

The SPIAA Quarterly is the newsletter of the Southern Police Institute Alumni Association

APRIL 2021
NEWSLETTER

The NEW **SPIAA**

QUARTERLY



North Entrance to SPI, SPI Facebook

The Alumni Association of the Southern Police Institute publishes the newsletter quarterly. To have an article published, contact the Editors, Patrick Swift, PSwift@covingtonky.gov, Ron Cook, rcook843@aol.com, or, Terri Wilfong, twilfong21@gmail.com.



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MESSAGE FROM SPIAA PRESIDENT LT. ALAN BLEDSOE

SPIAA 2021 training conference is cancelled.

It was with a heavy heart that we cancelled the training. As far as I know, I am the only SPIAA President who has not hosted an annual training conference. While I regret this sad fact, we did not make the decision lightly. We debated over travel plans, safety of attendees, and South Carolina’s COVID policies. We are hopeful that with vaccinations against the virus becoming more widely available, the future will be more favorable for an on-site conference in 2022. In the meantime, online meetings through platforms like Zoom, Microsoft Teams and similar, are now the norm.

Keep your information coming to us so we can share with the membership through the Newsletter. We are always interested in your news and suggestions. Stay Safe!

MESSAGE FROM THE EDITORS SPIAA QUARTERLY

The north entrance to the University of Louisville is fondly familiar to all of us. While COVID caused drastic changes to delivery of classes, the current class, the 145th, is flourishing thanks to the outstanding teachers and faculty of the SPI.

Speaking of COVID, you will be interested to know that 264 federal, state, military, tribal and local law enforcement officers died in the line-of-duty in 2020. **Of these, Covid-19 related fatalities were the single highest cause of officer line-of-duty deaths in 2020.** Read the whole article on page 8.

Editor Wilfong is introducing 2 articles written by Attorney Eric Daigle, a Use of Force expert across the country. Attorney Daigle has involvement with numerous LE organizations and is well known in the police world. A third article, Analyze Your Training Curriculum, is written by Lt. Kevin Dillon, another well-known nation-wide trainer. These articles may be beneficial for current LE officers and can be found at page 10.

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MEMBER SPOTLIGHT



KIM KLARE, 2nd VICE PRESIDENT, SPIAA

Congratulations are in order. Erlanger Police Promote Kim Klare as Department's First Female Lieutenant (Feb 10, 2021) The first female officer ever hired by the Erlanger Police Department is now the first female Lieutenant in the department's history. Lt. Kim Klare, an Erlanger native who was the city's first woman patrol officer when she was hired in 2001, has been promoted from Sergeant to Lieutenant, said Erlanger Police Chief Kyle Rader.

"Kim Klare has been a hardworking, dedicated officer to the city of Erlanger for almost 20 years," Chief Rader said. "As a graduate of the Southern Police Institute coupled with her experience and attention to detail made for a perfect transition to the Administrative Lieutenant position." In addition to serving as a patrol officer, Lt. Klare spent 13 years as a hostage negotiator with the department's SWAT team and also served as a detective, the department coordinator for the Crisis Intervention Team (CIT), and a field training officer.

"I am truly thankful for this opportunity and all of the opportunities that Erlanger Police Department and the City of Erlanger have provided me," Lt. Klare said. "The City of Erlanger and the Police Department is my second family. I grew up in Erlanger, I lived in the city and I know what a wonderful community this is to serve."

Lt. Klare graduated from Erlanger's Lloyd High School in 1997 and studied Criminal Justice at Northern Kentucky University. While at NKU, she completed an internship with the Erlanger Police Department that included 190 hours of experience and ride time with officers. It was during her internship that Lt. Klare decided she wanted to pursue a career in law enforcement. "When I was young, I wanted to take bad guys off of the street, and after I completed my internship, it just clicked," she said. "As I grew in law enforcement, I saw an opportunity to make a difference by listening, reassuring people in crisis, and helping those who were struggling. Law enforcement has been rewarding. I have made lifelong friendships. I knew policing for me had to be in the City of Erlanger."

In addition to being awarded the Cynthia Jean and George Nichols III National Scholarship to attend the Southern Police Institute Administrative Officer's Course Class 138 in 2017, Lt. Klare is currently the 2nd Vice President on the National Executive Board for the Southern Police Institute Alumni Association.

In 2023, Lt. Klare will serve as the President of the National Executive Board and will host the Southern Police Institute National Conference in Northern Kentucky. Prior to joining Erlanger, Lt. Klare worked for the United States Customs Service at the Cincinnati/Northern Kentucky International Airport. She has three children and has been married to her husband, Doug, for 13 years.



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SPIAA HONORING AN INDOMINABLE HUSBAND AND WIFE DUO

Major Frederick M “Rick” Lemmond

Born January 8, 1935 in Greensboro, Guilford County, North Carolina. Died at age 59 on August 15, 1994 in Laurinburg, Scotland County. Frederick M. “Rick” Lemmond, 59, of 1405 West Church Street died suddenly Saturday, August 13, 1994, at his home. He is survived by wife, Edna Odom Lemmond; sons, F.M. Lemmond, Jr. of Henderson, Paul Lemmond of Laurinburg, and Michael Lemmond of Greensboro; daughter, Nancy Maultsby of Troy; mother, Rosemary McCoy Lemmond of Laurinburg; sister, Rosemary Ritzman; and seven grandchildren. He was formerly a member of the Laurinburg Police Department, and later worked with Morgan Oil Co. and Munn's Oil Co. From 1959 until his retirement in 1993, he was a member of the N.C. Highway Patrol, having served all ranks from Patrolman to Major. He began with the Highway Patrol in Granville and Cumberland Counties and from 1978 until 1985 he was the Lieutenant of Troop D in Greensboro. He retired as Director of the Communication/Logistics Division in Raleigh with the rank of Major in 1993.

Rick was a past President of the N.C. Police Executive Officers Association, The N.C. Southern Police Institute Alumni Association, and was chairman of the N.C. Law Enforcement Emergency Committee. He was also a member of the Laurinburg Masonic Lodge, the Sudan Shrine, and the First United Methodist Church. Returning to Laurinburg in 1993, he received the Democratic nomination to the Scotland County Board of Commissioners and was unopposed in the upcoming November election.

