

29TH ANNUAL EDITION



# CHIEF

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M A G A Z I N E

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Chief Kevin J. Hale, President • New England Chiefs of Police

**2014**

## 89th ANNUAL CONFERENCE

*Congratulations Mark Leonard,  
the Board of Officers, the Executive  
Board and the Chiefs of Police and  
their families for a productive and  
successful year.*

*Best wishes to the new Board of  
Officers and Executive Board on  
the commencement of their term  
of office.*

*Special thanks to the Chiefs of  
Police, the business and professional  
community and many individuals  
for their continued support as we  
begin the Annual Publication for  
2013 – 2014.*

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*Special thanks to photographer Chief Peter King (Ret.)*

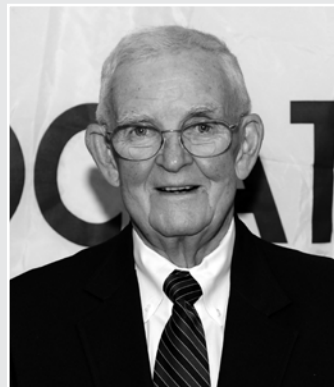
# BOARD OF OFFICERS 2013–2014



**Chief Kevin J. Hale**  
Ansonia, CT  
President



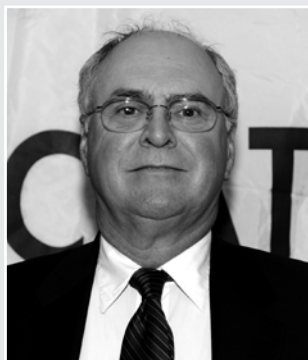
**Chief John R. Desmarais**  
Cumberland, RI  
Incoming President



**Chief John D. Coyle**  
North Attleboro, MA  
Executive Director



**Chief Sidney M. Wordell**  
Little Compton, RI  
1st Vice President



**Chief Theodore Smith**  
Lincoln, NH  
2nd Vice President



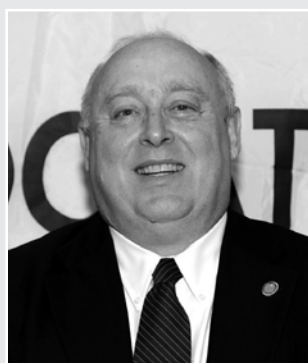
**Chief Douglas Johnston**  
Springfield, VT  
3rd Vice President



**Chief Ross A. Atstupenas**  
Blackstone, MA  
4th Vice President



**Chief Theodor G. Short**  
Eliot, ME  
5th Vice President



**Chief Michael E. Metzler**  
Seymour, CT  
Sergeant-At-Arms



**Chief George L. Kelley, III**  
Pawtucket, RI  
Treasurer



**Chief Louis J. Fusaro, Sr.**  
Norwich, CT  
Secretary



# NEW ENGLAND ASSOCIATION OF CHIEFS OF POLICE 2013–2014

## OFFICERS

### PRESIDENT

Kevin J. Hale – Ansonia, CT

### EXECUTIVE DIRECTOR

John D. Coyle – North Attleboro, MA

### TREASURER

George L. Kelley, III – Pawtucket, RI

### SECRETARY

Louis J. Fusaro, Sr. – Norwich, CT

### CHAPLAIN

Rev. David A. Costa – North Attleboro, MA

### CHAPLAIN EMERITUS

Rev. Bartley MacPhaidin, CSC – Easton, MA

### 1ST VICE PRESIDENT

Sidney M. Wordell – Little Compton, RI

### 2ND VICE PRESIDENT

Theodore Smith – Lincoln, NH

### 3RD VICE PRESIDENT

Douglas Johnston – Springfield, VT

### 4TH VICE PRESIDENT

Ross A. Atstupenas – Blackstone, MA

### 5TH VICE PRESIDENT

Theodor G. Short – Eliot, ME

### SERGEANT-AT-ARMS

Michael E. Metzler – Seymour, CT

### PARLIAMENTARIAN

Charles D. Reynolds – Dover, NH

### CHIEF COUNSEL

Aram P. Jarret, Esquire – North Smithfield, RI

### STAFF ACCOUNTANT

Edward F. Yazbak – Slatersville, RI

### JUSTICE SYSTEMS TRAINING

### & RESEARCH INSTITUTE

Robert W. McKenna – Bristol, RI

### STAFF PHOTOGRAPHER

Peter King – Raynham, MA

## EXECUTIVE BOARD

### DIRECTOR-AT-LARGE

Robert Campbell – Agawam, MA

### I.A.C.P. REPRESENTATIVES

Terrence M. Cunningham – Wellesley, MA

### EXECUTIVE BOARD (ONE YEAR)

Rick L. Hayes – Putnam, CT

Mark W. Leahy – Northborough, MA

Steve McQueen – Winooski, VT

Michael E. Metzler – Seymour, CT

Peter P. Morency – Berlin, NH

Gerald B. Schofield – Freeport, ME

Brian W. Sullivan – Lincoln, RI

### EXECUTIVE BOARD (TWO YEARS)

Robert Cormier – Tilton, NH

John R. Desmarais – Cumberland, RI

Paul D. Fitzgerald – Berlin, CT

Patrick Foley – Douglas, MA

Donald B. Hull – Stowe, VT

Kevin L. Schofield – Bridgton, ME

## PAST PRESIDENTS

1926-28 GEORGE HILL ..... Worcester, MA  
 1928-29 ELLIS CRANSTON ..... Warwick, RI  
 1929-30 CHARLES WHEELER ..... Bridgeport, CT  
 1930-31 FREDERICK COE ..... Woonsocket, RI  
 1931-32 H. ALLEN RUTHERFORD ..... Brookline, MA  
 1932-33 HARRY ROWE ..... Auburn, ME  
 1933-34 MICHAEL HEALY ..... Manchester, NH  
 1934-35 GEORGE ABBOTT ..... Wallingford, CT  
 1935-36 EDWARD TIGHE ..... Revere, MA  
 1936-37 THOMAS CROWLEY ..... Bangor, ME  
 1937-38 MICHAEL CARROLL ..... Meriden, CT  
 1938-39 ARCHIE BULLOCK ..... W. Harwich, MA  
 1939-40 GEORGE COLLETTE ..... Central Falls, RI  
 1940-41 GEORGE HUBBARD ..... Laconia, NH  
 1941-42 WILLIAM ROACH ..... Waterbury, CT  
 1942-43 MELVIN MOORE ..... Springfield, VT  
 1943-44 WILLIAM KINDELAN ..... Warwick, RI  
 1944-45 RALPH STEARNS ..... Nashua, NH  
 1945-46 THOMAS GODLEY ..... Fitchburg, MA  
 1946-47 THOMAS JOHNSON ..... Lewiston, ME  
 1947-48 KENNETH HOWLAND ..... Woodbridge, CT  
 1948-49 NELSON BOURRET ..... Cranston, RI  
 1949-50 ARTHUR MCISAAC ..... Concord, NH  
 1950-51 FRANCIS CONE ..... Bennington, VT  
 1951-52 WILLIAM CALLAHAN ..... Athol, MA  
 1952-53 EARL BRADBURY ..... Brewster, ME  
 1953-54 WALTER SANDSTROM ..... W. Hartford, CT  
 1954-55 ANTHONY FERRERA ..... Bristol, RI  
 1955-56 CHARLES DUNLEAVY ..... Laconia, NH  
 1956-57 JAMES MULCAHY ..... Newport, VT  
 1957-58 ROBERT HILDRETH ..... Winchendon, MA  
 1958-59 ROLAND AMNOTT ..... Lewiston, ME  
 1959-60 JOHN LYDDY ..... Bridgeport, CT  
 1960-61 WILLIAM BOYLE ..... Cumberland, RI

