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News

Serving Law Enforcement & Homeland Security

SEPTEMBER/OCTOBER 2016  
VOLUME 32 ISSUE 5

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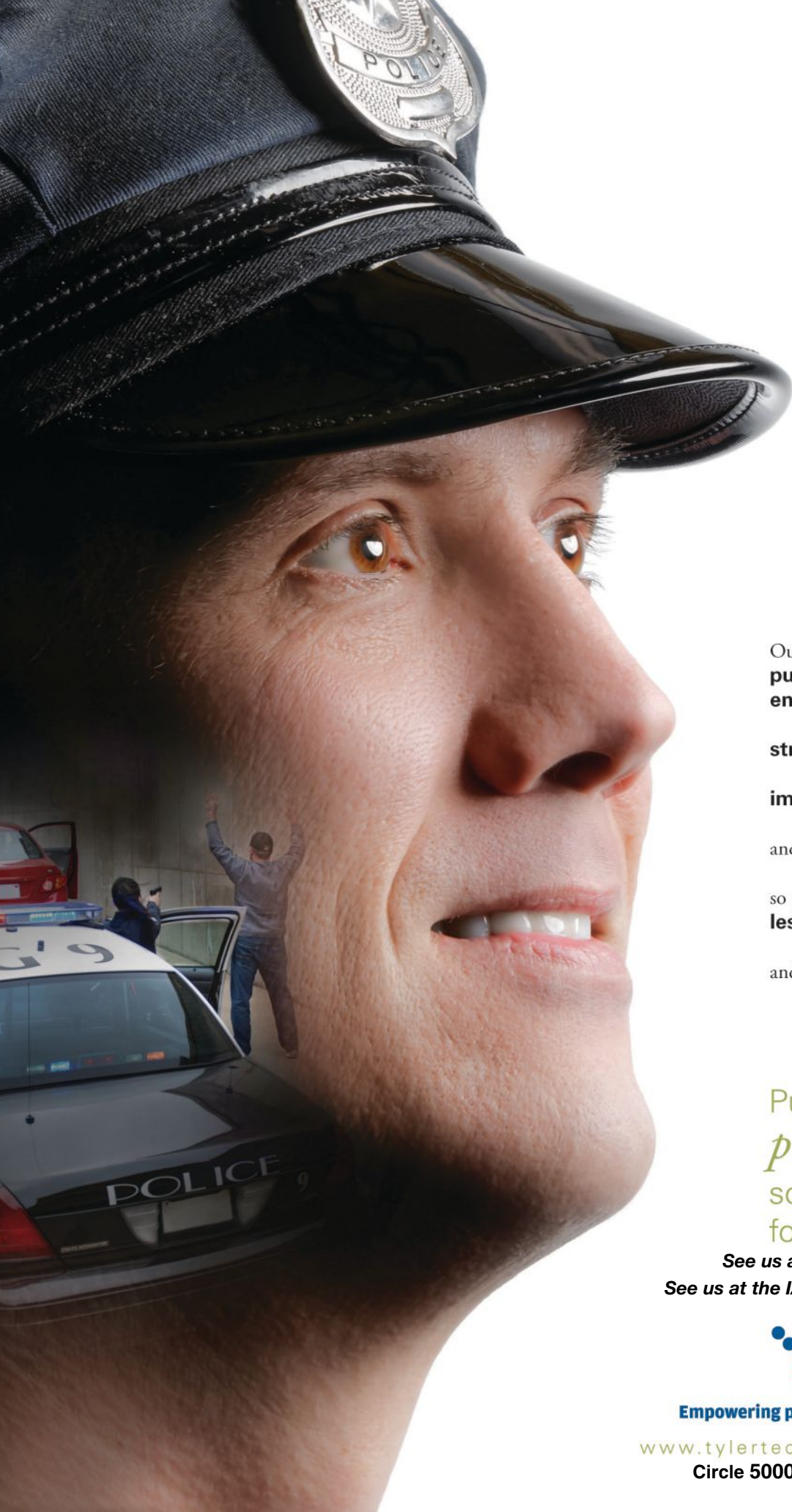
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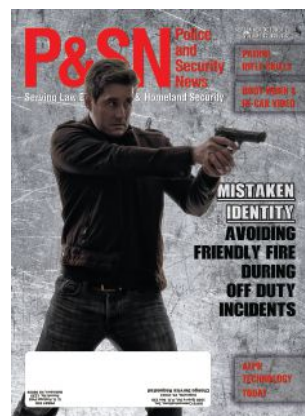
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As the old saying goes, “Friendly fire isn’t.” How can you ensure your own safety when having to defend yourself or intervene in an escalating situation?





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# ...AND NOTHING BUT THE TRUTH

**J**ust when you didn't think another punch or kick was coming, here it comes, late – after the whistle – and even from someone who was on your side.

I'm talking about James L. Trainum's new book, *How the Police Generate False Confessions: An Inside Look at the Interrogation Room* (Rowman and Littlefield). There's so much to say about the timing, the title and the tone of the arrival of this book, but let me preface my comments with a disclaimer: I haven't read it. I love to read and I enjoy reading anything I can get my hands on that is a nonfiction treatment of a criminal justice or military history topic. Yeah, I'm a first-class nerd, but I haven't read this one, so I am going to temper my comments. What I've read is a *Publisher's Weekly* (PW) review of Trainum's work. Still, a lot about the publication of this book rubs me the wrong way.

I spent nearly 22 years in homicide as an investigator and I taught Interviews and Interrogations in the police academy to both trainees and in-service investigators. I attended the Reid School of Interview and Interrogation, as well as the Kinetics Interview Technique seminar, and I learned the ropes with some of the best investigators who ever stepped into an interview room. I've interviewed hundreds of suspects and witnesses in major cases. None of those things make me any better, or smarter, than James L. Trainum, a man I have never met. Nor do any of those things even make me an expert (something Trainum is, legally, as he has been certified as one in court, according to his dossier). But, those things do give me license to make a few observations, a few comments and a few concerns.

The title itself – taken in the context of today's social and political atmosphere – is a kick in the nuts to a downed man. This book could not have come at a worse time. Well, for Mr. Trainum, maybe, it couldn't have come at a better time. Look carefully at how the words are put together: *How "the" Police....* What does the public see? ALL police. *An Inside Look at "the Interrogation Room."* What interrogation room? ALL interrogation rooms.



**“...exposing the tactics that law enforcement  
uses to make confessions happen.”**

It fits right in, doesn't it? Which police are brutal and racist? You idiot – where have you been?? ALL of them are! Now, we have confirmation of just how widespread police abuse is, don't we? This would have been like publishing *The Truth about Badly Built Oil Platforms* just after the BP disaster.

Mr. Trainum's background seems noble and respectable – a veteran DC investigator who worked on cold cases and now consults on police matters – and this book, described as “groundbreaking” by PW, presumably broke ground deep enough to strike gold for him and his business. Good for him. This is America, where you can write a book on any subject you please and, if Trainum ever reads this column, he should be happy because, if you are a writer, there really is no such

thing as bad publicity.

PW goes on to say some other things about the content of this book. “Most people believe that they would never confess to a crime they did not do” is the author's words in an excerpt, “Yet, suspects, witnesses and informants often feel they have no other option.” Really? *Often?* What exactly does that mean? Because I have interviewed possibly over 1000 people in my career (maybe more) and I have only once come across such a scenario and it had nothing to do with anything I did or said. It was a 17-year-old gang member who confessed to a shooting to cover for his senior gang brother who actually did the shooting. We finally got the right guy and freed the 17-year-old. I have never encountered one of my witnesses, suspects or informants



confessing to something they did not do and I've never had one of my cases get overturned on appeal for any such claim. I worked with dozens of detectives and never heard of one of their cases getting overturned for a false confession, either. So, how often, in numbers, is "often"?

Let me stop here. Yes, I completely acknowledge that coerced, threatened confessions have existed and still do (in less numbers than "back in the day"). Yes, there are cops who are brutal, who are corrupt, and who will bend and break rules to get confessions. But, the book and the author call for "reform." Reform? That reform happened in 1967, my friends, with a little case called *Miranda vs. Arizona*. That confession was coerced. It was taken from a man who knew little English and who knew nothing about his Constitutional rights. Ernesto Miranda was a victim – in a long string of victims – of brutal and unscrupulous cops who had been getting away with violating people's Fifth Amendment protections for decades and the Supreme Court decided that enough was enough. They were not just going to make an example; they were going to forever change the way police do business.

They created the "Miranda Warnings" and insisted that police must now read these warnings to everyone who was in custody and being interrogated. They went beyond that – if someone did want to confess, they had to express so and that it had to be a

"knowing and intelligent" waiver of *Miranda*, subject to the scrutiny of a suppression hearing. Talk about reform! No study, no research, no realms of empirical data or public polls needed to be gathered. The nine Justices had already done



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it and it was decided.

Now, did all the police in the nation suddenly behave? Of course, they didn't, but this changed the playing field entirely. It created a new aspect of investigation which prosecutors were now going to expect and insist upon. It created a new avenue of training and, soon, all police departments mandated that officers were trained in *Miranda* and carried with them a *Miranda* warning card. Little by little, year by year, things go better for the American defendant. You can go to the DOJ and write up volumes of proposals and recommendations, but you'll never impact the justice system the way the Supreme Court did when they wrote the opinion in *Miranda*.

False confessions? Short of those elicited by torture or, if the subject is mentally ill, they're about as common as unicorns. Ask yourself if you can be *tricked* into

"We don't seem to be able to check crime, so why not legalize it and then tax it out of business?"

– Will Rogers

confessing to a murder you simply had no part of? I know I can't. You can get me as tired and confused as you want. I'll still know my name, my address and whether or not I killed anyone. *People aren't tricked into confessing to serious crimes.* You want to talk about lesser crimes, like shoplifting or, even, burglary, and have a prosecutor promise the world to someone to convince them that they might get railroaded by a bad jury if they don't confess? Maybe that happens from time to time, but

major crimes? Put yourself in the interrogation chair. If you're mentally stable and not being tortured, you're not confessing to something which is going to put you in prison for life or get you the needle. James Trainum knows it, too.

The *PW* review ends with some honest words and this, in my cynical opinion, explains the entire reason for this book's arrival at this time in history. It says, "His book will hit a nerve with a public newly concerned with abuses of police power..."

Thank you, *PW*, you may step down. No further questions, Your Honor. **P&SN**

*Ramesh Nyberg retired from law enforcement in November 2006 after 27 years in police work. He now owns his own private investigation agency, Nyberg Security and Investigations, and can be reached at Ramesh@NybergPi.com. He enjoys getting feedback from readers.*



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### Arbitrator® Body-worn Camera



The new **Arbitrator Body-worn Camera**, from Panasonic, is constructed with a single or two-piece design, is lightweight and IP54 rated. Recording evidence in 720p HD, the **Arbitrator** provides video which seamlessly integrates with Panasonic's SafeServ™ Evidence Management Software. By utilizing video evidence from the **Arbitrator Body-worn Camera** in unison with **Arbitrator** in-car video systems and Panasonic fixed surveillance cameras, law enforcement agencies can benefit from a unified evidence management platform to preserve every link in the chain of evidence. Flexible storage options allow evidence to be stored locally, through the cloud or using a hybrid of both.

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### New Body Camera – BC-300



PRO-VISION® Video Systems has recently unveiled the new **BC-300** which records video at a 30% higher quality than other 1080p High-Definition (HD) cameras. It features a 50% wider field of view, as well as pre-event HD

With 32GB of internal storage, the **BC-300** eliminates the potential for data tampering and its 12+ hour battery provides enough power to last an entire shift – even when recording HD video. With a configurable built-in LCD screen, video review in the field is quick and it also features an IP68 waterproof rating and military-grade design (MIL-STD-810G).

The **BC-300** also utilizes SecuraMax™, a digital evidence management solution which allows automatic video upload with its ten camera docking stations.

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### Vantage Body-worn Video



The new **Eyewitness Vantage** body-worn camera, from Kustom Signals, supports HD (1080p, 720p60 fps, 720p30 fps), as well as SD, video resolution. This unit is compact, lightweight and packed with features, such as configurable pre-event recording, low light recording and capturing GPS coordinates which all take place with no officer interaction. The **Vantage** can be configured to function in a myriad of ways – ready to accommodate any agency preferences and policies. Files are either transferred directly to Kustom's popular Eyewitness Data Vault file management system or, if integrated with Kustom's new Eyewitness HD in-car video system, files can be transferred from the **Vantage** body camera to the in-car system, wired or wirelessly. And, once on the in-car system, files can be played and classified prior to being transferred to the back office.

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### VISTA™ WiFi High-definition Camera

The **VISTA WiFi High-definition body-worn camera** with Distributed Multi-Peer Recording technology surpasses today's one directional triggering of a recording by a single in-car or remote device. Now, a 4RE® HD Panoramic in-car video system and multiple **VISTA WiFi** body-worn cameras can act as a single integrated system, capturing high-definition synchronized digital evidence of a single incident – from multiple vantage points.



WatchGuard's Distributed Multi-Peer Recording technology distributes decision-making to in-car and body-worn cameras, giving any officer on the team the power to initiate a group recording in which all cameras begin recording. Video files are automatically linked and synchronized for playback and sharing in WatchGuard's Evidence Library® 4 Web evidence management system.

**VISTA WiFi** features include built-in WiFi and GPS, one-touch recording, on-camera event categorization, and WatchGuard's patented Record-After-the-Fact (RATF) technology which provides the ability to go back in time and capture video from any event – even if the record button wasn't pressed.

**Circle 5013 for More Information**



## U.S. Department of Justice Is Crafting a Body Camera Catalog for Local Police Forces

**NEWS**

The U.S. Department of Justice is compiling a catalog of wearable cameras and has begun requesting product information from vendors. In preparation for the publication of a product comparison catalog, the National Institute of Justice has asked suppliers to suggest which wearable camera features should be highlighted in the resource, as well as detail their current offerings. The catalog will also detail data protection and privacy controls features per product and should be available to law enforcement agencies by December 2016 at the latest.

The article is available at <http://tinyurl.com/jb5rjvj>.

### ICOP® PRO from Safety Vision®



The **ICOP PRO** delivers 128GB of storage, multiple recording modes, and mirror recording to ensure that video is never lost. A Power Control Monitor™ provides absolute control of recording, marking critical events and reviewing video. It is equipped with a multi-zoom windshield camera, an ultrawide-angle backseat camera, and a wireless mic with over 1500 feet in recording distance.

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### New LE920 Body-worn Camera from VizuCop



The **LE920 Body-worn Camera** is capable of recording in full HD video with a 140° field of view and features smart infrared for recording at night, audio recording and snapshot capabilities, as well as the ability to connect to an external radio or camera. With a recording resolution of 1080P at 30 frames per second, it also has the option of recording at 60 frames per second at a lower resolution. The **LE920** comes standard with an internal memory of 32GB and is capable of storing up to 13.5 hours of video.

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### New Body Camera from COBAN



COBAN Technologies introduces **FOCUS X1**, the next generation of body cameras for law enforcement. The new rugged **FOCUS X1** body camera captures high-definition video, even in low light conditions. **X1**'s battery can last an entire shift with pre-event recording, provides automatic wireless triggering, and provides multiple mounting options. Operations are simple and intuitive, with different ways to notify the officer of the camera status, such as an LCD, programmable LEDs, audible alerts, or even vibration modes.

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### VIEVU LE4



The **LE4** is the fourth generation of VIEVU Body-worn Video Cameras which incorporate an assortment of features into one compact package – including a 95 degree undistorted field of view and full shift battery which provides up to 12 hours of continuous recording. The camera allows pre- and post-event recording, wireless communications for live streaming and a companion smartphone app allowing for video review and the addition of metadata in the field. The 95 degree undistorted field of view improves automated image recognition and redaction.

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### New from Sentinel Camera Systems



The **Pinnacle Body-worn Camera**, with its built-in 3500mAh Lithium Polymer Cell battery, supports ten hours of continuous recording; has a 32 megapixel camera which can capture five frames per second; and an ultrawide-angle lens which covers 140 degrees. Its powerful infrared light can reach up to ten meters in total darkness with visible face detection. Available with either 32GB or 64GB storage capacity, it has built-in WiFi.

