



JOHN J. FARMER, JR..  
ATTORNEY GENERAL

# The Law Enforcement Reporter



PAUL H. ZOUBEK  
DIRECTOR

Fall 1999

## New Attorney General Sworn In

John J. Farmer, Jr., was sworn in as Attorney General at a public ceremony July 1, 1999, at Ellis Island.

As the Attorney General, Mr. Farmer serves as the chief counsel and chief law enforcement officer of New Jersey, supervising more than 6,800 employees in the Department of Law and Public Safety's 10 divisions.

"I have long been impressed with John's mastery of the law and his ability to take complex issues and find solutions," said Governor Whitman, who conducted the swearing-in ceremonies. "I am confident that he will bring the same dedication and motivation to the Attorney General's Office on behalf of all New Jerseyans."

"Whether the context is fighting for the integrity of our State boundaries or against discriminatory taxation, securing \$100 million judgments for securities fraud or enforcement out State's criminal laws, I pledge that this department will be an aggressive but reasoned advocate for the State of New Jersey," the new Attorney General said at the ceremony.

In 1997, Governor Whitman appointed Farmer as her Chief Counsel. Prior to that position, he served as Deputy Chief Counsel and Assistant Counsel to the Governor. Before joining the Whitman Administration, Farmer served from 1990 to 1994 as an Assistant United States Attorney for the District of New Jersey. As such, he prosecuted numerous cases involving organized crime, narcotics and white collar crime. In 1993, he received a special achievement award from the United States Department of Justice for his work.

Farmer also served as an associate with the law firm of Riker, Danzig, Scherer, Hyland and Perretti, handling civil appeals, commercial litigation and providing pro bono criminal defense. He also served as an adjunct professor of law at Seton Hall University Law School.

A graduate of Georgetown University, the new Attorney General received his Bachelor of Arts degree in 1979 and his law degree in 1986. Upon receiving his Juris Doctorate, Farmer began his legal career as a law clerk to New Jersey Supreme Court Justice Alan B. Handler. 

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The Division of Criminal Justice maintains a website containing information and resources including the New Jersey Law Enforcement Guidelines and the DCJ Academy Course Catalog.

[www.state.nj.us/lps](http://www.state.nj.us/lps)

For Distribution to  
Staff and Line Officers



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# THE HISTORICAL ROOTS OF COMMUNITY POLICING

*James T. Plousis*  
*Cape May County Sheriff*

It has been noted that community policing consists of two complementary core components -- community partnership and problem solving. Community partnership is the means of knowing the community. Problem solving is the tool for addressing the conditions that threaten the welfare of the community. It has also been noted that community policing is "democracy in action."

The two statements do fit perfectly into the historical and driving force in the establishing of police agencies in the United States. We see from the earliest efforts of our Founding Fathers that they called on the government to ensure domestic tranquility, provide for the common defense, promote general welfare and secure the blessing of liberty to ourselves and our posterity, as stated in the Constitution.

The intent of those powerful statements is woven through the studies and commission reports dealing with policing over the last 200 years. Probably the most notable report was prepared by the President's Commission of Law Enforcement and Administration of Justice, which was established by President Johnson. This report was issued in "The Challenge of Crime in a Free Society" (1967). In that report, the commission stated that the role of the police is not simply the suppression of crime, but a much broader role including service to citizens and greater involvement in the overall planning and functioning of the community. In addition, the commission report called for an increase in training and the development of skills to handle situations that are often not criminal in nature but are important to maintaining public order and a positive relationship between government and citizen.

As we see in these statements, the concept of community policing is one that has been with the law enforcement community since its founding. But it has not always been put forth in many agencies' strategic plans. These principles should be threaded through all agencies in our mission statements, values, goals, objectives and daily activities.

Community policing is not just a program but a philosophy that has roots with the words of the Founding Fathers and has relevancy, perhaps more today than ever before. As we have sworn to uphold the U.S. Constitution and our state constitution, we have made a solemn oath to accept and promote the community policing philosophy.

For more information, contact Sheriff James T. Plousis, Office of the Sheriff, DN 301/501 Central Mail Room, Cape May Court House, Cape May, NJ 08210-3097; telephone 609.465.1226; fax, 609.463.6464. 

## ***The Law Enforcement Reporter***

*Summer 1999 Issue*

The *Law Enforcement Reporter* is published by the New Jersey Department of Law and Public Safety, Division of Criminal Justice. Formerly known as the *Criminal Justice Newsletter*, the *Law Enforcement Reporter* is intended for the use and information of all those involved in law enforcement and the criminal justice fields. Nothing herein is to be construed as an official opinion or expression of policy by the Attorney General or any other law enforcement official of the State of New Jersey unless expressly so stated. This material should not be reprinted without permission from the Division of Criminal Justice.

The *Reporter* invites the submission of unsolicited articles. Articles should be typewritten and footnotes, if any, should appear at the end of the article.

Please send all comments and article submissions to:

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# ADMINISTRATION & MANAGEMENT

## Letters of "Good Character" from Police Agencies

*Don McCann*  
*Chief, Law Enforcement Standards*

In January 1999, Congressman Rodney P. Frelinghuysen brought to the attention of then Attorney General Verniero a concern of some of his constituents. These were individuals who were applying for United States citizenship who were unable to obtain letters of "good moral character" from their local police department.

The federal immigration law as found in 8 U.S.C. 1427 states that "No person, except as otherwise provided in this title, shall be naturalized, unless such applicant . . . during all the periods referred to in this subsection has been and still is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States."

Title 8 of the Code of Federal Regulations (8 CFR) establishes those things which would result in a finding of lack of moral character.

Finding of a lack of good moral character can be made if the applicant has been:

- ◆ Convicted of murder at any time.
- ◆ Convicted of an aggravated felony as defined in federal law.
- ◆ Committed one or more crimes involving moral turpitude.
- ◆ Committed two or more offenses for which the applicant was convicted and the aggregate sentence actually imposed was five years or more.
- ◆ Violated any law of the United States, any State, or any foreign country relating to a controlled substance, provided that the violation was not a single offense for simple possession of 30 grams or less of marijuana.

- ◆ Was confined to a penal institution for an aggregate of 180 days pursuant to a conviction or convictions.
- ◆ Has given false testimony to obtain any benefit from the Immigration laws.
- ◆ Is or was involved in prostitution or commercialized vice.
- ◆ Is or was involved in the smuggling of a person or persons into the United States.
- ◆ Has practiced or is practicing polygamy.
- ◆ Committed two or more gambling offenses for which the applicant was convicted.
- ◆ Earns his or her income principally from illegal gambling activities.
- ◆ Is or was a habitual drunkard.
- ◆ Willfully failed or refused to support dependents.
- ◆ Had an extramarital affair which tended to destroy an existing marriage.
- ◆ Committed unlawful acts that adversely reflect upon the applicant's moral character.

