Interagency Operability + Leadership = Success

by Franklin Marino,
PLEA Chairman

As a New Jersey transplant beginning the start of my 22nd year of residency in Arizona, when it comes to attitudes between law enforcement officers from different agencies, I can attest that there is a definite difference from East to West. I have plenty of friends from high school and my old Military Police unit who are cops with various municipal, county, state, and federal agencies in the New York-New Jersey area. In their eyes, regardless of where you work or what color uniform you wear, we are all cops, members of a sacred profession and brotherhood who support and back each other up, no matter what the situation is, and will always help a brother (or sister) cop.

As a 16 year veteran of the Phoenix Police Department, I can say that any time I have been on vacation to visit my old stomping grounds, even early on in my career when I came across a fellow cop, even though I was from an agency 2500 miles across the country, I clearly stood as a member of that brotherhood. It was more evident when the New Jersey State Policemen’s Benevolent Association (the union which collectively represents 33,000 police officers from throughout the state) held their convention here in Phoenix in November 2008. I had the opportunity to introduce Sheriff Arpaio to over 500 attendees and was talking with people in the courtyard of the Arizona Grand Resort prior to his appearance. By chance, I met up with a member of my high school football team and a guy I used to spin tunes with. Even though I hadn’t seen either of them in over 20 years, it was like time stood still and quite evident our bond instantly became stronger once they found out that I too, had become a cop.

While I’ve never seen much of that brotherhood here in Arizona, sadly at times even within our own agency, I still have hope as evidenced by what I saw in the early morning hours of Thanksgiving Day, 2010. Our air unit had picked up a LoJack signal in what was originally believed to be in Maryvale and began requesting for ground units to head that way to try and locate the vehicle. At the same time, units from Avondale were getting LoJack signals and Duty Commander Glenn Gardner authorized the Air Unit and Phoenix ground units to leave the city to assist Avondale. Radio was able to patch Avondale through, so we were all working on the same frequency. Eventually, an Avondale unit pinpointed the location, a two story house south of West Edgemont Avenue and North 113th Lane, which is actually within their city limits. The officer made contact with a person standing outside the house, who said he would open the garage to let the officer look inside. He promptly went inside, locked the front door and never came out.

As the situation unfolded, it was determined that stolen vehicle had been taken in an armed robbery/kidnapping in Sun Lakes. A brother and sister who owned a jewelry business were pulled over by suspects in a Chevy Impala who were impersonating police. The Impala had flashing red and blue lights in the grille and a spotlight plugged into a cigarette lighter. The victims were bound and gagged, taken to their business, and were forced to unlock the safe and hand over cash to the suspects. The suspects then dumped the victims at Tempe Marketplace and fled with their van and jewelry items. Security found the victims and contacted Tempe Police, who called the Maricopa County Sheriff’s Office, since Sun Lakes is their jurisdiction. MCSO took the original report and the stolen van was entered into NCIC, in turn activating the LoJack system.

By this time, Avondale Sergeant Sean Maas and Phoenix Sergeant Ron Bryant were on scene as was Phoenix Lieutenant Lee Shaw. Seeing that this was more than “just a stolen vehicle” and Avondale only had five officers covering the entire city, more Phoenix units were requested and began to arrive to set up and establish containment on the house and neighborhood, which backed up to a man-made lake. While the air unit was overhead, three suspects in the backyard of the house began jumping fences and were quickly detained by two Phoenix officers on the north end of the perimeter.

Phoenix patrol rifle operators were on-scene four-pointing the house while other Phoenix officers began calling people out of the house, giving commands in English and Spanish. Eventually, two males and a female exited the house and were detained. They would only divulge that there were three small children sleeping in the house. After the preliminary intel gathering, a command
By this time, MCSO units started to arrive on scene and were being briefed on what had been determined through our investigation. A Phoenix officer arrived with his mirror and went into the house with a team of MCSO deputies and Phoenix officers. They located a seventh suspect hiding in the attic and took him into custody without incident.