**Circle 5021 for More Information**

## BJA Redesigned Body-Worn Camera Toolkit Released

# NEWS

The Bureau of Justice Assistance (BJA) has released a newly redesigned Body-Worn Camera Toolkit (BWC Toolkit) to the public. The BWC Toolkit was developed to assist law enforcement agencies to implement body-worn camera programs using the best research currently available, with input from both criminal justice and community stakeholders. The BWC Toolkit consolidates and translates the growing body of knowledge about body-worn camera programs and technology.

The toolkit is available at <https://www.bja.gov/bwc>.



### Safety Vision®'s Prima Facie®



The **Prima Facie Body-worn Camera** features 32GB of memory, three recording resolutions up to 100p HD, 30 second pre-event recording, and automatic IRs for night-time performance. With it, capture high resolution stills, record audio-only when interviewing witnesses, and play back files on the integrated LED screen.

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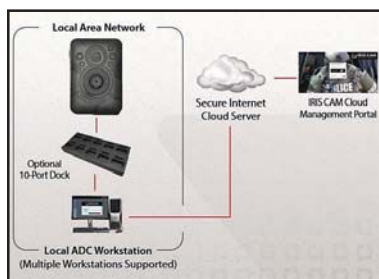
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### PBE's IRIS CAM Offers Data Management Options



Point Blank Enterprises (PBE) offers new digital technologies, such as its **IRIS CAM** Body-worn Camera, IRIS In-car Video, IRIS Covert Mobile Surveillance Systems, and other wireless products.

PBE's **IRIS CAM** provides ultrahigh-definition video recording with a 140 degree field of vision, as well as data management support. Key options include:

*Utility Manager* which assists smaller agencies which have fewer than ten cameras and want a budget solution. With this

option, agencies are responsible for manually managing their video files.

*Local Auto Download Application* assists agencies which have fewer than 25 cameras in use and want the convenience of automatically downloading their videos as well as having a searchable database.

*On-Site Storage* assists agencies which want all of the capabilities of a cloud-based video evidence storage management system, but prefer to keep all their data in-house. They manage their own servers on premises and have dedicated staff to maintain their IT infrastructure.

*Hybrid/Cloud Storage* is targeted towards mid to larger agencies which do not want to have the liability of managing their video data storage in-house, such as an agency with 50 officers which average four hours of recording per officer per shift.

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### New HD Bodycam



Force Protection Video Equipment has announced the **LE50 HD Bodycam** which features a recording time of ten hours, 50 hours of standby time, 32GB of internal tamperproof storage, and white LED illumination. It also offers built-in audio announcements which clearly state when the camera first starts to record and, then, when the recording mode is stopped. It integrates with VeriPic® evidence management software.

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## Eyewitness HD In-car Video System

The **Eyewitness HD**, Kustom Signals' newest in-car video system, offers a seven inch tablet with intuitive touch screen controller. The system will also interface with your MDC as an alternative or in addition. The **Eyewitness HD** records true HD (1080p) 16:9 wide screen, allowing control of up to four live camera views. Numerous automatic record triggers are also included which can be configured. All cameras include up to three minutes of pre-event recording. The **Eyewitness HD** integrates with the new Eyewitness Vantage body-worn camera to establish an association between files recorded by both systems. With this, in-car video recordings will trigger body camera recordings and vice versa, as well as support wireless file transfer. **Eyewitness HD** files are managed using Kustom's database software, Eyewitness Data Vault (EDV).

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## Interview: A Glimpse into the Future of Body-worn Video

Rebecca Waters

**INDUSTRY  
NEWS**

Body-worn video technology is exciting not just due to its current applications, but because of the potential we see in it as the technology develops. Robert Vanman, founder and CEO of WatchGuard Video, the world's largest manufacturer of video evidence systems, has spent his career furthering technology used by Law Enforcement (LE). We asked him to share his thoughts on the future of body-worn cameras for LE.

**Q: Aside from foreseeable advances in body-worn video technology, including longer battery life and greater storage capacity, what do you believe will be the next big improvement?**

**A:** CMOS image sensor technology and video analytics are rapidly evolving fields. Soon, we will be able to do things like concentrate resolution around specific objects (faces) while keeping overall file size and storage costs low. But, probably, the most beneficial advances for officers will revolve around greater automation and integration with other agency software platforms, including CAD, RMS and court record systems. This will eliminate the need for officers to classify recordings and enable agencies to use the severity of the incident to intelligently determine image resolution.

**Q: Will evidence security become of greater concern as more video is stored "in the cloud"?**

**A:** The security of evidence is always a concern, regardless of where it sits (on premise or in the cloud). I think more hackers will be interested in trying to breach a major cloud storage vendor because it's a sexier target and there's much more evidence in a single location. When (not if) there is a security breach of cloud stored evidence, this issue will be pushed to the forefront of conversations within the LE community.

**Q: Do you expect the federal government to establish minimum video standards in the future by which every agency will have to comply?**

**A:** Unfortunately, there are many people who have the naïve belief that legislating minimum standards will improve products. The reality is that minimum standards always lag behind the industry and they stifle innovation. For example, the IACP attempted to adopt minimum video standards for in-car video a number of years ago and early versions of the standard legislated a conventional 4:3 aspect ratio for the video image which would have effectively restricted and postponed the introduction of high-definition products which use a 16:9 aspect ratio.

**Q: Will emerging technologies, such as facial recognition, be incorporated into the next generation of body-worn cameras?**

**A:** Facial recognition will not be practical for a while. The problem is resolution and the Field of View (FOV). Most facial recognition algorithms operating on video captured under real-world lighting conditions need at least 80 pixels across the face to be accurate. That's 1/16th of the image from a 720p camera. However, body cameras also need a very wide-angle FOV to effectively capture the entire scene (most BWCs use a 130 degree FOV lens). To put this problem into perspective, a 720p camera with a 130 degree FOV requires the face to be less than two feet away. 1080p resolution only increases that distance to three feet. If we jump up to 4K resolution and keep a 130 degree FOV, the maximum distance is still only six feet. A 4K camera could achieve ten foot reads if the FOV is reduced to 100 degrees, but narrowing the FOV is a trade-off most agencies will not be willing to make. To achieve good results from ten feet away (without reducing the FOV) will require 24 megapixels – nearly triple the resolution of 4K!

**Q: Do you foresee any major barriers to the wider acceptance of body-worn cameras in the future?**

**A:** The biggest barrier many agencies face relates to privacy requirements and open records requests. States like Washington have essentially made it irresponsible to roll out a body camera program. In Washington, the Freedom of Information Act (FOIA) requirements are so liberal that incarcerated prisoners can freely request police videos by the hundreds for the sole purpose of burdening down local police departments. By contrast, the state of Texas intelligently restricted video requests to people with key knowledge of the incident. A great way to curb open records abuse is to limit who can request video and to pass on the fulfillment cost to the requestor. That cost should include staff time, redaction (if required) and every other associated cost. A great way to easily pass along this cost is to outsource video requests to a third-party provider who handles the redaction and sharing tasks and directly bills the requestor. **P&SN**



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## SOMETIMES, IT SEEMS THAT WHEN POLICE COMMANDERS GET INTO TROUBLE, IT'S FOR WHAT THEY DON'T DO.

Michael Carpenter

**T**he duties and responsibilities of a police commander – at any level and in any size agency – are so numerous and diverse that it can be easy to overlook something – even the little

things. And, sometimes, the one thing you overlook could be the one thing which will get you and your department on the six o'clock news and put your career on shaky ground.

One of your primary responsibilities as a police commander is to set and maintain the standards for your people and for your department. In most departments, the standards are set

high. Sometimes, however, these standards may erode over time, due to a lack of vigilance by supervisors and command personnel. Sometimes, these lowered standards can explode in short order, such as in a front page headline about a case of questionable use of force tactics. Other times, a slow erosion of professional standards may eventually end up in unprofessional conduct and a lack of support from the public for the entire police department and its members. Whether it is an individual and isolated incident or an agency-wide concern, supervisors and commanders need to continually remind themselves and their subordinates about the importance of maintaining the

highest level of conduct and performance in carrying out their duties.

### Quality of Work

Regardless of your assignment or your role in the agency, you have the right to expect good work by your people. It is your responsibility to ensure that your people comply with standard policies, procedures and general operating practices, and that a high level of

performance is maintained in conducting their business. Those who choose to be sloppy, lazy or just inept must be taken to task and the job must be done right before you accept it.

As we are reminded (sometimes, too often), agencies are funded with taxpayer dollars. I often use the comparison of operating a private-sector business with operating a police department. Both have customers and these customers expect certain things. And, both businesses and agencies need to meet customer expectations or there are consequences. These consequences can take many forms. Sometimes, they are obvious and sometimes they are not. When politicians are reluctant to increase an agency's budget, that may be a consequence. When a police officer gets a "tip" from a citizen and solves a string of burglaries, that may also be a consequence. A few years ago, I was hired as a private consultant to study the possibility of both a town and a village police department consolidating and being absorbed into the county sheriff's department. After a lengthy study and review, we had a public meeting with citizens and politicians of the town on a certain night and the next night we had a public meeting with the village. The citizens of the town were quite vocal and it was clear they did not like their police department and they did not support them in the least. The decision was made by citizens and politicians to dissolve their police department. The next evening, we had a similar meeting with citizens and politicians in the village (which was adjacent to the town), but the reaction was completely different. The people in that village "loved" their officers and their police department. They voted overwhelmingly to support their department (even though they would have to pay more in taxes) and there was no consolidation. It's a tale of two different municipalities, but also a tale of two different police departments.

### Quantity of Work

Every job – in both the private and public sectors – sets performance standards for quantity of work. In some businesses, this can be a challenge and, of course, it can be a challenge in policing, particularly when setting standards at the street level. No agency wants to get caught in what the press and public would call "having a quota," yet the public has the right to get "a day's work for a day's pay" out of each officer, regardless of rank or assignment. Every person in every job is expected to do something when they show up for work, but somehow this gets a little distorted when we start talking about policing.

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What can be done to avoid this? Supervisors and commanders should set the quantity of work to be done by anyone in the organization at a reasonable level obtainable through reasonable efforts for the area in which they work. This may involve some work, planning and research for each job description within the agency. Obviously, the quantity of work for an officer assigned to traffic would be different than one assigned to an investigative position or an administrative slot. A detailed productivity study could help set standards (but, of course, that involves some research and planning on your part). However, this approach might be easier to defend when someone in the community or the press cries "quota" rather than trying to defend the old adage I was told years ago, "A ticket a day keeps the sergeant away."

However, if you are a professional commander, you may already have all the information and data you need. When you were an officer, you did your job to the best of your ability; you maintained a certain level of work performance; and you did the job "right." You have "been there and done it" and, rest assured, your co-workers, subordinates and supervisors

know that. You can, therefore, insist that your subordinates perform at a professional level just as you did and deliver a reasonable quantity of work for the bucks they are being paid.

### Ethics

A current and complete policy and procedures manual may be a good step toward a professional police department, but any of those rules or policies can be bent, broken or ignored by any officer almost at any time. There are many books and articles written about police ethics, so I won't contribute too much in the next few paragraphs.

We all know that officers make many decisions during a shift and often some of the most challenging ones are made with little or no supervision. The simplest and one of the best ways to keep a moral compass pointed in the right direction is to use the "bell, book and light" test. Do bells or warning buzzers go off when you consider a certain course of action? Does it violate any laws or policies in "the book"? Will a certain decision stand up under the spotlight of publicity?

The antidote for unethical, unprofessional or illegal behavior is proper supervision and proper leadership. Proper su-

pervision means more than looking over the shoulder of each of your officers throughout the entire shift to make sure they do the "right" thing. You know you can't do this. Proper supervision and leadership means that you have given your officers the background, training and direction so that they will make the "right" decision, especially if you are not around.

One criminal justice researcher claims that "sergeants are the custodians of the culture, the leaders and informal disciplinarians of the department and the individual most officers look to for advice."

Insisting that your police officers always – and I mean always – try to do "the right thing" in every facet of their work and at every level is your job. Is it tough? You bet, but that's part of your duty and your responsibility.

### Appearance

Maybe I'm a little old-fashioned, but I believe that, if a police officer looks like a *professional* police officer, the public will respect them like a professional police officer. And, the converse is true as well. Think about this scenario. You go into a dentist's office for the first time as a new patient and in comes the dentist dressed in flip-flops, ripped blue jeans and a T-shirt.



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What would your first impression be of your new dentist? Maybe he's a nice guy and a great dentist and he can do a wonderful job, but without doing or saying anything, he has already made a negative impression on you. We have all heard the saying about first impressions. ("Experts say we size up new people in somewhere between 30 seconds and two minutes.") Sometimes, we forget that our customers are also making judgments about first impressions in dealing with police officers.

If the public's perception about your officers is that they look sloppy, have wrinkled uniforms and dirty shoes and may have "customized" their appearance to their own liking, despite the department's rules and regulations, they will most likely respect them much less. That lack of respect will cause your officers problems on the street and their problems will become your problems through citizen complaints, etc.

There is a famous line from the movie *Patton*, where General Patton has determined why the Americans lost a recent battle. "They don't act like soldiers; they don't look like soldiers; why should they be expected to fight like soldiers?" Well, if your officers don't act like professional police officers and they don't look like professional police officers, why should the public treat them like professional police officers?

So, what do they call police departments which demand a reasonable quality and quantity of work from their members? What do they call supervisors who expect and get a high degree of ethical standards from its officers? What do they call officers who look like they have pride in themselves and their department? They are called... professionals. **P&SN**

*Mike Carpenter has been working in the field of law enforcement in a number of different positions and assignments for more than 35 years. He has held several supervisory and administrative positions, has written several books on the topic of police leadership and supervision and has had more than 100 articles published. He is currently a professor of criminal justice at a college in upstate New York and also runs a successful consulting business called Police Management Services ([www.policemanagement.com](http://www.policemanagement.com)). You can contact Mike at [MJCarpenterX2@yahoo.com](mailto:MJCarpenterX2@yahoo.com).*





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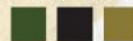
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# U.S. Supreme Court Settles the Breath/Blood Test Refusal Controversy

Larry E. Holtz, Esq.



**M**ay motorists lawfully arrested for drunk driving be convicted of a crime or otherwise penalized for refusing to submit to blood alcohol testing?

Recently, in *Birchfield v. North Dakota* (U.S. 2016), the United States Supreme Court said “Yes” for breath, but “No” for blood. According to the Court, “the Fourth Amendment allows warrantless breath tests, but, as a general rule, does not allow warrantless blood draws, incident to a lawful drunk driving arrest.”

**The Case:** To combat drunk driving, “all States have laws that prohibit motorists from driving with a Blood Alcohol Concentration (BAC) that exceeds a specified level. But, determining whether a driver’s BAC is over the legal limit requires a test and many drivers stopped on suspicion of drunk driving would not submit to testing if given the option. So, every state also

has long had what are termed ‘implied consent laws.’ These laws impose penalties on motorists who refuse to undergo testing when there is sufficient reason to believe they are violating the state’s drunk driving laws.”

In the past, the typical penalty for non-compliance was suspension or revocation of the motorist’s license. The cases addressed by the Court herein involve laws which go beyond that and “make it a crime for a motorist to refuse to be tested after being lawfully arrested for driving while impaired. The question presented is whether such laws violate the Fourth Amendment’s prohibition against unreasonable searches.”

One way of measuring BAC is to analyze a sample of a driver’s blood directly. “A technician with medical training uses a syringe to draw a blood sample from the veins of the subject, who must remain

still during the procedure, and then the sample is shipped to a separate laboratory for measurement of its alcohol concentration.”

The most common and economical method of calculating BAC is by means of a breath testing instrument. Such devices “are generally regarded as very reliable because the federal standards require that the devices produce accurate and reproducible test results at a variety of BAC levels, from the very low to the very high.”