In determining a person's moral character prior to their examination, the Immigration and Naturalization Service will obtain a full criminal background check from the Federal Bureau of Investigation based on an applicant's fingerprints.

If the F.B.I. has determined after two fingerprint cards that the applicant's fingerprints are unclassifiable for the purpose of conducting a criminal background check

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## *Letters of "Good Character", continued from page 3*

and have been rejected, the applicant must present alternative evidence of their good character. In another part of the Federal Regulations it states, in relevant part:

Primary evidence of the self-petitioner's good moral character is the self-petitioner's affidavit. The affidavit should be accompanied by a local police clearance or a state-issued criminal background check from each locality or state in the United States in which the self-petitioner has resided for six or more months during the 3-year period immediately preceding the filing of the self-petition.

Although this section refers to a "... state-issued criminal background check . . .", it is evident that a CCH check would not include all of those matters listed above. It is also evident that a police executive would not be able to certify as to all of the behaviors listed.

For this as well as for other reasons, citizens in your jurisdiction may request a "letter of good conduct" or a "police clearance" from your agency. It is clear that the local law enforcement agency has the authority, and indeed the obligation, to provide such a service. However, such letters are limited in scope. The law enforcement agency may:

- ◆ Request a release or waiver from the citizen requesting the letter.
- ◆ Insist on reasonable means of proof of the identity of individual requesting the letter.
- ◆ Search its own, local data for any information concerning the individual.

- ◆ Report the results of that search, including, but not limited to:

arrests of the individual (except for expunged cases).

summonses issued to the individual (except for expunged cases).

- ◆ In the event that no records are found, the law enforcement agency should state in the letter the data that was searched and the fact that no records were found.
- ◆ The law enforcement agency should not state that the individual is "of good character," unless the chief executive or other responsible person within the agency is personally familiar with the individual and his or her character.

There is no prescribed format for these letters. The letter should be on agency letterhead and should be signed by an official representing the agency. A *sample* of effective wording would be:

A criminal record check was conducted through this Department's files for [requesting person's name], date of birth [requesting person's date of birth], who resided at [requesting person's local address(es)] in this jurisdiction for the past [number of years residing there] years. All inquiries yielded negative results.

These letters are very important to the individuals who request them and the law enforcement community should do all it can to accommodate these requests. 

## *Call for Articles*

The **Law Enforcement Reporter** welcomes the submission of well-written manuscripts to be considered for possible publication in future editions. Articles should be law-enforcement related or should address a criminal or juvenile justice topic. Manuscripts must be typewritten and footnotes, if any, should appear at the end of the manuscript. Black and white, glossy photographs may also be submitted. The final form and content of all manuscripts will be subject to the executive editor's approval.

# ADMINISTRATION & MANAGEMENT

## Vehicle Pursuit and Tire Deflation Devices

*Don McCann*

*Chief, Law Enforcement Standards*

When the New Jersey Task Force on Police Vehicular Pursuit Policy developed the statewide vehicular pursuit policy in December 1985, it chose not to address the issue of tire deflation devices due to the state of the technology at that time. Most devices on the market required the officer to throw or pull a device in front of the pursued vehicle as it approached. This action, it was felt, added too many uncontrollable variables to the situation:

- ♦ The safety of the officer may be in jeopardy since he or she must be within throwing distance of the roadway at the time the vehicle is approaching.
- ♦ The officer must be skilled in throwing or pulling the device so that it is directly in front of the vehicle's tires at precisely the right moment.
- ♦ The driver of the pursued vehicle might react suddenly upon seeing an object crossing the roadway immediately in front of him, possibly resulting in a loss of control.
- ♦ If the devices were not removed from the roadway immediately, pursuing police vehicles, and in fact any vehicles, might suffer damage from the tire deflation device.

At the request of the Stafford Township Police Department, the Division of Criminal Justice revisited this issue. The reason for this request was a new device on the market, the "Roadspike" manufactured by PMG Incorporated. The Division of Criminal Justice formed a committee of vehicle operations experts to reexamine this portion of the policy.

This committee has established minimum standards that a tire deflation device must meet to be acceptable should a police department choose to utilize a tire deflation device. These minimum standards include:

- ♦ The device must be capable of storage for long periods in the trunk of a police vehicle.

- ♦ The device must be fully operable by one officer.
- ♦ The device must be capable of deployment without the need for the officer to cross the road.
- ♦ The device must be able to remain in the road without causing damage to non-targeted vehicles that pass over it, before and after impact with the target vehicle.
- ♦ The device must be capable of deployment or activation, either remotely or from a safe distance, at the time the target vehicle approaches.
- ♦ The device must be capable of causing controlled tire deflation in the target vehicle.
- ♦ Use of device must cause minimal or no collateral damage.
- ♦ The device must be capable of deactivation and/or retrieval immediately after impact by the target vehicle.

After reviewing several devices on the market, the committee felt that only the "Roadspike" device met all of these criteria. The committee then conducted field tests using the "Roadspike" device on a taxiway at Lakehurst Naval Air Station. Several different types of tests were conducted.

First were trials *without* activation of the spikes. The Roadspike was deployed on the roadway, but the spikes were not activated. Vehicles drove over the device at varying speeds. Drivers and in-car observers noted no significant reaction of the car and no loss of control. Observers on the roadside noted very little movement and no damage to the Roadspike.

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# ADMINISTRATION & MANAGEMENT

## Internal Affairs Automated Case Tracking Software

*Robert D. Melson*  
*Law Enforcement Standards*

As a result of the enactment of *N.J.S.A. 40A:14-181*, which became effective in January of 1997, every law enforcement agency in the State of New Jersey is required by law to adopt and implement guidelines for the management of the internal affairs function. These guidelines must be consistent with the "Internal Affairs Policy and Procedures" issued by the Division of Criminal Justice as part of the *New Jersey Law Enforcement Guidelines*.

One of the most significant aspects of this internal affairs policy is the requirement for agencies to maintain records containing specific data associated with complaints against police officers and other police employees. The policy calls for the creation of an index file in which to record the basic information about each complaint. Such information should include but not necessarily be limited to the name, address, telephone number and other data to identify the complainant; information to identify the accused officer or employee; and information about the inappropriate behavior or misconduct the officer or employee is alleged to have committed. In addition, a unique, agency defined case number should be assigned to each complaint to facilitate and simplify case tracking. The index can be a manual system involving the use of index cards or a log book, or it can be as sophisticated as a computerized data base. Regardless of the medium used, the index file is a necessary element in the efficient management of any credible and effective internal affairs (IA) unit.