Edna Odom Lemmond

Born June 14, 1934 in Bennettsville, Marlboro County, South Carolina. Died at age 79 on March 4, 2014 in Laurinburg, Scotland County, North Carolina, survived by her sons, Fred Lemmond (Melissa) of Henderson, Paul Lemmond (Terri) of Laurinburg, and Michael Lemmond (Wendy) of Greensboro; her daughter, Nancy Maultsby (Alex) of Zebulon; her sister, Carolyn Herndon of Bennettsville, SC; her sister-in-law, Rosemary Ritzman of Raleigh; 9 grandchildren and 10 great grandchildren. She was the widow of the late Frederick "Ricky" Lemmond. She served with Greenville TV and Appliance in Greenville, the Richmond Parks & Recreation, and with the Clerk of Superior Courts in Wake and Guilford County.



Edna was a founding member and past president and secretary of the NC State Highway Patrol Auxiliary, a past president and historian of the State Police Institute Alumni Auxiliary, and a volunteer for Hospice of Scotland County. She was a beloved President of the Southern Police Institute Auxiliary Association contributing to its mission and growth. She is remembered as a gracious lady, wife, mother and friend. Never met a stranger, never turned her back on a friend.

An active member of the First United Methodist Church, she was the Wednesday night supper cook and coordinator, a church office volunteer, and a member of the United Methodist Women, JOY Club, Cynthia Class, and the Sandhills Emmaus Community.



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JAMES ELMO ONEY

52nd AOC (1974)

October 04, 1940 - January 12, 2021

James Elmo Oney, age 80, of Louisville, Kentucky returned to his Heavenly Father on Tuesday, January 12, 2021. James was born in Garrett, Kentucky on October 4, 1940 to the late Reece and Rosa Campbell Oney.

James Oney was a devoted member to his community. He was a member of the Shawnee Masonic Lodge, Southern Police Institute Alumni Association, Kentucky Aviation Association, and the Kentucky Chief's Association. He is preceded in death by his parents; brothers, Billy R. Oney and Reece Oney Jr.; and sister, Ethel Beth Boyle. He leaves to cherish his memory his loving wife, Carol Oney; children, Leisha Gosling (Tommy), Michael Oney (Kolleen), Joseph Oney (Tara), Deedra Tate (Scot), and Leslie Hartness (Michael); 13 grandchildren; 8 great grandchildren; brothers, Donald D. Oney, Jerry T. Oney, and Larry E. Oney; sister, Rita Greiser; several nieces and nephews; and a host of other family and friends. Burial service will be held at 10am on Monday, February 1, 2021 at Kentucky Veterans Cemetery Central (2501 North Dixie Blvd. Radcliff KY, 40160).

Condolence cards to Carol Oney, 10111 Vista Springs Way, Louisville, KY 40291. Family request donations be made to the Wounded Warrior Project at: <https://www.woundedwarriorproject.org/donate>

Below is a photo in 2016 when Jim and Carol visited SPI.





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MEMBER SPOTLIGHT

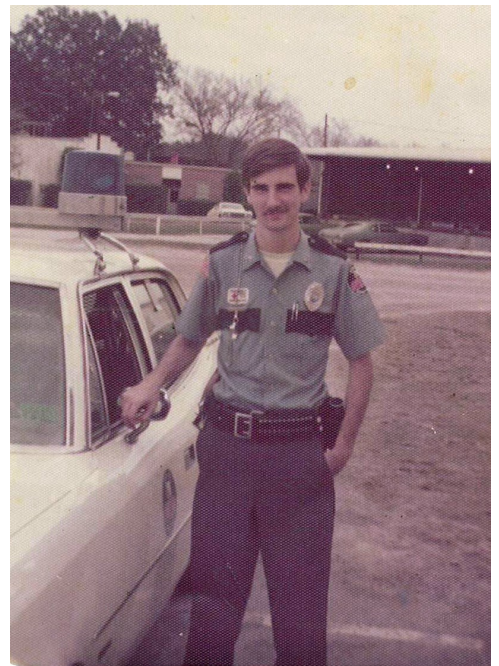
Meet SPIAA Life Member, Rick Staly, Sheriff of Flagler County, Florida



I started my career with the Seminole County Sheriff's Office in Sanford, Florida at age 16 in the Youth Deputy Program which later became the Explorer Program. 45 Years later, I am the Sheriff of Flagler County. Without the Explorer Program, I wouldn't have had my foot in the door and been prepared as most agencies in Florida at the time did not have an FTO program! I am honored to continue to support all the Sheriffs' Explorers Program as I serve as the Florida Sheriff's Association's liaison to the Florida Sheriff's Explorers Association. I am committed to their missions.

I graduated with an MS degree in Justice Administration from the University of Louisville in 1991, when the program just started an executive in-residence program. I also graduated from the 177th Session of the FBI National Academy, at Quantico, Virginia in 1994. In April 2017, I was invited (one of only 30 sheriffs from around the Country to be invited) to attend and graduate from the 112th session of the National Sheriffs' Institute, the only national executive development program designed exclusively for sheriffs. I have been invited to attend the 79th Session of FBI LEEDS (Law Enforcement Executive Development Session) in 2021. In 1988, I attended the Southern Police Institute (SPI) 79th Administrative Officer's Course and upon graduation I was promoted to Lieutenant with the Orange County, Florida Sheriff's Office (Orlando area) where I ultimately rose to the rank of Undersheriff.

During my more than 45 years of public safety service, I received numerous awards, commendations and medals, including the Medal of Valor, Purple Heart Medal and Florida Governor's Medal of Heroism after being shot three times while saving the life of a fellow deputy sheriff in 1978. In 2019, I was 1 of 5 finalists for the National Rifle Association's (NRA) Law Enforcement Officer of the Year award. I am currently Vice-Chair for the Commission on Florida Law Enforcement Accreditation and serve on the Board of Directors of the Florida Sheriffs Youth Ranches, the Florida Sheriff's Association Board of Directors and Vice-President of the Florida Deputy Sheriff's Association. I'm also a member of the Volusia-Flagler Police Chiefs Association, the BPOE (Benevolent and Protective Order of Elks) of Palm Coast, Bunnell Lodge 200 F&AM (Free and Accepted Free Masons), and the





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Flagler County Gun and Archery Club. I am a life member of the National Rifle Association, the National Sheriff's Association, the International Association Chiefs of Police, the Southern Police Institute Alumni Association and the Florida Police Chiefs Association. In 2015 I was awarded the President's Lifetime Achievement Award by former President Obama and in 2018 I was received the Florida Sheriff's Association Lifetime Achievement Award.

