

LEGISLATIVE PRIORITIES

# New York State Law Enforcement Council

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NEW YORK STATE LAW ENFORCEMENT COUNCIL

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*New York State Association  
of Chiefs of Police*

*New York State Sheriffs'  
Association*

*Citizens Crime Commission  
of New York City*



## PREFACE

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The New York State Law Enforcement Council was formed in 1982 as a legislative advocate for New York's law enforcement community. The Council's members represent the leading law enforcement professionals throughout the State, including the Attorney General of the State of New York, the New York State District Attorneys Association, the New York State Association of Chiefs of Police, the New York State Sheriffs' Association, the New York City Criminal Justice Coordinator, and the Citizens Crime Commission of New York City. Since its inception, the Council has been an active voice and participant in improving the quality of justice and in the continuing effort to provide for a safer New York.

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## ENHANCE PROTECTIONS FOR POLICE OFFICERS

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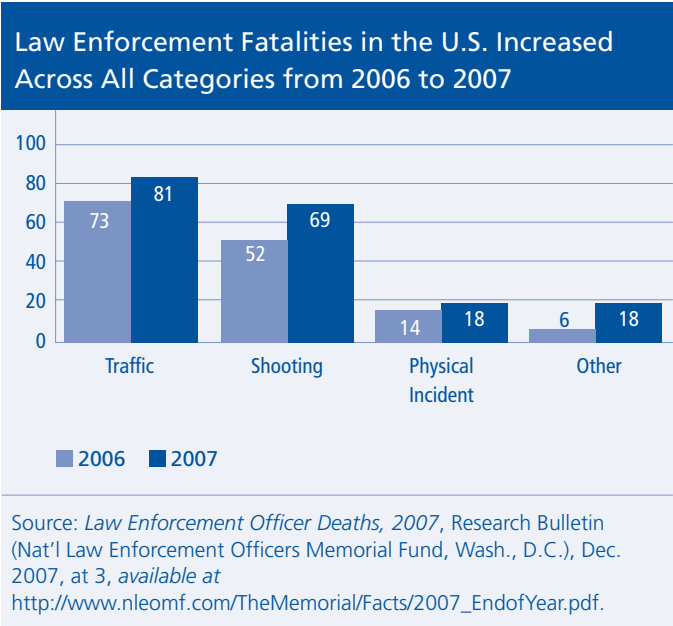
Police officers across New York State serve as our front line in protecting public safety. Each day and night, these men and women patrol neighborhoods, highways, towns, and cities, putting their lives on the line to protect the people of New York. However, officers continue to confront suspects who fail to heed their authority and some who take violent actions instead of complying with lawful police officer commands. This trend of increased violence is on the rise across the nation.

*Current laws fail to address the threat to police and public safety from those who flout the authority of police officers.*

2007 was the second-deadliest year for law enforcement since 1989. (The deadliest year was 2001, when officer deaths spiked due to the attacks of September 11.) Last year, at least 186 officers died across the nation, up from 145 the year before. New York State ranked third in the nation in police fatalities with twelve, behind only Texas and Florida. Traffic crashes and shootings were the most common causes of death nationally.<sup>1</sup>

It is the responsibility of the State Legislature to ensure that our state, county, and municipal police departments are provided with the authority and protections to confront this challenge. To this end, the Law Enforcement Council urges the passage of laws that would create and enhance penalties for those who clearly flout the authority of the men and women

<sup>1</sup> Matt Apuzzo, *Law Enforcement Deaths Rose in '07*, STATEN ISLAND ADVANCE, Dec. 27, 2007, at A6.



who work tirelessly to protect New Yorkers, creating unnecessary risks both to the public and the police officers. In particular, these penalties should apply when individuals: fail to heed or obey a police officer’s lawful command; subject police officers to unwanted physical contact while they are performing their official duties; or attempt while driving to elude a police officer’s order to pull over and comply.