1961-62 FRANCIS McGRANAGHAN ..... Manchester, NH  
 1962-63 GEORGE HEBERT ..... St. Albans, VT  
 1963-64 MICHAEL KELLY ..... Clinton, MA  
 1964-65 RALPH WILLOUGHBY ..... Brewer, ME  
 1965-66 THOMAS SULLIVAN ..... Wethersfield, CT  
 1966-67 JOSEPH STETKIEWICZ ..... Central Falls, RI  
 1967-68 RICHARD FLYNN ..... Dover, NH  
 1968-69 ARTHUR CARRON ..... Burlington, VT  
 1969-70 WILLIAM FITZPATRICK ..... Milford, MA  
 1970-71 ROBERT WAGNER, JR. ..... Bath, ME  
 1971-72 G. ROBERT TRIANO ..... Southington, CT  
 1972-73 MATTHEW LYNCH ..... Woonsocket, RI  
 1973-74 HAROLD KNOWLTON ..... Laconia, NH  
 1974-75 REGINALD BELVILLE ..... Brattleboro, VT  
 1975-76 PATRICK RYDER ..... Lancaster, MA  
 1976-77 WILLIAM MACDONALD ..... Gardiner, ME  
 1977-78 FREDERICK SULLIVAN ..... Waterbury, CT  
 1978-79 GEORGE ROCHA ..... E. Providence, RI  
 1979-80 CHARLES REYNOLDS ..... Dover, NH  
 1980-81 THOMAS TAYLOR ..... Windsor, VT  
 1981-82 JOHN D. COYLE, JR. ..... N. Attleboro, MA  
 1982-83 ALBERT SMITH ..... Camden, ME  
 1983-84 CLARENCE DRUMM ..... E. Hartford, CT  
 1984-85 WILLIAM LAWTON ..... Scituate, RI  
 1985-86 BRIAN BURKE ..... Lee, NH  
 1986-87 GILBERT CAREY ..... Chester, VT  
 1987-88 JOSEPH CONNELL ..... Westford, MA  
 1988-89 WILLIAM CARTER ..... Wiscasset, ME  
 1989-90 GEORGE MERRIAM ..... Cheshire, CT  
 1990-91 MADISON BAILEY, JR. ..... Portsmouth, RI  
 1991-92 ALVIN LEONARD ..... Lancaster, NH  
 1992-93 WAYNE SOURDIFF ..... Waterbury, VT  
 1993-94 WILLIAM E. WARNER ..... Middleboro, MA  
 1994-95 CRAIG B. HALL ..... Falmouth, ME

1995-96 RICHARD J. ABELE ..... Norwich, CT  
 1996-97 WILLIAM P. STRAIN ..... Lincoln, RI  
 1997-98 JOHN K. STIMSON ..... Newington, NH  
 1998-99 DOUGLAS S. HOYT ..... Montpelier, VT  
 1999-00 ROBERT G. REDFERN ..... Easthampton, MA  
 2000-01 GERALD B. SCHOFIELD ..... Freeport, ME  
 2001-02 DENNIS M. PHIPPS ..... Woodbridge, CT  
 2002-03 GARY P. DIAS ..... East Providence, RI  
 2003-04 TIMOTHY RUSSELL ..... Henniker, NH  
 2004-05 LELAND H. GRAHAMS ..... Burlington, VT  
 2005-06 JOSEPH J. REBELLO ..... Kingston, MA  
 2006-07 JOSEPH E. YOUNG, SR. ..... Winthrop, ME  
 2007-08 ANTHONY J. SALVATORE ..... Cromwell, CT  
 2008-09 GEORGE L. KELLEY, III ..... Pawtucket, RI  
 2009-10 THOMAS M. HANLEY ..... Middlebury, VT  
 2010-11 ROBERT D. CAMPBELL ..... Agawam, MA  
 2011-12 MARK E. LEONARD ..... Veazie, ME



# The New England Association of Chiefs of Police, Inc.

(Established 1926)

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



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Fax (203) 735-6175  
Email: [khale@ansoniacop.org](mailto:khale@ansoniacop.org)

*Dear Friends and Colleagues:*

*It is quite hard to believe that one year has passed since I had the honor to take over as the President of the New England Association of Chiefs of Police. I wish to thank all of you for your confidence in me by allowing me to serve in this position.*

*This association continues to enjoy a high regard throughout the law enforcement community. Established in 1926, the NEACOP, through its membership has continually provided proven leadership in our profession, both individually and collectively. The strength of our organization lies not only in the quality of our membership, but in our relationship with Roger Williams University and its Justice System Training & Research Institute. We have been in partnership with the Institute for over a decade and the number of officers trained at the Institute is truly astounding. Since July of 2002, over 17,000 officers have been trained through the institute, with almost 1,200 just between July 1, 2013 and June 30, 2014. The training sites have expanded beyond the borders of Bristol. In this same period, sessions were conducted in ten venues in four states throughout New England. I would like to publicly thank the leadership of the University and the Institute, particularly Bob McKenna, and Denise Owens for their hard work in this collaborative effort.*

*This year we also saw the presentation of the first John D. Coyle Scholarship to three deserving officers for the Command Training Series: Executive Development Course. Last year the Board of Directors voted to convert the Coyle fellowship to the scholarship and at our April board meeting in Rhode Island, three scholarships were presented to two Captains and one Lieutenant.*

*Vice President Ted Smith continues his hard work leading the Community Policing Committee in presenting these annual awards. This year the awards were presented to the Ringe, New Hampshire, North Hampton, Massachusetts, and the Providence, Rhode Island Police Departments. Congratulations to all!*

*We as an association suffered a dramatic loss this year when retired Chief Joseph Rebello died suddenly in a motorcycle accident on June 29th. Joe was a long time member of this association and was our president from 2005-2006. More importantly, however, Joe was a great friend and colleague. We will not soon forget his easy going personality or his perpetual smile. God speed Joe, you will be missed.*

*I am also sad to report that since the beginning of this year, we have given out survivor benefits to the families of two police officers killed in the line of duty. Our fervent hope is that we never have to make another one of these presentations.*

*I would like to thank the Executive Board for all of their work and support during the past year. What you do is important and I look forward to working with you in the future.*

*Finally, I wish to thank Chief Jack Coyle, our Executive Director, and the rock of this association. I had the pleasure of speaking with Jack on a weekly basis throughout the year as we discussed the business of the association. Thank you Jack.*

*Finally, I wish to extend my best wishes to Chief John Desmarais, of Cumberland Rhode Island, our incoming President, for a successful year. It is clear that I leave the Presidency in good hands.*

*May God bless you.*

*Sincerely,  
Chief Kevin J. Hale*



# NEW ENGLAND ASSOCIATION OF CHIEFS OF POLICE

## LIFE MEMBERS

Arena, John  
Armitage, Paul F.  
Bailey, Madison A.  
Barcellos, Peter F.  
Barkhouse, John R.  
Barretto, John M.  
Barry, Kevin  
Basile, John P.  
Bastian, Arthur G.  
Beebe, John C.  
Betro, Armando  
Bonney, Sherman C.  
Borowski, Joachim-Ingo  
Botelho, John J.  
Breiling, H. Frank  
Brooker, Donald F.  
Brouillette, Armand  
Burke, Brian  
Burke, David J  
Burke, Gene  
Campbell, Raymond  
Campbell, Robert D.  
Carey, Gilbert E.  
Carroll, John F  
Carter, Richard G.  
Chapman, Robert F  
Charamut, Gerald R.  
Ciarleglio, Richard  
Clisham, Dennis E.  
Collamati Jr, Joseph  
Colleary, William J  
Connell, Joseph R.  
Coyle, John Daly  
Cullen, Walter D.  
Curran, John P.  
D'alessandro, Michael  
Decastro, Anthony  
Dias, Gary  
Diblasi, George J.

Dicarlo, James X.  
Dodd, James H.  
Doe, John H.  
Donnelly, Thomas C.  
Drumm, Clarence  
Dugan, Thomas R  
Ehrhart, James R.  
Eldredge, Barry D.  
Emerick, John J.  
Erskine, David  
Estey, Joseph  
Eunson, Donald  
Faughnan, Joseph P.  
Flaherty, John T.  
Flynn Jr, James A.  
Franey, Richard L  
Furdon, Paul E.  
Gaeta, Cyrus  
Gallucci, William A.  
Galvin, Robert M  
Germani, Bruce  
Gill, Robert  
Graham, Leland H.  
Grant, Raymond E., Jr  
Griffin, D. Joseph  
Gyngell, Gordon  
Hainsworth, Jamie A.  
Hall Sr., Craig B.  
Hanley, Thomas M  
Healy, Michael R.  
Henderson, Charles F.  
Hinton, Jerry A.  
Holohan, William F.  
Hoyt, Douglas S.  
Humphrey, Lowell F.  
Jackson, Harold B.  
Jakubson, Paul  
Janelle, Roger  
Jarret Jr, Aram P.

Jerome, Paul A.  
Johnson, Carl  
Johnson, Robert F.  
Jordan, John W.  
Joyce, Thomas A  
Kearney, Gerald  
Kelley, George L.  
King, Peter  
Knapp, T. William  
Kosienski, Robert E.  
Labombard, Henry F.  
Lambirth, W. David  
Lary, Russell E.  
Laurie, Edward A  
Leahy, Mark K.  
Lembo, Peter  
Leyden, John J.  
Libby, Kenneth W  
Liberto, Vincent W.  
Mahoney, Philip  
Maia, Donald  
Martino Jr, James A.  
Mayo, Charles C.  
Mcaleenan, Joseph A.  
Mccarthy, Michael R.  
Mccombe, William A.  
Mcmanus, Michael J.  
Merriam, George R.  
Minarik, Paul J.  
Mockalis, William E.  
Morency Peter  
Mosca, Edmund H.  
Mulhern, Robert L.  
Mullen, Francis E.  
Nelson, Earl D.  
Nordquist, Alvin E.  
O'connell, Vincent J.  
O'connor, Thomas J.  
Paolillo, Anthony G.

