



PHOENIX LAW ENFORCEMENT ASSOCIATION

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RECAP

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Falling on the Sword

by Joe Clure
PLEA President

All of us who have been PLEA Reps for any length of time have represented numerous people through the investigation and disciplinary process to include attendance at the Disciplinary Review Board or DRB. It's an internal process completely owned and run by the Police Department and officers appearing before it are presumed to be guilty of whatever administrative transgression they were accused of.

DRB board members want to see the employees that come before them express remorse and contrition for whatever they were accused of. This has led to those who often jokingly refer to DRB's as the Disciplinary Remorse Board. In my experience, the majority of officers appearing at DRB's do show genuine regret and remorse for their actions. They are sincere and apologetic. There may be the occasional rare case where an officer and PLEA believe no wrongdoing occurred. In these unique situations, facts and evidence will be presented to support that particular position. The bottom line is that if you made a mistake, the board expects you to fall on your sword.

Most of you have, by now, heard of the fiasco involving the process used by the Department to select the contingent of officers to be sent to Washington DC for the Presidential Inauguration. The one constant in the mix was that any officer selected had to be

TRU certified. Officers were pulled from several details and the Department handled the selection appropriately based on seniority. However, when officers were selected from certain NET squads, the Department deviated from normal protocols by placing ethnicity and gender ahead of seniority as the primary factors used in order to inject more diversity into the group. The fact that the selection process was being done in this manner was backed up by e-mails circulated at the command level between Commander Geary Brase and Asst. Chief Tracy Montgomery.

Once the cat was out of the bag it didn't take long for the proverbial poop to hit the fan. PLEA was contacted by officers that were outraged that the department would engage in such a brazen violation of City and Department EEO rules. PLEA filed a grievance on behalf of the aggrieved officers. The grievance was fast tracked to level 3.5 where a meeting was convened with the city Labor Relations Administrator. Present at the meeting were the grievants along with PLEA President Joe Clure, Treasurer Will Buividas and Board member Bill Galus. The meeting was chaired by City Labor Relations Administrator Lori Steward. Ms. Dawn Ramos from Police fiscal along with Asst. Chief Tracy Montgomery and Commander Geary Brase were present to represent the city's position.

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Falling on the Sword

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In discussing the method used to select officers, Asst. Chief Montgomery wasted no time in explaining that using ethnicity and gender was how Chief Garcia wanted it done.

The violations of policy were so blatant and egregious on their face that the city had no choice but to immediately fix the problem. The slap in the face occurred when Asst. Chief Montgomery said that she felt management was within their rights to run the selection process the way they did. This would be the same as catching a burglar red handed inside a residence and upon conviction at trial having them stand up and tell the judge they were within their rights to be inside the home.

Based on statements made at the level 3.5 grievance meeting it sure seems like Chief Danny Garcia, Asst. Chief Tracy Montgomery and Commander Geary Brase violated EEO policies of the City and the Police Department. PLEA has sent a letter to the City requesting an investigation. The discipline matrix calls for an 8-40 hour suspension for violating EEO rules and policies. In previous conversations, the Chief has claimed he wants transparency within the organization. It will be interesting to see if the Chief's talk of transparency within the department truly has merit or is just talk.

The big question is: will senior managers who violate policy be held accountable or will this be yet another incident of managerial misconduct that is conveniently ignored and swept under the rug? It's hard for employees to have faith in a system that expects

them to throw themselves on the sword when they make mistakes only to see upper level managers in denial when caught red handed. Officers are held accountable while upper level managers are conveniently allowed to "game the system" and fly under the radar.

The irony here is the very person who can't bring themselves to admit they were wrong is the same person who Chairs the Disciplinary Review Board and demands accountability from others. It only seems logical and fair that the same folks who demand contrition and remorse from officers who violate policy should likewise show remorse when they are caught short.

Supervisors and managers often won't admit to mistakes or wrongdoing because they view it as a sign of weakness. True leaders on the other hand, aren't afraid to take responsibility and admit to making a mistake or a poor decision. True leaders know that doing so demonstrates that they too are human. True leaders know that accepting responsibility demonstrates strength and character. They know that leading by example means taking the hit for your mistakes just like any other person is expected to do.

We have a lot of managers, supervisors and police administrators in our organization. Leaders, on the other hand, seem to be about as rare as unicorns.