**CREATE A VIOLATION FOR INDIVIDUALS WHO FAIL TO COMPLY WITH POLICE OFFICERS’ LAWFUL COMMANDS, RISKING INJURY TO OFFICERS AND OTHERS**

The ability of police officers to effectively carry out their responsibilities relies on the authority and respect commanded by the badge and uniform. When sus-

pects disregard an officer’s authority, it is important that a legal remedy exist. Otherwise individuals learn that they have nothing to lose from failing to comply with an officer’s lawful orders.

Persons who fail to heed the lawful command of a police officer currently do not face any repercussions in New York State. Defendants who proactively prevent police from doing their jobs through force or intimidation can be charged with Obstructing Governmental Administration in the Second Degree, an A misdemeanor.<sup>2</sup> However, individuals who simply willfully ignore the lawful commands (for example, commands to stop or identify themselves) issued by police officers currently are not subject to any penalties whatsoever. When officers are forced to chase down suspected criminals, they risk the exacerbation of existing health problems or causation of new injuries to themselves or to bystanders. Police should be able to charge such individuals with a violation.

**Suspects Endanger Police Officers’ Safety by Failing to Heed Lawful Commands**

**Police Officer Falls to Death in Chasing Suspect:** Police Officer William Rivera of the 78th Precinct in Brooklyn died November 24, 2004 from the injuries he sustained from chasing a suspected burglar. In the midst of the rooftop chase, he lost his footing and fell twenty feet to the ground, breaking both of his legs. Rivera, who was 35, died when a blood clot traveled from his surgically repaired legs to his lungs.

<sup>2</sup> N.Y. PENAL LAW § 195.05.

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**Sergeant Drops Dead After Making an Arrest:** Sergeant Keith Ferguson of the 75th Precinct in Brooklyn died January 31, 2004 from a heart attack he suffered following a foot chase in SoHo. His team was called to the scene for backup after another officer failed to apprehend the suspect.  
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**Police Officer Collapses During Struggle:** Police Officer Kevin Lee of Patrol Borough Manhattan North died January 27, 2006 from a heart attack during a struggle with robbers at a store on the Upper East Side of Manhattan. His team had been observing a group of men who stole electronics and after apprehending the suspect in a foot chase, Officer Lee collapsed on the street. Officer Lee was said to have been in excellent health at the time of his death.  
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Source: The Officer Down Memorial Page, Inc., <http://www.odmp.org> (last visited Feb. 21, 2008).

**ENHANCE PENALTIES FOR INDIVIDUALS WHO SUBJECT POLICE OFFICERS TO UNWANTED PHYSICAL CONTACT**

New York should also provide an enhanced harassment statute for persons who subject police officers on the job to unwanted physical contact. Enhanced penalties already exist when defendants assault and cause physical injury to police officers.<sup>3</sup> However, people who strike, kick, or shove police officers, so long as they do not cause injury, are not subject to anything more serious than a violation.<sup>4</sup>

New York already provides stronger penalties under its aggravated harassment laws when certain categories of victims are subjected to unwanted physical

contact without further injury. For example, aggravated harassment of a correctional employee by an inmate is a class E felony when the inmate throws bodily substances at the employee in order to “harass, annoy, threaten or alarm” him or her.<sup>5</sup> Similarly, harassment involving unwanted physical contact is an A misdemeanor when the defendant is motivated by bias against a protected group.<sup>6</sup> As the Penal Law already provides for increased penalties for aggravated harassment against some specific groups, these enhanced protections should be extended to police officers.

