues)	<b>\$325</b>	<b>\$375</b>	<b>\$225</b>	<b>\$275</b>
CHILDREN UNDER 16	<b>\$125</b>	<b>\$175</b>	<b>\$75</b>	<b>\$125</b>

\*Single day registration does not include special activities. Inquire about availability at Registration Desk.

*A Proud Heritage – A Noble Calling*

*I came here by the invitation of your esteemed host, Chief Hunt of Binghamton, whom I had the pleasure of meeting in Chicago. I made the journey of 346 miles and after arriving here feel that I am in very congenial company. These organizations stand for something, and I am sure that you are doing a good work—coming together and getting acquainted and joining one with the other in finding ways and means in making it safer and better for the communities which you represent.*

*S. J. Dickson*

*Past President of the International Association of Chiefs of Police*

*Toronto, Canada*

*at the 26th Annual Convention of the New York State Association of Chiefs of Police*

*July 27-29, 1926*

**THE VALUE OF THE CONFERENCE**

Today's police executive needs to be informed on a variety of issues. Finding the right training that is pertinent to our jobs is essential. That is what our training conference brings to the table—important topics, relevant information, and energetic discussion. The speakers and presentations will not only impress you but will make you a better leader. Attendees will get the best information on labor law, technology, risk management, legal issues, and other prevailing topics in law enforcement. Additionally, you will get to meet our Premier Exhibitors over the course of the four days—please visit their booths and tell them that you appreciate their



**Chief David Zack**  
**1st Vice President**  
**NYS Assn. Chiefs of Police**

support. I'll see you in Buffalo!

**DOWNLOAD THE UPDATED CONFERENCE ANNOUNCEMENT  
IN THE MEMBER'S AREA AT NYCHIEFS.ORG**

# Up-to-Date New York State Crash Data Available Online

SUBMITTED BY: INSTITUTE FOR TRAFFIC SAFETY MANAGEMENT AND RESEARCH

The public now has direct online access to New York State's motor vehicle crash data, through a new system called the Traffic Safety Statistical Repository (TSSR). Users can visit the system at <https://www.itsmr.org/tssr>, where they can view reports about crashes that occurred on New York's roadways from 2009 to 2014, based on data from the Department of Motor Vehicles (DMV)'s Accident Information System. Preliminary data for the most recent years are also available and are updated monthly until finalized. The project was designed and implemented by the University at Albany's Institute for Traffic Safety Management and Research (ITSMR), with funding provided by New York's Governor's Traffic Safety Committee (GTSC).

ITSMR initiated the TSSR project in October 2013 with the goal of meeting the data needs of the public and the state's traffic safety partners. Previously, users had to submit requests for crash data to the NYS DMV, who often forwarded requests to ITSMR and/or the NYS Department of Transportation to fill. Released in March 2016, the new, dynamic TSSR system lets users find what they need quickly. It reduces errors in how the crash data are used, minimizing the extent to which people have to analyze, interpret, and compile data themselves. Users can customize, print, save, and email reports.

"The Traffic Safety Statistical Repository places access to timely crash data at the fingertips of law enforcement and other traffic safety partners," said Margaret E. Ryan, Executive Director, NYS Association of Chiefs of Police. "The TSSR will greatly assist them in planning, developing and implementing many highway safety projects and grant opportunities. Additionally, the Repository supports law enforcement's ongoing efforts to deploy our resources more effectively and efficiently to reduce traffic crashes."

## A WIDE VARIETY OF CRASH INFORMATION

The TSSR generates reports on crashes statewide, at the county level and at the municipality level. Reports are available on total crashes, motorcycle, pedestrian, bicycle and large truck crashes. Separate reports show data on alcohol-related, drug-related, and speed-related crashes. The tables provide a wide variety of information, including:

- Number of persons killed and injured, by their role in the crash (driver, passenger, pedestrian, bicyclist) and by age

- Driver age and gender
- Safety equipment used (restraints and helmets)
- Day of week/time of day of the crash
- Crash contributing factors

The TSSR yields answers to questions such as these: (Find them on the site, or see **Answer** on next page.)

