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VOLUME 6 | ISSUE 6

March/April 2012

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PUTTING FAITH IN YOUR ASSOCIATION LEADERS

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**KNOW
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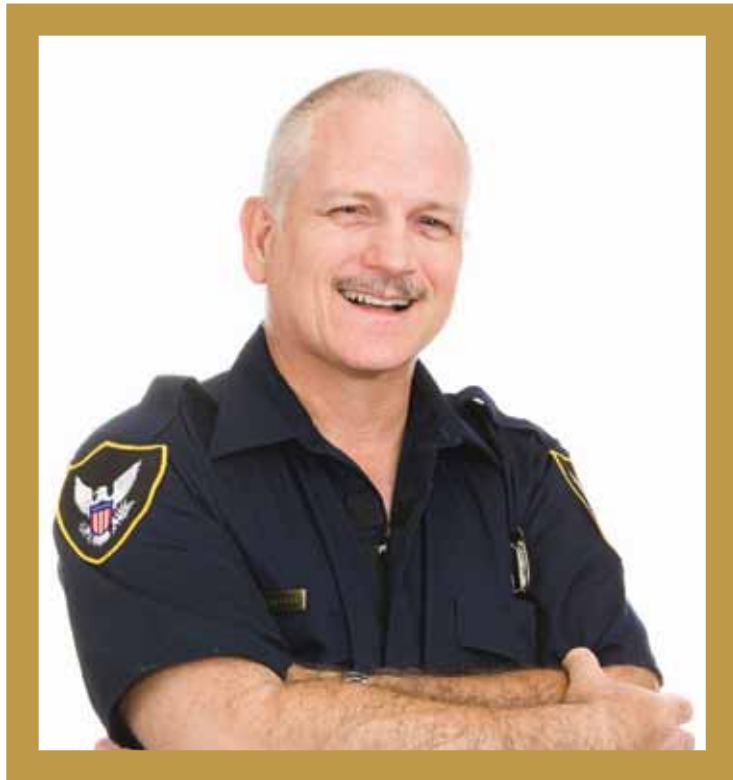


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Representing Las Vegas Metro Police Department Officers and Deputy City and Municipal Court Marshals

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The Las Vegas Police Protective Association is affiliated with the following organizations at the state and national level:

- NAPO** – National Association of Police Organizations, representing nearly 220,000 police officer members in 4,000 police associations nationwide.
- "BIG 50"** – An informal association of the 50 largest law enforcement associations in the United States.
- SNCOPS** – Southern Nevada Conference of Police and Sheriffs



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Executive Director's Message

DETECTIVE CHRIS COLLINS, EXECUTIVE DIRECTOR

Small Things to Help Your Metro Family

Here at Metro, we all talk about our Metro family whenever there has been a serious event of some kind. Then in a short period of time the issue has been dealt with and we sometimes forget all the family talk. I am writing to ask you to be a family all the time and not just a few days of the year. I have two simple suggestions of things we can all do that will help our Metro family everyday of every year.

The first thing we can all do is participate in the PPA Charities. The PPA Charities was established in 2009 after a tragic year at Metro left four officers killed in the line of duty. The main goal was to assist the families of those and other fallen officers by helping to pay for college, Christmas gifts and birthday gifts for our fallen heroes' children and significant others. The hope was that as participation in the PPA Charities grew, we would be able to assist in other ways. Perhaps we would even be able to help a family who was facing a major medical issue requiring travel expenses or a lengthy hospital stay. I think initially, we all had great hopes for the Charities; however, they have simply not materialized due to a lack of participation. But make no mistake — we will meet the obligations we are committed to for the families we are currently working with. But these may be the only families we get the opportunity to help. We have already decided to stop paying the six monthly \$200 sports and education sponsorships that we

give our members out of the Charities fund and instead pay them out of the PPA fund. We had to do this because membership donations were just too low. In addition, it just didn't seem right for this to come from the Charities when 90 percent of the people who requested and received the sports and educational sponsorships were not even donating to the PPA Charities. What would I like to see by way of participation? It is really very simple and very pain free — just give \$2-\$3 every payday to the PPA Charities through a payroll deduction. We have 2,500 active members. If each of us gave \$2 each payday, which is only \$52 per year, this alone would generate \$130,000 a year. As an aside, these donations are tax deductible. With that kind of support, in time we could expand the service we offer our Metro family to include those mentioned above, if not more. I have heard every excuse from "I didn't know there was such a thing as the PPA Charities" to "I can't afford it." Well, if you have read this article, then you now are aware of the Charities. I understand there are a few situations out there that may make it unaffordable, but let's be honest, most of us put more change in the penny cup at the store than a dollar a week. I am asking you to please help our Metro families who need it the most by participating in the Charities.

