



# Stars and Bars

## Sheriff's Class of 1981

By Capt. Rick Merschbach

On August 15, 1981, the Hamilton County Sheriff's Office took over the responsibility of the operation of the Community Corrections Institute (CCI) or the old Cincinnati Workhouse located on Colerain Avenue in Camp Washington and Central Station on 9<sup>th</sup> Street from the City of Cincinnati. With this added responsibility the Sheriff's Office inherited what would eventually become the largest Division within the Sheriff's Office. With that change came the largest increase in the staffing levels for the Sheriff's Office in its history. Many of the Corrections Officers, or "Guards" as we were so affectionately called, who started at the Workhouse and Central Station have almost reached a pinnacle moment in their careers. August 15, 2010 marked the 29<sup>th</sup> anniversary for those "rookie C/O's".

I have included a list of the Class of 1981 who are still employed within the Sheriff's Office. To all of you, I tip my cap! I have worked with all of you at one time or another in my career and am proud to say I can remember a little story about each of you! I may tackle those stories next year! But for now I offer my congratulations on your outstanding careers and achievements and wish each of you success in your futures.

Chief Deputy Sean Donovan  
Capt. Rick Merschbach (Patrol)  
Lt. John Adkins (Court Services)  
Lt. Jim Neil (Patrol)  
Jerry Voss (Maintenance/Cor.)  
C/O Keith Berry (Corrections)  
C/O Robert Hampton (Corrections)  
C/O Dennis Greene (Corrections)  
P/O Larry Stewart (Patrol)  
P/O Craig Nance (Patrol)

Capt. Jerry Wilburn (Corrections)  
Lt. Mark Schoonover (Patrol)  
Lt. Bob Edwards (Corrections)  
Rufus McCall (Corrections Adm.)  
C/O Wirvyn David (Corrections)  
C/O Dorothy Parks (Corrections)  
C/O Anthony Fischer (Corrections)  
Lt. Steve Toelke (Corrections)  
Det. Ken Schweinefus (CIS)  
Det. Greg Miller (CIS)



### LEAVE DONATION REQUEST PATROL OFFICER DALE MIKES

Deputy Mikes has a serious medical issue and is need of donated time. Anyone who knows Deputy Mikes knows he is a hard worker and is very dedicated to his job. He has made every effort to continue working; however, is unable to do so at this time.

Deputy Mikes has a wife and four children that he is supporting. Any donated time will be appreciated.



## Fifteen-Year Veteran SERGEANT TONY ORUE

### Recently Returned From Active Duty With The United States Army

Tony is a member of the U.S. Army Reserve and in June 2008 was called to active duty to attend the four-month training school in Psychological Operations.

In early 2009, Tony was notified he was going to be activated again in April for duty in Operation Enduring Freedom. On April 17, 2009, Tony was activated and reported at Fort Dix, New Jersey, where he received preparation training for duty in Afghanistan.

Upon completion of training at Fort Dix Tony was deployed to Afghanistan with the 16<sup>th</sup> Psych Operation Battalion, Company 310, Tactical Psych Operations. Once in Afghanistan Tony was detached first to the Second Marine Division and then to the First Marine Division. Tony served his tour of duty in the Helmand Province and the City of Marjah which were the two most dangerous regions in Afghanistan.

While serving in Afghanistan Tony was promoted twice and was awarded ten military medals for his service.

Fortunately, Tony was able to return from active duty on June 21, 2010, and took a well-deserved short vacation. On June 28, 2010, Tony resumed his duties with the Patrol Division, Support Services Section, as the Training and Academy Commander.

Tony's dedicated service to Country and County are commendable and worthy of emulation.

# Guess Who

Can you guess who the "little guy" is in the top row, far left?

**Hint:** 1971 Amelia Elementary Class Photo



# MAIL BAG



## **TO DEPUTY DIRECTOR ART CONLEY FROM AN INMATE**

I'm sure you hear from inmates regarding how they feel they were not treated properly by Corrections Officers. There have certainly been times when I felt that way. But last night, **Corrections Officer JOE CAMPBELL** did his job and did it very well and I felt you should hear about it.