This incident certainly renewed my faith and trust in the leadership demonstrated on behalf of the Duty Commander, shift lieutenant and patrol sergeants who made a well thought and wise decision to allow the officers involved in this incident to actually do police work; enter a house to take bad guys, who victimized siblings, into custody so they could be held accountable for their actions and face the criminal justice system.

For recap purposes, looking at this incident from a purely statistical standpoint, the tally was seven suspects in custody, a recovered stolen vehicle, the “police” Impala, a second suspect vehicle loaded with the victim’s property, all done without injuries to officers. Comparatively speaking, I believe when you look at the results of a collaborative team effort from three different agencies brought together by a single event, the numbers add up to something even larger:

**Teamwork and brotherhood.**
The other day I was in my office at PLEA and an officer came in and said, “What they are doing to me just isn’t right! Doesn’t integrity mean anything anymore?” That statement brought up a lot of old memories. So I looked up integrity. Dictionary.com defines integrity as: adherence to moral and ethical principles; soundness of moral character; honesty. As I spoke to the officer about integrity I told him to look to himself first.

My introduction to integrity with the Phoenix Police Department was in the academy. There I was, sitting in academy class #230, when one of my RTO’s pulled me out of class, took me to his office where my other RTO was waiting and said, “You need to rewrite this critique you did.” I asked why and was informed that even though the critique was anonymous they recognized my handwriting. I had given the instructor a low score and to them that was unacceptable. I informed them that it was in fact my critique and I felt the instructor deserved a low score and I even specifically indicated why he deserved a low score. After all, it was my perception of his teaching abilities. They said they didn’t care and implied that if I wanted to finish the academy I had better change this critique. So I did what I had to do. I saved my new career and circled all the average scores and made no comments. However, they were very perceptive and I had to modify several other critiques in the following weeks.

Now I really don’t have any clue why they insisted I change those critiques and after 20 years I guess it doesn’t matter, but my perception of the integrity of the Phoenix Police Department became tainted at an early point in my career; especially my perception of those two RTO’s. So much so that at a later point in my career when I was involved as a witness to a use of force incident, I tape recorded my interview. It was later brought to my attention that what a supervisor claimed that I said was not in fact what I had actually stated. He had a personal vendetta against the involved officer and retired the day after he finished writing the investigation. It was his last chance to get his licks in on that officer.

Upon learning I was being used to frame the accused officer, I came forward to my new supervisor to explain that the statements attributed to me in the investigation were incorrect. At first he said, “What’s done is done,” until I told him I had it on tape and had called PLEA. He was forced to do the right thing and changed the investigation. The officer was vindicated, unfounded and released from the use of force, and I met a lifelong friend, Levi Bolton, during the process. He convinced me to become a PLEA representative.

In the weeks after this conversation with the officer about integrity I found a book called The Power of Integrity: Building a Life Without Compromise by John F. MacArthur. In the following statement he sums up in a succinct and concise manner how the world has gotten to the point where compromise is the norm:

“We live in a world of compromise—in a society that has abandoned moral standards and Christian principles in favor of expediency or pragmatism. The underlying philosophy is based on accomplishing goals by whatever means are necessary. This self-centered perspective should have as its motto: If it works for you, do it—a notion that inevitably leads to compromise of conscience and convictions. Because compromise is so prevalent in our society, you could say we no longer have a national conscience; guilt and remorse are nonfactors in determining behavior.

Politicians, who should be upholding the high ideals of our country, instead are leading the way in compromise. They promote their lofty standards and high ideals prior to their elections but compromise them once they are in office. The same holds true in business, from corporate executives down to salespeople; in the courts, from judges to attorneys; in sports, from owners to athletes; and in all walks of life. As a result, people learn to lie, cheat, steal and shade the truth—to do whatever is necessary to get what they want. Thus compromise becomes a way of life.”