I am a staunch supporter of the Southern Police Institute and its Alumni Association. I served as the SPIAA National Treasurer for 4 years and along with other Florida graduates we started the Florida Chapter of SPIAA upon graduation from the AOC where I was the first Chapter President. The Florida Chapter became the largest state chapter in the nation but today, unfortunately, is now disbanded. I would say to the classes graduating from the SPI AOC, that one of the most important elements of the AOC is the contacts you make and keep after graduation. It is important to join and stay active in the National and State Associations as well as attend the annual conferences, which provide excellent training on current topics at a very reasonable cost.



Remember, you were chosen by your Departments to receive critical development training in leadership, management, problem solving, administrative law, and more because you demonstrated potential for a higher leadership role. All of the instruction is to help you improve your skills of analysis, diagnostics, problem solving and critical thinking. The course will help you face issues encountered by law enforcement executives in 2021 and beyond and prepare you for promotion or

serving as a Police Chief or Sheriff. The AOC is a required prerequisite for appointment as police chief in many jurisdictions in the United States. Using my career as an example, I am proud to say I was well-prepared for the challenges of law enforcement and credit my time at the SPI with my longevity and success as an administrator for over 32-years. I was just overwhelmingly re-elected Sheriff of Flagler County, and plan to attend the next SPIAA conference in 2021 or 2022, whenever next in-person conference is held. I hope to meet you there.

You can contact Sheriff Staly by email: Sheriff@FlaglerSheriff.com, call him at 386-586-4891 or visit the





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Line of Duty Deaths: As reported in the 2020 Year End Law Enforcement Officers Fatalities Report from the National Law Enforcement Memorial and Museum

<https://nleomf.org/facts-figures/fatalities-reports>

According to preliminary data compiled by the National Law Enforcement Officers Memorial Fund (NLEOMF), **as of December 31, 2020, 264 federal, state, military, tribal, and local law enforcement officers died in the line-of-duty in 2020**, an increase of 96% from the 135 officers killed during the same period. In 2020, officer fatalities ranged from automobile crashes to heart attacks and from gunshots to being beaten to death. Of these tragic deaths, Covid-19 related fatalities were the single highest cause of officer line-of-duty deaths in 2020.

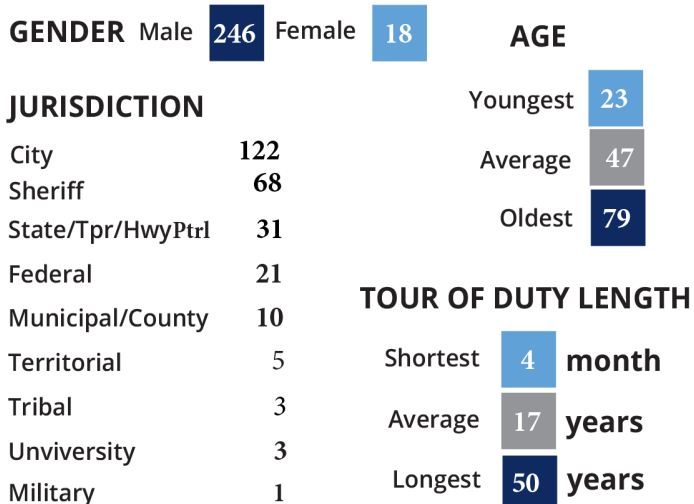
Of the 264 officers who have died in the line of duty, there were 145 confirmed Covid-19 cases. It must be noted however, as the pandemic rages on, NLEOMF has already identified a significant number of additional Covid-19-related fatalities. Once these cases are confirmed, NLEOMF projects that the total number of Covid-19 fatalities and the total number of line-of-duty deaths will grow significantly. Unfortunately, even with the preliminary Covid-19 fatalities, 2020 had the highest number of law enforcement line-of-duty deaths since 1974.

Firearms-related fatalities were the second most common cause of officer deaths, with 48 officers killed in 2020. This represents a 6% decrease from the 51 officers killed in firearms-related incidents during the same period in 2019. The leading circumstance of firearms-related fatalities was officers investigating suspicious persons or activities, followed by attempting an arrest. Ambush attacks leading to officers' deaths remained constant compared to the same period the previous year.

Forty-four officers have been killed in traffic-related fatalities in 2020, a two percent increase, compared to 43 deaths during the same period the previous year. Automobiles were the single leading cause of death, with 18 of those incidents being a collision with another vehicle, and 8 single vehicle crashes. Throughout the year, there were also 15 struck-by fatalities and 3 motorcycle fatalities.

During 2020, 172 officers died of other causes. Of these deaths, 10 were physical-related, such as a heart attack or stroke suffered on duty, and 12 succumbed to injuries sustained in the 9/11 terrorists attacks. Additionally, three officers drowned, one perished in a helicopter crash, and one was beaten to death. The largest single cause of death in this category and in the entire report are the 145 Covid-19 deaths where officers were confirmed by their agency to have engaged in a line-of-duty action or activity and the officer was diagnosed or evidence indicated that the officer had Covid-19 or complications at the time of the officer's death.

Fatalities by Demographic





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COPS

*Community Oriented Policing Services
U.S. Department of Justice*

The COPS Office has released a report titled [Advancing Public Safety through Community Policing: The First 25 Years of the COPS Office.](#)

The Violent Crime Control and Law Enforcement Act of 1994 introduced an innovative office, the first component of the Department of Justice (DOJ) specifically designed to advance community policing and reduce crime in state, local, tribal, and territorial communities: The Office of Community Oriented Policing Services, or COPS Office.

In the quarter century since then, the COPS Office has become the go-to organization for law enforcement agencies, stakeholders, and practitioners. As the only DOJ component with “policing” in its name, the COPS Office has placed an emphasis on listening sessions with the field, forums with subject matter experts, practical research, and developing community policing practices that build trust and mutual respect between law enforcement and their communities. Its signature hiring programs have invested billions of dollars in hiring and redeploying more than 134,000 officers to date. The COPS Office has also made its mark by providing training, technical assistance, and numerous other resources to help support law enforcement agencies across the country.

“It has been an honor for me over these almost three years to build on the previous successes of the COPS Office,” said COPS Office Director Phil Keith. “With an emphasis on a ‘by the field, for the field’ approach, listening to our stakeholders has never been more important and has resulted in tremendous process improvements for our office, and by virtue of that, for law enforcement agencies nationwide. The significant accomplishments detailed in this report provide an excellent portrayal of the advances the COPS Office has contributed to the field. I could not be more proud of the work our law enforcement stakeholders and the COPS Office have accomplished together.”

