

# The Voice



## IRS Enacts Rules Change Affecting Public Employee Pensions; Implementation Suspended Until 2011

**Submitted by Paul Gaspar, MAP Executive Director**

A major change proposed by the IRS in 2007 which would affect public pension plans, including Maine's public employee retirement system, has been suspended until January of 2011.

In an announcement released by the Internal Revenue Service, a rule which could eliminate early retirement pay for government employees would have gone into effect in June of 2010.

A large number of national groups, from the Fraternal Order of Police to the National Education Association, asked in April for a delay in its implementation

The rule would specifically affect governmental plans, such as the Maine Public Employees Retirement System (MPERS) and would increase the normal retirement age to 55 and prevent participants from collecting benefits until age 55, with a preferred retirement age of 62.

Currently under MPERS, there are special plans, available only to those in police/fire, that allow retirement at any age after a

prescribed number of years of service.

The IRS regulation, which public pension systems have been fighting since it was first proposed, would end such a practice. The IRS has the ability to implement the rule because public pensions have tax deferral status given to them by the federal agency.

In communications with representatives from MPERS, it is unclear at this time what effect the proposed regulation would have as there has been little direction from the IRS, but an assurance has been made that the issue is a priority for review.

News of the change came from an article printed in the Las Vegas Review-Journal, and was brought to MAP's attention by a alert and concerned member from Sanford PD.

In the article, a representative from Nevada MPERS had a similar response to questions on how the regulation would change how they do business.

**From an excerpt of the Las Vegas Review Article:**

**"The state retirement system is questioning the new regulation as**

**well. Tina Leiss, operations officer for Nevada PERS, said the agency is waiting for more direction from the IRS on how this regulation would affect the Nevada retirement system before it reacts to the proposed regulation. Employees in the state's retirement system are believed to have constitutional rights under the contracts clause to the benefits as they currently exist, she said. Any changes to the benefits for current participants could provoke lawsuits from employees or their associations, Leiss said. "It's just not clear yet how this would affect any of the public pension plans," Leiss said."**

Much like the case in Nevada, Maine, too, is not clear on the far reaching implications of the IRS ruling. In discussions with representatives from MPERS, it is too early to tell what changes will culminate from the change, or the suspension of the change. It has been intimated that this change is a priority for the system to address through and up until the date the suspension lifts.

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### Maine Association of Police

#### WEAR YOUR VEST!

- > It is estimated that up to half of all law enforcement officer's don't wear their vest regularly on Duty
- > In 2007 almost a third of all officers killed in the line of duty were NOT wearing a vest.

> **Vests save lives...WEAR YOURS!**

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**Paul Gaspar**  
**MAP Executive**  
**Director**



### From The Executive Director

Shortly after the World Trade Center Attacks, Patrick Lynch, President of the New York City Police Benevolent Association commented on the state of contract negotiations with the city.

***“They say never forget; We say already forgotten.”***

There are several certainties in police work: Nobody takes this job to get rich, there is little to no thanks or recognition for it and you will see bad things happen.

Where is it then that we derive our greatest motivation or satisfaction? Is it by the number of awards or citations? Promotions? A take home car?

For many in police work, it

is about being part of something bigger than one’s self. The notion that in our fraternal world, we are not only standing the “Thin Blue Line”, but also carrying on the traditions of generations of cops who have gone before us.

We are part of a fraternity that spans the four corners of the earth. For us, it is THE JOB, not a job. The mere statement that “I’m on the Job” builds an instant connection with other cops, bridging any distance or language barrier.

It comes with the universal knowledge that thousands of men and women across the globe have given their lives, and that thousands more still are standing the line with us.

Technology and media bombards us daily with access to thousands of pieces of information, making it easy, as Pat Lynch put it, for “They” to forget.

As individual members of this fraternal profession, it is up to us to honor and keep our history. It reminds us of the rare bond we share, and the honor of being part of something few have the courage for.

When we remember, we preserve our honor and hold “they” accountable .

Stay Safe



**Steve Webster**  
**MAP President**

### From The President

What do we have? The economy is tanking out and budgets are shrinking on a daily basis.

Those of us who work for the public feel the affects of these issues, but we have no choice but to move forward. We will get by because we always do. Who do we have to support us when we’re exhausted from working too many hours?

We have our families and our co-workers. Who do we have to talk to when we’re down and need to be picked up? We have our families and our co-workers.

Sometimes we underestimate just how important our co-workers and fellow law enforcement officers are. We are not on an island, but there are very few of us in this state and we need to be there for each other.

I have been there on the overnight shift sitting in a cemetery talking to the person in the cruiser next to me. We pass the time by talking to people, and too often about people.

We can joke about our frailties or the perceived flaws of others, but at the end of the day we need to remember that we are on the same team. It may be a big team and it may be

spread out across the State of Maine, but nonetheless we are a team.

Championship teams work together and not against one another. I encourage all police officers to treat fellow officers with respect and courtesy.

When an officer or their family is in need, we are there for them. I suggest we all bring that mentality to work with us every day.

We all need something, be it support, guidance, or a willing ear to hear our complaints. Be there for each other and this team of ours will only grow stronger and more cohesive.

## New Hampshire city, police settle over 'Donning and Doffing' time

**From The Concord Monitor, February 20**

CONCORD, NH – Concord's police officers settled their federal lawsuit with the city Friday after the city agreed to start paying them to put on their uniforms before a shift and take care of paperwork and equipment after a shift.

Prior to the court case, the police complained they were spending about 30 minutes of their own time each day on those work duties. Now the police will get 20 minutes, split between the start and end of each shift, to suit up for work and wrap up for the day, a process called "donning and doffing."

The settlement spares the city and the Concord Police Patrolman's Association an expensive trial. But it wasn't reached without costs. Under the terms of the deal, each of the 58 officers and detectives named in the lawsuit will be paid \$100 toward their legal expenses. The city, meanwhile, spent between \$12,000 and \$15,000 on its legal costs, City Manager Tom Aspell said. And officers will receive compensation for 17 months of unpaid "donning and doffing" time in one of two ways.

The seven officers who have since left the department will share a cash payment of \$9,600, Aspell said. And the other 51 officers still with the city will receive additional time off. Aspell said the value of that extra time is \$63,000.

All those costs will be covered in the existing budget, largely because the \$63,000 in extra time is not an immediate expense. The only immediate expenses total between \$27,400 and \$30,400 and will ultimately depend on the city's final legal cost.

Detective Mark Dumas, president of the police union, said yesterday he was pleased with the resolution: "We are happy to see this behind us." His regret, Dumas said, was that the matter landed in court at all. The police union and the city began negotiating the "donning and doffing" matter a few years ago, under a previous police chief, city manager and mayor. Dumas said former chief Jerry Madden scheduled officers in a way that required them to get into uniform and wrap up for the day on their own time.

"Sometimes you work beyond your (paid) day," Dumas said. "That happens in every profession. But when you are set up to work that way, it's different." In addition to making sure their uniform is complete, officers must also tend to a long list of equipment that includes two handguns, spare magazines for those guns, handcuffs, pepper spray, knife and a protective vest.

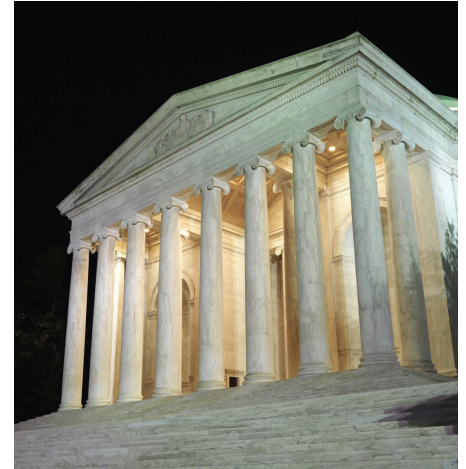
Dumas said the union initially asked only for the schedule change. "We didn't want back pay, and this was never about money," Dumas said. "We just wanted it fixed."

When the union was unable to negotiate a schedule change with Madden, it raised the possibility of a federal lawsuit. When nothing changed, Dumas said, the union decided to follow through with the court case. At the time, police departments across the country were bringing similar lawsuits.

"We felt (the city) was not taking us seriously," Dumas said. "Still, it was a very hard thing for us to do. And it took us a long time of talking with our members to file it."

By the time the lawsuit was filed in April, Madden had retired and then-Maj. Robert Barry was serving as acting chief. Barry was named the new chief in September, and that made the difference, Dumas said. Before Barry left work that first day, Dumas said he sat down with the police union and said he wanted to resolve the lawsuit. Within the first week, Barry had begun changing the work schedule so officers and detectives had time within their paid workday to get into uniform at the start of a shift and take care of paperwork and gear at the end of a shift.

Three months later, in early December, the union's lawyer notified the federal court that the case had been settled. But the two sides didn't file the terms of the settlement until the end of last week. Barry has referred calls about the case to Aspell, who yesterday called the settlement a matter of fairness.



