

GEORGIA ASSOCIATION OF CHIEFS OF POLICE

Online Quarterly News

1st Quarter 2020



Celebrating 58 Years of Commitment to Excellence in Law Enforcement



Message from the President

Well, another year has come and gone. We are off to a great start in 2020. Everyone is very busy this time of the year and your executive board has been also. Since I have been sworn in as your President, the association has gone through some major changes. After 23 years of service, Executive Director Frank Rotondo decided to retire last year. Frank dedicated the last 23 years of his life to this association and now it's time for him to give the same attention and dedication to his family. We all wish him the best in the future. With that, the board was faced with finding a replacement to fill some pretty big shoes. As announced a few weeks ago, we are excited with selection of Andrew A. "Butch" Ayers as our new Executive Director starting January 1, 2020.

Choosing the right person to take us into the next decade or longer is critical to the continued success of our association. This was one of the most important decisions for the executive board and the future of the Association. Please join me in welcoming and embracing Butch Ayers as our new Executive Director and the new face of our association. I look forward to working with Butch and being a part of all the great things to come.

Our Winter Training Conference is scheduled for February 10 – 12, 2020 on Jekyll Island. The staff have done a great job of preparing for the conference. I think you will see some changes and enjoy the block of training we have scheduled for you. If you haven't already, please make your reservations and register as soon as possible.

Over the last few months, the Legislative Committee, co-chaired by Chiefs Billy Grogan from Dunwoody and Chief John Robison from Alpharetta have been working hard to develop our 2020 legislative agenda. Members of the committee will be taking a more robust role in attending legislative committee hearings on topics of interest to our members. There are a number of initiatives GACP will be actively seeking this session to include authority for officers to involuntarily transport persons, who are a threat to

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(Continued from Cover)

themselves or others, to medical facilities without having to make a criminal arrest. We are also working to modify the requirements of the misdemeanor citations, as well as a study committee to evaluate the need and costs of the GBI holding sexual assault and murder evidence in a consistent manner. We are also supporting efforts to increase POAB benefits and initiatives to reduce gang violence. We are also making great strides in working with GMA, ACCG, and the Sheriff's Association to partner with us on our hiring, retention, and compensation initiative. Chief Mark Scott and his committee has made some good progress with this issue.

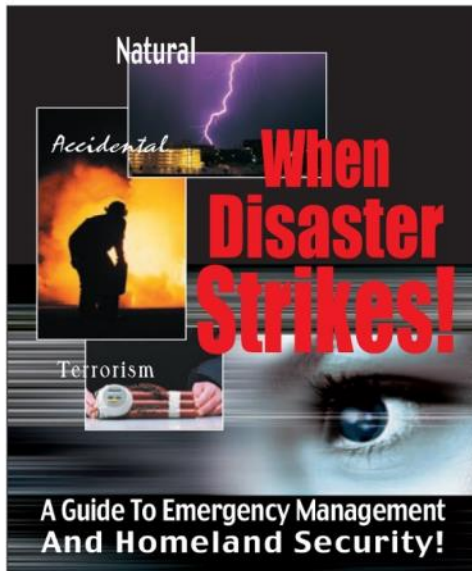
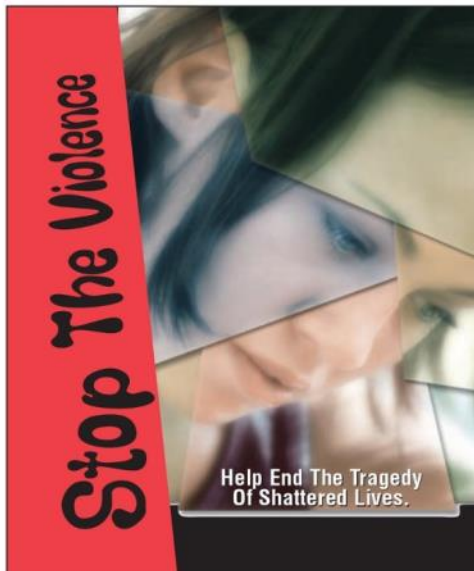
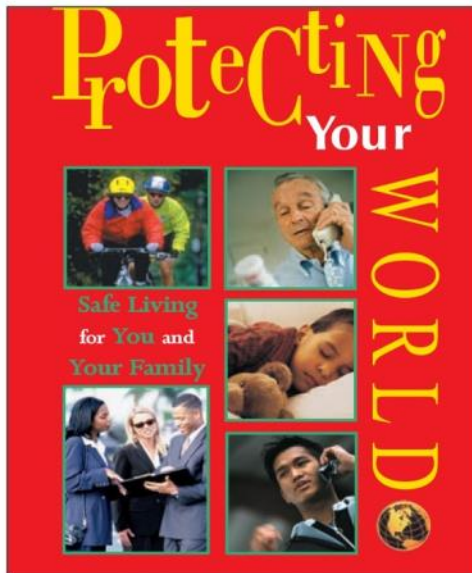
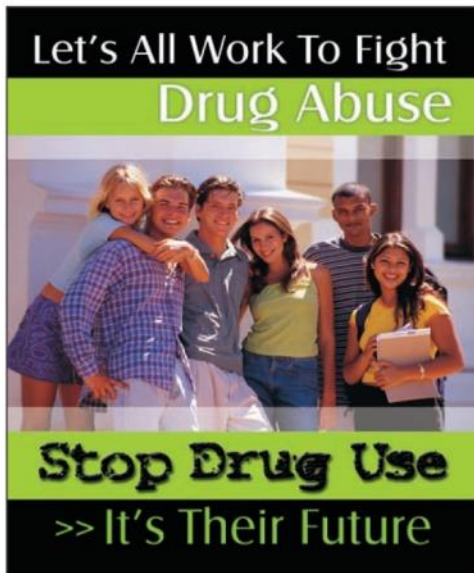
Chief Bruce Carlisle and Chief Mark Scott have held their first PEER Training session with record attendance. Let's hope that we never have to call upon them, but it is comforting to know that if needed they are only a phone call away.

It is very important for all chiefs to continue to develop relationships with their state representatives and senators as well as keep up with progress of bills. These relationships with legislators and the bills they pass into law will have a direct impact on the requirements being placed on you and your officers.

In closing, I would be remiss if I didn't express how honored I am to serve as your president. I am glad to be a part of this great association and look forward to being a part of the new and exciting things to come.



GACP President & Chief of Police
for Lyons Police Department



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Leadership Impact on Police Recruiting

By: Chief Dan Flynn, Marietta Police Department

Recruiting sufficient numbers of new police officer applicants who are physically, mentally and morally fit to serve has always been a challenge. Today, however, it is more difficult than ever, mainly as a result of anti-police bias in the mainstream news media. Many employment decision makers and administrators feel the only way to counter negative hiring trends and fill mounting numbers of police vacancies is by increasing salary and incentives, and sadly in some cases, lowering hiring standards. In the short run, these kinds of strategies may help a little, but too many police agencies continue to have large numbers of vacancies even after implementing these changes. With so many unfilled positions, remaining officers have to pick up the slack and often suffer burnout and all of its negative consequences.