“Because the cooperation of the test subject is necessary when a breath test is administered and highly preferable when a blood sample is taken, the enactment of laws defining intoxication based on BAC made it necessary for States to find a way of securing such cooperation.” Thus “implied consent” laws have been enacted to achieve this result. Such laws provide that “cooperation with BAC testing [is] a condition of the privilege of driving on state roads and that the privilege would be rescinded if a suspected drunk driver refused to honor that condition.” Today, “all 50 States have adopted implied consent laws that require motorists, as a condition of operating a motor vehicle within the State, to consent to BAC testing if they are arrested or otherwise detained on suspicion of a drunk driving offense.” Suspension or revocation of the motorist’s driver’s license remains the standard legal consequence of refusal.

In recent years, the States and the Federal Government have toughened drunk driving laws and, to combat the problem of test refusal, “some States have begun to enact laws making it a crime to refuse to undergo testing. Minnesota has taken this approach for decades [, and] that may partly explain why its refusal rate now is below the national average.” North Dakota has a similar law.

In order to decide this appeal, the Court consolidated three cases: *Birchfield v. North Dakota*; *Bernard v. Minnesota*; and *Beylund v. Levi, Director, North Dakota DOT*.

Defendant Danny Birchfield was arrested by a North Dakota state trooper for drunk driving after driving his car into a ditch. The trooper advised him of his obligation under North Dakota law to



submit to BAC testing and informed him, as state law requires, that refusing to take the test would expose him to criminal penalties which, in North Dakota, apply to blood, breath and urine test refusals alike. Birchfield refused to let his blood be drawn. As a second offender, he received 30 days in jail, one year of unsupervised probation, \$1,750 in fines and fees, and mandatory participation in a sobriety program and in a substance abuse evaluation. On appeal, the North Dakota Supreme Court affirmed the conviction.

Defendant William Bernard, Jr. was arrested for drunk driving in South St. Paul, Minnesota. At the police station, an officer read Bernard Minnesota's implied consent advisory which, like North Dakota's, informs motorists that it is a crime under state law to refuse to submit to a required BAC test. "Aside from noncriminal penalties like license revocation, test refusal in Minnesota can result in criminal penalties ranging from no more than 90 days' imprisonment and up to a \$1,000 fine for a misdemeanor violation to seven years' imprisonment and a \$14,000 fine for repeat

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offenders." When Bernard refused to submit to breath testing, he was charged with refusal in the first degree because he had four prior impaired driving convictions. First-degree refusal carries the highest maximum penalties and a mandatory minimum three year prison sentence. At the Minnesota Supreme Court, it was determined, "[b]ased on the longstanding doctrine that authorizes warrantless searches incident to a lawful arrest," that "police did not need a warrant to insist on a test of Bernard's breath."

Defendant Steve Beylund was arrested in Bowman, North Dakota, for driving while impaired and was taken to a nearby hospital. There, an officer read him North Dakota's implied consent advisory, informing him that test refusal under the circumstances was itself a crime. Unlike the other two defendants in these cases, "Beylund agreed to have his blood drawn and analyzed. A nurse took a blood sample which revealed a blood alcohol concentration of 0.250%, more than three times the legal limit."

"Given the test results, Beylund's

driver's license was suspended for two years after an administrative hearing. Beylund appealed, principally arguing that his consent to the blood test was coerced by the officer's warning that refusing to consent would itself be a crime." This argument was rejected by the North Dakota Supreme Court.

At the United States Supreme Court, the main issue was "whether motorists lawfully arrested for drunk driving may be convicted of a crime or otherwise penalized for refusing to take a warrantless test measuring the alcohol in their bloodstream."

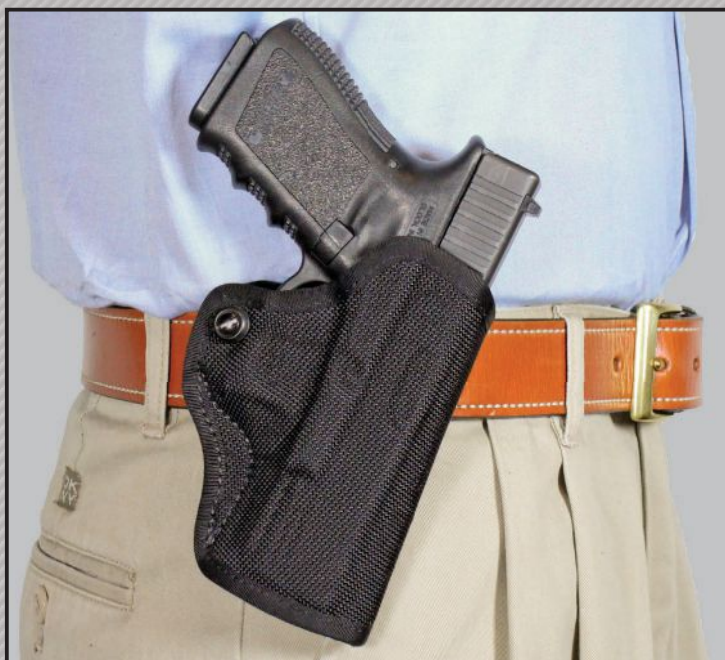
In short, defendants "Birchfield and Beylund were told that they were obligated to submit to a blood test, whereas [defendant] Bernard was informed that a breath test was required. Birchfield and Bernard each refused to undergo a test and was convicted of a crime for his refusal. Beylund complied with the demand for a blood sample and his license was then suspended in an administrative proceeding based on test results that revealed a very high blood alcohol level."

Despite these differences, success for all three defendants depends on whether the searches demanded in these cases were consistent with the Fourth Amendment.

As a general matter, the Fourth Amendment prohibits "unreasonable searches and seizures," and case law establishes that "the taking of a blood sample or the administration of a breath test is a search." The question, then, is "whether the warrantless searches at issue here were reasonable."

Since the drivers in the three consolidated cases were told that they were required to submit to BAC testing, i.e., "a search after being placed under arrest for drunk driving," the Court addressed "how the search-incident-to-arrest doctrine applie[d] to breath and blood tests incident to such arrests."

In *Chimel v. California*, 395 U.S. 752, 754, 89 S.Ct. 2034 (1969), the Court "endorsed a general rule that arresting officers, in order to prevent the arrestee from obtaining a weapon or destroying evidence, could search both 'the person arrested' and 'the area within his immediate



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control.’” Thereafter, in *United States v. Robinson*, 414 U.S. 218, 94 S.Ct. 467 (1973), the Court held that the authority “to search the person incident to a lawful custodial arrest, while based upon the need to disarm and to discover evidence, does not depend on what a court may later decide was the probability in a particular arrest situation that weapons or evidence would in fact be found upon the person of the suspect.’ Instead, the mere ‘fact of the lawful arrest’ justifies ‘a full search of the person.’”

In *Riley v. California*, 573 U.S. \_\_\_, 134 S.Ct. 2473 (2014), the Court addressed searches of data contained in modern-day cell phones. Finding that a warrant is generally required for such searches, the Court assessed on the one hand the degree to which the search intruded upon an individual’s privacy and, on the other, the degree to which it was needed for the promotion of legitimate governmental interests. Blood and breath tests to measure blood alcohol concentration require the same type of analysis.

Preliminarily, the Court emphasized that “breath tests do not ‘implicat[e] significant privacy concerns.’ First, the physical intrusion is almost negligible. Breath tests ‘do not require piercing the skin’ and entail ‘a minimum of inconvenience.’ The effort is no more demanding than blowing up a party balloon.”

“Second, breath tests are capable of revealing only one bit of information, the amount of alcohol in the subject’s breath.” Unlike DNA or blood testing, a breath test, by contrast, results in a BAC reading on a machine, nothing more. No sample of anything is left in the possession of the police.

“Finally, participation in a breath test is not an experience that is likely to cause any great enhancement in the embarrassment that is inherent in any arrest. [Breath] tests are normally administered in private at a police station, in a patrol car, or in a mobile testing facility, out of public view.” Thus, breath testing does not implicate significant privacy concerns.

Blood tests, however, “are a different matter. They ‘require piercing the skin’ and extract a part of the subject’s body.” Thus, blood tests are significantly more intrusive than blowing into a tube. “Perhaps that is why many states’ implied consent laws, including Minnesota’s, specifically prescribe that breath tests be administered in the usual drunk driving case instead of blood tests or give motorists a measure of choice over which test to take.”

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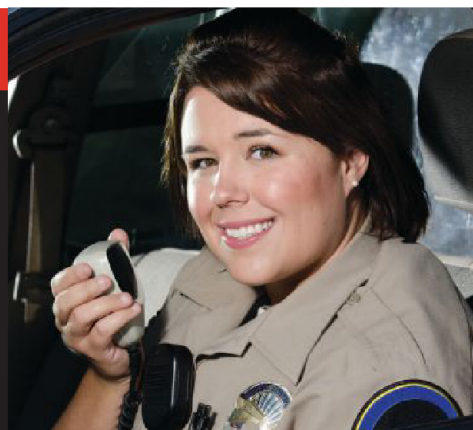
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In addition, a blood test, unlike a breath test, places in the hands of law enforcement authorities a sample which can be preserved and from which it is possible to extract information beyond a simple BAC reading.

On the other side of the scale is the “States’ asserted need to obtain BAC readings for persons arrested for drunk driving.” Here, the “States and the Federal Government have a ‘paramount interest’ in ‘preserving the safety of . . . public highways.’” Alcohol consumption is “a leading cause of traffic fatalities and injuries.”

The laws at issue in the present cases – which make it an offense “to refuse to submit to a BAC test – are designed to provide an incentive to cooperate in such cases, and [the Court concluded] that they serve a very important function.”

“Having assessed the effect of BAC tests on privacy interests and the need for such tests, [the Court held] that the Fourth Amendment permits warrantless breath tests incident to arrests for drunk driving. The impact of breath tests on privacy is slight and the need for BAC

testing is great.”

A different conclusion was reached for blood tests. “Blood tests are significantly more intrusive and their reasonableness must be judged in light of the availability of the less invasive alternative of a breath test.”


“Because breath tests are significantly less intrusive than blood tests and in most cases amply serve law enforcement interests, [the Court] conclude[d] that a breath test, but not a blood test, may be administered as a search incident to a lawful arrest for drunk driving. As in all cases involving reasonable searches incident to arrest, a warrant is not needed in this situation.” Thus, the Court’s “decision provides very clear guidance that the Fourth Amendment allows warrantless breath tests, but as a general rule does not allow warrantless blood draws, incident to a lawful drunk driving arrest.”

In addition to concluding that “the search incident to arrest doctrine does not justify the warrantless taking of a blood sample,” the Court also held that such tests are not justified based on the driver’s


“implied consent.” Said the Court, “There must be a limit to the consequences to which motorists may be deemed to have consented by virtue of a decision to drive on public roads. [In short,] motorists cannot be deemed to have consented to submit to a blood test on pain of committing a criminal offense.”

Applying the law to the three cases herein, the Court found that Birchfield “was criminally prosecuted for refusing a warrantless blood draw, and therefore the search he refused cannot be justified as a search incident to his arrest or on the basis of implied consent. There is no indication in the record or briefing that a breath test would have failed to satisfy the State’s interests in acquiring evidence to enforce its drunk driving laws against Birchfield[.] Unable to see any other basis on which to justify a warrantless test of Birchfield’s blood, [the Court concluded] that Birchfield was threatened with an unlawful search and that the judgment affirming his conviction must be reversed.”

“Bernard, on the other hand, was criminally prosecuted for refusing a



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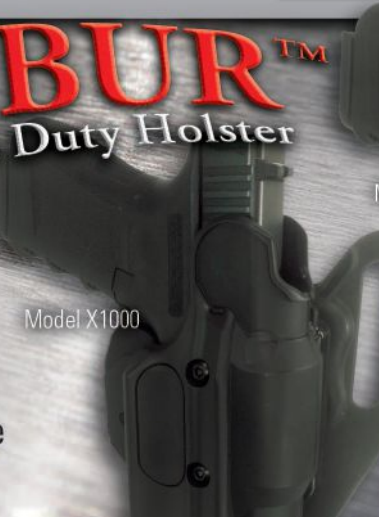


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warrantless breath test. That test was a permissible search incident to Bernard's arrest for drunk driving, an arrest whose legality Bernard has not contested. Accordingly, the Fourth Amendment did not require officers to obtain a warrant prior to demanding the test and Bernard had no right to refuse it."

Unlike the other defendants, Beylund submitted to a blood test after police told him that the law required his submission, and his license was then suspended and he was fined in an administrative proceeding. The North Dakota Supreme Court held that Beylund's consent was voluntary on the erroneous assumption that the State could permissibly compel both blood and breath tests. Because voluntariness of consent to a search must be determined from the totality of all the circumstances, the Court left it to the state court on remand to reevaluate Beylund's consent given the partial inaccuracy of the officer's advisory. **P&SN**

Larry E. Holtz has served as a Detective Sergeant with the Atlantic City, New Jersey, Police Department; a Deputy Attorney General for the state of New Jersey; and an Assistant County Prosecutor. Mr. Holtz is a certified police trainer and teaches on a regular basis. He is a member of the bar in New Jersey, Pennsylvania, and the District of Columbia and is admitted to practice before the federal bar in the District of New Jersey and the Third Circuit.

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Artwork by Don Lomax

TIMES SQUARE, NEW YORK CITY  
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11:30 PM



NEW YORK CITY POLICE OFFICERS, SGT. HAMEED ARMANI AND OFFICER PETER CYBULSKI, HAD PARKED THEIR POLICE VAN NEAR BROADWAY AND 46TH STREET WHEN THE DRIVER OF AN SUV HESITATED AS HE PASSED THEM TO THROW A SUSPICIOUS DEVICE THROUGH THEIR OPEN WINDOW!

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OFFICER CYBULSKI CRADLED THE DEVICE ON HIS LAP AS SGT. ARMANI HIT THE LIGHTS AND SIREN! THEY WERE OF ONE MIND--THEY COULDN'T LET ANYTHING HAPPEN IN TIMES SQUARE. AS THEY RACED OUT OF THE AREA, BOTH OFFICERS SAID THEIR PRAYERS, FULLY EXPECTING NOT TO SURVIVE THE INCIDENT!



REACHING WHAT THEY DETERMINED TO BE A SAFER SPOT, THEY STOPPED AND PUT THE DEVICE ON THE SIDEWALK. THE OFFICERS THEN WITHDREW TO A SAFE DISTANCE AND CALLED IN THE BOMB SQUAD.



POLICE LATER DETERMINED THAT THE DEVICE WAS A HOAX MADE TO LOOK LIKE A BOMB WHICH IN NO MEANS DIMINISHED THEIR ACT OF SELF-SACRIFICE AND BRAVERY. THE DISTURBED INDIVIDUAL WAS LATER APPREHENDED.

BILL BRATTON, NEW YORK CITY'S POLICE COMMISSIONER, PRAISED SGT. HAMEED ARMANI AND OFFICER PETER CYBULSKI FOR THEIR QUICK THINKING AND FOR RISKING THEIR OWN LIVES. THEIR ACTIONS ARE ABOVE AND BEYOND!



THE END



# 2015 NRA Law Enforcement Officer of the Year

The National Rifle Association honors Officer Marcus Pesquera as the NRA Law Enforcement Officer of the Year for showing valor and heroism in his quick, life-saving action during a gunfight that severely wounded his field training officer, Gabriel Garcia, in August 2014.

Around 2 a.m. on August 22, Field Training Officer Gabriel Garcia of the San Bernardino California Police Department and his trainee, Officer Marcus Pesquera, were on patrol together, checking some high-crime areas. At the time, Field Training Officer Garcia was a six-year veteran of the department, and Officer Pesquera had only recently graduated from the police academy and been in training for seven weeks.

Turning down a remote unpaved road, the officers came upon a group of people standing around a vehicle with its hood up and its doors open. Due to a recent spate of stolen vehicles and other serious crimes in the area, the officers exited their vehicle and approached the subjects on foot.

One of the subjects they were about to encounter was a documented gang member with a lengthy and violent criminal past that should have kept him off the streets. The officers had no way of knowing of his violent past, or that he was wanted.

