Once again, PLEA members stepped up at Christmastime to give back to our community. This year an unprecedented amount of over $21,000 was given by PLEA Charities to MCSO Youth Assistance Foundation, St. Vincent DePaul, the River of Dreams, and the Phoenix Police Explorers. Checks were given to each organization at the PLEA office on Friday December 17. A video of the presentation can be viewed on the PLEA website under the article title PLEA Charities gives back. A special note of thanks goes out to Ann Malone of Require the Prior whose efforts brought over $42,000 to PLEA Charities through the November Indian School Block Party.
In the past several months PLEA board members have had officers and supervisors alike ask if the public safety pension system would be put in jeopardy for everyone as a result of PLEA bringing attention to the allegations of Jack Harris’ double dipping. The short answer back: Absolutely not. There are certain things that can put the pension system at risk, more on that later, but reporting potential abuse is not one of them. Consider the following conversation amongst three siblings in a household.

Sibling A: “Don’t tell mom that Bobby is taking cookies out of the cookie jar without permission or we’ll all get in big trouble.”

Sibling B: “Maybe if we tell mom that Bobby is the one who is taking the cookies Bobby will be the one in trouble and there will be a lot more cookies for the rest of us.”

We work in an organization that requires us to report misconduct if we witness it. Failure to do so can result in severe sanctions up to and including job loss. Knowing this, it is puzzling that there are some that seem to feel that we should turn a blind eye to serious allegations of fiscal abuse simply because “it will make us all look bad” or “it might ruin it for all of us.” It would seem that this kind of thought process is tantamount to having a sliding scale with regard to ethics and integrity.

There has been a lot of misinformation with regard to PLEA’s degree of involvement in the ongoing litigation challenging Chief Harris’ pension status. Some clarifications are probably in order.

1. **PLEA is not suing nor is PLEA a named party in the current lawsuit against Chief Harris with regard to pension issues. A group of retired and current officers, including myself, along with some citizens represented by Washington DC based Judicial Watch are suing Chief Harris because they believe pension laws may have been violated.**

2. **PLEA does not begrudge Chief Harris his pension or his drop money, he earned it, deserves it and worked hard for it.**

3. **PLEA does believe that when Chief Harris retired and was re-hired by the city to do the same job with a different title that the city ordinance as well as pension rules were violated.**

4. **No other city employees have been given the same sweetheart deal and PLEA has been told that when Chief Harris leaves, the Public Safety Manager position will be eliminated.**

Upper tier managers nationwide who “double dip” are but one factor that contributes to ailing pension systems. Pension systems are at risk nationwide and in many states and municipalities they are already extinct which leads us to the question; is the Day of Reckoning actually here in Arizona with the State’s pension systems? The short answer is yes. It is easy to point fingers, assess blame, or to be angry at a single dynamic, however there are a multitude of factors got us to where we are today. Each and every one of us needs to be supportive of doing whatever is necessary to insure that our retirement benefits don’t go the way of many of those throughout the country where systems are going broke and unable to pay their debts.

Some of the many reasons state pension systems are in the position they are in are poor investment strategies, the continued increase in benefits over many years when it may not have been prudent to do so, a bad economy, a stock market in the tank, out of control spending by city and state governments, no new hires [the engine that drives the system], upper tier municipal and state employees who double dip by retiring and getting rehired back into the same system to do the same job, and a desperately needed audit of the system which have all contributed to the system’s ailing health. Obviously some states are in much worse shape financially than others.

Aggressive strategies are being proposed to get out ahead of any potential harm to the system and although things are very serious they are not without solution.
PLEA recently published a parallel story on the PLEA website also titled *Day of Reckoning* where an informative news segment from 60 Minutes was posted that gives a very insightful view on the issue from a national perspective. Clearly, struggling pension systems are a national problem and are not at all unique to Arizona.

As pointed out, there are several things that can threaten the health of a pension system. One thing is certain, reporting and dealing with abuses of the system doesn’t threaten the system it helps preserve the integrity and longevity of the system for all of us.

