

The Police Officers Journal



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PUBLICATIONS

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Crime tip texters let fingers do the talking

— Excerpted from media reports

It's no substitute for calling 9-1-1, but *texting* is another method tipsters across the country are using to report crimes to police.

"What's important about the *Text-A-Tip* program is it is **not** a 9-1-1 service," said Lt. Paul Vance of the Connecticut State Police. "It is not to report a crime, but simply provide information about one that has already occurred or one that someone knows is being planned."

The Washington, D.C. and Connecticut departments — who began texting programs in the summer of 2008 — said *Text-A-Tip* is relatively inexpensive and easy to install. And citizens don't have to worry about compromising their own anonymity. An Internet-based *Text-A-Tip* program uses third-party company servers to encrypt cell phone numbers before the messages even reach the police department.

"We think for some people who are reluctant in getting involved in providing information to the police, it will afford them another avenue to reach us," Vance told reporters.

VIRTUAL ANONYMITY

Washington, D.C.'s Metropolitan Police Department Cmdr. Larry McCoy said bumper stickers displaying *Text-A-Tip* information were put on all of the department's police cruisers and distributed to construction companies to put on their vehicles. Washington's program doesn't allow police to communicate with the texter and there is no follow-up, but the Connecticut program allows two-way communication, while retaining anonymity.

According to Vance, after a tip is sent, the texter receives a message with an identification number alias. Police use the alias to ask the texter questions or get more information. All messages are routed through the *Tip-Soft* server to retain encryption, and police are not given information on the identity of the tipster.

Detroit Police recently began a \$150,000 texting tip reward program, funded through drug forfeitures. Billboards went up throughout the city notifying residents of the new texting option and where to send their texts.



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U.S. Supreme Court to decide if police text messages are private

— Excerpted from media reports

The U.S. Supreme Court will decide whether privacy rights apply to personal text messages a police officer sent on employer-owned equipment.

The justices will review a ruling by a federal appeals court in California that decided the officer had a right to privacy regarding texts he sent on his department-issued pager, even though some of them were sexually explicit messages to his girlfriend.

That ruling said the Ontario, Calif. police chief's decision to read the messages violated Fourth Amendment protections against unreasonable searches since the officer wasn't suspected of any wrongdoing.

The city had appealed to the Supreme Court, saying it had the same policy as most employers who tell their workers they have no expectation of privacy when it comes to electronic communications on company equipment. The city says it "reserves the right to monitor and log all network activity including e-mail and Internet use, with or without notice."

But the SWAT team sergeant who filed suit, Jeff Quon, said the department notified employees the devices were limited to 25,000 characters each month, but that officers could pay overage charges for personal use.

Quon and three others, with whom he communicated, sued after learning their text messages were read by the Ontario police chief. Those individuals include fel-

low officer Sgt. Steve Trujillo, Dispatcher April Florio, who was his girlfriend, and his wife Jerilyn Quon.

NOT JUST POLICE

While this case involves public sector employees, the decision could also affect private-workplace rules for communication via computers, e-mail and text messages.

The unprecedented ruling was made by a panel of the U.S. Court of Appeals for the 9th Circuit. The judges stated that the "recently minted standard of electronic communication via e-mails, text messages, and other means opens a new frontier in Fourth Amendment jurisprudence that has been little explored."

But the circuit court's judges were torn over the case and when the full court decided not to reconsider the decision, a 10-page dissent was written calling it "contrary to the dictates of reason and common sense."

Judge Kim McLean Wardlaw, who wrote the circuit court's opinion, said the "extent to which the Fourth Amendment provides protection for the contents of

The "extent to which the Fourth Amendment provides protection for the contents of electronic communications in the Internet age is an open question."

electronic communications in the Internet age is an open question." But she and two other judges agreed the department's informal policy allowing personal messages meant Quon "had a reasonable expectation of privacy in the text messages."

The city disagreed, stating, "To warrant Fourth Amendment protection, a government employee's expectation of privacy must be one that society is prepared to consider reasonable under the operational realities of the workplace." That statement supported the court's previous decision on workplace privacy.

POLICE BUSINESS?

Wondering whether the pagers were being used mainly for personal messages, the Ontario police chief had asked the company providing texting service, *Arch Wireless*, to turn over transcripts. That showed most of Quon's messages were personal and many were sexually explicit. A review of one month's use showed 57 of Quon's 450 messages were business related, according to court documents.

The city's brief said, "...the SWAT team sergeant failed to comport himself as a reasonable officer would have, and he and the other plaintiffs embarrassed themselves through their lack of restraint in using a city-owned pager for personal and highly private communications. The city of Ontario should not have to pay for that."

The case, *Ontario v. Quon*, is due be heard this spring. ♥



Online comments cost

— Excerpted from *The Atlanta Journal-Constitution*

Georgia police officer O.J. Concepcion, 33, of Morrow says he was fired from a job he held for nearly four years because of comments he posted on the social networking Web site *Facebook*. Some of those posts included details about his police work, he said, such as the fact he was working with the FBI on a drug case.

“Not only is it a censorship issue that everyone needs to know about,” said Concepcion’s attorney, Mike Puglise. “They are not only saying that you can’t write it, but also that they can interpret what the content means.”

One of the posts read, “I’m going to be working in plain clothes tonight,” Puglise said. Another post mentioned that Concepcion was frustrated at work. But Concepcion said he was just excited about his job as a Sandy Springs police officer, and never released confidential informa-

tion. He says other officers have posted racially insensitive information, but have not faced any disciplinary action.

“Nothing was derogatory,” said Concepcion, who also spent seven years with the DeKalb County police force. “I posted that stuff for my friends and family to read, not for the public.”

Concepcion’s *Facebook* profile is private, meaning only those who are “friends” with him have access to his information. Most of those friends are fellow officers and relatives, he said.