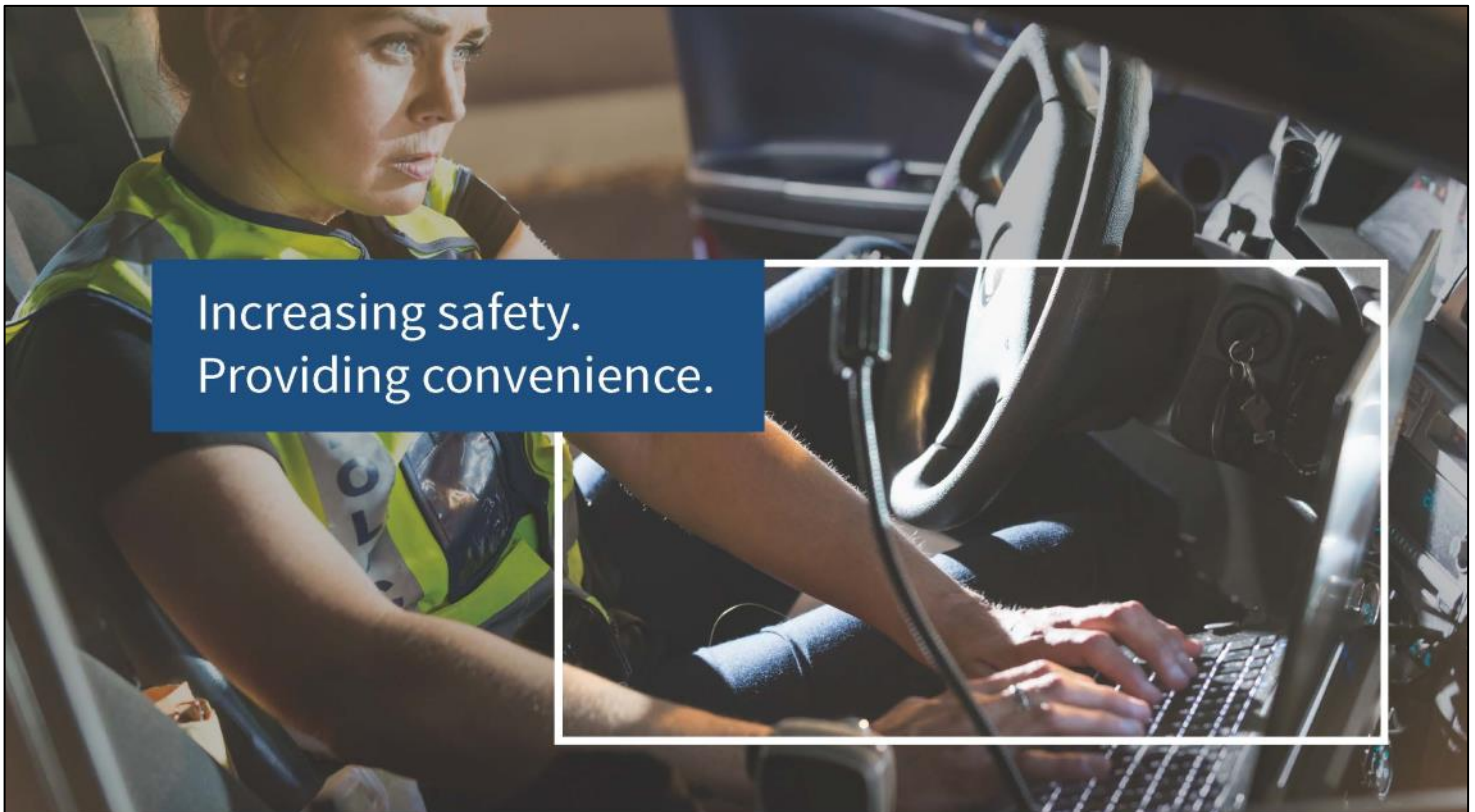
Consider that many of the 20-40 year old age group were educated in an atmosphere where everyone who participated in a sport received a trophy, win or lose. Meanwhile, parents told their growing children how special they were, whether they were or weren't; and teachers and college professors told them they each had the potential to change the world overnight. Therefore, it is no wonder that those who aspire to careers in public safety become disillusioned when they learn in advance of applying, or shortly after being hired, of old style managers and supervisors who are quick to get in their faces and correct them, sometimes in harsh terms even in routine situations. In reality, the 20-40 year old group is prone to ask more questions and expect answers, and they are accustomed to receiving positive individual attention with better two-way communication than their predecessors. It is not that the newest group(s) can't become strong, dedicated, patriotic police officers, it is just that we need to communicate with them in a different way. Remember, police departments do not have the rank of private. Privates in the military are not expected to ask questions; officers are.

Management theories have long contended that if salary and benefits are inadequate or non-competitive, they will hinder employee motivation and productivity, however salary and benefits will not, by themselves, attract new applicants to apply, nor improve morale among existing members of a police department. In order to better attract today's potential police applicants to want to join, police departments must modernize leadership and management styles to match the expectations of today's 20 to 40-year-old group. The days when autocratic, predominantly work-centered, leadership and management styles were effective and responsive to employee needs are rapidly fading in modern times.

In terms of leadership style, both existing and perspective police employees understand and accept that leadership needs to hold police employees accountable for their job performance, particularly regarding the way they treat the public. Nevertheless, today's perspective police employees are attracted to leaders who routinely exhibit and communicate qualities like teamwork, mentoring, fairness in all matters internal and external, reasonable diversity and professional demeanor. Today's new employees tend to be disappointed when they see a lack of these qualities and in fact, no one seeks or admires leaders who act like self-centered critical parents.

Individual leader behaviors that best resonate and motivate the present generation of potential police employees, and for that matter police officers of all ages, include leader behaviors that help employees satisfy their self-esteem needs. For example, leaders who provide frequent, ample, detailed **formal recognition** for good work make employees feel better about themselves and their jobs. At the same time, leaders who provide **reasonable sympathetic understanding of employees' personal (human) problems** tend to build loyalty and camaraderie consistent with desirable family relationships. In addition, leaders who actively work to **keep employees "in the loop"** regarding activities of their organization help their employees feel they are part of the organization rather than the hired help; it reduces rumor mills and promotes camaraderie. When applied with consistency, all of these kinds of leader behaviors are congruent with the perceptions and expectations of today's police applicants. Most importantly, they appeal to potential applicants when they are checking out police departments in advance of applying for employment.

Effective police leaders understand that the **attitude** of an individual is a reflection/indicator of how that individual feels, while **morale** is the way a group feels. Thus, strong leaders strive to be positive, decisive and use good oral and writing skills to communicate their positive vision of policing. They also work to instill motivational management practices and behaviors in their subordinate leaders in order to promote good morale, which in turn fosters better recruitment and retention of police officers in larger police organizations.



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GOHS Announces New Grant Opportunities

The Georgia Governor's Office of Highway Safety (GOHS) recently announced it has been granted federal funds from the National Highway Traffic Safety Administration to promote the development and implementation of innovative highway safety programs. These FY2021 funds will be available for local grants in program areas such as alcohol/impaired driving, pedestrian/bicycle safety, motorcycle safety, youth and young adult driving safety, occupant protection and beyond. We are excited to welcome new grantee applicants from other state agencies, community organizations, high schools, colleges and more.

Programs and their problem identification must be supported by data and proposed solutions, examples of which can be found by clicking the "Countermeasures" link at:

<https://www.gahighwaysafety.org/grants/application-process/>.

There will be 2 opportunities to attend a mandatory application training session for new applicants. One will be on January 7th at Central Georgia Technical College in Warner Robins and the other on January 9 at Chattahoochee Technical College's North Metro campus in Acworth.

To see the complete Request For Proposal and register for the training, please visit:

<https://www.gahighwaysafety.org/grants/2021rfp/>.



Georgia Parole Board

Parole Board meets with Crime Victims



Author: Steve Hayes, Director of Communications, State Board of Pardons and Paroles

The five-member Parole Board reviews a comprehensive electronic case file on each parole eligible offender prior to making a decision regarding possible parole. Included in the file is information regarding the crime victim.

Victim information is always considered prior to the Board making a parole decision. The information in the file will possibly include victim impact statements and victim correspondence informing the Board about crime, the victim or victims and possibly the victim's feelings about parole for the offender.

Because the board members believe the crime victim has a role in the parole decision making process, since 2006, the members have been meeting in person with crime victims. The meetings are part of "Victim Visitors' Days" facilitated by the Georgia Office of Victim Services about twice a year. The Georgia Office of Victim Services is a division of the State Board of Pardons and Paroles and represents registered crime victims.

At these events, all five board members routinely attend and individually meet to hear firsthand from a crime victim. These individual meetings include the clemency staff of the Parole Board and personnel from the Georgia Office of Victim Services. Hundreds of crime victims attend resulting in meetings being conducted throughout the day. Most meetings may last more than a half hour and many up to an hour or longer. The Board does not cut them short. All information from these meetings is then included in the case file regarding the parole eligible offender and is available to the board members at the next parole consideration.

These events are held across Georgia and are not confined to Atlanta where the Board is located. The members want to be as accessible as possible to victims. The Parole Board and victim services have relocated to more than 20 communities in Georgia holding more than 30 of these events in the past fourteen years. From Savannah to Columbus to Augusta to Dalton, more than 4,000 victims and family members of victims (also considered victims) have met in person with the Parole Board. In exit surveys, routinely, nearly 100% of crime victims have graded their Victim Visitors' Day experience as above average or excellent.

The Board is committed to ensuring the crime victim is informed. As Chairman Terry Barnard has stated, "Any crime victim wishing to meet with the Parole Board will have that opportunity."



Photo Left: Victim Services Director Shalandra Robertson receives national recognition.