The subjects were standing apart, so the officers moved away from each other by several feet to maintain a tactical advantage, with each officer maintaining visual contact of different subjects. Officer Pesquera then heard Officer Garcia say words to the effect of "come over here" and "let me see your hands," which was answered by immediate gunfire.

Officer Pesquera did not know that Officer Garcia had been gravely wounded by the gunman's fire. Despite his limited patrol experience, Officer Pesquera reverted to his training, drew his handgun as rounds were being fired at him while dropping to the ground to get to cover, and began returning fire as dozens of rounds were exchanged.

During a slight lull, Officer Pesquera yelled to check on his partner. After getting no response, he left his position of cover to try to find him. Officer Pesquera found his partner shot in the head, not moving, and unresponsive. He then radioed the communications center that his partner was down and needed immediate medical assistance and that he was engaged in a gunfight.

Seconds later, another volley of 20 to 30 rounds was exchanged between Officer Pesquera and the gunman. The gunfight lasted for over a full minute before Officer Pesquera's rounds neutralized the shooter, ending the deadly assault and further danger to Officer Garcia, bystanders, responding officers, and medical rescue members.

Officer Pesquera's courage under fire and heroic actions allowed immediate response by medical personnel to reach Officer Garcia and begin life-saving measures. Officer Garcia was rushed to a local hospital, where he received emergency medical treatment for serious head and chest injuries. He was placed into a medically induced coma in an effort to save his life. Since then, thanks to the actions of Officer Pesquera, Officer Garcia continues to fight towards full recovery.

Officer Pesquera's heroic actions under the most stressful and dangerous circumstances are a credit to himself, his department, and the community he serves. They are in keeping with the highest traditions of law enforcement. The National Rifle Association recognizes Officer Marcus Pesquera of the San Bernardino California Police Department for his valorous actions by naming him the 2015 NRA Law Enforcement Officer of the Year.



**Officer Marcus Pesquera**  
**San Bernardino California**  
**Police Department**

***"It is with our greatest pleasure to honor Officer Pesquera's courage, bravery, and quick thinking as the NRA Officer of the Year," said NRA President Allan D. Cors. "His heroic actions ended a deadly assault and allowed first responders to safely and quickly reach Officer Garcia to perform life-saving measures."***

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*Scan this code with your smartphone or tablet to get more information about the NRA Law Enforcement Officer of the Year recognition.*

**Forms for nominating candidates for the NRA Law Enforcement Officer of the Year Award may be downloaded at <http://le.nra.org/documents/pdf/law/leoy.pdf>.**

**For more information about NRA's Law Enforcement Officer of the Year Award and its Law Enforcement Division, call (703) 267-1632 or send an e-mail to [LE@nrahq.org](mailto:LE@nrahq.org).**

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The **FNS™-9 Compact** is a 9mm striker-fired autoloader which features double-action operation and is available in both standard and manual safety. The frame is a polymer construction with replaceable steel frame/slide rails and this pistol comes with two interchangeable back straps with lanyard eyelets. It offers the same features as the standard models, but has a 3.6" barrel and is designed to be snag-free for better concealment and a faster draw. The front sight also has a larger dot for faster target acquisition. The **FNS-9 Compact** comes with two 12 round and one 17 round magazine or three, ten round magazines.

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# THE WHEELS OF JUSTICE



## Are Take-home Police Car Programs Doomed?

Sergeant James Post

Once the exclusive domain of the state patrols, cities and counties of all sizes now have these programs.

It's been almost 11 years to the day since I last wrote about take-home police car programs in *P&SN* and, my, how times have changed! The word "unbelievable" comes to mind. The focus of that column was how departments were coping with the economy and the doom and gloom forecast of potential \$5.00 a gallon gas prices. Well, that dire prediction never happened. Sure, we got close, and some cities off the beaten path may have actually seen these prices, but most of us were spared. A significant portion of that article dealt with take-home police car programs and the threat to them from escalating gas prices. But, those programs survived across this country and they have actually expanded by leaps and bounds throughout the U.S.

### The War on Police

Eleven years later, we see those popular programs threatened once again, but NOT due to fuel prices. Some are due to financial concerns and penny-pinching, but the primary reason is because of the times in which we find ourselves living (and policing) – the war on cops in

America. Only the uninformed or ignorant would deny the fact that our police are under attack. Fueled by the rhetoric of militant groups like Black Lives Matter, the "New" Black Panthers and others, we have seen fatal ambushes of on duty officers in cities like Baton Rouge and Dallas, whose mass murder of officers represents the single largest loss of police

officers since 9-11. These murders are not restricted to the large cities, either. Recently, Law Enforcement (LE) heroes have been gunned down in the city where I grew up (Kansas City, KS) and two hours from where I live now, in rural Sebastian County, AR.

Starting with the fatal (justified) shooting of a criminal bully in Ferguson, MO,

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the outcry, protests, marches, and looting spread to many major U.S. cities while their cops were told to “stand down” and watch helplessly as chaos reigned. With the support of a handful of militant ministry and profane minority “spokesmen,” as well as paid protesters, the fuels of disorder were flamed until they were out of control and the assassinations of cops began. As with most civil disobedience, this started with cops on the lines being cursed at, insulted, spat upon, and having urine thrown on them. That soon escalated to rocks, bricks, firebombs, and guns. And, as expected in these scenarios, gangs immediately materialized from the shadows to take advantage of the chaos to smash storefronts and commence looting, often “styling” for the media cameras, proudly showing off their “entitlements.”

## History Repeats Itself

Folks, I was a cop in the '60s and '70s and, for me, this is déjà vu. As I watched the looting and fires of Ferguson (and others), I thought, “My God, it’s happening again.” Like the larger cities across this country, we had disturbances which soon grew into full-blown riots and complete anarchy following the death of Martin Luther King and protests of the Vietnam war. I rode in commandeered city buses past blocks and blocks of looted and burned out businesses which looked like a scene from WWII. Kansas City (MO) firemen were instructed to let buildings burn because they came under fire whenever they responded. I, too, experienced sniper fire from rooftops. I rode in National Guard Jeeps and worked the 12 hour shifts. Our police academy was leveled by a terrorist’s bomb, either from the



***For those who were “on the job” back in the '60s and '70s, today’s unrest brings back a lot of unwelcome memories.***

Black Panthers or the Weathermen, as they were both very active in the city and both claimed responsibility. What differentiated my experience from the hero officers of today is that we were NEVER ordered to “stand down.” Our arsonists, looters and snipers were dealt with like the felons they were and many paid with their lives.

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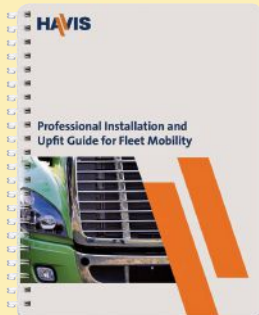
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INDUSTRY  
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## Havis Releases “Professional Installation and Upfit Guide for Fleet Mobility”



Havis, Inc, an industry leader in designing and manufacturing computer docking and equipment mounting solutions for mobile applications, participates in producing whitepapers intended to provide facts, figures and interesting perspectives in order to assist readers in making educated and informed business decisions in their role.

Havis has released a new whitepaper to guide fleet managers through the process of upfitting and installing in-vehicle equipment to maximize driver comfort and safety and increase productivity for a positive return on investment.

Havis' “Professional Installation and Upfit Guide for Fleet Mobility” details steps for planning and executing an in-vehicle upfit, including selecting equipment to build a custom mobile office solution which fits a fleet's needs and budget; choosing a professional installation partner to provide expertise through the process; and best practices for project management so

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The “Professional Installation and Upfit Guide for Fleet Mobility” provides the framework needed to create customized fleet strategies. The new whitepaper is designed to help professionals better understand and communicate their needs and develop a strategic plan for new vehicles, fleet refresh or equipment upgrades.

The whitepaper also includes a useful checklist for selecting a professional installation partner based on reputation, quality, capabilities, and added value offers.

Visit [www.havis.com](http://www.havis.com) to download a free copy of Havis' “Professional Installation and Upfit Guide for Fleet Mobility.” For more information on Havis equipment mounting solutions, visit [www.havis.com/products.htm](http://www.havis.com/products.htm).

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criminals, militants, overzealous prosecutors, the media, and (unfortunately) sometimes even their own bosses. But, the criminals are usually kept somewhat at bay by strict laws against assault and homicide of a peacekeeper, most resulting in death sentences. But, that is no longer a deterrent as cops are fair game to all who wish them harm.

#### Are Take-home Units Gone Forever?

I'll put my soapbox away for a moment as I explain why I think these programs are threatened with extinction. While I have been concerned for some time about the constant threat our police officers face daily, this column was actually prompted by a city auditor's report publicized nationally about my own alma mater, the Kansas City (MO) Police Department (KCPD) and their take-home program. I will have more on that study later, but first a brief discussion about these practices.

#### The Pros and Cons

Like most controversial programs, there are always two sides and a plethora of opinions from the informed and uninformed alike. Following are the popular

arguments for and against police take-home programs.

PROS: 1) Crime reduction – the popular notion is that more marked units on the street will reduce crime and traffic violations and that marked units parked in residential driveways will keep neighborhoods safer and improve community relations. *There are no studies to confirm or refute this, however.*

2) Mileage on take-home units will accrue slower, reducing the rate of turnover. *True.* 3) Accountability for cleanliness, maintenance and damage is easier to enforce with one assigned driver instead of many. *True.* 4) Increased morale. *Probably true.* 5) It can be considered a financial benefit in lieu of raises. *True.* 6) Decreased response time. *Probably true, but, again, no studies.*

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CONS: 1) They are a huge cost to implement. *True.* 2) It's difficult to adequately secure and/or protect a unit at its residence without being garaged. *True.* 3) Vehicle expenses, such as fuel, maintenance, tires, and insurance will increase exponentially. *True.* 4) Police vehicle accidents will increase. *True.* 5) Unmarked and undercover cars driven to and from work and parked in residential neighborhoods are NO deterrent to crime or traffic issues whatsoever. *True.* 6) New vehicles are often assigned by seniority which can negatively affect morale. *Probably true.* 7) Some studies suggest that take-home cars should be claimed as supplemental income. *True.* 9) Police take-home units may cause friction with other city/county departments which lack them. *Probably true.*

The above is a summary of the basics of take-home programs; however, there are many variations. For example, some departments restrict take-home units to those members who live within

the borders of their city or county limits, while others have no such requirements and simply rely on distance or response time as a criteria. Some agencies allow assigned vehicles to be used for off duty employment. Other agencies permit assigned vehicles to be used for personal errands and some even allow family members to accompany the officer/deputy/trooper on these errands. About the only thing administrators agree upon is prohibiting vehicles from leaving their home state, except for official duties, such as extraditions or escorts.

## Going, Going, Gone?

In my 2005 *P&SN* article, we looked at several departments and their take-home programs, one being Kansas City, MO. Since their city auditor's report prompted this column, we'll start there.

When I last wrote about the KCPD eleven years ago, they had 843 vehicles in their fleet and less than 75 were take-home units. In addition to the command staff, the remainder were assigned to those

personnel with 24 hour callback responsibility, i.e., most investigative units, SWAT, K-9, and undercover officers and nearly all were unmarked. Motorcycle officers were allowed to take their solos home during the months in which they rode.

Uniform sergeants and officers (patrol) were not included in the take-home program and shared marked units which were run 24-7. The vehicles taken home were restricted to residences within the city limits and were to be driven to and from work (or crime scenes) only. They were encouraged to transport employees in their units because of limited parking at headquarters and some other facilities.

Fast-forward to the 2015 audit where the KCPD had 922 total vehicles and 341 were taken home, growing from nine percent in 2005 to 37% in 2015. The ten year growth came from increased personnel and many new specialized units. The auditor calculated that the miles these vehicles were driven cost the city \$1.5 million in fuel. Policies have also been

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expanded to allow family members and personal errand usage of the vehicles. The audit made several recommendations, some of which follow:

1. The chief of police should determine how frequently each employee who has a take-home car actually uses it for after-hours emergencies and whether that take-home car is truly necessary.

2. The chief should evaluate the cost and propriety of using department vehicles

for transport to off duty employment.

3. With only 13% of the take-home vehicles being marked and 25% having KCPD license plates, the auditor recommended more cars should be marked and more unmarked cars should be identified with official license plates.

4. The chief should evaluate whether to prohibit transporting nonemployees in these vehicles for nonbusiness purposes. The department countered that they have

had no liability related issues from family members riding in take-home vehicles.

## From Sea to Shining Sea

But, what about the rest of the country? Following is a quick look at LE agencies around the country – small and large – as we take the pulse of what's happening with take-home programs.

Most state patrols allow take-home vehicles, including marked pursuit-rated vehicles for patrol and nonpursuit sedans for the remainder. Take-home vehicles are a must for many state troopers who cover large areas and are frequently called out at all hours for serious accidents. The Missouri State Highway Patrol restricts vehicles to official duties only.

Armstrong County, PA, has been ordered to reduce their take-home fleet by 75% due to fiscal constraints and to reduce operating costs. They will sell off the resulting overage of vehicles.

The Benton County, AR, Sheriff's Department has take-home vehicles for all LE personnel, a combination of marked and unmarked units. They must live inside the county, but can use them for errands and with family. Their program recently came under scrutiny when a captain took his family on vacation to Florida in his assigned unmarked car.

The Fort Smith, AR, Police Department only allows the on-call detectives to have take-home cars.

Nassau County, NY, has been ordered to reduce their countywide take-home vehicle program from 506 to 282 units (44%) to reduce unnecessary expense and liability. An audit revealed that it cost them \$60,000 for just 11 employees who live a "significant distance" outside the city.

The Oklahoma City, OK, Police Department has a take-home program, but family members are prohibited from riding in city vehicles.

The Pinellas County, FL, Sheriff's Office has a huge take-home program for 100% of all of the LE personnel – 1400 marked units and 1200 nonpolice package units for administration and detectives. The vehicles are restricted to the county limits, but may be used on errands; however, the deputies are warned against hauling "large purchases." I guess you won't see any mattresses strapped to cruiser roofs.

The Springdale, AR, Police Department's take-home program is named



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**Patrol cars parked in apartment complexes are especially vulnerable to theft and vandalism.**

"Home Storage" and is department-wide. Personnel are not required to live within the city limits and they may use the vehicles for errands and have families onboard; however, they are considered on duty whenever in a department vehicle. If no family members are present, they are encouraged to respond to calls for service. Three quarters of the fleet is marked. Recent concerns for officer safety has two officers riding together on a shift, which means that both drive their marked units to the station and one car is parked.

After two years of service, the Wilmington, NC, Police Department's officers are assigned take-home cars. This amounts to about 1/3 of the entire fleet and they are restricted to living within a 15 mile radius of the city.

The Sandpoint, ND, Police Department has appropriated \$200K to implement a take-home vehicle program which will eliminate the need to build a storage facility to store department vehicles.

#### **Is It Safe Yet?**

That question, from a classic spy mystery starring Dustin Hoffman, makes me wonder if America will ever be safe again for America's law enforcement. One police program which I believe should be temporarily halted is taking home marked units as they can pose a serious, significant threat to officers, family and neighbors when parked in a residential neighborhood or apartment complex. A recent study showed that 70% of police ambushes were spontaneous; 54% were in residential areas and 73.4% were in daylight. The KCPD recently issued this advisory, "If you have a marked unit take-home police vehicle, or a vehicle identifiable as a police vehicle, be aware of your

surroundings even when coming and going to your vehicle from your residence."

As I was writing this article, in the county where I grew up, a Wyandotte County, KS, Sheriff's sergeant exited his home to find all the windows shot out

of his assigned unit. There are frequent reports of LE units parked in residential neighborhoods being broken into by thieves looking for weapons and other equipment, such as protective vests. Unfortunately, since so many of these

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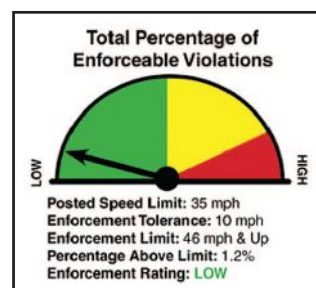
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vehicles must be ready to hit the road when called out, they are usually parked at the street or are the “last” car in a driveway so they are not blocked in. Thefts

from LE vehicles are not exclusive to “locals,” either, as many FBI and DEA vehicles have been hit, too, and even the Secret Service has reported losses.