1. How many speed-related motorcycle crashes occurred in New York State in 2014? What county had the highest number?

	2013	2014	2015 Preliminary*
Total	304,804	299,452	288,159
Fatal Crashes	1,109	966	1,023
Non-Fatal Personal Injury Crashes	124,505	118,465	109,282
Reportable Property Damage Crashes	179,190	180,021	177,854

	2013	2014	2015 Preliminary*
Total	251,000	259,740	254,829
Fatal (K)	1,082	1,109	966
Serious (A)	10,201	9,814	9,168
Moderate (B)	17,445	17,018	15,990
Minor (C)	80,570	82,880	79,092
Unit Severity	4,682	4,800	4,612
Property Damage (D)	137,000	144,039	145,001

	2013	2014	2015 Preliminary*
Total	517,779	534,968	527,320

	2013	2014	2015 Preliminary*
Total	483,487	497,837	489,047

	2013	2014	2015 Preliminary*
Total	678,007	696,988	688,528

	2013	2014	2015 Preliminary*
Total	15,832	16,432	14,932

	2013	2014	2015 Preliminary*
Total	6,137	6,328	5,827

	2013	2014	2015 Preliminary*
Total	5,916	5,190	4,750

New York State Crash Summary tables from the TSSR system.

How many persons were killed in motor vehicle crashes in New York City in 2014? How many were pedestrians?

2. How many male drinking drivers under 21 years of age were involved in alcohol-related crashes in New York State in 2014? How many female drinking drivers?

## EXPANDING THE REPOSITORY – TICKET DATA AND LOCATION DATA

ITSMR plans to expand the TSSR in the future to include traffic ticket and conviction data from the NYS DMV ticket systems. Using Geographic Information System (GIS) software, ITSMR also plans to integrate location data and demographic characteristics with crash and ticket events.

"It has been said that the frequency of traffic crashes can be reduced as long as we have the ability to predict how, when, why and where they are occurring," said Chuck DeWeese, Assistant

Commissioner for the GTSC. “The new online Traffic Safety Statistical Repository provides both the public and traffic safety professionals with near real-time data to determine how, when, why and where crashes are happening. The GTSC is excited about the current capabilities of the TSSR and even more excited about its ability to expand in the future to create a warehouse of critical traffic safety data.”

“The continued expansion of this database will allow us to respond sooner to both contemporary and emerging traffic safety issues,” added Ryan.

ITSMR is a non-profit, university-based research center dedicated to improving highway safety. Affiliated with the University at Albany’s Rockefeller College of Public Affairs and Policy, the Institute was established in 1978 to provide a link between the State University of New York and New York State government that would facilitate the application of academic expertise to mitigating and solving traffic safety problems.



From left, ITSMR staff members Jamal Goddard, Joel Lord, Hilda Hardy and Christopher Allain discuss the TSSR system.

*“The new online Traffic Safety Statistical Repository provides both the public and traffic safety professionals with near real-time data to determine how, when, why and where crashes are happening.”*

*Asst. DMV Commissioner Chuck DeWeese*

From its inception, ITSMR has played a key role in New York State becoming a national leader in developing legislative and programmatic countermeasures for major highway safety issues. For more information, visit [www.itsmr.org](http://www.itsmr.org).

#### ANSWERS

1. There were 780 speed-related motorcycle crashes in New York State in 2014. Nassau County had the highest number at 64.
2. In 2014, 249 persons were killed in motor vehicle crashes in NYC. Of those, 127 were pedestrians. Kings County had the largest number of pedestrian fatalities (45).
3. 401 male drinking drivers under age 21 and 117 female drinking drivers were involved in alcohol-related crashes in the state in 2014.

## A Visit with New York State Preparedness Training Center

BY JONATHAN KOZLOWSKI, EDITOR OF LAW ENFORCEMENT PRODUCT NEWS

ORIGINALLY PUBLISHED IN LAW ENFORCEMENT PRODUCT NEWS: MARCH/APRIL 2016; REPRINTED WITH PERMISSION.

Imagine, if you will, two masked individuals attempting to walk into a school. Suspicious enough, right? We don’t know if either person is armed, nor do we know if there are others. All too often this type of situation unfolds with horrific outcomes.

Thankfully, the masks in this case exist only for safety. This is a training scenario. The two men are actors. They are part of a larger troop participating as victims, bystanders, as well as villains.

The concept of an active shooter can send shivers down anyone’s spine. And keeping officers on their toes as they prepare to respond to such situations can be a daunting task.

Typical training events consist of utilizing a school’s vacant

facility—that’s if there’s access to such places. Some even run while in-session so students and faculty to practice their chosen response. Sometimes this type of program is run by the school themselves. Training for active shooters is invaluable. Few could argue with that. But this training can get limited as to what, when, and how long officers can work at it.

New York, for one, set out wanting to provide a way to train law enforcement that would allow for a wide variety of environments. They also wanted to keep it as close to life-like as possible. Celebrating its ten year anniversary this July, the New York State Preparedness Training Center (SPTC) is just the place. The



*Trainees discuss tactical strategy at the SPTC. Photo courtesy NYS State Preparedness Training Center*

multidiscipline complex is operated by the New York State Division of Homeland Security and Emergency Services (DHSES). It is located in Central New York at the former Oneida County Airport. The facility occupies approximately 723 of 1,100 fenced acres of the former Airport.