As I sit here typing this article I am looking at an internal investigation in its fifth draft. The fourth IRP is just around the corner. Those who are involved are clearly grasping at straws as they tweak and massage the language in the investigative report in an effort to “get their man.” Every time I look at it I can’t imagine how the people who wrote it, read it, and signed off on it can sleep at night with compromised integrity.
The concepts of hostile work environments and whistleblowers are often misunderstood and misinterpreted. There have been numerous times over the years when employees have come to PLEA wanting to file complaints about hostile work environment or inquiring about whistleblower protection. There can be grey areas with regard to both.

Hostile work environments often go hand in hand with EEO violations which can take the form of sexual harassment, inappropriate comments, or actions taken based on one’s religion, race, color, creed, national origin, age, or sexual orientation. Most EEO violations in and of themselves don’t escalate to the point of a hostile work environment however in an extreme case, ongoing episodes of EEO violations could easily morph into a hostile work environment scenario.

A hostile work environment is generally defined as a workplace situation where an employee cannot reasonably perform their work due to certain behaviors by management or co-workers that are deemed hostile. Hostility in this form is not only a boss being rude, yelling, or annoying. It is very specific, especially in the legal setting when one is suing an employer for either wrongful termination or for creating an environment that causes severe stress to the employee.

Another manner in which a hostile work environment can be defined is when a boss or manager begins to engage in a manner designed to make you quit in retaliation for your actions. Examples of actions that could bring managerial retaliation are: reporting safety violations, getting injured on the job, attempting to join a union, complaining to upper level management about problems in the workplace (say an inefficient or broken crime lab for example) or acting as a whistleblower in any respect.

Here on the PPD, officers will often complain that the boss is “nickel and diming” them, putting them “under the microscope”, or generally singling them out and holding them to expectations and standards that the rest of the work unit is not held to. Depending on the circumstances, this could be considered a form of workplace harassment and if taken to the extreme would probably constitute a hostile work environment.

If the employer engages in activity designed to make you quit such as writing you up for work rules you didn’t violate, reducing your hours, or reducing your salary, the company’s reaction could be viewed as creating a hostile work environment that makes it impossible to work and is an attempt to make you quit so that the employer doesn’t have to pay unemployment benefits.

Another form of hostile work environment would be workplace violence or any overt hostility that threatens you physically. If you feel that you are at physical risk because of the behavior of another employee, specifically through violent behavior or threats of a violent nature, the employee’s manner is not only hostile but also potentially criminal.

Most experts as well as training given on the topic will tell you that if a peer or supervisor is engaging in some type of offensive behavior in the workplace that it is incumbent on you as the offended party to put that person on notice that their behavior is offensive. If the behavior persists it would then be considered a valid EEO violation. One offensive act by itself is usually not considered an EEO violation.

The question of whistleblower protection often comes up in connection with hostile work environments since in many cases the hostile work environment was generated by an employee that reported or “blew the whistle” on shady or inappropriate practices. There are federal and state statutes that deal with whistleblower protection and not all states have such protections.

The Whistleblower Protection Act is a federal law enacted in 1989 designed to provide protection to federal whistleblowers who work for the government and report agency misconduct. A federal agency violates the Whistleblower Protection Act if Agency authorities make (or threatens to take) a personnel retaliatory action with respect to any employee or applicant because of any disclosure of information by the employee or applicant.

Arizona’s whistleblower laws are addressed under Chapter 2 of ARS Title 23 Employment Practices and Working Conditions specifically ARS 23-418 and ARS 23-425.

Officers need to be mindful of what they say and when they say it as they don’t necessarily enjoy the same rights as employees in many civilian professions with regard to freedom of speech.