“I was constantly amazed by how many people talked me into arresting them.”

– Edward Conlon, *Blue Blood*

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### Can We Stop the Madness?

There's an apartment complex I pass frequently and, depending on the time of day, I can count at least four police cars from various jurisdictions in the parking lot. Cops in apartments are nothing new and most receive discounted rents for living there and parking police cars there. While this complex is not in a high crime area, these police cruisers are susceptible to break-ins and vandalism nonetheless.

At the risk of alienating every American cop with a take-home car, following are my recommendations for these troubled and dangerous times.

1. Temporarily suspend take-home vehicle programs, unless vehicles can be secured in a garage or behind a fence.

2. If that is not possible, all vehicles must be equipped with adequate alarm systems, not just honking horns. Who the hell pays attention to honking horns anymore? Vehicles should also be secured with concealed “kill” switches.

3. When parked at a private residence, all weapons, tactical gear and procedurals, and gas masks should be removed and stored inside the residence. Even the most benign equipment, such as uniform items, handcuffs, citation books, road flares, and spike strips, could be used for criminal purposes or by wanna-be impersonators. Walkie-talkies could be used to unscramble encrypted radio transmissions.

4. Family members and civilians (other than those on official business) should NEVER be allowed in a police vehicle – ever. The dangers and liability are just too great.

5. Marked police units parked at apartment complexes should be parked together in well lit areas of the parking lot (safety in numbers).

6. Vehicles parked at neighborhood residences should be parked in well lit areas or protected with motion activated floodlights.



7. Take-home vehicles should be checked periodically during the member's off duty time and NEVER left unattended at a residence when no one is home for an extended period of time over three days.

8. Patrol officers should be provided a list of take-home marked and unmarked police vehicles regularly parked on their beats and check them frequently.

9. Criminals are very aware of shift change times. Department members with take-home units should be particularly attentive when leaving for work and a walk around the car first should be mandatory. Looking underneath and an examination for new damage and/or tampering is suggested. Upon entering the vehicle, it should be started immediately, the doors locked and the dispatcher notified they are 10-8 or in-service.

10. Members arriving home at shift's end should approach their domicile slowly, particularly at night. "Spotlighting" the house and surroundings first is recommended. Members should alert the dispatcher if they are 10-7 or out of service at home. Exit the vehicle promptly with equipment and be aware of your approach to the home or apartment.

11. Errands in take-home units should be prohibited – or at least kept at a minimum – until the current crisis is abated. If errands are permitted, members should be told to handle every personal stop as if they were dispatched to a serious incident and they should alert dispatch of their location, arrival and departure. A verbal notification trumps a GPS every time.

12. Lastly, chiefs, sheriffs, etc. should have in place definitive policies governing take-home programs and the programs should be examined at a minimum every quarter to insure compliance with the policy and to evaluate the efficiency and economy of the program and the safety of the participants.

These are ideas I've formulated over the last few months as the police death toll has mounted. I hope you find this piece beneficial and you will take further action to supplement them with your own good ideas. If we can take precautions to end this mindless slaughter of America's finest, nothing I've written will have been in vain. God bless American law enforcement! **P&SN**

*Sergeant James Post always welcomes your comments and suggestions. He can be reached at [kopkars@arkansas.net](mailto:kopkars@arkansas.net).*

## In Memoriam

### R. Walter Rauch

November 9, 1938 – July 7, 2016

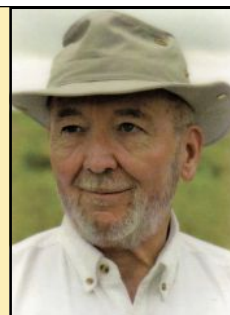
I was first introduced to Walter Rauch in late 1991 by the then marketing director at Smith & Wesson, Sherry Collins. In my discussions with her, she had mentioned an up-and-coming writer who was from the northeast area of Pennsylvania. According to Sherry, Walt Rauch was a former Special Agent with the US Secret Service who had recently retired as an investigator with the Warrant Unit, First Judicial District. He basically worked the mean streets of Philadelphia, arresting criminals who knew they were looking at hard time if caught. His street savvy was well-known, as well as his skill with a firearm, having made over 2000 felony arrests.

My first conversation with Walt was all that was necessary to assign him his first feature article, entitled "New Guns for 1992," which was a report on all new firearms of interest to the law enforcement community at the annual SHOT Show. Walter continued to write that annual report for the following 25 years. Along with other regular feature articles, he also began his popular firearms and training related column in *Police and Security News* – "Tactical Training Tips and Tools" – a few years later. That column eventually evolved into "Through the Sights" which Walter continued to write until May of this year. He never missed a deadline and he always accurately reported his findings and the facts – he was a thoroughly dependable and knowledgeable writer.

Walt Rauch was also a founding member of the International Defensive Pistol Association and has been described as "a walking encyclopedia of gun knowledge."

The lessons and knowledge which Walt shared with the world will be sorely missed, as well as his philosophy and wonderful sense of humor.

Al Menear  
Associate Publisher



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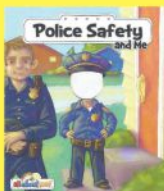
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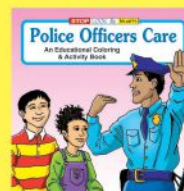
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# Thirty Years of ALPR



**Three decades after its invention, where does ALPR technology stand and what do you need for effective implementation?**

Christa Miller

**S**ince Automated License Plate Reader (ALPR) systems first gained recognition as “force multipliers” for North American law enforcement, they’ve enabled significant improvements in everything from stolen vehicle recoveries to criminal intelligence gathering.

As a 2014 RAND report noted, however, expiring grant funds, privacy related criticism and a lack of research are all causing police administrators to reevaluate ALPRs which compete for other high-tech tools, such as body-worn cameras, digital forensic analysis tools, robots, drones, facial recognition, and others.

In addition, data retention concerns; logistical issues such as the installation, maintenance, and repair of ALPR hardware; and interoperability needs with neighboring agencies’ ALPR systems can all affect deployment.

These issues are far from insurmountable. Instead, what’s needed is a solid



***ALPR cameras today utilize advanced technologies which do not require the use of infrared LEDs, as found on this unit.***

foundation not only in ALPR’s technical capabilities, but also in how they and other technologies relate to your agency’s mandate. Understand this and you can understand – and, more importantly, communicate – its strategic value to your agency and community.

## **ALPR: Where It’s Been and Where It’s Going**

An ALPR system’s core components remain the same now as when it was first invented: high-speed cameras; Optical Character Recognition (OCR); a way to compare the characters rendered from OCR to databases or “hot lists” of license plates of interest; and an interface which alerts police officers when there’s a “hit” on a hot list.

## **Saving Costs with Commercial Hardware**

How those elements come together has evolved over the years. For example, no longer is infrared a strict requirement. “The advent of the megapixel IP camera using white LED light allows newer LPR systems to use color and high definition without need for infrared,” says Steve Lewis, Business Development Executive for Michigan’s OpenALPR Technology. “Users can also obtain more forensic details; not only the



tag itself, but also the vehicle's make, model and any identifying marks."

Such high-definition cameras are no longer limited to proprietary hardware. Now, they're available off-the-shelf in commercial models. In addition to better detail, they allow plate capture from a wider field of view – for example, all lanes of a superhighway – longer distances and different angles, as well as the capture of multiple plates from one image.

Even mobile device cameras can be used for ALPR. Mobile apps, says Tom Joyce, Vice President of Business Development for California-based Vigilant Solutions, offer value in situations such as the need for a "vehicle canvass" during response to a major incident.

In these and other situations, ALPR removes challenges associated with handwritten notes, including illegible writing and transposed characters. In turn, ALPR adds the value of metadata – the date, time, location, and any additional images of associated vehicles.

Thus, not only can cameras – mobile, portable, fixed, or micro-sized – be configured to fit whatever environment they're deployed in, agencies can now opt to deploy software only solutions such as Vigilant's, OpenALPR, or PlateSmart, driving down costs from the tens of thousands into the thousands – or even less. OpenALPR's software is open source, meaning that organizations can download and use it at its most basic level for free. For additional features such as high accuracy US state of origin details, H.264 advanced video coding support, plate grouping, high-speed processing, and access via a Web app, agencies can pay by the month. (Lewis says some agencies have used this option to run temporary operations. In one example, an agency used the technology to automate stakeouts. Rather than pay agents to monitor the homes of fugitives and their known associates, ALPR technology scanned for the fugitives' plates and alerted agents when they got a hit.)

#### **No Data Collection? No Problem**

In fact, agencies no longer even require ALPR hardware to have an ALPR strategy. OpenALPR is commonly downloaded and deployed by private companies, such as HomeOwner's Associations (HOAs) and property managers, for use with their own surveillance systems. This, Lewis says, augments traditional video surveillance, allowing users faster access to the context of what was happening around the area where the vehicle appeared.

Companies using ALPR this way routinely notify law enforcement of suspicious vehicles. In one example, a Denver area HOA placed a fixed ALPR camera at its

***State-of-the-art camera technology allows plate capture from longer distances and a wider field of view, such as these cameras positioned atop the Brooklyn Bridge.***



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community entrance. When the driver of a strange vehicle tried to abduct a young girl, the camera helped to identify a vehicle which matched the description. Once notified, police were able to apprehend the suspect.

A St. Louis, Missouri-based company, Watchtower Security, has taken that model one step further. The managed video surveillance services provider partnered with OpenALPR in September 2015 to improve its forensic video analysis services. "Watchtower cooperates with local law enforcement by providing timely information (plate numbers, vehicle color and make and model) to speed investigations," says Lewis.

A more historical approach is possible with Vigilant which owns its own database of images populated by its member agencies and commercial resources. Vigilant allows analysts and investigators to use its software to access its online environment. From there, they can compare data and receive E-mail or push



**Agencies which cannot afford a large-scale cloud storage solution can opt for an available "hybrid" service.**

alerts on their own hot lists, or preconfigured hot lists from, for example, the NCIC stolen vehicle database.

## Multiple Data Storage Options

Agencies don't need to rely on third parties for storage, however. Many have fed a demand for cloud-based storage to maintain not just ALPR data, but all digital evidence collected from in-car and body-worn camera systems, as well as

other systems.

As a result, many ALPR systems integrate with cloud solution providers, such as Microsoft® Azure® Government or Amazon Web Services (AWS), both of which implement best practices to meet standards which can be considered compliant with – either meeting or exceeding – Criminal Justice Information Services (CJIS) requirements and others, such as the International Organization for Standardization (ISO).

Agencies which can't budget for a larger-scale cloud storage solution might opt for a "hybrid" like OpenALPR's Cloud Stream solution in which an agent running on a local server or laptop sends metadata to the cloud for displaying results. The processed image data is then retained locally, depending on the agency's storage capacity and retention requirements. (Lewis says OpenALPR will introduce its own ALPRaaS, or ALPR as a Service, including cloud processing and storage later this year.)

## New Information Sharing Opportunities

These advancements have all helped to facilitate regional efforts to consolidate data and cooperate crossjurisdictionally in initiatives as complex as the Automated Regional Justice Information System (ARJIS) of Southern California which relies on compliance with the National Information Exchange Model (NIEM) to share ALPR and many other types of data.

Information sharing isn't only a matter of the right technology integrations, however. Joyce says Vigilant's goal is to expand beyond its existing 1,000 customers to create a nationwide sharing environment, providing agencies in one state with the technology to share the ALPR data they collect with agencies in any other state – provided the appropriate memorandums of understanding (MOUs) are in place. "It would be the technical equivalent of accepting a Facebook friend request," says Joyce. While a onetime custom integration of external camera data might be necessary for agencies using competing hardware, the end goal would be ingesting the data into Vigilant's LEARN database.

## From Collection to Analytics

The ability to filter these ever increasing data sets is of growing importance to law enforcement. Vigilant recently introduced a filtering capability by vehicle year, make and model. "Taking all scans in a quarter mile radius over a 24 hour period might yield three thousand vehicles," says Joyce. "By filtering that list through an eyewitness description of a suspect vehicle, you can reduce that list to maybe a dozen leads as a starting point."

Lewis agrees, saying that much of ALPR's resurgence comes from "the Big Data movement," and machine learning that makes

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"Justice may be blind,  
but she has very sophisticated  
listening devices."

– Edgar Argo

LPR more accurate overall. "You can feed the system with tens of thousands of vehicle images and data points," he says, "so that it can learn what, for instance, Toyota® Camrys look like. Then, as it processes new images, it can find suspect vehicles faster than with license plate characters alone. This relieves witnesses of the responsibility of having to recall full plate numbers and other details."

These aren't the only analytic capabilities. Vigilant includes GPS data in their plate collections which can help to identify vehicles seen in and around crime scenes. This gives investigators a mechanism to predict "the most logical place and time to look for a vehicle based on historical scans," says Joyce, taking ALPR from reactive alerting to proactive analysis and, even, prediction.

While Lewis isn't aware of any ALPR systems which integrate with crime mapping or predictive analytic software, he says OpenALPR's API would allow developers to create their own plugins for this level of functionality, embedding the OpenALPR libraries algorithm within other software solutions.

Over time, the addition of other data, including biometrics, may become possible. Joyce says that Vigilant, having also introduced its FaceSearch technology – the aggregation of mug shots from multiple sources such as sex offender registries and CrimeStoppers Web sites – is exploring integration with its ALPR data in ways which don't violate anyone's privacy.

#### **The Privacy Implications of ALPR Data**

Privacy is a key sensitivity. Much of the attention on digital data, such as evidence found on mobile devices or body-worn cameras, focuses on collection of that data. With ALPR data, the problem isn't collection; license plates and vehicle details in plain view on or from a public street have no expectation of privacy.

To that end, ALPRs may not seem like they carry the same privacy or personal liability risks which body-worn cameras do. David Roberts, Senior Project Manager with the International Association of Chiefs of Police (IACP), explains that a body-worn camera might bring its wearer into a private residence late at night, as well as being activated at moments of personal confrontation. ALPRs, in contrast, collect data passively and in public.

Roberts notes that many agencies' ALPR usages started with small goals, like recovering stolen vehicles, and then quickly expanded as more investigators realized the potential for other kinds of investigations. Under these circumstances, the apparent need to retain data beyond just a few hours or days became more critical.

Still, the volume of data collected presents concerns around the "mosaic" of personal information which could be reconstructed from indefinitely stored ALPR data and metadata such as GPS coordinates. That's why the retention of ALPR data sparks privacy concerns more than its collection. The data has undeniable investigative and intelligence value, but is that value indefinite?

Vigilant's Joyce, once assigned to the New York City Police Department's Cold Case Squad, recalls decades old homicide cases which point to data being indefinitely valuable. However,

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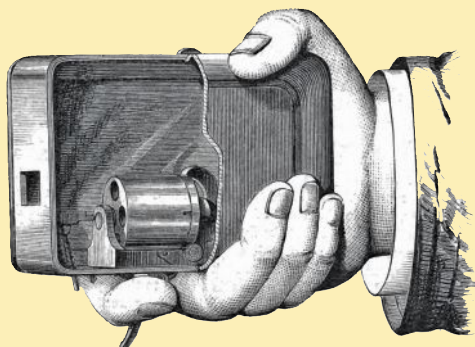
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## TECHNOLOGY FROM THE PAST

### The Deadly Pocketbook

During the 19<sup>th</sup> century, almost everyone carried a gun somewhere on his person and some were cleverly disguised. In 1877, Oscar Frankman of Nuremburg, Germany, secured a patent on one that looked like an ordinary “pocketbook.” It was an ingenious combination of pocketbook, cigar case and revolver. It was a convenient way to carry protection, especially when attacked by a highwayman, for it could be fired when handing over your pocketbook to the thief.

The revolver was arranged in the interior and was attached to the frame. It was separated from the folding pocketbook by a metallic partition. The trigger swung downward for firing and was bent upward into a groove when not in use. The opening in the side of the frame was closed by a hinged cap which opened and closed by the action of the trigger.