**"We felt (the city) was not taking us seriously," "Still, it was a very hard thing for us to do. And it took us a long time of talking with our members to file it."**

Mark Dumas; President,  
Concord Police Union

## MAP Embarks on New Project With Local Windham Business

Starting in early 2009, MAP and Triple Nickel Tactical Supply of Windham will be partnering to bring a new opportunity to our organization's members

In a joint project, MAP and Triple Nickel will be fielding a testing and evaluation program that will allow selected MAP departments to test new types of equipment on the street. Participating dept's will then be obligated to submit detailed evaluations of the equipment which will then be posted on the MAP/Triple Nickel websites, as well as highlighted in the MAP newsletter.

MAP executive director Paul Gaspar will be work-

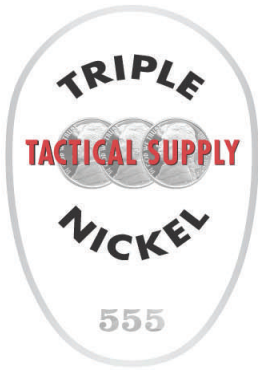
ing with the guidance of Triple Nickel Tactical Supply in selecting items as well as what region of the membership base will participate. Equipment could range from boots, gloves flashlights, etc. depending on the availability of items and cooperation from manufacturers.

Initial project plans are still in the planning stages but will take into account northern, central and southern regions of the membership as well as commitments from individual units in complying with the requirements of fielding and evaluating products.

Given the nature of this project, it is envisioned that

interested units will be required to secure written permission from their chief to participate in the program.

MAP Units interested in participating in this important project should submit a notice of interest to Paul Gaspar at the MAP office by email at [map75@verizon.net](mailto:map75@verizon.net) and should include detailed contact info, as well as a designated contact person willing to take on the responsibility of overseeing the program at their level. A list will be compiled of interested units and contact will be made with them as the project draws close to being initiated.



Good Stuff for the Good Guys

**1004 River Road  
Windham, Maine  
04062**

**207-893-0555**

**866-672-1017  
(Fax)**

**[www.triple  
nickel.net](http://www.triple<br/>nickel.net)**

December 16, 2008

MAP Board of Directors  
Post Office Box 2263  
South Portland, Maine 04106

Dear MAP Board Members,

We at Triple Nickel Tactical Supply are excited at the prospect of teaming with MAP agencies and individual members to identify and outfit Maine public safety personnel with the best equipment available.

We have a lot of gear at the store in Windham and encourage officers to drop by and check out our showrooms. If an officer can't physically make it to our store, we can typically deliver in-stock items to a customer in Maine within a single day.

If an agency has a standard equipment list that officers are allowed to purchase with their uniform allowance, we can arrange to have those items readily available at the store if we don't already keep them in stock. Individual officers can also set up in-house accounts for agency approved purchases and Triple Nickel will handle the paperwork with their agency liaison.

In addition to standard duty gear, we offer a wide variety of tactical equipment. Nylon gear is a staple within the tactical community and we carry a lot of "Made in the USA" products that are guaranteed for life. We take pride in the quality of products we sell and feel certain the Maine police community will appreciate the product selection they'll find at Triple Nickel.

Thank you again and we look forward to working together,  
Donna M. Brazell  
General Manager



Good Stuff for the Good Guys

## Important Notice About Legal Fees

In an agreement with MAP's legal firm, Troubh Heisler, P.A., hourly fees for legal services will be increased.

Starting January 1st, 2009, hourly fees will be increasing from \$120.00 to \$130.00 per hour.

The last increase of legal fees was in the late 90's when fees were raised from \$95.00 to \$120.00 per hour.

With the increase in fees comes a repeat of MAP's directives in contacting and/or utilizing the law firm.

All MAP locals are empowered to handle their own grievances at the local level without an attorney. If there is a question in regards to interpretation or relevance of the contract in

regards to grievances, contact the MAP office.

Questions concerning discipline and Internal Affairs investigations should be directed to the MAP office for triage and assignment to an attorney, if necessary.

Attorneys are pre-assigned to local units for the purposes of contract negotiations. Currently the primary attorneys for contract negotiations are Dan Felkel and Bill McKinley. As both Dan and Bill have been with MAP for quite some time, they automatically prepare for negotiations as outlined by Maine Labor Relations Board Rules & Regulations.

In regards to critical incidents, the on call attorneys are listed in the Twombly

Books and should be contacted first, with the local then contacting Paul Gaspar.

In all other matters, questions or concerns should be directed to the MAP Office.

Attorneys will be asked to direct local units to the MAP office should a local unit contact the law firm in deference of the stated directives.

## Shooting review on local legislative menu

### Excerpt from an article by Stephen Betts, The Herald Gazette Associate Editor, Village Soup

AUGUSTA (Dec 27): The fatal police shooting of a teenager last year in Waldoboro has led a local legislator to file a bill that would create a new panel to review police shootings. The bill by Rep. Elizabeth Miller, D-Somerville, is one of many to be put forward by Midcoast legislators. The deadline for most bills to be filed is Jan. 16. The Legislature returns to session in Augusta on Jan. 7.

Other proposed laws being offered by local legislators are ones to allow Coast Guard personnel who are not Maine residents to take

advantage of the home-stead tax exemption, as well as one that would require a two-thirds vote of both the House and the Senate for a tax increase to be approved.

The major financial challenge facing the Legislature, however, has also led two Midcoast representatives to say they do not plan on submitting any bills.

Miller's bill to create an independent police shooting review board is the result of the Sept. 23, 2007, shooting death of 18-year-old Gregori S. Jackson of Whitefield by a Waldoboro police officer. The shooting was ruled justified by the Maine Attorney General's office as well as

by a review by other law enforcement officers.

The officer said he fired his gun only after an intense struggle with Jackson in the woods following a brief foot chase following a traffic stop. The officer said Jackson tried to take his service weapon. Many citizens are not satisfied with the depth of the reviews, Miller said. She noted that the AG's office looks at the very specific law on whether an officer was legally justified and not whether the shooting was necessary.

Maine law states that an officer can use deadly force if the officer actually and reasonably believes that unlawful deadly force is imminently threatened against the officer or a third

person. Second, the officer must actually and reasonably believe that the officer's use of deadly force is necessary to meet or counter that imminent threat.

Miller, whose legislative district includes Whitefield, said Jackson's family asked her to submit the bill.

## Department Of Labor Releases Draft Of New FMLA Rules

### From LRIS Labor News

*The Department of Labor has released the long-awaited draft of new rules on the interpretation of the Family and Medical Leave Act. In large measure, the proposed rules would tighten up on how the FMLA is interpreted, and are being perceived as being beneficial to employers. Anyone can submit comments to the DOL on the new rules; the deadline for comments is April 11, 2008.*

*What follows is a summary of the proposed rules prepared by Buchanan, Ingersoll & Rooney, an employer-side law firm with 18 offices across the country.*

On February 11, 2008, the Department of Labor published proposed rule changes for the Family Medical and Leave Act (FMLA). These regulatory changes would be the most sweeping modifications to FMLA regulations since their initial implementation on April 6, 1995.

The FMLA provides up to 12 weeks of unpaid time off in any 12-month period as family and medical leave. Such leave includes care for a serious health condition of the employee or an immediate family member, as well as leave for the birth, adoption or foster placement of a child. Since its enactment 15 years ago, the FMLA has been the subject of legal challenges regarding its interpretation and administration.

Concerns about the law include confusion about the proper definition of "serious health condition," ambigu-

ous standards for verifying medical certification requirements and disclosure restrictions, and the difficulty of enforcing shorter, incremental leave, known as "intermittent leave."

### Proposed Changes

The proposed rules offer some important changes, some of which may be favorable to employers. Some highlights from these proposed changes include:

#### Employer Notice

Under the proposed rules, employers must still post a notice of general FMLA rights and responsibilities. In addition to this standard posting requirement, however, employers will also be required, on an annual basis, to distribute notice of FMLA rights to each employee.

This distribution of annual notice can occur through an employee handbook, if one exists, or through paper or electronic form, subject to certain conditions. The Department of Labor seeks to increase employees' awareness of the FMLA through this change.

Additionally, an employer will have five business days (rather than the current two days) to notify an employee that he or she is eligible for FMLA leave upon receiving a request for leave or after learning that an employee's leave may qualify for FMLA leave.

The proposed rules would also require employers to provide employees with more specific written notice regarding FMLA leave requests. For instance, where possible, an employer must notify employ-

ees regarding the number of hours, days or weeks that an employer will designate as FMLA leave. Employers must also notify employees if leave will not constitute FMLA leave due to insufficient information or a non-qualifying reason.

#### Employee Notice

Under the current regulations, employees must provide 30 days notice of a need for FMLA leave when the need is foreseeable and in compliance with the employer's usual procedures. If 30 days' notice is not possible, the employee must give notice "as soon as practicable." Although the current requirements will remain the same, the Department of Labor further proposes to add that when an employee gives less than 30 days' advance notice, the employee must respond to a request from the employer and explain why it was not practicable to give 30 days' notice.

The Department of Labor hopes to reduce disruptions caused by unforeseen absences with this proposed change.

#### Medical Certification

Management and workers have often clashed on whether proper or sufficient medical documentation has been provided to determine whether or not the worker qualifies for unpaid leave under the FMLA. The proposed rule seeks to clarify medical certification requirements, including making an important change that may permit employers to contact an employee's health care provider.