Pare Sr, Robert G  
Pascarella, Joseph  
Perrotti, James A.  
Perry, William B.  
Phelps Jr., Murray A  
Phipps, Dennis M.  
Piascyk Jr., Robert J.  
Picking, William F.  
Redfern, Robert G.  
Reimondo, Matthew A.  
Reynolds, Charles D.  
Rice, Harry Lee  
Rodrigues, Paul  
Rotunda, Thomas J.  
Rowley, Joseph  
Ryan, Timothy P.  
Santamauro, Pasquale  
Scherpa, Charles L.  
Schofield, Gerald  
Schwartz, Robert M.  
Sheehan, John J.  
Silva Jr, John  
Silva, Anthony J.  
Starbird, N. Douglas  
Stevens, Stanley E  
Strain, William P.  
Suchocki, John T.  
Tibbetts, Arner S.  
Vanasse, David N.  
Vaughan Sr, Thomas J.  
Voas, Robert J.  
Warner, William E.  
Welch Jr., Robert M.  
Wolfe, Charles  
Woodman, James F  
Wordell, Sidney M.  
Young Sr., Joseph E.  
Zacchio, Domenic A.

# NEW ENGLAND ASSOCIATION OF CHIEFS OF POLICE COMMITTEES 2014

## AUDIT COMMITTEE

John R. Desmarais, Cumberland, RI – *Chairman*  
Douglas Johnston, Springfield, VT  
Theodore Smith, Lincoln, NH

*Article 7: Section 1*

*Constitution & By-Laws*

## BUDGETS AND FINANCE COMMITTEE

John D. Coyle, North Attleboro, MA – *Chairman*  
George L. Kelley, III, Pawtucket, RI  
Douglas Johnston, Springfield, VT  
Charles D. Reynolds, Dover, NH  
William E. Warner, Middleboro, MA  
Peter P. Morency, Berlin, NH  
Gerald B. Schofield, Freeport, ME  
Mark E. Leonard, Veazie, ME  
Michael E. Metzler, Seymour, CT  
Sidney M. Wordell, Little Compton, RI  
Patrick T. Foley, Douglas, MA  
Donald B. Hull, Stowe, VT

## BY-LAW COMMITTEE

Charles D. Reynolds, Dover, NH – *Chairman*  
Kevin J. Hale, Ansonia, CT  
Mark K. Leahy, Northborough, MA  
Theodore Smith, Lincoln, NH  
John R. Desmarais, Cumberland, RI  
Douglas Johnston, Springfield, VT  
Theodor Short, Eliot, ME  
Sidney M. Wordell, Little Compton, RI  
Peter P. Morency, Berlin, NH  
Gerald B. Schofield, Freeport, ME

## HEROIC & MEMORIALS COMMITTEE

Theodor G. Short, Eliot, ME – *Chairman*  
Robert D. Campbell, Agawam, MA  
Douglas Johnston, Springfield, VT  
Sidney M. Wordell, Little Compton, RI  
Gerald B. Schofield, Freeport, ME  
Peter P. Morency, Berlin, NH  
Kevin L. Schofield, Bridgton, ME  
Theodore Smith, Lincoln, NH  
Steven McQueen, Winooski, VT  
Terrence M. Cunningham, Wellesley, MA  
George L. Kelley, III, Pawtucket, RI  
Ross A. Atstupenas, Blackstone, MA  
Michael E. Metzler, Seymour, CT  
Paul D. Fitzgerald, Berlin, CT

## MEMBERSHIP COMMITTEE

Louis J. Fusaro, Sr., Norwich, CT – *Chairman*  
Robert D. Campbell, Agawam, MA  
Gerald B. Schofield, Freeport, ME  
Steve McQueen, Winooski, VT  
Kevin J. Hale, Ansonia, CT  
John R. Desmarais, Cumberland, RI  
Sidney M. Wordell, Little Compton, RI  
Peter P. Morency, Berlin, NH  
Theodore Smith, Lincoln, NH  
Peter King, Raynham, MA  
George L. Kelley, III, Pawtucket, RI  
Robert Cormier, Tilton, NH  
Ross A. Atstupenas, Blackstone, MA  
Michael E. Metzler, Seymour, CT  
Douglas Johnston, Springfield, VT  
Theodor G. Short, Eliot, ME  
Kevin Schofield, Bridgton, ME  
Robert W. McKenna, Bristol, RI  
Mark E. Leonard, Veazie, ME

## CONFERENCE COMMITTEE

John D. Coyle, North Attleboro, MA – *Chairman*  
Sidney M. Wordell, Little Compton, RI  
Theodore Smith, Lincoln, NH  
George L. Kelley, III, Pawtucket, RI  
Steve McQueen, Winooski, VT  
Paul D. Fitzgerald, Berlin, NH  
Gerald B. Schofield, Freeport, ME  
Charles D. Reynolds, Dover, NH  
Peter P. Morency, Berlin, NH  
Michael E. Metzler, Seymour, CT  
Douglas Johnston, Springfield, VT  
Mark K. Leahy, Northborough, MA  
John R. Desmarais, Cumberland, RI  
Brian Sullivan, Lincoln, RI  
Patrick T. Foley, Douglas, MA

## JIMMY FUND & SPECIAL OLYMPICS COMMITTEE

George L. Kelley, III, Pawtucket, RI – *Chairman*  
Louis J. Fusaro, Sr., Norwich, CT  
Michael E. Metzler, Seymour, CT  
Charles D. Reynolds, Dover, NH  
Patrick T. Foley, Douglas, MA  
Joseph E. Young, Winthrop, ME  
Donald B. Hull, Stowe, VT  
Brian Sullivan, Lincoln, RI  
Douglas Johnston, Springfield, VT  
Robert D. Campbell, Agawam, MA  
Paul D. Fitzgerald, Berlin, CT  
William E. Warner, Middleboro, MA  
Steve McQueen, Winooski, VT  
Sidney M. Wordell, Little Compton, RI  
Mark K. Leahy, Northborough, MA  
Robert Cormier, Tilton, NH

## ANNUAL CONFERENCES

1939	PARKER HOUSE .....	Boston, MA	1979-1984	MT. WASHINGTON .....	Bretton Woods, NH
1940	HOTEL VERMONT .....	Burlington, VT	1985	SEACREST MOTOR INN .....	Falmouth, MA
1941	MT. WASHINGTON, Boston .....	Woods, NH	1986	THE BALSAMS, Dixville .....	Notch, NH
1942	NASHUA COUNTRY CLUB .....	Nashua, NH	1987-1989	MT. WASHINGTON .....	Bretton Woods, NH
1943-1945	POLAND SPRING HOUSE .....	Poland Spring, ME	1990	SEACREST MOTOR INN .....	Falmouth, MA
1946	MT. WASHINGTON, Bretton .....	Woods, NH	1991-1992	THE BALSAMS, Dixville .....	Notch, NH
1947-1948	POLAND SPRING HOUSE .....	Poland Spring, ME	1993	RADISSON HOTED, Burlington .....	Burlington, VT
1949	WENTWORTH BY THE SEA .....	Portsmouth, NH	1994-1995	TARA HYANNIS HOTEL & RESORT .....	Hyannis, MA
1950	POLAND SPRING HOUSE .....	Poland Spring, ME	1996-1997	SHERATON FOUR POINTS HOTEL .....	No. Conway, NH
1951	THE BALSAMS, Dixville .....	Notch, NH	1998	KILLINGTON GRAND RESORT .....	Killington, VT
1952-1953	POLAND SPRING HOUSE .....	Poland Spring, ME	1999	SHERATON HYANNIS RESORT .....	Hyannis, MA
1954	WENTWORTH BY THE SEA .....	Portsmouth, NH	2000	SHERATON RESORT .....	South Portland, ME
1955	POLAND SPRING HOUSE .....	Poland Spring, ME	2001	SAYBROOK POINT INN .....	Old Saybrook, CT
1956	MT. WASHINGTON .....	Bretton Woods, NH	2002	PROVIDENCE MARRIOTT .....	Providence, RI
1957	WENTWORTH BY THE SEA .....	Portsmouth, NH	2003	WENTWORTH BY THE SEA .....	Portsmouth, NH
1958	THE BALSAMS .....	Dixville Notch, NH	2004	CLARION HOTEL .....	South Burlington, VT
1959	POLAND SPRING HOUSE .....	Poland Spring, ME	2005	SEA CREST RESORT .....	North Falmouth, MA
1960	WENTWORTH BY THE SEA .....	Portsmouth, NH	2006	DOUBLE TREE HOTEL .....	Portland, ME
1961	THE BALSAMS, Dixville .....	Notch, NH	2007	SAYBROOK POINT INN .....	Old Saybrook, CT
1962	POLAND SPRING HOUSE .....	oland Spring, ME	2008	SEA CREST RESORT .....	North Falmouth, MA
1963	MT. WASHINGTON, Bretton .....	Woods, NH	2009	ASHWORTH BY THE SEA HOTEL .....	Hampton, NH
1964	WENTWORTH BY THE SEA .....	Portsmouth, NH	2010	DOUBLE TREE HOTEL .....	Burlington, VT
1965	POLAND SPRING HOUSE .....	Poland Spring, ME	2011	SEA CREST BEACH HOTEL .....	North Falmouth, MA
1966-1977	MT. WASHINGTON .....	Bretton Woods, NH	2013	ASHWORTH BY THE SEA HOTEL .....	Hampton, NH
1978	SHERATON VIKING .....	Newport, RI	2014	RADISSON PLYMOUTH HARBOR .....	Plymouth, MA