*Photo: Scientific American*

he acknowledges that most criminal cases have an average statute of limitations of between five and seven years.

Who retains the data is another concern. Locally retained data – saved on servers within a police department or municipality – or data saved to a cloud service paid for by the agency is not as much of a concern for some, as data retained by a third party which offers the data to agencies, as Vigilant does, for a fee.

While there is some precedent for law enforcement access to third-party records, resources like LexisNexis® Accurint® or TransUnion’s TLOxp still consist of aggregated public records – not citizens’ movements throughout a given region.

The location data attached to license plate snapshots was enough for Roberts and coauthor Meghann Casanova, in the 2012 National Institute of Justice report “Automated License Plate Recognition (ALPR) Systems: Policy and Operational Guidance for Law Enforcement,” to recall a Supreme Court case decided that same year. *United States v. Jones* (132 S. Ct. 945, 565 U.S. \_\_ [2012]) highlighted the

issue in a concurring opinion which took issue of the length of time of GPS tracking – four weeks – and the kinds of private, personal movements tracked together with criminal activity.

While the point in time ALPR snapshots are not nearly as comprehensive as the kind of monitoring allowed by GPS tracking, indefinitely stored ALPR data touches on the opinion’s concern regarding technology with the capacity to “make long-term monitoring relatively easy and cheap.”

Joyce emphasizes that even in Vigilant’s commercial database, ALPR data is never matched to other records including names, dates of birth, addresses, drivers’ license numbers, or other Personally Identifying Information (PII) from public records or state motor vehicle databases. “Knowing generally where a vehicle has been located doesn’t suggest specifically where its operator visited,” he says.

Moreover, he states, he has never seen disparate databases tied together in a way which profiles an individual based on his or her activity. “Most investigative

information isn’t used proactively to establish profiles,” he says. “There simply isn’t the time for it.” Cases where vehicular patterns of behavior might suggest, or even confirm, criminal behavior, where such proactive information is valuable, aren’t common enough to warrant concern over everyday use.

That, Roberts says, is where a strong policy can step in. He says he’s encouraged by the forward thinking response to policies and procedures around the use of body-worn cameras. “It seems like there are corollaries between lessons learned from ALPRs and from body-worn technology,” he says, “especially around reasonable usage expectations and how and who should manage, retain and access data.”

#### Putting It All Together

Policy mixed together with good strategy and training is well worth the investment, adds Roberts, considering the advancements in ALPR which stand to improve its force multiplying attributes.

He stresses that the evolutions in technology tend to expose gaps in both policy and legal precedent. While the courts struggle to keep up with these evolutions and to apply the law accordingly, law enforcement administrators need to be able to demonstrate an ALPR policy – or any technology policy – which aligns with their agency’s strategic objectives.

Many agencies, for example, collect, but then do nothing with the data. This may be because their ALPR “pings” on too many hot lists, overwhelming individual officers who cannot handle all the alerts to handle expired plates, lack of inspection stickers and other minor offenses – even when they get mixed in with alerts for active warrants or vehicles connected to crimes.

This can be a PR disaster, says Roberts, referring to the 2013 suspension of the Boston Police Department’s ALPR program after news media questioned the agency’s ability to act on alerts and to protect the data they were collecting.

“You have to be able to link the data you collect to a business objective,” says Roberts. “This should be based on empirical research showing not just the number of hits to a hot list, but also how many of those were actionable and over what period of time they remain actionable. If the data isn’t that valuable past 60 days, then that’s a reasonable benchmark for your agency’s retention period.”

Some ALPR metrics which Roberts recommends as “universal” include the



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***Plate numbers and vehicle details in plain view on a public street have no expectation of privacy.***

proportion of captures, read accuracy and matching efficiency, as well as the number of vehicle recoveries. Measuring these numbers over time can help chart a course for evaluation during the procurement process, either for renewal or when evaluating new technology from a different vendor.

This way, in spite of a dearth of research on contemporary

ALPR units to indicate whether they are improving, law enforcement administrators can still have a way to anticipate inevitable changes. "You must constantly evaluate technology in light of your business objectives," says Roberts.

Moreover, the technology should be able to support those objectives, including, for example, database technology which can allow for scheduling an automated dump of irrelevant data on an interval defined by the agency's goals, strategy and policy. Vendors should, in turn, be able to implement data storage requirements around storage, security and other needs.

All of these factors can figure into your ability to communicate transparently with city councils and other community groups which are stakeholders in defining business objectives and green lighting technology which helps to reach them. Because the evaluation process can be as much of a constant as the rate of technological change itself, law enforcement must take the lead in providing information and correcting misinformation.

Fortunately, the path to better policy doesn't mean having to start fresh with ALPR or any other technology program. "Communities of practitioners can serve as resources for others," says Roberts, pointing to organizations like the IACP and state chiefs of police associations, the Police Executive Research Forum (PERF), the National Sheriffs' Association (NSA), and others, as well as the Bureau of Justice Statistics, the National Institute of Justice and other government bodies which offer model policies and toolkits.

These tools, such as the IACP Technology Policy Framework, can help offer structure when rapid technological changes make it difficult to keep up. Younger officers and administrators can also help smooth the transitions an agency needs to make when technology evolves, such as helping to train other officers in operational practices like verifying the system works and is properly configured before each shift begins. "A policy which is a work in progress is better than having none at all," says Roberts.

ALPR has made many strides over its 30 year lifespan and is expected to make many more in the future. By maintaining an ongoing dialogue with both vendors and peers, law enforcement commanders can understand how the technology continues to shape and be shaped by policing – and how best to use it to lead their agencies further into the millennium. **P&SN**

*Christa M. Miller is a freelance writer and consultant based in South Carolina. Since 2001, she has been writing about public safety issues, ranging from policy and procedure to the use of high tech in law enforcement.*

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# COLLECTING AND ANALYZING DIGITAL FORENSICS



Dr. Stephenie Slahor

**Investigations now often include evidence gathered from such sources as social media, Web sites and cloud services.**

**P**ointing the way toward the best methods to collect and properly handle such information were team members from TransPerfect Legal Solutions. Andrew Neal, Director, Forensic Technology and Consulting; Daniel Andriulli, Digital Forensics, Manager; and Joe Pochron, Digital Forensics, presented their ideas at the 61st Annual Meeting of ASIS, the world's leading security organization.

## Fundamentals

Andrew Neal said forensic science is not new, having begun around 300 B.C., if not further back in history. Forensic science opened the way to the scientific method and is a means for many different identifications and analyses. With the advent of cyber information, Web sites, E-mail, social media, and cloud services have entered the scene. "Any E-digital devices reacting with each other, change each other," Neal said. That huge network of interaction presents new challenges in forensic science.

The panelists pointed out that, in legal proceedings, investigation involves chain of custody matters. Traditionally, a document or item was notated as to who had contact with it any time it was examined. That tracked the physical item. But, cyber information is not always so easy to track. The integrity of the information must be verified and it must be shown that nothing was changed on the device or the information from it.

## Appraisal

There may be decisions which have to be made about the process of collection of data and the defensibility of that process. For example, unless a Word document is a redline version, if it is prepared and printed, changes to that document on the way to its final version might be lost. The native format might be better, but, if a document is changed to a PDF, it might not match the original.

In addition, there is the matter of data about data, or "metadata." Dates, file names, ownership, and so on should be stored separately from the document itself.

Cloud evidence (for example, Dropbox™, the file sharing and storage service) may depend on vendor-specific constraints, or user or administrator interfaces. There may be the need to contact the vendor and determine how archiving occurs and what applications are needed to retrieve a stored item.

Geographical problems might emerge if the data is dispersed to another nation or across multiple storage devices. Even if it remains in the US, different states might be used for the cloud, server, user, and even the location of the crime in which the data takes a role.

## Useful Tools

The panelists described a variety of forensic tools to assist with these and similar problems and considerations. The

"We don't give our criminals much punishment, but we sure give 'em plenty of publicity."

– Will Rogers

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Technology is leading to a new and expanding branch of forensic science, but one which is quickly becoming necessary in the cyberworld. **P&SN**

*Stephenie Slahor, Ph.D., J.D., is a writer in the fields of law enforcement and security. She can be reached at [drss12@msn.com](mailto:drss12@msn.com).*



## Deadly Calls and Fatal Encounters

Analysis of U.S. law enforcement line of duty deaths when officers responded to dispatched calls for service and conducted enforcement (2010-2014)



By Nick Breul and Mike Keith



## Department of Justice Releases Report on Officers Killed in the Line of Duty

The Department of Justice, Office of Community Oriented Policing Services (COPS Office) recently announced that its report, *Deadly Calls and Fatal Encounters*, which was produced by the National Law Enforcement Officers Memorial Fund (NLEOMF) and funded by the COPS Office, provides analysis of 684 cases involving line of duty deaths over a five year period (2010-2014).

The purpose of this report is to identify the situations which present officers the most risk and make recommendations to enhance officer safety. For example, this report found that calls related to domestic disputes and domestic-related incidents resulted in the highest number of officer fatalities. The study also concluded that there are high risks associated with traffic stops.

The report provides three steps which law enforcement agencies can immediately implement: encourage officers to slow down when responding to calls (specifically, officer needs assistance calls), wear seat belts and wear issued body armor.

*Deadly Calls and Fatal Encounters* is available at <http://www.nleomf.org/programs/cops/cops-report.html>.

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# PATROL RIFLE SKILLS AND TRAINING



Mike Rayburn

**The urban environment presents a unique set of circumstances which require officers to adapt their tactics to overcome the many obstacles contained within.**

**A**s we've seen in Dallas, Baton Rouge, Orlando, San Bernardino, and a number of other areas across the country, the willingness of assailants to use rifles against law enforcement seems to be on the rise. As in the case in Baton Rouge, some of these individuals have a military background, including military combat training. Because of this, our rifle skills are more important now than ever before – especially our patrol rifle skills.

Those practiced long-range shots out to 300 yards are impressive, but as we witnessed in the above mentioned cities like Dallas and Baton Rouge, the realities of a gunfight are much closer. Most gunfights are up close and personal, including those against assailants armed with a long gun. If vehicles are involved,



***Don't crowd your cover. Stay back and use the angle of incidence to "cut the pie," both vertically around the front of the vehicle and horizontally over the top of the vehicle.***

you're looking at a couple of car lengths at best. In and around buildings, we're discussing feet, not yards.

## **Striking Back**

Distance is still our ally, but sometimes that ally is difficult to find, especially if you're going on the offensive. Someone once said, "The best defense is a good offense," and if you're going up against someone on a rampage, hell-bent on killing as many people, or officers, as he can, you will need to go on the offensive. The days of setting up a perimeter and waiting for the tactical team are long gone. We learned that lesson a long time ago (or at least it seems that way) with Columbine.

Going on the offensive and taking the fight to the active shooter sucks, but there's no getting around it. It's what we signed up for – to serve and protect. That doesn't mean risking your life unnecessarily, but it does mean heading into the fray when



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***How far back you can get away from your cover will depend on how close the bad guy is to your position, or if he has the high ground in an elevated position.***

others would run in the opposite direction. It's what we do – it's just that simple.

Taking the fight to the shooter involves shooting and moving. You will need to possess the ability to shoot accurately while moving towards the target or towards cover. As we saw in two of these recent incidents, it was the shooter who went on the offensive against police officers. We need to counter that offensive with one of our own to neutralize the suspect, or at least pin him down and stop his movement. By preventing him from moving, you'll (hopefully) stop him from killing other officers or civilians, and keeping him pinned down (even if it's only for a short time) will allow you to bring other resources to bear down on



***By not crowding your cover, you have a greater field of view.***

him. This could be more personnel, an armored vehicle or a remotely controlled robot with a bomb.

## Point Shooting

Along with the ability to shoot while moving, you also need to possess the ability to shoot your rifle accurately without the use of your sights. I know some of you diehard target shooters may be rolling your eyes right now, but learning to point shoot with your rifle is actually easier to learn than point shooting with a handgun. I believe it has to do with having a steadier platform to shoot with. You can "lock in" your rifle using your skeletal frame more than you can with a handgun, so your rifle remains steadier and stays on target easier.

For those of you with doubts about point shooting with a rifle, consider this for a minute. Imagine that you're making entry into a darkened building, looking for an active shooter who might pop out of a doorway or around a corner at any second. Are you walking down that hallway looking at your gun, or are you looking for movement at every doorway and around every corner? Think about the amount of time you'll take bringing the gun up to eye level, aligning your sights and then firing. With point shooting, all you have to do is fire. We're only talking fractions of a second, but, many times, gunfights are won in fractions of a second.

Please note that this isn't utilizing "spray and pray"; it takes practice to learn point shooting, but it's not overly difficult. There are some basics you need to learn, but point shooting with a rifle out to ten yards can be learned in just a short time. I teach a CQB patrol rifle instructor course in which I get everyone in class out to 20 yards on day two, firing accurately with taped over sights. Do some officer-involved shootings occur out past 20 yards? Certainly, so that's when you should use your sights – that's why they are there. A lot of guys become hung up on point shooting, thinking it's "either/or." In reality, it's both. You should know how to point shoot because a lot of officer-involved shootings happen at closer distances and you should know how to use your weapon's sighting system at greater distances for when the circumstances call for a longer, or more accurate, shot.

## Speed and Skill

When you're in close to the bad guy, accuracy is not as important as speed and hits. If the bad guy is right on top of you, you will need to be fast and deadly. Taking your time and putting a big hole in the center of the target with all of your rounds looks nice on the range, but the realities of the street are much different. There's a good chance the bad guy is already shooting at you, and this bad guy and you will both be moving. Trying to knock out the center ring under those conditions will be difficult at best, but you can still achieve good solid hits where they count by utilizing point shooting.

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Please note that I'm not here to point fingers or judge anyone's decisions, and I'm certainly not trying to be overcritical. God knows that I've made some mistakes in my law enforcement career and, if things had gone further south, I would have been in serious trouble. I was just lucky at the time that the bad guy decided not to capitalize on my mistake.

I've watched hundreds of videos of officer-involved shootings and I've spoken to well over 300 police officers who have been involved in a deadly force incident, with some having been involved in multiple shootings. I analyze these past incidents to learn and to pass on this knowledge. With that being said, we saw (on video) in one of the recent attacks on law enforcement where the officer "crowded cover." He ran up to a large column on a building and took cover behind it, looking around the right side of the column. The killer – armed with a rifle – came up along the officer's left side and shot him at point blank range. The officer never saw him coming because the officer was too close to the column, i.e., crowding cover.

## Training and Practice

Remember to back away from the cover you are utilizing and use the angle of incidence to "cut the pie" around the corner, or cover, where you are positioned. Try to identify cover early, before the shooting starts. In the middle of a gunfight is no time to start looking around trying to figure out what is, or what isn't, cover.

Practice shooting in and around cover with your patrol rifle. Because your rifle's sight plane is higher than the barrel, you need to practice shooting in and around cover, so that you don't make the mistake of hitting the backside of your cover with your rifle rounds. There are also ways of shooting around cover without exposing any part of your body and there is a definite need to train on the range before the real thing happens on the street.

During the stress of an officer-involved shooting, it's hard to recall all of your previous training. That's why it needs to kick in automatically for you. You need to take your training seriously and you need to practice it often, even if that means train-

ing on your own time and at your own expense. Create your own personal training budget where you set aside a few dollars each month for ammo or to take a class you've always wanted to attend (but your department wouldn't spend the money to send you).

To counter this willingness of bad guys to use long guns against us, we need to have equal (or better) rifles, training and tactics. We saw this in the 1980s when departments transitioned from revolvers to semiautomatic handguns to combat gang violence associated with a number of factors, such as the crack cocaine epidemic. With the current administration in Washington calling for the "demilitarization of law enforcement," and the cutbacks on grant money for equipment and training, it makes our profession more difficult, but we have to persist. The alternative is unacceptable – we don't ever want to be outgunned or outrained.