But it was one of the friends — someone Concepcion said he knew prior to working in Sandy Springs — that apparently thought the *Facebook* postings were not appropriate. That person complained to supervisors, Concepcion said. On Nov. 16, he was placed on administrative leave with pay. On Dec. 2, he was terminated. He was never given a warning about *Fa-*

cebook comments, Concepcion said.

Concepcion will ask for a grievance hearing, according to Puglise, and will likely file an Equal Employment Opportunity Commission complaint. Puglise, who spent 16 years as an officer before becoming a lawyer, says Concepcion may also be a victim of racial discrimination, since he is Latino.

Additionally, Puglise said the Sandy Springs police department currently does not have a policy in place addressing social media. Puglise and Concepcion contend the postings were misinterpreted. The Sandy Springs police department cannot comment about the incident because it is a personnel issue, according to Lt. Steve Rose and Wendell Willard, the city attorney.

Many other metro Atlanta police departments also don’t have policies about *Facebook*-type Web sites. But some are

Online manners matter

— From *The Wall Street Journal*



Online computer technology has impacted the world of law enforcement to an unbelievable degree — sometimes with unbelievable results. Many officers have lost a promising career for improper online postings of late.

While others garner only a chuckle in response to their online wit, a professional law enforcer is held to a higher standard than ordinary citizens. Even in the private sector, many workers are sent packing by employers unhappy over some social networking misstep.

Accounts on social networking Web sites such as *Facebook*, *Twitter*, *MySpace*, *YouTube*, *Blogger*, and *LinkedIn* can be useful tools for personal and professional networking and communication. However, as with any tool — such as a firearm or a TASER — they can be abused.

Here are some tips for using online networking tools without sacrificing your career, as recently posted on *Policeone.com* by Dr. Richard Weinblatt, a former police chief who oversees Basic Police Academies, currently in Ohio and previously in Florida.

officer his job

in the process of addressing the issue of social media.

In Gwinnett County, members of the police department are prohibited from posting anything that relates him or her to the department on a social media site, according to Cpl. David Schiralli. The department implemented its policy before any major problems arose.

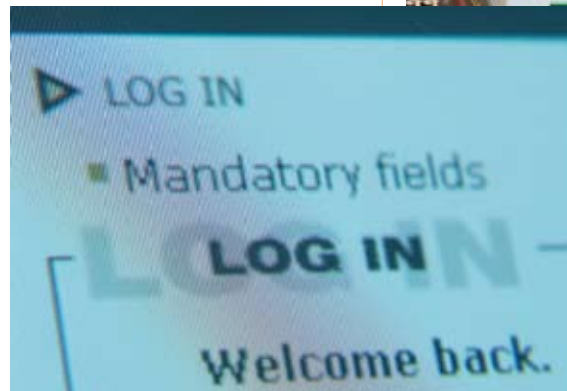
The Atlanta police department is currently working on a policy to address electronic communication, according to Sgt. Lisa Keyes. The Smyrna police department is also in the process of developing a social media policy, Officer Michael Smith said.

Although there isn't a specific policy regarding *Facebook* for Marietta police, the release of sensitive information is not allowed, according to Officer Jenny Murphy. Joe Hernandez, a Cobb County police spokesman, said the same is true for his force.

But with more and more people relying on sites such as *Facebook* to share information, employers may have to institute specific policies regarding what individuals are allowed to post online.

"Where do they draw the line?" Concepcion asked. "Everyone is using it." ♥

Editor's note: Does your department have a written social networking policy? Please contact LEEP at 667 E. Big Beaver Road, Suite 205, Troy, MI 48063.



- **No gun glorification.** While this upsets Second Amendment supporters, the reality is that a significant number of people do not like to see a glorification of firearms in pictures of law enforcers. Officers have lost their jobs after posing with weaponry in a way perceived as offensive or too "warrior oriented."

Aiming a gun at the camera seems to trigger a pink slip. Shots of officers engaged in their normal course of fire at the gun range do not appear to bring about a backlash. Posing with weaponry, involving either the officer or (worse yet) a civilian, has historically been problematic for the employee.

- **No alcohol.** Officers can find themselves in the hot seat after posting pic-

tures of them partying and drinking alcohol. Many agencies view this as contrary to a professional image. Of even more concern is that sometimes others identified in the pictures turn out to be minors in possession of alcohol which opens up another can of issues.

- **Watch your comments.** This is important. Posted comments on social networking sites can be dragged into legal proceedings especially if use of force is involved. Comments implying an officer enjoys using force, especially on certain groups of people, are seized by criminal defense and civil plaintiffs' attorneys to show the officer had a predisposition to be physical or a documented bias against their client.

Remember, discussion boards and the like are a *public written record*. Like reports and radio dispatch conversations, they can be discovered and frame your words in a context you may not like. Much like reports, if you don't want it dragged into the legal arena, don't put it online.

- **Avoid bashing the department.** Another area that gets officers into trouble — First Amendment freedom of speech not withstanding — are comments which bash the agency. Depending on how they're framed, it could open you up to administrative charges and possible civil liability. More and more bloggers and online posters are being held responsible for critical speech online — especially if

CONTINUED ON PAGE 6 ➔



Online manners

CONTINUED FROM PAGE 5

later proved that the postings lack a factual basis and are intended to damage the target of the criticism.

At the very least, launching such a site or contributing to an existing Web site that bashes the agency does not endear you to the powers that be or position you as a "team player" ripe for promotion.

- **Restrict personal information.** As much as we could use *Facebook* and the like as tools to find people and research information, so can the bad guys. Be judicious in posting information and pictures. Some officers will not use pictures of their family or even of themselves. Others withhold their cell phone number.

