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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

All interviews once you have been given an NOI.

Record: 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.

The Grass Is Greener

For several years I've taught seminars around the country for the Labor Relations Information System, on “How to Run a Police / Fire Union.” LIRIS is a nationally recognized company created by attorney Bill Atchinson, a very skilled labor/administrative law attorney based in Portland. Will is Co-counsel with PLEA attorney Mike Napier in one of our issues with the city.

I taught one of these seminars last month. There were 285 participants. Included were four from the PPLSA, three from the Police Officers Association and four from the LA Police Protective League. Also there were police and fire union representatives from thirty-one states and the District of Columbia in attendance.

Last month I wrote about “We have what others want.” I found more of the same during this seminar. This week I’m sending out copies of our new comprehensive discipline policy to several unions. Copies of our pre-contract survey, copies of our “employees and administrative investigations” pamphlet that PLEA and the department created a few years ago will be going out too. I was also asked if Phoenix was taking lattes!

I learned something new each time I do this. I know that there are at least thirteen states that have no collective bargaining or meet and confer rights (the horror stories from the group from Missouri were unbelievable).

Will Atchinson is a master at leading his instructors into the next bit of info he wants to discuss. He seems to take particular pleasure in showcasing PLEA’s accomplishments as a means of generating questions and motivating new union officers. From the Labor/Management portion there was much interest in our most basic principal—the NOI. Many found it unbelievable that a department would tell you what you were under investigation for. There was equal disbelief that we had an IRS process. The ability to review the investigation and have input on its content is a shocking concept to everyone I spoke with.

From moving toward a full fleet of Chevy Tahoes, to equipping motors and SROs with Tasers, to doing away with residency requirements, to having union representation on the healthcare task force, these and other things we take for granted are unheard of in other parts of the country.

You’ve heard the story about the color of the grass on the other side of the fence; well, we’re standing on it.

Blood Drive

For the second time in the past few months PLEA provided the space for the department’s blood drive. We received a thank you note from Det. Jeannie Custer.
As a PLEA Rep, a member of your contract negotiations team, and currently the department’s off-duty work coordinator, I feel it is my duty to explain to you changes that have occurred in the off-duty work policy over the past 12 months. Recently, the Off-Duty Detail has experienced an increased number of complaints about police personnel (not just officers) as it relates to off-duty work. A few examples are allegations of perceived double-dipping, sleeping while at an off-duty job, the use of other agency’s officers working traffic jobs, not taking dispositions on calls for service, and refusing to “25” an on-duty supervisor at his request. In a perfect world none of us would have to work off-duty. The city would pay us enough and we would be able to put in 40 hours a week and spend the rest of the time with our families. We all know this is not a perfect world. In 2005, 1,670 officers worked almost 350,000 hours of off-duty. This only includes employees who logged into the precinct. That equates to over 168 full-time employees or almost an entire precinct of man-hours being worked. As you see there is potential for a huge liability on the individual officer’s part. I hope to make you aware of that liability and prevent you from becoming a victim.

At first glance, Operations Orders 3.11 “Off-Duty Work” might seem pretty intimidating. Ops 3.11 is 18 pages long and encompasses the department’s entire policy relating to off-duty work. The basic principles of the off-duty policy are as follows.

- You MUST fill out departmental Form 80-9D “Request for Off-duty.” Eventually YOU WILL NOT be able to log into the precinct without this form on file. It can be downloaded from [http://www.phoenixpolice.com] under the Forms section. You only need to check the top box and submit the form one time. You DO NOT need to re-submit the form every year. 3.11.3.1A

- You MUST have verbal approval from a supervisor prior to working an off-duty job. 3.11.7.1A

- You MUST fill out an Off-Duty Work Permit Form 80-40D (the little yellow card). 3.11.4.1B

- You MUST wear an appropriate authorized uniform. (Class C/DP uniform) 3.11.14.1D.1A

- You MUST log into the precinct at the beginning of an off-duty job. 3.11.14.1B.4

- You MUST advise radio dispatch OVER-THE-AIR of your off-duty location, serial number, and hours you are going to be working. 3.11.14.1B.4

- You MUST monitor the radio frequency that covers the precinct where the Off-Duty job is located. 3.11.14.1J.1A

- You MUST take appropriate police action, including reports, for incidents occurring at your employer’s property. (Traffic accidents in the city street will be taken by On-Duty officers) 3.11.14.1G.1

- You CANNOT work for private police or security agencies except for traffic control (i.e. Right Choice, Shunnway, etc.) For all security jobs you MUST be paid directly by your employer. 3.11.12.1A

- You SHOULD obtain false arrest insurance. PLEA sells a policy for $10 dollars a month that gives you $1 million dollars of coverage. This policy not only protects you against false arrests but also against other liabilities while working off-duty. Contact the PLEA office for more details.

While working off-duty you MAY NOT be covered under WORKER’S COMP. 3.11.14.1A.3

Policy states that industrial insurance is provided as a condition of city employment and MAY NOT be covered while working for an off-duty employer. It further states that you MAY be covered while taking police action at an off-duty job; however, it will be determined by the city on a CASE-BY-CASE basis.