In the coming year we are all going to have to be prepared to ride out the storm that is on the horizon. There will be proposed changes to the current pension system and anybody with a vested interest in the system is going to have their recommendations. In a perfect world PLEA would like to see no changes to the current system but this is simply not a realistic viewpoint given the current state of affairs of state budgets across the nation. One of the planned proposals from PLEA will be that we go to a two tiered system so that any new hires [when we do start hiring again] will still pay into the PSPRS system but will have a benefits package that is much differently structured than the one for employees currently in the system. While this proposal will be of some help it may not be enough and other measures may have to be considered as well.

**Membership meetings are the last Tuesday of each month**
- at 7:30, 12:30, and 5:30.

**Board meeting is held the 3rd Tuesday each month**
- and members can attend at 8:30 am.

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WELCOME!

PLEA is pleased to announce that even though there have been no new employees hired in the last two years that we have had a combination of new and returning members totaling 31 that have joined or re-joined PLEA in 2010. Numbers such as this indicate that new and returning members feel that PLEA is on the right track and is doing right by the members. Again Welcome!
Like the Mother Goose nursery rhyme, the current state of the Phoenix PD is another “House that Jack Built.” Let’s take a closer look at the house’s crumbling foundations in order to examine some of the reasons that have led us to our current state.

Our most current poll of the membership indicates that over 80% of those surveyed believe it’s time for a new chief.

Year after year there are certain things that remain constant when the membership is surveyed.

1. The majority of the members like being cops.
2. The majority of the members like working for Phoenix PD.
3. The majority of the members have low morale.
4. The majority of the members see leadership at the lowest level which tapers off to almost none seen when you get to the top of the organization.

Some might question how one can be happy in their job classification, be happy about where they work yet have low morale overall. The answer can usually be found in leadership or the lack of no matter what organization you are speaking of. The Phoenix PD seems to be in desperate need of a healthy dose of grounded leadership. It would appear by our current state of affairs that the days of the good ol’ boy network and the quid pro quo have caught up and are shaking the foundations of the house.

It’s open house at the Phoenix PD so let’s do a walk through and see the house that Jack built.

• Several years ago Jack made his management philosophy known to PLEA when he said; “I’m not going to let PLEA or citizens tell me how or when to do investigations, the issue of disparate treatment is over, if you don’t like the way we do investigations then promote.” This statement was made even though PPD policy is clear in stating that “To ensure the integrity of the Police Department, all alleged or suspected personnel misconduct observed or suspected by supervisors, department employees, or citizens will be thoroughly investigated.” It speaks volumes when a police chief feels they can violate their own organizational policy at will. This is the house that Jack built.

• State shared revenues are essential for our city to operate at the level necessary to provide effective services to the community yet time and again the Mayor, City Manager and others in city government ask for PLEA’s help in protecting state shared revenues, not Jack or any other members of the 4th floor. This is the house that Jack built.

• When community meetings were held across the city to discuss budget cuts, Jack and numerous other Asst. Chiefs and Commanders were in attendance at several of the meetings yet never spoke up in defense of preserving officer positions. This is the house that Jack built.

• Jack opposed the “Just Cause” legislation that was ultimately passed into law that mandates fair and consistent administrative treatment of police officers in Arizona. This is the house that Jack built.

• The current management structure in the PPD doesn’t empower supervisors to exercise leadership. Managers who have to continually check with the next higher level in the chain before making a move aren’t exercising leadership they are merely puppets on a string. This is the house that Jack built.

• Jack abandoned his seat on the AZPOST board because he was “too busy”. Was Jack really “too busy” or was he possibly told that since he is a Public Safety Manager he was no longer qualified to occupy a seat on the board designated for a Chief of Police? More importantly, why did Jack surrender this seat on the board without notifying his supervisors in city government about a decision of this magnitude? As a comparative note; Sheriff Joe Arpaio also holds a seat on the AZPOST board and is also often too busy to attend meetings at AZPOST. His solution; Have one of his deputy Chiefs attend on his behalf. This is the house that Jack built.