- **Picture Choice.** Make sure pictures you post don't have any problem areas or have nudity. Many officers have shirtless bodybuilding or fitness oriented photos online. That is not a problem. The topless woman drinking at the party with you exemplifies what is a problem.

- **Minimize status update com-**

plaints. In this year of economic contraction, there are many people waiting in line for your job. Administrators know this. We've all seen officers who post their status with complaints about the shift, their sergeant, or the job. Some supervisors, after reading such negatively tinged status updates, say, "OK, let so and so find another job if they are so unhappy here."

While not every job is going to be great each and every day, gripes should not be aired via status updates. The agency may be perfectly happy to find someone else who would appreciate them.

- **Highlight accomplishments.** Many look to *Facebook*, *LinkedIn*, and the like as electronic resumés. Take advantage of that and use it to highlight your professional accomplishments. Post pictures of you learning some new technique (being careful not to show scores or other information). Post status updates of that advanced training course you take.



- **Manage your privacy settings.**

While many leave online presence open to the public, many have privacy settings restricting access to a predetermined list of family and friends. While not foolproof, the settings should keep most interlopers locked out of your pages.

- **When in doubt, leave it out.** Pretend that your mother is perched on your shoulder, watching what you are doing. If you wouldn't want her to see it or if she would be displeased with what is being contemplated to go online, it probably is not a good idea to upload it. ♥



DOJ study: Tasers, pepper sprays, protect police and reduce suspects' injuries

— Excerpted from media reports

A Department of Justice-funded study, one of several to be used to determine “use of force” policies allowing police to work safely, says less lethal weapons such as Tasers and pepper sprays rose in popularity and availability among police departments during this decade.

The study’s authors note in their report for the *American Journal of Public Health*, local police departments tended to develop their own internal policies governing their use. A major concern of Amnesty International and other police critics is that local officers are more likely to use Tasers in situations that do not call for physical force. That could mean that even if the injuries sustained by suspects are less severe than those they would have sustained during the use of other physical force, there are more injuries overall.

At least 350 people have died after they were Tasered, according to Amnesty International. It’s unclear why, but in many well-documented cases, the victims were highly agitated, drugged, or had chronic medical conditions. Taser International says that the device’s barbs cause skin punctures, and if used improperly, Taser fire can cause subjects to fall from a height or injure the face or groin.

“If you just do a simple comparison between cases where they use a less lethal weapon and those where they don’t, you get the impression that the weapon causes injury,” said John MacDonald, a criminologist at the University of Pennsylvania who led the study.

To make their comparison more meaningful, the authors took a number of factors into account. In particular, they compared the number of times police had conflicts with suspects when officers had Tasers to when they did not.

Police usually resort to Tasers and pepper spray in more dangerous situations where injuries are more likely to occur, MacDonald said. In comparing records of more than 24,000 police officer and suspect conflicts from 12 different police departments, MacDonald and his colleagues found the risk of injury to suspects apprehended with less lethal weapons typically fell more than 60 percent compared to the risk to suspects who were arrested without the devices, when all other conditions were similar.

TOPS IN MARKET

Police department records did not specify the type of conducted energy weapon being used, but given Taser International’s market share, MacDonald believes 90 percent of the devices were Tasers.

MacDonald’s team zoomed in on the Orlando, Florida and Austin, Texas police departments, because they both had records before and after the implementation of less lethal weapons. Orlando’s rate of suspect injury dropped 53 percent after the Taser rollout, and officer injuries

dropped 62 percent. The impact in Austin — where the Tasers were phased in slowly — was smaller but still significant at 30 percent less for suspects and 25 percent less for officers.

Taser International spokesperson Stephen Tuttle said his company — which had nothing to do with the new study — is thrilled by the new scientific support. “Taser has taken it on the chin for a number of years,” Tuttle told reporters. “This is really a watershed for Taser in terms of finally getting some actuarial, epidemiological data out there to show that Tasers are really reducing injuries.”

One heart specialist, who has studied deaths linked to Tasers said he still thinks all agencies who use Tasers should have automatic external defibrillators (AED) on hand in case it is necessary to restart suspects’ hearts. “The study does nothing to examine the harm side of the Taser equation (as our study did), only the benefits side,” said Zian Tseng, a cardiologist at the University of California, San Francisco.

MacDonald said requiring an AED in the back of every police cruiser would be disproportionate to the risk. He said that physical force “is much more likely to cause injury and death. For the average case where someone is struggling, Taser-ing is better than getting hit with baton or a flashlight.”

Still, “if there are other less lethal devices that people can invent that can cause even less harm that’s great,” he said. ❤️



Cop with a beat

Officer's 'Stone Cold' group heating up country music scene

By Jennifer Foley, POJ editor

While on duty, Sgt. Rick Hetherington never misses a beat — the 21-year veteran officer is active as president of the Flint Police Sergeant's Association and an executive committee member of Police Officer's Labor Council.

But it's what he does while he's off duty that makes thousands take notice.

Hetherington — better known as *Rick Diamond* by his fans — is the drummer of **Stone Cold**, a modern country band growing in popularity. Stone Cold has played with Kenny Chesney, Travis Tritt, Jamey Johnson, Trace Adkins, Sugarland, Confederate Railroad, Aaron Tippin, Eric Church, Whiskey Falls, Bomshel, Tracy Lawrence, The Lost Trailers, Jypsi, Joe Nichols and Emerson Drive.

But while Stone Cold is heating up the music scene in mid-Michigan, the group is cooling off from performances this winter. The break will help band members, many of whom have young children, take some time for their families while working on new songs.

There's no need for fans to worry, though — Stone Cold will be back in full swing this spring when they kick things off at the Sturgis, Michigan Frontier Days festival June 11-12. And fans can still see Hetherington and his fellow band members John Rocks and Barry Clevenger on stage this winter — just in a different band. For more information, visit www.myspace.com/southernfreightband.