Yesterday I was dealing with considerable depression. Earlier in the week, there was a setback in my case and then yesterday afternoon, a visit with my wife of 38 years did not go well. So I was just trying to be alone in my cell, had locked my door, and even put a small "Do Not Disturb" sign on the door. But a particular inmate, who is apparently mentally unstable, was saying things outside my door to upset me because I refused to give him some commissary items for free. I have actually helped him in the past trying to be friendly, but he is so ungrateful that recently I "cut him off". He kept on and on until I snapped and I became extremely upset and out of control. I called a C.O. over the intercom, demanding my door be opened so I could let the other inmate have it! He sent his partner in to see what was going on, but I was so upset I wasn't in a talking mood and would not settle down. Within a few minutes, C.O. Joe Campbell came into the pod. His size alone could demand respect, but it was actually what he said that did the trick. He said, "McNamee, this isn't like you – did something happen; are you having a bad day? Calm down for a minute and when you're ready, you can tell me what's going on".

I was so upset that I couldn't even speak, but he got me to lay down and he said he would be back in a few minutes, then shut my door.

Although he demanded respect, he was also concerned about what got me to the boiling point and discussed options available to me for help.

I wish I could "un-do" the mistakes I've made that put me here, but today I'm very glad God worked all things "together for good" (Roman 8:28b) using Officer Campbell, who did his job as a professional. He is an asset to the Hamilton County Justice Center and our community!

## **TO SHERIFF LEIS FROM A HAMILTON COUNTY CITIZEN**

I would like to let you know how I have appreciated the help of **Deputy KEVIN SINGLETON**. I came in contact with Deputy Singleton due to an automobile accident in June, 2010. He was very professional, sensitive to my needs, and worked to help me beyond what is normally expected. He is one of the finest Officers that I have ever met.

## **TO SHERIFF LEIS FROM STEVE BARNETT**

During my well deserved and hard earned two week vacation **Detectives KEN SCHWEINEFUS** (week one) and **BRIAN STAPLETON** (week two) assumed my duties as Felony Case Presenter. As always, their service was excellent and done without complaint despite their heavy workload in CIS. Ken presented 12 cases (8 felony; 4 misdemeanor); Brian presented 7 cases (5 felony; 2 misdemeanors). None ignored. Excellent results.

Of course, they received assistance from the very capable **JESSICA JONES** who likewise did an exceptional job in receiving and preparing future cases, dealing with the media, answering complaints, completing the Stars & Bars, and also fulfilling all of her other responsibilities.

Thank you Captain Zoellner, and your staff, for allowing Ken and Brian to fill in during my absence. As always, thank you Jessica.

Of course Brian made it quite clear to the Grand Jury Victim/Witness advocates that he is now the "#1" Case Presenter; therefore, I assume, he will be taking over my position as case presenter on a full time basis in the near future.

As always, I appreciate Ken, Brian, and Jessica pitching in and doing such an excellent job.

## **OTHER PERSONNEL RECEIVING LETTERS OF APPRECIATION**

DET. BRIAN PEAK, PATROL/CIS	P.O. PAUL HICKS	P.O. STEVE JUNKER	P.O. PHILIP HERBST	P.O. JOHN PRIEST
P.O. RICHARD PAQUETTE	S.D. JAMES McCLURE	P.O. TOM LANG	CPL. JAY SCHMITT, PATROL	
P.O. JAY CRAWFORD	DET. BRYAN PITCHFORD, PATROL/CIS	DET. STEVE MINNICH, PATROL/CIS	S.D. BILL WHALEN	
MAJOR KEITH GROPPÉ, OCD	LT. BRAD WINALL, OCD	ORGANIZED CRIME DIVISION	S.D. JAMES JAGODITZ	
DEP. DIR. ART CONLEY, CORRECTIONS	SGT. RICK SNOW, COURT SERVICES	MIKE McADAMS, COURT SERVICES		
SGT. STEPHEN WATT, COURT SERVICES (3)	BAG PIPE AND DRUM CORP (2)	JESSICA JONES, ADMINISTRATION		
EXEC. LT. JOHN ADKINS, COURT SERVICES	CPL. DENNIS BROGAN, COURT SERVICES	PILOT TIM DOYLE, PATROL		
SGT. JEFF CARROLL, COURT SERVICES	PILOT ROGER HINKLE, PATROL	MARIAN ALSWAGER, INMATE EDUCATION (3)		
MARTI KWIATKOWSKI, INMATE EDUCATION (3)	CASSANDRA JETER, INMATE EDUCATION (3)	ANTWANN STANLEY, MANA		
C.O. JAMES COX	DAVID FULCHER, MANA (2)	EMD OFFICER ERIC COPENHAVER	C.O. EDWARD COLWELL	
EMD OFFICER CHARMAINE MCGUFFEY	C.O. ALLAN COX	C.O. WIRVYN DAVID	C.O. RYAN MATHEWS	
C.O. PHILIP MILLER	C.O. TONY PRITCHETT	C.O. ANTHONY PRUITT	C.O. RONALD VEST	S.D. WILLIAM CLARK