Coordinators work off-duty may NOT maintain records for their job sites, including who worked, dates, and hours. 3.11.5.A.2

- You MUST submit the Coordinator Quarterly Report Form 80-75D to the off-duty detail the 10th day of January, April, July, and October for the previous quarters 3.11.5.A.2

- You CANNOT solicit off-duty work. You MUST refer them to the Off-Duty Detail. (The business can request you to coordinate) 3.11.1.I

Wow! That is a ton of information and responsibilities that you have to worry about. Surely, the department will not care if one or more is forgotten. Right? I wouldn’t put my off-duty money at risk on that belief! The department expects all regulations in the 18 pages of the off-duty policy to be correctly followed. In fact, Ops 3.11 states that your off-duty privileges can be SUSPENDED or REVOKED for just cause.

Recently, we have been getting an increased number of calls related to Glendale, Surprise, and other agency’s officers doing traffic control in Phoenix. Per Ops only Phoenix, MCSO, and DPS can work traffic in Phoenix. The legal department just gave us the authority to crack down on companies hiring other officers. If you see anyone other than the three listed above doing traffic control call the Off-Duty Detail immediately at 602-262-7323. Those people have NO RIGHT to be taking those jobs. The Off-Duty Detail will aggressively investigate any claims brought to us. Help us make sure PHOENIX OFFICERS are making that money, not someone else.

Effective February 1st, 2007 all patrol supervisors are required to conduct random off-duty site inspections. These supervisors will be looking to make sure all of the above policies are being correctly followed. They will be using the off-duty inspection form. If any of the items on the form is not in compliance, those forms will get forwarded to your chain-of-command. They will then decide what disciplinary action, if any, will be taken against you. My advice: Make sure you follow Ops Order 3.11, do not give them any reason to fail you on an off-duty inspection. You do not need the headache that could result from that. Along with patrol supervisors, the PSB inspections unit, the Off-Duty Detail, and sometimes even Car 4 are also conducting random off-duty site inspections. Make sure you are covered!

Coordinators: Make sure you are keeping good accurate records. The policy puts the burden on you to have accurate records. Make sure you turn in your quarterly reports on-time. Try to take care of your guys that you have working jobs. Make sure that neither you, nor they, get jammed up. Also this year the off-duty detail will be conducting inspections / audits on Coordinator sites. Be prepared for that!

If you have any questions / concerns about the off-duty policies contact me directly at 602-534-3142. I will gladly answer your questions and make sure you are within policy. I would much rather hear from you now than be sitting next to you as you get an NOI for failing to comply with one of the above policies! If you are accused of any misconduct, as always, make sure you contact your PLEA Rep immediately. Remember, while working off-duty you are representing the department. People notice our actions while we are working off-duty. Try to do a good job and portray a good image. Most of all stay safe out there!
RECAP PAGE 6

401.a Account Deadline: June 30th 2007

Are You In or Out, FOREVER!

By Joe Clune, Treasurer

NOW is the time to act! Over the years PLEA has obtained many benefits for its members. Almost two years ago we negotiated a new 401.a deferred compensation account with slightly different features than our 457 deferred compensation account.

One of the conditions of the IRS places on the 401.a account is that employees have up to two years to make an election to make systematic contributions. Failure to make an election to enroll within the two year window means you are out of luck, FOREVER!!!!

So, you have until June 30th, 2007 to choose from the following contribution options:

Option #1: You may make systematic contributions per pay period of the following percentages:
- 1% of gross wages
- 2% of gross wages
- 4% of gross wages
- 8% of gross wages

Option #2: You may make an escalating rate based on years of service as follows:
- 2 or more years, but fewer than 5 years of service = 1%
- 5 or more years, but fewer than 10 years of service = 3%
- 10 or more years, but fewer than 15 years of service = 5%
- 15 or more years, but fewer than 20 years of service = 7%
- 20 or more years, but fewer than 25 years of service = 10%
- 25 or more years of service = 15%

If you choose the escalating rate based on years of service you will start your contribution at the level equal to your years of service. For example, if you have 18 years on, your contribution rate will begin at 7% and increase accordingly.

If you do nothing by the deadline, you lose your deferral option for the systematic contribution. You will still be allowed the "roll-over" option of unused sick, vacation, and comp time into a 401.a account at retirement.

If you wish to begin your contributions, contact Nationwide at 602-266-2733.

As a Board Member of the City of Phoenix Deferred Compensation Board, please contact me at the PLEA office if you have any questions on the 401.a or 457 deferred compensation accounts.

RECAP PAGE 3

Hi Folks!

It's that time of year again when Nationwide Retirement Solutions will be conducting a phone survey of 500 random DCP 457 and/or 401(a) Plan Participants (employees and retirees) to get their input on the customer service provided by Nationwide. The phone calls will take place from approximately 3/26 thru 4/16.