Hetherington, who credits his wife Georgie for supporting his musical career, has four children ranging in age from 13 to 21. With Stone Cold playing 49 weekends a year and Hetherington working

days and most weekends, the hiatus will mean some needed rest. Sometimes playing late, Hetherington said, makes it difficult to get an early start.

Despite the constant exposure, Hetherington said his band persona doesn't often get mixed with his police presence. To keep his two lives separate, Hetherington created the stage name, Rick Diamond, while serving as an undercover officer for 12 years.

A MICHIGAN QUINTET

Stone Cold's five-member band, which resides in the Flint/Clio area, has been performing since 1996. Hetherington, 43, joined the group five years ago after the previous drummer decided to retire. Members are Rick Diamond (Hetherington) on drums; Paul Wixson, lead vocals and acoustic guitar; Jason McCrory on fiddle, banjo and electric guitar; Clevenger, vocals, lead guitar and keyboards; and Rocks, bass guitar and vocals.

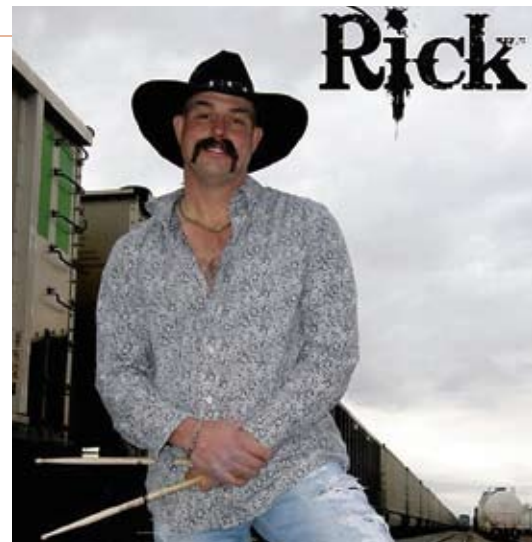
"John and I have known each other for 25 years," Hetherington said. "John joined (the band) one year before I did..."

The versatility and background of each member allows them to play a variety of music, ranging from classic country to classic rock, with a focus on the new driving country.

"I think it helps give us a different feel and different texture when we play," Hetherington said of the band members' backgrounds.

EARLY STARTERS

Clevenger played in the MSU marching band, Hetherington with the U of M-Flint Jazz Band, and Rocks, 42, was a gifted young banjo player who performed with rising country music stars like Ricky



Flint police Sgt. Rick Hetherington works days, but on weekend nights for the past several years he's been keeping the beat as drummer for Stone Cold, a modern country band, which draws crowds in mid-Michigan.

Skaggs and Marty Stuart.

"At age 3, I told my parents I wanted to play banjo," Rocks said.

By the time Rocks — dubbed "Big John" for his small stature compared to his large banjo — started lessons at age 5, his instructor said he'd taught him all he could in 6 months. So the self-taught musician participated in a Little Caesar's bluegrass music open mic night, which launched his career. He later played with bluegrass legends Lester Flatt and Earl Scruggs, the two who made the Beverly Hillbillies theme song popular for television.

Hetherington's love of music also started young. He began playing piano in third grade and drums in the fifth grade.

"Obviously it was always a dream," Hetherington said of a music career.

Rocks, who also took a stage name due to his previous undercover work as a police officer, met Hetherington in high

school when Rocks organized a band Hetherington joined.

"We went to college together and we both got into law enforcement," Rocks said.

Rocks and Hetherington later played in a Flint-based variety and classic rock band called the Zuckotones, which performed in Flint, Birch Run, Frankenmuth, and Davison from 2000-2003. The two moved on to Stone Cold after that.

"He's got a good feel for music," said Rocks of Hetherington. "He's got a real steady rhythm and he lays down what we call a good pocket groove rhythm for the band," said Rocks, who now owns Eagle Eye Investigations, Inc., a security and private investigations company serving Genesee County.

Hetherington's 'pocket groove' is what keeps audiences swaying to the music. "It's basically the heart and soul of the band," Rocks said of the drumming and bass guitar.

While Paul, Barry and John write the songs, "I create my parts," Hetherington said.

Hetherington stresses Stone Cold's music is not "the tears in the beer kind," of country. Some of the bands' popular plays include Big & Rich, Hank Williams Jr. and Merle Haggard, but their influences also include Keith Urban and Montgomery Gentry.

2,000 FANS TRACKING

"We try to keep a couple current top 40 songs in our repertoire and we play the old stuff too," Hetherington said, adding that two of their most popular original songs are 'Yes I will' and 'Charlie's Song.' "I think we have a wide range of fans."

In fact, some 2,000 fans track them on myspace.com/stonecoldband, Hetherington said.

A POLC executive committee member since 2001, Hetherington has been booking the band's events since a brief stint with an agent didn't work out. The self-

promotions are paying off.

Stone Cold entered a "Rising Star" contest through KCO-98 F.M. radio station in Saginaw and won the opportunity to play with Tracy Lawrence and Joe Nichols in the June 2008 KCQ Country Music Fest.

In August 2009, Stone Cold played for Aaron Tippin at Lapeer Days. The group's myspace.com page shows their excitement as the star-studded appearances just kept coming.

"Wow! The good news just keeps rolling in," Stone Cold writes in their blog. "We just found out that we get to play the main stage at Lapeer Days with Aaron Tippin. To top it all off... we play last. That's right... Aaron Tippin is playing before us."

Stone Cold was so well-liked at the first KCQ event that they were asked to return to Ojibwa Island in downtown Saginaw for the KCQ Country Music Fest in June 2009. They played for Jessica Andrews, Jamey Johnson, and Travis Tritt at the event attended by 90,000, Hetherington said. As the "house band," Stone Cold played before the first mainstage act and between each act.