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The proposed rules offer some important changes, some of which may be favorable to employers



## IRS rules change continued...

Labor unions and pension officials across the country, including Nevada, are fighting implementation of the rule. They are taking their case to Congress but are not sounding the alarm to their members just yet. Others are welcoming the proposal as a modest but necessary reform.

A briefing paper on the proposed regulation prepared by officials with the city of Henderson, Nevada says the impetus for the regulation is that the IRS believes a normal retirement age younger than 55 is not reasonable.

Workers covered under the Social Security program cannot receive full benefits now until they reach the age of 67. The IRS has not responded to the request, according to the Henderson briefing paper dated Aug. 11.

I have sent direct communication to the IRS on behalf of MAP's members regarding our concerns about this emerging issue. As of this date, I am still awaiting a response from officials at the IRS. A copy of our letter is included. Dave Kallas, an official with

the Las Vegas Police Protective Association, said he is fielding a number of calls from concerned police officers about the rule but suggested there is no immediate cause for alarm.

Public pension officials and other stakeholders are working with the IRS to come to an agreement on the issue, which was never intended to apply to public pensions in the first place, the union official said.

Kallas said it is his understanding that the legislation that prompted the IRS rule, a pension reform bill sponsored by Rep. Sam Johnson, R-Texas, was aimed at private pensions and not intended to apply to public pension plans.

"I'm not worrying about this issue quite yet," Kallas said. "We have to wait and see what transpires over the next few months."

Public awareness of the potential IRS change to the nation's public pension systems has come at the same time as calls for reforms to the plans.

A study released earlier this month by the Las Ve-

gas Chamber of Commerce concludes that the government support of the public retirement system has become a drain on state and local government resources, leading to the underfunding of important programs such as education and transportation.

Hugh Anderson, vice president of the ABD&F Group at Merrill Lynch in Las Vegas and chairman of the chamber's government affairs committee, said the proposed IRS change is the right move.

A retirement age should better reflect today's demographic reality that people are living much longer, he said.

It is conceivable that a public employee could retire at age 55 with 30 years of service under today's rules and end up receiving retirement benefits for longer than the years worked, Anderson said.

"This whole demographic shift is here," he said. "It is no longer in the future. The baby boom generation is here and they are living a long time."

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**A retirement age should better reflect today's demographic reality that people are living much longer**

**Hugh Anderson. Vice President, Merrill Lynch**

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**tions Information System, or On the Beat, Inc.**

**Paul Gaspar, MAP Executive Director**

## FMLA Continued...

Consistent with the notice requirement change, employers would have five days to request medical certification from the date of the employee's request for leave. If an employer determines that the subsequent information received is insufficient, the employer must provide written notice to the employee of what additional information is necessary and give the employee seven calendar days to cure the deficiency.

The Department of Labor has also proposed changes to the medical certification form to better enable health care providers to understand and complete this certification. Employers would also be permitted to contact health care providers directly to clarify or authenticate documents.

The proposed regulations would permit employers to send an employee's absence schedule to his or her health care provider to confirm whether or not the employee's pattern of intermittent leave is congruent with the employee's qualifying medical condition.

Consistent with current regulations, an employer would not be able to require a recertification until the specified duration of the initial certification expires, but in all cases recertification requests would be permitted every six months.

### **Intermittent Leave**

One of the most sought after changes, the permitted length of intermittent leave, will remain untouched. Currently, employees may take the shortest unit of unpaid leave established under an employer's timekeeping

systems. Employers find administering such leave burdensome and have advocated increasing the minimum to at least a half-day. The Department of Labor, however, has determined that it does not have the authority to alter incremental leave and that any such changes must be made legislatively.

### **'Serious Health Condition'**

Currently, under the FMLA, it is unclear what constitutes a "serious health condition." The Department of Labor outlines this difficulty in the proposed regulations, but proposes only modest changes to clarify this issue. For instance, under the proposed rule, "continuing treatment" for purposes of establishing a "serious health condition" would be clarified to a period of incapacity of more than three consecutive calendar days and require that a worker visit a health care provider twice within 30 days of being incapacitated. Those with chronic conditions must make two visits per year to a health care provider.

### **Fitness for Duty**

If an employer requires a fitness-for-duty certification, the proposed regulations would allow an employer to include a description of the essential functions of the employee's job along with its eligibility notice to the employee. Employees on intermittent leave could be required to provide fitness-for-duty certifications every 30 days if reasonable safety concerns exist. Additionally, subject to certain limitations, employers would be permitted to contact health care providers to clarify or authenticate

the fitness-for-duty certification.

### **Coordination with Paid Leave**

Under the current regulations, employees must follow the terms and conditions of an employer's paid leave policy in order to utilize accrued paid leave during FMLA leave. The proposed regulations will clarify the concept that unpaid FMLA leave runs concurrently with paid leave provided by an employer.

### **Perfect Attendance Awards**

An employer would not have to provide perfect attendance awards to employees who take unpaid leave under the FMLA.

### **Waiver and Release**

A recent court decision brought into question the ability of an employee to voluntarily settle a claim under the FMLA. The proposed regulations clarify that employers and employees are permitted to voluntarily settle past FMLA claims without having to obtain permission from a court of law or the Department of Labor.

### **'Light-Duty Time'**

The Department of Labor is proposing to eliminate a provision in the current regulations concerning light-duty time. The elimination of this provision will ensure that employees retain their right to reinstatement for a full 12 weeks of leave instead of having the right diminished by the amount of time spent in a light-duty position.

### **Next Page**

## FMLA Continued....

### Military Leave

The proposed rules will also include regulations concerning recently enacted legislation providing FMLA leave to military personnel and their family members. As noted in Buchanan Ingersoll & Rooney's January Labor & Employment Legislation & Regulation Update, President Bush signed a new law that provides two new types of FMLA leave related to military service.

Pursuant to the new law, an eligible employee can take up to 26 weeks of leave in a 12-month period to care for a spouse, child, parent or next of kin who is a service member with a serious illness or injury incurred during active duty in the Armed Forces.

Additionally, the law permits eligible employees to take up to 12 weeks of FMLA leave in a 12-month period for "any qualifying exigency" that arises from a spouse's, child's or parent's active duty in the Armed Forces, including an order or call to duty.

### Outlook

Comments on the proposed changes must be submitted to the Department of Labor by April 11, 2008. It is expected that the final rules will be published before President Bush leaves office.

House Education and Labor Committee Chairman George Miller (D-CA) has already expressed concerns about the proposal. Representative Lynn Woolsey (D-CA), who chairs the Workforce Protections Sub-

committee on the panel, has scheduled a hearing on the FMLA for Thursday February 14. The Senate Children and Families Subcommittee of the Health, Education, Labor and Pensions Committee, which is chaired by Senator Chris Dodd (D-CT), will hold a similar hearing a day earlier.

Each is expected to criticize the tenor of the proposed rule and examine ways in which to broaden the FMLA.

## Maine Emerald Society Announces Important Scholarship

The Maine Police Emerald Society Cashman Memorial Scholarship is given in honor of Mr. Daniel F. Cashman, who had been a long time supporter of the Law Enforcement community.

He is succeeded by his three sons, all of whom are serving in the Law Enforcement field from the Municipal to Federal levels. In his memory the Cashman family, along with the Maine Police Emerald Society will select one student to award the scholarship to annually.

The scholarship will go to a student currently in a post-secondary education program who aspires to join the field of Law Enforcement upon graduation, or a

high school senior who plans to move on to the next level of education in a Law Enforcement related program of study.

Eligibility criteria will be based on academic records, leadership responsibilities in both community and school activities, and a clearly written essay of academic and career goals. The scholarship will be given in the amount of \$500 before the start of the fall semester. It may be used towards tuition, books, personal computer, or on-campus room and board. T

he scholarship must be used within 12 months of the date the recipient is notified. Proof of registration in a vocational/trade

school or accredited college is mandatory before payment is made.

The requirements for consideration for the Cashman Memorial Scholarship are:

- The applicant must be graduating from a Maine high school, or attending a Maine or University.

- Must be enrolled in a full-time law enforcement program, or related field of study.

- Proof of requirements must be presented.

Applications and supporting information are due no later than March 1st, and can be downloaded at the MAP website.

## NUMBER OF LAW ENFORCEMENT OFFICERS KILLED IN THE UNITED STATES FALLS SHARPLY IN 2008

From the NLEOMF  
December 29, 2008

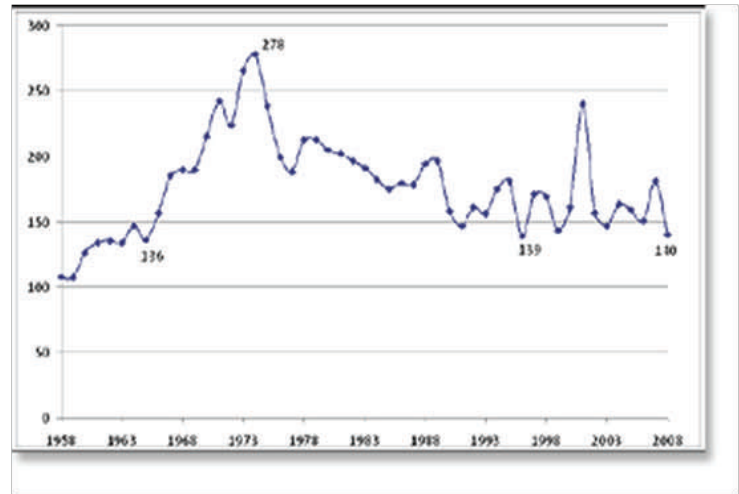
**Dramatic reversal from 2007; fewest officers killed by gunfire in 50 years; record number of female officers die this year.**

**Washington, DC —** 2008 is ending as one of the safest years for U.S. law enforcement in decades. The number of officers killed in the line of duty fell sharply this year when compared with 2007, and officers killed by gunfire reached a 50-year low.