Although it is recognized that some small agencies with limited resources or few complaints will, by necessity, develop and use a manual index system for internal affairs complaints, it is also understood that many agencies will choose to automate the IA record keeping function for ease of data retrieval. Unless an automated agency is fortunate enough to have an employee who is capable of developing a proprietary software application or database to manage the IA case tracking function, it will be necessary for that agency to find an off-the-shelf generic database that will suffice for the intended purpose. It is for that type of agency that we would like to introduce the **IACP Internal Affairs Automated Case Tracking Software**.

### **HISTORY**

In response to requests from member agencies and chiefs participating in the National Police Use of Force Database project, the International Association of Chiefs of Police (IACP) committed staff resources to the development of a new and unique software application designed to serve the needs of police agencies in the tracking and management of internal affairs complaints and investigations. The software development team released the first edition of the application in the latter part of 1998 and has released several updates since then. The product boasts a user friendly environment that is compatible with standard desktop or laptop computers as well as existing software applications.

The Law Enforcement Standards Section within the Division of Criminal Justice recognized the potential value of the IACP Internal Affairs Automated Case Tracking Software (CTS) and began to work with the software development team in February of this year in an effort to customize the program for use by New Jersey law enforcement agencies. That effort has resulted in the release of a new version of the program that incorporates terminology, nomenclature and reports consistent with

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the requirements of the "Internal Affairs Policy and Procedures" for New Jersey law enforcement. However, through the configuration file, the program can be further customized by the end user to make it compatible with agency specific terminology such as ranks, complaint categories, assignments, duty status and the like. Agencies also have the ability to incorporate photo images and logo images into the program through the configuration system file.

## **GENERAL FEATURES**

The case tracking system (CTS) is currently written in Microsoft Access and is compatible with Windows 95, Windows 97, Windows 98, and Windows NT (Ver 4.0). It is shipped with a runtime version of Microsoft Access and/or Visual Basic on an 8 disk set of compressed software with a user's manual. Technical support services are also available from the IACP. It should be noted that the next version of the software will be written exclusively in Visual Basic for enhanced compatibility with most operating systems.

The following capabilities are included:

- ◆ Tracks all complaints against officers within a user-specified range
- ◆ Tracks all complaints by disposition
- ◆ Supports multiple allegations in a single complaint
- ◆ Supports multiple dispositions for complex single cases
- ◆ Tracks all officers named in a single complaint
- ◆ Supports multiple dispositions for multiple officer, single complaint cases
- ◆ Supports calendar year comparisons of complaints and dispositions per officer
- ◆ Displays complaints by user-assigned case number
- ◆ Allows for missing data elements in open case records
- ◆ Displays all complaints per individual complainant within a user specified time period
- ◆ Displays gender, race and age of complainants, per time interval, per disposition, per officer (also supports unknown in cases where complainant data is not available)
- ◆ Provides standard (default) investigative categories and allows users to enter their own investigative categories
- ◆ Tracks important dates and time intervals such as deadlines
- ◆ Tracks information about the use/discharge of a service weapon

In addition, the CTS supports extensive search and reporting capabilities, includes an early warning system, allows for ASCII data import and export, and facilitates the voluntary export of anonymous use of force allegations to the IACP Use of Force software system. It should be noted that the CTS is a tracking system only, and is not designed to provide word processing capability for the preparation and storage of the investigative work product.

In the interest of data security and integrity it is recommended that the CTS be installed and maintained on a stand alone computer. It is however LAN and WAN compatible.

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*Internal Affairs, continued from page 7*

## **COST**

Since the CTS is a proprietary product of the IACP, underwritten by the membership, it has been distributed in the past to law enforcement agencies without cost. However, due to the increased demand for the product, the IACP is planning to charge a small fee for future requests to recover the cost of the disks, the user's manual, shipping and handling. Currently there is no fee for technical support.

The CTS is capable of incorporating records from another data base through the process of conversion. For those agencies which desire to include past data in the CTS data base and do not have the technical expertise to do so, the IACP can provide that service for a nominal fee.

## **CONCLUSION**

In the past few months the CTS has been demonstrated at various police agencies throughout the state as well as at the New Jersey State Association of Chiefs of Police Expo in Atlantic City. The product is currently in use or being evaluated by more than 400 agencies nationwide, including the Division of Criminal Justice, and is under consideration by many other agencies in New Jersey including the State Police. The IACP Internal Affairs Automated Case Tracking Software is a cost effective, dependable option for use by New Jersey law enforcement agencies as a management tool to facilitate computer based compliance with the record keeping requirement of the mandatory Internal Affairs Policy and Procedures.

For further information or to arrange for a demonstration of the program, please contact the Division of Criminal Justice, Law Enforcement Standards Section (609.984.7301).

For answers to questions concerning programming, compatibility, data conversion or other technical matters, please contact the CTS project manager, Mark Henriquez, at the IACP, 515 North Washington Street, Alexandria, Virginia, 22314 (703.836.6767, extension 264). 

*Vehicle Pursuit and Tire Deflation Devices continued from page 5*

On another test, the vehicle approached at a speed of 30 mph and did a "panic" stop immediately before impact with the Roadspike device. This caused the device to be rolled and irreparably damaged. While there was no significant damage to the test vehicle, it is possible that cars which were immediately following the test vehicle could experience damage such as punctured tires or damage to the underside of the car.

Several trials were then conducted *with* activation of the spikes. For each trial, conducted at varying speeds, the Roadspike performed well. Tires fully deflated in about 15 to 20 seconds with no significant loss of control of the vehicle. Near the end of deflation, the drivers reported the front end was sluggish. All of the spikes removed from the Roadspike device were found imbedded in the tires, and there were none loose on the roadway.

To simulate a pursuit, one test was conducted with two vehicles approaching the Roadspike at about 90 mph, with approximately 50 feet between the vehicles. The Roadspike operator activated the spikes for the first vehicle, *i.e.*, the target vehicle, and immediately deactivated the spikes once the vehicle passed. The tires on the target vehicle were deflated. The second vehicle, *i.e.*, the vehicle following the target vehicle, suffered no damage.

In addition to these tests conducted at the Lakehurst Naval Air Station, the Stafford Township Police Department performed several "static" road tests. The Roadspike was placed in the roadway in several different locations and left there for two hour periods at different times of day. In all, over 2,500 vehicles ran over the Roadspike. In all of these cases, only four motorists slowed down or tried to avoid the device. There was no damage to either the vehicles or the Roadspike device in all of these "drive-overs."

Based on the success of the road tests, and the apparent safety to both the officer and the motoring public, the New Jersey Police Vehicular Pursuit Policy, last revised in January 1993, will be revised to permit the use of tire deflation devices meeting the criteria listed above. It will be solely at the discretion of each agency whether or not they want to use the devices. If an agency chooses to use the tire deflation devices, they will be required to have written policy and reasonable training in the use of the devices. The updated New Jersey Police Vehicular Pursuit Policy will be issued in the Fall of 1999. 

