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In this issue:

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Police Reform: Application of Legitimacy as a Guide

The Birth of Communications Networks in New York State



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contents



New York State Association of Chiefs of Police

In this issue

- 5 PRESIDENT'S REPORT**
TURNING POINT: RIOTS AT OUR NATION'S CAPITOL
By Chief Tim Parisi, President
- 6 THANKS TO OUR GENEROUS SPONSORS**
- 7 EXECUTIVE DIRECTOR'S REPORT**
LEGISLATIVE PRIORITIES FOR 2021
By Chief/Ret. Patrick Phelan, Executive Director
- 9 13 YEAR OLD TAKES THE WHEEL.**
- 10 COUNSEL'S CORNER**
POLICE REFORM: APPLICATION OF LEGITIMACY AS A GUIDE
By Chief/Ret Michael Ranalli, Esq.
- 12 FROM THE STAGE TO THE STREETS:**
HOW BODY LANGUAGE SKILLS CAN HELP ENGAGE THE COMMUNITY
- 16 OFFICER WELLNESS GETS BOOST FROM TECHNOLOGY**
- 17 SAVE THE DATE-ANNUAL TRAINING CONFERENCE 2021**
- 18 CHIEF'S CORNER**
FAKE NEWS — REAL CONSEQUENCES
By Chief Stuart Cameron - Suffolk County PD
- 20 CHIEF CATALANO REFLECTS ON A 40 YEAR CAREER**
- 22 ANTHONY CALLISTO: CAREER SPANS A DIVERSITY OF EXPERIENCE**
- 23 HISTORY COLUMN**
THE BIRTH OF COMMUNICATIONS NETWORKS IN POLICING
- 24 JUST RETIRED? CHANGE YOUR RINGTONES**
- 25 CHIEF DONALD MORRIS RETIRES - CAREER BEGAN IN NYC**
- 26 INTERSECTIONS**
TRAFFIC SAFETY COMMITTEE
- 26 LIVE WEBINAR**
- 27 CHIEF'S CHALLENGE**

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A publication of the
New York State Association of Chiefs of Police, Inc.
3177 Latta Road, #320, Rochester, NY 14612
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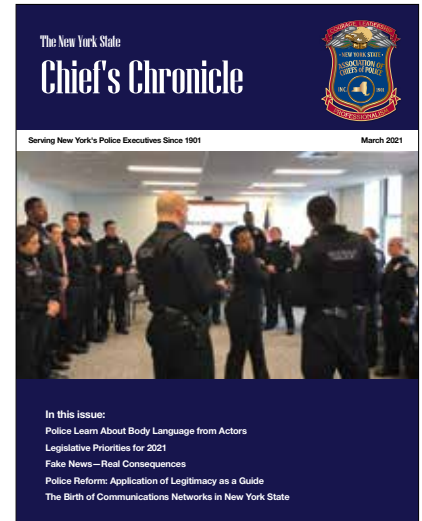
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On the Cover:

Buffalo Police are bringing lessons on body language to the police academy. Thembi Duncan of Shea Performing Arts shares an overview of body language from an actor's perspective to demonstrate how techniques used in the theatre can help police in the field.

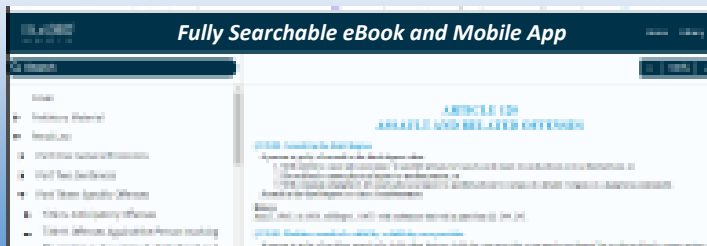
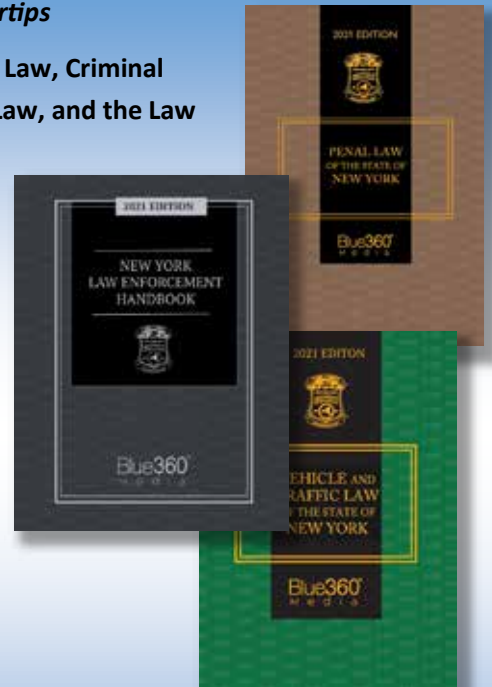


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Turning Point: Riots at Our Nation's Capitol



Chief Tim Parisi
President

While we are a nation that respects the right to protest, there is a stark line between a peaceful protest and terrorism. There were several incidents across the United States during 2020 in which protests crossed the line to riots. The violence that occurred at the United States Capitol on January 6, 2021 was just as disturbing. While a joint session of Congress was in session to certify the vote counts for the Presidential election, things took an ugly

turn and has now become an embarrassing chapter in our nation's history. A large crowd that had gathered outside the Capitol breached security and occupied various locations inside. Capitol police were assaulted, and members of Congress and the Vice President were evacuated. Congressional offices were breached and occupied, historic property was vandalized and looted. This group disrupted official proceedings of our government using force and violence – terrorism.

Some have taken issue with the degree of security measures in place at the Capitol that day. But how far would the rioters have gotten if not for the efforts of the police? In the days that followed, the FBI was aggressively on the trail of the offenders, several who have been arrested and others still being sought.

I want to take a look at a couple of the alleged rioters who were identified by the FBI and have been arrested. First is Brandon Fellows, age 26, of Schenectady who is said to have posted on his Facebook account the message, “We took the Capitol and it was glorious”.¹ The FBI Supporting affidavit notes that someone posted a remark to Fellows telling him that “the government is not scared”, to which Fellows reportedly replied, “oh I saw the fear. And they know that many of us had guns at our hotel rooms and vehicles... we just aren't pissed enough to kill the police or military. But we will fight them and make them retreat. Maybe things will get worse. All I do know is the more we are forced and silenced into things that we don't agree with the worse it will be.”² Fellows was among several who have been arrested for the federal offenses of Restricted Building or Grounds, and Violent Entry or Disorderly Conduct.³



In another case of a New York State resident, Peter J. Harding was also arrested for his actions during the insurrection. In the affidavit filed against him, it notes an hour long video attributed to Harding in which it is alleged that he described the events of January 6, saying, “We learned how strong we are. We learned how strong our voices are. We learned how strong our numbers are. If we can take the Capitol building, there is nothing we can't accomplish – county government, city government, town government, state government”.⁴

Harding is charged with Knowingly Entering or Remaining in any Restricted Building or Grounds without Lawful Authority, and Violent Entry and Disorderly Conduct on Capitol Grounds.⁵

I mention these two cases because they are from our home state, and there are others. The assault on our Capitol is cause for concern for a faction that appears to be inspired to fight, and while at least one of them is not currently “...pissed enough to kill the police or military”, we need to be aware of their stated motivation. In law enforcement we continue to face a number of challenges – street gangs, gun crime, computer crimes, along with traditional traffic concerns, community engagement, school security, working with vulnerable populations, and more. No doubt that there were some legitimate protesters at the Capitol on January 6, but the ones who stormed through security, occupied offices, assaulted government agents, and disrupted our democracy should be held accountable for their actions – and that work is being done now. In addition to all of our other duties and responsibilities to our communities, it is essential that we be aware of this type of threat in our own backyards. To all of my colleagues, remain alert, remain vigilant, and as always, “if you see something, say something.”

¹Statement of Facts; U.S. vs. Brandon Fellows; ¶18; <https://www.justice.gov/opa/page/file/1355906/download>; Accessed Jan. 23, 2021, FBI

²Ibid – ¶18

³Criminal Complaint, U.S. vs. Brandon Fellows; <https://www.justice.gov/opa/page/file/1355901/download>; Accessed Jan. 23, 2021; FBI

⁴Statement of Facts, U.S. vs. Peter J. Harding; Jan. 11, 2021, <https://www.justice.gov/opa/page/file/1354111/download>; Accessed Jan. 23, 2021, FBI

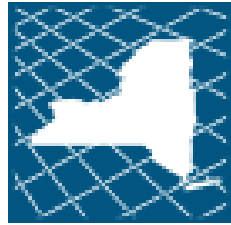
⁵Criminal Complaint, United States vs. Peter J. Harding, Jan. 11, 2021 <https://www.justice.gov/opa/page/file/1354106/download>; Accessed Jan. 23, 2021; FBI



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Legislative Priorities for 2021



**Chief/Ret.
Patrick Phelan
Executive Director**

In January 2021 the New York State Association of Chiefs of Police presented a legislative agenda to its members. Each year the association presents legislative priorities in the hope of inspiring legislation that will benefit our members. The legislative matters are decided by our Board of Governors. This year, four points of interest were identified as achievable goals to requests from the legislature.

courts. Allowing judges access to juvenile records will give them the information they need to make intelligent, informed decisions.

GOVERNOR CUOMO'S EXECUTIVE BUDGET

Governor Cuomo has presented his executive budget proposal for consideration. The budget proposal includes several law enforcement reform matters. *The New York State Professional Policing Act* contained in the budget mandates that the Municipal Police Training Council (MPTC) create rules and regulations dictating minimum eligibility standards for police officers, including psychological and background check thresholds and requirements. The act would go further to change the composition of the MPTC as follows.

