Saturday April 25th turned out to be a great day for golf and an even greater day for TAPS (Tuition Assistance for Police Survivors) as scores of attendees gathered for the 19th Annual Nationwide Retirement Solutions Briggs/Scott Memorial Golf Tournament held at the Lookout Mountain Golf Club at Tapatio Cliffs. T.A.P.S., a 501.c.3 charitable organization, reimburses eligible dependents for college tuition, books, and materials. Eligible recipients are dependents of Phoenix Police Officers that die other than in the line of duty however, only beneficiaries achieving a “C” or better receive reimbursement from TAPS.

Since 1997, eligible survivors received over $185,000 in tuition, books, and materials, paid by TAPS. Benefits are available to ALL survivors of Phoenix Police Officers regardless of rank. Survivors of officers, sergeants, lieutenants, and commanders have all been beneficiaries of TAPS assistance. Twenty-one eligible dependants have received reimbursement benefits with some recipients earning bachelors degrees in nursing, journalism, business, and political science, while other graduates have continued on to pharmaceutical and law school.

Nationwide Retirement Solutions helped make this one of the most successful tournaments in our history, by raising over $21,600.00. This is the second consecutive year Nationwide Retirement Solutions has stepped up to be the corporate name sponsor of the tournament! Nationwide is on T.A.P.S. side! We look forward to our continuing partnership with Nationwide. Our thanks go out to all golfers and financial supporters who continue to make this TAPS charity event a success and going the extra mile during this years outing:

**19th Annual Nationwide Retirement Solutions Briggs/Scott Memorial Golf Tournament Benefits T.A.P.S.**

By Joe Clure
PLEA Treasurer

- Nationwide Retirement Solutions Corporate Name Sponsor
- Tournament Committee
- The Lookout Mountain Golf Club at Tapatio Cliffs for their beautiful course and excellent event staff
- The Pointe Tapatio Resort for their fabulous lunch and amenities
- Thank-Q Rentals for their yearly support of anything we need
- PLEA for their management of the TAPS charity
- Signs by Tomorrow for our great on-course advertising and banners

LAW OFFICE OF ROBERT J. KAVANAGH • MELVIN CONCRETE • NGH POWER SYSTEMS
PHOENIX POLICE ATHLETIC CLUB • JOE & KATHY KNOTT • INNOVATIVE CREATIONS
MARK HESTER OF HESTER, HEITEL & ASSOC. • SOUTHWEST AIRLINES
JOHN'S UNIFORMS • STRATEGIC FINANCIAL CONCEPTS • DENNIS NEBRICH
PHOENIX POLICE SERGEANTS & LIEUTENANTS ASSO. • MICHAEL NAPIER, P.C.
COLDWELL BANKER RESIDENTIAL BROKERAGE • GALLOWAY ASSET MANAGEMENT, LLC.
ANDREW M. HULL, ATTORNEY • HIGGINS PRO SPORTS
COLDWELL BANKER RESIDENTIAL BROKERAGE • GALLOWAY ASSET MANAGEMENT, LLC.

**A HEARTFELT “THANK YOU” TO OUR 2009 RAFFLE CONTRIBUTORS**

- AFLAC
- ARIZONA CARDINALS
- ARIZONA DIAMONDBACKS
- ARROWHEAD COUNTRY CLUB
- AVIO GOLFER
- BBQ COMPANY
- BOEING
- CARRABBA’S ITALIAN GRILL
- JOANI CARRAS
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- DOVE VALLEY RANCH GOLF CLUB
- JERRY DUNCAN
- EMBASSY SUITES, NORTH PHOENIX
- Hertz CORPORATION, JOHN WHITLOW
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- THUNDERBIRDS, JANE JACOBSEN
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- VERIZON WIRELESS
- VERVE, TODD WHEATCRAFT
“For over 200 years, the Constitution has served as the cornerstone of our Nation’s democracy and the principal guarantor of freedom and equality for all Americans”: a statement written by the Honorable Jack Brooks, Chairman on the Judiciary of the House of Representatives as part of the foreword in a book entitled, “The Constitution of the United States of America.”