• About two years ago Jack and other members of police management met with members of city management and did a power point presentation and discussed ways in which they might be able to investigate the PLEA board criminally. City management stood Jack down and made it known that police powers would not be used for personal purposes. This is the house that Jack built.

• PLEA along with community partners wanted to promote the positive image of Phoenix police officers while raising money for charity. This was done in the form of a large block party covering 6 blocks along Indian School Road that took months to plan and organize. Many at the event to include some Phoenix officers wanted to know why there was such a heavy police presence from MCSO at the event. The police department notified the event organizer they would have to charge her $36,000 for event security and traffic control. Sherriff Arpaio did it all for free. Sherriff Arpaio and his troops got the kind of exposure and positive PR that money can’t buy. This is the house that Jack built.

• Jack wants to claim that his door is open to discuss issues with PLEA yet on February 24, 2010, Jack told PLEA Grievance Chair Dave Kothe that until the Judicial Watch lawsuit challenging his pension status was dropped there would be no labor management meeting with PLEA. This is the house that Jack built.

• When Sgt. Sean Drenth was killed, a PLEA board member rolled out to the scene when he got the officer down call. An on scene supervisor asked if it might be possible to use the nearby PLEA office as a place for the squad and other officers to gather. We were more than happy to help in any way possible. Our board
member opened up the office, put coffee on, and made our facilities available. It was the right thing to do. The officers had a safe and secure environment to hang out. CISM was able to meet with involved officers, and the Mayor, Councilman Claude Mattox, Asst. Chief Jeri Williams, Commander Chris Crockett, Lt. Mark Hafkey and numerous other supervisors came and went. Jack came to the scene and was told by an on scene supervisor that everyone was at the PLEA office. He reportedly became upset and wanted to know why everyone had been sent to that location. Jack never did stop in to check on the troops. It appeared that his wounded pride took priority over the troops and his ego was way too big to let him get anywhere near the PLEA office. **This is the house that Jack built.**

- When managers from all levels within the department speak to PLEA, some openly, and some covertly, the theme is the same. There is a serious lack of leadership at the top of the organization and it is time for change. **This is the house that Jack built.**

- Jack is quick to engage in a rush to judgment when it comes to arresting and bringing officers before a grand jury before all of the facts are known yet, on numerous occasions has refused to investigate complaints of criminal and administrative misconduct on his own police managers. **This is the house that Jack built.**

- PLEA was told that it was recently announced at a 4th floor staff meeting that access to the Chief’s offices would be through key card access only and only if one had an appointment. When members of the command structure can’t be trusted to come and go without appointments and use of a key card, the old saying comes to mind; “It’s not that I don’t trust you...It’s just...that I don’t trust you.” **This is the house that Jack built.**

- Jack can make time to attend City Council meetings in defense of his job position yet never seems to have time to appear at sentencing hearings to give impact statements on behalf of his officers who have been assaulted, injured or killed in the line of duty. **This is the house that Jack built.**

- While recently attending and speaking at briefings in the South Mountain Precinct, Jack reportedly stated to officers; “When you go on a radio call I don’t second guess your decisions, so I don’t expect you to second guess mine.” I guess this piece of sage advice applies to everybody except Rich Chrisman. **This is the house that Jack built.**

- Jack laments the lack of a relationship and speaks fondly of days past when he had a great relationship with the union President and problems were discussed over the phone or a cup of coffee. PLEA remembers a relationship where the past union President was told to “get their boy[s] on a leash” in reference to other board members who were only doing their jobs by representing their members. PLEA also remembers the strategy and philosophy of the same past President being too cozy with management which subsequently produced closed door side deals with Harris without the PLEA Board’s knowledge or approval - these deals generated internal misconduct charges. This strategy was unplugged by the members through a 2-1 vote to change the priorities of PLEA’s leadership. Perspective can be everything when talking about relationships. The past relationship between PLEA and management was like two wolves and a sheep deciding on what to have for dinner. **This is the house that Jack built.**

- It was new leadership at PLEA in 2007 that stood up to Jack by standing up for the members and said “no more” to unfair treatment of our members and “no more” to being a management lapdog. **This was the beginning of the end of the house that Jack built.**

- Many houses have great curb appeal and look fine at first glance. It’s often not until a more detailed inspection is completed that problems are revealed such as rusted leaking pipes, electrical wiring not to code, failing air conditioning units, faulty pool pumps, foundations that are eroded and crumbling, damaged roofing and termite infestations.