The website states, “The SPTC affords state, local, and federal agencies a complex of training venues that can be used for the entire spectrum of training. From classroom lectures and discussions to skill development lanes to reality and high performance scenario-based training, the SPTC offers opportunities for dynamic emergency first responder training.”

They began with training less than a thousand officers a year. Years later, and with the world ever-changing, Bob Stallman, assistant director of the State Preparedness Training Center, says they now have multiple thousands visiting each year. The center welcomes public safety of any discipline to participate, from EMS and law enforcement to emergency management, fire, etc.

### THREE LEVELS OF TRAINING

Each scenario depend on the course and factors chosen by the department’s training officer. Rarely will the scene be the same when they return. However—on the day—trainees run through it twice. The second time to practice and correct any mistakes. The center seems geared towards realism. They’ve set up courses to best represent realistic events using current events as inspiration for new, challenging scenarios.

Surprisingly enough, active shooter training wasn’t the initial focus. Making sure to get the training right, “aggressive deadly behavior” response began roughly five years ago.

The basic or ground course starts with two officers. Imagine your partner gets the bare minimum of information responding to a call. It’s just you two. Team tactics is one level up with more officers on-scene to deal with the injured. They train to set up and organize themselves regardless of location. The third level of training includes multi-jurisdictional response, simultaneous

attacks and disasters (man-made or natural). For this the center is capable of utilizing as much of their acreage as possible.

The main installation has been dubbed, “Cityscape.” Appropriately named, Stallman explains that it is like a hanger—a massive hanger—with 24 different venues all under one roof. Training can be set in any number of places such as schools, shops and banks. “It’s almost like a movie backlot,” says Stallman. And that’s only indoors. Outside provides environments for woodland exercises and disaster response, among others.

The SPTC provides standard safety equipment—masks, non-lethal training rounds, marking rounds, etc.—to the participating officers. Beyond that officers are encouraged to wear the exact equipment they’d carry on duty.

### SPECIAL EVENTS

Aside from regularly scheduled active shooter training, the SPTC runs two challenges throughout the year. Conducted in May, the Ravens Challenge is “an exercise designed to enhance interoperability between public safety bomb squads and military explosive ordinance disposal technicians.” Personnel form response teams and engage counter improvised explosive device operations in various scenarios. The Challenge is funded by the US Department of Defense and coordinated by the Bureau of Alcohol, Tobacco, Firearms and Explosives.

Scheduled for September, Excelsior Challenge pushes the envelope even further. It invites patrol, K-9, SWAT teams, EMS and fire, as well as bomb squads, to the premises. The 2015 event added a few new elements, such as technical rescue experts for



*A police canine team training at the SPTC during the Excelsior Challenge. Photo courtesy NYS State Preparedness Training Center*

rope rescue and structural collapse support, and a “robot rodeo” which was a competition to test EOD robotics.

Not from upstate New York? Advanced Law Enforcement Rapid Response Training (ALERRT) Centers—similar in nature to SPTC—can be found in Mississippi, Alabama, Oklahoma, Texas, Iowa, Louisiana, Maryland, Georgia and Virginia.

For more information on the SPTC, visit [www.dhSES.ny.gov/sptc](http://www.dhSES.ny.gov/sptc). For information on ALERRT, visit [alerrt.org](http://alerrt.org).



## Nurse-Family Partnership, Afterschool Programs, Conference Invitation

Every year, enough children are abused or neglected to fill Madison Square Garden roughly four times. Four times!

We know that maternal, infant, and early childhood home visiting programs reduce child maltreatment.

So this year we urged policymakers to increase funding for the four research-based programs operating in New York State.

The result? *The enacted budget included not an increase, but a cut of \$500,000.*

Decreasing funding to these important crime prevention programs is unconscionable. Thank you to all who signed our letter to the Governor and the Legislature voicing our disappointment and, indeed, our outrage.

This spring and summer, we will be meeting with policymakers and asking you to join us.

**We need you to hammer home the fact that home visiting greatly decreases child abuse and neglect.**

Thank you in advance for your support and your willingness to lend your important voices to this fight!



*Jenn O'Connor  
State Director*

### PUZZLE ON PAGE 6

## Important Dates in Law Enforcement History

Source: National Law Enforcement Officers Memorial Fund, Washington, D.C.; Important Dates in Law Enforcement History; Updated April 14, 2014



# Arrest and Search Warrants Safety Begins with Preparation.



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OF CHIEFS OF POLICE, INC.  
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SCHENECTADY, NY 12303

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