# NEW ENGLAND ASSOCIATION OF CHIEFS OF POLICE

## 2014 Highlights





# NEW ENGLAND ASSOCIATION OF CHIEFS OF POLICE

## ACTIVE MEMBERS

### CONNECTICUT

Ackley, Margaret.....New London  
 Baker, Alan D..... Danbury  
 Boyne, Shawn M..... New Milford  
 Candee, James R..... Easton  
 Canelli, Matthew L..... North Branford  
 Caron, David A.....Glastonbury  
 Cox, Sean ..... East Hampton  
 Custer, Michael D..... Rocky Hill  
 Daly, Jack .....Southington  
 Dittman, William, D..... Mashantucket  
 Dooley, Joseph M. .... New Haven  
 Drumm, John .....Madison  
 Edson, Christopher ..... Naugatuck  
 Finch, Jeffrey W. .... Bethel  
 Fitzgerald, Paul ..... Berlin  
 Flaherty, Thomas E. .... Meriden  
 Fuchs, Douglas S. .... Redding  
 Fusaro, Louis J., Sr ..... Norwich  
 Gagne, Robert..... Orange  
 Gaudett, Joseph L., Jr. .... Bridgeport  
 Gavallas, John..... Watertown  
 Gove, Tracey, G..... West Hartford  
 Grimaldi, Thomas R. .... Bristol  
 Hale, Kevin J. ....Ansonia  
 Hayes, Rick L. .... Putnam  
 Heavey, James J..... Greenwich  
 Hurliman, Joel W..... Shelton  
 Ingvertsen, Peter.....Simsbury  
 Kehoe, Michael K. .... Newtown  
 Kenny, James L..... Vernon  
 Kiely, Thomas H..... Trumbull  
 Lawrie, Todd.....Clinton  
 Lombardo, Michael..... Wilton  
 Lovello, Duane J. .... Darien  
 Macnamara, Gary.....Fairfield  
 Maniagar, Michael..... Torrington  
 Marcucci, Gene..... Woodbridge  
 Maruzo, Lisa ..... Willimantic  
 McKenna, William N. .... Middletown  
 McLaughlin, C.G., Jr. .... Danbury  
 Metzler, Michael ..... Seymour  
 Montgomery, Robin..... Brookfield  
 Montminy, Marc, L. .... Manchester  
 Nadriczny, Edward ..... New Canaan  
 Narowski, Gerald..... Derby  
 Osanitsch, Eric..... Winsor Locks  
 Pendleton, Murray J. .... Waterford  
 Reed, Matthew D. .... South Windsor  
 Rinaldo, Mark.....Avon  
 Roche, John S.....Ridgefield  
 Rosensweig, Carl ..... Granby  
 Salvatore, Anthony J..... Cromwell  
 Salvatore, John L..... Monroe

Sansom, Scott .....East Hartford  
 Sferrazza, Carl, J. .... Enfield  
 Sirois, Mark, J. .... East Hartford  
 Spera, Michael A.....Old Saybrook  
 Stewart, J. Darren ..... Pawcatuck  
 Teribile, Thomas ..... Guilford  
 Troxell, John W. .... Weston

### MAINE

Arnaud, Patricia L..... Ogunquit  
 Beaupre, Roger P.....Biddeford  
 Boucher, Bruce .....Rockland  
 Bracy, Douglas P. .... York  
 Chapais, David ..... Southwest Harbor  
 Emery, John L.....Fairfield  
 Field, Michael W..... Bath  
 Gagnon, Naldo S. .... Cumberland  
 Googins, Edward J..... South Portland  
 Kelley, Mark G. .... Rockport  
 Lahaye, Richard H., Jr. .... Searsport  
 Lajoie, Dana P. .... So. Berwick  
 Leonard, Mark E..... Veazie  
 Mackenzie, Robert F..... Kennebunk  
 Madden, Michael ..... S. Paris  
 Mcfadden, Michael J ..... Belfast  
 Morrill, Michael E..... Yarmouth  
 Moulton, Robert..... Scarborough  
 Ouellette, Maurice..... Alfred  
 Paul, Bradley S.....Saco  
 Putnam, Jo-Ann ..... Wells  
 Rizzo, Richard J. .... Brunswick  
 Sanford, Craig A..... Kennebunkport  
 Sauschuck, Michael ..... Portland  
 Schirling, Michael E. .... Burlington  
 Schofield, Kevin L.....Bridgton  
 Short, Theodore G. .... Eliot  
 Toman, James, M..... Gardiner  
 Towne, Timothy ..... Berwick  
 Tracy, Michael..... Oakland  
 Young, Nathan W. .... Bar Harbor

### MASSACHUSETTS

Albert, Salvatore ..... Westminister  
 Arruda, George..... Swansea  
 Atstupenas, Ross A. .... Blackstone  
 Barrett, Loring, Jr. .... Ashburnham  
 Benton, Scott D..... Whitman  
 Berkowitz, Kenneth N.....Canton  
 Blake, Erik G..... Oak Bluffs  
 Bongiorno, Robert ..... Bedford  
 Bradley, Michael J..... Upton  
 Braga Jr, Richard A..... Hudson  
 Breen, David J..... Lynnfield

Brooks, William G..... Norwood  
 Camden, Joseph P..... New Salem  
 Campanello, Leonard..... Gloucester  
 Charette, Thomas G. .... Chicopee  
 Charron, Ronald ..... Seekonk  
 Chase, William G..... Westwood  
 Clancy, Matthew M.....Duxbury  
 Clark, Donald H..... West Bridgewater  
 Colin, Edward..... Auburndale  
 Collins, Rodney C. .... Mashpee  
 Cooley, R. Dana, Jr .....Petersham  
 Cowan, John E..... East Bridgewater  
 Crepeau, Normand A..... Grafton  
 Cudmore, Donald ..... Georgetown  
 Cunningham, Terrence ..... Wellesley  
 Daigle, Gerard L. .... Bellingham  
 Delmonte, Christopher D. .... Bridgewater  
 D'entremont, Michael.....Dedham  
 Digianvittorio James A..... Middletown  
 Dillan, Patrick S..... Plympton  
 Dimella, Domenic J.S..... augus  
 Donovan, James W..... Raynham  
 Downes, James .....Dunstable  
 Droney, Philip E. .... Needham  
 Duffey, John.....Bedford  
 Dunne, Edward ..... Falmouth  
 Eaton, Robert M..... Stockbridge  
 Ferreira, Joseph C.....Somerset  
 Fioravanti, Emil..... N. Dartmouth  
 Fisher, John C. .... Carlisle  
 Flannery, Richard A..... Hopkinton  
 Foley, Patrick ..... Douglas  
 Ford, Thomas ..... Sturbridge  
 Fox, Francis..... Belchertown  
 Fredrickson, Frank ..... W. Yarmouth  
 Frydryk, Robert ..... Palmer  
 Galvin, Thomas ..... Berlin  
 Gates, Bruce D. .... Middleborough  
 Gillis, Eric ..... Feeding Hills  
 Gordon, Alan..... Westborough  
 Heagney, Kyle ..... Attleboro  
 Holland, James ..... Malden  
 Howell, Kenny A..... Millbury  
 Hukowicz, Dennis J..... Hadley  
 Jebb, William R..... Chicopee  
 Joseph, Buffis, F..... Lee  
 Keefe, Patrick.....Andover  
 Kyes, Brian A..... Chelsea  
 Lanb, Kevin D..... Lancaster  
 Lee, Timothy..... Dartmouth  
 Livingston, Scott M..... Winchendon  
 Livingstone, Scott P..... Amherst  
 Llewellyn, John R..... Rockland  
 Lyons, Mary R..... Mattapoisett  
 Macdonald, Scott W. .... Orleans  
 Mace, Craig..... Seekonk  
 Macmillan, Paul S..... Boston