The house that Jack built also has great curb appeal but a more in depth look reveals an organization in crisis. A management team in turmoil, allegations of double dipping in the police pension system, a chief that has been dubbed the poster boy of double dipping by a national media outlet, failure to investigate EEO complaints, failure to investigate managerial misconduct, allowing blatant double standards to exist within the organization, diminishing confidence from the community, rock bottom morale amongst rank and file, and transferring numerous lieutenants out of the South Mountain Precinct less than three months after a city wide re-bid of personnel have all contributed to the current crisis.

As this goes to press it has now been made known that the DOJ’s Office of Inspector General is coming to town to investigate whether or not inflated kidnapping numbers were used when Chief Harris and Mayor Gordon gave testimony which allowed the city of Phoenix to receive $1.7M in federal stimulus money.

Even more alarming is when members of city government are very aware of the issues and continue to ignore the warning signs while acting as if nothing is wrong while they applaud the naked emperor as they tell him how beautiful his new clothes are.

Police departments and police careers aren’t a game. Lives, careers and the reputation of the Phoenix PD are at stake when things are allowed to spin this far out of control. Like strategically placed explosive charges that can turn a skyscraper into a dust covered heap of rubble in seconds, it will be interesting to see what the next explosive managerial boondoggle will be that brings the house that Jack built to the ground.

**Fallen Hero**

**Phoenix Police Officers**

Ken Campbell
January 29, 1984

Bob Fike
January 8, 1986

Scott Smith
January 3, 1997

**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 the 4th Thursday of each month to assist with Deferred Comp, 401(a), or PEHP and updating your beneficiary. Call Kathleen Donovan @ 602.266.2733, x 1161.
Recently, the Arizona Police Association, the labor organization which pools resources for many of the police associations in the state including PLEA, held its annual conference. The topics at the conference ranged from media relations to immigration, from suicide prevention to, as you would imagine, a heavy dose of officer’s rights. As with any type of annual training, this conference helped to remind us of some of the Supreme Court decisions which have largely shaped how PLEA defends you during internal investigations. It is in this vein I am writing this article, to refresh you on your rights and, maybe, inform you of some rights you did not know you had.

Garcetti v. Ceballos:
This decision has to do with an employee’s freedom of speech. The Garcetti decision (along with a laundry list of other court cases) tells us there is NO protection under the first amendment if what you say is within the official course of your duties. This also goes for anything you say during an internal investigation. Here are some of the decisions involving the first amendment and internal investigations: Bradley v. James; Pearson v. City of Big Lake, MN; Burns v. Borough of Glassboro; Pottorf v. City of Liberty, MO…see, told ya there were a lot. There are, however, a few court cases which say if you are commenting on a matter of public interest as a private citizen, you are protected under the first amendment. For example; if there is a ballot proposition you like or a political candidate you support and you are off duty and not in uniform, you can say whatever you’d like about the proposition or the candidate and you’d be protected by the first amendment. The general guideline is if you are speaking or writing while being paid by the city, in uniform, and/or you are using some form of departmental documentation (DR, memo, FI…whatever), then you’re NOT protected under the first amendment’s freedom of speech. There are some narrow and specific exceptions to this, but to be safe wait until you’re off duty before you say anything.

Garrity v. New Jersey:
Ah, yes...good ole Garrity. Most of us are familiar with our “Garrity rights,” which tells us if you are compelled by threat of possible job forfeiture to make an oral or written statement then neither the statement nor the fruits of the statement may be used against you in criminal prosecution. This means, if you have been served with a Notice of Investigation (NOI) then your Garrity rights protect you from being prosecuted for anything you say during the investigation. This reason for this is while under NOI you are compelled (or ordered) by the department to cooperate with the investigation and if you don’t you can be disciplined (let’s just say it…you’ll be fired for not cooperating). If what you say in the internal investigation is used against you criminally it would have been obtained through coercion (i.e. the threat of losing your job).