# LEGAL NUTS AND BOLDTS

## MIRANDA V. ARIZONA 44 YEARS LATER: PART III

**Montejo v. Louisiana, 556 U.S.\_\_\_\_ (2009); Maryland v. Shatzer, 559 U.S.\_\_\_\_ (2010)**

By Edwin H. Boldt

*“Nobody can make you feel inferior without your consent.” Eleanor Roosevelt (1884-1962)*

Here are two more recent United States Supreme court cases in this third and last episode dealing with confessions and how the Court’s current interpretation of *Miranda v. Arizona*, 384 U.S. (1966), has changed – or at least crystallized – through the years.

In the first, *Montejo v. Louisiana*, the Supreme Court did something they rarely do: they overruled one of their own previous decisions, *Michigan v. Jackson*, 475 U.S. 625 (1986).

Some history:

In 1981, the court had ruled in *Edwards v. Arizona*, 451 U.S. 477, that once “an accused has invoked his right to have counsel present *during custodial interrogation* ... [h] is not subject to further interrogation by the authorities until counsel has been made available,” unless he initiates the contact (Emphasis added).

Five years later, *Jackson* held that “if police initiate interrogation after a defendant’s assertion, *at an arraignment or similar proceeding*, of his right to counsel, any waiver of the defendant’s right to counsel for that police-initiated interrogation [following such an assertion] is invalid.” 475 U.S., at 636 (Emphasis added).

That is, if a defendant at his arraignment or initial appearance requested that an attorney be appointed for him, any inculpatory statements made by the defendant without his attorney present in response to questioning initiated by the police would be subject to suppression – *even if* the defendant had been *Mirandized* and had waived his right to counsel at the interrogation. This rule was adopted in 1986 to protect defendants from continual badgering by police to submit to interrogation.

The facts of *Montejo* were these:

On September 6, 2002, Jesse Montejó was arrested for the robbery and murder of Lewis Ferrari, after which he was provided Miranda rights which he waived, and thereafter admitted to having shot and killed Ferrari.

Four days later, Montejó appeared before a judge at a preliminary hearing, and without a request from Montejó, the court ordered that the public defender be appointed to represent him.

Later that same day, two police detectives approached Montejó in his cell, requested that he accompany them to locate the murder weapon (which Montejó had earlier told them he had thrown into a lake) and provided *Miranda* rights to him once again, which Montejó waived. During the trip, Montejó wrote an inculpatory letter of apology to Ferrari’s widow. Montejó never met his attorney until some time after being returned to the jail.

Montejó was ultimately convicted of first-degree murder and sentenced to death. The Louisiana Supreme Court affirmed the conviction, and as relevant here, ruled that because Montejó had simply stood mute at his preliminary hearing and had therefore not actually requested a lawyer, the protection as set forth in *Jackson* and described above simply didn’t apply.

In its opinion, the Supreme Court noted that to have suppressed the letter of apology as requested by Montejó would prevent police-initiated interrogation entirely once the Sixth Amendment right to counsel attaches, at least in those states that appoint counsel – such as does Louisiana – without request from the defendant. The Court opined that this would be too great a penalty for society to pay in the battle against crime, and thereafter ruled that there were other cases which adequately protect the Sixth Amendment rights of a suspect to counsel, and at the same time protect a defendant from “badgering” by police to submit to interrogation, which was the basis for the *Jackson* decision in the first place.

“Under the *Miranda-Edwards-Minnick* line of cases”, the Court held, “a defendant who does not want to speak to the police without counsel present need only say as much when he is first approached and given the *Miranda* warnings. At that point, not only must the immediate contact end, but ‘badgering’ by later requests is prohibited.”

Because the suggestion to include the *Montejo* case in a “Legal Nuts & Boldts” column was made by Sgt. Jeff Gilker, Organized Crime Division, he has qualified for a Major Award, which will be presented to him in the near future. Remember, you, too, can win a Major Award if you suggest a case or an idea for a column that appears in print, so keep those cards and letters – and phone calls and emails – coming.