Noted police labor attorney, author and seminar instructor Will Aitchinson in his book The Rights of Law Enforcement Officers devotes an entire chapter to free speech issues in connection with law enforcement officers. In general terms cops enjoy the same freedoms as any other citizen when off duty and not in uniform. Things get more restrictive when in uniform or on the job. I’m not going to hang myself out on a limb by trying to describe in a few lines what is protected and what isn’t as there can be shades of grey based on a given situation and all situations are open to interpretation by the courts. For example whistleblowing speech is generally looked upon as protected speech while speech that is disruptive to the agency may not be considered protected. Therefore an officer that thinks their conduct is “whistleblowing” might be perceived as engaging in “disruptive behavior” and disciplined or terminated by their agency.

If in doubt about whether you should make certain comments or engage in certain activities that you are unsure of, you should, at a minimum, contact PLEA. If the situation is really unique or involves grey areas we will consult with our attorney’s for additional advice.
The Caprice PPV Ride and Drive Event

by Franklin Marino
PLEA Chairman

On January 13, 2011, PLEA Vice President Dave Kothe, Chairman Frank Marino, (Patrol South 51J Squad) Representative Bryan Hanania, (Tactical Support Bureau Canine Unit) PLEA members assigned to the Training Bureau’s Emergency Vehicle Operations Center (Driving Track) along with other sworn and civilian employees from the Training Bureau, Property Management Bureau, City Finance, and Public Works Departments attended a hands-on demonstration event of Chevrolet’s latest venture in the police vehicle market.

This full size, rear wheel drive vehicle is claimed to be purpose built for law enforcement use and is based on an existing design manufactured by GM Holden Limited, an Australian based wholly owned subsidiary of General Motors. It has a 355 horsepower Flex Fuel, 6 liter, V8 engine, coupled to a six speed automatic transmission with a Sport mode for performance, and has a limited slip differential.

In addition to a static display vehicle, which we were allowed to walk around, try out, and sit in, we viewed promotional Power Points and video testimonials. Afterwards, we had the opportunity to drive the vehicle on two courses. The performance course was set up to allow us to test acceleration, full braking, tight turns, evasive action, and included a slalom section. The larger street course allowed higher speeds, sweeping and tight turns to simulate a pursuit in an urban environment including freeways and city streets. Participants were able to take two runs on each of the courses.

PLEA is in the process of working with Chevrolet to facilitate additional hands-on testing of the Caprice at our EVOC at a later date when the current Ride & Drive tour is completed. This testing will provide valuable input and information as to whether the Caprice would be viable as an addition to our current patrol fleet. The collaborative effort demonstrated today by PLEA and the various Police Department Bureaus and City departments shows a commitment to striving for equipment that allows us to do our jobs more safely, efficiently, and at a reasonable cost to the citizens who we protect and serve.

Motor Take Home Issue Resolved

by Dave Dager
PLEA Trustee

On Friday January 14, 2011 myself, along with Joe Clure, met with Chief Jack Harris and Executive Asst. Chief Joe Yahner reference the Traffic Bureau’s motorcycle take home and redeployment issue. Chief Harris was very receptive to our issues and listened to our concerns. In working together we were able to come to a resolution on the issues and continue to keep motor take home.

Keeping the motor take home will allow us to put a greater uniform presence on the street for a longer period of time, increase motor coverage in a time when there are less motor officers on the road, decrease the amount of overtime paid for all the special events that is incurred by motor officers which will offset the take home cost, and allow motor officers to get back to supporting patrol officers.

PLEA would also like to acknowledge and thank Commander Joe Klima, Lt. Brian Lee, and Lt. Pat Hofmann for all of the work they put into the resolution of this issue.

DATES TO REMEMBER & BENEFITS TO MEMBERS

Rep from Aflac will be in the PLEA Office the second Wednesday of each month. Call Aflac Office @ 602.870.1122

Hester, Heitel & Associates Exclusive group insurance offers to PLEA
Members only for homeowners, and auto and liability.
Please call Mark or Loretta at 602.230.7726

Tom Jonovich Financial & Retirement Planning Sessions
3rd Thursday each month at PLEA Office 10am - Noon
Rep from Nationwide will be in the PLEA Office on Tuesday, February 22, 9am to 2pm to assist with Deferred Comp, 401(a), or PEHP and updating your beneficiary.
Call Kathleen Donovan @ 602.266.2733, x 1161.