Based on analysis of preliminary data, the National Law Enforcement Officers Memorial Fund (NLEOMF) and Concerns of Police Survivors (C.O.P.S.) found that 140 officers have died in the line of duty so far this year. That is 23 percent lower than the 2007 figure of 181, and represents one of the lowest years for officer fatalities since the mid-1960s.

This year's reduction includes a steep, 40 percent drop in the number of officers who were shot and killed, from 68 in 2007 to 41 in 2008. The last time firearms-related fatalities were this low was 1956, when there were 35 such deaths. The 2008 figure is 74 percent lower than the total for 1973, when a near-record high 156 law enforcement officers were shot and killed.

"2007 was a wake-up call for law enforcement in our country, and law enforcement executives, officers,



associations and trainers clearly heeded the call, with a renewed emphasis on officer safety training, equipment and procedures," said NLEOMF Chairman and CEO Craig W. Floyd. "The reduction in firearms-related deaths is especially stunning, given the tremendous firepower possessed by so many criminals today. The fact that law enforcement has been able to drive down the crime rate, and do so with increased efficiency and safety, is a testament to the hard work and professionalism of our officers," Mr. Floyd added.

"Concerns of Police Survivors is pleased to see the reduction in officer deaths for 2008 and hope this is a trend we will see year after year. But we also know that for each of the surviving families and co-workers, their one officer is one too many," said C.O.P.S. National President Jennifer Thacker. "These families, co-workers and agencies are struggling to cope with life without their officer and will need support from C.O.P.S. before, during and long after National

Police Week. C.O.P.S. will continue its efforts to provide life rebuilding support and resources for 2008 surviving families and affected co-workers, as well as past year survivors to help them rebuild their shattered lives. We will embrace these families and affected co-workers and assure them there is no fee to join C.O.P.S., for the price paid is already too high," she said.

In 2008, for the 11th year in a row, more law enforcement officers, 71, died in traffic-related incidents than from gunfire or any other single cause of death. Mirroring the nationwide drop in traffic fatalities among the general public this year, the number of officers killed in traffic incidents was down 14 percent from 2007. Last year, a record high 83 officers died on our roadways. Of this year's traffic-related fatalities, 44 officers died in automobile crashes, 10 died in motorcycle crashes and 17 were struck and killed by other vehicles.

**Continued on Page 11**

**"2007 was a wake-up call for law enforcement in our country, and law enforcement executives, officers, associations and trainers clearly heeded the call.."**

**Craig Floyd, NLEOMF**

## 2008 Officer Deaths Decline Cont.

Among other causes of death, 17 officers succumbed to job-related physical illnesses, three died in aircraft accidents, two were fatally stabbed, two died in bomb-related incidents, and one each was beaten to death, drowned, accidentally electrocuted and died in a train accident.

Fifteen of the officers killed this year were women, equaling the all-time high set in 2002. 2008 marked the first time that more than 10 percent of the officers who died in a year were female. Among all officers killed in 2008, the average age was 40 and the officers had served an average of 12 years in law enforcement.

Texas, for the second year in a row, experienced the most law enforcement officer fatalities, although the state's 2008 total of 14 was down from 22 in 2007. California had 12 officer fatalities, followed by Florida

and Pennsylvania, with eight each. Four of the eight Pennsylvania officers to die this year were members of the Philadelphia Police Department, which experienced the most deaths of any agency. Thirty-five states, Puerto Rico and the U.S. Virgin Islands lost officers in 2008. Eight officers serving with federal law enforcement agencies also died this year, down from 17 in 2007.

Mr. Floyd cited a number of reasons for the sharp decline in officer fatalities this year: 1) better training and equipment, plus a realization among officers that "every assignment is potentially life-threatening, no matter how routine or benign it might seem;" 2) increased use of less-lethal weaponry, including TASER stun guns, which allow officers to apprehend resisting violent offenders with less chance of assault or injury; 3) more officers wearing bullet-resistant

vests-over the past 20 years, vests have saved more than 3,000 law enforcement lives; 4) a downturn in violent crime-the Department of Justice reported that violent crime is at its lowest level since 1973; and 5) a tougher criminal justice system, with a record 2.3 million offenders in correctional facilities nationwide.

The statistics released by the NLEOMF and C.O.P.S. are preliminary and do not represent a final or complete list of individual officers who will be added to the National Law Enforcement Officers Memorial Fund in 2009. The report, "Law Enforcement Officer Deaths, Preliminary 2008 Report," is available at [www.nleomf.org](http://www.nleomf.org). For information on the programs that Concerns of Police Survivors offers to the surviving families of America's fallen law enforcement officers, visit [www.nationalcops.org](http://www.nationalcops.org).



*MAP Is a Proud Supporter  
of the NLEOMF*

## New Hampshire House Of Representatives, Without Debate, Passing Sweeping Law Cutting Back On Police, Fire Pensions

**From The New Hampshire Union-Leader,  
March 19**

CONCORD, NH – A sweeping reform of the state's public pension system passed the New Hampshire House without a word of debate yesterday.

By a 259-60 vote, the House adopted the changes in HB 1645, which organized labor, as well as towns and school districts across the state, are watching closely.

The bill is aimed at restoring the health of the \$6 billion New Hampshire Retirement System, which provides retirement benefits for retired police, firefighters, teachers, state and many municipal workers. NHRS membership includes 70,000 retirees and active workers. The fund is short by \$2.7 billion of what it needs to cover its long-term obligations, while funds that pay medical subsidies to retirees is running short of money. The bill ends auto-

matic 8 percent increases in the subsidy as a way of sustaining it while a committee studies longer-term solutions.

The bill also changes the rules of retirement for police and firefighters hired after July 1, 2009. It would require them to work for 25 years until age 50, compared to the 20 years service, 45 years of age career that is now in retirement law.

**Continued on Page 12**

## NH House of Reps. Cont.

It cuts the number of employee members of the NHRS board from eight to four, and adds two investment experts to the board.

School districts and towns, whom labor argued paid less than their share over the past 15 years, will pay the \$2.7 billion shortfall over 30 years at 8.5 percent annual interest.

The bill also forms committees to study ways to fund the medical subsidies and cost of living increases, and guarantees annual pension increases of \$500 or 2.5 percent.

The bill cuts by two-thirds the kinds of increases local government would see in 2010 and 2011 if there were no reform. That trims \$100 million off the retirement bill that would be raised by property taxes. The bill cuts increases state government would see in half, saving \$64 million over the two years. It also transfers \$250 million from a special medical account to the troubled pension fund.

Maura Carroll, legal counsel for the New Hampshire Municipal Association, said

she was "absolutely delighted at the strength of the vote." NHMA has been recruiting towns to join a lawsuit if too many costs are passed along to local government. Carroll couldn't say exactly how the prospect of a lawsuit changed with the House vote.

"We don't want to bring a lawsuit. That's why we're working so hard on the legislative level," she said.

"We'll continue to work with the Legislature to be sure the language of the bill protects retirees and employees, and the employers, who are taxpayers in New Hampshire."

Rep. Ann-Marie Irwin, D-Peterborough, said, "I'm proud that we voted for all the citizens of New Hampshire and not just the special interests."

Spokesman for public employees were less enthusiastic than Carroll and Irwin. Bradford Police Chief James Valiquet, past president of the New Hampshire Chief of Police Association, said changes to laws on police retirement will hurt communities.

He said towns will have a harder time attracting new recruits to a career that will run an extra five years. The move cuts five years off the second career most police build, and may lead to tougher demands during contract talks.

He said funding for police is in better shape than any other group, and wondered why they are taking the biggest change in career expectations.

John Garvin, a Newington police officer and president of the NH Police Association, said workers will press the Senate to slow the bill down.

"There was a rush to judgement," he said.

Noting public workers formed a New Hampshire Retirement Security Coalition representing 77,000 members, he said, "United we stand, divided we fall, and we're going to fight this to the end."

Some teachers and local public workers benefited from passage of HB 1643. It gives those who have to retire by this July 1 to qualify for medical subsidies an extra year to retire.