Increase number of members from 8 to 10.

Decrease number of college faculty from 3 to 1.

Decrease number of Sheriffs nominated by the New York State Sheriff's Association from 2 to 1.

Decrease number of Chiefs nominated by NYSACOP from 2 to 1.

New York State Police Superintendent as a permanent member.

Add a Sheriff nominated by Governor from an office with 100 or more members.

Add a Chief nominated by the Governor from a department with more than 100 members.

Add a crime victim representative, nominated by the Governor.

Add a community representative, nominated by the Governor.

Add an executive from an agency or municipality that employs peace officers, nominated by the Governor.

The New York State Professional Policing Act will go further to alter the composition of the New York State Accreditation Council as follows.

Reduce the number of Chiefs from 3 to 2.

Reduce the number of Sheriffs from 3 to 2.

Add a Sheriff from an office with 100 or more members.

Add a Chief from an agency with 100 or more members.

Add a crime victim representative.

Add a community member from a community with a high number of police/citizen interactions.

The act will mandate the accreditation of hiring practices after the Accreditation Council creates rules and regulations to ensure hiring practices including background checks, verification of good moral character, and the reporting of misconduct. Failure to meet the hiring accreditation standards will result in the loss of office status for that office or agency.

The budget will create law that establishes a "monitor" for any agency that does not submit a plan to reimagine their police department as described in Executive Order 203 to "oversee the operations of such police agency." The monitor will be appointed by the Attorney General in consultation with the Governor at the expense of the municipality.

CIVIL SERVICE REFORM

Every police department in New York is working very hard to hire a more diverse workforce and create an inclusive police department that is more representative of the communities we serve. The civil service system creates hurdles and roadblocks in that process. The testing process, rule of 3, physical agility and other rules make for a very rigid hiring process. The lack of flexibility can make hiring diverse candidates impossible. We ask that the legislature reform civil service to a more flexible, agile system allowing law enforcement executives the latitude to hire the right candidates.

FUNDING FOR TRAINING

The legislature has placed many demands on local law enforcement as has the Governor through executive order. There are pressing training needs for New York's law enforcement officers. De-escalation, fair and impartial policing, new and safer defensive tactics are just some of the training needs. We can all agree that there can never be too much training for law enforcement, and we can always be better trained. But training police officers is very expensive. If we truly want to improve the quality of law enforcement and reimagine our police departments, we have to make an investment in police training.

REMAND FOR THOSE ARRESTED FOR POSSESSING ILLEGAL GUNS.

Violent crime, shootings, and murder are up significantly across the state. New York has become a very dangerous place for our citizens. We would simply ask that the bail reform agenda be revised to make remand an option in the case of an arrest for the possession of an illegal gun. New York's police officers are making record numbers of illegal gun arrests only for these defendants to be immediately released only to have the opportunity to obtain another illegal gun. Steps must be taken to curb the violence that plagues our communities. This small step would give law enforcement an opportunity to provide a small amount of safety for our citizens.

ALLOW YOUTH PART JUDGES ACCESS TO JUVENILE RECORDS.

The lack of access to juvenile records creates a perpetual first offender status for defendants coming before the youth part of criminal

Additionally, the budget will amend section 840 of Executive law to allow DCJS to decertify police officers of its own accord.

Comprehensive Reform of Crisis Intervention would amend Articles 31 and 32 of the Mental Hygiene Law (MHL) and create a new Article 36 to authorize the Commissioners of the Office of Mental Health and the Office of Addiction Services and Supports to jointly license and operate Crisis Stabilization Centers. This legislation would also amend MHL Sections 9.41, 9.43, 9.45 and 9.58 to provide law enforcement, the court, or directors of community services with the ability to order or take individuals to such Crisis Stabilization Centers. These centers will be open 24/7/365 and accept all admissions without referrals, including direct drop-offs by law enforcement and other first responders.

The Governor has also included legislation in the budget that would legalize the commercial sale of marijuana in New York State. The proposed legislation is similar to previous years with minor changes in the distribution of revenue.

Pending Stand Alone Legislation

S.3348/A.347 (Bailey/Braunstein) This bill would amend the Criminal Procedure Law by defining confidential informants, imposing restrictions on who may and who may not be a confidential informant, and by regulating the use of confidential informants. This bill establishes an affirmative obligation on the part of the officer to provide a checklist of information to a potential informant aimed at dissuading the individual from cooperating, and will additionally create a new pseudo-right to counsel. This new obligation tacitly suggests that becoming an informant is not in the best interests of the person, and it is unlikely that a person considering cooperating with law enforcement would indeed agree to do so. This bill would significantly reduce successful prosecutions via the use of informants and would hinder police agencies' ability to investigate crime.

S.2800 (Bailey) This bill amends the Family Court Act and Criminal Procedure Law to prohibit questioning of juveniles except when the juvenile has information that can protect the life and safety of any individual. In these instances, officers would be required to have the juvenile consult with an attorney prior to questioning. The bill also requires the police to contact the juvenile's parent or guardian prior to transporting the juvenile to the police station. This bill essentially bans all questioning of juveniles.

S.11/A.2683 (Sanders/O'Donnell) This legislation would ban no-knock warrants except in very limited circumstances where officers are investigating a murder, active shooters, hostage situations, kidnapping, terrorism, human trafficking, or where a situation involves an individual who has barricaded himself in a specific area and has a violent history. The bill would also reduce the time during which a no-knock warrant can be executed. Moreover, officers utilizing knock-and-announce warrants would be required to wait at least 30 seconds prior to entering unless there are life-threatening circumstances present.

S.818/A.1745 (Biaggi/Fernandez) This bill mandates that police officers provide immediate medical attention when a person in custody displays medical distress. If an officer does not, he or she will be charged with criminally negligent failure to obtain medical care, a class E felony. If an officer fails to make a good faith effort to obtain medical care and the failure results in an injury or death, the officer may be charged with criminally negligent failure to obtain medical care (new Penal Law sections 125.08 and 125.09, both class

E felonies). Medical distress includes, but is not limited to, breathing difficulties, migraines and muscle pains (distress that may not be apparent), or a need for immediate medical care in the presence of such officer. The bill also calls for training to be conducted for officers on how to handle medical distress, yet it is unclear if this mandate will be funded.

S.268 (Myrie) The bill repeals Chapter 834 of the Laws of 1940 which only allows the designation of a deputy or employee of the police department to hold disciplinary hearings. If this section is repealed, it would allow for other independent agencies or entities to hear disciplinary proceedings over police officers and have final say over police discipline. This bill would allow for outside entities to have final disciplinary authority over police officers.

S.675/A.3311 (Ramos/Kim) This bill would prohibit the use of drones for law enforcement purposes without a warrant. It would also completely prohibit the use of drones at concerts, protests, demonstrations and other first amendment activities, prohibit the use of facial recognition technology, and prohibit crowd control devices and weapons on drones.

A.417 (Perry) This bill would ban law enforcement agencies from using drones to gather, store or collect evidence or information pertaining to criminal conduct without a valid search warrant, even in situations where there is no expectation of privacy. Absent a warrant, law enforcement agencies may use a drone only when a law enforcement agency has reasonable suspicion that swift action is necessary to prevent imminent danger to life. A person who uses a drone without the exceptions provided is guilty of a class B misdemeanor. Further, an aggrieved party may institute a civil action against the police agency and any evidence or information obtained from a drone without a warrant or absent exigent circumstances will be inadmissible in any court proceeding.

S.1347 (Hoylman) This bill amends the Executive Law to clarify that the sole permanent DNA identification index authorized under NYS Law is the index maintained by DCJS, and prohibits local governments from establishing or maintaining any such DNA index.

S.79 (Hoylman) The bill prohibits the use of biometric surveillance technology by law enforcement. The bill defines biometric technology and information obtained through biometric surveillance technology as including physiological, biological or behavioral characteristics, fingerprint characteristics, hand characteristics, eye characteristics, vocal characteristics, and any other physical characteristics that can be used to establish an individual's identity. This would preclude the any law enforcement agency's use of facial recognition technology, analyzing crime scene fingerprints, and iris scanning. The bill goes even further to prohibit law enforcement agencies from running certain biometric information in local, or even federal DNA and fingerprint databases, only listing exceptions for the state DNA identification index or the fingerprint identification portion of the state automated biometric identification system.

S.247 amends section 160.59 of the Criminal Procedure Law to expand the eligibility for and the accessibility of conviction sealing. Under this bill, individuals can have up to five convictions, including two felony convictions sealed if it has been one year since the last misdemeanor offense and three years since the last felony offense, exclusive of any time spent incarcerated.

S.249 amends the Criminal Procedure Law to expand the eligibility for sealing past convictions available under the 2017 legislation. This would permit a person to seal up to four criminal convictions. ►

S.3075/A.849 (Salazar/Gottfried) This bill would repeal most prostitution and patronizing prostitution offenses, without including any regulatory structure.

S.1991/A.4331 creates a new civil cause of action for deprivation of constitutional rights at the state level. The bill also precludes qualified immunity as a defense. A defendant police officer in a civil case cannot claim that he/she was acting in good faith nor that he/she reasonably believed that the conduct was lawful, nor that right was clearly established as the time of the alleged deprivation nor that the officer defendant could not reasonably have been expected to know whether his/her conduct was lawful under this bill.

S.3139 creates a new civil cause of action for deprivation of constitutional rights at the state level and specifically removes governmental immunity and qualified immunity as a defense.

By removing governmental immunity, municipalities have no defense to raise when an officer has used their discretion during the performance of a governmental function.