"Last (time) we were the only local band to play and we were playing right up front with the big guys," Hetherington said.

POWER PLAY WORKS OUT

Stone Cold's enthusiasm shone through the rained out Sugarland Concert at the Chesaning Showboat in the summer of 2008. Even though the power to their stage was cut off, Stone Cold found a way to play.

Their blog sets the stage, "You all came out for music, and we wanted to give you something. We

brought our acoustic instruments into the beer tent, and the party commenced... The Showboat was rockin' all the way from the beer tent. You made it an unforgettable night for all of us! Thank you!"

Stone Cold's drive continued to pay off in July 2009 when they were asked for a repeat performance at the Chesaning Showboat with Sugarland and this time it wasn't rained out.

In the fall, Stone Cold played in the Rocktoberfest Contest, a KCQ event at the Magic Bean Cafe in Saginaw. One of five finalists, Stone Cold crushed the competition and band members were able to talk with a record producer who judged the event.

"We received a cash prize and the opportunity to play in upcoming events for the radio station," Hetherington said, adding Stone Cold would love another repeat performance at the KCQ Country Music Fest this June.

"We hope that our success continues," Hetherington said, "that we can get back to making a splash in the music industry."

Until then, fans have a buoy in Stone Cold's CD, 'Pride,' which features 12 original songs. To purchase 'Pride,' or listen to Stone Cold's music, visit myspace.com/stonecoldband. ♥

Stone Cold band members... are busy putting together new songs before returning to the stage this spring.





Leon LaBrecque

With turmoil in markets and a tax code in transition, one retirement vehicle has very attractive features for public sector employees, especially for Michigan police officers or firefighters: The Roth IRA. It is one of three kinds of IRAs (the other two are the deductible IRA and the nondeductible IRA) with a very special feature: All growth and income from a Roth are free from Federal and Michigan income taxes.

Roth IRAs were established in 1998 to provide an effective tax-free retirement vehicle. Any money you contribute or convert to a Roth IRA is *after-tax* money, which means you've paid taxes on it before contributing to the Roth. This is different from your \$457 deferred compensation plan, or in most cases, your annuity contribution to the pension. Those

What public workers

As presented to attendees at the POLC annual conference in

— Leon LaBrecque JD, CPA, CFP®, CFA and Matthew Teetor LJPR, LLC

contributions are pre-tax, and you *will* pay taxes on distributions from those plans. For public service officers with significant pensions pushing them into a higher tax-bracket, the Roth IRA's tax-free status can be very appealing.

Look at the basics: First, there is no Federal and Michigan tax on both the contributions and on the growth of the account. With a Roth, taxes are paid up front, and all of the growth is tax-free. If you are in a lower tax bracket in retirement, like a person without a pension, a tax-deferred option is usually preferable. If you are in the same **or greater** tax bracket, a Roth is preferable. For public safety pensions, it's highly likely the officer will be in a higher bracket later. Add to that the possibility of future tax increases, and you see the Roth's tax-free growth advantages.

Another advantage of a Roth is that you are *not* mandated to take distributions. On a regular IRA, Deferred Retirement Option Program, rollover IRA, \$457, or annuity withdrawals, you *must* start taking distributions at age 70½, or face a 50% penalty. With a Roth, there is no required

minimum distribution. When you die, your Roth passes to your heirs income tax free as well. Roth IRAs, being IRAs, are also subject to an almost infinite choice of investment options and do not have the limitations of a \$457, which usually has a limited number of investment options.

Roths do have some restrictions. If you contribute to a Roth, you must leave it in for the longer of 5 years or age 59½, or any income will be taxed and subject to penalty. You can withdraw your contribution tax-free, first-in, first-out (FIFO). You have to have earned income (wages) to contribute to a Roth; but the good news is that only one spouse needs to have earned income and the other can contribute. For example, if one spouse was working as a cop and their spouse didn't work, both could contribute to their Roth.

There are two ways to get a Roth, contribute or convert an existing IRA.

Contributions: You can contribute \$5,000 (for each spouse) to a Roth IRA if you're under age 50 in 2009. If you're over age 49 in 2009, you can contribute \$6,000 (again for each spouse). There is an income limitation: for married couples

Room at the top, police chiefs turn

— Excerpted from USA TODAY

Atanta Police Chief Richard Pennington's announced departure in December, after seven years at the helm, has significance beyond Atlanta: He is one of at least half a dozen big-city police chiefs to leave in 2009.

Top local law enforcement figures announced their retirements and resignations in Atlanta, Los Angeles, San Francisco, Miami, Dallas and Seattle. The departures signal the end of an important

era in U.S. policing, some say.

Joe McNamara, a criminal justice research fellow at Stanford University's Hoover Institution, says some of the departing chiefs — including Los Angeles' William Bratton, who left in October — helped "bring policing out of the dark ages."

"They helped bring crime down in their cities by identifying (crime-ridden areas) through the use of computer analysis," McNamara says. "It was a big change when

you consider that changing the way a police department does business is like trying to turn an ocean liner with a toothpick."

The head of one police union describes Bratton and former Seattle police chief Gil Kerlikowske — who left in March to become the White House drug czar — as "pacesetters" in precarious jobs. Because many of these people serve at the pleasure of the local political leadership, political change means some of them have to leave, he explained.

need to know about Roth IRAs

Traverse City, Aug. 28, 2009

filing jointly, your modified adjusted gross income cannot be over \$176,000 (there is a phase-out between \$166,000 and \$176,000). If you are single, the limit is \$120,000 (phased between \$120,000 and \$150,000). You can make a Roth contribution for 2009 up to April 15, 2010. Some people file their returns early and use their refund to help fund the IRA.