# LAW ENFORCEMENT GUIDELINES

## A POLICE OFFICER'S GUIDE: *Helping Identify Individuals with Mental Retardation*

Suzanne Lustig, Esq.  
Middlesex County Prosecutor's Office  
The Prosecutor's Newsletter, Autumn 1998  
(Reprinted with permission)

His survival mechanism is hanging out with the wrong people and always at the wrong time. He is ashamed to be different and will go to great lengths to hide his disability. He desperately wants friends and will "go along" just to belong. He is streetwise and street knowledgeable. He has never had the right mentors or advocates present in his life to teach him anything different. Otherwise, how do you explain why he returned to the grocery store one hour after it was robbed by his friends to read comic books? The police were still there filling out the incident report and caught him. Why would he stay at the scene of a home that was just burglarized and be the only one NOT to run away when the police arrived? He was, of course, the only one to be caught. Why would he confess quickly and easily to over 20 arsons when there was no evidence linking him to these crimes? The answer is that he is a defendant with mental retardation.

Mental retardation is characterized by a limited ability to learn because of a mental impairment that is permanent, most often present at birth. Mental retardation significantly affects IQ levels. Mental retardation is not an illness, like schizophrenia or depression. Its effects can be minimized through education and habilitation services. Nearly 90% of people with mental retardation have MILD mental retardation, achieving IQ scores between 52 - 70. This score is well below the average IQ of 100. Mental retardation must be documented before age 22, so it would be extremely difficult to fake having this disability.

About three out of every 100 people in the general population have mental retardation. As a law enforcement officer, there is a good chance you will come into contact with a person who has this disability. Studies indicate that 4-9% of the criminally offending population is likely to have mental retardation. Many more people with mental retardation find themselves

involved in the criminal justice system than we might expect based on its frequency in the general population. There are a number of reasons for this.

Defendants with mental retardation often display poor judgment and do not fully understand the significance or the consequences of their actions. In an effort to be socially accepted, they may unknowingly involve themselves in criminal behavior. Moreover, because of their heightened suggestibility, they are more easily led into criminal activity. Defendants with mental retardation are often lookouts in burglaries or runners for drugs. Their limitations carry over into the legal system; defendants with mental retardation often attempt to hide their disability (even from their own attorneys and especially from police officers). They go along with the criminal justice process although they do not fully understand it. Some defendants with mental retardation would rather go to prison than admit they were in an institution or special education program.

### ***Characteristics of Defendants with Mental Retardation***

A defendant with mental retardation may not communicate at his age level, which can result in mimicked responses or difficulty in answering questions. He may not behave at his age level, may have inappropriate interactions with peers, may be easily influenced by others, and may be anxious to please others. This defendant may not understand the consequences of situations or may not behave appropriately in criminal justice situations. He will likely appear not to appreciate the seriousness of his actions, may act impulsively, or may have difficulty recalling details of the offense. Often, he is a follower, not an initiator, of the criminal activity.

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# LAW ENFORCEMENT GUIDELINES

*Helping Identify Individuals with Mental Retardation  
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People with mental retardation confront distinct disadvantages at each stage in the criminal justice process. In the initial stages, arrested individuals with mental retardation:

(1) ***May not understand the implications of the Miranda Rights being read to them.*** People with mental retardation have an inability to engage in abstract thinking and only think in concrete terms. For example, when the Miranda Rights are read, this individual may only understand the word rights in concrete terms and think he should wave his right hand as opposed to his left. He is certainly not able to understand in the abstract that Miranda Rights are based on a person's constitutional rights as a citizen;

(2) ***If arrested, he usually confesses quickly and often reacts to friendly suggestions and intimidation by saying what he believes a police officer wants to hear.*** It's hard for people without any experience working with people with mental retardation to understand why anyone would confess to a crime they did not do, or sign something they could not read. Yet people with mental retardation have learned to rely on authority figures for solutions and have a strong desire to please people they view in authority, especially police officers. A confession of a defendant with mental retardation could read, "If the detective said I did it, then I guess I did it -- even though I can't remember doing it." They may even take the blame for the crime thinking the police officer will like them more if they do.

(3) ***He is not recognized as having a developmental disability by police, attorneys or judges.*** Defendants with mental retardation may not have easily recognizable characteristics that would distinguish them from the general population. They may seem streetwise and may have learned to hide their disability. Having mental retardation has always been a stigma for them and they will continue to pretend to understand what is going on around them, even if it means going to jail.

## ***Miranda Rights and Defendants with Mental Retardation***

People with mental retardation often do not understand the Miranda warnings. In fact, many will answer "yes" after they are read the warnings, even if they do not understand their rights. The average reading level for clients with mental retardation in the Developmentally Disabled Offenders program is 3rd grade. I have read countless confessions which were signed by my clients, even though these clients could not read what they signed. In one case, the person was so sheltered that he did not even attend school. His parents taught him how to sign his name, which he proudly did to Miranda waiver cards and a confession.

People with mental retardation often want to please police officers. They sometimes do everything they can to appear more knowledgeable than they really are. An untrained officer can easily reinforce this "cloak of incompetence" and unknowingly use it against them. People with mental retardation communicate through pleasant facades, having learned that smiling is one way to get approval. The problem arises when they do not know when their smiling is inappropriate and an officer sees this as a lack of remorse. I had a client with a severe drug problem who robbed churches in order to support his habit. As he confessed he was smiling to the priest. The priest, in turn, wrote the court and suggested it "throw the book at him" since the defendant smiled through the entire confession and showed no remorse for his actions.

## ***How to Help a Defendant with Mental Retardation***

For a police officer, it is important to determine whether or not the individual genuinely understands the principles, protections and concepts within the Miranda warnings. To assist someone with mental retardation, use simple words and ask him to repeat each phrase using his own words. If he simply repeats the phrase word, check for understanding by asking questions that require him to use reasoning abilities and think conceptually. For example, you can say: "Tell me what your rights are; give me an

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# POLICE TRAINING & STANDARDS

## POLICE TRAINING COMMISSION

*Geri Schaeffer  
Management Improvement Specialist  
Police Training Commission*

*Since I am retiring from state service, this article for the Division of Criminal Justice Law Enforcement Reporter represents the last one I will write as the supervisor of the Police Training Commission (PTC) staff. I wish to say thank you to all who have worked with the Police Training Commission and have provided assistance to the PTC for the past 30 years. It has been a privilege serving the PTC and the New Jersey law enforcement community. Thank you for your cooperation all these years.*

Following are some of the accomplishments of the Police Training Commission for the period January 1, 1998 to December 31, 1998. These and other accomplishments of the PTC, the 22 PTC-certified schools, their school directors and their staffs, will be highlighted in the commission's 36th *Annual Activities Report*.