## Other Sources of Funding

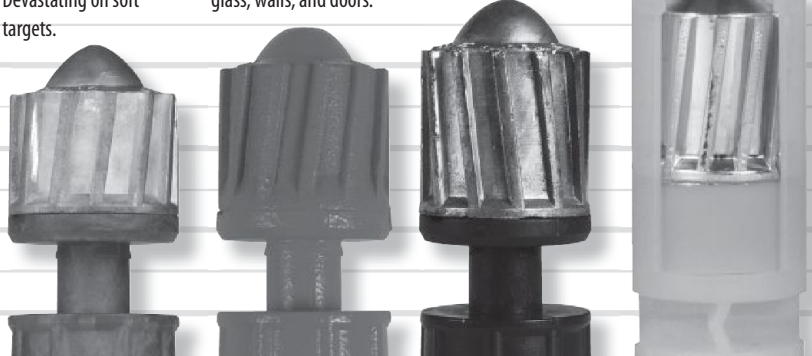
If your agency can't afford to equip all of their officers with patrol rifles, look for outside funding, as we've done in the past

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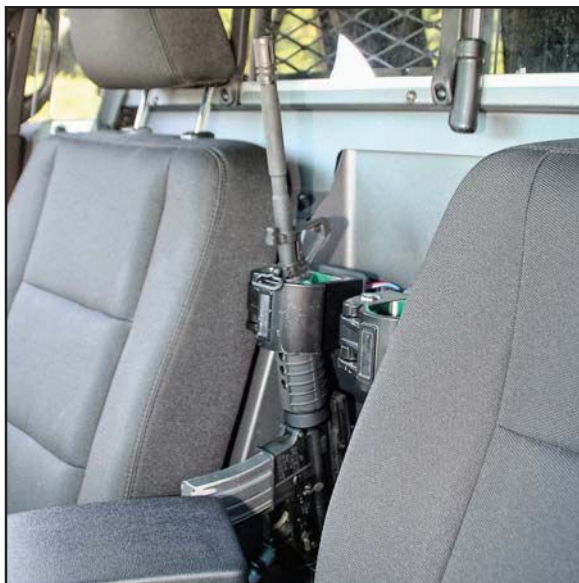
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for K-9 units. Other examples of alternate funding include civic organizations which have purchased patrol rifles for their local agencies. Some departments have organized fundraisers. At times, the PBA or local unions have donated money for rifles and/or training. Other agencies have allowed officers to purchase their own rifles as long as these weapons meet, or exceed, agency standards.

Every police vehicle which pulls out of the parking lot should have access to a patrol rifle. These include the traffic division, investigations, supervisors, and anyone else working the streets.

With the recent attacks on law enforcement (and the current threat of terrorism), we've now seen that times have changed for the worse. We need to adopt the Marine Corps model of every marine is a rifleman. Our attitude needs to be that every officer – regardless of his (or her) position, rank or title – is a rifleman. Countering the



***A rifle in every department vehicle –  
no matter the officer's  
rank, title or position***

ambush-style attacks which have plagued us recently is difficult. Trying to predict when and where these are going to happen next is even more difficult. With that in mind, we need to have patrol rifles available to us immediately and at all times.

#### **Final Thought**

If you're going to be involved in a gunfight, you'll need superior firepower and that means a patrol rifle or a shotgun. A shotgun can be just as deadly in close quarters in the hands of a skilled operator. All it takes is a little practice, just like your patrol rifle.

Be safe, watch your six and roll backup on every call because, sadly, times have definitely changed. **P&SN**

*Mike Rayburn has been involved in law enforcement for over 38 years. He is a retired police officer, former adjunct instructor at the Smith & Wesson Academy and is the author of five books. Mike can be reached at [www.combatgunfighting.com](http://www.combatgunfighting.com).*

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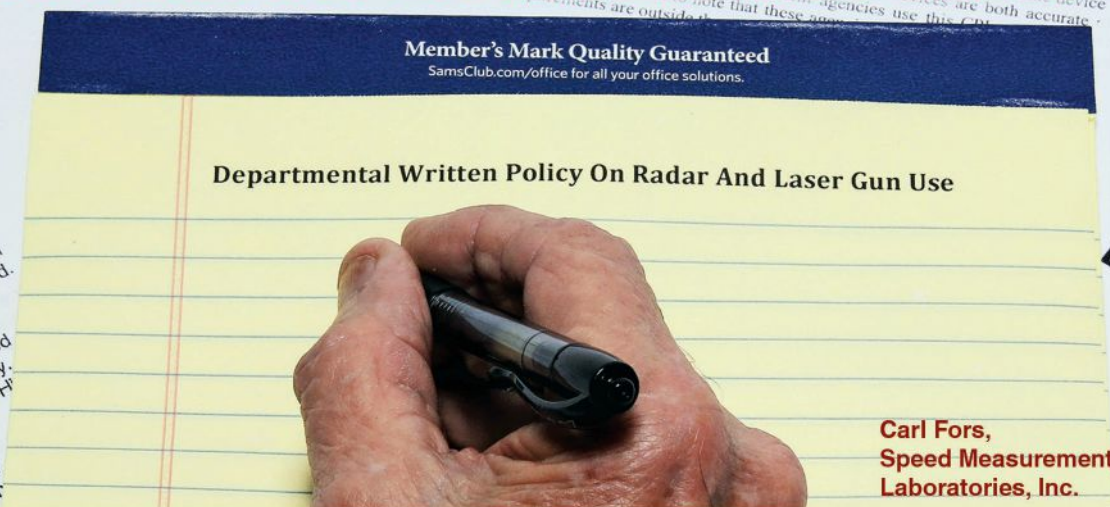
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# Do You Need a Departmental Statement on Radar and Laser Use?



**Courts are increasingly asking for a written statement of radar/laser gun use and certification of officers and recertification of equipment by each department.**

In the rush to create written policies for newer and/or riskier types of equipment, such as side-arms, less-lethal tools, body-worn cameras, etc., many agencies are leaving radar and laser guns behind. Agencies may rely on old outdated policies – referring to organizations which no longer exist or have changed their name – and fail to train and certify operators in line with current technology. Indeed, as the saying goes, “It is easy to say things, but difficult to write them down.”

The result of this carelessness is that the courts are deciding in favor of the defendants. Constables in Houston, TX, were caught without operator training and recertification of equipment. As a result, 100 radar guns went out of service and there were questions about tickets written as a result of radar gun use. In *Assaye v. Hawaii* (2010), the State Supreme Court said laser guns had to be taken out of service because the operator did not read the operator’s manual and, for years, had not followed the instructions to check it for accuracy.

Don’t be caught without a written departmental policy covering certification of officers and equipment during the most



**The correct method for checking the accuracy of a radar gun is to utilize the tuning forks which came with it when originally purchased.**

frequent contact with the motoring public, the speeding traffic stop.

## Statewide Judicial Notice for Laser Technology

First, know what the courts in your state recognize as evidentially sound. Radar has gained judicial notice in all 50 states, having been adapted for traffic use back in 1950.

Laser (LIDAR) has not enjoyed the same distinction. Pioneered by Laser Technologies, Inc. in 1991, LIDAR has been statutorily allowed in Connecticut, Florida, Georgia, Maine, Minnesota, North Carolina, and Virginia. These statutes allow the introduction of LIDAR evidence (judicial notice) without specific testimony on the underlying scientific principles.

## Equipment Certification

The next step in writing a good policy is to document how the state police or highway patrol approach equipment certification in your state. Seldom is there state law regarding the issue.

At a minimum, radar and LIDAR equipment should be certified according to the standards and specifications set forth in United States Department of Transportation (DOT) Highway Safety documents: DOT HS 809 812 for radar and DOT HS 809 811 for laser.

Federal testing and certification is a matter of legal precedent dating back to 1979. In *State of Florida v. Aquilera* that year, radar was proven demonstrably inaccurate when a stationary palm tree was recorded traveling at 86 miles per hour with no traffic present. The judge decreed that the National Highway Traffic Safety Administration (NHTSA) and the International Association of Chiefs of Police (IACP) should test radar guns to ensure they conform to the DOT’s specifications.

Products which conform are recorded on the Conforming Product List (CPL). Published several times a year by the IACP in conjunction with the NHTSA, the CPL is a listing of radar and laser guns which meet federal requirements.





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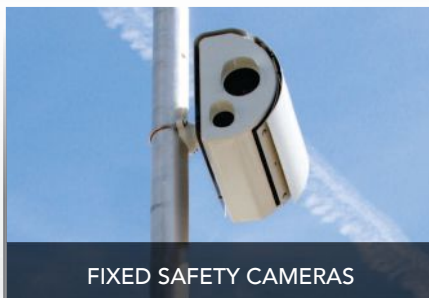
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It defines speed measurement devices which are eligible for purchase using federal highway safety grant funding. This list is available at [www.theiacp.org](http://www.theiacp.org).

Use of the CPL can be important not just in procurement, but also in court. In *State v. Starks*, 196 Ohio App.3d 589, 2011-Ohio-2344, the defendant contended that the officer who cited him had used a different model of a LIDAR gun than models previously recognized as scientifically accurate. The CPL would have provided valuable guidance in that case.

The manufacturer from which you procured your radar and laser equipment should be able to recommend a service center to perform recertification. These private companies can be found around the country. The recertification company should have FCC licensed technicians and the equipment necessary to test to the performance specifications of DOT HS 809 812 and DOT HS 809 811. Be sure to download copies of those specifications for reference as you vet recertification companies.

The recertification process includes the tuning forks your officers use to verify that the radar equipment is giving accurate readings. All radar gun operator's manuals recommend the use of tuning forks to check the accuracy of the radar equipment before and after each shift.

Each tuning fork has the speed engraved on it, as well as the frequency to use on radar guns. Make sure the tuning forks match the prescribed frequency which can be found in the "Specifications" section of the operator's manual. Make sure they match –



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gas shut off key on fork.  
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**Mini Pro-Bar –** Diamond  
knurled grip, type "A" lockpuller on adz,  
and gas shut off on fork. Length: 20",  
Weight: 3 lbs., Ship. wt. 4 lbs. **\$80.00**

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one large police agency used K band tuning forks on Ka band radar guns for years!

Laser guns should also be checked before and after each shift. Rather than utilizing tuning forks, a known distance and vertical/horizontal sight alignment test is traditionally used.

Whether for radar or laser, officers should be able to maintain and produce, on request, a daily testing log according to what the equipment operator's manual describes.

Both the NHTSA and the IACP recommend that radar or laser equipment being used for traffic compliance, along with tuning forks and operators, must be recertified every three years. This is just a recommendation, as states have different requirements and recertification arrangements. You should also have the necessary Certifications of Accuracy for the radar or laser guns, as well as for the tuning forks, on file in your department.

## Officer Certification

Two groups of officers – operators and instructors – should undergo training and recertification on the same three year rotation as the equipment. The instructors teach the operators how to use the radar or laser system according to written departmental guidelines.

## Valid Visual Tracking History

Included in your policy statement should be when, and if, the officer was certified to use the device. On the stand, the officer will need to say that he has had training and certification in developing a Valid Visual Tracking History.

In Texas, this history – an officer's visual estimate of speed – has been deemed sufficient without verification from a radar or laser reading. Both courts in *Ochoa v. Texas* (1999) and *Gonzalez v. Texas* (2003) determined that radar evidence was not necessary to convict the defendants of speeding.

Not so in Ohio, however, where the court in *State v. Laizure*, 2016-Ohio-3252, decided that an officer untrained in unaided

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visual estimation could not establish probable cause to stop a moving vehicle. That opinion had been reflected in *Barberton v. Jenney* (2009), where the state supreme court noted that a police officer needed no independent (i.e., radar or laser) verification if properly trained and experienced in unaided visual estimation of vehicular speed.

However, the reading from a device which the officer is not certified to operate is also not enough to establish probable cause. In *Hall v. Texas* (2009), the Texas Court of Criminal Appeals determined that the officer, who was not certified to use the Kustom Signals ProLaser® III, lacked probable cause to stop Hall based purely on the LIDAR technology. The officer did not develop a Valid Visual Tracking History in this instance, invalidating the traffic stop along with the accompanying ticket.

The best practice, therefore, is to use radar or LIDAR evidence in conjunction with a Valid Visual Tracking History you have established to determine the speed of a target vehicle. An officer on the stand could say, "I noticed the speed of a particular vehicle and, based on my experience, it was exceeding the posted speed limit. I backed up this Valid Visual Tracking History observation with the use of a radar or laser gun."



***A best practice is to utilize a combination of radar or LIDAR evidence, along with a valid visual tracking history.***

#### **Operator's Manual**

Adherence to radar and LIDAR system operators' manuals has also come up in court. In *Hawaii v. Assaye* (2009), the Court said, "Insofar as an officer's training is concerned, we hold that the same

burden of proof is applied to the issue of whether the officer is qualified by training and experience to operate the particular laser gun; namely, whether the nature and extent of the officer's training in the operation of the laser gun meets the requirements indicated by the manufacturer."

In this case, Officer Franks testified that he never once had it checked or inspected by an expert. Instead, when it was not in use, it was stored in the saddlebag of his motorcycle without concern for the effects of temperature and humidity on the device. He was quoted as saying, "The only maintenance I do on it is clean the screen when [it gets] smudgy and change the batteries when they get weak." Without an adequate foundation for the speed gun's accuracy, the court found the case against Assaye "devoid of any evidence and reversed his conviction."

One year later, in *Hawaii v. Tapusoa* (2010), the court stated, "As the State acknowledges on appeal, there was insufficient evidence to convict Tapusoa of excessive speeding because the State failed to adduce evidence that the laser gun was tested according to the manufacture recommended procedures."

This is true of radar, as well. In the



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case of *Cleveland v. Tisdale* (2008), the Court said, "Officer Smith did not testify the machine was calibrated correctly and that it was operating properly. Officer Smith testified that he was certified to use the radar system, his training was not otherwise described, nor was his certificate of training offered."

## Officer Not Required to Explain How Radar and LIDAR Work

The necessity of the officer to explain how radar and LIDAR work is spelled out in *Sparks v. Texas*. The verbatim should be noted here: "The State of Texas has proven by clear and convincing evidence that (1) the underlying scientific theory of LIDAR is valid, and (2) the technique used by the ProLaser III applying LIDAR is valid and the technique was properly applied on the occasion in question."

"Testimony is admissible regarding the results of the ProLaser III device, provided a trained operator establishes the proper foundation for the admissibility of the test results. It is not necessary for the opera-

tor of this speed detection device to understand the scientific principles or scientific operations of the device. As long as the officer properly operates and tests the unit, his testimony alone may be the basis to admit the results since this Court found the device to be scientifically reliable."

The foundation of this opinion can be found in *Honeycutt v. Kentucky* (1966), where the court said the "operator of the radar device for measuring the speed of the motor vehicle is qualified to testify as to the results of the operation if he/she has such knowledge and training as enables him/her to properly set up, test and read the instrument. The witness need not understand scientific principles or radar or be able to explain its internal workings."

## Written Policy Statements Are a Necessity

The legal landscape continues to be fluid. Therefore, regardless of the size of your department, it must have a written statement on radar and laser use, certification of officers and recertification of equipment according to the federally recommended three year schedule or one prescribed by the state.

Before you write a departmental statement, check with other departments around you and ask for theirs. In court, especially on appeal, the court or defense attorneys will ask you for a written departmental statement. The lack of a written policy can tie you up in court; lead to questions you can't answer; and, ultimately, to a higher likelihood that charges against the defendant will be dropped.

There are several excellent officer training programs, such as the Institute of Police Technology and Management

## Additional Resources

Recertification organizations include (but are not limited to):

[www.comsonics.com](http://www.comsonics.com)

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

[www.theradarshop.com](http://www.theradarshop.com)

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

[www.radaretc.com](http://www.radaretc.com)

[www.pbelectronics.com](http://www.pbelectronics.com)

(IPTA) ([www.iptm.org](http://www.iptm.org)); Northwestern University ([www.northwestern.edu](http://www.northwestern.edu)); Law Enforcement Services, LLC ([www.LawEnforcementServices.biz](http://www.LawEnforcementServices.biz)); and Speed Measurement Laboratories, Inc. ([www.speedinglimits.com](http://www.speedinglimits.com)).