Accomplishments spotlighted in the anniversary report include a renewed emphasis on officer safety and wellness; the creation of the National Blue Alert Network; implementation of the Law Enforcement Mental Health and Wellness Act; establishment of the Collaborative Reform Initiative Technical Assistance Center (CRI-TAC); leadership of the President’s Commission on Law Enforcement and the Administration of Justice; and much more.

Be sure to [download](#) and read your free copy to learn more about what the COPS Office can do for you and your agency!



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Qualified Immunity, Deadly Use of Force: Cole v Hutchins by Attorney Eric Daigle

Today's case highlights the important role that all of the facts play in a court's legal calculation and **an important operational consideration for your agency: it is necessary to have a plan in place that allows officers to change and reevaluate the use of force throughout an incident.** Especially in today's age of video recording and all eyes on our officers, we must be vigilant in assessing and reassessing force throughout an incident. What may be a reasonable force consideration at one point during the incident may become an unreasonable option as the incident de-escalates or if the officer or citizens surrounding the area are no longer in danger.

FACTS

While there is some dispute over the facts of this case, the following facts were what were considered by the trial court and the 8th Circuit in deciding this matter. Little Rock Arkansas officers received several 911 calls that there was a fight occurring at the home of Darrell Underwood and one caller reported seeing a gun.

Arriving officers parked a short distance away and walked up to the scene. Prior to the officers' arrival several neighbors advised Underwood and his nephew – Roy Lee Richards – that the police were walking up to the scene. Richards and Underwood stopped fighting – Underwood walked towards his front porch and Richards walked to his car.

Richards retrieved what appeared to be a long rifle from the passenger side of the vehicle after Underwood had entered his home. Richards walked with the rifle (later determined to be a pellet gun) to Underwood's front porch. Seeing that Underwood had gone in the house and locked the door, Richards turned and started walking back to his car.

As Richards walked to his car with the rifle pointed straight upward one officer fired at Richards five times without warning, killing him.

Vanessa Cole, Executor for the estate – brought suit in federal court claiming that the use of force was excessive and a violation of Richards's 4th Amendment protections. Following discovery, Officer Hutchins filed a summary judgment motion claiming that he was entitled to qualified immunity. The trial court denied the officer's motion finding that it was clearly established that it was unreasonable for the officer to use deadly force on a suspect "who posed no immediate threat to cause serious physical injury or death". The defendant officer then filed this appeal.

8TH CIRCUIT FINDINGS

The court first noted a number of considerations that were "clearly established" at the time of the incident in question. First, the court observed that an officer must have probable cause to believe the suspect poses "an immediate threat of death or serious physical injury to others" before using deadly physical force. More importantly, the mere fact that a suspect is in possession of a weapon is not enough to meet this standard. In addition to being in possession of the weapon the suspect "must point the weapon at another individual or take other menacing action".

Additionally, in order to be perceived as an immediate threat, it must be just that, an immediate threat. If the threat has passed then the justification for using deadly force has also passed. As the court summarized, "force that is reasonable while the suspect poses a threat is no longer reasonable once the threat is no longer present." The court also noted that it was clearly established that officers provide a



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warning, where feasible. While the failure to provide a warning does not automatically make the use of force unreasonable, the failure to warn may be considered in determining whether the use of force was unreasonable.

Considering the facts in a light most favorable to the plaintiff, the court determined that Richards was no longer a threat to his uncle. Richards had moved off the porch and was walking back to his car with the rifle pointed towards the sky. At the time the defendant officer fired the shots, Richards was not a threat to the officer and the fact that the officer did not provide a warning served to exacerbate the situation. The appellate court affirmed the trial court decision finding that, under the circumstances, the law clearly established that the defendant officer's use of force was unreasonable.

TAKEAWAYS

I'm sure most of you remember that use of Force instructor who was always harping on you to re-evaluate your circumstances. This case emphasizes the importance of that training – both from a tactical standpoint and a legal one. By now it should come as no surprise to you that the court determines whether a

particular force option was reasonable **AT THE TIME IT WAS INITIATED** and this small fact can be a double-edged sword...

Certainly, the fact that a court must evaluate the officer's use of force at the time it was initiated and without the 20/20 vision of hindsight is beneficial to an officer's defense. On the other hand, this also means that a force option that may be reasonable at one point in the scenario may become an unreasonable option minutes, or even seconds later. As the 8th Circuit noted in this case "force justified at the beginning of an encounter is not justified even seconds later if the justification for the initial force has been eliminated".

It is imperative that officers constantly re-evaluate their use of force options and practice good de-escalation tactics. It is also important that officers document the incident and the specific actions of the suspect and the officers in their report. During qualified immunity cases and use of force cases your reporting is crucial as one small fact or second during an incident can change the court's decision.

Deadly Force Pursuit & Qualified Immunity: *Monzon v. City of Murrieta*

by Attorney Eric Daigle

As we navigate through this difficult time, we know that one of our basic liability protections, qualified immunity, is under siege on all fronts, at both the state and federal levels (for more on Qualified Immunity see [Parts One](#), [Two](#), and [Three](#) from our three part Qualified Immunity Series). Interestingly, today's case upholds the protections afforded by Qualified Immunity and comes from, of all places, the 9th Circuit!

Just a quick caution before we get to the facts and

legal "meat" of this case; today we will be strictly focusing on the use of force by the involved officers under the specific circumstances presented at the time the officers fired. We will not be looking at the pursuit itself, or the officers' decision to pursue the stolen vehicle. Many of you may have agency directives that prohibit engaging in pursuits for the types of offenses committed here. Our purpose in discussing this case today is not to override your agency practices.



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FACTS

In 2016 Murrieta police officer Chris Zeltner checked the license plate of a speeding KIA van and determined the van was reported stolen. Monzon (the driver of the stolen vehicle) led police on a five-six mile pursuit, often reaching speeds in excess of 100 MPH, driving recklessly through intersections, and leaving and entering the freeway several times. Unknown to the officers, a passenger, Reyes, was seated in the back of the van.