- ◆ During the reporting period, 4,789 officers attended 163 commission-approved courses. All but 408 officers (8.5%) successfully completed course requirements.
  - ◆ A total of 1,404 officers were enrolled in the commission's Basic Course for Police Officers (BCPO). Of these officers, 1,232 (87.8%) successfully completed their training and received commission certification.
  - ◆ In all, 32 BCPO courses were conducted. For these courses, the average number of hours scheduled for instruction was 553 hours.
  - ◆ The commission's Methods of Instruction course was the most frequently offered course during the reporting period, with 557 participants attending 34 courses.
  - ◆ In 1998, enrollment in both the Basic Course for Class Two Special Law Enforcement Officers and the Basic Course for Class One Special Law Enforcement officers increased significantly from the previous year (27% and 24%, respectively).
  - ◆ A total of 1,326 officers were enrolled in the commission's courses for state corrections officers, county corrections officers and juvenile detention officers. Of these, 1,170 officers (88%) successfully completed the training.
- ◆ During 1998, over 5,000 instructors were certified by the Police Training Commission. This includes the 588 instructors who were newly-certified during the report year.

### **Course Revisions**

The Police Training Commission aims to ensure the currency and relevancy of its training requirements. In keeping with this aim, the PTC approved substantial revisions to the Basic Course for Investigators and the Basic Course for Juvenile Detention Officers. The changes have resulted in an increase in scheduled hours of instruction for both courses.

Revisions and additions were implemented in the following instructional areas of the Basic Course for Investigators:

- ◆ Hands-on driver training.
- ◆ First Responder training.
- ◆ Motor vehicle and traffic laws, computer fraud, bias crimes, environmental offenses, Megan's Law, and the Prevention of Domestic Violence Act.
- ◆ Professional development of the investigator, including morals and ethics, the pressures of a law enforcement career, and techniques for dealing with job-related and personal stress.
- ◆ Investigator-related functions such as gang awareness, processing prisoners, impounding vehicles, and handling sniper and ambush situations.
- ◆ Community service responsibilities of the investigator with emphasis on the behaviors that influence positive community attitudes.

The following are the major changes in the Basic Course for Juvenile Detention Officers:

- ◆ Expansion of training covering managing and communicating with juveniles.

*continued on page 12*

# POLICE TRAINING & STANDARDS

*Police Training Commission, continued from page 11*

- ◆ Inclusion of conflict resolution techniques.
- ◆ Expansion of training on defensive tactics and security concepts.
- ◆ Revision of Agency Training to include observation skills training and resident management techniques.

## **Course Development**

The commissioners approved the content of the Basic Firearms Course for Wildlife Control Representatives, a course developed as a result of passage of *P.L. 1997, c. 393* which requires certain wildlife control officials to complete a PTC firearms training course. The commission has authorized a Division of Criminal Justice Training Satellite Facility to implement this program in conjunction with the Division of Fish, Game and Wildlife.

## **Alternate Route Basic Course for Police Officers**

On December 23, 1998, Governor Christine Whitman signed *P.L. 1998, c. 146* which amends the Police Training Act and permits individuals to enter a police academy without having an appointment as a police officer. Rules are being drafted in accordance with the Administrative Procedure Act and as the new legislation requires. Passage of this legislation has permitted the continuation of the Alternate Route Program, a highly successful program since its inception in 1992. The program has provided highly motivated, college educated, fully-trained individuals as candidates for municipal police employment.

## **Law Enforcement Officers Training and Equipment Fund**

During the report year, rules have been proposed to facilitate the administration of the Law Enforcement Officers Training and Equipment Fund. Monies from this fund are to be distributed to support basic and in-service training programs for New Jersey's law enforcement officers and may be used to purchase appropriate training equipment. Disbursements from the fund may be made only to the commission and its 22 approved schools. The rules establish the procedure schools must follow in applying for monies and the criteria the commission will use to decide how monies are disbursed. The proposed rules also include provisions for fiscal oversight to ensure the purposes of the fund are met. Approximately \$225,000 from the fund will be available for distribution in 1999. 

## **NEW JERSEY DOMESTIC VIOLENCE CENTRAL REGISTRY**

Federal legislation has mandated the development of a procedure for identifying individuals who are the subject of restraining orders in stalking and domestic violence cases. To effectively execute the dictates of this legislation, police and law enforcement agencies must have automated access to accurate and timely information on parties involved in acts of domestic violence.

To fully implement and comply with state and federal legislation, a statewide Domestic Violence Central Registry has been developed within the Family Automated Case Tracking System (FACTS), a system operated by the New Jersey Administrative Office of the Courts. This central registry will be the repository for data now being collected by FACTS as well as data from supplementary linked systems. Moreover, the registry will be linked with the New Jersey State Police Criminal Justice Information System (CJIS), which is networked throughout the entire state in all police departments and law enforcement agencies.

The integration of these information systems statewide will make domestic violence information more accessible to law enforcement officers, thus improving law enforcement activities and services when handling domestic violence matters. The automated central registry will be operational in all 21 counties by the end of the current year. As of this past summer, the registry was operational in the following counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Middlesex and Monmouth.

For further information concerning the implementation or operation of the New Jersey Domestic Violence Central Registry contact the New Jersey Administrative Office of the Courts, Automated Trial Court Support, 609.292.8439). 

# LAW ENFORCEMENT GUIDELINES

## *Helping Identify Individuals with Mental Retardation continued from page 10*

example of a right you have; tell me what a lawyer is; how can a lawyer help you; can you explain to me why you do or do not want to talk to me.” A person with mental retardation may be able to recite Miranda warnings, or even a simplified version, but he usually cannot understand its meaning or the implications of his responses. I have read confessions that took many hours to complete, only for the individual to be found incompetent to stand trial and the confession was never seen. Use open-ended, non-leading questions. Ask questions in a straightforward, non-aggressive manner.

You can ask the person about his school experience to see whether he was in any special education programs. This would probably indicate some type of disability. Talk about the person’s work history and how he supports himself. Most defendants with mental retardation have no steady employment history and are either financially supported by their family or on Social Security Income (SSI). Another clue could be if the person has a driver’s license, since defendants with mental retardation generally do not have the ability to pass the written test.

People with mental retardation have communication difficulties which negatively affect their rights in the judicial process. Be patient and take time giving or asking for information. Speak directly to the person and keep sentences short. Use simple language and ask for concrete descriptions. Avoid leading questions and ask open-ended ones to get the correct information. Don’t assume someone with mental retardation is incapable of understanding or communicating.

## ***How to Tell if Someone has Mental Retardation***

A person with mild mental retardation looks like the average citizen. There is often no way of knowing if a person has mental retardation, but there are some things to look for. Determining whether a person has mental retardation requires comprehensive tests by qualified professionals. However, certain clues can help

you make a preliminary identification and determine whether or not further material is needed. A person with mental retardation may have difficulty:

- ♦ Reading and writing (does not include signing name).
- ♦ Telling time easily.
- ♦ Recognizing coins and making change.
- ♦ Giving accurate directions.
- ♦ Understanding or answering questions.
- ♦ Responding to questions without unnecessary delay.
- ♦ Explaining his actions in his own words.