"The nobility of policing demands the noblest of character."
Franklin Covey; The Nobility of Policing

Fallen Heroes

Phoenix Police Officers



Al Bluhm
December 28, 1970



Dale Stone
December 28, 1970



Darrol Yoos
December 22, 2004

BENEFITS TO MEMBERS

Aflac Rep, Debby Tornberg,
is available to meet
with members at a place and time
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She can be reached at 602.214.4686.

Nationwide Retirement Solutions Representative

Jared Williams will be at the PLEA Office on the
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to assist members with their accounts. Jared can also be
reached at 602-266-2733, extension 1168.

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Speed of Trust?

by Ken Crane,
PLEA Vice President/Grievance Chair

Organizations, whether governmental or private sector, are always looking for the next great thing that will give them an edge. It might be an edge in productivity, communications, leadership, or simply the desire to outpace their competitors to the point of squeezing them out of the marketplace.

The desire and need to have the competitive edge in the corporate world has spawned a cottage industry of private individuals and companies that do corporate seminars, workshops, and consulting. Movers and shakers in the corporate and government world have written plenty of leadership books. Many of these same folks are highly sought after to conduct seminars or to do motivational speaking.

A few years ago, *Enlightened Leadership* was police management's flavor of the day. Some Assistant Chief read the book, got fired up, and decided this was the direction the department needed to go. It was a miserable failure because upper management felt that everyone except them should follow the blueprint.

Our new Chief recently approached PLEA regarding a joint venture between police management, PLEA and PPSLA to embark on yet another leadership training journey. This one based off a book called *The Speed of Trust* written by famed author and motivational speaker Stephen Covey.

Class dates were set, and books were bought and delivered to the PLEA office. Dates were then cancelled because managers that were attending didn't know they were attending and needed time to get up to speed. We were off to a bang up start.

Like an infomercial, wait! ...There's still more! ...The story gets better. About a week later a member of PD management contacted us and informed us that the training was going to cost about \$13,000. Apparently any expenditure over \$9,000 has to be brought before the city council. This manager explained that if PLEA and PPSLA each kicked in about \$3,000 the problem would be solved, as it would bring the total cost of the training financed by the department to well below the threshold requiring Council approval. Now think about this for a minute. If you really believe the training you are pushing is important and would be of great benefit, why wouldn't you ask for Council approval to pay for it?

The PLEA Board, in the interest of fostering a cooperative working relationship, was more than willing to read the book and attend the training. Being invited to attend the latest and greatest training on leadership and trust is fine and good...until you ask the people you invite to pony up \$3,000. In essence management is asking PLEA to use member money to further their management

training agenda. That's like inviting someone over to your house for a steak dinner and then asking them to pay for the steaks when they show up. I don't care who you are, that's just tacky.

To add insult to injury, one of the PD managers involved in setting up and coordinating this training is the same guy who admitted to us that he discouraged people from coming to the recent Police Explorer fund raiser barbeque held at PLEA because he didn't care for PLEA's attitude toward the Chief. Let me get this right...since this guy doesn't care for "PLEA's attitude" he intentionally tries to derail the fundraising efforts on behalf of a great organization and a great group of kids? Now that's working at the speed of trust.

Hey, if the management of the PD believes in *The Speed of Trust* that much, they oughta at least put their money where their mouth is and pay for the training they invited us to. In fact, maybe demonstrating that they could actually be trusted would go a long way in getting people to believe in the training to begin with. For example, telling folks you aren't going to get rid of Class D uniforms only to actually do it weeks later doesn't foster a lot of trust. When you tell people whatever they want to hear only to go out and do the opposite it epitomizes the "Speed of Dis-trust." When the top guy believes it's ok to routinely engage in this type of behavior, that's something leadership books and seminars probably won't fix.

Right now, for my money, I'd rather spend the three grand on a member appreciation barbeque in the PLEA garage.