Parole Board Member Jacqueline Bunn, Georgia Office of Victim Services Director Shalandra Robertson and Parole Board Chairman Terry Barnard

While the Board makes every effort to locate victims who are not registered with the state, crime victims are encouraged to register at the time of sentencing through the local district attorney's office or by contacting the Georgia Office of Victim Services. Registration ensures notification regarding the parole status of the offender, pending decisions and release information and most importantly ensures the victim's information is considered by the Board prior to a parole decision. The Board and the Georgia Office of Victim Services are now in the planning stages for the next Victim Visitors' Day in Athens in April.

Contact the Georgia Office of Victim Services at 404-651- 6668 or 1-800-593-9474 to learn more about services and registration. You may reach the State Board of Pardons and Paroles at 404-657-9450.

About the author: Steve Hayes is the director of communications for the State Board of Pardons and Paroles. The office is responsible for internal and external communications and distribution of public information. You may contact him at steve.hayes@pap.ga.gov.



Photo above: Chairman Terry Barnard meeting with a crime victim at a Victim Visitors' Day

Austell Police Chief Starrett Appointed to Georgia Medical Cannabis Commission

On Thursday, November 21, Austell Police Chief Bob Starrett, was sworn in by Governor Brian P. Kemp to serve on the Georgia Access to Medical Cannabis Commission as authorized by House Bill 324. The commission has seven members who serve four-year terms each. The Commission is administratively attached to the Georgia Secretary of State's Office. Speaker David Ralston, who appointed Chief Starrett noted the State "has acted deliberately to implement a well-regulated and tightly-controlled medical cannabis system that is safe and secure" and that Chief Starrett's expertise will be invaluable as the Commission moves forward.



CONGRATULATIONS

Congrats



2019 Fall Chief School Graduates

Pelham Police Sponsors S.T.Y.L.E. Program



When police agencies do not take responsibility for establishing how they wish to be perceived by the community, others will. The resulting product will likely not be accurate or how leaders want to be seen by the community.

Middle school students are very impressionable, the attitudes and opinions during this period of their lives can follow them into adulthood. “Successful Tips for Youth on Law Enforcement Encounters” (S.T.Y.L.E.) is designed to educate middle school youth of the many dangers officers encounter, explain why officers take specific actions, and how to act when they encounter police officers. Working with the U. S. Attorney’s Office in the Middle District of Georgia, Chief Nealie McCormick and the Pelham Police Department recently hosted the S.T.Y.L.E. program in the Pelham City Schools. The agency partnered with the Mitchell County Sheriff’s Office, Georgia State Patrol, Georgia Bureau of Investigation, Federal Bureau of Investigation, and the Department of Juvenile Justice to present the program.

Lasting half the school day, the program began with an overview of the day’s activities and basic legal overview. Videos of actual police shootings were shown and Leah McEwen from the U. S. Attorney’s office, explained step by step what was happening and why officers took specific actions.

Afterwards, students broke into smaller groups and rotated through four different scenarios including a domestic call, disturbance, traffic stop and interaction with a person in a public area. Chief McCormick said, “it was a like a mini police academy.” He felt having the different agencies involved gave the students a broader perspective. In addition, to teaching what and why officers use specific techniques, the youth were also taught how to de-escalate a situation. As part of this, officers explained that if they felt they were not treated right, don’t get into an argument with an officer. Rather, steps to properly file a complaint afterwards were explained.



Other tips were provided of how they can help de-escalate a situation from happening if they encounter an officer. For example, during the traffic stop scenario, students played different roles including the officer approaching the vehicle, as well as being a driver and passenger in the stopped car. During this scenario, participants learned the need to turn on the dome light, turn off the car radio, roll down the driver's window and place their hands on the steering wheel or in open view. Because the youth began to see the situation from the officer's perspective, they better understood why they took certain precautions.

Later, the officers roasted hotdogs and joined the students for lunch. A short survey was conducted of the students before and after of the program. When asked if they felt most officers are good prior to participating in the program, 66% of the students surveyed said they thought most officers were good. After completion, the perception improved to 97%. Similarly, when asked if they thought most officers are friendly responses increased from 62% to 87%. The most significant improvement occurred in the students' response to the statement, "Cops just want to shoot minorities". Prior to attending the program, 40% of the students agreed with the statement. After completing the class only 5% of students reported they felt officers just want to shoot minorities.

Overall, on a scale of 1 to 5 with five being highest, participants scored the legal overview 4.77, luncheon with the officers 4.53, and overall quality of the program 4.68.

McCormick said this demonstrates the program's impact. "We need to change attitudes in our young people and this program is right down the alley of where we need to be." The Pelham Police Department is only the third agency in the United States to participate in the S.T.Y.L.E. program. The Chief added, "I would really like to see this program expand to other agencies." Agencies interested in implementing the S.T.Y.L.E. program in their community can contact Chief Nealie McCormick at (229) 294-6003.

A close-up photograph of a person's hand holding several pills and capsules. The pills are in various colors: white, pink, orange, and yellow. One capsule is yellow and white. The hand is positioned palm-up, and the background is a textured, grey surface.

First Responder Safety Precautions for Dealing with Unknown Opioids

First responders may encounter substances that contain unknown opioids, such as heroin, morphine, fentanyl and carfentanil. Carfentanil and other fentanyl-related compounds pose a serious threat to public safety, first responder, medical and laboratory personnel. These substances, which are 50 to 100 times more potent than heroin, come in several forms, including powder and liquid. They can be absorbed through the skin or through accidental inhalation of airborne powder and can quickly result in life-threatening respiratory depression. Never handle fentanyl or its analogues without the appropriate personal protective equipment (PPE).

Precautions for All First Responders

- ◆ Avoid handling of any substances or paraphernalia if possible
- ◆ Assume all unknown powdered drugs may contain fentanyl and/or its analogs
- ◆ Minimize exposure opportunities by covering bare skin
- ◆ Immediately use soap and water to thoroughly clean contaminated skin
- ◆ Do not use hand sanitizers or bleach solution to clean contaminated skin
- ◆ Notify everyone in proximity that a dangerous drug may be present
- ◆ Do not taste, touch, or sniff suspected drugs of any kind
- ◆ If alone, notify dispatch to ensure your safety is monitored
- ◆ Ensure naloxone is immediately available for use when there are potential exposures
- ◆ Perform risk assessments on every scene to determine exposure risks



Opioid Exposure Risk Assessment

Situation	Powder Presence	Threat Level	PPE Recommended*
Carfentanil or other fentanyl-related compounds potentially or confirmed present at scene or with patient	No Visible Powder Present	Low Risk	Disposable nitrile gloves ¹
	Small Amount Visible Powder Present	Moderate Risk	Disposable nitrile gloves ¹ Safety goggles or glasses for eye protection Disposable filtering facepiece respirator (“mask”) rated to P100 ² Wrist/arm protection ³
	Liquid Fentanyl or Large Amount Visible Powder Present	High Risk	Disposable nitrile gloves ¹ (double or use thicker gloves) Safety goggles or glasses for eye protection Half or full-facepiece APR with P100 filters ⁴ Particulate hazards protective ensemble (garments, gloves, and footwear) certified to NFPA 1999 Single or Multi-Use or NFPA 1994 Class 4 Ensemble

* The threat level initially selected can change and PPE should be adjusted accordingly.

1. Nitrile gloves should be a minimum 5 mil thickness and powder-free. Consider double gloving as an additional precaution if appropriate. Replace gloves immediately if torn or after 30-60 minutes of use. Dark gloves may allow better visualization of any drug powder residue.
2. If P100 filtering facepiece is not available, R100 or N100 should be utilized.
3. Wrist/arm protection may include: on-duty uniform with sleeves, sleeve covers, gowns, or coveralls.
4. Air-purifying respirator (APR); must be medically cleared, trained, and fit-tested for respirator use.

GBI Opens Drug Enforcement Office in Albany

On October 1, 2019, the Georgia Bureau of Investigation officially opened the Southwestern Regional Drug Enforcement Office (RDEO) in Albany, Georgia. Since the early 1980's, the GBI has had a significant drug enforcement presence in Southwest Georgia. In those early days, the GBI traditionally worked large scale organizations involving air smuggling operations. In the late 80's and early 90's, the GBI's mission shifted and more emphasis was placed on street-level drug sales and field investigations.

After the flood of 1994 in Albany, the RDEO transitioned to a regional investigative office which focused on crimes against persons for local agencies. It remained a regional office until it was moved to Sylvester, Georgia in 1999. While GBI agents maintained a good relationship with our local partners in Albany, Dougherty County, not having a centralized drug enforcement office hindered operations.