As we approach the end of another legislative session, my enthusiasm is bittersweet as to our latest attempt to gain a “Just Cause” (with definition) as an addition to ARS 38-1101. With the aroma of success in gaining some consensus among representatives from groups such as Arizona Chiefs of Police, Arizona Associations of Counties, the Maricopa County Sheriff (who has been a huge supporter of this bill), among others, has been overshadowed by the prospect of this important legislation not making it to the floor for a vote this year. The budget has claimed center stage at the State’s law making body and bills that may have been heard and moved forward for a vote have been trimmed off agendas and may not be addressed this session.

We are left with those that don’t understand that Police Officers have not been excluded from the protections afforded all Americans by the United States Constitution.

Despite the gains we have made and the wonderful support we have received this year in our individual meetings with legislators, some are still reluctant to support our mission of gaining some guarantee as what process is due those who protect, serve and sometimes die to protect the rights of others. We are left with those that don’t understand that police officers have not been excluded from the protections afforded all Americans by the United States Constitution. Perhaps now, we too can be worthy…unfortunately after 200 years, there is still a group of Americans called police officers that have to petition their government to have the Constitution apply to them too.
The families of Shane Figueroa agreed to a sentencing plea from Salvador Vivas-Diaz for manslaughter. The plea carried with it a 10.5-16 year penalty. A trial would have produced a maximum penalty of 21 years. The suspect, at the time of his arrest, was in the country illegally, had three fake identification cards, and had two prior DUI’s. After hearing statements from victim supporters and a statement from the suspect, Judge Kemp sentenced Diaz to 16 years.

**PLEA made the following statement:**

"Sadly, once again, another Phoenix Police Officer has been killed by an illegal alien. Sadly, once again, another widow and her children, another father and mother are left with a huge void that can never be filled.

Indifference is the purest form of hatred. The suspect showed indifference to the line on our southern border. Apparently they don’t apply to him. And most egregiously, the suspect was indifferent to the life of Shane Figueroa. Sadly, once again, indifference to the lines and indifference to the laws by a person who should NEVER have been here in the first place has cost another Phoenix Police Officer their life.

The courts of Arizona have shown this suspect mercy. They have not required him to forfeit his life - he still breathes while Shane lies dead. The taxpayers of Arizona, including Shane’s family and Phoenix Police Officers, have and will be paying for this suspect’s food, clothing, and medical care out of their own pockets. Enough mercy for him.

Today I’m asking the court to show mercy to Shane’s personal and professional family. Please send a clear message to counter the blatant hatred inflicted on officers of the court and families of our community by this suspect."

PLEA would like to thank all of the officers, detectives, and police supervisory personnel that attended in order to show their support for Shane, his loved one’s, and coworkers.

Public Safety Manager Harris could not attend. He was at a pension board meeting defending his job position and benefits.
Okay ladies and gentlemen, the photo cameras are killing us, and the Executive Staff and DAC are not helping. ‘It’s time for a quick policy review. The policy (in addition to routine driving) identifies three types of driving: Emergency Response, Traffic Enforcement, and Pursuit Driving. When driving on a daily basis, you should ask yourself which mode you are in to see how Title 28 and Phoenix Police Department Policy affect you.

1. EMERGENCY RESPONSE

When responding to emergency calls a “maximum of 15 mph above the speed limit is authorized.” Now, we are all aware of this policy but let me be the first to remind everyone that this is not a “suggestion.” The very mention of an “acceptable deviation from policy” sends the DAC into a tizzy. In fact, even in a marked patrol vehicle with overhead emergency red and blue lights flashing and siren blaring, you may not drive more than 15 mph over the posted speed limit to any of the following situations:

- An officer involved shooting even when the on-scene supervisor is requesting more units.
- A fellow officer putting out a 906 over the radio.
- A supervisor requesting a 907.
- Officers on-scene requesting additional units for a large fight.
- Officers on-scene being assaulted at a large fight.
- The fire department requesting a 907 for a subject with a knife.
- A collision with a vehicle on fire and citizens still stuck in the car.
- A DPS officer out with a felony warrant requesting an additional unit from Phoenix.
- Any situation where you are simply a resource (K-9, rifle operator, etc.) regardless of the crime.