*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.*

Patrol Vehicle Update

*by Franklin R. Marino
PLEA Secretary*

By now, many of you have seen recent ENS notifications sent out by the Department indicating the status of our marked patrol fleet has hit a few bumps in the road over the course of the past several months. When you look at what goes on behind the scenes of running a fleet as large as the Phoenix Police Department's, there are literally a lot of moving parts and people involved to see to it that we actually have vehicles and that these vehicles are up and running. Fleet operations fall under the Public Works Department's Equipment Management Division. Not only are they responsible for procurement of the vehicles and their specific police-related equipment, but they also handle routine maintenance and repairs. Ultimately, it is up to the City's Budget and Research department to determine how much money is allocated towards the annual vehicle budget, which includes new purchases and replacements for wrecked vehicles.

In September, the Phoenix Police Department's Vehicle Committee met to discuss vehicle purchases for Fiscal Year 2012-2013. Topics of discussion included vehicle makes and models and installed equipment, including light bars. Prior to the meeting, it was suggested that we consider bringing the Dodge Charger (one vehicle currently used by the Dallas Police Department) the Chevrolet Caprice, and the new Ford Interceptor (Taurus platform) into the fleet. The Ford was immediately discounted as it is a brand-new vehicle that we haven't tested, while the Caprice, sold as a Chevrolet, is actually built in Australia and costs more than the Tahoe. The Charger and Interceptor actually have less interior room than the Impala and service and repairs for the Charger can only be done through their dealer network.

Two important factors to consider when ordering vehicles are the operating costs per mile (32 cents/mile is the current average for our marked fleet) and total vehicle life cycle cost. The latter is the sum of vehicle purchase price, depreciation, fuel, insurance, maintenance, and repair costs based upon the duration the vehicle is kept in service.

When comparing total vehicle life cycle costs among our current fleet, which consists of the Ford Crown Victoria, Chevrolet Impala, and Chevrolet Tahoe, the Tahoe, even when run out to a 150,000 mile life, has the lowest operating cost per mile out of the three. While fuel costs are essentially a wash, durability is the key factor in the low cost.

Feedback from our line troops and driving instructors regarding vehicle choice is quite evident as there have been numerous complaints about comfort and ergonomics; The Impala is more difficult to enter and exit from when you have all of your duty gear on and from a training standpoint, the Tahoe is a much better vehicle to operate. There have also been issues with the Impala's air conditioning failing when the vehicle is parked for an extended period of time such as on a traffic control or perimeter position.

Earlier this year, Assistant Chief Kevin Robinson made a recommendation to change the practice of purchasing a 60/40 percentage split of Tahoes to Impalas, originally conceived out of money savings, to be increased to 80/20 so we could get more Tahoes on the Street. Based on discussions in our meeting, the Committee unanimously agreed that we should forego purchasing any Impalas and go with a 100% Tahoe fleet. Thanks go out to Commander Joe Klima of Black Mountain Precinct and Commander Harry Markley of Desert Horizon Precinct who both championed this decision at an Executive Staff "Super Tuesday" meeting. It was later announced that plans for FY 2012-2013 were to purchase a total of 88 Tahoes and not purchase any Impalas. This was a small victory, however it would be short-lived.

As expected, our decision was met with some resistance by the people who control the money. According to Budget and Research personnel, there are still public perception issues related to the Tahoe. Although they could not provide information on any specific complaints, my guess is that they are the same as it was when we first fielded the Tahoe; Vehicle cost and fuel economy. I would agree that these are important considerations to factor in at a time when we need to be fiscally responsible in financially trying times. However, when you look at the big picture, not only have we proven it, but there are similar cost analysis studies which show that by spending a little more money on the front end, we are ultimately saving money on the back end and getting the best value for every dollar spent on our marked fleet.

Once we made the easy decision of which vehicle to choose, the next step was to decide on emergency lighting. When you consider the current lighting package we have on marked vehicles purchased since 2006, we are literally light years away from where we were just over a decade ago. Back then, now Sergeant Bryan Hanania and I worked with a group of officers to test several different light bars

- ◆ The Tahoe is built on a truck chassis and is more forgiving and able to withstand the rigors of patrol use.
- ◆ We initially planned to "mile out" Tahoes at 150,000 miles, 25,000 miles above what we were normally pulling Crown Victorias out of service at, however our first Tahoe finally went to surplus with over 170,000 miles on it! Considering the use and abuse our vehicles endure, that is above and beyond the call of duty.
- ◆ Improved crash survivability for occupants compared to an Impala or Crown Victoria
- ◆ We have only "totaled" five Tahoes as a result of collision damage in the nearly seven years we have been using them. Even though repair costs were high, they were less expensive than purchasing replacements.
- ◆ In terms of maintenance, thanks to extended warranties, our fleet mechanics are doing little more than changing oils, tires, and brake pads on the majority of Tahoes.