In August of 2018, Albany Chief of Police Mike Persley and Special Agent in Charge Joe Chesnut began discussions about the GBI RDEO concept. Chief Persley indicated that there may be some interest among the other law enforcement executives in the area to bring an office back to Albany.

Over the next six months, the City of Albany and Dougherty County leaders met to discuss the possibility of establishing a new office. After much consideration, all parties agreed to create the Southwestern RDEO. This office is a combination of state and local resources utilized to combat drug and gang violations. It is the fourth RDEO overseen by the GBI in the state of Georgia.

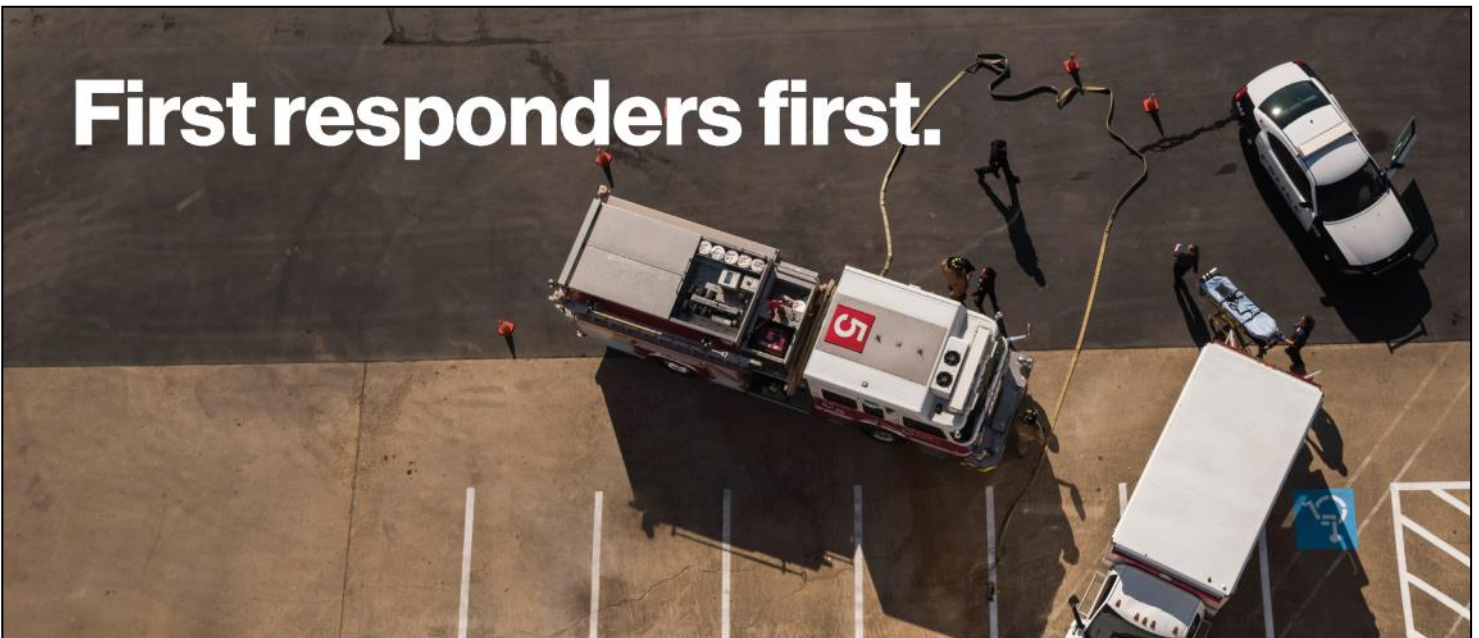
The Southwestern RDEO program covers 42 Georgia counties, including the entire southwest and south-central Georgia area. The unit is designed to address drug enforcement within these 42 counties by closing the gap between local law enforcement efforts and federal enforcement efforts.

The Southwestern RDEO was designed to directly impact the drug flow and gang activity within the 42 counties of operation by attacking drug distributors that do not generally warrant federal investigative efforts but are outside of the scope or capabilities of local law enforcement efforts. The mission is to address trafficking level violators and violent gang members that have a direct impact on single jurisdictions or within multiple counties. The office provides local jurisdictions with an investigative team of highly trained and well-equipped agents to address the drug traffickers that local agencies cannot address because of funding, training, equipment, or jurisdictional issues.

Drug enforcement within Georgia has traditionally been addressed successfully at the local level because most drug violators were not mobile. They served a specific area within a specific jurisdiction thus making them accessible to local law enforcement efforts. The Southwestern RDEO has the technical expertise, equipment, and training to conduct wiretap investigations and long-term surveillances, both of which are manpower intensive. This ability is an absolute requirement to successfully investigate regional drug traffickers.



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1018-351377

Teaching Defensive Tactics in the 21st Century

How the Marietta, Ga. Police Department made Brazilian Jiu Jitsu Mandatory

Authored By:
Major Jake King and Sergeant Clayton Culpepper

Police officers' conduct today is under greater scrutiny than ever. This is especially true when officers must respond to a suspect's aggressive behavior when making an arrest. Generally, the public does not understand the complexities associated with these rapidly evolving situations. The problem is compounded when the narrative accompanying these video recordings is less than objective. Punches and baton strikes may be legal and justified by a use of force policy, but the public often view these actions as excessive. Because of this, it is imperative police leaders regularly evaluate their officers' use of force policy and training.

The Marietta Police Department has been working on how to better respond to aggressive individuals for more than 10 years. As part of this initiative, new recruits are required to complete de-escalation training and Crisis Intervention Training (CIT). They also began teaching officers Brazilian Jiu Jitsu (BJJ) control techniques. Jiu Jitsu, which can be translated as the 'gentle art', has gained popularity across the United States in the last 30 years as well as acceptance by law enforcement agencies as an effective, non-deadly, use of force technique. BJJ is a grappling technique based on simple movements and body positioning that enables an officer to effectively control and restrain a suspect in a variety of positions. Since BJJ does not require extensive training to perform complex movements, it can be easily taught to anyone, regardless of the officer's size, strength or fitness level. Essentially, officers are trained in the gentle art of controlling persons who are resisting with the added benefit of reduced risk of injury to the officers or the suspect.

After BJJ was introduced to the Marietta police department, instructors proposed to make the training mandatory for new recruits. As with most agencies, the department's defensive tactics instructors have multiple responsibilities that prevent them from taking on additional assignments. In order to implement the proposed mandatory training, instructors recognized the proposal had to be reasonable, sustainable, and affordable. If any of the three factors were missing, the proposal would fail.

Offering more classes or having additional open mat sessions was not an acceptable alternative. By going outside the agency for instruction, officers could train with BJJ experts at varying hours, providing greater flexibility in the training



schedule without putting additional pressure on department instructors. After consulting with several facilities, the agency entered an agreement with a local gym to provide nine classes a week that included morning, afternoon, and evening sessions as well as on Saturday mornings. This schedule provided officers considerable flexibility to attend class.

To fund the project, the training had to be affordable. Currently, the department averages between four and ten recruits in the program at one time, so the training costs fluctuate monthly. Every gym has a “drop-in” or daily rate. As part of the negotiations, the department was able to reach an agreement with the gym that was within the allocated training budget. As a result, the department has been able to train its recruits in the best martial arts in the world for law enforcement for a few hundred dollars a month.

All recruits are required to complete 90 hours of training over a five month period at the BJJ gym. Prior to being released from cadet training, each recruit is required to demonstrate their ability to effectively employ their skills with in-house instructors as well as demonstrate their understanding of the department’s use of force policy.

While many departments may not have the same resources as the Marietta Police Department, there are a number of alternative approaches to successfully implement a similar program. For example, agencies may consider partnering with neighboring departments to implement the training and defray the costs. The training schedule can be modified to accommodate reduced funding. Also, if there are no BJJ gyms located near the community, departments may consider sending an instructor to a 40-hour Gracie Survival Techniques class.

(continued next page)

In the end, the benefits far outweigh the costs.

- ◆ Officers are better trained and more capable to defend themselves when assaulted.
- ◆ Officers are less likely to be accused of using excessive force
- ◆ Departments will not be faced with potential legal fees or negative publicity associated with excessive force claims.
- ◆ There is a reduced potential of officers or suspects being injured.

Together, these will ultimately result in lower increases in the agency's insurance premiums.