**PENALIZE DRIVERS WHO FLEE POLICE OFFICERS AND FAIL TO STOP WITHOUT BREAKING OTHER TRAFFIC LAWS**

Suspects who flee police officers on New York State’s highways and roads represent a major challenge to public safety. Statewide, fatalities from crashes involving police pursuits reached a five-year high in 2006. Over the decade spanning from 1997 to 2006, forty-three individuals have been killed in New York as a result of police chases. Most of those who died were innocent drivers and passengers sharing the road with the police and the fleeing suspect: twenty-one of those who died were riding in uninvolved vehicles and four were not in a vehicle, compared to eighteen persons who died while riding in a police vehicle or a chased vehicle.<sup>7</sup> These numbers do not even include injuries caused by drivers fleeing from police. Clearly, these chases not only threaten the lives and well-being of suspected criminals and officers in pursuit, but they

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N.Y. PENAL LAW §  
240.32.

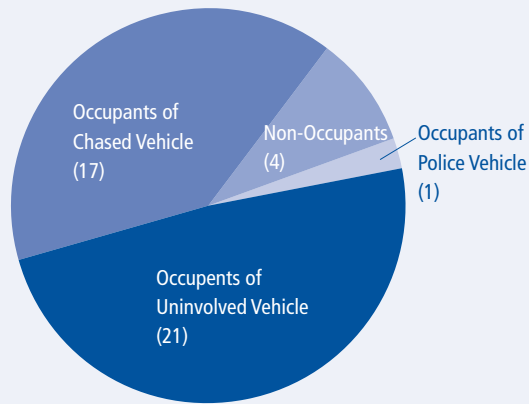
6  
N.Y. PENAL LAW §  
240.30(3).

7  
Nat’l Ctr. for Statistics and Analysis, Nat’l Highway Traffic Safety Admin., Fatalities in Motor Vehicle Traffic Crashes Involving Police in Pursuit, 1982-2006 (Aug. 14, 2007) (unpublished statistical report, on file with LEC).

3  
N.Y. PENAL LAW §  
120.08.

4  
N.Y. PENAL LAW §  
240.26.

## Fatalities in New York from Traffic Crashes Involving Police in Pursuit (1997–2006)



Source: Nat'l Ctr. for Statistics and Analysis, Nat'l Highway Traffic Safety Admin., *Fatalities in Motor Vehicle Traffic Crashes Involving Police in Pursuit, 1982-2006* (Aug. 14, 2007) (unpublished statistical report, on file with LEC).

also represent a deadly menace to other drivers, cyclists, and pedestrians who must share the road.

Currently, the Penal Law only punishes drivers who flee police officers by driving recklessly or at speeds twenty-five miles per hour or more above the speed limit.<sup>8</sup> If the driver was otherwise obeying traffic laws, failure to pull over when directed to by a police officer is only an infraction under the Vehicle and Traffic Law.<sup>9</sup> Yet even at normal or slightly above-normal highway speeds, suspects who flee can cause dangerous accidents, harming police officers, other drivers, and themselves.

For that reason, the Law Enforcement Council supports the creation of a Penal Law misdemeanor for

those who fail to heed police orders to stop his or her vehicle without disregarding other vehicle and traffic laws. Traffic-related incidents have been the leading cause of officer deaths nationwide for the last decade.<sup>10</sup> New York has not escaped this trend without its own officer deaths and the deaths of other citizens. By addressing this issue, New York could take another important step in reining in its above-average number of officer fatalities.

### SUMMARY

The existing laws have not afforded sufficient protections to police officers. Swift action by the State Legislature on proposals to enhance respect for police officers could have a significant impact on the welfare of New York's law enforcement officers. If tougher penalties are created for those who disobey and disrespect police officers, police officers will benefit from safer working conditions and decreased risk of physical injury.

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N.Y. PENAL LAW § 270.25.

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N.Y. VEH. & TRAF. LAW §§ 1101, 1102.

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*Law Enforcement Officer Deaths, 2007*, RESEARCH BULLETIN (Nat'l Law Enforcement Officers Memorial Fund, Wash., D.C.), Dec. 2007, at 2, available at [http://www.nleomf.com/TheMemorial/Facts/2007\\_EndofYear.pdf](http://www.nleomf.com/TheMemorial/Facts/2007_EndofYear.pdf).