S.8669 (2020) amends the Civil Rights law, establishing liability under State law against police officers for the deprivation of constitutional rights. The bill allows a defendant police officer to raise the “exemption” defense if the officer can affirmatively show, by clear and convincing evidence that they were not on notice that their conduct would result in the deprivation of or interference with an individual’s rights. However, if a defendant police officer successfully uses the “exemption” defense, the plaintiff is still entitled to recover damages from the officer’s employer.

We are asking that all members of the Association utilize their contacts and speak to members of the Assembly and Senate in your area to oppose this legislation.

13 Year Old Takes the Wheel Mom Passes Out, Son Steers off Interstate to Safety

Just three days into the New Year, a 13 year old boy and his mother Lisa Bustin were travelling on Interstate Route 481 outside of Syracuse when Lisa passed out from an apparent allergic reaction, losing control of the vehicle. Her son, Nathan Bustin, grabbed the steering wheel to maintain control of the car, but was unable to reach the brake pedal. While navigating, Nathan used his mother’s cell phone to call 911, simultaneously heading to a familiar off-ramp. Chief Saverio Rotunno said, “This is a heavily travelled area, and the off-ramp consists of a slight grade and curve.” Rotunno said that Nathan was able to navigate the off-ramp and continued toward another highway when Lisa’s foot pressed on the accelerator. Said Lisa Bustin, “Nate told me that he had two options – one was to hit a pole, the other was to hit the back of a truck ahead of us, so he chose the truck.” The Bustin’s car spun 360 degrees into a parking lot, skidding from one end of the lot to the other. Cicero police said that when the car stopped, Nathan saw the smoky dust inside the car from the airbags, and believing the car was on fire, immediately dragged his mother from the car.

Police said that if not for Nathan’s quick actions, he likely prevented a serious, if not fatal motor vehicle crash. Chief Rotunno said, “Nathan is cool and collected, I believe that his sports experiences helped him to stay calm and act so quickly.” Nathan’s mother is immensely proud of her son, “Nate did three remarkable things that day – he drove the car, called 911, and pulled me out. He is truly my hero.” At a special ceremony Nathan Bustin was presented with Cicero’s Lifesaving Medal and a framed photograph of CPD’s new Transformer’s police car.



From left, Chief Saverio “Steve” Rotunno, Nathan Bustin, Cicero Fire Chief George Barrett



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Police Reform: Application of Legitimacy as a Guide

BY CHIEF MIKE RANALLI (RET.) GLENVILLE POLICE DEPT.; LEXIPOL PROGRAM MANAGER



Chief/Ret.
Michael Ranalli, Esq.

Police agencies across the country are struggling with calls for reform. Many of these reform efforts carry with them a presumption of incompetence or wrongdoing on the part of law enforcement, which in turn can lead to resentment and frustration. But perspective is key. Reform should not be perceived by police leaders as inherently bad, because reform can mean improvement. All police agencies should strive to be learning organizations and continuously improve the services

they provide to the community. After all, would you trust a surgeon who keeps operating the same way for decades because “that is just the way it has always been”?

However, not all reform efforts are created equal. Effective reform measures require an understanding of where the problems really lie, which requires a thorough root cause analysis. Law enforcement leaders and trainers who are open-minded to change and embrace continuous quality improvement must be involved in root cause analysis. Analysis of “what’s wrong” conducted without law enforcement input can produce legislation and policy changes that

Effective reform measures require an understanding of where the problems really lie, which requires a thorough root cause analysis.

do not reflect the dynamics of police work and ultimately wind up being unfeasible or inadequate for addressing the root problems and community needs. Good intentions can create bad results.

A root cause analysis will help to identify the source of any apparent failures and relate them back to the five pillars of organizational success: people, policy, supervision, training and discipline. This determination is the start of fixing the problem. For example, in a use of force incident, is the policy inherently problematic, or was it the tactics used by the officers leading up to the use of force? If so, then maybe both supervision and training need to be addressed.

Legitimacy as a Guide

Throughout my career I observed some officers make decisions based on a simplistic assessment of legality. If an act was legal for an officer to do, then they did it. If a person was observed violating the law, they were arrested for it. Yes, sometimes it really does come down to that level of simplicity. But the service police provide to the community is too vital for such a simplistic approach to be taken under all circumstances.

Instead, I use the concept of legitimacy as a basis for most of my

training classes. My first introduction to this concept came back while I was a rookie officer and still on probation. One midnight shift, my field training officer and I arrived to a violent domestic after two other officers had arrived. As we walked in the house, I saw a clearly distraught and apparently frustrated woman suddenly lunge at a senior officer and hit him, hard. As a new officer I was ready to pounce and place her under arrest. But the officer involved just held her and very calmly told her he was going to give her that one because of what she was going through (she walked in on her spouse with another woman). We ended up assisting her with leaving the house, then moved on.

That officer made a legitimate decision—it may have been legal to arrest the woman, but under the circumstances, would it have been the *right* thing to do?

Legitimate actions are those that are both legal and the right thing to do. Within this concept are three critical components:

1. Solid legal foundation. Are you where you have a right to be, doing what you have a right to do? If the answer is no, you are starting at a severe deficit.
2. Solid safety foundation. Can whatever action you are contemplating be done with a valid priority of life assessment for all involved—the officers and the citizens? Could the decision create more risk for all involved?
3. Solid goals and objectives for the actions. The goals and objectives should be fully intertwined with the level of risk assumed by officers. The risk assumed while responding to an active-shooter incident is significantly different than the risk of using a SWAT team to do a dynamic raid for a small amount of drugs. The goals of the former support the risk while the goals of the latter do not.

Two cases that rose to the Supreme Court of the United States (SCOTUS) and were then remanded back to their appellate circuits for reconsideration serve as examples of the concept of legitimacy in action. In both cases, SCOTUS reversed the circuit courts’ findings against the officers but for different reasons. It is not my intent to provide a complete legal analysis of these complicated cases. Instead, I will focus on the decisions made by the officers and apply the concept of legitimacy.

White v. Pauly

In *White v. Pauly*¹, officers were called to the roadside scene of a nighttime road rage incident. One participant, Daniel Pauly, had already left the scene prior to the officers’ arrival. The complainants described the verbal exchange they had with Pauly, but it was clear to officers that no charges would result from the encounter.

Despite this, the officers decided to go to Pauly’s residence to speak with him. The house was set back off the road and behind another house. To “maintain officer safety,” the officers decided to approach the house on foot and only intermittently use their flashlights so the

occupants would not know they were there. The house was occupied by brothers Daniel and Samuel Pauly. Seeing someone in the dark approaching the house, they armed themselves. A verbal exchange between the officers and the brothers led to shots fired, which left Samuel dead. The officer who shot Samuel saw Samuel pointing a gun out the window at him and he believed he was about to be shot. The overall facts were in dispute but the recordings at the scene only appeared to capture the officers announcing themselves once as police. Daniel claimed they did not hear any such announcement.

Was it legal for the officers to go to the residence and interview Daniel about the prior incident even though no charges would be filed? Yes, but the necessity is debatable. Compounding the officers' questionable decision to go to the house is the type of approach they decided upon. This was a decision based only on *their* perspective as police officers—they did it because they can and because they were on a call for service. They possibly believed a stealth approach could prevent an ambush. If so, what facts existed to lead them to believe the brothers would shoot at a police car driving up the driveway? If that was a legitimate and articulable concern, then why go at all when no crime had occurred? What was the goal that would result in the assumption of any risk?

This analysis is not about using hindsight to criticize the officers' decisions. It is about understanding that taking into consideration the perspective of all involved is critical to making a legitimate tactical decision. Incorporating other people's perspectives allows for a more informed assessment of the risk versus the goals of the action. A proper risk assessment would have taken into consideration how the approach could be perceived by the occupants. Daniel had just been involved in a road rage incident and now observes people sneaking up the driveway. It would not be unreasonable for him to believe whoever was approaching in that manner may have some malicious intent. In fact, I would guess most people reading this article would have retrieved their weapon under similar circumstances.

On remand to the 10th Circuit, the court reasoned:

Similarly, in this case, the alleged reckless actions of all three officers were so immediately connected to the Pauly brothers arming themselves that such conduct should be included in the reasonableness inquiry. Thus, if we view the evidence in the light most favorable to plaintiffs, the threat made by the brothers, which would normally justify an officer's use of force, was precipitated by the officers' own actions and that Officer White's use of force was therefore unreasonable.²

County of Los Angeles v. Mendez

In *County of Los Angeles v. Mendez*³, deputies were looking for a parolee-at-large, Ronnie O'Dell. A confidential informant told deputies they saw someone resembling O'Dell riding a bike in front of Paula Hughes' home. The Hughes' home had a shack in the backyard where Angel Mendez and Jennifer Garcia lived. The deputies did not obtain a warrant to search the premises. After a briefing, the deputies responded to the premises and searched it without a warrant, exigent circumstances, or consent. Two deputies entered the shack with guns drawn and without announcing themselves. Angel had a BB gun on the futon the couple was sleeping on. He moved the BB gun to put it on the floor, pointing it in the general direction of the deputies. The deputies shot and seriously injured both Angel and Jennifer.