There are, however, a couple of hiccups involved with Garrity. First, Garrity only prevents the information from an internal investigation being used against you criminally, not the other way around. Anything and everything you say during a criminal investigation can be used during an internal investigation. This is why internal investigations aren’t usually begun until the Special Investigations Detail (or SID), who investigate criminal allegations against police officers, have completed their criminal investigation. I would like to take this opportunity to restate what PLEA has been telling officers who have been involved in investigations for the last 35+ years, “at all times, be truthful.”

Second, Garrity only protects you from internal investigations from the Phoenix Police Department and no other departments or agencies. For example; if you are working a multi-agency task force and are involved in a use of force incident in Scottsdale and the Scottsdale Police Department’s internal affairs investigator begins to ask you about the incident YOU ARE NOT PROTECTED BY GARRITY. Scottsdale PD has no authority to impose any type of discipline on you and therefore Garrity does not apply. You can refuse to speak to the Scottsdale investigator until you are ordered by Phoenix PD to cooperate. Once you have been ordered by Phoenix to cooperate with Scottsdale, then Garrity kicks in and you are covered.

Third, Garrity only protects what you say when you have been ordered to cooperate. Any type of “free talk” is not covered. For example; you are involved in an on-duty incident where you reasonably believe you could receive discipline. Your sergeant shows up on scene and asks you what happened. Anything you say at that point is considered “free talk” and NOT covered by Garrity. This can be fixed by asking your sergeant if they are ordering you to give a statement. Perhaps wording it like, “Sarge, I’d really like to tell you what happened, but I need to protect myself. So I’m afraid I’m gonna have to ask you to order me to answer your question.” Any supervisor worth their salt will understand and not take it personally.

As a final note; even though your statements may be protected against use by criminal investigators, other statements that are not Garrity protected could be harvested and used against you such as witness statements that may have been given by other officers in the same investigation.

Weingarten v. National Labor Relations Board:
Weingarten is one of those Supreme Court decisions we use all the time without realizing it. The Weingarten decision says if the department requires you to submit to questioning which you reasonably believe could result in discipline then PLEA has the right to represent you upon your request. This is a right afforded to you only if you are the subject of an internal investigation and not if you are a witness. On some occasions, not having a rep with you during one of these witness interviews can become problematic. Officers have been known to go from a witness in an investigation to the subject of an investigation during one of these interviews. That’s why it is wise to ask at the beginning of a witness interview if you could receive discipline for anything you say in the interview. If the answer is yes, ask for a rep. If the answer is no, then perhaps saying something to effect of, “I understand I am not the subject of this investigation and cannot be disciplined for giving truthful answers.” If at any time during the interview you feel you have gone from a witness to a suspect, you can ask for a rep. If you are not allowed a rep, continue to be cooperative and a grievance can be filed on your behalf later. In the succinct words of PLEA’s intrepid lobbyist and retired Phoenix Police Officer, Levi Bolton, “Comply now, grieve later.”

The bottom line with this very brief overview of your rights is to be aware of what you can and cannot do and to not be afraid to exercise them when the time comes.
On Friday December 3, 2010 PLEA was honored to be invited to a retirement sendoff held at the Academy to honor the service of former Phoenix PD Lieutenant and now Mesa PD Commander Heston Silbert.

As a member of the PLEA board, I as well as all of the other board members have attended numerous retirement functions over the years. It is always interesting to see who and how many show up to these functions. As Mark Spencer and I worked our way into the auditorium we were surprised to see that it was pretty much a standing room only crowd that had assembled to honor and say their farewells to Heston. Every rank was represented in the room with the exception of those holding Public Safety Manager rank. There were retired officers and supervisors, former squad mates, former supervisors, former partners, folks from MOB, Gangs, AC-TIC, and of course a healthy serving of folks from SAU where Heston had served as an officer, lieutenant, and, as several people including Heston jokingly mentioned, as the shortest lived commander of the unit. The Hollywood equivalent would have been a sendoff for a rock star with “A” list celebrities in attendance.