2010 PLEA Dues Breakdown

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To Sign or not to Sign

by Ken Crane
PLEA Secretary

An issue that frequently comes across our radar here at the PLEA office is that of being required to sign certain types of documentation such as coachings, supervisory counselings, monthly notes and PMG’s.

Signing any of the above types of documentation can be contentious especially when negative remarks have been placed into the documentation that the officer might not agree with. If your boss is following proper protocol with regard to monthly notes you should be receiving a copy of the previous month’s notes to review and sign within the first two weeks of the month immediately following the month where the performance was documented. Officers will frequently call PLEA and want to know if they are required to sign their monthly notes. This question is usually followed by any number of explanations that centering on issues such as the boss putting negative comments in the notes, mischaracterizing performance, not telling the complete story and in some instances including things that may not have even occurred.

The short answer is…yes, you should sign the notes if requested. The analogy I like to use is that of issuing a traffic citation to a citizen. The majority of citizens cited probably aren’t going to think that a citation was deserved yet most are willing to sign indicating they have received the citation without admitting guilt or responsibility. The same rationale applies for monthly notes or PMG’s, your signature indicates that you have received, read and been appraised of your performance. Signing, especially when negative commentary is involved, doesn’t indicate agreement. Officers and supervisors alike should keep in mind that the monthly notes are simply a tool for the supervisor to use to track progress on a monthly basis until the employees annual PMG comes due. Once the PMG has been written and signed off on, the monthly notes from the past year should be destroyed. There is no need for supervisors to maintain desk files of notes on employees that go back two and three years.

Article 1 section 1-4 E. of the MOU specifically speaks to the issue of having negative commentary entered into ones personnel file. There are a few things that kick when this this happens;

1. Your supervisor must inform you if this occurs.
2. The involved employee is allowed to receive a copy of the adverse comment if they so desire and;
3. A unit member at their discretion may attach rebuttal statements to any material contained in departmental files.

It seems that a lot of angst is often created due to the verbiage used when documenting substandard performance in an employee’s notes. Supervisors are human and at times personality conflicts can creep in to the language of the monthly notes. In instances such as this the best initial strategy is to request a meeting with your supervisor and try to come to a compromise on language tweaks that will accurately document performance while removing the personality. In the event that a compromise can’t be reached, or if you feel that the information is inaccurate or completely false then contact a PLEA rep for additional assistance. A supervisor’s monthly notes are written for their use later on and any entries made should be done in a professional manner.

You as an officer have a right and should view your notes with a critical eye since they are public record. This means they can be obtained by a defense attorney via court order or by the media through a simple public records request. While supervisors do have latitude in how they write their notes, they should be factual and to the point and not be a rambling monologue or sound like a “Dear Diary” entry.

There is no hard and fast rule regarding how long you can examine your monthly notes before signing. Most officers on average might have somewhere in the neighborhood of 1-2 pages of notes for the past month which can easily be reviewed during the course of a shift briefing, signed and turned back in. Certain circumstances may dictate more time i.e. illness, injury, or exceptionally negative notes where an officer may want to seek some guidance from a PLEA rep before signing. Another situation that might necessitate some latitude in the length of review period would be those supervisors that like to accumulate three to six months’ worth of monthly notes before they serve them on the employee.

PMG’s on the other hand are a little different. Per the PMG manual, when the employee is served with the PMG draft, they should be given one to two days to review the draft PMG prior to meeting with their supervisor for any final discussion. This allows the employee an opportunity to read and digest what has been written about the past years performance and also allows them to prep for the meeting with their supervisor in order to discuss any changes requested by the employee prior to finalizing the document. Once this meeting has taken place and the PMG is finalized, the employee has 72 hours in order to review the final product and add any comments they deem necessary to the employee’s comments section prior to signing the PMG.