Conversions: You can turn an existing IRA into a Roth by paying the tax on the amount you want to convert. A lot of advisors (including us) think this is a good idea in a down market and especially when it looks like there is a future tax increase. For optimal results, we look to convert enough to keep you in the tax bracket you're currently in, and not push you up a bracket. In addition, we think it's always a good idea to pay the taxes from outside funds, and not from the IRA. That way, you get tax-free gain on the taxes as well as the converted amount. For 2009, there is a \$100,000 income limit on conversion (it doesn't matter if you're married or single). This stops a lot of two-earner couples from converting. But here's some big news: in 2010, you can

convert an IRA into a Roth regardless of income level. What's better is that if you convert an IRA to a Roth in 2010, you can spread the taxes in two installments for 2011 and 2012, which means you actually may be paying the taxes on April 15, 2012 and April 15, 2013.

Recharacterization: There's more good news in the form of a 'tax Mulligan.' Like a Mulligan in golf, the *recharacterization rule* lets you 'unconvert' a Roth if you decide it wasn't a good idea. You can even use it to take advantage of market moves. Suppose you convert an IRA to a Roth when the account is worth \$10,000, and later the market corrects and your Roth is now worth \$8,000. You can re-characterize the Roth at \$8,000 and then re-convert back to a Roth. Like a Mulligan in golf can only be used once per round, recharacterization can only be done once a year. An interesting point is that you can re-characterize a Roth anytime until the due date of your return for the year, including any extensions, regardless of when you filed your return. So if you converted a Roth in 2009, you have until Oct. 15, 2010 to re-characterize it. If you con-

vert in 2010, you have until Oct. 15, 2011 to re-characterize. There are some rules about recharacterization, so you want to make sure you keep your converted Roth separate from a contributory Roth, if you might re-characterize (and why not keep your options open).

Overall, Roth IRAs are an excellent planning tool for retirement. They allow tax-free growth in an uncertain environment, withdrawal flexibility, and investment flexibility. Every Michigan police officer should consider adding it to their retirement toolkit. In a world of uncertainty and probably rising taxes, the Roth is a powerful weapon. ♥

Leon C. LaBrecque JD, CPA, CFP® CFA and Matthew Teetor are advisors at LJPR, LLC. They run the firm's practice for public safety officers. LJPR applies creative wealth management solutions in tax, financial planning, retirement planning, and estate planning. For a consultation or to discuss group programs for your unit, contact matthew.teetor@ljpr.com or call at 248-641-7400. Also visit our website <http://LJPR.com>

n over badges at record pace

SAFETY CHALLENGES

The personnel changes happen at a critical time in policing, says Samuel Walker, a criminal justice professor at the University of Nebraska.

He points out that cities face many public-safety challenges, from taking a larger role in the national counterterrorism strategy and absorbing deep budget cuts to reintegrating veterans returning to the ranks from wars in Iraq and Afghanistan.

Bratton, who works for an international

security firm, says he can't recall another time when so many big-city chiefs left in roughly the same period. The departing chiefs extended their tenure beyond the average of about 3-1/2 years, says Geoff Alpert, a criminal justice professor at the University of South Carolina. They forged career paths through multiple major cities.

Miami Police Chief John Timoney, who resigned in November, was Bratton's top assistant in New York, then headed departments in Philadelphia and Miami. He

arrived in Miami in 2003, and inherited a department scarred by incidents of police abuse. He responded by restricting when officers could fire their weapons.

Bratton says the departing big-city chiefs shared a philosophy that effective policing could reduce crime — if officers "were appropriately led, had the appropriate resources and were appropriately supported," he says. "Technology then became increasingly important as an enabler of that philosophy." ♥

More wage-and-hour complaints heading for an employer near you

— From *The National Law Journal*

Employers, already battling a rash of private wage-and-hour lawsuits, are bracing for yet more government scrutiny over pay practices in light of a report that shows wage-and-hour violations are running rampant in the workplace. The 72-page report, released last September, came as the U.S. Department of Labor announced it is hiring 250 additional investigators to snare wage-and-hour scofflaws.

According to this report, there are plenty of them.

The study, which surveyed more than 4,000 workers in low-wage industries in New York, Los Angeles and Chicago, found that “*employment and labor laws are regularly and systematically violated.*” It estimated that in a given week, approximately 1.1 million workers in the three cities combined have at least one pay-based violation and that front-line workers in low-wage industries lose more than \$56.4 million per week as a result of employment and labor law violations.

The report, titled *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America’s Cities*, was based on face-to-face interviews with workers in the three cities. It was published by the Center for Urban Economic Development at the University of Illinois at Chicago, the National Employment Law Project and the UCLA Institute for Research on Labor and Employment.

Among the study’s findings:

- 76 percent who had worked overtime the previous week were *not* paid time-and-a-half for it.
- 26 percent were being paid *less* than the minimum wage.
- More than 75 percent of those interviewed earned *less* than \$10 an hour.
- More than 2/3 (69 percent) of workers entitled to a meal break *received no break* at all, had their break shortened, were interrupted by their employer or worked during the break.
- Of the tipped workers in the study, 30 percent were not paid the tipped-worker minimum wage; another 12 percent of tipped workers experienced tip stealing by their employer or supervisor.
- One in five workers reported they had complained to their employer or attempted to form a union in the last year. Of those, 43 percent experienced some form of retaliation, from being fired to being threatened with a pay cut or a call to immigration authorities.

So who exactly is breaking all these laws?

EVERY MAJOR INDUSTRY

“The violations were not limited to just a few rogue employers or to one or two sectors. We found them in virtually every major industry in urban economies,” said Annette Bernhardt, co-author

of the report and policy co-director at the National Employment Law Project, a workers’ rights advocacy group.