Now many employees do their best to abide by the 15 mph over policy. However, let me remind you that “A maximum of 15 mph over the limit is authorized.” This means 16 and 17 mph over the speed limit are not authorized. Seems simple enough but let’s hope your vehicle’s speedometer is calibrated. You did calibrate your speedometer at the beginning of shift, didn’t you? If you believe you are traveling 15 mph over the speed limit but your speedometer is not calibrated and you are actually traveling 16 mph over the speed limit – you are out of policy. It appears the Phoenix Police Department is clearly more concerned that you keep your eyes firmly fixed on the speedometer as opposed to the traffic conditions.

Let’s not kid ourselves – the Phoenix Police Department’s driving policy is not even close to what Title 28 permits. Let’s say you’re headed for an emergency radio call of a home invasion in progress. You go down the check list in your head:

- Authorized emergency vehicle -- CHECK
- Violent crime and/or life-threatening situation in progress -- CHECK
- Emergency lights and siren activated -- CHECK
- Driving 13 mph over the speed limit (didn’t get your speedometer calibrated yet and you want to be sure) - CHECK
- Right turn on red without coming to a complete stop -- BUZZ!!

Although Title 28 allows this and requires you to slow down “…as necessary for safe operation” policy states you can make that right on red “only after coming to a complete stop…” Congratulations! You just got an out of policy maneuver. As a side note, be sure to come to a stop BEFORE the crosswalk and not in it. A.R.S. 28-645A3B covers this and the photo cameras are set to trip prior to the crosswalk.

2. TRAFFIC ENFORCEMENT

Let’s pretend (just for fun) you simply can’t drive the speed limit. So when can you exceed the speed limit and do it by more than 15 mph? Ladies and gentlemen, traffic enforcement is the place for you! Policy allows you to exceed the posted speed limit (although it states “not normally exceed…”) to catch speeders. Realistically you will have to speed to catch a speeder…it’s a no-brainer. However, excessive speed, aggressive driving, reckless driving, and DUI seem more important and dangerous to the Department than little things like home invasions, armed robberies, shootings, and barricades! Oh, and by the way, just make sure that this only occurs in “on view” situations. Exceed the speed limit by more than 15 mph for dangerous traffic that comes out as a radio call and you are out of policy! Of course, this is not stated in Operations Orders; you are just supposed to know it.

Maybe traffic isn’t your cup of tea. Why not get on a detail where the Secret Service and the President of the United States require your detail’s resources? Then you can roll code-3 (contrary to Title 28) to a non-violent, non-crime, in non-progress, and a non-life-threatening situation simply because the President is involved. I looked for the “presidential resource” exemption in A.R.S. 28-624A but I couldn’t find it. Surely there is a federal code that covers this but similar to immigration…it’s not our job to use federal code.

Unmarked vehicles

So what if you don’t drive a marked unit on a daily basis? Does this mean you cannot speed at all (bummer)? Actually there is no exception in our policy for unmarked vehicles (even on police business like say, surveillance) to break the traffic code unless you are equipped with the appropriate equipment. Policy defines an authorized emergency vehicle as having “identifying decals” which unmarked vehicles obviously do not have. Title 28 allows for an authorized emergency vehicle to be unmarked but not our policy. Policy defines emergency response driving as “operation of an authorized emergency vehicle” and therefore must be marked. So, SAU, MOB and Gang Squad, do not ever respond to any type of call with your emergency lights and siren activated! Although you are covered by Title 28, you obviously are not responsible enough to operate under state law, thus our policy forbids this type of action.