In this case, the legitimacy of the deputies' decisions prior to the use of force is compromised at the first test, legality. The officers

had no legal right to be on the property without a warrant, exigent circumstances, or consent. This is a clear Fourth Amendment violation. On remand, the 9th Circuit ruled the unlawful entry was the proximate cause of the injuries to Angel and Jennifer. The court further concluded their reckless conduct allowed a finding of negligence under state law. As to the risk created, I will let the 9th Circuit's reasoning from the decision speak for itself:

Police officers rightly remind the public that they are required to make split-second decisions in very difficult situations. See *Tennessee v. Garner*, 471 U.S. 1, 19, 105 S.Ct. 1694, 85 L.Ed.2d 1 (1985). **These split-second decisions cannot in every case be made reliably so as to avoid harm to innocents.** But these imperfect life-or-death decisions demonstrate that entry by an officer, on alert, with weapon drawn, **can foreseeably result in shooting injuries where the officer mistakes an innocent implement for a weapon.** Entry poses a foreseeable and severe risk only partly mitigated by knocking and announcing. Under circumstances like those presented here, the safe course for the public and the one prescribed by the Fourth Amendment, is for officers to remain outside, unless or until they have a warrant or consent or exigent circumstances arise. (emphasis added)

The court is essentially saying, "Okay officers, you say these split-second decisions are tough and police officers can't be expected to be perfect. Then we, the courts, are telling you not to willingly put yourself in such a situation if you have a choice." All officers should read this section very carefully and commit it to memory. We will see this reasoning applied more and more when questionable—and illegal—tactics are used.

Okay officers, you say these split-second decisions are tough and police officers can't be expected to be perfect. Then we, the courts, are telling you not to willingly put yourself in such a situation if you have a choice.

Seize the Initiative

Reform and improvement are synonymous and that is the attitude law enforcement should take. We have a responsibility to our officers and to the public that must be taken seriously. Seize the initiative and use cases like the ones cited here to ask yourself, "Could our officers have made similar decisions?" Do not wait for tragedy to come to you. Use case law and cases in the news to ask that question repeatedly. If the answer is ever yes, fix it.⁴

¹137 S.Ct. 548 (2017), on remand 874 F.3d 1197 (10th Cir. 2017)

²The court still granted the officers qualified immunity because there was no clearly established law to make the "unlawfulness of the officers' actions apparent."

³137 S.Ct. 1539 (2017) on remand 867 F.3d 1067 (9th Cir. 2018) SCOTUS had rejected the 9th Circuit's proposed "provocation rule" and remanded the case back to consider the issue of proximate cause. The district court and the 9th Circuit both found the shooting to be reasonable under Graham but applied the now-rejected provocation rule, holding that the officer's illegal entry provoked the need for force and therefore Graham would not be available to the deputies.

⁴Lexipol is hosting a three-part webinar series on police reform in March and April. All webinars are free and available on-demand following the live events. For more information and to register, visit <https://info.lexipol.com/police-reform-webinar-series>.

From the Stage to the Streets:

How Body Language Skills Can Help Engage the Community

BY CHIEF/RET. MARK A. SPAWN

Analyzing a person or their motives by the way they act is basic human nature. Before a single word is spoken, a person's movements can already be sending a message: frustration, desperation, happiness, sadness, leadership, compassion, or malice. The ability to detect and understand a person's expressions and mannerisms is a valuable skill to possess provided it is objective. For law enforcement, special training provides insight on the conscious and unconscious biases we have. Awareness of how biases are formed and how we manage them are important to police in order to assure that predispositions do not interfere with the just and prudent administration of law and it is one of the ways law enforcement administrators are ensuring nondiscriminatory enforcement practices. With demands for reforms in policing and the criminal justice system, training on bias and communication techniques are some of the ways that police departments are improving their relationships with the communities they serve.



A body language workshop is now part of all new police recruit classes for the Buffalo, New York Police Department.

Photo: Shea's Performing Arts

Community Policing Initiatives Working Well, Then COVID Strikes

In Buffalo, New York, Captain Steven Nichols is extremely proud of the work of his Community Engagement Team. He said that the whole department was so vested in their programs that it was often difficult to keep up with demand. "Officers were saying, 'I want to do this, I want to do that, I want to take 10 kids to a (Buffalo) Bills game'", said Nichols, adding, "It just really spilled into our officers, we were engaging the community, and then COVID shut it all down." When it comes to building trust and establishing a productive dialogue, face-to-face is ideal, but social distancing, face masks and teleconferencing caused a roadblock to some of the Buffalo Police Department's (BPD) community programs. But Nichols said the investment in police-community relations brought about some very meaningful relationships. "We didn't have a lot of the problems (that other major cities had)," said Nichols, adding, "we had our share of protests and a couple days of rough ones, but not like a lot of the

cities were having because we spent years training our officers and working with the community to show that we are in this together and that it's not us against them." Nichols added that his department is always open to trying new and better ways to improve relationships.

Unconscious Demeanor; Stoic Presence; A New Approach

Nichols remembered attending a public meeting when he realized that some of the group were talking about him. "They thought something was wrong with me, after all, this was a community meeting, a positive event", said Nichols. "They commented that I was standing erect, alert, and was scoping out the room. You don't even realize as a cop that you're doing that, you put on the uniform and you're always *that guy*, you're always on guard, looking around."

So when the idea came about of having an actor instruct police officers on how to better engage the community Nichols was intrigued with the idea, but the departmental reaction was mixed. Veteran officers were skeptical, even doubtful that it could work. The concept came about when Thembi Duncan, Director of Arts Engagement and Education for Shea's Performing Arts Center in Buffalo, New York watched a community meeting online between residents and police. Duncan said that there was tension in the room and the meeting did not seem productive.

One of Duncan's projects in the Buffalo area was a workshop called The Business of Body Language for Young Professionals. Duncan said, "The people who attended that body language workshop were asking if we could do the same workshop for their group. I ended up doing it for college interns, and for nurses for D'Youville College. Each time, I adjusted the details of the training for their particular line of work."

Duncan had a contact at BPD and asked about meeting with the Police Commissioner to make a proposal on using creative writing and performing that she believed could help police. Duncan said, "I got a meeting with Commissioner Lockwood and I had this long proposal that included creative writing and performing, and he asked me what other things I do, and I mentioned the body language training, and he said, 'tell me more about that.' And so I pushed the proposal to the side and we talked about body language training, and he said, 'I want that'.

The prospect of adding this new module to the basic training for police recruits was a departure from traditional academy training which already includes interpersonal communication skills; But BPD Commissioner Byron C. Lockwood believed that providing officers with lessons on body language from an actor who relies on selling the viewer on their character, emotion, and to following a storyline, could enhance existing training for de-escalation and approachability. Commissioner Lockwood said, "One of the things that I am very strong on is community policing. And I believe that body language fits right in, it helps the officer's dialogue with the community, with the person."

Background – Shea’s Performing Arts Center

Located in Buffalo’s Theatre District, Shea’s Performing Arts Center began as a movie theater in 1926.¹ In addition to providing entertainment, Shea’s mission also includes working with the community, and in 2018, Thembi Duncan who was working in Washington, DC, became Shea’s Director of Arts Engagement and Education. Duncan said, “At Shea’s, we already had a couple long term programs of doing musical theatre with middle schoolers and high schoolers. But our President, Michael G. Murphy’s, position is to work with all parts of the community - with seniors, veterans, and others.

Duncan’s background includes experience as “...an arts administrator, director, actor, and teaching artist with over fifteen years of experience synthesizing theatre, American history, and social justice in and around Washington, D.C.”²

Acting First Met with Reluctance

Duncan and Nichols met with about 12 veteran officers from the Community Policing Division which Nichols oversees. Nichols remembered that Duncan engaged two ‘good-sized’ officers and asked them to have a random conversation in the corner of the room. Duncan remembered that first workshop, “I was barely holding on, trying to convince them that using theater works in their relationships with the community”. Nichols said, “She looked at the officers and said, ‘relax.’ They were relaxed, but relaxed as cops would be relaxed, with their hands on their belts, standing upright, and she said ‘try to make yourself smaller, just try it...’” Nichols continued, “They’re hunching, squatting, everybody cracked up laughing which broke the ice. When you think about it, you put that uniform on, it’s a subconscious thing, you become that person who is going to protect the community so you have to be on guard...”

While some of the veteran cops did get something out of the experience, Captain Nichols decided to try the program with police recruits, and Duncan agreed. Nichols said that younger officers tend to bond only with each other which can create isolation from the community they serve. He said, “We become this person where we don’t trust anybody but other police officers.” Nichols added that Duncan’s workshop helps officers better understand that they are members of the same society that they police, saying, “We are all different shapes, sizes, colors and personalities.” Before the next phase of training began Nichols knew that Duncan could relate better to the recruits with some firsthand experience.

Ride-along Shapes Performer’s Perspective

Nichols suggested that she should do some ride-alongs to learn more about the department. Nichols remembered saying to Duncan, “Let me get you fitted for a vest, and she said, ‘oh my god, it just got real for me.’”

Duncan said that 20 hours of ride-alongs were extremely valuable. “That made a huge difference in my whole approach to the work, because I didn’t have any experience, so I was going from what I was assuming, and it was clear that it was all theoretical...it completely opened my eyes to the kind of issues that they face. I came back and spoke with the Lieutenant and Capt. Nichols to ask them a lot of questions about the language I need to be using, and the situations that they are going to encounter and then I put that back into the workshop.” Duncan said after the ride-along and modifications to



A police ride-along helped actor Thembi Duncan to better understand the work of the police. Information learned from the ride-along was incorporated into the body language workshop.

Photo: Buffalo Police

the workshop, the next three classes were much better. “It was much more productive, I had much more of a command of what they might experience.” Nichols said that the program has now evolved into an extremely relevant and exciting part of recruit training.

Principles of Acting

Duncan said that what actors learn in theater school is applicable to what police officers encounter with interpersonal exchanges in their job. But, she stresses, she does not want to influence what officers do or how they are trained for high stress, life-and-death situations. Basic police training includes of a variety of real-life scenarios that police will face: dynamic encounters, verbal altercations, active shooter, and many include strategies for de-escalating conflict. Whether it is a crime scene or a scene from a script, it begins with the method or tactics in how the actor, or officer, will approach that scene and engage the audience. Duncan said, “So I start there and talk about the acting principles of antagonist-protagonist. We also talk about objective, obstacles, and resolution.”