When used correctly, the supervisor’s monthly notes and the PMG are valuable tools for the supervisor and employee alike when it comes to tracking progress, providing important feedback and evaluating performance. By the same token, these same tools can easily be misused or abused if personality and vindictiveness are allowed to enter the picture. This often results in the loss of objectivity on the part of the supervisor and that’s usually when our phones start to ring.
MICHAEL NAPIER has been representing Phoenix officers for over 32 years. Mr. Napier is one of the most experienced labor and personal injury attorneys in Arizona. Mr. Napier has represented hundreds of officers before administrative bodies throughout Arizona, and has assisted critically injured officers and the survivors of the officers in obtaining compensation for their injuries and losses.

ANTHONY COURY has focused his 9 years of practice primarily on personal injury and wrongful death lawsuits in which he has served as plaintiffs’ counsel. He has experience in cases dealing with dram shop liability, negligence, governmental claims and products liability including service as counsel on the litigation team for Phoenix Police Officer Jason Schechterle.

KATHRYN BAILLIE was born and reared in Phoenix, Arizona, completing her undergraduate degree at Arizona State University. She served as a J.A. for the Third Circuit Court and then worked as a Public Defender in the Commonwealth of Kentucky before joining the Law Office of Michael Napier, P.C. She has worked with Michael Napier on personal injury and wrongful death cases, dram shop liability, negligence, administrative, disciplinary, and other employment matters.

JAMES P. ABDOWas born in Omaha, Nebraska. He earned his undergraduate degree from the University of Rochester in 1984 and his Juris Doctorate from the College of Law at Arizona State University in 1991. Mr. Abo served as an Assistant Attorney General for Arizona before entering private practice as a partner at two major Phoenix law firms, where his practice focused on commercial litigation of all types. He has extensive experience both representing government bodies appearing before numerous state, county and city agencies in numerous licensing, procurement and labor/employment matters. His practice also includes the formation, counseling and representation of business entities, the drafting of a wide variety of real estate and other contract documents in addition to litigating disputes arising out of contracts.

In addition to the full services provided to PLEA members to protect their careers, the Law Offices of Michael Napier P.C. provide the following:

- **Personal injury recovery** (on or off duty); experienced representation at a reduced fee;
- **Reduced fees** for matters not covered by the PLEA legal plan;
- **Free probate** of officer’s estate for line-of-duty death;
- **Free consultations** to members on any matter, and
- **Referrals** to attorneys or specialists for matters not handled by the firm.

2525 E. Arizona Biltmore Circle • Suite 130
Phoenix, AZ 85016
(602) 248-9107 • www.napierlawfirm.com

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21st Annual TAPS Memorial Golf Tournament

It’s time to start planning and getting your foursome together for the 21st annual TAPS Memorial Golf Tournament (formerly Briggs/Scott). This year’s event will be hosted by the Wigwam resort located at 300 E. Wigwam Blvd. in Litchfield Park and will be held on **Sunday April 10th, 2011**.

The informational flyer as well as the player application form can be obtained at the PLEA office or by going to the PLEA website www.azplea.com and clicking on the link located on the right hand side of the home page. For any questions concerning the event, contact Melissa at the PLEA office at 602-246-7869. We look forward to seeing you on the links!
If You Have A Grievance

FIRST: Attempt to resolve the matter informally with your supervisor.

SECOND: If you cannot resolve this with your supervisor, contact one of the representatives above.

REMEMBER: There are time limits to initiate a written grievance.

If You Are Being Investigated

RECORD: All interviews once you have been given an NOI.

COPY: All memos or paperwork related to the investigation.

TRUTHFULLY: Answer all questions related to the investigation.

If you are called by Professional Standards Bureau or any police supervisor regarding an investigatory interview or interrogation, you may have PLEA representation during that interview. Call for representation as soon as possible. For your convenience, a PLEA board member and representative are available 24/7.