The study found minimum wage violations were most common in apparel and textile manufacturing, personal and repair services, and private households. Violation rates were substantially lower in residential construction, social assistance and education, and home health care.

Women were significantly more likely to experience minimum wage violations, and foreign-born workers were nearly twice as likely as U.S.-born counterparts to have a minimum wage violation, according to the report.

Bernhardt noted the study’s authors did find employers in low-wage industries that were following the law. Trouble is, she added, there are still too many that don’t. “We absolutely hope that this study will help to support the case for the DOL to take up the reins again and enforce these laws,” she said.

The top official at the DOL was troubled by the report’s findings and agreed that stepped-up-enforcement is needed. “I am especially troubled by the report’s findings that ‘employment and labor laws are regularly and systematically violated.’ Our workers deserve—and need—far better than that. In fact, it’s precisely why stronger enforcement remains at the top of my agenda,” Secretary of Labor Hilda Solis said.

UNFAIR CONCLUSIONS

Charles Caulkins, a management-side attorney and partner in the Ft. Lauderdale, Fla., office of Atlanta’s Fisher & Phillips, is aghast over the government giving this latest report any weight, calling its conclusions poppycock.

Caulkins blasted the study, saying the sample of employees interviewed was too narrow, and criticized the report as being too one-sided. He also said the study was largely backed by groups that advocate for employees and organized labor.

“This is an unfair conclusion that employers are grossly violating employment and labor laws. They’re not,” Caulkins said. “What’s unfortunate, particularly in today’s economy, is to hear that the federal government is going to use information like this to justify enforcement actions.”

Caulkins believes the report’s authors are unfairly “sicking the federal government” on small employers. “That’s exactly what this report is suggesting. It’s telling the federal government to go after these companies,” he said.

Another management-side attorney Thomas Linthorst, a partner in the Princeton, N.J., office of Morgan, Lewis & Bockius, offered similar sentiments. “Most employers—certainly those I’m dealing with—are trying to comply with the law,” he said. ♥

Contract Settlements

— As reported by POLC Labor Reps.



Barry County Corrections Sergeants

- **New two-year agreement** (separated by mutual consent from Corrections Division, assimilates all pertinent provisions of Corrections Division contract) expires Dec. 31, 2011.
- **Wages:**
 - Goes from 1.5% to 1.0% differential from highest paid CO, effective Sept. 1, 2009.
 - 1.0% increase effective Jan. 1, 2010.
 - 1.0% increase effective July 1, 2010.
 - 1.0% increase effective Jan. 1, 2011.
 - 1.0% increase effective July 1, 2011.
- **Misc:** Add 500 rounds of practice ammunition if assigned to transport duties.
- **Bargaining team:** Pete Nevins, Charles Reiss, aided by POLC Labor Rep. Will Keizer.

Battle Creek Police Lieutenants

- **Three-year agreement** expires June 30, 2011.
- **Wages:**
 - 2.0% increase effective July 1, 2008.
 - 2.0% increase effective July 1, 2009.
 - 3.0% increase effective July 1, 2010.
- Employees on standby will receive one-hour compensatory time for each day served in that capacity.
- Capping compensatory time for new employees at 240 hours from the current 480 hours.
- Capping annual maximum vacation accumulation for new employees from 240 hours to 212 hours.
- **Health Care:** Current plan remains for employees with

adoption of the Blue Cross pharmacy initiative. The maximum premium sharing contribution would increase from \$55 to \$65 per month. New employees have an HMO plan available to them.

- **Bargaining team:** Duane Knight assisted by POLC Labor Rep. Duane Smith.

Lenawee County Sheriff Supervisors

- **One-year agreement** expires Dec. 31, 2010.
- **Wages** remain unchanged.
- **Health Care:** Eligible employees change over to a Blue Cross HSA plan with deductibles fully funded and no co-pays. There is no premium sharing. Non-eligible employees can opt out or continue with the current Blue Cross PPO II plan with premium sharing increasing from 2.5% to 10%.
- **Sickness and Accident Insurance:** Weekly Indemnity increases from a maximum of \$640 to \$750.
- **Bargaining team:** James Craig and David Aungst assisted by POLC Labor Rep. Duane Smith.

Wayland Police Department

- **Three-year agreement** expires June 30, 2012.
- **Wages:**
 - 0.0% effective July 1, 2009.
 - 2.0% increase effective July 1, 2010.
 - 4.0% increase effective July 1, 2011.
- Shift start/end times made contractual.
- **Health care:** Went from Priority Health PPO to HMO plan.
- **Bargaining team:** Jay Anderson, Mark Rookus, aided by POLC Labor Rep. Will Keizer. ♥

Board welcomes new member

The Police Officer's Labor Council welcomes **Mike DeKam** as its newest Executive Committee Member.

DeKam, a 14-year veteran of the Grand Rapids Police Department Communications Unit, replaces David J. VanHouten who retired in January.

The emergency communications operator 3 began his term on Dec. 4, 2009. He has a degree in political science from Michigan State University and a master's degree in international relations from Troy State University.

As vice president of his local for 12 years, DeKam is also a veteran of the U.S. Air Force where he served as a commissioned officer obtaining the rank of Captain before his honorable discharge.

DeKam, who is married and has two children, is also licensed by the Federal Communications Commission as an amateur radio operator. ♥





Arbitration

— As reported by POLC Legal Staff

Coldwater suspension reversed

The two-day suspension of a Coldwater Police officer, accused of misusing a sick day, was reversed and back pay was awarded by an arbitrator in a grievance filed by the POLC.

While the arbitrator said suspicious circumstances did exist, he determined the officer had a bona fide sickness. He made the conclusion based, partially, on the testimony of the officer and his wife, a nurse, who detailed the progression of the illness. The officer was prescribed — and filled — medication for treatment of his illness.