NATIONWIDE DCP SURVEY
Beginning in late March and continuing through April, a random sampling of employees and retirees who are participants in the City of Phoenix Deferred Compensation Plan (DCP) and/or 401(a) Defined Contribution Plan will be surveyed by phone by an independent research firm on behalf of the City of Phoenix Deferred Compensation Plan Board and Nationwide Retirement Solutions. Employees and retirees will be asked various questions regarding the customer service provided by Nationwide. Those contacted for the survey who have questions or wish to verify its validity can contact Dave Schlaegel, Nationwide Retirement Solutions, 1-800-382-2822, ext. 45851.

LAW OFFICES OF MICHAEL NAPIER, P.C.

MICHAEI NAPIER has been representing Phoenix officers for over 30 years. Mr. Napiers is one of the most experienced labor and personal injury attorneys in Arizona. Mr. Napiers has represented hundreds of officers before administrative bodies throughout Arizona, and has assisted critically injured officers and the survivors of officers in obtaining compensation for their injuries and losses.

JANET FELTZ has been an attorney for over 21 years. Most recently, Ms. Feltz has been administratively hearing officer in discipline hearings and other employment matters before boards and commissions.

ANTHONY COURY has focused his practice primarily on personal injury and wrongful death lawsuits in which he has served as plaintiffs' counsel. He has experience in cases dealing with product liability, negligence, governmental claims and dram shop liability, to name a few.

In addition to the full services provided to PLEA members to protect their careers, the law Offices of Michael Napiers, 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 officers estate for line-of-duty death;
- Free consultations to members on any matter, and
- Referrals to attorneys or specialists for matters not handled by our firm.

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Can I Get a Volunteer?

By Karen Learnder

"Work not requested but suffered or permitted is work time. For example, an employee may voluntarily continue to work at the end of the shift. He may be a pieceworker, he may desire to finish an assigned task or he may wish to correct errors, waste part work, prepare time reports or other records. The reason is immaterial. The employer knows or has reason to believe that he is continuing to work and the time is working time. (Handler v. Thresher, 191, F. 2d 120 (C.A. 10, 1951); Republican Publishing Co. v. American Newspaper Guild, 172 F. 2d 943 (C.A. 1, 1949); Kappler v. Republic Pictures Corp., 59 F. Supps. 112 (S.D. Iowa 1945), aff'd 151 F. 2d 543 (C.A. 8, 1945); 327 U.S. 757 (1946); Hogue v. National Automotive Parts Ass'n, 87 F. Supp. 816 (E.D. Mich. 1949); Barker v. Georgia Power & Light Co., 2 W.H. Cases 486; 5 CCH Labor Cases, para. 61,095 (M.D. Ga. 1942); Steger v. Beard & Stone Electric Co., Inc., 1 W.H. Cases 593; 4 Labor Cases 60,643 (N.D. Texas, 1941)."

The previous quote comes from the Code of Federal Regulations Pertaining to U.S. Department of Labor. In other words, it is illegal for your employer to allow you to volunteer your time if it is a policy or practice.

So why is it that we as police officers routinely volunteer our time whether it be as a performer or a camp counselor/chauperon? I believe it is because we are afraid that the police department will discontinue what we do. Some officers feel that it is worthwhile for them to volunteer their time to promote the interests of the police department. Some do it for the kids. No matter what the reason, the department has an interest and therefore a responsibility.

Your contract says that any work performed outside your regularly scheduled hours shall be compensated at time-and-a-half. Yet, there are many of us who are not compensated for these hours at any rate. I know of one situation where some employees are being compensated, albeit at straight time, while others are not. When a member brings an issue to PLEA the association is obligated to investigate. PLEA is prohibited by law from soliciting a grievance.

I am very proud to be a Phoenix Police Officer and do whatever I can to promote the department in a positive light. If an officer volunteers his or her time to benefit the department, whether it be at the level of exposure, goodwill, promotion, etc. sometimes not only locally but nationally, it seems reasonable to reason that the officer should be compensated either monetarily or with compensatory time at the rate of time and a half or with an adjustment in work hours.

It could be argued that some of the functions performed by these officers are not functions of a police capacity and are therefore exempt from this mandate. Aside from the fact that the department co-sponsors these programs, I would argue that the officer at the children's camp is expected to do the same thing he or she is expected to do at his or her school. In addition, the officer must enforce the law, make any appropriate arrests, protect life and property, and perform any other police functions, as necessary. Whether you are in uniform (and some volunteers are at some times) or not, you are expected to take police action when appropriate. If you get hurt in a situation like this, are you covered by worker's compensation?

A mention of the officer's goodwill in his or her volunteering in an annual evaluation is not enough. Even a commendation is not enough. According to the FSLA (Fair Labor Standards Act) the employee must be compensated and is not allowed to volunteer (29 CFR 535.162 – Employment by the same public agent). The mention of the significance of programs such as these in a commendation and boasting of the immeasurable benefit to our community and youth, so far, is beside the point when a decision is made to eliminate the program rather than fund it.

Apparently, as of late, the department is looking into this matter at the direction of Director Richard and there may be a resolution in the near future.

We have some good programs which should not be dismantled simply because the department does not want to compensate the officers involved. These officers volunteer their time not because they want to, but because what they do is their passion. The intent of this article is no way to imply that we should eliminate any of our worldwide programs that are driven by non-compensated police officers. Rather, the department should compensate for these donated hours. It’s the law.