Mental retardation will go unrecognized unless police officers know what to look for. People who commit crimes should be held accountable and responsible for their behavior, so should defendants with mental retardation. However, defendants with mild mental retardation are generally not recognizable by any physical characteristics. Also, a stigma has been associated with mental retardation. Therefore, people with mental retardation may pretend to understand what is going on around them so not to be identified as having mental retardation. Until those with mental retardation are identified and understood, they will continue to face disadvantages. These disadvantages can only be overcome through education and identification and some additional effort on the part of law enforcement and the criminal justice system.

*Suzanne Lustig, Esq., is the director of the Middlesex County Developmentally Disabled Offenders Program, a program that provides alternatives to incarceration for defendants with mental retardation. The program provides services to over 160 defendants with mental retardation. Ms. Lustig has provided extensive training to prosecutors, law enforcement, probation and parole officers, defense attorneys, state agencies and advocates.* 

# ADMINISTRATION & MANAGEMENT

## PERSONNEL FILES

### Accessibility of Law Enforcement Personnel Information

Under *N.J.S.A. 47:1A-1 et seq.*, commonly referred to as “The Right To Know” statute, all public records are accessible for examination by citizens of this state without any special need or purpose, unless specifically excluded by other statute or Executive Order. A public record is defined as “[a]ll records required by *law* to be made, maintained, or kept by a governmental entity.” Personnel files are public records and therefore accessible by any citizen of this state. The potential adverse impact of this statute on law enforcement personnel and their families was obvious.

In 1974, then Governor Brendan Byrne issued Executive Order 11, which defines what the contents of a “Personnel File” maintained by a government entity “shall be public.” Executive Order 11 states in part:

Except as otherwise provided by law or when essential to the performance of official duties or when authorized by a person in interest, an instrumentality of government shall not disclose to anyone other than a person duly authorized by this State or United States to inspect such information in connection with his official duties, personnel or pension records of an individual, except that the following shall be public:

An individual’s name, title, position, salary, payroll record, length of service in the instrumentality of government and in the government service, date of separation from government service and the reason therefore; and the amount and type of pension he is receiving;

Data contained in information which discloses conformity with specific experimental, educational or medical qualifications required for government employment or receipt of public pension, but in no event shall detailed medical or psychological information be released.

The content of personnel files is also impacted by the federal Americans with Disabilities Act (ADA). Under §102(c)(3)(B) of this Act, all medical information obtained through questioning or medical examination permitted under ADA must be collected and maintained on separate forms and treated as “confidential.” This information must be kept in a separate, locked file cabinet with access restricted to designated persons with an absolute “need to know.”

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# ADMINISTRATION & MANAGEMENT

## *Personnel Files*

*continued from previous page*

In recognition of the foregoing, at a minimum, a three-tier personnel records system is recommended for law enforcement personnel information. This system consists of (1) the Personnel File, which is the public record, (2) the Internal Affairs File, as required under the Attorney General's Internal Affairs (IA) Policy, and (3) the Confidential File required by the Americans with Disabilities Act.

## *Personnel File*

The contents of the individual officer's Personnel File should be limited to: employee's name, payroll information, and attendance records, training and special schools attended, assignments and promotion records, awards and accommodations and notations as to any disciplinary action to which the officer was subject. Disciplinary action information should only include identification of the rule or regulation violated and the penalty assessed. No internal affairs or other investigation materials should be included.

## *Internal Affairs File*

The Internal Affairs File should contain all materials developed in the course of internal affairs investigations as set forth in the Attorney General's IA Policy and all other material related to any disciplinary action such as counseling by a supervisor, retraining, and deficient performance notices. The individual officers original application for a position in the department should also be retained in the Internal Affairs File.

It must be noted that many agencies have in their files original employee employment applications which predate ADA. These applications contain medical history information which is now prohibited under ADA. A solution to this problem is to photocopy those applications, black out the medical information on the photocopy and place this copy in the Internal Affairs File. The unedited original application can then be placed in the Confidential File. Other personnel records, such as employee evaluations, may also be retained in the Internal Affairs File if a separate Evaluations/Training File is not maintained by the agency.

## *Confidential File*

The Confidential File should contain all medical related records, psychological reports and any financial records employees are required to file with the department, such as TRW financial reports. Based upon federal case law (*FOP v. City of Philadelphia*), employee financial records required to be submitted to the department must be maintained in a confidential file with access limited to an absolute "need to know" basis.

## *Conclusion*

Law enforcement executives must review, with caution, their agency's personnel related files and make certain that those files are structured, maintained, and access limited as required. In a recent case, the City of Columbus, Ohio was found to have violated the Constitution's privacy rights of several its officers. The Columbus Police Department, under Ohio's "Public Right to Know" law, provided a criminal defendant's attorney, access to confidential information pertaining to several of its officers. [See United States Court of Appeals for the Sixth Circuit case, Officer Melissa Kallstrom, *et al.*, Plaintiffs-Appellants v. City of Columbus, Defendant-Appellee. 1998 U.S. App. Lexis 1941, 13 IER Cases (BNA)1202.] 

# LEGISLATIVE DEVELOPMENTS

## Assembly Bill Nos. 1977 and 1801 Crisis Intervention Services Program Crisis Intervention Hotline

On January 5, 1999, the New Jersey Legislature enacted Assembly Bill No. 1799. This legislation, which became effective May 1, 1999, permits counties to establish crisis intervention services programs for law enforcement officers. "The purpose of the program is to provide post traumatic debriefing and counseling services for law enforcement officers and sheriff's officers who have been involved in incidents which may produce personal or job-related depression, anxiety, stress, or other psychological or emotional tensions, traumas, pressures or disorders."

If such a program is established, officers who are actively involved in a critical incident "shall be required to participate in the program's debriefing and counseling services before returning to active law enforcement duty unless, in the opinion of the chief executive officer of the law enforcement agency, the ability to deploy officers to preserve order and protect public safety requires a return to active duty pending scheduling of debriefing and counseling services, which shall occur as promptly as is practicable."

Also, if a crisis intervention services program is established, the county must organize an advisory council consisting of a representative of the county Association of Chiefs of Police; a representative of a collective bargaining unit representing one of the several law enforcement agencies in the county; the County Prosecutor or his designee; a representative of the county Health Department specializing in mental health; and a certified or licensed psychologist experienced in the diagnosis and treatment of emotional, psychological, or post trauma stress disorders."