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 Mccgowan, James J. .... Ludlow  
 Mccmahon, Bruce W. .... Easthampton  
 Mellis, Douglas ..... East Longmeadow  
 Miller, Lincoln W. .... Marion  
 Mulligan, James ..... Georgetown  
 Murray, William A. .... Ayer  
 Nix, Scott ..... Sudbury  
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 Perkins, Thomas C. .... Wenham  
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 Pittman, William J. .... Nantucket  
 Reilly, Michael A. .... Newbury  
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 Rohmer, Scott ..... Ashland  
 Rosa, Daniel C. Jr. .... Billerica  
 Sacco Jr, Leo A. .... Medford  
 Sampson, A. Wayne ..... Grafton  
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 Sellon, Ronald ..... Mansfield  
 Siano, Robert F. .... Longmeadow  
 Sienkiewicz, Russell P. .... Northampton  
 Silva, Jeffery P. .... Westwood  
 Spiewakowski, Bruce D. .... Warren  
 Splaine, Maurice ..... Kingston  
 Stewart, Brian E. .... Scituate  
 Sweeney, Walter ..... Hanover  
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 Cormier, Robert ..... Tilton  
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 Dennis, Charles ..... Hanover

Drolet, Glendon L. .... Northwood  
 Dronsfield, Thomas C., Jr. .... Lee  
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 Dubois, Steven J. .... Portsmouth  
 Ducharme, Robert ..... Rollinsford  
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 Garone, Edward B. .... Derry  
 Janvrin, Neal ..... Fremont  
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 Keenan, Kevin G. .... Gilford  
 Lavoie, Jason J. .... Hudson  
 Lewis, Michael F. .... Briston  
 Madore, Walter A. .... Grantham  
 Mara, David J. .... Manchester  
 Mccgillen, Michael D. .... Candia  
 Meola, Kenneth J. .... Keene  
 Morrill, Francis C. Jr. .... Rindge  
 O'brion, Joseph E. Jr. .... Litchfield  
 Osgood, Bradley C. .... Concord  
 Picard, Edward G. .... Auburn  
 Roark, Joseph A. .... Pelham  
 Roberge, Scott R. .... Farmington  
 Scippa, John ..... Stratham  
 Shagoury, Andrew ..... Center Tuftonboro  
 Smith, Theodore P. .... Lincoln  
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 Sullivan, Patrick ..... Goffstown  
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 Warn, Christopher ..... Campton  
 Whare, Robert ..... Pittsfield  
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 Carey, Thomas S. .... Woonsocket  
 Clements, Hugh ..... Providence  
 Coyle, Thomas E. .... East Greenwich  
 Coyne, Robert E., Jr. .... Foster  
 Delprete, Joseph S. .... Glocester  
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 Ghio, Fredrick W. .... Providence  
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 Mulligan, Thomas J. .... N. Kingston  
 Pare, Steven M. .... Providence  
 Pesare, Anthony M. .... Middletown  
 Porter, Mark J. .... Providence  
 Ramsay, Richard ..... West Greenwich

Reynolds, Steven E. .... N. Smithfield  
 Shippee, Jack M. .... Charlestown  
 Silva, Gary ..... Newport  
 Silva, Richard ..... West Warwick  
 St. Clair, Edward ..... Westerly  
 Sullivan, Brian W. .... Lincoln  
 Tamburini, Richard S. .... Johnston  
 Tavares, Joseph H. .... East Providence  
 Vespia, Vincent Jr. .... South Kingston  
 Volpe, Bryan J. .... Coventry  
 Zenhl, William J. .... Foster

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 Harris, Jack T. .... Lyndonville  
 Hebert, Mary Beth ..... Vernon  
 Hull, Donald ..... Stowe  
 Humpries, William T. .... Fair Haven  
 Johnston, Douglas S. .... Springfield  
 Larose, Bradley J. .... Essex Junction  
 Mcqueen, Steve ..... Winooski  
 Morrison, Jennifer ..... Colchester  
 Sampson, William ..... Winsor  
 Stell, Leonard J. .... Swanton  
 Stevens, Michael ..... Websterville  
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 Whipple, Trevor S. .... South Burlington  
 Wrinn, Eugene ..... Brattleboro



## **CIVIL LIABILITY LAW SECTION – APRIL 2014 CIVIL LIABILITY FOR THE USE OF PEPPER SPRAY (OC), TEAR GAS, AND CHEMICAL AGENTS INTRODUCTION**

Pepper Spray (OC) and other chemical weapons are intended and designed to be used as disabling agents, for law enforcement officers and correctional personnel to use to attempt to overcome resistance, and to subdue persons with minimal injuries to officers, arrestees and others.

Chemical weapons can be used in situations in which a disturbance involves a number of people, but they also are effective against an actively resisting individual. This is not a technical article, and it does not survey the wide variety of specific chemical weapons available to law enforcement and correctional personnel, or to assess their pros and cons. Rather, the focus is to briefly look at how courts have discussed their use in the context of civil lawsuits for excessive force. At the conclusion of part two of this two-part article, there is a presentation of some suggestions to consider, followed by a brief listing of useful and relevant resources and references. 102

This article also does not address the use of impact projectiles releasing chemical weapons, such as pepper ball projectiles, which are discussed in part 1 of a two-part article entitled *Civil Liability for the Police Use of Impact Projectiles*, 2012 (11) AELE Mo. L. J. 101 (Nov. 2012).

### **USE BY LAW ENFORCEMENT**

The use of chemical agents can result in widespread public condemnation, expensive official inquiries and private lawsuits. In 2011, campus police officers in Davis, California, confronted nonviolent “Occupy” protestors, who were sitting on a paved path. An officer applied MK-9 pepper spray to the group, which was photographed, video recorded and viewed around the world.

The University Chancellor apologized to the students, and commissioned an independent review of police tactics. Protestors subsequently received \$1 million to settle their ACLU supported federal lawsuit. *Baker v. Katehi*, #2:12-cv-00450 (Sealed, E.D. Cal. 2013).

In *Barnard v. Theobald*, #11-16655, 721 F.3d 1069 (9th Cir. 2013), a man claimed that officers who came to his house to arrest his brother under a warrant used excessive force when he answered the door, lying on top of him, applying a chokehold, and using pepper spray. The jury awarded the plaintiff over \$2 million in damages, which was reduced by \$500,000 to \$1,611,656 by the trial court. A federal appeals court found that the jury’s award and their decision to believe the plaintiff’s version of the incident were supported by the evidence, and that the officers were not entitled to qualified immunity.

A “reasonable officer would have known it violated clearly established law to use a chokehold on a non-resisting arrestee who had surrendered, pepper-spray him and apply such knee pressure on his neck and back that it would cause the collapse of five vertebrae in his cervical spine.” The damages were high because of the plaintiff’s spinal injuries, not the use of OC.

In *Duran v. Town of Cicero*, #08-2467, 653 F.3d 632 (7th Cir. 2011), a federal trial jury awarded \$2.58 million against a town and six officers for actions taken involving the use of pepper spray against 23 individuals attending a baptismal party at a house. No damages were awarded to another 56 plaintiffs who attended the same party. The federal appeals court ruled that the judgment appeared to have allowed 13 of the successful plaintiffs to improperly receive double recovery for their injuries—once on their federal claims against the officers and once on their state law claims against the town on the basis of vicarious liability for the officer’s actions. The appeals court ordered that, on remand, the judgment be amended to avoid the possibility of double recovery. 103

In *Young v. County of Los Angeles*, #09-56372, 655 F.3d 1156 (9th Cir. 2011), the court ruled that an officer’s use of pepper spray and a baton against a motorist who disobeyed orders to get back in his vehicle was an “intermediate” use of force that “while less severe than deadly force, nonetheless present a significant intrusion upon an individual’s liberty interests.” It is “rarely necessary, if ever,” a federal appeals court stated, “for a police officer to employ substantial force without warning against an individual who is suspected only of minor offenses, is not resisting arrest, and, most important, does not pose any apparent threat to officer or public safety.” The

motorist did not resist, but merely sat on the curb, so he could proceed with his excessive force claim.

Chemical weapons may justifiably be used in self-defense of the officers or others. In *Shreve v. Jessamine County Fiscal Court*, #05-6271, 453 F.3d 681 (6th Cir. 2006), the court found that deputy sheriffs were not entitled to summary judgment in an excessive force lawsuit by woman arrested by them in her home pursuant to a warrant. Her version of the events, including that they beat her with a billy club and jumped on her after she was incapacitated by pepper spray and was only passively resisting, if true, showed an excessive use of force. The use of the pepper spray, however, was not excessive since she was hiding from them under a blanket in a closet at the time, and could have been thought to be planning to “ambush” them. Similarly, chemical weapons can be useful in ending a stalemate or standoff that has gone on for a while. In *Bayer v. City of Simi Valley*, #01-55736, 43 Fed. Appx. 36, 2002 U.S. App. Lexis 15796 (Unpub. 9th Cir.), the court held that after a four-hour armed standoff and failed negotiations, it was reasonable for officers to fire tear gas into a mentally disturbed man’s vehicle to extricate him after he had previously shot at police and refused to surrender. There was no liability for “excessive force” or the subsequent confrontation that led to his death.