*Continued on Next Page*

The second of the confessions cases discussed here is *Maryland v. Shatzer*, 559 U.S. \_\_\_\_ (2010), which like *Montejo*, above, interpreted the meaning of *Edwards v. Arizona*, and its ruling that once an accused has invoked his right to have counsel present during custodial interrogation, ... he is not subject to further interrogation by the authorities until counsel has been made available unless he initiates the contact.

On August 7, 2003, Michael Shatzer, Sr. was serving a sentence on an un-related crime at the Maryland Correctional Institution-Hagerstown when Detective Shane Blankenship met with him, advised him of his *Miranda* rights and obtained a waiver, and thereafter attempted to interrogate Shatzer concerning allegations he had sexually abused his son. While Shatzer had initially waived his rights, he almost immediately stated he wouldn't speak with Det. Blankenship without his attorney. The interview was immediately ended and Shatzer was released back into the general prison population.

Two and-a-half years later, Det. Hoover, who had inherited the case from Blankenship and had developed new information, met with Shatzer at the Roxbury Correctional Institute (to which Shatzer had been transferred without a release from continuous custody). Shatzer waived his *Miranda* rights, never requested to speak with an attorney or request one to be present during the interrogation, and made some incriminating statements.

Five days after that interrogation, Det. Hoover returned to Roxbury, and advised and received a waiver of *Miranda* rights from Shatzer after which Shatzer made additional incriminating statements. When Shatzer then requested an attorney, Det. Hoover immediately ended the interrogation.

The trial court refused to suppress Shatzer's incriminating statements and he was found guilty of sexual child abuse of his son. The Maryland Court of Appeals reversed the conviction, ruling that because Shatzer had never had a

break in custody between the Blankenship interrogation in 2003 and the Hoover interrogations in 2006, "the passage of time *alone* is insufficient to [end] the protections afforded by *Edwards*."

The only traditional endpoint of the *Edwards* protection had been termination of *Miranda* custody, and without that termination, the *Edwards*-mandated prohibition of custodial interrogation of a particular suspect – even for a different crime – would be eternal, and would even render invalid confessions obtained from suspects who, unbeknownst to the interrogators, have acquired *Edwards* immunity in connection with any offense in any jurisdiction.

The Supreme Court ruled that such an outcome was both unnecessary and unreasonable, and ruled that a 14-day break in custody rule is time enough to afford a suspect the protection afforded by *Edwards*.

But what was Shatzer's break in custody? After all, although he had been transferred to another correctional facility, he had never been released from custody – even for 14 days. The Court then differentiated between incarceration and custody for *Miranda* purposes, and held that although Shatzer had been continuously *incarcerated*, he had not been continually subject to the pressures and coercive nature inherent in police interrogation – *custody for Miranda purposes*, and that it is only this so-called *Miranda custody*, that *Edwards* refers to.

Therefore, because there was more than a 14-day break between the *Miranda custody* of the 2003 interrogation of Det. Blankenship and *Miranda custody* of the 2006 interrogation of the Det. Hoover, *Edwards* was not violated and Shatzer's incriminating statements were admissible.

This is an important case for law enforcement because it grants law enforcement officers the right to attempt to re-interview an incarcerated suspect – after 14 days of no further interrogation attempts – even after the suspect has invoked his Sixth Amendment right to counsel. Prior to this decision, the first invocation of that Sixth Amendment right lasted, as the court said, *eternally*. No more.



## QUICK EASY SUMMER DESSERT

Line a 9 x 13 pan with ice cream sandwiches touching each other. Cut ends to fit if necessary. Cover with Cool Whip. Drizzle Hot Fudge Ice Cream topping over Cool Whip. (Warm topping in microwave for easier handling) Repeat with Sandwiches, Cool Whip and Hot Fudge Topping over top. Nuts can be sprinkled over top. Freeze for several hours. If you line pan with foil over edge of pan you can lift out after freezing to cut in serving pieces. Caramel or

Butterscotch Topping could be substituted or added with the Hot Fudge. This recipe can be made in any size pan even loaf pan, just cut to fit.

For a different twist, cover ice cream bars with raspberry jam then cool whip and add fresh raspberries, repeat then drizzle berries with chocolate.