The pursuit continued to a dead-end road where, faced with the dead end, Monzon stopped the van. The officers pulled in behind the van (four cruisers occupied by five officers) and took positions on either side of the van, ordering Monzon to exit the vehicle. Rather than follow the officers' instructions, Monzon turned the van in a four-point turn, struck a fence post, and drove towards the officers. As the van accelerated towards Zeltner, the officer fired one shot at Monzon. Zeltner fired five more shots as the van drove past him and towards the officers behind him. The van continued directly towards the remaining officers and the officers fired additional rounds at Monzon. The van then crashed into a cruiser forcing the cruiser into Officer Williams with such force that the officer's arm went through the cruiser window. This entire episode elapsed in less than five seconds.

When the van engine stopped revving, the officer called Monzon out of the van but did not receive a response. A dog was deployed and then called off when Monzon appeared unresponsive. Officers determined Monzon had been shot multiple times and provided medical care until paramedics arrived. Reyes was found in the back of the van and Monzon was pronounced dead at the scene.

Monzon's parents brought state and federal claims alleging violations of Monzon's 4th Amendment protections against the officers and Monell[i] claims against the City for failure to train the officers. The defendant City and officers filed a motion for

summary judgment on all claims and the trial court granted the motion dismissing all claims finding that the officers' use of force was reasonable under the circumstances. This appeal followed.

NINTH CIRCUIT FINDINGS

As the 9th Circuit accurately noted in their opening statement "Because the officers have raised the affirmative defense of qualified immunity, plaintiffs cannot prevail on their federal claims unless the officers violated a clearly established constitutional right." [ii] The court also determined that they must review the facts in a light favoring the plaintiff and through the perspective of the police officer acting in the heat of the moment without the benefit of 20/20 hindsight.

The court first looked at the question of whether the officers' actions violated the plaintiff's constitutional protections. In their evaluation the justices considered:

- the facts leading up to the use of force;
- whether officers had probable cause to believe the suspect posed a threat of serious physical harm; the severity of the crime; and
- whether the suspect was actively resisting or attempting to evade arrest

Reviewing these factors, the court noted that "the severity of the crime weighs in favor of the use of force". Monzon had led the officers on a reckless, high-speed chase, and Monzon created an imminent danger of serious physical harm to the officers when he accelerated the van towards them.

The court also noted that the officers had mere seconds to act (less than 5 seconds) and "cherry picking specific facts in hindsight would be a serious mistake". Plaintiffs argued that the use of force would only have been reasonable if the officers were in the direct path of the vehicle. Under the circumstances, the plaintiffs argued, none of the officers were in the



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direct path of the vehicle and, therefore, the use of deadly force was unreasonable. The 9th circuit disagreed, turning to *Plumhoff v. Rickard*[iii] where the Supreme Court found it was not clearly established that an officer made an unconstitutional seizure when he shot Rickard as the officer stood on an overpass.

The court found it was indisputable that Monzon drove towards the officers in a manner that created an imminent danger of serious injury or death to the officers and, therefore, it was reasonable for the officers to use deadly force to protect themselves and each other. Finding that the officers' actions did not violate constitutional mandates the court was not required to address the second prong of Qualified Immunity (was the violation clearly established at the time of the incident?). However, the court did address the second prong, finding that "existing precedent does not show that the officers were plainly incompetent or knowingly violated the law when they employed deadly force".

The 9th Circuit affirmed the trial court's ruling.

TAKEAWAYS

This case led to a good outcome for the officers, but there are a couple of key points to keep in mind moving forward; during the investigation of this case officers were able to download the so-called "black box" information, and determined that the accelerator had been pushed to 84% to 99% multiple times while the van headed towards the officers. Secondly, there was no question that the van was bearing down on the officers, and when Officer Zeltner fired at the van it was either coming at him or heading towards other officers. In several past cases the courts have not allowed Qualified Immunity where officers fired at a vehicle after it passed them. This was clearly not the case here.

Finally, officers need to take care to protect themselves in these fast-moving incidents where tactical and safety objectives need to take precedent over the arrest objectives. Every major event in this case happened within seconds, so be prepared for these situations by reading agency directives and keeping up to date on your tactical training.

Daigle Law Group. Eric P. Daigle conducts training nationally on critical legal issues including operational management, use of force and force investigations, internal affairs operations, First Amendment Rights and Fourth Amendment application. Attorney Daigle is a CT POST approved instructor providing legal training to law enforcement officers for recruit and in-service training. He is a member of the International Chiefs of Police Association (IACP) Legal Officer Section and an appointed member of the Civil Rights Committee. He is General Counsel for FBI-Law Enforcement Executive Development Association and an instructor teaching Supervisory Liability. He is General Counsel for the National Internal Affairs Investigators Association. He is a former member of the Board of Directors and instructor for American for Effective Law Enforcement, he holds his Certified Litigation Specialist Certificate and is an instructor. Attorney Daigle is the Chairman of the Legal Section for the National Tactical Officers Association and is a member of the National Association for Civilian Oversight of Law Enforcement where he holds the Certified Practitioner of Oversight. He has completed the Force Science Institute Certification and Advanced Specialist training programs. Attorney Daigle is a member of the Connecticut Chiefs of Police Association and on the Board of Directors; member of the Connecticut Bar Association; and a Past President of the New Britain Bar Association. DLG is at <https://daiglelawgroup.com/>





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Analyze Your Training Curriculum

Trainers who are not adjusting their programs to meet the actual needs of their officers are making a big mistake that could lead to bad outcomes.

By Lt. Kevin Dillon



Defensive tactics curriculum should be based on job description, performance tasks, real use-of-force incidents, identified trends, and the time available. Photo: KEVIN DILLON

I have been traveling throughout the United States for the past 10 years teaching law enforcement use of force, defensive tactics (DT), and communications. One issue that I have discovered that is problematic yet consistent amongst numerous agencies is that there is no continuity pertaining to curriculum selection when it comes to defensive tactics training.

Officers from one department in California recently told me their agency had to drop a self-defense system that it was using. "Why? Too much face punching?" I asked. A look of surprise came over their faces. "How did you know?" We discussed the weaknesses in their DT curriculum selection. The system was primarily focused on "officer survival" training, which is not the same as arrest-and-control training.

After conducting multiple interviews and curriculum reviews at law enforcement agencies, I have found the following commonalities in defensive tactics programs that I believe need action.