**We don't want to bring a lawsuit. That's why we're working so hard on the legislative level,"**

**Maura Carroll, Legal Counsel, NH Municipal Association**

## Connecticut Troopers Tell Of Retaliation, Stun Legislators

### From The Hartford Courant, March 5

Their voices cracking at times, trooper after trooper stepped forward at a legislative hearing Tuesday to testify that they had been victims of blatant retaliation by state police managers against whom they had filed complaints alleging severe misconduct. The troopers, many of them whistle-blowers in

some of the most egregious cases of wrongdoing outlined in a 2006 internal affairs report, asked legislators to help stop the harassment and revamp the state police department. As a show of support, about 200 troopers — dressed in suits and ties — attended the hearing before the public safety committee in the Legislative Office Building in Hartford. It lasted five hours.

Union President Steven Rief harshly criticized the agency for severely punishing road troopers for misdeeds while being lenient with managers.

The committee may decide as early as today whether to create a task force that would address problems within the department.

**Continued on Page 13**

## Connecticut Troopers Cont.

Even legislators who have attended hearings in recent weeks on racism and harassment within the state police were stunned at some of Tuesday's testimony. Rep. Andrea Stillman, D- Waterford

Among them was Det. Karen Nixon, one of the whistle-blowers who expressed concern about Eugene Baron, a trooper who had been stopped on suspicion of drunken driving four times and let go each time by state police. Baron left the department last year after he was arrested on a drunken-driving charge by Manchester police.

She told legislators that in October 2006, after she filed a complaint with the attorney general's office about the department's failure to deal with Baron's problems, two of her supervisors in Southbury called the state Department of Children and Families to her home after she had a bad reaction to a medication and asked to leave work.

DCF workers later went to her home and asked her 7-year-old son "if mommy ever touched him," Nixon, a 14-year veteran, told legislators. The DCF later determined the case to be unfounded, and Nixon's young children remain with her, according to records. "When you or your loved ones dial 911, you get us. We are what is public safety. We understand the inherent risk every day," Nixon said. "But at no point should I have to suffer ridicule or public humiliation to me as a mother."

Trooper William Cario testified that he was a whistle-

blower in a case of alleged misconduct, after which he was disciplined for failure to properly supervise an accident. He was stripped of his rank as sergeant and was given a 60-day suspension, meaning he would be out of work for 96 calendar days, the longest suspension anyone can remember.

"Health benefits for my family were canceled" because of the lengthy suspension, he said. He fought the case and his suspension has since been overturned; he is awaiting a July 2008 date for arbitration to clear his name.

Attorney General Richard Blumenthal said Tuesday that he was aware of claims of state police retaliation against whistle-blowers, and that their cases are the reason he proposed stronger legislation to protect those who report misconduct within their agencies.

He said he was outraged "at the harassment and retaliation directed at the courageous men and women who cooperated in my investigation." The 2006 internal affairs investigation was conducted by Blumenthal and the New York State Police.

Missing from most of Tuesday's hearing was Public Safety Commissioner John A. Danaher III, who instead went to a press conference with Gov. M. Jodi Rell about traffic safety initiatives on I-95 in the Fairfield area.

Danaher, who became commissioner a year ago, arrived later in the day and spoke to Rief privately. The union president had asked legislators earlier, "Where is the commis-

sioner of the Department of Public Safety?"

Rief focused his testimony on the discipline of troopers since a new internal affairs policy began more than a year ago, saying that in some cases investigations go on for a year or more. "There are core issues yet to be resolved that are ripping this department apart," Rief said.

He added that the 200 troopers attended Tuesday "because morale has never been so low."

Reached later by telephone, Danaher said he plans ongoing discussions with the union and legislature about the issues.

Col. Thomas Davoren, commander of the state police, said that managers are being held accountable, and that in 2007 there were nine internal affairs cases involving managers, three times the normal amount.

Danaher said he discussed the Nixon case with Lt. Col. Robert Duffy, who heads the internal affairs unit.

"I confirmed they [the two supervisors involved] are under investigation," he said.

"We have a retaliation policy. If they bring it to our attention, then an investigation will be done," Danaher said.

Danaher said the new internal affairs process has required a long learning curve. He said that investigations must be done more quickly, and that the department needs to look at the level of discipline imposed.

We are willing to talk to the committee about any proposals they have in mind," Danaher said.

But Rep. Christopher Caruso, D-Bridgeport, said the time for talking may be past. "We've got to look at this entire agency," he said. "This entire General Assembly and the governor have been unwilling to acknowledge and change a structural defect within the Connecticut state police. We have done basically nothing to change how it operates."



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*Richard F. O'Neill*     *Ty Elster*     *Mike Severance*  
President                      Vice President     Secretary/Treasurer

October 9, 2008

Dear Fellow Law Enforcement Officers and Friends of Law Enforcement,

As president of the Seattle Police Officer's Guild I would like to bring to your attention a situation which has impacted one of our officers and has the potential to affect the safety of all law enforcement officers throughout the nation.

On August 9, 2008 Seattle Police Detective Ron Smith was vacationing in Sturgis, South Dakota with members of a fraternal law enforcement motorcycle club. Detective Smith was attacked by a member of the Hell's Angels Motorcycle Gang in what South Dakota authorities described as a "violent and premeditated" incident. In fear for his life, Detective Smith defended himself by using his personal handgun to shoot his attacker and stop the threat. The suspect received non-life threatening injuries.

The problem is that South Dakota authorities have charged Detective Smith, along with a Seattle Police Sergeant and two U.S. Customs and Border Protection Agents with carrying a handgun in violation of their concealed weapons statute. The South Dakota authorities are ignoring The Law Enforcement Officers Safety Act of 2004 (H.R.218) which allows qualified law enforcement officers and retired officers to carry a concealed weapon in all fifty states. The City of Sturgis web site even instructs visiting law enforcement officers that they are authorized to carry a concealed weapon under the above safety act!

H.R. 218 was codified into law as 18 U.S.C. 926B/926C. This is the law of the land and was recently reaffirmed by the Bureau of Alcohol, Tobacco and Firearms. This law must be defended! We cannot allow the safety of law enforcement officers and their families to be compromised by taking away their right to carry a concealed weapon.

I am calling on all of you to please alert everyone in your organization about this situation. Please encourage them to write to their elected officials and the following South Dakota authorities to express their outrage at this situation.

Meade County State Attorney Jesse Sondreal

1425 Sherman St.  
Sturgis, South Dakota 57785  
[j.sondreal@meadecounty.org](mailto:j.sondreal@meadecounty.org)

South Dakota Attorney General Larry Long

1302 E. Hwy 14  
Suite #1  
Pierre, South Dakota 57501  
[atghelp@state.sd.us](mailto:atghelp@state.sd.us)

Thank you for your assistance.  
Fraternally

Sgt. Richard F. O'Neill  
President

## New study ranks risks of injury from 5 major force options

### From The Force Science News

How would you rank the relative risk for officers and suspects suffering injury from these 5 force options:

- \* Empty-hand control techniques
- \* Baton
- \* OC spray
- \* Conducted energy weapons (Tasers)
- \* Lateral vascular neck restraint.

If you judged OC to be the "safest" and baton to be "most injurious" to both officers and offenders, you're in agreement with the findings of a new study of force encounters involving officers on a major municipal department.

The study, the first of its kind in Canada, was conducted by S/Sgt. Chris Butler of the Calgary (Alberta) Police Service and Dr. Christine Hall of the Canadian Police Research Center.

They analyzed 562 use-of-force events that occurred across a recent 2-year period as officers effected the arrests of resistant subjects in Calgary, a city of more than 1 million population. The threatened or actual use of firearms were omitted from the review, as were handcuffing, low-level pain compliance techniques like joint locks and pressure points, K-9s, and tactical responses such as chemical agents, flashbangs and less-lethal projectiles.

Here's what they discovered:

\* OC, used in roughly 5% of force-involved arrests, produced the lowest rate of injury. More than 80% of sprayed subjects sustained no injury whatever. About 15% had only minor injuries ("visible injuries of a trifling nature which did not require medical treatment") and some 4% had what the researchers termed "minor outpatient" injuries (some medical treatment required but not hospitalization). No cases resulted in hospitalization or were fatal.

Officers involved in OC use fared even better. They suffered no injury in nearly 89% of cases and only minor damage the rest of the time.

The pepper spray involved was Sabre Red, with 10% oleoresin capsicum.

\* Batons, deployed in 5.5% of force-involved arrests, caused the greatest rate of higher-level injury. Fewer than 39% of subjects receiving baton contact remained uninjured. More than 3% were hospitalized and nearly 26% required outpatient treatment, combining to be "most injurious," according to the researchers. About 32% of batoned subjects sustained minor injuries requiring no treatment.

Of officers involved in baton incidents, nearly 13% required outpatient treatment. Some 16% sustained minor injury and the rest were uninjured.

In Calgary, the baton used is the Monadnock Autolock expandable with power safety tip.

\* Empty-hand controls, applied in 38.5% of the force events, also ranked high for more serious injuries. For purposes of the study, physical controls included "nerve motor point striking and stunning techniques, grounding techniques such as arm-bar takedowns, and other balance displacement methods."

Nearly 14% of these subjects required outpatient medical care and about 4% had to be hospitalized. Almost 50% had minor injuries and about 33% remained uninjured.

Among officers, 1% required hospitalization and 4.5% needed outpatient aid. The vast majority (77.8%) were uninjured and nearly 17% had minor injuries.