Costume or Uniform?

The police uniform is likely one of the most commonly recognized in the world. It is symbolic of training, authority, and service. While it can be a welcome sight for those in need, a bad experience, or a volatile situation can make the uniform threatening to others. Nichols and Duncan agree that, in some situations, the police uniform can be an obstacle. Just as costumes in theater represent a character or persona Duncan explains that it is not the *person* they are necessarily reacting to, but rather what the costume or uniform *represents*. Nichols said, “A lot of my officers (in the Community Policing Division) when they do special events they wear polo shirts, like a bicycle uniform, and they’re received totally different than a fully uniformed officer with a vest on. It’s just perception.”

When asked about how these exercises in the performing arts can assist police, particularly with the demands for police reform, transparency, and accessibility, Nichols noted, “That’s the whole point of this workshop, to help make an officer more approachable. You walk into a heightened situation, people may be agitated, angry, or scared, they may get in your face and say things they would not ordinarily say. We have to remember, ‘they’re not talking to me, they’re talking to that patch on my shoulder, or that badge on my chest.’”

Body Language and Exercises

So, exactly what happens in the classes with police recruits? Duncan gets the recruits on their feet to demonstrate how certain movements can change the perception of who they are. She also engages the recruits in conversation, asking them why they became a police officer, and to describe something about themselves that nobody knows.” Nichols said, “She tries to dig a little deeper into each recruit to learn more about them, to humanize them.” Duncan added, “These (exercises bring out) subtle things they already know how to do, I give it more of a name and then, that’s a tool for their toolbox.”

Duncan explained some of the role playing exercises they do with police recruits in her workshop, “I always do a mirroring exercise with them. It’s a common theater exercise where you’re standing in front of somebody and you’re both doing the same thing, you’re mirroring each other physically, but you’re not talking. You’re just looking each other in the eyes. That’s just one example of many exercises that we do that, on the surface, seem very simple, but the objective is to look into someone else’s eyes and make a connection with another person and trust them and create movement together. And when you make people do that they always start out with giggling and feeling weird and stupid. It should be very simple, but it’s very hard to make that connection. So they do it once and they feel silly, and then we do it again and you find that people become more comfortable with it.”



An acting exercise called mirroring is used to help police recruits understand the actions and reactions of body language.

Photo: Thembi Duncan

We’re Not Acting

The news media in Buffalo picked up on the story of an actor working with police recruits, and while Capt. Nichols was proud of the body language workshop, he said that he was concerned about

the publicity of police officers taking acting classes. “I didn’t want people to get the perception that were trying to teach our officers to fake anything. We’re not teaching them to act, we’re trying to show them that their body language is the first thing that people see.” Nichols added, “Nobody is looking to change their personality or fake their compassion or anything like that, we’re just trying to smooth out some of the edges a little bit.”

Future of the Program

When asked about the future of this program, Duncan said that it is constantly evolving. She will also be sharing the success of the Buffalo Police program with her colleagues in the performing arts community. Duncan, Nichols, and Lt. William “Craig” Macy will be presenting the body language workshop to the Creative Professionals Exchange in November 2020. One of the goals of the Exchange, according to Duncan, is to discuss innovative partnerships between the performing arts and the community. She urges her peers that this is something they can do in their own communities, interfacing with police to show how the arts can help. Commissioner Lockwood said that he hopes this idea will spread to other departments. Duncan said that because of COVID, artists cannot be on stage, but they can use their talents in an area such as body language to share with their local law enforcement.

The body language research workshop is seen as a success by Commissioner Lockwood who said that it will be a part of every recruit class going forward. The relationship between Thembi Duncan of Shea’s Performing Arts and the Buffalo Police Department has been reciprocal, each learning from the other. Police officers learned about how actors use body movement to connect with their audience in much the same manner officers use words and actions to engage with people in a variety of situations. The workshop has evolved to include more than the acting model alone, but to relate the training to the world of law enforcement. Both Nichols and Duncan agree that the ride-along experience was necessary to the success of the program, and urges any other agencies considering such a program to include that exposure. Nichols said, “So now that Thembi is getting to know us I think she understands certain things she doesn’t want to change about us or see us do differently, that maybe in the beginning she did. So it’s becoming a really, really good relationship, and positive for the community.”

¹Shea’s Performing Arts website; <https://www.sheas.org>; Accessed October 3, 2020

²Shea’s Performing Arts website; <https://www.sheas.org/leadership>; Accessed October 3, 2020



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Officer Wellness Gets Boost from Technology

Cicero Police Get Wellness App for Officers

BY MARK A. SPAWN

The life of a first responder has always been challenging – every day they bear witness to violence, injuries, and destruction. Distressing situations such as child abuse, domestic assaults, disfiguring crashes and death are part of the job, but that doesn't mean that responders are immune to stress. Patrick Phelan, Executive Director of the New York State Association of Chiefs of Police said, "Everyone deals with stress in their own way. Sometimes, a single incident can be a trigger, for others it can be an accumulation of incidents over time." The ways in which people cope with pressure varies. For some it can become overwhelming. Phelan added, "We need to make sure our police officers are provided with the resources to help them deal with the pressures of the job. The statistics are alarming. We know that officer suicides outnumber line of duty deaths."

One of the obstacles to getting help for our front line workers is the stigma of seeking out assistance. Cicero (NY) Police Officer Daniel Leneker serves as the Department's Wellness Officer and a peer-to-peer counselor said, "There has been a longstanding stigma attached to those seeking help in a time of mental health crisis. The confidentiality of using the app provides an unmeasurable amount of security for those that want to get help."

Support systems for law enforcement have traditionally included employee assistance, professional and peer counseling, and chaplaincy programs. Now, technology is playing a pivotal role in helping first responders deal with their stress and improve overall health.

Recently, the Cicero Police Department received a generous donation from Driver's Village Automall to support the purchase of a handheld wellness app for officer wellness. The Cordico Shield app provides law enforcement officers with an array of on-demand wellness tools.

According to Cordico, their app was "...developed for any size agency to help strengthen wellness by providing 24/7 handheld proactive wellness solutions featuring anonymous self-assessments, peer support, vetted therapists, one-touch calling, and on-demand tools targeting alcohol abuse, critical incidents, depression, family support, marriage guidance, physical fitness, post-traumatic stress, resilience, sleep optimization, stress management, suicide risk, trauma, and much more."

Brady Pilster, Vice President of Strategic Partnerships for Cordico said that although he had been working with the public safety community for 24 years, the issue of law enforcement suicide was brought to his attention while attending a conference in Miami in 2017. "The process of officers getting help was cumbersome, accessing EAPs were difficult, and there were issues of trust", said Pilster. He collaborated with Dr. David Black, CEO of Cordico and who also serves as the Chief Psychologist for the California Police Chiefs Association Officer Wellness Committee, and Chief John Carli (Vacaville, CA PD). Together they were inspired to make a difference in the wellness of first responders which led to the development of the Cordico Shield app.

Ken Elander, Marketing Director of Driver's Village said, "When we learned that Cicero Police were interested in getting the app, we were happy to assist." Elander added, "They take great care of us, and we see the need to foster wellness among the officers."

Chaplain Terry Bish serves the members of the Cicero PD and said that the confidentiality aspect of the app is part of its appeal to officers, saying "Confidentiality is a critical part of any resource used in police work and in counseling. It is imperative that everything said or researched on the app is kept in confidence."

Chief Rotunno agrees, saying "Police officers are a unique breed and they tend to hold a lot in. Even with our chaplaincy program and debriefings after a major incident, officers still have a difficult time discussing personal issues with others. This app will allow them the opportunity to research options and seek help if needed." The app also allows spouses to participate. Said Rotunno, "The ability for family members to use the app is a tremendous benefit for early intervention, especially if they recognize their spouse may be in crisis."

Brady Pilster of Cordico said the app includes 24/7 Crisis Alert technology which allows officers to activate a multitude of peer support resources simultaneously utilizing a coded phone number during a time of personal crisis. Chief Rotunno said, "This is one of the most important features. If an officer gets off work at 10:00 PM after having investigated a serious car crash, they may be alone, thinking about how the call rattled them. Crisis Alert allows them to get help at any time they need it. You can't beat that!" Chaplain Bish noted, "I'm sure most officers wouldn't want to call me at 3:00 AM even though I am available to them. So, it's one more thing that provides assistance."



Ken Elander (right) Marketing Director for Driver's Village presents a \$6000 donation to Chief Saverio Rotunno to support Cicero PD's Officer Wellness and Mental Health Program



Officer Leneker added, “There is no clock as to when someone might need help, so having these resources available at any given time is of paramount importance.”

The Syracuse Police Department (SPD) also uses Cordico Shield. Asked about the Crisis Alert feature, SPD First Deputy Chief Joseph Cecile said, “Although we had a very robust peer support program prior to Cordico, if the officer lost the number for peer support, or didn’t have it because they never utilized the service before, the app makes access as simple as pulling out your cell phone.” The rank and file at Syracuse PD also appreciate the focus on wellness. Said Chief Cecile, “We started rolling this out in October 2020, and officers were very positive about it and many thanked the Administration for making wellness a priority.”

Chief Rotunno said the implementation of this technology has helped overall morale and he has received several positive comments from the Police Benevolent Association and Employee Assistance Program. “As an administrator you are always looking for ways

to improve your department, whether in equipment, training, or morale. With officer wellness and mental health being a big topic of discussion today, it is very important to give your staff all of the tools necessary to do their job safely and professionally.