What does this mean? There is no Title 28 or policy justification for a police vehicle (without lights and siren) to go through a red signal or exceed the speed limit regardless of the circumstance – like surveillance. How can this be when the DAC routinely finds these violations in policy? Under the guise of “police response” the violations are justified – this is, as long as they are less than 15 mph over the posted speed limit and there was no collision. Before you ask, a detective responding to a scene (homicide, shooting, a
3. PURSUITS

Now for a word on pursuits -- we all know we can pursue (marked units only) for violent felonies with an unknown suspect (this is different than what Title 28 allows). The DAC has seen an overwhelming increase in the number of non-violent and misdemeanor offenses turn into aggravated assaults on officers and therefore...pursuit. While these are being upheld so far let me just say that the DAC is scrutinizing the, “he tried to run me over,” pursuits. The DAC is concerned that officers are placing themselves in a situation that could have been avoided with sound tactics just so a pursuit can be initiated. Remember the DAC arm-chair quarterbacks your actions with 20/20 hindsight and all the facts you may not have had at the time.

What you should do.

If you do find yourself the subject of a driving investigation, remember to write your own memo. Cutting and pasting your partner’s memo and presenting it as your own helps no one...yourself included. Also remember to be completely honest. Many citizens and officers may not realize that photo cameras often have 24/7 streaming video. Investigators will look at what happened before the violation/collision and after the incident. If the video is nowhere close to the officer’s account of what happened, there is a problem. Yes, believe it or not, officers have attempted to “out-smart” investigators only to find out that, in addition to the still shots, there is streaming video of the incident. Enough said about that.

You don’t have to like the policy, and you don’t have to agree with it but you are expected to adhere to it.

Lastly, PLEA brought up the issue of photo cameras to the Executive Staff and the forthcoming problems (aka discipline) they would create back in November. Several policy changes were proposed to include the adoption of the Department of Public Safety’s driving policy while upon the highway. This would allow us to exceed the speed limit by 25 mph on the highway only. We also agreed with a summary review of all photo citations to be done by the Traffic Bureau’s South Lieutenant, prior to an investigation and submission to the DAC.

Both of these provisions would have reduced investigations by over 80%. Add up the time it takes for officers to write memos and for supervisors to author the investigations. Now multiply that with the over 200 photo enforcement citations that have gone in and for supervisors to author the investigations. Now multiply that with the over 200 photo enforcement citations that have gone in front of the DAC since November. What a time savings this would have been! How much more time could officers and supervisors alike have been on the street fighting crime and serving our citizens?

To put it simply, Executive Staff does not care. They do not care about officers receiving discipline for doing what is expected of them. Executive Staff is concerned about supervisors spending hours upon hours writing meaningless investigations, and they have made it a priority to ease the workload on the DAC instead of developing a viable driving policy. They would rather live with the mass diversion of manpower from serving the public than re-vamp the driving policy. None of them can make a decision on this issue and apply common sense and instead rely on the advice of an attorney because of a perceived increase in liability. If they did care, it would not take 6 months to take action. It is our responsibility and obligation to drive in a safe manner and with due regard for the public. It is management’s responsibility to give us a workable policy based on common sense to abide by. Hopefully a decision will come before another 6 months has passed. Don’t hold your breath though. Management’s decision making process is operating 15 mph under the speed limit!

Editors Note: At the time this article went to press, a new draft of the driving policy has been circulated which if approved, will bring the department’s policy in line with provisions laid out in state law.
Dated 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

Heister, 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
Exception will be August 13 (2nd Thursday) 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.

Welcome New Members

Kreg Klein
Gus Kostas
Sean Murphy

Law Offices of Michael Napier, P.C.

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 hundred 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.

Janet Feltz was admitted to practice in Arizona in 1985. Prior to joining the firm in 2005, she served as an administrative hearing officer for twenty years in disciplinary and other employment matters on behalf of merit boards and commissions throughout the State. She also served as an administrative law judge for the Arizona Department of Economic Security from 2001 – 2005.

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.

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.

Membership meetings are the last Tuesday of each month at 7:30 a.m., 12:30 p.m., and 5:30 p.m.

Board meeting is held the 3rd Tuesday each month and members can attend at 8:30 am.
It was the best of investigations; it was the worst of investigations. Let’s compare two work products of the same event.