After finding a couple of chairs on the side of the room, we settled in and listened as a handful of Heston’s many friends got up to share their stories and wish Heston well in his new assignment. One of the more notable presentations was made by South Mountain precinct’s “last man standing” Lt. Sean Connolly who presented Heston with a plaque for his dedicated service and leadership from the men and women of that precinct.

As people told their stories, several things became readily apparent:

- **Heston is a true leader.**
- He understands the concept and philosophy of servant leadership (a concept that seems to be completely alien to many of our managers).
- **Truth, honor, integrity and fairness** are principles that he believes in and lives by.
- He has learned that by serving, people will naturally want to follow.
- The people assembled as well as those who spoke were truly there because they wanted to be and the words being spoken were sincere and heartfelt, not empty platitudes.
- Possibly the most unique thing I’ve noticed about Heston over the years is that whether you worked with him, for him, or simply around him, I’ve yet to run into anyone that has anything bad to say. This is truly amazing considering the profession we work in, as cops usually aren’t shy about speaking their mind.

As I listened to the presentation and heard about Heston’s career track, his ability to excel and demonstrate leadership in any work unit, along with awards and commendations received, many for exemplary leadership skills, I couldn’t help but think that this guy is what we referred to in the military as a “rocket on a fast track”. The question is why would the PPD want to let a guy like this go?

Perhaps it’s because true leaders tend to be confident strong willed people. They can sometimes be stubborn, almost to the point of being obstinate. They surely aren’t yes men and if the boss is wrong they aren’t afraid of saying so. Values that are mere words to many like truth, fairness, honor, and integrity actually mean something to them and they aren’t afraid to stand up and voice objections when they see these principles being violated. True leaders aren’t afraid to stand on the courage of their convictions when everyone else runs for cover.

I believe that many organizations aren’t fond of true leaders simply because they don’t know what to do with them. It’s like trying to harness the power of an Arabian stallion. If you climb on, you’d better know what you’re doing or you’re gonna get hurt. Just like the stallion that can sense when a novice rider is aboard, true leaders have highly refined BS detectors and tend to bow their backs when the person in charge doesn’t know what they are doing. As most everyone knows, the Phoenix PD tends to be an organization where leadership style is often characterized by terms like “yes man” and “company man” rather than by any term with the word leader in it. That’s not to say that there aren’t a few gems scattered in amongst the managerial rubble out there. Organizations like ours are fond of espousing principles like truthfulness and integrity... unless it means speaking out against the boss or the organization. Sadly, for many managers and organizations, concepts like truthfulness, honor and integrity are like malleable gobs of clay to be twisted to their liking to fit a given situation. For organizations that think this way, true leaders and truth tellers are just not a good fit, in fact, they are a threat. Except in rare instances, weak leaders or managers will almost always see true leaders or strong leaders as a threat to be dealt with rather than a resource to be developed, cultivated and duplicated.

One thing that Heston, I, and the Chief all have in common is that we’ve all achieved the pinnacle of our careers within the Phoenix PD. When you have the kind of energy, leadership potential and desire to serve that Heston has, you make the jump to the next level even if that jump takes you to a different agency to continue your career track. Our loss is truly Mesa PD’s gain and it’s too bad that the Phoenix PD’s shortsightedness in dealing with personnel issues caused us to lose one of the good guys.

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**PLEA Elections**

As a reminder, any PLEA member wishing to run for an elected position in the PLEA organization must meet the requirements laid out in Article IV of the PLEA Bylaws (election of officers) which is accessible via the PLEA website in the menu located on the left hand side of the member’s only section. Any member with questions concerning the election process should contact the PLEA office for additional information.
The Board Of Trustees

Chairperson
Frank Marino

Vice Chairpersons
Mark Spencer

Representatives
Dave Kothe
Jerry Gannon & Ken Crane

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.