Assembly Bill No. 1801, also enacted on January 5, 1999 and effective May 1, 1999, provides for the establishment of a toll-free "Law Enforcement Officer Crisis Intervention Services" telephone hotline. The 24-hour, toll-free hotline is to be established and maintained by the Commissioner of Personnel to "respond to calls from law enforcement officers and sheriff's officers who have been involved in any event or incident which has produced personal or job-related depression, anxiety, stress, or other psychological or emotional tension, trauma, or disorder for the officer." Hotline operators are to be familiar with post trauma disorders as well as emotional and psychological tensions, depressions, and anxieties unique to law enforcement officers or trained to provide counseling services involving marriage and family life, substance abuse, stress management and other emotional or psychological disorders which may affect law enforcement officers.

"To ensure the integrity of the telephone hotline and to encourage officers to utilize it, the commissioner shall provide for the confidentiality of the names of the officers calling, the information discussed by that officer and the operator, and any referrals for further debriefing or counseling; provided, however, the commissioner may, by rule and regulation, establish guidelines providing for the tracking of any officer who exhibits a severe emotional or psychological disorder or condition which the operator handling the call reasonably believes might result in harm to the officer or others."

# LEGISLATIVE DEVELOPMENTS

## 1998-1999 SESSION

Dale K. Perry  
Legislative Services Section

### NEW LAWS

<u>Bill No.</u>	<u>Cite</u>	<u>Description</u>
A-726(1R)	<i>P.L. 1998, c. 54; N.J.S.A. 2C:17-3</i> Effective 7/10/98	Corrects the gradation of criminal mischief; upgrades penalties for stealing, damaging or vandalizing transportation safety devices.
S-402(1R)	<i>P.L. 1998, c. 61; N.J.S.A. 15:8-4</i> Effective 7/30/98	Extends the authority of fire police to control traffic at any public event until the arrival of a police officer.
S-1252(1R)	<i>P.L. 1998, c.63; N.J.S.A.11A:4-1.1</i> Effective 7/30/98	Establishes application fees for law enforcement officer and firefighter hiring and promotional examinations.
S-176(1R)	<i>P.L. 1998, c. 68; N.J.S.A. 30:4-91.8</i> Effective 3/1/99	Requires notice to prosecutor and victims prior to the reclassification of certain inmates.
S-895(SCS)	<i>P.L. 1998, c. 71</i> <i>N.J.S.A. 30:4-27.24 et seq.</i> Effective 8/12/99	The "New Jersey Sexually Violent Predator Act."
A-2101(1R)	<i>P.L. 1998, c. 72</i> <i>N.J.S.A. 2C:47-4.1 et seq.</i> Effective 12/1/98	Amends the statutes governing sentencing and incarceration of sex offenders at the ADTC.
A-2102	<i>P.L. 1998, c. 73; N.J.S.A. 2C:47-5</i> Effective 12/1/98	Amends the statutes governing parole of sex offenders from the ADTC.
S-251/377/ 725/779(2R)	<i>P.L. 1998, c.74; N.J.S.A. 34:15-57.4</i> Effective 8/14/98	Creates a fourth degree crime for filing false workers' compensation claims.
S-706	<i>P.L. 1998, c. 97</i> <i>N.J.S.A. 17:48-6t et seq.</i> Effective 21/3/98	Prohibits denial of insurance benefits for expenses incurred from treatment of injuries suffered as a result of domestic violence.
S-252(1R)	<i>P.L. 1998, c. 100</i> <i>N.J.S.A. 2C:20-1, 20-2</i> Effective 9/9/98	Creates a third degree crime for the theft of a domestic companion animal.
ACS 425, 688,689	<i>P.L. 1998, c. 102; N.J.S.A. 2C:24-9</i> Effective 9/9/98	Creates the crime of employing a juvenile in the commission of an offense.
S-893(1R)	<i>P.L. 1998, c. 111; N.J.S.A. 30:1-2.4</i> Effective 10/17/98	Provides for court-ordered competency evaluations at jails or prisons and provides authority to DHS to designate hospitals for persons involuntarily committed.
S-894	<i>P.L. 1998, c. 112</i> <i>N.J.S.A. 30:4-123.53</i> Effective 9/17/98	Requires mentally ill inmates to participate in treatment in order to be eligible for parole.

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# LEGISLATIVE DEVELOPMENTS

<u>Bill No.</u>	<u>Cite</u>	<u>Description</u>
S-888	<i>P.L. 1998, c. 121 N.J.S.A.17:16T-1 et al Effective 11/9/98</i>	Authorizes banks to notify law enforcement concerning illegal financial transactions directed against senior citizens.
A-809(2R)	<i>P.L. 1998, c. 125 N.J.S.A. 45:9-27.16 et seq. Effective 11/9/98</i>	Permits physician assistants to prescribe Schedule III, IV and V controlled dangerous substances.
A-1332(1R)	<i>P.L. 1998, c. 126; N.J.S.A. 2C:24-4 Effective 5/1/99</i>	Clarifies that child pornography on the Internet constitutes a crime and establishes enhanced penalties.
A-1511(2R)	<i>P.L. 1998, c. 127 N.J.S.A. 9:6-8.58a,b Effective 1/8/99</i>	Requires that parents show evidence of substance abuse treatment prior to the return of the child to the parent's home.
S-76(2R)	<i>P.L. 1998, c. 134 N.J.S.A. 52:17B-191 et al Effective 5/1/99</i>	The "High Technology Crimes and Interactive Computer Services Protection Act."
A-2651(ACS)	<i>P.L. 1998, c. 146 N.J.S.A. 52:17B-69 et al Effective 12/23/98</i>	Permits police officer candidates to be trained prior to appointment.
A-1799(1R)	<i>P.L. 1998, c. 148 N.J.S.A. 40A:14-195 et seq. Effective 5/1/99</i>	Permits counties to establish crisis intervention service programs for law enforcement officers and sheriffs.
A-1801(2R)	<i>P.L. 1998, c. 149 N.J.S.A. 11A:2-25 et seq. Effective 5/1/99</i>	Establishes the "Law Enforcement Officer Crisis Intervention Services" telephone hotline.
A-1308(1R)	<i>P.L. 1999, c. 8; N.J.S.A. 2C:24-8 Effective 1/25/99</i>	Amends neglect of elderly or disabled statute to include abandonment; upgrades the offense to a third degree crime.
ACS 1689/ 1837	<i>P.L. 1999, c. 9; N.J.S.A. 2C:34-1 Effective 1/25/99</i>	Upgrades the penalties for "engaging in prostitution" to a fourth degree crime for a second or subsequent offense.
A-2196	<i>P.L. 1999, c. 14 N.J.S.A. 2C:29-3.1 Effective 2/3/99</i>	Makes the killing of an animal used by law enforcement a third degree crime, and the infliction of harm upon the animal a fourth degree crime.
S-891(3R)	<i>P.L. 1999, c. 16; N.J.S.A. 30:1B-10.1 Effective 8/1/99</i>	Requires the courts to order treatment in jails or prisons for mentally ill defendants found competent to stand trial.
A-2171, 2479, 2492 2645 (AS-1R)	<i>P.L. 1999, c. 25 Effective 2/16/99</i>	Amends several statutes dealing with money laundering.
A-2623/ 1800	<i>P.L. 1999, c.28§14 N.J.S.A. 2C:21-21§14 Effective 2/25/99</i>	Section 14 of the "Ten Year Driver's License" law upgrades the offense of sale or transfer of a false driver's license or other document intended to verify a person's identity or age to a crime of the third degree.