- Most DT instructors I interviewed teach what they think should be taught without collecting or analyzing any data pertaining to street use-of-force deployments. How can you train for what is needed if you don't study what your officers are doing out in the real world and determine if it is effective?
- Many instructors teach one system or another because they believe it's what should be taught, but again, they take no steps to measure what the officers actually use and or do on the street. If you go to one agency and they're all learning jiu-jitsu, it's because the head instructor is a jiu-jitsu



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practitioner; at another they are learning wrestling moves because the head DT instructor is a wrestler. You see the problem.

Historian Daniel Boorstin wrote: "The greatest enemy of knowledge is not ignorance; it is the illusion of knowledge." When it comes to law enforcement training, this means not making assumptions based on what works in the class, but putting it in the context of how it is used for police work. The face punching problems the agency referenced earlier in this article experienced were a result of how its officers were training. Making assumptions that techniques suitable for competition fighting and martial arts dojos are appropriate for law enforcement officers on the street can lead to bad outcomes for officers, subjects, and agencies. For example, I know of a recent incident where an officer employed a wrestling maneuver designed for sport in a street situation and shattered the subject's face on the cement for a minor offense. That technique was designed for use on a mat in a competition, not by an officer on the street.

Arrest and Control

If you analyze use of force by officers you will likely learn that 90% to 95% of force usage occurs during arrest-and-control situations. In contrast, a review of many law enforcement training programs reveals that 90% to 95% of the physical training provided to these officers is officer survival or countermeasure based, which does not match.

DT curriculum should be based on job description, performance tasks, real use-of-force incidents, identified trends, and the time available. It's great if an agency has the luxury of lots of training time that can be used to teach officers how to respond to uncommon situations. However, most officers receive less than eight hours of DT training per year, so it's important to dedicate that valuable time to the situations officers are most likely to face on the job. There are three basic categories of defensive tactics that should be the focus of officer training.

1. Arrest-and-Control Techniques. These include taking a standing or grounded resisting subject into a control position and getting him or her into

handcuffs. Officers should receive training in arrest and control techniques that can be used both solo and with teams.

2. Countermeasures. A countermeasure is a response to an attack by an assailant.
3. Officer Survival Techniques. These are responses to an attack, ranging in intensity up to deadly force. Techniques include ground maneuvers, face punching, integrated firearms combat, and the use of weapons of opportunity.

Take a look at your current program. Does it have this content? How much time is dedicated to these elements? Does the amount of time you dedicate to these elements meet the real needs of your officers on the street? If it doesn't, then you may be training your officers to use the wrong techniques given the situations they face.

Reasonable Usage

Legally, the determination of whether a use of force is justified or excessive is based on what a reasonable officer would do given the same totality of circumstances. Different levels of force application by an officer are reasonable based on the totality of circumstances. Since the reasonableness for a countermeasure is different than the reasonableness for an officer to use the same technique arresting and controlling a subject, officers need to know how to execute arrest-and-control techniques and defensive tactics techniques based on need. Using "officer survival" moves such as punching, kneeling, and elbow techniques against a subject when in an arrest-and-control encounter could be considered extreme or excessive but the same response when facing a deadly force threat could be reasonable.

Many DT instructors are using the majority of their officers' training time to teach countermeasures and officer survival when 95% of the use-of-force situations faced by these officers involve arrest and control. I understand that we can't fully train for the 95%, but to focus your training on 95% of what you don't do is incongruent.

In court today, your officers won't just be asked "What were you trained to do?" They will be asked "What did you learn to do out on the streets?" One of my **L.O.C.K.U.P.** takedowns was actually



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demonstrated in court in front of the jury to show what the officer learned and if they were effectively doing it. It's not just about training officers in combat skills, it's how defensible are the maneuvers that you are teaching. A 2014 federal investigation in officer use of force at Rikers Island in New York City found an extremely high amount of face punching. Don't you think the agency should have discovered that before the federal investigation? Adjustments in training and office behavior can be made by discovering them through use-of-force review and analysis by a trained team.

One problem I have identified in many agencies is that use-of-force reports are not being directed back to the training department so that instructors can measure the outcomes of the training they are providing. Not knowing the effectiveness of your training and how it is being used in the real world can lead to some uncomfortable moments between you and plaintiff attorneys. Can you imagine this exchange between yourself and an attorney during a deposition?

Attorney: Officer, according to our files you have been teaching this material for the past five years. Could you tell us the average rate of success of the deployment of the technique in question?

Officer: We don't collect that data. The use-of-force reports are not sent to the training unit.

Attorney: OK, officer, could you tell me what the survey said when you surveyed the officers you have trained to determine the effectiveness of the training?

Officer: Oh, we don't do that either.

Attorney: So what you're telling us is that you have been teaching this for five years to your officers and have not taken one step to analyze any proficiency in your training, and that's what you call professional and transparent.

Analyze and Adjust

The key to success is breaking down and analyzing your training and measuring the training in post training events in the real world by use-of-force analysis. Instructors at one agency I interviewed said they have been teaching the same "countermeasure" system for more than five years and have not one documented deployment of the technique. That should have told them they were teaching the wrong techniques. But they repeated the training over and over again. That's what happens when you don't collect data on what your officers are using on the street or if you collect it and don't analyze it.

I believe we should develop training curriculum to fit the needs of the officer. For example, a program could include 25% officer survival/countermeasure and 75% of what they are actually doing. If you learn through analysis that 48% of the incidents in your jurisdiction involved multiple officers, don't you think it should be addressed in training?

If officers are more proficient in arrest and control, it reduces the need for countermeasures and officer survival. How many use-of-force incidents have you observed and/or analyzed that became a deadly force encounter because the officer had no skills in effective arrest and control? I have seen hundreds of them.

Analyze your agency's use-of-force data and develop measures of effectiveness to determine if what you are teaching works. If your agency doesn't have enough use-of-force reports for effective analysis, then expand your research to surrounding agencies. Break down the categories so officers understand what techniques to use and when and why they use particular techniques. Be sure to follow up training with review of the materials learned.



Kevin Dillon is a law enforcement speaker and trainer who has trained officers and consulted in law enforcement use-of-force issues and/or programs throughout North America and Europe. He is a 25-year law enforcement veteran who served in multiple capacities. Lieutenant Dillon is also founder and principal of KFD Training & Consultation LLC (www.policecombat.com) and developed and teaches the trademarked L.O.C.K.U.P. arrest-and-control system.

Photo: It's important to dedicate officers' limited time for DT training to the situations officers are most likely to face on the job. Photo: KEVIN DILLON



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TIME FOR A BIT OF HUMOR

Submitted by Editor Ron Cook

An elderly physician, Doctor Geezer, became very bored in retirement and decided to re-open a medical clinic. He put a sign up outside that said: "Dr Geezer's clinic. Get your treatment for \$500 -- if not cured, get back \$1,000."