Cecile says that having this app for the members of his workforce is crucial. “This is just one more way to take care of those who are on the front lines taking care of everyone else. Officers move from call to call, from the most mundane to the most horrific, and although their bodies move onto the next call, their brains do not. While the Cordico app has a great deal of self-help information for the workforce from the neck down, I’ve always believed as administrators, it is critical for us to make sure officers and their families have an equal amount of information, self-help instruction, and services to assist them with the potential trauma that can develop from the neck up.”

Similar wellness apps are also offered by Cordico for firefighters, 911 telecommunicators and health care workers. Learn more about the app at Cordico.com or call Brady Pilster at 801-390-3834.



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Fake News – Real Consequences

On October 30, 1938 long before there were televisions in most American households, before the Internet had been built, before social media had taken hold and well before the term fake news was coined; a radio broadcast caused widespread alarm and unease. On the eve of Halloween 1938 the radio drama *The Mercury Theater on Air* broadcast *The War of Worlds*. Much of the show was presented as a series of simulated news bulletins thereby causing confusion among some listeners. Many of those who heard the broadcast had tuned in after it had begun during a lull in a more popular radio show and consequently they missed the introduction which would have informed them that the show was merely a dramatization. As a result some of these people reportedly believed that they were listening to real news reports of a Martian invasion in New Jersey. Back in 1938 the options to verify facts in real time were scarce, primarily limited to selecting another radio station or calling friends on the telephone. Of course you could also wait until the newspaper was delivered the next day, but with a full blown Martian invasion in progress would the paperboy get through to complete his delivery? And even if the newspaper was there would it be worth the risk to emerge from hiding to face Martian death rays to get it?

Fast forward about eight decades and access to real time information has virtually exploded, but so has the ability to distribute misinformation or fake news, either unintentionally or with sinister intent. A recent Pew research study reported that eighteen percent of Americans now primarily get their news from social media, a trend that continues to increase. The Pew study also found that almost nine-in-ten (88%) of Americans also recognized that social media companies now have at least some control over the mix of the news that people see each day. Despite the urgency to be the first to report on a breaking news story, most traditional media outlets will take the time necessary to vet a story prior to distributing the content. While grossly inaccurate reporting by big name media outlets has occurred in the past, it has fortunately been very infrequent. Two of the more famous errors include the Chicago Tribune reporting that Dewey had beat Harry Truman and the Baltimore Evening Sun headline stating that all of the Titanic's passengers were safe. Fortunately these errors are notorious largely in part because of their rarity.

The distribution of fake news stories vary in origin and motivation. Fake news websites intentionally publish misinformation, often to drive additional traffic to social media sites or to generate advertising revenue. Some fake news sites are intentionally designed to simulate real news sites in an effort to mislead those that visit them, thereby intending to add credibility to what is being reported.

Often these sites utilize variations of the Uniform Resource Locator or URL of real news sites with web pages that are designed to mimic those of real news outlets, however frequently they are crude imitations. Often the items reported on these sites are outrageous or salacious, but not totally unbelievable, which results in them being shared through social media outlets. This in turn drives additional traffic to the fake news web sites, thereby adding to the cycle. Many real news stories are themselves hard to believe, so fake



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news is often accepted and shared.

Another much less sinister derivation of fake news is a direct result of the general public's unprecedented ability to distribute information via social media. Each and every individual with a smart phone can now essentially function as their own media outlet, and depending upon what it sent out, it can often go viral thereby affecting large numbers of people. Those who see events unfolding before them can now broadcast information out via social media in real time, often including photos and videos. This grass roots type of reporting has many benefits; however it can also result in erroneous information being forwarded. Members of the public may misinterpret what they are viewing and in all cases lack the resources or the motivation that a traditional media outlet would have to verify the facts prior to distributing the information. One such example was reported in the New York Times when an individual in Austin, Texas tweeted that professional protesters were in town to demonstrate against Donald Trump. The person who sent out the tweet incorrectly associated buses that had been used to bring attendees to an unrelated convention as having been used to bus in professional protesters to the anti-Trump event. This tweet helped to fuel a nationwide conspiracy theory and was shared 16,000 times on Twitter and over 350,000 times on Facebook highlighting just how viral fake news reporting can get. This effect can be confounded by the fact that often the first reports of a developing incident can come

via social media posts from those at the scene.

Law enforcement leaders who are looking for real time information may face a challenge when social media reports come out reporting about a breaking news event without any other way to confirm what is truly occurring. Experienced police leaders may be leery to react based upon social media reports that have not been vetted without outside confirmation. Quite often it can take some time before traditional media outlets will begin reporting on an event that has already been posted on social media and, of course, if the social posts are not accurate, mainstream media may never report on the incident.

How can inaccurate news reports impact upon public safety, can these reports simply be ignored since they don't reflect real world incidents? *The War of the Worlds* broadcast in 1938 highlights the potential for misinformation to cause real panic and alarm. During the late summer of 2016 many areas of the United States were in the throes of Creepy Clown sightings, many of which remain unsubstantiated. Were there really any clowns or was the entire mania nothing but a social media hoax. Clearly some credit for the scare should be allotted to social media hype, how much isn't easy to determine, however these reports, whether real or imaginary, did cause real consequences,



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such as school lock downs. It is clear that the general public can often react to events in irrational and unwarranted ways, fueled by fear of the unknown and distrust of authority.

The COVID-19 pandemic has truly highlighted how using social media as a news source could impact people and society. During this outbreak even traditional media outlets have featured conflicting and often confusing information. Guidance on what to do has been fast paced and dynamic and at times overly scientific and too complex for many to be able to comprehend and fully implement. Studies have shown that people are more likely to share incorrect information on social media platforms and therefore misinformation can reach more people more rapidly than accurate information. Once misinformation has taken root it can often be difficult to dispel.

Many members of the public are on edge due to a steady stream of reports about worldwide events, including riots, terrorist attacks and mass shootings. This is despite the fact that the odds of being

killed or injured in a traffic accident far exceed the potential of being the victim of terrorism or random violence. In several locations within the United States public panic has resulted from loud noises that were perceived to be gunshots. These types of events have occurred in locations such as shopping malls and airports. These events highlight just how hypersensitive and reactive that the general public may be to false news reports and how they can impact upon public safety. Some of this effect is no doubt a result of the increased access to information and news that began with twenty-four hour cable news stations and expanded with the development of the Internet and social media. Many people pine for the olden days when they could leave their homes unlocked, unaware that many jurisdictions now have much lower crime rates than in the aforementioned olden days.

The question for law enforcement professionals is how, if at all, to respond to fake news reports. Should attempts be made to counter any fake news postings that could potentially cause unrest or panic in their communities? Drawing too much official attention to a fake news report may magnify its effect on the public; conversely presenting facts that directly counter misinformation may reassure the public. It may also be a challenge for law enforcement agencies to definitively determine the veracity of social media postings and determine if something is in fact a hoax. For example, if people are reporting sightings of creepy clowns that can't be verified by law enforcement, does that mean that they are not actually occurring? Many of these postings included photos of clowns, apparently out in the public. There may be some basis in fact to fake news reports or they may be complete fabrications. If no criminal conduct has occurred should any resources be directed toward vetting these types of reports?

Law enforcement authorities may also consider using fake news themselves as a tool. History is replete with examples of deceptive tactics used to fool criminals, such as fugitive round ups conducted using fake sweepstakes letters to lure criminals into custody. Releasing fake information to the media however, should receive careful deliberation prior to being implemented. The expression 'winning the battle but losing the war' should come to mind. The release of misinformation to the media may achieve a short-term objective, but it may result in a lack of trust that could persist for a long period in the future. Law enforcement and the media share a symbiotic relationship. Intentionally using the media to distribute false information could damage the reputations of both entities and result in long-term damage. No one likes being used or feeling duped. The public is now demanding that law enforcement be transparent and using deceptive techniques is directly counter to that expectation.

As the reliance upon social media continues to grow, so will the means and opportunity to distribute misinformation, both intentionally and by error. Public safety professionals must be alert and aware of trending misinformation that can affect public order. They must be prepared and have a plan on how to counter it when necessary. Fake news can have very real consequences.

Chief Catalano Reflects on a 40 Year Career



*Chief F. Michael Catalano
Cortland Police Department*

Over the course of forty years Chief F. Michael Catalano has seen a number of changes. Catalano, who will retire in March (2021), began his career with the Cortland County Sheriff's Office in 1980 as a Corrections Officer. He spent a year and a half in that position before becoming a County Police Officer in 1981. In 1982 he attended the Broome County Police Academy for the Basic Course for Police Officers. Catalano worked for the Sheriff's Office until 1984 when he joined the Cortland City Police Department where he worked in Patrol Division, then ascended to the ranks of Sergeant, Lieutenant, Deputy Chief, and then being appointed Chief of Police in 2009.

Among the changes he has seen, he noted that advances in technology have been most dramatic, remembering the days of typewriters and carbon paper which gave way to word processors and computers, and portable radios

which were hardly portable by today's standards. Chief Catalano also noted that police personnel have changed, too. "Today I see the generational changes which have brought about a wave of new ideas and thought processes."

Reflecting on memorable cases throughout his career, Catalano described a horrific motor vehicle crash which is etched in his memory. "Early in my career I was dispatched to a crash in our college section. There were four students who were walking along the street when they were all struck by a drunk driver. One was a fatal, a 19 year old freshman. I was one of the first patrols on the scene, and even though I've responded to several fatalities over the years, that one really impacted me. Here was a lifeless teenager who did not have a chance to start her life. I think about that often." Police located that driver who was subsequently charged with vehicular manslaughter, DWI, and leaving the scene.