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# LEGISLATIVE DEVELOPMENTS

<u>Bill No.</u>	<u>Cite</u>	<u>Description</u>
A-928	<i>P.L. 1999, c. 41; N.J.S.A. 2C:34-7</i> Effective 3/12/99	Prohibits the operation of sexually oriented business within 1,000 feet of any hospital or child care center.
A-1631(2R)	<i>P.L. 1999, c. 42; N.J.S.A. 54:50-8</i> Effective 3/12/99	Makes non-official examination of state tax records on file a disorderly persons offense.
A-2246	<i>P.L. 1999, c. 42</i> <i>N.J.S.A. 2C:10-12</i> Effective 3/12/99	Amends the stalking law; provides for temporary restraining order for children and adults who are victims of stalking.
S.271 (1R)	<i>P.L. 1999, c. 73</i> <i>N.J.S.A. 2C:3-4</i> Effective 4/30/99	Makes the duty to retreat inapplicable to a person within his or her dwelling, unless he or she was the initial aggressor.
S-1369 (SCS)	<i>P.L. 1999, c. 77</i> <i>N.J.S.A. 2C:12-1</i> Effective 4/30/99	Makes pointing a firearm at a law enforcement officer a third degree crime, and attempting to put a law enforcement officer in fear of bodily injury with an imitation firearm a third degree crime.
A-1581 (1R)	<i>P.L. 1999, c. 85</i> <i>N.J.S.A. 45:11-23 et al § 10</i> Effective 4/30/99	Creates the title "Advanced Practical Nurse" and authorizes them to prescribe controlled dangerous substances.
A-1773(2R)	<i>P.L. 1999, c. 95</i> <i>N.J.S.A. 2C:17-3; 2C:20-2</i> Effective 5/3/99	Makes tampering with a grave or crypt a third degree crime; makes theft of human remains a second degree crime.
ACS 2414, 1638 and 2456	<i>P.L. 1999, c. 117</i> <i>N.J.S.A. 2C:21-17</i> Effective 5/21/99	Criminalizes the obtaining and using of personal identifying information pertaining to another person, or assisting another person in using that information, without authorization. Also establishes penalties for theft of identity
S-1640(1R)	<i>P.L. 1999, c.119</i> <i>N.J.S.A. 2C:25-33</i> Effective 6/9/99	Imposes upon the Administrative Office of the Courts, the State Police, County Prosecutors, and local law enforcement additional reporting requirements concerning domestic violence.
A-2467(1R)	<i>P.L. 1999, c.133</i> <i>N.J.S.A. 2C:35-3,4</i> Effective 6/25/99	Includes gamma hydroxybutyrate and flunitrazepam as substances subject to the leader of a narcotic trafficking network statute and the drug production facility statute.
A-3014(CC)	<i>P.L. 1999, c.151</i> <i>N.J.S.A. 2A:156-1 et seq.</i> Effective 6/30/99	Renews and makes several changes to the Wiretap Act.
A-994(1R)	<i>P.L. 1999, c. 160</i> <i>N.J.S.A. 2C:33-28</i> Effective 7/8/99	Establishes enhanced penalties for street gang activity and criminal penalties for recruiting gang members.
S-1696	<i>P.L. 1999, c. 162</i> <i>N.J.S.A. 2C:21-22.1</i> Effective 7/12/99	Creates a new criminal offense for using or acting as a runner, <i>i.e.</i> , a person who is paid to procure patients or clients for lawyers, doctors and other insurance providers.

# LEGISLATIVE DEVELOPMENTS

## PENDING LEGISLATION

### *Offenses/Crimes*

- A-2503 (Holzapfel) Increases penalties for false alarms from a fourth degree to a third degree crime, and from a third degree to a second degree crime if violation results in serious bodily injury.
- S-1617 (Connors, Bassano) Prohibits the possession or consumption of alcoholic beverages on private property by persons under 21 years of age.
- A-2694 (Chatzidakis, Bodine) Prohibits the use of a car phone by the operator of a motor vehicle while the vehicle is in motion.

### *Law Enforcement*

- A-1412 (Singer) Expands statewide arrest powers of municipal and county police officers to include all criminal offenses, rather than merely crimes, committed in the presence of an officer.
- S-1538 (Cardinale) Authorizes certain out-of-state police officers to carry handguns in New Jersey.
- A-2641 (Kramer) Establishes professional standards for county sheriffs and their employees.

### *Controlled Dangerous Substances*

- A-2916 (Holzapfel) Amends *N.J.S.A.* 2C:43-6 to provide that persons who attempt or conspire to distribute drugs are subject to extended terms; increases the term of parole ineligibility to 5 years.
- A-2917 (Holzapfel) Amends *N.J.S.A.* 2C:35-4.5 and 5.3 to fix the minimum term of parole ineligibility for first degree crimes at seven years.
- A-2918 (Holzapfel) Makes clear that the imposition of nonincarcerative penalties is mandatory for persons, including juveniles, who are diverted for drug offenses.
- S-1734 (Gormley, Girgenti) Clarifies that the distribution or possession of substances which are converted to controlled dangerous substances when ingested is prohibited.
- S-1735 (Gormley, Girgenti) Clarifies that adulteration of a drink or other substance constitutes reckless endangerment.

### *Domestic Violence*

- A-2786 (Smith, Frescia) Clarifies domestic violence training requirements for law enforcement officers.
- A-2787 (Smith, Frescia) Allows weapons seized in domestic violence cases to be stored with a local law enforcement agency rather than the county prosecutor's office.
- A-2788 (Heck, Murphy) Bars possession of firearms by persons subject to domestic violence restraining orders.
- A-2794 (O'Toole, Heck) Removes prosecution of domestic violence related criminal cases from the jurisdiction of the municipal court and places these cases with the Superior Court.
- A-2790 (O'Toole, Talerico) Strengthens requirements for court-ordered counseling of domestic violence offenders.
- A-2791 (Murphy, Frescia) Requires the court, prior to granting a domestic violence victim's application to dissolve a restraining order, to make a finding that the victim was not subject to coercion.
- A-2792 (Heck, Thompson) Amends the statutes concerning child custody in cases involving domestic violence and in cases involving the murder of one parent by another.
- A-2927 (Weingarten, O'Toole) Amends the domestic violence statutes to encourage the use of "victimless prosecution" strategies and to require public notice of the identities of domestic violence offenders.