On January 10, 2008 PLEA brought five (5) allegations of misconduct to the Professional Standards Bureau (PSB) reference retaliation taken by Lt. Steve Soha against Det. Cam Scadden for exercising his rights under the contract. Lt. Stan Hoover’s PSB investigation resulted in a finding of “UNFOUNDED.” It should be noted that one of the witness detectives interviewed by Lt. Hoover in this PSB investigation described it as “a Lt. Steve Soha defense interview.” A statement from Hoover’s investigation is indicative of police management’s inability to hold themselves accountable: “The facts uncovered in this investigation do not support the allegation by Officer Scadden or PLEA Representative Officer Joe Clure that Officer Cam Scadden was singled out for retaliation for filing a grievance.”

On February 1, 2008 PLEA’s legal counsel Mike Napier brought the same allegations forward in the form of an unfair labor practice (ULP) to the Phoenix Employment Relations Board (PERB) and Hearing Officer Jacalyn J. Zimmerman. After two days of testimony, her reported findings determined that Lt. Steve Soha had engaged in no less than 5 separate acts of retaliation against PLEA member Cam Scadden. A statement from the hearings officer’s report demonstrates that management misconduct can be dealt with when taken outside of the Department and under oath: “In conclusion, I find that all of the complained - of actions [by Lt. Steve Soha] against Det. Scadden were motivated by animus toward his protected activities and not by any legitimate business justifications. Therefore, PLEA has established that the City violated the ordinance by engaging in this course of retaliation and reprisal against Det. Scadden.”

This is yet another example of Phoenix Police upper-level management’s consistent refusal to meaningfully investigate management misconduct. This pattern continues to occur on the watch of Public Safety Manager Jack Harris. This situation clearly reinforces PLEA’s lack of confidence in PSB. This is shameful and Phoenix Police Officers deserve a better working environment.

The hearing officer’s report clearly demonstrates what effective leadership looks like. Three times Ms. Zimmerman noted that Commander Jeff Halstead stepped in and stepped up to resolve grievances. Also, Sgt. Bruce Myers received high praise in the report. The hearing officer commented about Myers by stating, “I found Sgt. Myers a credible witness, who was troubled by the situation and risked crossing command lines to address it.” PLEA commends both Sgt. Myers and Fort Worth Chief of Police Jeff Halstead. Management courage is rare thus that’s why it’s so valuable.

See www.azplea.com for Ms. Zimmerman’s entire report to PERB and the conclusion of Stan Hoover’s PSB investigation.

PLEA Member Appreciation Cookout

The PLEA member appreciation cookout was a great success on Wednesday June 24th at the PLEA office. Nearly 500 members attended. Officer Dolan Crawford (900) won the $50 American Express gift certificate raffle prize. Numerous other members signed up for PLEA PAC, PLEA Charities, and PLEA PAT. In addition to these 500 special guests, others who came out to eat with us included Rep. Jim Weiers (did a shift on the grill), Mayor Phil Gordon, Councilperson Mike Johnson, Barry Paceley, Donna and Jerry Neill (NAILEM), Ann Malone (Require the Prior), Greta Rogers, Commanders Hampton, Smith, and Handy along with Assistant Chiefs Montgomery and Williams. Our Fall member appreciation cookout is in the works and will be announced. Thanks again for the opportunity to serve you.
Representation Committee

Chairperson
Dave Kothe

Vice Chairpersons
Jerry Gannon and Ken Crane

Representatives
Tim Baiardi • Kent Barnes • Ken Barton
John Buckner • Bob Furneaux • Bill Galus • Greg Gibbs
Bret Glidewell • Scott Gomez • Bryan Hanania
Gary Hotchkiss • Steve Huddleston • Barry Jacobs
Michael London • John McTernan • Terry Mills •
Anthony Navas • JR Pool • Dave Sampson
Rick Simoneck • Frank Smith • Kevin Smith
Jason Smith • Stu Sterling • Rusty Stuart • Tom Tardy
Mike Walsh • James Ward • Vanessa Warren

If You Have A Grievance
 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.