Such force might not be justified in response to fairly minor offenses when there is no active physical resistance to the officers. In *Howell v. Sheriff of Palm Beach County*, #09-10940, 2009 U.S. App. Lexis 22592 (Unpub. 11th Cir.), deputies responding to complaints of loud music coming from a party encountered an off-duty deputy who was providing music at the party. When told to turn off the music, he allegedly responded in a “confrontational” tone, and was sprayed with pepper spray in the face and arrested.

In a federal civil rights lawsuit over the incident, the appeals court held that the deputies were not entitled to qualified immunity, as there was a genuine factual issue as to whether the use of the pepper spray was excessive, given the minor nature of the infraction involved, and the absence of physically aggressive action by the arrestee. 104

Officers are only required to act in an objectively reasonable manner based on what they know or reasonably believe at the time of the incident. In *Padula v. Leimbach*, #10-3395, 656 F.3d 595 (7th Cir. 2011), for instance, police believed that a motorist who veered off the road, and disobeyed orders to exit his vehicle was intoxicated. He was actually diabetic, and suffering from hypoglycemia. The officers physically pulled him from his car, struck him, and used a chemical spray on him as he resisted their efforts. After a paramedic recognized the driver’s diabetic condition, he was transported to a hospital, where he subsequently died. The officers, under these circumstances, were not liable for the motorist’s death, based on the reasonableness of their belief that he was intoxicated.

Officers can sometimes be granted qualified immunity from liability if undisputed facts show that they did not violate clearly established prior case law, or if the facts, even construed in the manner most favorable to the plaintiff, do not establish a constitutional violation. An appeals court will not uphold such immunity, however, when there are still genuinely disputed issues of material fact that could have an impact on liability. In *Bomar v. City of Pontiac*, #10-2161, 643 F.3d 458 (6th Cir. 2011), the court ruled that an officer was not entitled to qualified immunity in a lawsuit over his alleged use of pepper spray against a woman who he claimed tried to hit him after he followed her son from a drug raid into her house. Factual issues concerning whether the woman actually tried to hit the officer, and whether he actually used the pepper spray had to be resolved, precluding the appeals court from upholding the officer’s immunity defense.

Similarly, in *Howard v. Wayne County Sheriff’s Office*, #09-2171, 2011 U.S. App. Lexis 5270 (Unpub. 6th Cir.), while a sheriff’s deputy did have probable cause to arrest a city employee, there was a factual issue as to whether the use of pepper spray against the arrestee was excessive. The arrestee had allegedly elbowed the deputy while going through an employee entrance security checkpoint at a city building, and responded with a profane statement when ordered to stop. While there was probable cause to arrest the plaintiff for failing to obey a lawful order, his version of the

incident, in which he denied making physical contact with the deputy or making the profane statement, if true, would render the deputy's use of pepper spray and action in taking him to the ground an excessive use of force.

In *Mierzwa v. U.S.*, #07-3362, 2008 U.S. App. Lexis 13523 (Unpub. 3rd Cir.), cert. denied, #08-8012, 129 S. Ct. 2378 (2009), the court ruled that officers did not use excessive force in response to a belligerent motorist who shouted and refused to comply with their directions to step to the curb, lower his voice, and calm down. When he resisted their attempts to place handcuffs on him, they tackled him to the ground and applied arm locks for purposes of restraint. After that too proved unsuccessful, they then used pepper spray. 105

The court ruled that no reasonable officer would have thought that the defendant officers applied excessive force under the circumstances, and that the officers were entitled to qualified immunity.

#### USE ON HANDCUFFED PERSONS

The use of chemical weapons can, in some instances, be completely justified initially, but become an excessive use of force when circumstances change and resistance ends, as when the force continues after the suspect is subdued. In *Champion v. Outlook Nashville, Inc.*, #03-5068, 380 F.3d 893 (6th Cir. 2004), a federal appeals court upheld a \$900,000 jury award to the family of an adult non-verbal autistic man who died after officers seeking to restrain him allegedly continued to use pepper spray and to lay on top of his body after he was handcuffed, hobbled, and laying on his stomach on the ground, no longer resisting. Continued use of such force at that point, the court ruled, violated clearly established law, and jury's award was not excessive.

See also *Henderson v. Munn*, #05-1403, 439 F.3d 497 (8th Cir. 2006). In that case, an officer was not entitled to qualified immunity on arrestee's claim that he sprayed pepper spray in his face while he was lying on the ground with both hands cuffed and another officer on top of him. Such use of force, after the arrestee had been subdued, if true, could not be said to be objectively reasonable as a matter of law.

Handcuffs placed on a suspect may shift the justification away from using force, but not always, as force may continue to be used if active resistance continues. In *Revak v. Lieberman*, #09-4179, 2010 U.S. App. Lexis 22466 (Unpub. 3rd Cir.), state police followed a motorist to his home after observing him speeding and driving erratically. When they approached his vehicle and ordered him to exit, he did so, but began screaming obscenities at them. The motorist smelled of alcohol and he resisted being patted down, leaning backwards and knocking into an officer, and again trying to push back into the officer.

He was placed under arrest, but refused to cooperate with being handcuffed, so two bursts of pepper spray were used to accomplish this. Even while handcuffed, he continued to resist, requiring a third pepper spray burst to subdue. He was convicted of DUI and resisting arrest, and sued the officers for excessive use of force. A federal appeals court ruled that the use of the pepper spray against the plaintiff, who was resisting arrest, was an objectively reasonable use of force.

In *Tracy v. Freshwater*, #08-1769, 623 F.3d 90 (2nd Cir. 2010), cert. denied, 132 S. Ct. 1617 (2012), an arrestee claimed that an officer used excessive force in arresting him, including the use of pepper spray. The officer, during a traffic stop of the plaintiff, 106 suspected that he might be wanted for a criminal offense. The arrestee claimed that the officer struck him several times with a flashlight after he slipped on a patch of ice, jumped on him after he began to run and fell to the ground, used pepper spray against him after he had already been subdued and handcuffed, and ignored his protests that he was in pain in forcibly moving him from the ground to a police vehicle. Because it was disputed whether the officer used the pepper spray on the arrestee before or after he was handcuffed, the excessive force claim concerning the use of the pepper spray survived summary judgment.

#### WARNINGS

Warnings, when possible, prior to the use of chemical weapons, are a good idea, as the purpose is to gain compliance, not the use of force as an end in itself. Courts have recognized, however, that officers often have to make split second decisions in volatile circumstances, so warnings are not always required. In *McCormick v. City of Fort Lauderdale*, #01-16567, 333 F.3d 1234 (11th Cir. 2003), the court ruled that an officer was not required to give advance warning of his use of pepper spray in his attempt to subdue a man, armed with a walking stick, who was suspected of having already used it to inflict serious injury on a woman in a laundromat who was observed bleeding profusely from her head at the scene.

The use of warnings, however, can help play a role in avoiding liability. The case of *Cabaniss v. City of Riverside*, #06-3546, 231 Fed. Appx. 407, 2007 U.S. App. Lexis 8271 (Unpub. 6th Cir.) illustrates this. The federal appeals court found that police officers did not violate a man's rights by using pepper spray on him in the back seat of their car, where they placed him after finding him intoxicated. The officers feared that he was suicidal, based on his behavior, and were trying to assist him. He was unsecured in the

backseat of the car because he was uncooperative, and he started kicking the plexiglass separating the front and backseats, and beating his head on it.

The pepper spray was only used after it was clear that repeated orders would not cause him to stop this behavior, and after the man was given a warning about the use of the spray, and was motivated by a fear that the man might harm himself. After they cleaned the residue of the pepper spray off of his face outside the police/fire station, he attempted to stand up, despite their statements that he should not try to do so, and fell, hitting his head and suffering injuries that allegedly led to his death from a swelling on his brain. The court found that the decedent would not have suffered his fatal fall except for his own conduct in disregarding the warnings of the defendant officers, so that they could not be held liable for his death. 107

#### CROWDS AND BYSTANDERS

One of the issues that sometimes arises in the use of chemical weapons is that when used against larger groups of people, sometimes innocent people and bystanders can be impacted by the substances used. At the same time, there are occasions when it is still the best available option to try to control an unruly crowd. In *Moss v. United States Secret Service*, #10-3615, 572 F.3d 962 (9th Cir. 2009), when President George W. Bush was dining at a restaurant during his 2004 reelection campaign, groups of demonstrators both in favor of and opposed to his re-election attempted to gather outside.

A federal appeals court ruled that, if the facts were as alleged, Secret Service agents violated the First Amendment by forcing protesters opposed to the President to move further away from the restaurant than where they permitted supporters of the President to rally. This was enforcement of a content-based restriction. The agents were not entitled to qualified immunity. The court also found that state and local police supervisors could not be held liable for the alleged use of excessive force against the anti-Bush demonstrators, including the use of pepper spray, clubs, and shoving, since there was no indication that they were personally involved.