## WHAT IS THE BLUE MASS

“Blue Mass” celebrations are held throughout the United States, usually in a cathedral setting, to honor and pray for the men and women who serve our communities as Police, Fire and Safety personnel. The homily/sermon contains a message of appreciation, encouragement and solidarity with the safety personnel as keepers of order in our civil society and honors them for their value to all the people. Names of deceased personnel from the previous year are read aloud during the liturgy.

The “Blue Mass” occurs annually in September because Catholic tradition looks upon St. Michael the Archangel as the patron of Safety Personnel and his feast is celebrated each year on September 29<sup>th</sup>.

The “Blue Mass” is, as the name indicates, a Mass, the typical Catholic worship service. Others who are not Catholic are cordially welcome to join with the Catholic community in this honoring of and praying for all of our safety personnel regardless of faith or denomination. Many safety agencies send representatives and their safety vehicles are positioned in front of the cathedral for a blessing prior to the Mass. Bagpipers play and honor guards from Police, Fire, and Sheriffs’ Departments lead participants into the cathedral for service.



## DONATE BLOOD – GIVE THE GIFT OF LIFE

Submitted by: Bette Burkhardt, Technology/Integrity Division

I have donated whole blood and platelets for many, many years through Hoxworth Blood Center.

They have many neighborhood locations in the Cincinnati and surrounding areas. Donors are needed, no matter what blood type you are.

I am O negative, the universal donor, and in the past few years I have donated mainly platelets. This is done to help those being treated for various types of cancers; especially those people who are going to receive a bone marrow transplant and need to boost their platelet and cell count. Being a donor is very rewarding. On one occasion, a few years ago, I was a very close match to a young girl who was going to undergo a bone marrow transplant. She lived in Indiana and just as my donation was ending the FedEx driver was there to transport my donation. This meant a lot to me just knowing that my donation could help someone. Blood donations take very little time; platelet donations take longer as the blood is drawn, goes through a cycle to remove the platelets and the blood is then returned. This takes approximately 1 ½ to 2 hours.

The criteria for donating is you must be at least 17 years old, weigh at least 110 pounds, generally feel healthy, no recent major surgeries, no fever, sore throat or flu-like symptoms. If you are taking medication or being treated for an illness, etc., you need to call Hoxworth Blood Center to see if you are eligible to donate.

There are locations in Anderson Township, Blue Ash, Corryville, Downtown on Walnut Street, Ft. Mitchell, Ft. Thomas, Tri-County, Western Hills and the main location at 3130 Highland Avenue by University Hospital. Give them a call at 451-0910 and set up an appointment to donate. You can donate whole blood every eight weeks unless you donate a double red cell and then you need to wait 112 days.

## PUT YOUR CAR KEYS BESIDE YOUR BED AT NIGHT...



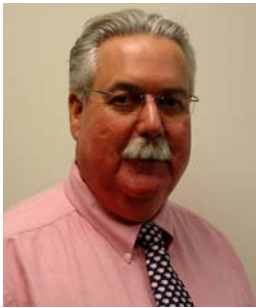
If you hear a noise outside your home or someone trying to get in your house, just press the panic button for your car. The alarm will be set off, and the horn will continue to sound until either you turn it off or the car battery dies.

This tip came from a neighborhood watch coordinator. Next time you come home for the night and you start to put your keys away, think of this: It's a security alarm system that you probably already have and requires no installation. Test it. It will go off from most everywhere inside your house and will keep honking until your battery runs down or until you reset it with the button on the key fob chain.

It works if you park in your driveway or garage. If your car alarm goes off when someone is trying to break in your house, odds are the burglar or rapist won't stick around... after a few seconds all the neighbors will be looking out their windows to see who is out there and sure enough the criminal won't want that. Remember to carry your keys while walking to your car in a parking lot. The alarm can work the same way there.

This is something that should really be shared with everyone. Maybe it could save a life or a sexual abuse crime.

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## CHAPLAIN'S CORNER

by: Rev. Jack Marsh

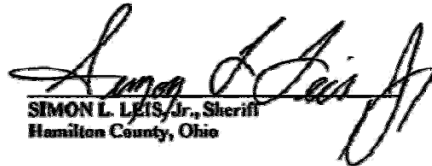
I came across a pin the other day. The pin was attached to a card and on the card was a story. I liked it so much I gave them to the chaplains a number of years ago. Here is the story.