Both Law Enforcement Services and Speed Measurement Laboratories, Inc. come to the individual enforcement agency. The others require travel.

Finally, Speed Measurement Laboratories, Inc. has compiled a list of all 50 state police radar and LIDAR standards. It is available to you, as well as help with your written statement. **P&SN**

Carl Fors, President of Speed Measurement Laboratories, Inc., has 30 years of experience in field-testing radar and laser devices. He serves many jurisdictions as an expert witness in radar and laser gun trials and teaches NHTSA compliant radar and laser instructor and operator certification courses at law enforcement agencies here and abroad. See [www.speedinglimits.com](http://www.speedinglimits.com) and [www.radarsignals.net](http://www.radarsignals.net). He may be reached at [speed@speedinglimits.com](mailto:speed@speedinglimits.com) or by calling 817/291-2396.

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## Unpacking Cyberterrorism

**NEWS**

The Information Sharing Environment (ISE) has always been focused on terrorism-related information sharing. With terrorist groups' ever increasing level of sophistication in their use of the Internet, it is only natural that information sharing play a role in tackling cyberterrorism. The ISE supports professional networks and associations which are building the tools which are needed during a potential terrorist attack and underpins the critical relationship with, and between, groups such as the National Fusion Center Association, the Association of State Criminal Investigative Agencies and the International Association of Chiefs of Police.

The article is available at <http://tinyurl.com/zyt4sb8>





## New Free App Addresses Cops' Health Issues

# NEWS

Do you want to know why your diet isn't working...how to survive psychologically as a cop...what clues may signal mental illness in a fellow officer...how to use the right self-talk to improve performance...or answers to a growing list of other health and fitness questions relevant to law enforcement?

Now, there's an app for that, thanks to the creative energy of Force Science instructor Dr. John Azar-Dickens.

A practicing clinical psychologist, college professor and sworn police officer, Azar-Dickens recently launched the free app for smartphones and tablets after more than six months of preparation.

"Enforce Health" is the app devoted to practical information on maintaining wellness, presented in short, but substantial, articles, study reports and podcasts designed for time limited officers who want sensible guidance for healthy living. "Enforce Health" can be downloaded from Google Play™ or the iTunes® Store.

"I realized there wasn't much available and easily accessible on wellness specifically for cops, outside of a formal counseling relationship. So an app became a way to reach them where they are – in their cars or off duty. When they have a few minutes, they can check their phone and get no-nonsense information in plain language which they can readily apply to their lives in practical ways."

Its offerings included topics such as psychological antidotes to today's negative storms about the police; new findings on why dieters fail to meet their goals – and how to meet yours; how to craft self-talk which maximizes improvement in personal performance; what meals are healthiest in the fast-food chains on your beat; the dangers of excessive sitting; factors which protect against police suicide; the risk factors which make you more vulnerable to PTSD; and seven ways to overcome the dangerous aftermath of a critical incident, to name just a few.

Azar-Dickens' goal is to update the app at least once or twice daily and to maintain an active, ever growing archive of posted materials. Although he writes most of the reports and conducts the podcast interviews, as an associate professor of psychology at Rome's Berry College, he plans to use student interns to assist with research.

If you have ideas for future topics or specific questions you'd like answered, Azar-Dickens welcomes feedback at [drazar@comcast.net](mailto:drazar@comcast.net).



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**AmCharLaw.com**

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[policeandsecuritynews.com](http://policeandsecuritynews.com) • September/October • Page 65

# Dealing with On Duty Responders:

## How to Not Get Shot by Other Officers During Off Duty Incidents

**Confrontations in which officers do not recognize others as police occur more often than most realize.**

Ralph Mroz

**A**s if the stress, confusion and general chaos which will probably define the environment immediately after you either use your weapon to defend yourself or your family or intervene in a situation, there is a very real danger – very, very real – of you being mistaken for a perp yourself by the responding on duty officers – and shot as a result. Here's some tips for interacting with the on duty troops appropriately and safely.

- There will be chaos, screaming and palatable fear charging the air if you have to shoot someone, or even if you draw your gun. As soon as you clear leather, start verbalizing, "Police! Don't move!" (or maybe "Police! Show me your hands!"). The idea here is to let everyone around you – possibly other plainclothes or off duty officers – know that you are an officer.

- Whether or not you have a chance to challenge the perp before you have to shoot him (assuming you do), immediately afterwards, start loudly verbalizing, "Police! Stay away from him! He may still be armed!" This accomplishes three things: 1) you identify yourself, 2) you keep people

away from someone who may still, in fact, be dangerous, and 3) you start to take control of the scene.

- As soon as possible, get your ID out and start waving it around – waving, not merely showing – for all to see. Keep verbalizing as above as you cover the now downed suspect.

- Start assigning duties to people as necessary. For example, tell someone to call 911; assign people to deal with anyone else who's injured; and instruct everyone to stay right here because the police will want to talk to them.

- Instruct the person calling 911 to identify you by your looks and clothing – and as a police officer. This is important.

- As you issue these commands – forcefully and professionally – the fear will begin to subside somewhat as people realize you must be a cop and that someone is in charge.

- If possible, assign the most senior person there – the store manager, for example – to greet the responding officers and explain that an off duty police officer (you) had to shoot the guy who's now

bleeding on the floor.

- When the troops come in – just before, if at all possible – reholster your gun, keeping your ID visible and waving it in their direction – all the time verbalizing, "I am a police officer."

- You wave your ID at them so that they will notice it. If you keep it static, they may not see it in the confusion of the moment. If you hold it beside your gun, as you see so often in pictures in the gun magazines, all they will see is your gun. They will not see the badge right beside it, because the gun – and the danger it represents – is far more important to them at that moment. This (holding your badge beside your drawn gun) is an excellent way to be mistaken for an immediate threat and be shot.

- For God's sake, don't turn towards responding officers with a drawn gun.

- The responding cops are in charge. Do as they say, even if you outrank them, and especially when they tell you to drop the gun. I don't care if it's a \$5000 engraved heirloom. Do it. You'll be cuffed and treated just like a bad guy for a while. Suck it up.



### Other Dangers

All of the above advice is for a situation in which you had to respond to a threat to yourself or another innocent. But, there's another way that off duty cops have been mistakenly killed by on duty officers and that's when an off duty officer intervenes in a situation that on duty police are handling. Usually, the on duty troops are in the middle of a bad situation – a felony arrest with drawn guns, subduing a violently resisting perp, or some other action in which the off duty cop feels the understandable urge to help out his/her fellow officers. What happens is that the off duty cop draws his weapon and rushes in to assist. The on duty cops understandably mistake him/her for a bad guy coming at them with a gun and they shoot. This has happened too often with tragic results. Even if you know the on duty cops involved, don't expect them to recognize you – all they will see is your drawn gun in the stress of the thing.

How do you handle this? There isn't a really good answer, unfortunately, but the best approach is twofold. 1) Stop, take a breath and analyze what's going on. Do you really need to get involved or are your instincts just kicking in? 2) If you need to get involved, keep your gun holstered. Verbally identify yourself (you'll be yelling) and get acknowledgement from the officers involved that they understand you are a cop. Does this run counter to your instincts? Does it take a great deal of self-control? Yes...and yes.

### Final Thought

Finally, how do you prepare for these situations? Hopefully, your agency (maybe your union or association) will run some scenario training based on these kinds of off duty encounters. If so, you are lucky. Short of that, mental visualization is your best tool. There is a reason visualization is an often practiced technique of world-class athletes. **P&SN**

*Ralph Mroz was a police officer (part-time) in Massachusetts for 20 years, seven of which he was assigned to his county's drug task force. He has taught at a number of national, regional and international law enforcement conferences. His blog can be read at <https://thetstreetstandards.wordpress.com/>.*

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## NIJ Reports “Nearly Unprecedented” U.S. Homicide Spike in 2015

**NEWS**

The homicide increase in the nation's large cities in 2015 “was real and nearly unprecedented,” according to a report released Wednesday by the National Institute of Justice. Its author, criminologist Richard Rosenfeld of the University of Missouri-St. Louis, said homicide rates in a sample of 56 large U.S. cities rose by an average of 16.8 percent last year over 2014. He said the increase was “heavily concentrated in a few cities with large African-American populations.”

Rosenfeld suggested three “plausible explanations”: an expansion of urban drug markets fueled by the heroin epidemic; reductions in incarceration resulting in a growing number of released prisoners; and a “Ferguson effect” resulting from widely publicized incidents of police use of deadly force against minority citizens. Rosenfeld, a persistent critic of slow-paced release of national crime data, said timely information – such as monthly statistics – could have quantified the trend as it was happening, allowing a more pointed law enforcement response. “The nearly unprecedented homicide increase of 2015 should be all that is necessary to finally move the nation's crime monitoring system into the 21st century,” he concluded. The ten cities with the steepest homicide increases were Cleveland, 90.5%; Nashville, 82.9%; Milwaukee, 72.6%; Baltimore, 58.5%; Washington, 54.3%; Kansas City, 37.2%; Houston, 25.2%; St. Louis, 18.2%; Chicago, 15%; and Philadelphia, 12.9%. A copy of the report can be downloaded at <http://tinyurl.com/zgr2mpl>.

# NEW TECHNOLOGY

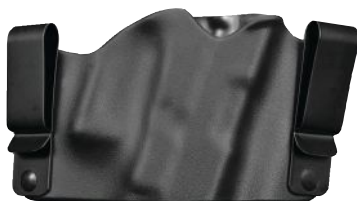
## New Pistol in .45 AUTO



Smith & Wesson Corp. is now offering its popular M&P Shield™ pistol in .45 AUTO. Smith & Wesson's **M&P45 Shield** is a slim, concealable, lightweight, striker-fired polymer pistol. From its one inch profile to its optimized 18 degree grip angle, the **M&P45 Shield** offers professional-grade features which provide reliable performance and simple operation in a concealed carry. At 6.45" long, the **M&P45 Shield** is standard with a 3.3 inch stainless steel barrel. The pistol is available with or without a thumb safety and an extended trigger guard allows for operation with or without gloves.

**Circle 5099 for More Information**

## New IWB Multi-Fit Holster



Phalanx Defense Systems, LLC announces the **inside the waist-band version** of its Stealth Operator Series Holster. The newly released IWB version currently accepts over 155 different handgun makes and models and is available in a right-hand compact version. Left-handed compact versions and full-size versions will be available later this year.

**Circle 5103 for More Information**



## New Ammunition Round

SIG SAUER, Inc. recently expanded its Match Grade Elite Performance Ammunition line for rifles with the addition of a **168-gr. 308 Win load**. Featuring a 168-gr. Sierra MatchKing® bullet, the **SIG SAUER 308 Win Open Tip Match (OTM)** round has a muzzle velocity of 2,700 fps with a muzzle energy of 2,719 ft lbs.

SIG SAUER's engineers designed this round to excel in today's precision autoloading platforms, as well as bolt-action rifles. The temperature stable propellant in this cartridge delivers consistent muzzle velocity in all weather conditions and premium quality primers ensure minimum velocity variations.

**Circle 5098 for More Information**

## New Lightweight Pistol



Ruger has recently announced the addition of the **SR1911® Lightweight Commander-Style** pistol chambered in 9mm

Luger. This 9mm version features a Commander length slide and an aluminum frame which weigh almost a half pound less than the all stainless steel Commander-Style configuration. This model also comes with a new look, including black rubberized grip panels and a gray anodized frame.

**Circle 5100 for More Information**

## New Fixed Mount PC



Datalux has launched the 6th generation of its **Tracer** fixed mount PC for mobile data. Powered by the latest low power Intel Core™ i5 or i7 processor, it features a sunlight readable 12.1" display which provides more brightness with less power consumption and less heat. With an all metal, rugged enclosure, it withstands the rigors of public safety with ease.

**Circle 5101 for More Information**



## New Tactical Sight

Dead Ringer has engineered **Snake Eyes** for a simple point and shoot application. Extremely fast, the tactical sight installs on several models of pistols and offers three to four times faster target acquisition employing the dot in the center of the circle. Even in low light conditions, the tritium front and rear sights glow continuously.

**Circle 5102 for More Information**

## Tactics for the 21st Century

Guardian Protective Devices offers a safer and more effective method to applying controlling force with "**The Pepper Light**," a new OC spray with a lighted top. In moderate to low light conditions, it provides a visual, optical stun effect. This is a force multiplier which temporarily reduces a subject's vision to buy you additional time for your threat assessment and it will add an additional layer of safety in applying controlled force. It is available in the MK-3, MK-4 and the Tactical MK-8.

**Circle 5104 for More Information**





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# BUSTED!

James L. McClinton, Ph.D

***“Yeah, just hang it over there next to the ‘Remember to Brush After Every Meal’ sign.”... In Pennsylvania, an exasperated Columbia County District Judge felt the need to post a sign outside his courtroom in January informing visitors that they should not wear pajamas to court. However, even the judge himself acknowledged that his admonition was not enforceable and that he was merely trying to encourage minimal standards. (Maybe they had to shop at Walmart before going to court?)***

***This is a bad time to find out that you’ve been a loud whisperer your entire life... Massachusetts state troopers initially found a few drug items in a search of the vehicle of a 24-year-old woman at a traffic stop along Interstate 91 near Hatfield, Massachusetts. But, the woman and her two companions proceeded to worsen the situation. The troopers seemed satisfied with finding three drug pipes, a couple of syringes and several baggies of drugs and began to write their report as a “possession” case, but en route to the state police barracks, a trooper said he overheard one suspect whisper to another, “I don’t think they found all the stuff in the car.” The police searched it again and this time they found three digital scales with white residue, along with another 230 baggies of heroin and the charges were then expanded to include “intent to distribute.” (On the other hand, how did these troopers miss three digital scales and 230 baggies of heroin in the first place?)***

***One good example of successful community policing is the “Give a Motorist a Lift” program... A 38-year-old man asked a sheriff’s deputy in Limestone County, Alabama, at 3:00 a.m. for a “courtesy ride” to a nearby Walmart and the deputy agreed. However, the deputy followed procedure and told the man that he’d have to search him before letting him into the patrol car. According to the arrest report, the man needing the ride consented to the search. The deputy then turned up a veritable drug supply store in his pockets, his backpack and his duffel***

## REAL STORIES OF GENUINE ABSURDITY



### ***Who’s a good boy? Who?? Who is that good boy?***

Officials say a family dog in Mississippi recently came home with more than a toy to play fetch – the pup had a big bag of marijuana in his mouth. The Jones County Sheriff’s Office reported that narcotics deputies were sent to the home to investigate the unusual incident. Police statements say the homeowner told deputies that, when his dog came home with the bag, he initially thought it was garbage. But, he inspected it and found that it contained a leafy substance which smelled like marijuana. Authorities say they recovered about a pound of the drug, but don’t know how or where the dog got the bag. (Say what, Lassie? You want me to follow you to where the rest of the stash is?)

bags: drugs (meth, marijuana and black tar heroin); two syringes; a drug cooking spoon; two marijuana pipes; a meth smoking pipe; and a supply of baggies. The man was charged with drug possession and trafficking. (Recreational drug users are typically so open-minded that their brains fall out!)

***Talk about a bad habit!... State police say a 78-year-old nun was caught shoplifting \$23 worth of coffee, snacks and toiletries from a central Pennsylvania store. Troopers say the nun was seen taking the items from the Surplus Outlet near Berwick. Police determined the woman captured on surveillance video was the nun who lived about 20 miles away at a convent in Danville. Shoplifting is a summary offense, akin to a traffic***

ticket, meaning the nun will likely pay a fine if she’s convicted. The store manager said he “couldn’t believe it that a nun would actually do something like that.” (Shoplifting? The charge is absolute nonsense!)

***Someone needs to discover coffee... A 52-year-old man who happened to be an air traffic controller reportedly has been having career troubles in recent years. When he was recently arrested during a traffic stop on New York’s Long Island, police officers found illegal drugs in his car. When asked about the substance, he replied, “That’s meth,” he said. “I’m an air traffic controller. I smoke it to stay awake.” (When you’re dealing with pilots, it makes good sense to be as high as they are!) P&SN***



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