In *Dalrymple v. U.S.*, # 05-14375, 460 F.3d 1318 (11th Cir. 2011), the use of a gas gun against demonstrators outside the home where INS agents were executing warrants to remove the Cuban boy Elian Gonzalez was objectively reasonable when demonstrators were attempting to interfere and threw objects at the agents.

In *Asociacion de Periodistas de Puerto Rico v. Mueller*, #07-2196, 529 F.3d 522 (1st Cir. 2008), journalists claimed that FBI agents, while executing a search warrant at a condominium building, grabbed and assaulted them, and used pepper spray and metal batons against them when they entered a gated area. The agents were using the building's fences and security structure in an attempt to restrict the flow of people into the area, and allegedly did not give them a chance to exit before using force against them.

The appeals court ruled that "mere obstinance" by a crowd did not justify the use of force when there is no showing that crowd members posed a public safety threat or that any other law enforcement considerations were at risk. The court ruled, therefore, that Fourth Amendment excessive force claims by individual journalists could proceed. Police officers were not entitled to qualified immunity for allegedly spraying pepper spray inside a house filled with 34 people after telling several of them to "get inside" the house when they arrived. If, as the plaintiffs claimed, they were subjected to pepper spray after they were detained, without any provocation, that would violate their clearly established 108 constitutional rights. *Duran v. Sirgedas*, #05-4278, 240 Fed. Appx. 104, 2007 U.S. App. Lexis 10338 (Unpub. 7th Cir.).

#### THE AFTERMATH OF THEIR USE

When chemical weapons are used on persons taken into custody or already in custody, there may be a need to provide medical attention or at least the opportunity to wash off a substance to avoid adverse long term effects.

In *Mantz v. Chain*, #00-1032, 239 F. Supp. 2d 486 (D.N.J. 2002), for instance, there was a genuine issue of fact as to whether an officer's use of pepper spray was reasonably necessary to subdue a man being arrested for disorderly conduct. But the officer did not engage in deliberate indifference to the arrestee's serious medical needs by failing to immediately call an ambulance after the use of the spray, in the absence of any evidence that the delay caused any harm. The evidence further showed that the arrestee declined the officer's offer to give him a towel and water to flush out his eyes.

#### NEW ORLEANS POLICE CONSENT DECREE

The consent decree between the DoJ and the NOPD provides:

G. 69. NOPD agrees to prohibit the use of possession of Oleoresin Capsicum Spray by on-duty officers, including officers working secondary employment.

See, *United States v. City of New Orleans*, #12-1924 (E.D. La. 2013). The NOPD prefers Tasers because it's easier to track their use, and cameras provide a video of the incidents.



# NEW ENGLAND ASSOCIATION OF CHIEFS OF POLICE

## 2014 Highlights









# NEW ENGLAND ASSOCIATION OF CHIEFS OF POLICE

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Barszcz, Joe .....	Northampton, MA	Hayes, Pamela .....	Rocky Hill, CT	Sartell, James .....	Hollis, NH
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Beck, Timothy .....	Middletown, RI	Howe, Scott .....	Nashua, NH	Sleeman, Scott .....	Storrs, CT
Bitsomske, Lee .....	Seabrook, NH	Hunt, Steven .....	Naugatuck, CT	Smagula, Steven .....	Concord, NH
Blinn, Raymond E. ....	Providence, RI	Isaac, Kerri .....	Darien, CT	Smedick, Christopher .....	Torrington, CT
Boe, Vegar .....	Middlebury, VT	Jennings James .....	Cranston, RI	Socac, Matthew .....	Willimantic, CT
Booth, Andrew .....	Carlisle, MA	Jones, Patrick W. ....	Tiverton, RI	Sousa, Brian J. ....	Cambridge, MA
Bourgeois, Frank .....	Nashua, NH	Josefson, Matthew .....	Cranston, RI	Soychak, Edward J. ....	S. Burlington, VT
Boyde, Jonathan .....	Boston, MA	Joyce, Kevin .....	Portland, ME	Spas, Daniel .....	Boston, MA
Brennan, Stephen J. ....	Wilton, CT	Karl, Jamie .....	Falmouth, MA	Spiess, Laurene .....	Chestnut Hill, MA
Bruno, Daniel .....	E. Longmeadow, MA	Keeling, Adam .....	Boston, MA	St. Pierre, Marla .....	Scarborough, ME
Buckley, Mark .....	New Milford, CT	Kerns James .....	Boston, MA	Stanton, Scott .....	Dartmouth, MA
Cadit, Manes .....	Roxbury, MA	King, Paul Jason .....	Portland, ME	Steinbrick, Andrew .....	Orange, CT
Cain, Jeffery M. ....	Pittsfield, NH	Knott, Mark .....	West Warwick, RI	Stevenson, Craig .....	S. Dennis, MA
Carrasco, Benjamin .....	Roxbury, MA	Konicki, Lionel, Jr. ....	Putman, CT	Stewart, Joshua L. ....	Kittery, ME
Carroll, Sean .....	Providence, RI	Korepta, Greg .....	Northampton, MA	Stuart, Raymond .....	Woodbridge, CT
Cinci, Chris .....	Berlin, CT	Kreitz, Jeff .....	Ridgefield, CT	Sullivan, Sean .....	Mashpee, MA
Collins, John M. ....	Shrewsbury, MA	Lank, Michael .....	Canton, MA	Titcomb, Jacob .....	Portland, ME
Conley, Chris .....	Norwich, CT	Loewen, Brian .....	Falmouth, MA	Todd, Scott .....	Derby, CT
Connor, Roger B. ....	Danbury, CT	Lombardi, Henry .....	Newport, RI	Truban, Christopher M. ....	Montpelier, VT
Cook, Daniel L. ....	Winthrop, ME	Lucas, Thomas .....	Clinton, CT	Vail, Braedon .....	White River Junction, VT
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Coriaty, Alex .....	Willimantic, CT	Magiera, John .....	West Warwick, RI	Vanraalten, Scott .....	Hopkinton, MA
Cota, Andrew L. ....	Ansonia, CT	Martellini, Paul .....	N. Providence, RI	Vargas, Magalena .....	Storrs, CT
Cusson, Marc L. ....	Manchester, NH	Martinez, Roosevelt C. ....	New Haven, CT	Veilleux, Joshua .....	Winslow, ME
Daigle, Eric .....	Southington, CT	Masaitis, Michael E. ....	Providence, RI	Vinci, Joseph .....	Westwood, MA
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Day, Donald .....	Southwick, MA	Mello, Richard .....	Hilliss, NH	Wallace, Gary .....	Middletown, CT
Decrescenzo, Frank .....	New Haven, CT	Miglionico, Nick .....	Douglas, MA	Walusiak, Edward .....	Lincoln, RI
Denigris, Joseph .....	Seymore, CT	Moriarty, Sean .....	Middletown, CT	Welch, Donald M. ....	Center Harbor, NH
Dimitres, John E. ....	Mashpee, MA	Moulton, Keith .....	Montpelier, VT	Wheatley, Jason S. ....	Kingston, RI
Dunn, Christopher A. ....	Westport, MA	Murray, Thomas .....	South Dennis, MA	Wheeler, Earl .....	New Milford, CT
Dyer, Hedi .....	Truro, MA	Nervik, Christopher .....	Milford, NH	Willard, Enoch .....	Manchester, NH
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Farris, Timothy .....	Portland, ME	Parrillo, Dainel .....	Johnston, RI		
Favre, Anthony A. ....	N. Kingston, RI	Paten, Michael .....	New Haven, CT		
Fenlason, Jeffery .....	Winslow, ME	Perkins, Jeff .....	Lebanon, NH		
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Firth, Robert A. ....	Providence, RI	Petrucelli, Paul .....	Boston, MA		
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Foley, Marc .....	Swansea, MA	Powers, Darren .....	Norwich, CT		
Ford, Sean .....	Concord, NH	Ptak, Mark A. ....	Shelton, CT		
Ford, Travis .....	Rockport, ME	Pucillo, Natasha .....	Clinton, CT		
Forsyth, James .....	New Haven, CT	Quagliani, Ronald .....	West Haven, CT		
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Fulone, Brett D. ....	Douglas, MA	Ramer, Barry A. ....	E. Providence, RI		
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Gantert, Peter F. ....	Danbury, CT	Ramos, Brian .....	Rehoboth, MA		
Gates, Michael .....	Ridgefield, CT	Reishert, Aaron R. ....	Claormont, NH		
Gosselin, Steven .....	Auburn, ME	Rice, David .....	Greenfield, MA		
Graham, John .....	Middleboro, MA	Rich, John J. ....	Madison, CT		
Green, Erik .....	Mashpee, MA	Rivera, Eliezer .....	Keene, NH		
Grover, David .....	W. Scarborough, ME	Roberts, Leonard .....	White River, Junction VT		
Guthrie, Ben .....	Falmouth, MA	Rodriguez, Edgar .....	Beacon Falls, CT		