Officers will continue to respond to aggressive suspects who force them to use non-deadly and/or deadly force. Despite this, department leaders should never stop working to improve use of force methods and techniques to meet the evolving professional and legal standards as well as those of our changing society. Incorporating Brazilian Jiu Jitsu into department training programs is just such an advancement. For more information on the Marietta Police Department's training program, please contact:

Major Jake King
JHKing@marietta.ga.gov
(770) 794-5355

or

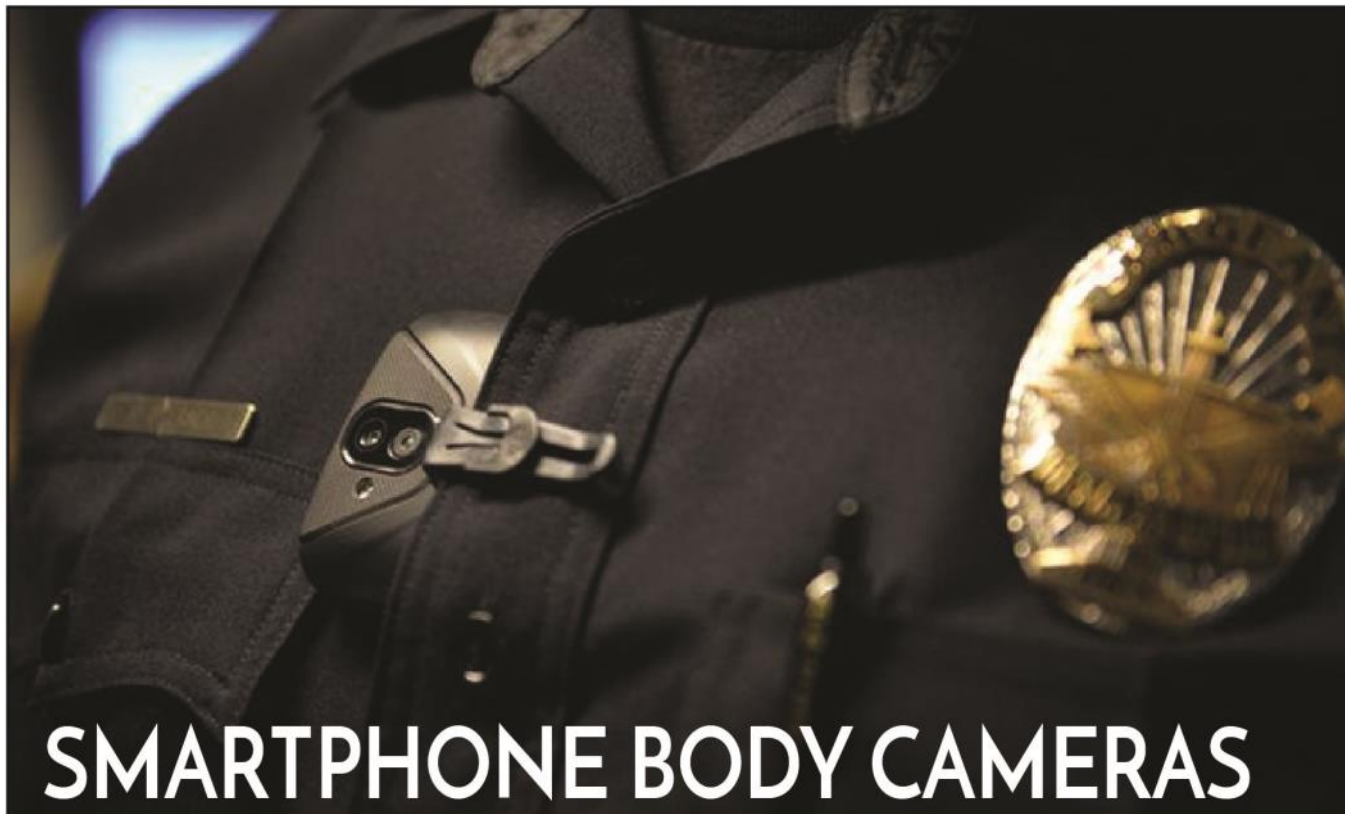
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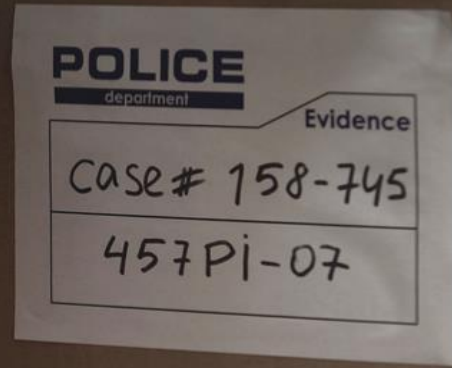
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IN HONOR OF
Frank V. Rotondo, Jr.
GACP Executive Director



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Brady, Giglio and You: How the Duty to Disclose Exculpatory Information Impacts Police Disciplinary Files



By: Scott Sergent

“The defense attorney wants your file.” I cannot imagine hearing anything more distressing. No matter what your “file” is, or what it contains, no law enforcement officer is comfortable with a defense attorney combing through his or her personnel records. But could that happen?

Brady v. Maryland

In 1963, in *Brady v. Maryland*, the U.S. Supreme Court expanded on its previous due process cases addressing exculpatory information to which a criminal defendant is entitled. The Brady court decided that a defendant’s due process rights were violated when a prosecutor intentionally withheld exculpatory and material evidence from the defendant. The Supreme Court wrote that withholding exculpatory facts or information was equivalent to “deliberate deception of court and jury.”

That’s pretty strong language from our nation’s highest court.

Brady involved two co-defendants, both charged with murder during a robbery. Prior to Brady’s trial, the co-defendant confessed to the actual homicide—information that was clearly helpful to Brady and his defense team. When Brady’s defense team asked for the co-defendant’s statements, the prosecutor turned over several statements, but intentionally withheld the confession. Brady was later convicted and sentenced to death before his attorney discovered the confession. This action, “the suppression by the prosecution of evidence favorable to an accused upon request,” the Court wrote, “violates due process where the evidence is material.” As a result of the purposely withheld confession, the Court ordered Brady’s sentence be vacated and ordered a new sentencing hearing. Now, more than 50 years later, Brady’s disclosure requirements are well accepted and strictly followed; however, some attorneys like to quibble about what exactly constitutes a “material” fact.

Giglio v. United States

More recently, in *Giglio v. United States*, the Supreme Court applied the Brady analysis to information that might impact the credibility of a prosecution witness. John Giglio was charged with a federal offense related to forging several money orders. In prosecuting Giglio, the U.S. Attorney’s Office relied heavily on the testimony of a co-conspirator. In fact, outside of the co-conspirator’s testimony, there was very little evidence linking Giglio to the crime.

Giglio’s case was prosecuted by two Assistant U.S. Attorneys (AUSAs). The first AUSA presented the case to the grand jury and the second took the case to trial. Unbeknownst to the second AUSA, the first AUSA offered Giglio’s co-conspirator immunity in exchange for his testimony against Giglio. When Giglio’s attorney asked about an immunity deal for the co-conspirator, the second AUSA denied any deal had been offered or made. Likewise, during trial, the co-conspirator denied being part of any deal.

After Giglio’s conviction, the co-conspirator’s immunity deal came to light and Giglio’s attorney appealed his conviction. When the case arrived at the Supreme Court, the justices applied their Brady logic and decided that the duty to disclose favorable information to the defendant (set forth in Brady) also applied

to material information that might impact the reliability of a state's witness, if the defendant asks for this information. An immunity deal, like the one offered to Giglio's co-conspirator, might affect the witness' credibility in the eyes of the jury, the Court reasoned. The failure of the second AUSA to disclose the immunity deal violated Giglio's due process rights, even though the second attorney knew nothing of the deal.

Duty to Disclose

"But wait, how does this impact my personnel file?" you're probably asking. Hopefully there is nothing in your disciplinary file that could potentially affect your credibility as a witness. However, in nearly every criminal case, and certainly every case that goes to trial, defense attorneys routinely request any and all exculpatory information from the prosecuting or district attorney. When a prosecutor receives that request, even minor disciplinary actions could become accessible to a defense attorney. In fact, depending on the content of your disciplinary file, the prosecutor may have a constitutional and ethical duty to disclose it all.

The Supreme Court did not render much guidance about what a prosecutor must provide to a defense attorney in order to satisfy their Brady and Giglio obligations. We know material and exculpatory evidence must be provided to the defense, and that "evidence affecting credibility" of a witness falls within these bounds. This guidance leaves little doubt that disciplinary action touching on an officer's ethics, integrity or honesty must be disclosed. Criminal convictions for similar criminal offenses, such as fraud or those involving moral turpitude, must also be disclosed.