Judging from these findings, the researchers conclude, agencies need "to seek out alternatives to hands-on physical control tactics and the baton if they wish to reduce the frequency and seriousness of citizen and police officer injuries."

\* The second safest force mode for suspects proved to be the lateral vascular neck restraint. Used in 3% of force-related arrests, the LVNR left more than half (52.9%) of offenders uninjured. About 41% sustained minor injuries and less than 6% required minor outpatient treatment. There were no hospitalizations and no fatalities.

Officers applying a LVNR remained uninjured more than 76% of the time and those who were hurt suffered only minor injuries.

\* Conducted energy weapons also scored high in safety for both suspects and officers. The Taser X26, the CEW issued to Calgary officers, was the most frequently deployed of the 5 force options studied, being used against nearly half (48.2%) of resistant arrestees. About 1% ended up hospitalized, about 12% needed minor outpatient treatment and more than 42% had only minor injuries. Nearly 45% sustained no injuries and there were 0 fatalities.

Of officers using Tasers, about 83% were uninjured and about 13% sustained minor injuries. Only about 2% and 1% required outpatient medical attention or hospitalization respectively.

"The commonly held belief" that CEWs carry "a significant risk of injury or death...is not supported by the data." Indeed, they are "less injurious than either the baton or empty-hand physical control," which often would be alternative options where electronic weapons were not available.

In a 14-page report of their study, Butler and Hall point out that "[N]o use of force technique available to police officers can be considered 'safe' " in the dictionary sense that it is free from harm or secure from threat of danger. "[E]very use of force encounter between the police and a citizen carries with it the possibility for injury for one or all of the participants, however unexpected that injury might be."

The best that can be hoped for is an appropriate, proportional balance between "the degree of risk of harm" and the "resistance faced by police" that requires the use of force.

**Continued on Page 16**

## New Study, Cont.

The public has been fed "a large amount of...incomplete or incorrect information and even intentional artifice" about some force options, the researchers charge. Their study, they say, may help eliminate the resulting confusion. Plus, knowing the level of injury likely to result from a given force method can aid trainers and administrators in developing "sound policies and practices."

"This study is a great snapshot about force and its associated injuries and is a valuable addition to the discussion of force issues in Canada and elsewhere," says Dr. Bill Lewinski, executive director of the Force Science Research Center at Minnesota State University-Mankato.

"Hopefully, the researchers will now be encouraged to probe further into some of the issues they touched on, exploring in greater depth the decision making that led officers to apply various types of force, the level of emotional and physical intensity generated by subjects receiving the force, the causes of injuries to both officers and subjects, and so on. There is still much to be learned in these areas."

As part of their study, Hall and Butler compiled statistics on the broad overview of force encounters among Calgary officers, which closely mirror findings regarding U.S. law enforcement.

For instance:

\* Out of more than 827,000

police-public interactions, the 562 instances which ended up involving use of force represented less than 1% (.07%) of the total. (Other studies have pegged that figure in the U.S. at 1.5%.)

\* Arrests occurred in only 4.6% of police-public interactions, and 98.5% of the time the arrests were finished without force.

\* Roughly 88% of all subjects requiring force were under the influence of drugs and/or alcohol or "some degree of emotional illness." Almost 94% of resistant offenders requiring force were male.

\* The researchers found "a notable pattern of relationship...between the number of officers present and the frequency and nature of injuries sustained by both citizens and officers." Namely: "[M]ore injuries occurred in circumstances where only one officer was present."

The researchers state bluntly that "biased reporting of events has led the lay-public to have the impression that the police use of force is frequent when compared to the overall number of police and public interactions."

They mentioned also a bias that results in "extensive media coverage of events where subjects have died" after use of a CEW and a

"lack of publication of CEW uses without an adverse outcome."

Such skewed reporting "prevents the public...from forming an informed opinion about the actual risk presented" by various force modalities, they stated.

The study's official jaw-breaking title is: "Public-Police Interaction and Its Relation to Arrest and Use of Force by Police and Resulting Injuries to Subjects and Officers; a Description of Risk in One Major Canadian Urban City." It is expected to be posted online in mid- to late-August by the Canadian Police Research Center at [www.cprc.org](http://www.cprc.org)

S/Sgt. Butler can be reached at [chris.butler@calgarypolice.ca](mailto:chris.butler@calgarypolice.ca).

**"This study is a great snapshot about force and its associated injuries and is a valuable addition to the discussion of force issues in Canada and elsewhere,"**

**Dr. Bill Lewinski, executive director, Force Science Research Center**

## Officers At Risk By Resisting Vests

From USA Today

October 27th, 2008

**KEVIN JOHNSON**

More than one-third of police officers murdered last year were not wearing body armor, and law enforcement analysts estimate that up to half of all officers don't wear bullet-resistant vests regularly while on duty.

Trainers, police officials and equipment dealers say the FBI statistics tracking murdered officers represent only part of a troubling phenomenon at a time when police confront suspects armed with higher-powered weapons. They worry officers will be put at increased risk.

The vast majority of the nation's 700,000 officers own or have access to bullet-resistant vests, says Ed Nowicki, executive director of the International Law Enforcement Educators and Trainers Association. Yet he estimates thousands -- up to 50% -- choose not to wear them all or part of the time. The risk of dying by gunfire is 14 times higher for officers not wearing armor, Congress found in 2001.

"It's like playing Russian roulette," Nowicki says. "We know we have a problem. The question is, 'What are we going to do to make this right?'"

The economy is partly to blame for slightly lagging sales of vests this year, says Michael Foreman of Point Blank Body Armor, one of the largest manufacturers. He says police agencies often don't em-

phasize body armor in their training.

No national count tracks how many officers wear vests, which cost \$500 to more than \$1,000 each. Yet there is broad agreement over why thousands don't: comfort.

Miami Police Chief John Timoney says the heat is the primary reason up to 85% of his officers do not regularly wear body armor. Every graduate from the training academy gets a vest, but there is no policy requiring them to be worn at all times.

In Philadelphia, police Lt. Frank Vanore says the department mandates use of body armor, but enforcement is difficult. At least two of the five officers killed there in the past two years were not wearing protective vests.

Earlier this month, Philadelphia Police Commissioner Charles Ramsey approved a plan to let officers wear vests over their uniform shirts to make them more comfortable and easier to remove.

Over the past decade, 43% of the 1,671 officers who died of any cause in the line of duty -- including traffic fatalities -- weren't wearing vests, reports the National Law Enforcement Memorial Fund. In 2007, 27% weren't wearing them, the third straight year in which the percentage declined.

The FBI statistics, though, show the percentage of officers murdered who weren't wearing vests has stayed between 33 and 44

over the past decade.

Access to vests is a concern in rural departments, says Robert Mowery, who heads Fraternal Order of Police efforts that provide protective vests to needy departments throughout Tennessee.

In August, Justice Department officials issued new standards for the vests aimed at improving their power to stop bullets. Yet officials worry the new standards also could result in costlier and heavier products, possibly discouraging future use.

"We don't know how the (armor makers and police are) going to react" to the new standards, says John Morgan of the agency's National Institute of Justice.

**"It's like playing Russian roulette... We know we have a problem. The question is, 'What are we going to do to make this right?'"**

**Ed Nowicki;  
International Law  
Enforcement Educators and  
Trainers Association**



## Art project helps reveal unseen side of officers

**David Hench,  
Portland Press Herald**  
*Portland police partner with artists to create a calendar of photos and poems, either by the officers or about their work.*

One police officer wrote about the questions he fields from his young son. Another wrote about the uniform and equipment she dons for each night's shift.

Cops and poetry. It's an unlikely pairing, based on stereotypes, but that's what makes it intriguing – and from Marty Pottenger's perspective, a successful joint venture.

"Yes, it's a very strange idea, that city workers would be creating art about their lives and their jobs," said Pottenger, director of the Arts & Equity Initiative, a partnership between the city of Portland and Terra Moto Inc., a nonprofit arts group. "The intention in this is to permanently shift the relationship between the community and the police department in a big way."

The result is a 2009 calendar featuring photography and writing either by officers or about their work.

Five poets and five artists were each paired with an officer, spending time together over the past two months. The collaboration gave officers a chance to convey some of their frustration, their fears and the

impressions they leave on the people around them.

The artists had a chance to see a world and a perspective that's not available to most people, to use images and words to expose facets of an officer's job that even they take for granted.

The project seeks to use art inspired by and produced by people in municipal government as a way to build camaraderie, break down stereotypes and promote communication.

It might have been a lot harder to get the officers to go along with the idea, if it weren't for Sgt. Rob Johnsey.

Johnsey died from an accidental gunshot wound in May as he prepared his gear for work. At his funeral, many officers learned that Johnsey enjoyed writing poetry.

"He's the reason we're here," said Lt. Mike Sauschuck, one of the officer poets. "Poetry was a true love of his, and one, given our chosen profession, he really hid from people."

The calendar includes two poems by Johnsey, including one that was read by Sauschuck Wednesday at the news conference announcing the calendar's

availability.

When introducing the idea, Pottenger told a group of lieutenants that she understood it seemed weird.