In 2013 an incident occurred that impacted the entire city. Cortland Police were faced with what was described at the time as a riot involving thousands of party-goers. The annual rivalry between SUNY Cortland and Ithaca College, known as the Cortaca Jug drew thousands with drunken behavior and vandalism throughout the city. Published reports estimated 4000-6000 in attendance and 80 arrests, with 19 being SUNY Cortland students. Chief Catalano remembered how that event put Cortland on the national scene with the story being reported in several national publications. "Part of that was the power of social media. Word spread fast. Even my brother-in-law heard about it, and he lives in Japan." Immediately after the incident City and college officials assembled a task force to investigate the cause of the problem and to ensure that it did not happen again.

Catalano fondly recalled his selection to attend the FBI National Academy. "I was the first member of the Cortland PD to attend the National Academy, and it was one of the best moves I ever made. The networking, the diversity of ideas, it was entirely one of the best experiences of my career." Catalano also revered his time serving on the Board of Governors with the New York State Association of Chiefs of Police, and with the Central New York Association of Chiefs of Police where he served two terms as President.

One of his proudest accomplishments is the Accreditation of his police department. "It was a blessing to have that Accreditation, especially during this time of intensive discussions about police reform and constitutional policing. That had been a goal of mine since I was a Lieutenant, but I stuck to it and we made it happen in 2016."

As for his future, he has no particular plan other than to relax for a couple months.

WHY I BECAME A COP...

"I wanted to advocate for those who were vulnerable. I could not tolerate the idea of a bully or bullying. I felt a very strong obligation to help victims. I also liked the uniform and the uniformity of law enforcement. I remember watching TV shows as a kid, and whenever it was good-versus-bad, the good guy always won. I really liked that, it was refreshing."

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Anthony Callisto: Career Spans a Diversity of Experience



Anthony Callisto
Senior Vice President
for Safety & Chief Law
Enforcement Officer
Syracuse University

At the end of June (2021) Tony Callisto will be wrapping up a monumental 40 year career in law enforcement that began as a Community Service Officer with a village police department, then corrections and as a Deputy Sheriff with the Onondaga County Sheriff's Office (OCSO). It was with the OCSO where Tony ascended the ranks, ultimately becoming Chief Deputy of the Custody Department where he served for almost ten years. In 2006, he became Deputy Chief of Public Safety at Syracuse University (S.U.) where, in 2007, he became Chief. For the past 6 years he has served as Senior Vice President for Safety and Chief Law Enforcement Officer for S.U.

He began his career at age 18 with the Village of Solvay Police Department, before the days of countywide dispatch and direct access to a police computer. "The desk sergeant was the dispatcher. If you had a question, you asked him", said Callisto. "If you needed to run a license plate, they would call another agency because we didn't get our first computer terminal until after my first year on the job." Callisto remembered that while technology was somewhat

limited at that time, it was really about the model of community policing. "Knowing your community, the residents, store owners, the entire village. There's nothing more important than building a network of people, especially when you're trying to solve a case", he said.

Asked about his most notable cases, Callisto recalled that it was actually a program that he is most proud of – a model that solved many cases. "When I was working as Chief Deputy at the jail, we worked very closely with U.S. Attorney Glenn Suddaby and Assistant U.S. Attorney John Katko in building the county's first gang intelligence database. Our initial focus was on two notorious gangs – the "110" and "Boot Camp" gangs. The feds worked closely with jail deputies who had a knack for intelligence gathering, along with using telephone recordings and other intercepts to develop probable cause around a variety of criminal conspiracies involving the gangs. The database ended up with about 900 gang members. In the past 15 years while Callisto was working at Syracuse University, the same gang intelligence program is still yielding results. "In 2012 we had a rash of robberies in and around the university in which our students were often the victims", said Callisto, adding, "The robberies were mainly initiation activities for gang members. We had some armed robberies on campus, and a gang member who was shot on Marshall Street while in front of the University Sheraton. We were able to obtain video to identify a vehicle in that shooting which led to the identification and arrest of four gang members." In addition to the gang intelligence program, Callisto began a University Area Crime Control Team, working with Syracuse Police to blanket the campus areas at high risk of violent crimes.

Though he will leave his current position at Syracuse University at the end of June, Callisto does not expect to retire completely. He will continue teaching both graduate and undergraduate courses at Columbia University which he has done for the past 20 years; and he will continue to work as an expert witness in matters of in-custody deaths and jail-related matters. He will also serve as an advisor to Syracuse University as they transition a new candidate into his former position.

Among his goals when he began working at Syracuse University was to attain accreditation from the Commission on Accreditation for Law Enforcement Agencies (CALEA) for the Department of Public Safety. In 2015 DPS was accredited by the International Association of Campus Law Enforcement Administrators (IACLEA), and was reaccredited in 2019. In December 2020, DPS received the prestigious CALEA accreditation. DPS is one of only 27 dual CALEA/IACLEA accredited campus public safety agencies nationwide and the only one in New York State.

Reflecting on his career, Callisto is grateful for the relationships he has built. "I have met some incredible people over my 40 years, some through the Central New York Association of Chiefs of Police, New York State Association of Chiefs of Police, International Association of Chiefs of Police, and the American Jail Association. You know, there's not a place I can't go and be able to find a colleague to have a cup of coffee or a conversation with. It's been an amazing 40 years, and I wouldn't do anything differently."

WHY I BECAME A COP...

"I was 15 years old, a junior in high school, when Officer Ed Kurtz visited for Career Day. Until that point, I had not ever thought about being a police officer. I spoke with the officer after his presentation and he suggested that I could join the Explorers, which I did. From age 15-18 I rode along with Solvay Police about 4-5 hours a week, learning the ropes of community policing. With that, I was completely hooked!"

The Birth of Communications Networks in Policing

The Telephone Typewriter as a Crime Fighting Tool

BY: CHIEF/RET. MARK A. SPAWN

Today's police officers expect a comprehensive communications system and validated databases in order to access information about wanted persons, stolen property, driver's licenses and vehicle registrations, missing persons, crime guns, and more. Networked telecommunications is truly a force-multiplier for every law enforcement agency in the country and beyond. But this was not always the case.

Mr. B. K. Rhoades of the New York Telephone Company made a presentation about a device called the "telephone typewriter" at the 1929 annual conference of the New York State Association of Chiefs of Police in Cortland, New York. It is interesting to read how this innovation of what we commonly refer to as the "teletype" was presented to our forebears who were likely as astounded by this advancement as some of us were awed by DNA technology during our lifetime, providing us with another dramatic tool in the fight against crime.



Harris & Ewing, photographer⁸. (1936)

Rhoades told the NYSACOP members in attendance, "The thing I am going to talk to you now about is a recent development which science has placed in your hands, which I think will prove as years go by of material aid to you in apprehending criminals, (and) law-enforcement work of every kind." After reading a couple of newspaper articles to the members in attendance, Rhoades continued, "For every advantage that science has given to the criminal, it is safe to say that it has given two to the police." He added, "Information is the basis of police work. And, to be effective, information must be disseminated rapidly, accurately, and widely. Take a crime committed at a given point. The criminal may go in any direction and he will probably do so at about 60 miles an hour. The best way to stop him is to get accurate information about him to as many places as possible, as rapidly as possible. Communication becomes the strong arm of the law".¹

Rhoades said, "The telephone typewriter provides the best means yet devised for rapid, accurate, widespread communication. To the speed of the telephone it adds the accuracy, permanence and authenticity of the written word. Installed in a police system, it provides a web of communication through which alarms, orders

and other material may be transmitted with the utmost rapidity and accuracy." He went on to describe this innovation, saying, "The telephone typewriter is an electrical mechanism into which has been built the keyboard, carriage and certain other fundamental parts of the typewriter. The machine, when connected to another by means of a telephone circuit, controls the second machine so that any message written on the first machine is simultaneously reproduced for the second, thus combining the speed of the telephone with the accuracy of the written word. The system also has the desirable feature of instantly providing printed copies of all material transmitted." Rhoades then referred our members to the machines he brought to the conference, saying that if they were all connected to a statewide system, he could type a message and it would instantly be sent to all other points in the system, adding that each point would have a written copy of the message.²

Mr. Rhoades explained that the New York and Buffalo Police Departments had experience with the telephone typewriters, and he noted that Commissioner Higgins (Buffalo), who also attended the conference, could explain his department's experiences with the device. Rhoades also said that police departments in Connecticut were using a similar system, referring to certain cases including a stolen car thief who was apprehended after an alarm was dispatched that had been sent over the telephone typewriter system.³

Rhoades provided these examples of communications that were sent over the Connecticut system:

DANBURY CT POLICE:

**PLEASE GIVE ME THE OWNER OF A
CAR LICENSE S-I2I56**

MOTOR VEHICLES DEPT.⁴

**MOTOR VEHICLE S-I2I56 OWNED BY STEPHEN
SCAMMEL, 15 MILTON STREET, NEW HAVEN**

And another message from New Haven to Hartford:⁵

**HUPMOBILE REGISTER NO. P-9429 RECOVERED
BY STATION BEYOND. THEY ALSO HAVE
THE MAN. O.K.**

Note: The Hupmobile was an American car built in Detroit by the Hupp Motor Car Company from 1909 to 1939.⁶

Rhoades concluded his remarks by telling the NYSACOP delegates that they could consult with their local telephone offices to further discuss the telephone typewriter systems and how they might work for their own jurisdiction. He said, "I firmly believe that the telephone typewriter service we are offering to police forces are the most reliable system of communication ... a powerful aid in law enforcement work."⁷ Undoubtedly, Mr. Rhoades and our 1929 delegates would be awestruck to see how their wired, analog

Do you have a
photograph from
your department
showing a classic
teletype machine?