"Geese flying in a V-formation have always been a welcome sign of spring as well as a sign that heralds the coming of winter. Not only is this a marvelous sight, but there are some remarkable lessons that we can learn from the flight of the geese, because all that they do

has significance –

1. As each goose flaps its wings, it creates uplift for others behind it. There is 71% more flying range in V-formation than in flying alone. Lesson: People who share a common direction and a sense of purpose can get there more quickly.
2. Whenever a goose flies out of formation it feels drag and tries to get back into position. Lesson: It is harder to do something alone than together.
3. When the lead goose gets tired, it rotates back into formation and another goose flies at the head. Lesson: Shared leadership and interdependence give us each a chance to lead as well as an opportunity to rest.
4. The geese flying in the rear of the formation honk to encourage those up front to keep up their speed. Lesson: Encouragement is motivating. We need to make sure our "honking" is encouraging-and not discouraging.
5. When a goose gets sick or wounded and falls, two geese fall out and stay with it until it revives or dies. Then they catch up or join another flock. Lesson: We may all need help from time to time. We should stand by our colleagues in difficult times."

It says on the card it is by Angeles Arrien and used by permission of the publisher. Anyway, if you'd like one of these pins, and the story, I have about 10 left.

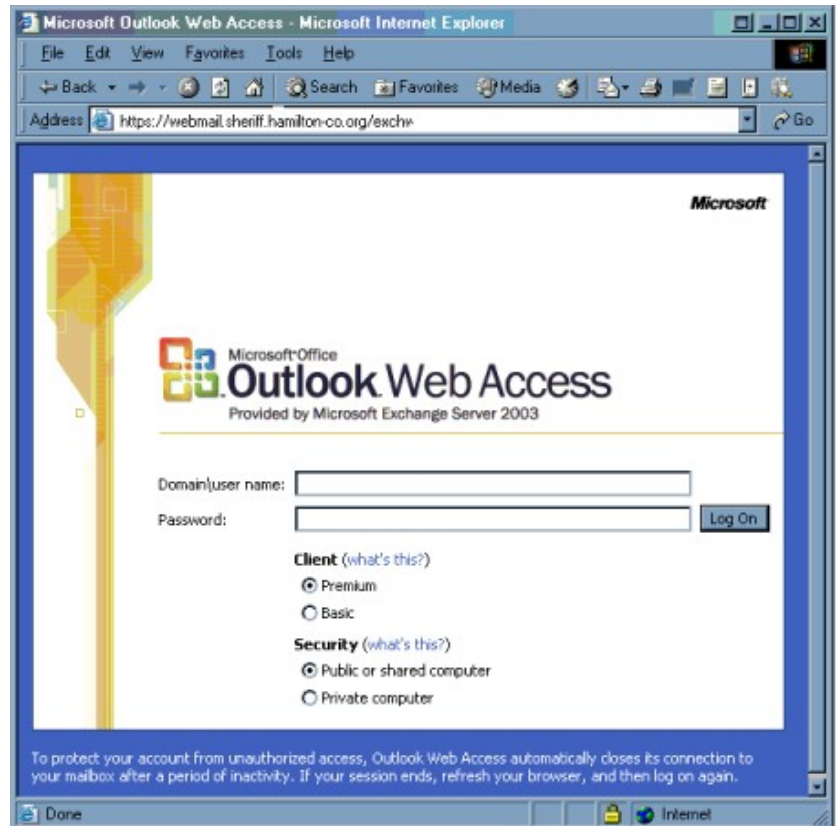
  
SIMON L. LEIS, Jr., Sheriff  
Hamilton County, Ohio





## Using Intranet Web Email (note you cannot do this from home)

1. To access Outlook Web Access, you don't need to log off the computer you are using.
2. **Domain\user name** is HCSO\username (ex. Tom Smith's user name would be TSmith). It does not require you to include the HCSO\, only the username.
3. **Password** is your normal network password
4. Under **Client** choose Premium or Basic depending upon your network connection. If the connection is too slow using Premium, try Basic.
5. Under **Security** choose Public or shared computer
6. Click **Log On**



## Network Issues or Scheduled Maintenance

To determine if any part of the network is down, or there is any scheduled maintenance or downtimes, you can use the Intranet's IS page, which will provide details about the issue.

If the issue is maintenance to JMS, you will also find that information on the Corrections page.