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Humes, Brian .....	Berlin, CT
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Mcgonagle, John .....	North Hampton, NH
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Walsh, Milton C. ....	Scituate, MA
Williams, Leslie .....	Norwich, CT
Wooding, Philip K. ....	Southington, CT
Yazbak, Edward F. ....	Slatersville, RI
Zieff, Jerry .....	Walpole, MA





# NEW ENGLAND ASSOCIATION OF CHIEFS OF POLICE

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Bill Alvarez  
John E. Anderson  
Bradley S. Anschutz  
Jose Antonio  
Rudolph C. Arendt  
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Peter Askham  
Russell J. Atkinson

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Aldo A. Bartlett  
Charles J. Bartnicki, Jr.  
Ellis Bateman  
Thomas J. Baziak  
Gerard T. Beaudoin, Jr.  
David W. Beaudry  
C.W. Beers, Jr.  
James Bellarosa  
Gary R. Belowich  
Aldo Bergami  
Antonio A. Bergeron  
Roger Bergeron  
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Carmen Bessette  
Forest Biggs  
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Roland J. Blier  
Marco T. Bonilla  
Terry Borjeson  
Barbara Bornstein  
Denis R. Boroski  
Daniel Bosley  
George Botelho  
Nick Bougas  
James E. Bourbeau  
Severino V. Bovino  
Samuel G. Boyarsky  
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K.C. Bradshaw  
Edmund O. Bragdon

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Donald S. Brewer  
John R. Bria  
Steven Brouwer  
Victor Bucchere  
Anthony M. Bucci  
Daine Budaj  
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Richard F. Bushka  
Ronald L. Bushka  
Ronnie A. Bushka

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G. Paul Cannan  
Joseph F. Carabetta  
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Hilding Carlson  
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Wen T. Chow  
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Concetta Falcone Coddling  
Concetta R. Coddling  
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John Connelly  
Steven Contarino  
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Leo Cote  
John Couto, Jr.  
Charles Coyle  
Thomas Crowley  
Dennis M. Crowley, Jr.

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David Dannin  
John M. Davey  
George W. Davis  
Walter A. DeFilippi  
Edward F. DeGeorge  
Albert R. DeLucia  
Frank L. DeMaio  
Louis. DeMattia  
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Dominic DiClementi  
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John J. Foley Jr.  
Donald Forte  
George Frost  
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Allen R. Garey  
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Basil Hoyt  
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Brian Humes  
Vern Hunter

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Bob Johnson  
Leonard Johnson  
Ralph M. Johnson  
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Alfred Karg  
Ronald S. Kessler  
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Tae K. Kim  
Gilbert L. Klemann II  
John W. Kowarik  
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Bernadette Kuchle  
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Elizabeth Leake  
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Marion LeCuyer  
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Frank Lener  
Gaetano Leone  
Bobby Leung  
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Robert F. Liguori  
Elsie T. Lin  
John D. Long  
Thomas L. Looper

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Rachel MacLellan  
Paul L. Verille Major  
Nicholas G. Makrianis  
Albert Makrov  
Anthony Mancuso  
Edward M. Manion  
Theodore J. Marczyk  
Mario Mardy  
William Martin  
Theodore Martland  
David G. Massad  
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Thomas Matthews  
Melvin McBreaity  
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James P. McGoniagle  
Don D. McKeever  
E.R. McMullen, Jr.  
James McNeill  
Kenneth Messenger

Richard Messenger, Sr.  
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Carl Miller, III  
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Owen Moore  
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Stephen Murray  
Eugene Murray, Jr.  
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Jacqueline M. Musante

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Kenneth F. Nappi  
Alexander Natale  
Grace G. Newcomer

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Francis X. O'Brien  
Juan C. O'Callahan  
Wayne Olsen  
Ray O'Meara Jr  
Bruce Orcutt  
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Richard E. Ostop  
John F. Ouellette  
Philip Ouellette

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Eugene Pacapalli  
Patrick Pacelli  
Peter L. Paduano  
Earle M. Palmer, III  
Robert Paoella  
Michael P. Pappas  
Mario Paternostro  
H. Louise Patturelli  
Rachel T. Perez  
Robert S. Perkin  
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Gary Philipp  
Robert Pidgeon  
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George H. Planeta, Jr.  
John R. Polasko  
Bernard Pollak  
Robert A. Porter  
Rock E. Poulin  
Richard J. Puskarz  
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Joseph J. Quartarone

# R

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James V. Regan  
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L. Ress  
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Michael Rieger  
Paul Rinaldi  
Carl Rockel  
Richard H. Roulston, Jr.  
Anne M. Roy  
Charles Rubertino  
Rev. George Rucker  
Joseph J. Russo

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Lester Sadowsky  
Raymond J. Salamanca  
James A. Salatto  
Leonard A. Salerno  
Almira L. Salomonsen  
Evandro Santini  
Anthony J. Scata  
Robert Schulman  
Thelma F. Schweitzer  
William A. Scott  
Herbert Segien  
Dianne E. Shalby  
John M. Sharek  
John C. Shaw  
James J. Shea, Jr.  
Ronald L. Sheiman  
Denys Shorthouse  
Henry J. Showell  
Joseph Siklos  
Frank Simcic  
James A. Simms  
Alan Sklar  
Edward C. Slattery  
Dennis Slavin  
Phillip J. Sleeman  
Leo H. Slight  
Elizabeth Smiles  
Arthur K. Smith  
Delbert B. Smith, MD  
Benjamin Soboleski  
Lawrence Soltis  
James R. Spencer  
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Frank Sponzo  
Susan S. Starr  
Else Steiner  
Joseph L. Steinfeld  
John W. Stewart  
Lyndon Strother  
Ernst Struna  
Richard S Sullivan

T.J. Sullivan  
Harvey E. Sussman  
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# T

Kathy Tatro  
Charles R. Taylor  
Daniel W. Teper  
Thomas R. Teraila  
Lewis Terlizzi  
James S. Thibeault  
Warren W. Thompson  
John P. Thompson, PE, NSPE  
Juan Toro  
Riccardo Tota  
Joseph S. Tracey  
Witold Trusiewicz  
Stephen R. Turcotte

# U

Unsworth, Kevin

# V

Victor, Valdez  
Gilbert N. Vasseur, Jr.  
Dan E. Vece  
Frank B. Velardi, Sr.  
Ediltrudis Villatoro  
Joseph J. Vinci, Sr.  
Lance Violette  
Richard A. Volonino

# W

Joseph T. Walsh  
Daniel E. Walsh, Pres.  
John Walton  
Alan Warner  
Marshall C. Warren  
J. David White  
Kenneth White  
Edward E. Wilbur  
Baozhu Williams  
Benjamin Wilson  
Kenneth Wilson  
Renee T. Wilson  
Lawrence H. Wimler  
Stephen F. Woolbert

# Z

Francis G. Zwierlein, Jr.



# CODE OF ETHICS

## For Police Executives

### NEW ENGLAND ASSOCIATION OF CHIEFS OF POLICE, INC.



*We, members of the New England Association of Chiefs of Police, Inc., recognizing our responsibilities to the communities we serve and our obligations to society in general and with the knowledge that our profession requires the highest ideals and rules of conduct, hereby adopt the following code of ethics for police executives, and commend them to all persons in the police profession for their guidance.*

*We will put honesty, truth and justice above all other considerations, and we will not allow friendship, enmity, social position, political influence, nor personal motives to swerve us from the impartial performance of duty.*

*We will neither solicit nor accept, any gift, privilege, favor or advantage from any person which will place us under any obligation to overlook any violation of a law, or violate the ethics of our profession.*

*We will observe all the provisions of the Constitution of the United States, and will never illegally deprive any person of any right guaranteed by the great document. We will not become involved in any social, political, or religious controversy except as neutral agents of the public, and we will at all times endeavor to carry out the desires of the majority of citizens as legally expressed through proper legislative, judicial or executive channels of government.*

*Having efficient police administration as our objective, we recognize the need for professional fitness on the part of police executives and subordinates. We pledge ourselves to advance the science of police service through training courses and other methods adequate to meet the proper requirements of our profession.*

*Recognizing the mutual dependence of all law enforcement and social agencies, we pledge our cooperation to all officials and agencies interested in the promotion of justice and the improvement of social conditions. We will not allow envy, jealousy, or any other motive to interfere with such cooperation.*

*We will be fair with subordinates showing only that favor which has been honestly earned by meritorious service to the public: demanding that all police officers perform their duties and enforce the laws with impartiality, judgment and courtesy.*

*We recognize our responsibility to the press as a medium through which the public we serve can be kept informed of our activities. We solicit its support in all honest police endeavor, and its condemnation of any act or policy detrimental to the best interests of society. We deplore violations of the code of ethics for journalism in connection with publication of police news and respectfully recommend observance of that code.*



**"RETURN VOYAGE"**