Share it with us:
APB@nychiefs.org

communications technology have evolved into a network of linked databases, shared information, and artificial intelligence; in an instant, today's law enforcement officers can access eJusticeNY, motor vehicle records, Interpol, FBI records and more; and while the traditional landline continues to serve today's needs, our predecessors would also be impressed by the use of wireless technology to provide broad access to officers with the necessary information to keep our communities safe. As said by Mr. Rhodes in 1929, "Information is the basis of police work. And to be effective, information must be disseminated rapidly, accurately and widely."

¹Report of the 29th Annual Convention, of the New York State Association of Chiefs of Police - 1929

²Ibid

³Ibid

⁴Ibid

⁵Ibid

⁶The Hupmobile, A Journey Through Time; 10/25/2018; Journal of Antiques and Collectibles <https://journalofantiques.com/columns/hupmobile-journey-time>; Accessed Jan. 15, 2021

⁷Report of the 29th Annual Convention, of the New York State Association of Chiefs of Police

⁸New wireless teletypewriter. Washington, D.C., Oct. 15. A new radio teletypewriter service permitting instantaneous transmission of written records without the aid of wires, has been perfected by the experts of the Bureau of Air Commerce, Department of Commerce. Commerce officials said a chain of teletypewriters could be operated by radio at "great distances" and even in an airplane in flight. In this picture the new machine is being operated by R.B. Ladd, at the Bureau of Air Commerce field at Silver Hill, MD. United States Washington D.C. District of Columbia Washington D.C, 1936. Photograph retrieved from the Library of Congress, <https://www.loc.gov/item/2016878675/>.

Just Retired? Change Your Ringtones!

By Chief/Ret. Mark A. Spawn

Remember Pavlov's dog? It was his behavioral conditioning experiment where he rang a bell while feeding a dog. Eventually, the sound of the bell alone would cause the dog to salivate by the anticipation that he was about to be fed. My brother-in-law just retired after a 33 year career with the State Police. We were sharing stories about "retired life" which led to our reflection on how the 24-hours-a-day phone calls that all police administrators receive are rarely to share good news. Those calls, especially in the middle of the night and holidays, were often fraught with crisis – a major fire, a serious crash, one of your officers hurt, arrest of a politician, or some other trouble.

The last part of my police career was as a police chief, so the need to respond quickly to a scene was rare. But during my several years as a detective, those calls often meant I had to get up and deploy quickly. And in my earlier years before becoming a cop, I served as an EMT working the "first-out" ambulance for my city and several surrounding townships. When the emergency extension phone rang in my apartment at night, I would go from deep sleep to a mad rush to get dressed and hustle out to the rig to meet my partner. The emergency ambulance telephone number was also used by local funeral homes whenever they needed a body removed from a hospital, nursing home or other location. When those calls rang in the night, my body reacted the same – jumping out of bed thinking that you're heading to the next trauma or full arrest. And even though the deceased removals were handled by someone else, you can imagine that it would take some time before I could get back to sleep.



So let's circle back to Dr. Pavlov. To this day, I remember the bell ringer of the EMS phone extension. It programmed me to be able to drive a rig code 3 within 1-2 minutes of getting a call, and then providing care ranging from first aid to advanced life support. Our bodies work well that way, right? But for decades, whenever I would get called at home or by cell phone, the ring tone was the signal that could have me out on a call involving a serious crash, fire, death, rape or robbery. As I was discussing all of this with my brother-in-law, we agreed that once you retire, that is a good time to change your ring tone – and your message alerts. Since these are the ways we are notified with contemporary technology devices, the behavioral conditioning of hearing those alerts will cause us to associate them with work, stress, and trauma. In the old days of mechanical bell ringers it was difficult to change the tone of your basic home telephone, but in the modern era with so many digital sound files to choose from, even on the most basic phones, change your ring tones... and stop drooling.



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Chief Donald Morris Retires – Career Began in NYC



Chief Donald Morris

Chief Donald Morris' law enforcement career has spanned a few different police agencies in Upstate New York: Solvay, Liverpool, and East Syracuse. But his roots are in New York City. The son of an NYPD Detective, Don grew up in Queens, graduating from high school in 1981, and attending St. John's University (Queens) where he obtained a degree in Business Administration.

With his eyes set on police service, he took the police exam. Morris explained, "There was one test for NYPD, NYC Transit, and NYC Housing Authority. When my number came up I was ready." In 1984 he began the NYPD police academy, turning 21 while attending. His assignment was to the NYC Housing Authority PD where he worked from 1984 to 1990. One of his proudest moments with the Housing Authority PD was when he was working with his partner, Sam Robinson, when they came upon a bodega fire. "The radio call hadn't

even come in yet, we rolled up before we were ever dispatched. We were banging on doors, waking people up, and evacuating people from the apartments over the burning bodega, which turned out to be an arson. For their lifesaving efforts, Robinson and Morris received the Medal of Exceptional Merit and were inducted into the NYPD Honor League, something that Morris described as "very special."

As Morris discussed his work with NYC Housing Authority PD, he said, "I loved the job. My last two and a half years was working plainclothes in Anti-Crime in Harlem working on narcotics, robbery, burglary and violent crime investigations." But Don and his wife were just starting a family in 1990, and they decided that upstate was a better place for their kids to start their lives. Don and his wife Deborah liked the Baldwinsville, New York area where they had previously visited a friend who encouraged Don to send his résumé to various police agencies in Onondaga County. He received an offer from Solvay PD, suburb of Syracuse, and took the job. Don ascended through the ranks at Solvay from Sergeant, Lieutenant, to Captain. In 1999 he applied for the Chief of Police position in the Village of Liverpool, also a Syracuse suburb, and was selected for the position which he held until 2007 when he became Chief of Police for East Syracuse. Morris was called back to be the Chief at Liverpool PD while simultaneously serving as the East Syracuse Chief for a couple years. Morris spent the rest of his career at Liverpool PD until his retirement in January 2021.

When he left New York City in 1990, Morris was on a career track for promotion, but he says there are absolutely no regrets for moving upstate. "When I was working in Solvay, I had the opportunity to work as a DARE officer. The interaction with students was thoroughly enjoyable." And when he was named Chief at Liverpool, he described that promotion as "a career highlight." The historic and upscale Village of Liverpool is often quiet, but not a stranger to occasional violence. Chief Morris remembered a particular case in 2013. "I heard the radio call. A double homicide where two women were stabbed to death." One of the women was the suspect's estranged wife, the other a friend of hers. Morris continued, "As the call went out dispatch gave a vehicle description. I spotted the car and tried to stop him. I chased the suspect and was joined by a couple sheriff's deputies. The suspect drove into the Onondaga Lake Park, got out of his car, and ran into the lake. We went in after him and arrested him." The 26 year old suspect was charged with murder and criminal possession of a weapon. State prison records indicate the man is serving a sentence of 46 years to life.

Morris noted that he has seen a number of changes during his 37 years, but most notably in technology. "When I was working in New York City our cars didn't even have radios, we only had portables. Now, everything is available on a tablet. The technology our officers are using today is amazing." Reflecting on the turbulent year now behind us, Morris said it was rough for cops. "The anti-police rhetoric and defunding movement was misplaced. I had never seen anything like that before. I can tell you that when I worked in New York City, we regularly policed housing complexes in some of the most blighted areas. And when we went in to talk with the residents, 99% of them were ecstatic to see us walk in the door. For today's officers, I know that this negativity will change."

WHY I BECAME A COP

My Dad was my inspiration. He was a Detective in NYPD. He joined the department in 1953. I remember watching Dad with his buddies and I would listen to them talking about the job. It was intriguing.



*Det. Lawrence Morris
NYPD*

Traffic Safety Committee

Greetings from the “reinvented” NYSACOP Traffic Safety Committee (TSC)! We are pleased to announce that we are “in service”, have already met three times (virtually), and are in the process of reviewing a variety of traffic safety issues that are of interest and/or may have the potential to affect our members. We want to let you know that in order to keep you informed about our activities, TSC meeting minutes can now be accessed/viewed under a new tab that has been added to the Traffic section of the NYSACOP website. As you may know, we recently sent out a request to designate a Traffic Safety Point of Contact for your agency. For those who have already replied, THANK YOU! This



effort is an important prong regarding our overall mission so if you have not yet had time to designate someone from your agency please do so as soon as possible. As the TSC continues its efforts, we are excited to serve you, to build what we believe will be a tremendous resource for our members. We look forward to accomplishing our mission of assisting our members in enhancing traffic safety services to reduce crash related fatalities, injuries and economic costs, while also providing additional positive outcomes resulting in safer roadways and communities. For further information, or if you should need assistance, please contact Nick Macherone at Traffic@nychiefs.org. Thank you and stay safe!

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Chief's Wellness Challenge

The following agencies have completed the New York State Association of Chiefs of Police Wellness Challenge. Is your department eligible? Do you support the physical fitness of your officers? Are mental health services and other resources such as EAP posted in the workplace and readily available? Click the Chief's Wellness Challenge from the red Quick Links menu at nychiefs.org and join your colleagues:

- Auburn (City) Police Department – Chief Shawn Butler
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- Cicero (Town) Police Department – Chief Steve Rotunno
- Colonie Police Department – Deputy Chief Michael Woods
- Dewitt (Town) Police Department – Chief Chase Bilodeau
- Grand Island Police Department – Chief Thomas Franz
- Greece Police Department - Chief Patrick Phelan
- Irondequoit Police Department – Chief Alan Laird
- Lynbrook Police Department – Chief Brian Paladino
- Monroe County – Chief Richard Tantalo
- Tonawanda (Town) Police Department – Chief James Stauffiger
- Utica Police Department – Chief Mark Williams