to move us out of stone-age technology; clear halogen rotators filtered through colored plastic lenses. While a couple of these light bars were all still halogen rotators, they had a higher flash rate, while the others used a combination of either halogen rotators for primary lighting with strobes as secondary, or vice versa. Despite several months of intensive testing and evaluation, all of our hard work was nullified by the at-the-time Property Management Bureau Commander, Bruce Knappenberger, who made the unilateral decision that we were going to use the latest in technology, light emitting diode, or LED light bars, which we knew very little about. A small number of these light bars were installed on our CNG powered vehicles as an enticement to get officers to drive them. Since the technology was new, it was a learning process and the vendor would actually come in and reprogram the flash patterns of one of the bars, which was mounted on what was touted as the “Dream Car.” This was essentially a test vehicle for several technologies including in-car cameras. Eventually, these LED light bars, like the CNG vehicles, went the way of the Dodo bird and were phased out of service. By 2005, we began to extensively use LED lighting to enhance visibility,

Enter 2012 and we are now looking at 5th generation LED lighting. True to trends seen with most technology, the product is vastly improved, costs less, and most manufacturers are offering a five year warranty on components. LED lighting has distinct advantages over standard halogen lighting. First and foremost, they are of solid-state construction with no moving parts to wear out. Secondly, they consume very little power compared to halogen lighting, reducing the load on the vehicle’s charging system leaving more power available for the MDC and radio. Third, LEDs are extremely bright and there are hundreds of programmable flash patterns to suit specific needs. Individual modules can be programmed to put out different colored lighting from the same component. Front lights that normally strobe red or blue can be programmed to provide clear takedown lighting and rear lights that normally flash red and blue can be programmed to flash amber and/or be used as a traffic director. Due to the ability to change the color of the light output, we no longer need to have colored plastic lens housings, which will reduce sun damage and extend component life. We can also utilize a lower profile housing, reducing wind drag and slightly improving fuel mileage.

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The same technology used in the light bar components is available to add additional front, rear and side lighting to improve overall visibility to any vehicle. A few planned improvements for the Tahoe include:

- ◆ Moving the LED strip mounted above the rear bumper to just below the rear headliner, allowing better visibility, even through the tinted rear window
- ◆ Replacing the tailgate LED modules with multicolor LED modules mounted in the reverse light housings
- ◆ Dual color lighting modules on each side of the rear windows
- ◆ Dual color lighting modules on the running boards centered under the driver’s seat and rear door
- ◆ Multi-color modules in the headlight housing to project light to the front and sides
- ◆ Moving the lighting and siren from behind the grille onto the push bar
- ◆ Canting modules on the push bar to project light to the sides.
- ◆ Replace spotlights with LED modules as part of the pre-build process
- ◆ Possibly adding reflective striping to the rear of the vehicle

While these proposed changes will ultimately result in a marked fleet that is not only safer, but more cost efficient, the purchase of vehicles for FY 2012-2013 has been put on hold due to budget issues. Regardless of the outcome, PLEA will continue to push for equipment which improves safety for our officers as well as the citizens we protect and serve.

Drug Testing and Testosterone Update:

by Will Buividas
PLEA Treasurer / Chief Contract Negotiator

As you may or may not know, recently there have been some major issues with our current drug testing policy; specifically, with Southwest Labs and the protocol of handling Officers who are under the care of their doctor for low testosterone. For some background information, PLEA and the Department first agreed to random drug testing back in the late 1980's. Before that, the Department was not allowed to randomly screen Officers for drugs, as they currently do. In fact, Operations Orders 3.21, which governs the drug testing process, is contained as an addendum to the MOU.