Stereotypes exist for a reason, after all. Police officers are men and women of action, not necessarily of introspection. And some officers took the opportunity to write farcical, somewhat off-color rhymes.

But Pottenger enjoyed and encouraged it, calling them "warrior poets."

There are some similarities between the writers and the officers, said Betsy Sholl, Maine's poet laureate, who worked on the project. "We both have to be attentive and thoughtful about what we do."

There are differences, too.

"In police work, there is no do-over. In poetry, it's all do-over," she said.

The initiative is working with other city's departments, doing block carving prints with public works crews and organizing a writers group for city employees. Other cities, including Los Angeles and New Orleans, have expressed interest in the project, Pottenger said.

**The late Sgt. Rob Johnsey "is the reason we're here, "Poetry was a true love of his."**

**Lt. Mike Sauschuck,  
Portland PD**



### Portland's cruisers adopt a more modern look

**From the Portland Press Herald**

By DAVID HENCH, Staff Writer January 1, 2009

Acknowledging the importance of branding when it comes to image, the Portland Police Department is going with a new look for its police cruisers.

Starting with five cruisers being delivered this week, the department will phase out the gold badge emblem on the door in favor of the word "POLICE" in stylized letters across the white background.

The department is retaining the traditional black-and-white base colors for the cruisers and will still include the department slogan, "Protecting a Great City," though it will be on the door instead of the fender.

The new lettering, however, is intended to convey a more modern image for the department, said Acting Chief Joseph Loughlin.

"We're going for high visibility, a pro-active, aggressive patrol," Loughlin said. "We want people to know

The department has had one cruiser painted with the new insignia, to elicit feedback from officers, which has been overwhelmingly positive, commanders say.

That's important, because as much as the cruisers are a visible statement about the department, they are also the workstation for many officers and an extension of the image they project.

"You try to personalize the logo for your department. I think it adds professionalism. You take pride in it," said Falmouth Chief Ed Tolan, the District Two head of the Maine Chiefs of Police Association.



The new design, left, will be replacing the gold badge look at right, starting with a first phase of five cars this week.

we're out there, we're visible, we're interacting with the community.

"To me it signifies moving forward, moving into new times," he said.

### Police Department Not Allowed to Change Comp Time Requests To Cash

**From LRIS Public Safety News**

The Village of Spring Valley, New York made the unilateral decision to convert three police officers' overtime requests from compensatory time to cash. The Rockland County Patrolmen's Benevolent Association, which represents the Village's police officers, chal-

lenged the Village's decision in arbitration.

The Village argued that the entire issue was "moot" because the officers cashed their overtime checks, which included the payments from overtime work. An arbitrator was unconvinced, finding that "only the Association, not the officers, could waive any benefits under the

overtime article. Furthermore, the acceptance of the checks did not signify the officers' acquiescence to the employers position."

On the merits of the grievance, the Arbitrator found that the contract clearly allowed officers the option of electing compensatory time off in lieu of overtime. That the officers may have wanted compensatory time

off in anticipation of future step increases which would make the comp time more valuable was irrelevant, the Arbitrator concluded, given the contract's clear grant to officers of the right to choose the form of payment of overtime.

**Village of Spring Valley, LAIG 6645 (Edelman, 2008)**

**We want people to know we're out there, we're visible, we're interacting with the community.**

**Joseph Loughlin; Portland Acting Police Chief**

## IRS rules change continued...

Withdrawals from personal retirement accounts are not permitted before age 59.5, so why should public employees be immediately entitled to retirement benefits at age 50 or 55, Anderson asked.

While there might be legitimate reasons why public pension rules should not be changed for those approaching retirement, ignoring the longevity issue puts the long-term viability of the public pensions at risk, he said.

A decision by the IRS to move forward could take the politically difficult decision out of the hands of elected officials, some of whom may be reluctant to implement such a reform, he said.

The development of the IRS regulation began about three years ago following passage of the pension reform legislation in Congress.

Those opposed to the new regulation are seeking help from Congress, circulating letters in both the House and Senate to get the IRS to hold off on the change. Letters are also being sent to the Treasury secretary and the head of IRS suggesting the IRS overstepped its bounds and indicating that Congress never intended to give the agency such authority. The Henderson memo states a public pension plan would completely comply with IRS regulations if the retirement age is set at 62.

But if a plan wants participants to receive benefits before they reach age 62, and no earlier than age 55,

the plan administrator must prove to the IRS that such an age range is reasonably representative of the industry in which the covered workforce is employed.

A delay is being sought in the regulations in part because of concerns about the rights of those participating in the pension plans. The memo states that when the Nevada Legislature made changes to the retirement system in 1989, a lawsuit arose and the state lost. The finding was that once an employee joins the PERS system, a contract is established and benefit levels, such as retirement after 30 years, cannot be taken away.

With the potential effective date of the IRS regulation nearly two years away, those now in public pension plans will have the opportunity to determine whether to pursue retirement to avoid the mandatory retirement age policy. PERS has a \$6.3 billion unfunded liability and \$22 billion in assets.

Nearly 104,000 state and local government workers and teachers and school staffers are PERS members.

An additional 37,000 retired workers are receiving benefits.

In another development regarding the IRS, a recent announcement by ICMA, the major provider of retirement products for municipal employees, announced that as of December 31st, 2008, a substantial change would be made to their VantageCare Retirement Health Savings (RHS) Plan.

In an IRS Ruling, a non-spouse, non-dependant beneficiary could not receive reimbursements from Health Reimbursement Arrangements, or "HRA's" after the December 31st date.

The ruling also stipulates that assets can only be designated to survivors defined as a spouse and any eligible dependent(s).

As of January 1st, 2009, ICMA will be discontinuing reimbursements to non-spouse, non-dependent beneficiaries. Also, if an enrollee should die on or after January 1st, 2009, where there is no surviving spouse and/or eligible dependent, no beneficiary account will be established, regardless if there has been a non-spouse/non-dependent beneficiary designated by the enrollee.

ICMA-RC will hold the amounts in the account in suspension pending efforts to work with the IRS bring about another solution.

This change will not affect those enrollees who currently have a designated spouse or dependent listed as a beneficiary on their account. The change will have an effect on those who are unmarried and have beneficiaries listed that are neither spouses or dependents.

As we move into the new year, MAP will continue to work with our congressional delegates on addressing these emerging changes by the IRS. It is imperative that individual

**Continued on next page**

## IRS rules change continued...

Members make sure that their "houses" are in order when it comes to your financial affairs. Make sure that ALL your accounts are up to date with your most current information and lists of beneficiaries.

It is too soon at this point to gauge where these

changes will lead, but it is now, no more than ever, important for you to take the initiative and prepare for your future.

As new developments occur, you will be able to read more about them through MAP announcements, the newsletter and

the website.

October 24<sup>th</sup>, 2008

Good Afternoon Mr. Flannery;

My name is Paul Gaspar and I am the Executive Director of the Maine Association of Police. Our labor association represents approximately one thousand municipal police officers and emergency dispatchers throughout the State of Maine. I am writing to you as we have only just become aware of the Internal Revenue Service's final regulations on distributions from a pension plan upon attainment of normal retirement age, which were published in the Federal Register as T.D. 9325 (72 FR 28604) on May 22, 2007 ("the 2007 final regulations").

As you might imagine, this comprehensive and broad sweeping change has caused a groundswell of interest and concern for our members, as well as all first responders (Police, Fire and Emergency Medical Services) throughout Maine and the country. Although we are aware that there has been a postponement through January of 2011, this issue is of incredible importance to those who serve their cities and towns, as well as those, who after many years of dedicated service, look to their subsequent retirement as a means of financial support for themselves and their families.

It is coincidence that on Tuesday October 28th, our organization will be hosting a forum with a representative from the Maine Public Employees Retirement System, formerly the Maine State Retirement System. It was unsettling that, in our requests for information on this urgent topic to be included in this forum, it appears as though their access to information on how this change would affect the Maine Public Employees System was still in the hands of general counsel, and that no concrete information of causations of this change were readily available.

In an effort to provide current and credible information to our members, I am requesting any material that is available in relation to the effects this change would have in the broadest view, as well as its specificity to the State of Maine and the Maine Public Employees Retirement System. With such a provocative and controversial issue, I can only hope that initial impacts and considerations have been made, as well as an actuarial view of its long term effect on participating members of public pension plans.

Thank you for your time and consideration of my urgent request. I hope that you are able to provide some sort of insight and guidance; not only for our individually affected members, but to our stewards in the Maine Public Employees Retirement System entrusted with the financial well being of thousands of hard working Maine public employees.

Sincerely,

Paul D. Gaspar

Paul Gaspar  
Executive Director  
Maine Association of Police

# In A Place Where Honor Dwells: Maine Law Enforcement Supports Wreaths Across America

Submitted by Paul Gaspar with contributions from Kevin Haley, Portland PD

During the first two weeks of December, many of us are frantically scrambling to make sure that we have everything done in preparation for the holidays. But for a group of brothers and sisters from Maine Law Enforcement, these first two weeks of December mark a time where we remember those who have fought for our freedom to enjoy this holiday season with our families and loved ones.