But what else? There is no bright line to define when evidence affects an officer's credibility; it is unclear where this requirement starts and stops. If you're the only witness to an offense, or the state's case relies heavily on your testimony, the Supreme Court has indicated the scope of required disclosure could be broader. As a recent and practical example, the Circuit Attorney for the City of St. Louis has developed a list of officers whose cases will not be filed unless independent evidence exists to corroborate the officer's observations. These officers have something in their disciplinary file that, in the judgment of the Circuit Attorney, so severely affects their credibility that the officers cannot be relied on.

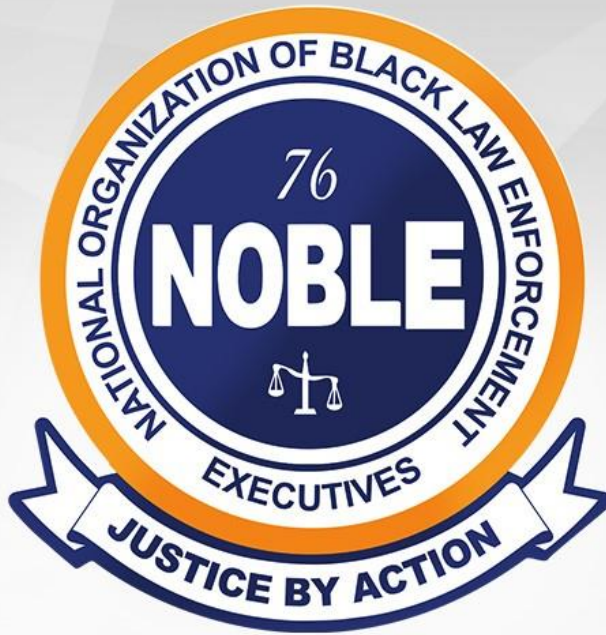
The best way to avoid this pitfall is to do your job ethically, legally and within policy. It's much easier that way and there is no temptation to be dishonest when you have nothing to hide. The very close second-best way to avoid the prying eyes of a defense attorney or being placed on the prosecutor's "no file" list is to tell the truth. All the time. Under all circumstances. Even if it hurts. Wreck a patrol vehicle? Say so (it happens). Use an unauthorized strike to subdue a restive suspect? Report it. See a co-worker use excessive force? Tell a supervisor.

Make sure your reports reflect the same dedication to the truth. Our job is to report the facts and take appropriate enforcement action. It is not our job to ensure the case is filed by only reporting the "good facts" that support our case or slanting the truth to support our actions. In fact, doing so will likely lead you to some extreme unpleasantness on the witness stand at the hands of the defense attorney, followed promptly by an internal affairs investigation, which could then be discovered by an attorney in a subsequent case—and the cycle repeats itself.

It goes without saying that law enforcement professionals should always be honest, tell the truth, and report the same. But remember what you say or do in one incident, and how you write your reports, could impact your disciplinary file, which could affect your credibility on the stand or potentially exclude your cases from prosecution.

Scott Sergent worked for 11 years as a municipal law enforcement officer for a mid-sized city in Missouri, where he held a variety of positions including Major Crash Investigator, bicycle officer and Firearms Training Systems Instructor.

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On behalf of the National Organization of Black Law Enforcement Executives (NOBLE) National President Cerelyn J. Davis, our Executive Board, local chapters, and members, you are invited to attend our annual William R. Bracey Winter CEO Symposium. The symposium is scheduled for March 26-28, 2020, at the Hyatt Regency Atlanta, 265 Peachtree Street NE, Atlanta, GA (Room Rate \$195).

The upcoming CEO Symposium is an international gathering of over 300 law enforcement CEOs that represent cities and communities across the nation and world. The symposium will showcase leading Law Enforcement Executives at the federal, state, and local levels. The symposium focuses on Executive Leadership Training.

Please remember to REGISTER EARLY to ensure that you do not miss this outstanding training event. Should you have any questions, please feel free to contact myself at dcrawford@noblenatl.org or Keenon James, Deputy Director, at (703) 658-1529, kjames@noblenatl.org.

Sincerely,

Dwayne A. Crawford
Executive Director
NOBLE



GACP Peer Support Committee

On November 26, 2019, twenty-six GACP members met at the Georgia Public Safety Training Center for the first official Chief's Peer Support training. This training, organized by the GACP Peer Support Committee, introduced their plans to establish a team of GACP Chiefs and Command Staff throughout the state who can offer support to law enforcement executives during times of crisis.

Director of the recently established Office of Public Safety Support, GSP Captain Andy Carrier, and Assistant Director, GBI ASAC Wes Horne, provided the training and gave an overview of the services offered through the program. One of the organization's primary goals is to certify public safety officers throughout the state as legally recognized peer counselors. The GACP Chief's Peer Support will work in conjunction with the Office of Public Safety Support to ensure the team of GACP Chief Peer Support Group members have the appropriate credentials and training to provide quality services for other law enforcement executives.

The GACP Peer Support Committee welcomes any member who is interested in joining the group. A meeting will be held during the 2020 Winter Conference on Monday, February 10, 2020 from 9:30 am – 10:45 am. Please refer to the GACP mobile conference app for further details.



Meetings and *Happenings*



President Wesley Walker and GACP SACOP Representative Brookhaven Police Chief Gary Yandura attend State Association of Chiefs of Police (SACOP) meeting at the most recent IACP Conference in Chicago.

Chief Mark Scott Presents to GMA Workforce Advisory Council

On Tuesday, September 9, 2019, Americus Police and 4th Vice President Mark Scott provided the Georgia Municipal Association's Municipal Workforce Development Advisory Council an update on the GACP's study of Police Turnover and Compensation Study. Chief Scott reported they have been working with two professors from the University of Georgia who have completed the literature review as well as collected data from POST council regarding demographics on officers. They expect the study to be published by the end of 2020.





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September 5, 2019

TO: Chief Joseph W. Wirthman, Immediate Past President, GACP

RE: GACP Special Service Award 2019

FROM: Dr. Robert R. Friedmann, GILEE Founding Director

A handwritten signature in blue ink, appearing to read "R. Friedmann".

I want to express my sincere appreciation and thanks to you and to the Georgia Association of Chiefs of Police for recognizing me with the GACP 2019 Special Service Award. I am truly humbled and honored to receive it.

GILEE was established on May 4th, 1992 when leaders of the Georgia Association of Chiefs of Police (Curtis McClung, Bobby Moody, and Jim Wetherington) gave the association's "go ahead" to this initiative. Since then we have had hundreds of Georgia chiefs and command staff participate, and get promoted to leadership positions in their agencies, other agencies, or respective professional associations. Often the entire leadership of GACP has been comprised of GILEE graduates and two chiefs have served as IACP presidents.

We have a very long track record of productive reciprocal support and cooperation and it is a privilege to serve on or head GACP committees that explored the crime lab, pursuit policy, and the use of Electronic Control Weapons (Taser). This is the fourth such award from GACP in our 27 years of existence and such a powerful recognition means a great deal to me and to GILEE.

I was unable to attend the GACP conference in Savannah this past July and I appreciate that you made a special gesture to deliver the award at the monthly Metropol meeting yesterday. Seeing how many in the audience were GILEE graduates has certainly been an added gratification.

Perhaps I should have said all this at the time when you handed me the award but admittedly I was not prepared for making any remarks and all I was able to say was "thank you." I hope you will accept this in the spirit it was meant.

Again, thank you for this professional recognition. I wish you and GACP all the best in the years to come and pledge that GILEE and I will continue the tradition of service to enhance leadership development and a source for cutting edge training.