Issues with Southwest Labs:

Within the past two months, Southwest Labs (the contract laboratory the City uses to process drug tests) had a major failure in their lab procedures (and that's putting it nicely). They reported one of your fellow Officers as being positive for an illegal substance when in fact, this was not the case. It goes without saying that a mistake of this magnitude has catastrophic ramifications attached. After PLEA requested his "B" sample be sent to world renowned expert Dr. Don Catlin (former director of the UCLA lab who has performed testing for the Olympics for over two decades) the lab decided to re-test this Officer's "A" sample. What they reported is truly unbelievable. As it turns out, the lab admitted their technician poured someone else's urine (not a Police Officer's) into this Officer's test tube and that this Officer's real sample was completely negative. For a mistake of this magnitude to happen in this day and age is unacceptable. It also goes to show that even in the digital age of computerized testing, human error will always be a factor in tests of this nature.

Thankfully, we have been able to work with the City's Human Resources Department and are in the process of looking for another lab. One that may work for us has been considered and hopefully, we will begin using it in the near future. Here are some reminders when you go to Concentra for a drug screen.

- ◆ **DO NOT** put your serial number of the seals or any paperwork at Concentra. It is second nature for us to put our serial number on everything we sign. However, if you put it on your drug screen paperwork, you are no longer anonymous. Please just initial the seal with no serial number.
- ◆ **DO** put your cell phone number on the paperwork when it asks for a number. Many Officers are putting "None" or listing their work unit phone number. If you do test positive, the only phone number the Medical Review Officer (MRO) has to contact you through is the number you put on the paperwork. If they can't get a hold of you to figure out why you are positive, you will be assigned to desk duty and receive a call to come down to PSB for a cup of coffee and chat with investigators.

Testosterone Therapy:

Another current trend is the Department's and the MRO's handling of Officers who are on testosterone therapy. As we all know, you can't watch a televised sporting event without being inundated with ads to get your testosterone checked and see if you

have a condition commonly referred to as "Low - T". Many Officers have gone to their Doctor and are being legally prescribed testosterone. The problem arises when you get drug screened a day or two after you have had a testosterone shot. When given a shot, your testosterone levels immediately spike and any test results generated will indicate that you are illegally taking an anabolic steroid. In the past, once the City's MRO has received your prescription from a licensed Arizona doctor, the MRO would classify the test as negative and indicate the same to the Department. Recently, the City has switched MRO's and the current MRO (who happens to be the Medical Director for Major League Baseball) has decided he doesn't care what your Doctor says, and if he doesn't personally agree with your Doctor's prescribed dosage, he is sending the tests back as positive even though you are doing nothing wrong.

This practice has triggered a string of events which to put it mildly, are unpleasant. First, guys (sorry, no females have tested positive) have been pulled off the streets for up to three months and made to sit at the Precinct desk where everyone thinks they did something seriously wrong (guilty until proven innocent). Next, they are made to go to PSB where a female Sergeant questions their entire medical history including if their Doctor examined their testicles and an explanation of every single prescription they are being prescribed. Let's hope your Doctor hasn't prescribed Viagra, because then, PSB then makes you explain in detail the medical necessity for taking this medication under your Doctor's care. How embarrassing to be forced to disclose all this personal medical information to a female Sergeant. Can anyone spell EEOC, let alone HIPAA?

Again, thanks to the City's Human Resources Department, we have been able to work cooperatively with them to fix this problem as well. Now, as long as you have a doctor / patient relationship, meaning you physically see a doctor here in Arizona (not on the internet or in Mexico) and you have a valid prescription from your doctor, the City will treat it as a negative test. This is yet another reason to put your actual cell phone number on the paperwork!

- ◆ **DO** see a licensed Arizona Doctor if you are on testosterone therapy.
- ◆ **DO** make sure your Doctor diagnoses you with a condition that would require testosterone therapy.
- ◆ **DO** consider going to a specialist (endocrinologist) if you are going to be on long-term testosterone therapy.
- ◆ **DO** get regular blood tests while on testosterone therapy. This not only protects you in the event of a positive drug screen, but is also essential for your long-term health. If your Doctor is over-prescribing testosterone it can lead to serious long term health problems.

I would also like to personally thank Janet Smith, Lori Steward, Kathy Haggerty, Judy Boros, and Tina Esparza from the Human Resources Department for working together with PLEA to come up with a solution to this complex problem in a short period of time. They understand what a collaborative Labor and Management Relationship looks like and how we are supposed to work together to make this City a better place.

IMPORTANT!



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MICHAEL NAPIER has been representing Phoenix officers for over 36 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. ABDO was 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. Abdo 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;

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FIRST:

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.

RECORD:

If You Are Being Investigated

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.

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