Law enforcement, represented from the Maine Association of Police, Maine Emerald Society and the Maine State Troopers' Association, all banded together to support the efforts of one man, some wreaths and a promise not to forget.

All was part of a national effort called Wreaths Across America, a day where we take a moment to remember our veterans across this country with the small token of a wreath laid in their honor.

Started in 1992 by Morrill Worcester, owner of the Worcester Wreath Company, this project all began with a supply of extra wreaths. From the Wreaths Across America Website is a brief History:

**Worcester Wreath and its involvement with the Ar-**

*lington project was inspired at the early age of 12 years old when, as a Bangor Daily News paper boy, Morrill Worcester won a trip to the Nation's Capital. It was a trip he would never forget, and Arlington National Cemetery made an indelible impression.*



Morrill Worcester Looks Upon the Tomb of the Unknown Soldier with his wreaths. Photo from the Wreaths Across America Website

*In later life, he recognized that his success as a businessman was in large part, due to the values of this Nation and the Veterans who made the ultimate sacrifice for their country.*

*In 1992, the Wreath Company found themselves with an excess of wreaths nearing the end of the holiday season. Seeing an opportunity to make a boyhood dream a reality, efforts to do something special with those wreaths began in earnest. With the help of Maine Senator Olympia Snowe, arrangements were made for the wreaths to be placed at Arlington in one of the older sections of the*

*cemetery, a section which received fewer visitors with each passing year.*

*Now over fifteen years and over 100,000 wreaths later, the original group has been joined by many*

*others who participate in the project each year.*

Now drawing thousands of volunteers, this mission every year is supported by American Legions, VFW's School

children, and now, Maine's Finest.

Starting on December 7th, volunteers gathered to decorate wreaths and load the trucks for the convoy headed to Virginia. Escorted by the Patriot Guard, Maine State Police and member police departments from the Maine Emerald Society and MAP, the convoy made it's way down eastern sea-

board to its hallowed destination; Arlington National Cemetery.

On December 13th, over three thousand volunteers came to spend the day laying wreaths upon the graves of veterans throughout the cemetery.

Among those, Maine State Troopers who escorted the convoy all the way from Maine, as well as a group of 6 Portland Police Officers and MAP members led by Officer Kevin Haley.

Kevin, who's brother William, is buried in Arlington, learned about the Wreath Laying from his brother Patrick and did not look back.

In a note to me from Kevin, he expressed the moving experience from giving of his time during this busy De-



Portland PD /MAP members walk the hallowed fields of Arlington to honor the fallen

cember season: **"I wanted to drop you guys a small note to say "THANK YOU". I really appreciate your support and respect for**

## Wreaths Across America Cont.

*this important trip that we just went to Arlington Cemetery for the Wreaths across America project. With all of your support, we are able to send six*

*over to shake our hands and thank us....obviously we were not there to be thanked, we were there to honor and respect the fallen.*



At rest in the field of honor

*Officers Portland PD Officers Haley (Det) Hagerty, Officers Chris Coyne, Officer Frank Pellerin, Officer David Cote, Officer John Cunniff and Captain Keith Gautreau of the Portland Fire Department.*

*We along with the three Maine State Troopers were the ONLY Law Enforcement Agencies in the entire NATION that were present laying the wreaths.*

*I want to express how proud and honored I was to have the people mentioned above by my side representing Maine Police and Maine Fire. They conducted themselves in a professional manner that were recognized by several dignitaries from around the nation.*

*People came from all*

*know that all who went on this trip will make this an annual event. I hope all of you will join me next year.*

*We experienced together, laying a wreath for my brother William, a wreath for Sgt Rick Betters Mother/Father, A wreath for a fallen soldier who died just last week in Iraq and also a wreath at a stone of our choosing in the designated area.*

*We were also invited to a special memorial service with three Maine State Police Troopers to honor one of their own who had died in 1944. Portland Police and Capt Gautreau from PFD were honored to be part of that service.*

*The event was very emotional and a moving ex-*

*perience.*

*I want to thank Dan Whitcher at Cabelas, Fred Forsley at Shipyard, Ben Smith at Wachovia for assisting us in this endeavor.*

*I want to give special thanks to Maine Association of Police, ( Paul Gaspar, Steve Webster, James Fahey, Don Blatchford, Todd Coons) as well as our Own PBA Portland Police Union for helping us out and being supportive.*

*I will have photos soon!!! Be Safe Have a Merry Christmas and a Happy New Year*

**Kevin Haley  
Portland Police Department**

The trip was supported by many and includes the efforts of the Maine State Troopers Association, MAP VP and Maine Emerald Society

President Kevin Riordan as well as local businesses including Cabela's, Shipyard and the Hilton Garden Inn in Arlington Virginia.

The group's arrival in Arlington was met with amaze and respect that so many would travel from so far to participate.

Because of the infectious passion of Kevin and the group, others were drawn into the event. Staff from the Hilton Garden Inn Courthouse in Arlington who provided accommodations, gave their day as well to volunteer and go on lay wreaths.

Their day was covered by national news outlets as well as the military's Stars and Stripes.

I know that all MAP's members share in our pride of Maine law enforcement for their remembrances of our nations heroes.



Members from Portland PD Pose with Morrill Worcester at Arlington. Kevin Haley 2nd from left.

**Maine Association of  
Police**

Maine's Voice of Law  
Enforcement

*The Maine Association of Police is a 501(C)(5) non profit labor or-  
ganization founded in 1975 by a small group police officers wanting  
a local voice. MAP now represents over 1000 police officers and  
dispatchers throughout the State of Maine.*

**We're On The Web!**

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



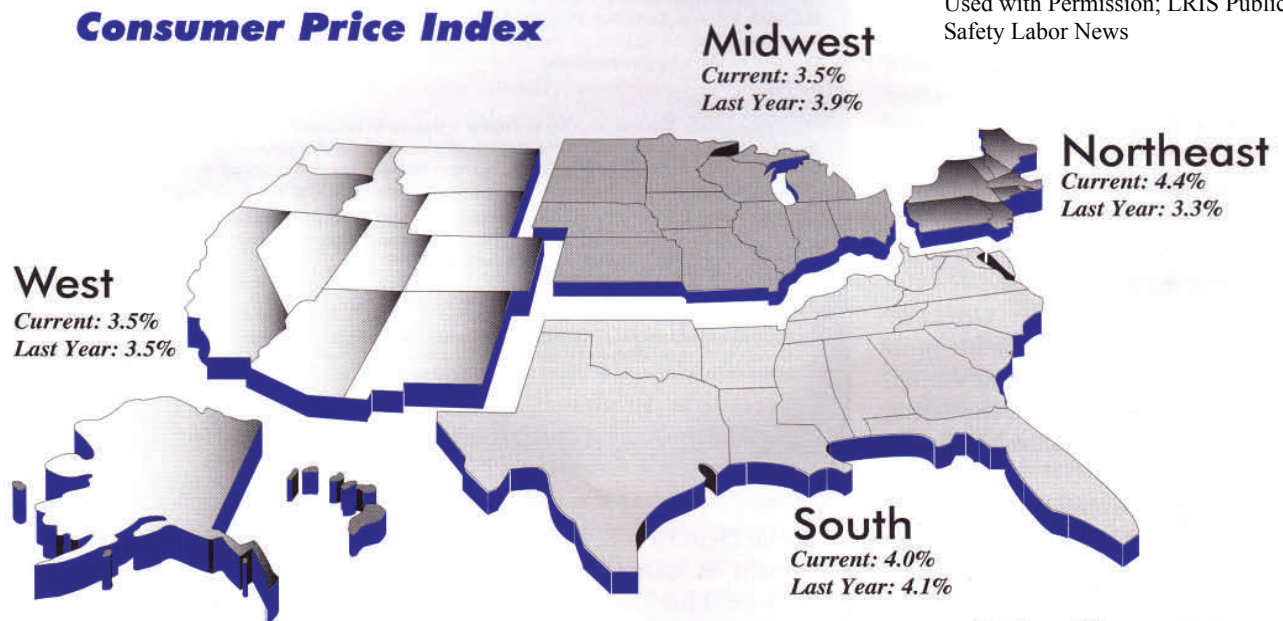
**MAINE'S VOICE OF LAW  
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## Consumer Price Index



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Safety Labor News

Published by the Bureau of Labor Statistics (BLS) The figures shown below in the table refer to BLS's national indexes, and reflect the annual rate of change in the Urban Wage Earner (known as the CPI-U) and Clerical Worker index (known as the CPI-W) released in November 2008 and for the same month in the previous five years. The CPI-U represents about 87 percent of the total U.S. population and is based on the expenditures of almost all residents of urban or metropolitan areas. The CPI-W is a subset of the CPI-U and represents approximately 32 percent of the total U.S. population. The figures shown in the map represent the BLS's "regional" indexes, and reflect the annual rate of change in the CPI-W for October 2008 and October 2007.

### National Averages:

U.S. CPI-U 3.7%	U.S. CPI-W 3.6%
2007: 3.5%	2007: 3.7%
2006: 1.3%	2006: 0.9%
2005: 4.3%	2005: 4.7%
2004: 3.2%	2004: 3.2%
2003: 2.0%	2003: 1.9%