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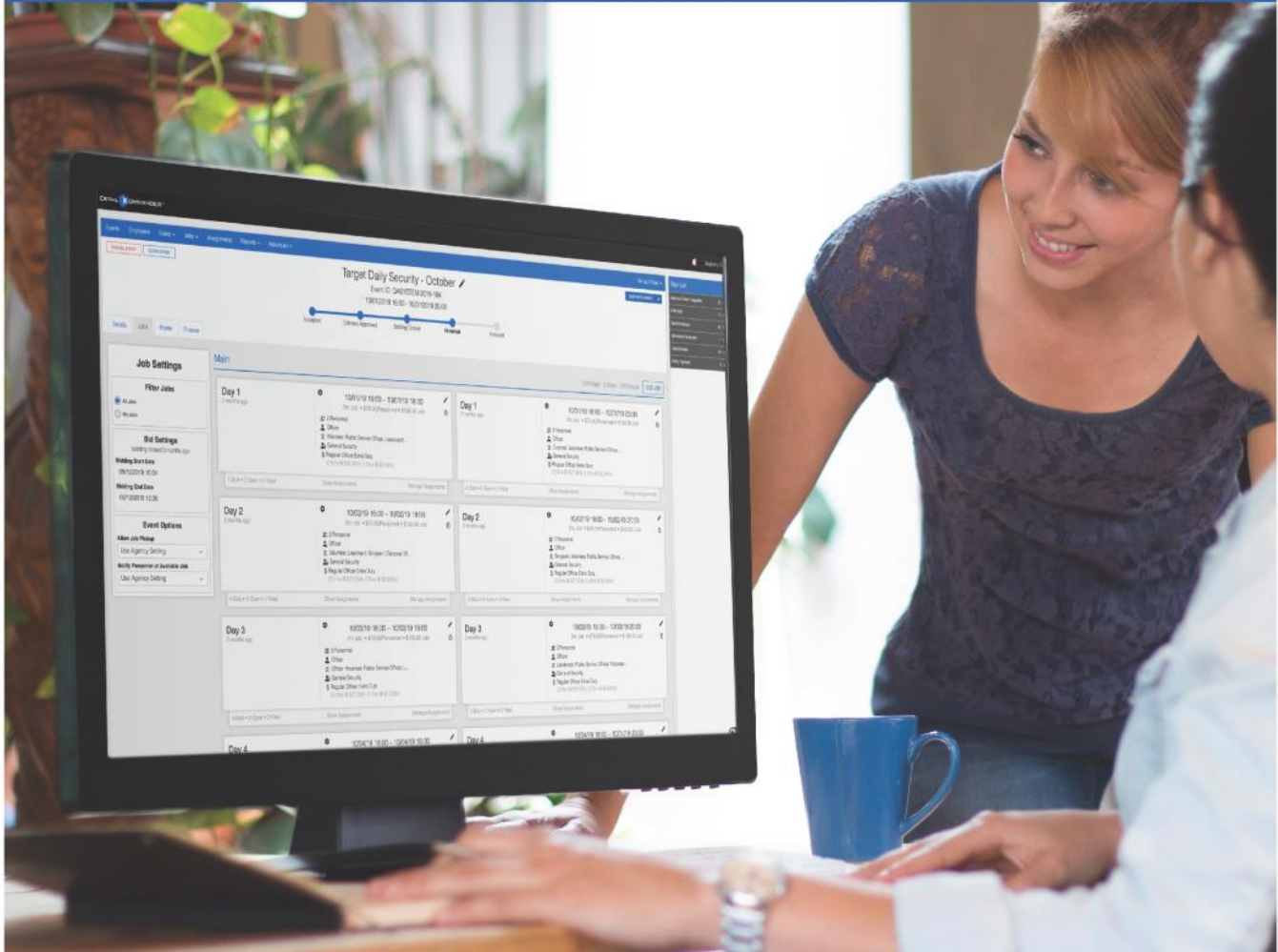
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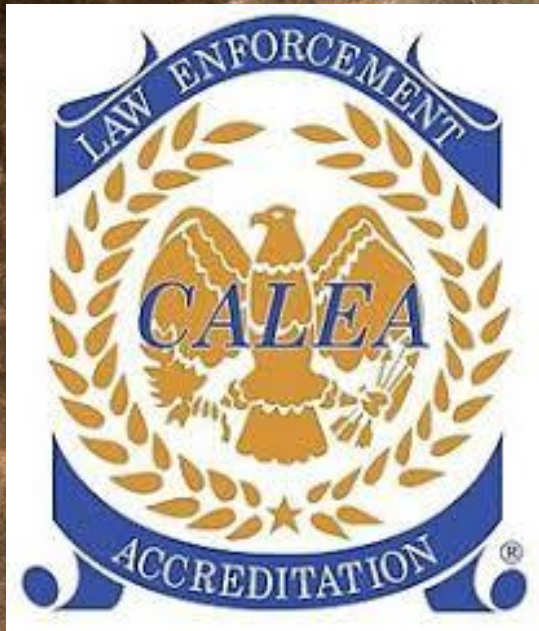


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Americus Police Receive CALEA Accreditation

The Americus Police Department recently was awarded national accreditation by the Commission on Accreditation for Law Enforcement Agencies (CALEA). This is a distinction that is held by less than 4 percent of law enforcement agencies in Georgia. During the 118th CALEA Conference in Covington, Ky., Police Chief Mark Scott and Accreditation Manager Detective Sergeant Eric English received the official certificate.

There are 46 law enforcement agencies in Georgia that have achieved CALEA Law Enforcement Accreditation. (There are 1,181 total law enforcement agencies in the state.) More than 1,100 agencies internationally are accredited by CALEA programs. CALEA was created in 1979, and the organization's accreditation program seals are awarded to public safety agencies that have demonstrated compliance with its standards.

The Commission was created through the combined efforts of four major law enforcement organizations: the International Association of Chiefs of Police, National Organization of Black Law Enforcement Executives, National Sheriffs' Association, and the Police Executive Research Forum.

"This award of accreditation does not come easy," CALEA President Richard Myers, chief of police for the University of Alabama at Birmingham Police Department, said. "Agencies must go through a rigorous review and evaluation of their organization and then implement the necessary policy and procedure changes. The process does not stop at that point. By voluntarily choosing to seek CALEA accreditation, the agency commits to an ongoing review of adherence to CALEA's standards. Each community with CALEA-accredited agencies should feel confident that their public safety organization is going above and beyond and operating under the highest standards in public safety."

Scott said the accreditation is a sign that the Americus force adheres to strict policy and best practices.

"CALEA accreditation validates to the community that our department is following national standards and best practices," the APD chief said. "It supports our commitment to the community in providing the highest quality police services."

English, who led the CALEA certification initiative, said the Americus



Police Department went through a two-year process to receive accreditation. The work included self-assessment and a CALEA assessment that included a site visit by organization representatives. The organization's commission then had to vote to approve the accreditation.

"This team did an outstanding job making sure all of our standards and procedures are in compliance," English said.

Now that the department has received accreditation, over the next four years CALEA will review compliance with its standards. In late 2023, it will determine whether the department should be re-accredited. Each year until 2023, CALEA will evaluate 25% of its 484 standards to make sure the department is in compliance.

"I am proud of the work of our Police Department being recognized and awarded the CALEA accreditation," Americus Mayor Barry Blount said. "This speaks volumes to the dedication, professionalism, and hard work of our law enforcement team. The citizens of Americus truly value our police force and the respected public service that they provide."

The purpose of the Commission on Accreditation for Law Enforcement Agencies Inc. is to improve the delivery of public safety services, primarily by: maintaining a body of standards developed by public safety practitioners covering a wide range of up-to-date public safety initiatives; establishing and administering an accreditation process, and recognizing professional excellence. Specifically, CALEA's goals are to strengthen crime prevention and control capabilities, formalize essential management procedures, establish fair and nondiscriminatory personnel practices, improve service delivery, solidify interagency cooperation and coordination, and increase community and staff confidence in the agency.

The CALEA Accreditation Process is a proven modern management model. Once implemented, it presents the chief executive officer on a continuing basis with a blueprint that promotes the efficient use of resources and improves service delivery — regardless of the size, geographic location or functional responsibilities of the agency.

This accreditation program provides public safety agencies an opportunity to voluntarily demonstrate that they meet an established set of professional standards based on industry best practices and approved by an all-volunteer board of commissioners.

Chiefs' Counsel's Corner

THE BILLY GRAHAM RULE



MICHAEL A. CALDWELL, JD
GENERAL COUNSEL, GACP

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This quarter's legal question is thorny: Can a police officer's sincerely-held religious belief – or a wife's personal jealousy – justify a male employee's refusal to work with women coworkers or other professional contacts? A North Carolina federal court will be answering that question soon.

The case has drawn significant attention in the press. It represents the first legal challenge to the so-called "Billy Graham Rule," which holds that married men and women should avoid one-on-one situations with members of the opposite sex (i.e., where other persons of either gender are not also present). A reported that Vice President Pence maintains just such a rule and never meets alone with females in his office with the door closed.