The officer called in sick Feb. 7, 2009 — a day he had requested off to attend a business meeting. Although denied the day off, he did attend the business meeting believing he would have enough time to return to work an afternoon shift at the PD. His wife advised him to call in sick Feb. 7. On Feb. 8, she diagnosed him with tonsillitis and prescribed medication. The officer filled the prescription and returned to work the same day. The city suspended the officer for falsely using a sick day.

Arbitrator rules for two Douglas officers

The termination and a seven-day suspension handed out to two longtime Village of Douglas police officers were reduced and both officers were made whole for back pay and seniority by an arbitrator in grievances filed in a domestic violence incident. The arbitrator ruled that the seven-day suspension handed to one officer be replaced with a written reprimand and the termination of

the other officer was reduced to a seven-day suspension.

Both officers responded to the possible domestic violence call and had determined after interviewing the couple involved that no physical violence had occurred, only a loud and boisterous verbal argument. The couple told the officers no violence had occurred and it was only a verbal dispute. There was no indication of an assault by either party and the officers cleared the scene advising dispatch it was only a verbal argument.

More than two months after the incident, the female involved came to the police department to obtain a personal protection order against the male involved in the earlier incident, alleging she had been personally assaulted during the earlier incident and prior. Her new statements prompted a police investigation of the handling of the incident.

The department determined a report should have been filed and the male arrested for domestic violence. The POLC filed timely grievances in the matter, and the officers' testimony at the arbitration hearing went unrefuted when the employer failed to produce the alleged victim, the 911 caller of the incident, or the officer who took the woman's later statement which had prompted the police investigation. ♥

Arbitrator rules against D.C. chief, 'All Hands On Deck' policy unlawful

— From *The Washington Times*

A labor arbitrator ordered Washington D.C.'s Metropolitan Police Chief Cathy L. Lanier to halt an "All Hands on Deck" policing initiative, which puts the department's roughly 4,000 officers on the streets for three-day periods to deter crime and execute arrests.

In his ruling, the arbitrator said the program violates labor practices and D.C. law. He directed police officials to rescind orders enabling the program and provide back overtime pay for officers who worked the extra shifts. Under the initiative, officers who worked extra shifts had their days off rescheduled.

The arbitrator ruled the department violated officers' rights by improperly changing days off and tours of duty, failed to bargain with the police union, and failed to follow D.C. law.

Chief Lanier could have still forced officers to work extra shifts by declaring a crime emergency and suspending the collective bargaining agreement with the union. Several times in his tenure, former police Chief Charles H. Ramsey mandated that officers work extra shifts and longer hours after crime spikes.

But skeptics say the *All Hands on Deck* program provides only photo opportunities and was ineffective. ♥

Member News

S.O.S. helps teen drivers live through 'rites of passage'

The latest statistics say it all. Drivers ages 15-20 are still involved in more alcohol-related crashes than any comparable age group, according to the National Highway Transportation Safety Administration (NHTSA). The leading cause of death for young people is traffic crashes. In fact, teens are involved in three times as many fatal crashes as all other drivers, according to NHTSA.

Young intoxicated drivers are also much less likely to buckle up. In 2007, 64 percent of intoxicated drivers, ages 15-20, involved in passenger vehicle fatal crashes were unrestrained, according to NHTSA.

It's still important for Students on Sobriety (S.O.S) to educate teens not only about the human costs of drinking and driving, but the legal and financial ones as well.

That's why a Law Enforcement Education Program (LEEP) — S.O.S. — brings law enforcement speakers to high schools to drive home the dangers and penalties of drinking and driving.

Since all states have passed Zero Tolerance laws, it is illegal for drivers under the age of 21 to operate a vehicle with any amount of alcohol in their system. The penalties can include the costs of cars being impounded, legal costs, increased insurance rates, holding intoxicated drivers monetarily responsible for the damage they do to those who are killed or injured, not to mention jail time.

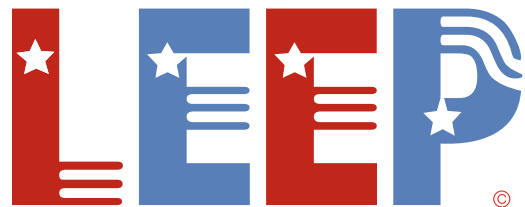
The message is really brought to life when students attempt a sobriety test with vision impairing goggles to simulate what it's like to be drunk. They perform tasks sober and "drunk" to compare their abilities under the simulated influence of alcohol.



Ann Arbor News photo

A Dexter High School teen involved in this Michigan winter accident didn't survive when the Honda Accord he was a passenger in collided with a tree. The teen driver suffered minor injuries.

Send a life-saving message by supporting S.O.S. with a tax deductible donation to LEEP, S.O.S. Program Office, 28091 Dequindre, #303, Madison Heights, MI 48071. To make an impact at your school, schedule an S.O.S. Program by calling 1-800-451-1220. ♥



Lansing Police agree on 12-hour shifts to avoid layoffs, save funds

— From *The Lansing State Journal*

Lansing's police union and city administrators reached a cost-saving agreement late last year that kept 14 police officers from being laid off in January, and saved the city \$455,000 to help close a \$3 million deficit.

The police union agreed to switch from 10-hour shifts to 12-hour shifts, and the move was implemented in December.

City officials say the change achieves long-term savings by

reducing shift premium, overtime and fuel expenses, and by allowing for the elimination of some vacant positions without affecting the level of service.

"Twelve-hour shifts have been successfully used in many cities," Police Chief Mark Alley said. Negotiators had been discussing the move to 12-hour shifts for several months as part of ongoing negotiations. ♥

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