Doctor Young, who was positive that this old geezer didn't know beans about medicine, thought this would be a great opportunity to get \$1000. So he went to Dr Geezer's clinic.

Dr Young: "Dr Geezer, I have lost all taste in my mouth. Can you please help me?"

Dr Geezer: "Nurse, please bring medicine from box #22 and put 3 drops in Dr Young's mouth."

Dr Young: "Augh! -- This is gasoline!"

Dr. Geezer: "Congratulations! You've got your taste back. That will be \$500."

Dr. Young, very annoyed, goes back after a couple of days figuring to recover his money.

Dr. Young: "I have lost my memory, I cannot remember anything."

Dr. Geezer: "Nurse, please bring medicine from box #22 and put 3 drops in the patient's mouth."

Dr. Young: "Oh, no you don't -- that's gasoline!"

Dr. Geezer: "Congratulations! You've got your memory back. That will be \$500."

Dr. Young having lost \$1,000, leaves angrily and comes back after several more days.

Dr. Young: "My eyesight has become weak --- I can hardly see anything!"

Dr. Geezer: "Well, I don't have any medicine for that, so here's your \$1,000 back" (giving him a \$10 bill).

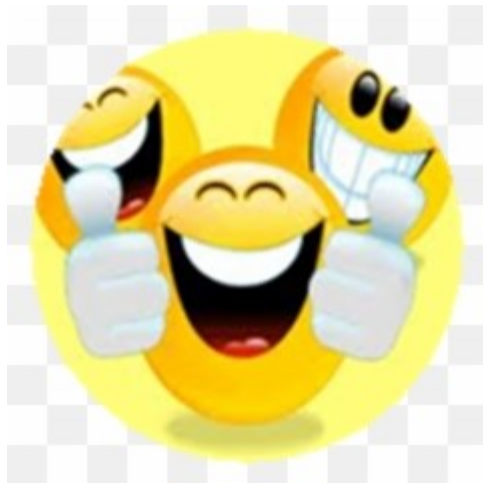
Dr. Young: "But this is only \$10!"

Dr. Geezer: "Congratulations! You got your vision back! That will be \$500."

Moral of story --

Just because you're "Young" doesn't mean that you can outsmart an old Geezer.

Remember: Don't make old people mad. We don't like being old in the first place, so it doesn't take much to piss us off.





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CONGRATULATIONS TO SPI ALUM PAUL NEUDIGATE

Police Chief, Virginia Beach Police Department



Paul Neudigate was appointed as Police Chief of the of the Virginia Beach Police Department October 14, 2020, where he has the privilege to lead and serve 800 sworn officers plus civilian staff that provide exemplary policing service to 450,000 residents, plus the millions of visitors that frequent this resort city each year.

Prior to his recent appointment, Chief Neudigate served the City of Cincinnati and the Cincinnati Police Department (CPD) for 30 years, retiring as Assistant Police Chief. His last assignment was as the Patrol Bureau Commander overseeing 800 sworn personnel plus professional staff assigned to six patrol districts and various special operations functions, to include Canine, Civil Disturbance, Crime Analysis, Gang, SWAT and Traffic units. During his tenure with CPD, he partnered with agents from the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to spearhead a new gun violence reduction initiative for the CPD, which evolved into a regional Crime Gun Intelligence (CGI) concept. The addition of CGI as part of Cincinnati's citywide

violence reduction initiative, the Cincinnati Initiative to Reduce Violence (CIRV), resulted in a 26% reduction in total shooting victimization.

Chief Neudigate holds a bachelor's degree in Justice Administration from the University of Louisville and a master's in Criminal Justice from the University of Cincinnati. He is a graduate of the following executive leadership schools: Police Executive Research Forum's Senior Management Institute for Police (SMIP), the Southern Police Institute (SPI) Administrative Officers' Course, the Certified Law Enforcement Executive program (CLEE), the Police Executive Leadership College (PELC), the FBI's National Executive Institute (NEI), and the Major Cities Chiefs Association (MCCA) Police Executive Leadership Institute (PELI).

He also serves on the ATF's National Crime Gun Intelligence Governing Board, the MCCA's Forensic Science Committee, and the IACP's Private Sector Liaison Committee. He has earned numerous commendations during his career, to include the Cincinnati Police Department's Medal of Valor.

SPIAA Memberships as of March 31, 2021

Auxiliary Membership (6)

Gold Membership - LIFE (44) LIFE Retired (7)

Regular Membership - Bronzer (114)

Retired Membership (44)

Silver Membership - 5 Year (10)



FROM THE SPI



We are saddened to hear of sudden and tragic passing of Captain Don Lambert, Henrico County (VA) Police Division. Captain Lambert was a graduate of the 118th AOC and served as treasurer of the national and Virginia chapters of the Southern Police Institute Alumni Association. Our sincere condolences go out to the family, friends, and colleagues of Captain Lambert.

From Henrico PD: Earlier today, just after 11 a.m., Henrico Police responded to Greenwood Road at Winfrey Road for reports of a hit-and-run crash involving a pedestrian. The pedestrian struck was pronounced deceased on scene by first responders. It is with a heavy heart we announce the pedestrian killed in today's hit-and-run crash has been identified as Donald Lambert, Jr. Lambert was a 33-year veteran of Henrico Police and Captain of our Special Operations Group. He was not on-duty at the time of the crash. "We are deeply saddened at the tragic and untimely loss of Capt. Lambert," said Henrico County Chief of Police, Eric English. "He was a selfless leader, mentor and friend who served our community with pride and dedication for nearly 34 years. My thoughts and prayers are with his family, colleagues and friends."

Congratulations to 103rd AOC (Feb 14-May 12, 2000) graduate Brian Weimer -- University of Missouri Police Department's new Chief of Police! Background and article at <https://showme.missouri.edu/2021/brian-weimer-named-chief-of-university-of-missouri-police-department/>



Congratulations to Deputy Chief Nicholas Sherwood and Captain John Mennone on their recent promotions with the Meriden (CT) Police Department! Both are graduates of the 143rd AOC (February - May 7, 2020) where Deputy Chief Sherwood served as Class President and Capt. Mennone as Sgt. at Arms. They were sworn in at a small ceremony Friday, February 5th, 2021.