Given the current state of employment law with its focus on diversity and inclusiveness on one hand, and the "me-too" movement on the other, how should a Chief respond if an employee asked not to work with a member of the opposite sex?

The Case in North Carolina

Manuel Torres was a Deputy Sheriff in Lee County, North Carolina. He claims that his superiors ordered him to train a female deputy, which would have required him to spend extended periods alone with her. Torres, who is (according to The Charlotte Observer) a strong southern Baptist who also serves as a deacon in his church, objected to the assignment claiming he was entitled to a religious accommodation based on his "strong and sincere religious belief that the Holy Bible prohibits him, as a married man, from being alone for extended periods with a female who is not his wife." According to the complaint, the county denied Torres' request and ultimately terminated his employment because of his refusal to follow their request. He claims

his sergeant retaliated by "failing to respond to a call for backup in an unsafe area where he had to tase two fighting suspects, and a gun was present on the scene." He claims the Chief Deputy "expressed his anger at the repeated requests for religious accommodation, and that a week later he was fired without explanation. He sued his Sheriff and two agencies to which he allegedly applied for a job following his termination, under Title VII alleging religious discrimination and retaliation. He is seeking over \$315,000 in damages.

Lee County's Sheriff, Tracy Carter, contends that she terminated Torres for having a "toxic attitude," displaying insubordination, and constantly complaining, not because he refused to work with a female deputy. Carter notes that Torres always knew that his job required him to work alone with women and that Torres had previously trained women without complaint.

The county contends that Torres's wife became jealous when he was assigned to train the female deputy and that the wife demanded that he not allow the female to ride with him in his patrol car. The county says that Torres told other officers he and his wife had been arguing daily about him riding with Deputy Burton. The county claims it did its best to accommodate Torres's request to not train women alone but, due to its limited resources, ultimately could not do so.

The "Billy Graham Rule"

The so-called "Billy Graham Rule" reportedly is firmly rooted in the Evangelical Christian movement. It requires married men and women to abstain from one-on-one situations with members of the opposite sex. When strictly followed, the rule transcends the workplace, demanding separation in every aspect of life. Billy Graham himself followed this rule refusing to dine alone with women and hiring private security to scope out his hotel rooms ahead of time to ensure no woman was hiding and attempting to malign his reputation.

Many more employers are contending with similar issues. A 2019 Lean-In study reported that approximately 60% of male managers feel uncomfortable engaging in everyday job-related activities with women. This represents a 14% increase over the level reported in 2018. Senior male executives are 12 times more likely to hesitate to meet with a woman than a man. This empirical evidence reinforces what many women sense in their everyday interactions with male colleagues.

Similar Situations That Have Attracted National Attention

In his case, Torres contends that his employer did not protect his religious convictions. He argues that Title VII prohibits an employer from discriminating against or depriving an employee of opportunities because of religion and also requires employers to accommodate sincerely held religious beliefs. The county maintains that it terminated Torres because of his toxic work behavior, it also argues that it could not have accommodated his religious convictions without undue hardship, thus removing it from the ambit of Title VII protections.

The case presents a broader question: What are the legal ramifications where an employee's religious convictions collide with federal antidiscrimination laws? While the answer seems obvious—treat men and women equally—little case law exists on this point.

In a somewhat analogous case in Iowa, the Iowa Supreme Court found there was no unlawful sex discrimination after Dentist James Knight fired Melissa Nelson from his dental office. Knight's wife was concerned about what she suspected was a budding sexual relationship between her husband and his dental assistant. She demanded he fire Nelson. Dr. Knight admitted that Nelson was the best assistant he ever had and that he feared he would have an affair with her if he did not terminate her. Legally, Knight grounded his decision on his religious conviction.

The Iowa Supreme Court trod a thin line when it found that Knight's decision was "driven entirely by individual feelings and emotions regarding a specific person" and that it was not the product of discrimination based on gender or a proxy for gender discrimination. A concurring opinion further clarified that Nelson had failed to show that her status as a woman—as opposed to her personal relationship with Knight—was the motivating reason for her termination. Thus, the Knight v. Nelson opinion justified an employer's decision to terminate an at-will employee due to mere personal jealousies if the can show that individualized feelings about the individual as contrasted with their gender determined and motivated the decision.

In another incident that never was litigated, the city of Austin, Texas formally reprimanded William Manno, the Austin Center for Events program manager, in 2017 because he "purposely avoided meetings and private interactions with female co-workers because of issues with his marriage." He said he stopped having lunches with women because "it was not appropriate for a married man to have lunch with a single lady." But the investigator also concluded that Manno differentiated his mentoring of subordinate employees based upon gender and marital status and that he decided which meetings he and a subordinate would attend based on marital status. Thus despite Manno's personal religious beliefs, the investigation concluded he violated the city code of conduct by treating employees differently based on their gender.

The outcomes for Mr. Knight and Mr. Manno pose conflicting challenges for employers who must respond to employees wishing to self-segregate from members of the opposite sex. To reconcile the challenges a somewhat awkward and difficult rule may emerge: Decisions to accommodate a person's religious beliefs by not requiring an employee to work alone with an employee of the opposite sex might not violate Title VII when based on personal relationships and emotions, even if the emotions or religious beliefs exist because of gender. However, decisions to accommodate requests based on bright-line categories (i.e., all women) likely would violate Title VII.

The Take-Aways

We don't know how the district court will balance the anti-discrimination laws and the religious accommodation claims in the Torres case. Torres requested to not be required to work with any woman, in any situation, ever. This is like Manno's request. Unlike Knight, Torres did not appear to confine his request to one individual woman based upon his or his wife's personal feelings. The county is likely to argue that accommodating Torres's request would have caused it to violate Title VII and exposed them to liability—an undue hardship that overrides his right to religious accommodation.

So, what should Police Chiefs do? Tell your employees what they should do, instead of just what they shouldn't do. Instead of merely training employees on how to avoid sexual harassment—which is undoubtedly critical—emphasize the need for and praise the benefits of diversity and cross-gender collaboration. Also consider whether your Department has a published policy dealing with employee interactions, and in particular a policy on fraternization between superiors and subordinates. Determine whether your policies address individual accommodations for personal or religious beliefs. Consider how your agencies foster cross-gender mentorships and relationships so that women and men receive equal access to development and training opportunities.

Above all, in their words and their behaviors Chiefs must consistently and emphatically affirm the core notion that people of different genders must treat each other with professionalism and respect in all situations, not just in the workplace, and that all employees bring dignity and value to the organization and the accomplishment of its mission.

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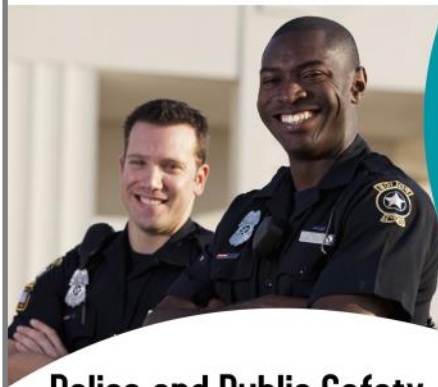
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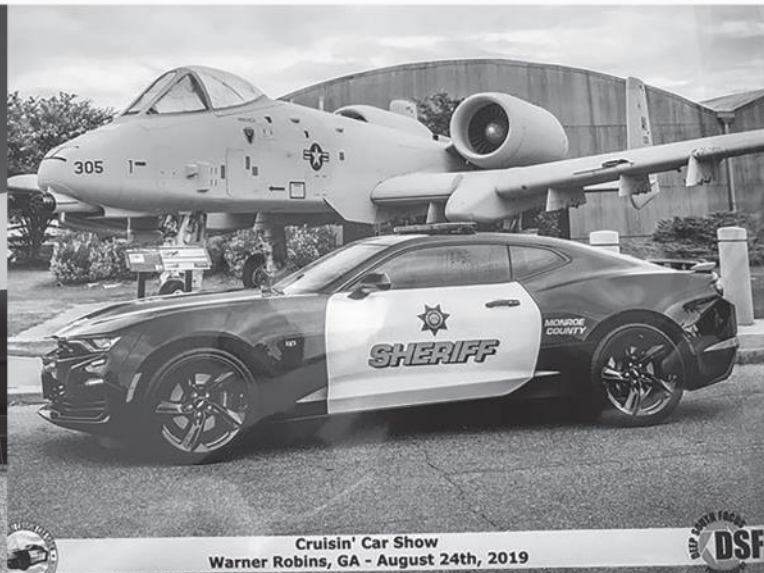
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