[Check out our 2021-2022 Course Schedule and schedule your](#)



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Dr. RaShall M. Brackney spent 30 years with the Pittsburgh Bureau of Police before taking command of the Charlottesville Police Department in Virginia. She arrived in Charlottesville shortly after the Unite the Right rally in the summer of 2017. Her charge, help move a traumatized community past the experience of being invaded by hate. Chief Brackney shares her thoughts, as a leader and African American law enforcement professional, on unifying a diverse community, post-hate.

[Discover on Apple Podcasts](#) [Listen/Download MP3](#) [Read Transcript](#)

Matthew Horace began his 28-year career with a local law enforcement agency, and concluded it as the Special Agent In-Charge of an Alcohol Tobacco Firearms and Explosives (ATF) Field Office. He is also the author *The Black And The Blue*, a book that details his experiences serving as an African American Officer and Special Agent in a work environment that was often unaware of, or insensitive to its' own biases. He joins *The Beat* to discuss how law enforcement can move beyond an all too frequent disconnect with communities most in need of effective policing, and the participation of law enforcement officers in the January 2021 storming of our nation's Capitol Building.



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Virtual Events: May 9-15, 2021

In-Person Events: Oct. 13-17, 2021

<https://nleomf.org/programs-events/national-police-week>

National Police Week in-person events will be held October 13-17 in Washington, DC. The rescheduling of these events is due to the inability to secure necessary permits in time for in-person gatherings, as a result of the ongoing COVID-19 restrictions. The in-person National Police Weekend in October will offer the same honor, remembrance, and peer support as National Police Week, while allowing law enforcement, survivors, and citizens to gather and pay homage to those who gave their lives in the line of duty.

The planned schedule of events includes:

- Thursday, October 14 – NLEOMF Candlelight Vigil
- Friday, October 15 – C.O.P.S. National Police Survivors' Conference
- Saturday, October 16 – FOP 40th Annual National Peace Officers Memorial Service

In addition to the in-person events in October, our virtual programs and some Memorial and Officer Safety & Wellness programs will still be held during Police Week in May, including the virtual Candlelight Vigil on May 13th.

In 1962, President John F. Kennedy signed a proclamation which designated May 15 as Peace Officers Memorial Day and the week in which that date falls as Police Week. Currently, tens of thousands of law enforcement officers from around the world converge on Washington, DC to participate in a number of planned events which honor those that have paid the ultimate sacrifice.

The Memorial Service began in 1982 as a gathering in Senate Park of approximately 120 survivors and supporters of law enforcement. Decades later, the event, more commonly known as National Police Week, has grown to a series of events which attracts thousands of survivors and law enforcement officers to our Nation's Capital each year. <https://www.policeweek.org/>



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FROM THE SPI 2021



Flagship Courses

The Southern Police Institute offers two flagship training courses in police administration and command.

Administrative Officers Course (AOC)

The AOC is a twelve week (480-hour), in-residence, accredited college level educational program. The course curriculum is designed to develop informed, effective, ethically and technically competent law enforcement managers who are capable of assuming positions of leadership in their respective agencies.

Command Officers Development Course (CODC)

The CODC is a 400-hour continuing education course for law enforcement managers provides the foundation for practical law enforcement administration. This training is traditionally held

Leadership & Management Courses

SPI's comprehensive educational environment and world-recognized methods of instruction encourage a commitment to learning, self-improvement and peer networking long after courses are completed. Our management courses prepare officers for the rigors of leading a police agency in an ever-changing world. Our courses provide cutting edge management practices and are facilitated by forward-thinking faculty.

Specialized Skills Courses

Since 1951, the Southern Police Institute's mission has been to *enhance the professional development of law enforcement practitioners* by providing educational and career development programs that are designed to challenge and prepare practitioners for the demands of today and tomorrow. Our specialized skills courses expose participants to current trends in law enforcement, providing tools necessary to improve technical skills, diagnostic problem solving, communication skills, as well as knowledge of current administrative law and investigative practices.

UPCOMING EVENTS

MAR 15	88th Command Officer's Development Course - *FULL. Waiting list only.
APR 12	Homicide Investigation 04/2021 *FULL. Waiting list only.
APR 12	Intelligence Led Policing: Turning Theory into Practice 04/2021
APR 26	Performance Management: From Budgeting to Operations 04/2021
MAY 17	Sex Crimes Investigations 05/2021
JUN 07	Homicide Investigation 06/2021 - *FULL. Waiting list only.
JUN 28	Intelligence Led Policing: Turning Theory Into Practice 06/2021
JUL 12	Homicide Investigation 07/2021
AUG 02	Internal Affairs: Policy, Practice & Legal Considerations 08/2021
AUG 09	Police Training Officer (PTO) Basic Course 08/21



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FROM THE SPI 2021



REMINDER OF SCHOLARSHIP OPPORTUNITIES from the SPI

Administrative Officers Course (AOC)

- **[J. Allen Lamb & Edward S. Pocock III Foundation Administrative Officers Course \(AOC\) Diversity Scholarship](#)**

Four scholarships will be awarded to residents of New England attending the Administrative Officers Course (two in the Fall and two in the Spring semester) meeting the criteria.

[Read More...](#)

- **[Cynthia Jean and George Nichols, III AOC Scholarship](#)**

Desiring to increase the number of female law enforcement officers in supervisory, command, or administrative roles—and to encourage law enforcement agencies to become more pro-active in identifying and developing more women for command positions—the donors have established the Cynthia Jean and George Nichols, III Administrative Officers Course (AOC) Scholarship Fund.

[Read More...](#)

- **[J. Allen Lamb & Edward S. Pocock III Foundation/ Southern Police Institute Scholarship - AOC New England Scholarship](#)**

Desiring to increase the number of Tribal Police and underrepresented minorities in supervisory, command, or administrative roles in the SPI's Administrative Officers Course, the J. Allen Lamb & Edward S. Pocock III Foundation has established this scholarship fund. An educational scholarship will be awarded to a maximum of two (2) qualified applicants per AOC session who meet the criteria.

[Read More...](#)



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SPIAA BOARD

This Board has the distinction of serving for two consecutive years due to Covid-19!
The term for these officers is 2019-2021.

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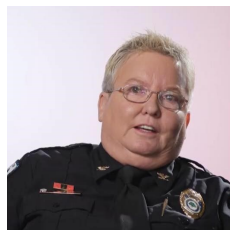
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