The second thing we can all do to help our Metro family is donate time to the catastrophic leave bank. If you are not aware, this bank allows officers who have no time on the books to still get a paycheck so they can pay the bills and feed their families in the event they have an extended absence from work and do not have time on the books. I am not asking that you give any of your vacation time that you might use. All of you have a very stressful job and deserve all the vacation time you can get. I am talking about the time you have on the books that you will lose if you don't use it come late December every year. We have all been there and seen our time just disappear from our pay stubs. Did you ever wonder where that time went? Well I will tell you, it evaporates to nothing and it is just gone. Allowing that to occur lets Metro wipe that money right off the books. I don't know about you, but I don't want the Department taking my time or money and just throwing it away. I believe a much better idea is to donate that time to the catastrophic leave bank and allow our fellow officers to utilize that time to draw a paycheck when they would otherwise have to go without. On January 1, 2012, approximately 1,780 hours of vacation time simply disappeared from the books at Metro. If these hours had been given to the catastrophic leave bank, they would have turned into approximately \$67,000. All I am asking is that next December, please donate those hours to the catastrophic leave bank so your brother and sister officers who are involved in some difficult situation can continue to get paid.

As always, fight the good fight and stay safe. **VB**

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INSIGHT

Work is an extension of personality. It is achievement. It is one of the ways in which a person defines himself, measures his worth, and his humanity.

— Peter F. Drucker (1909-).

Management: Tasks, Responsibilities, Practices

14, 1974, abr., 1977



Trust in Us: Putting Faith in Your Association Leaders

POLICE OFFICER MARK CHAPARIAN

Assistant Executive Director

The dispatcher's voice crackles over the radio and places you and another marked unit on a "shots fired" call, and suddenly your heart starts beating at double the pace as you grab your microphone, acknowledge the call and flip a U-turn to head toward the call. You and your partner arrive, and you exit your car to take up a good spot that provides you cover and concealment. Your partner is stacked behind you as you assess the situation and determine if it's better for you to move closer to where you believe the suspect is hiding. You turn toward your partner and say, "cover me." With those two simple words, you have turned the safety of yourself and the security of your family over to a fellow cop, and you don't think twice about it. You *know* that he will do everything in his power to make sure you are safe and taken care of.

The unit supervisor has returned from an "action" meeting and his message is crystal clear: "We need more arrests made, more search warrants served and more narcotics seized." Another detective has developed a good confidential informant who has proved to be reliable and helped develop a case for trafficking. An additional squad mate has returned to the office with a diagram of the target house and is already banging away at his computer to draft a search warrant. You don't bat an eye at the warrant or the information the C.I. has provided. As you prepare to drive to the residence to execute the warrant, you *never* question the integrity of the case, the warrant or your fellow detectives' work.

As you're working a robbery case, you develop a lead that brings you in contact with a potential suspect. After you interview him, you have clear probable cause to arrest him for robbery with a weapon. Your partner takes him to the car as you quickly follow up with a phone call. You join your partner at the car and ask him if he has searched the suspect. He says, "Yes, nothing but a wallet and some keys." You *don't* think twice about whether or not his search was thorough or that he may have missed a gun prior to both of you driving the suspect to be booked.

The Association concludes contract negotiations, signs a "memo of understanding" or takes a stance on an issue that involves a Metro management decision. A seasoned officer who is assigned to the Association picks up the other end of the phone that you have dialed and explains to you the who, what, where and why of a situation you are involved in. *Do you think twice about what he is saying? Do you doubt that he has your best interest at heart? Do you question his loyalty?*

Most of us who are reading this are police or corrections officers. Our very existence depends on faith, trust and loyalty to and from our fellow officers. This does *not* stop at hostile calls, serving search warrants or dealing with potentially armed suspects. Each one of us assigned to the Association is either a police or corrections officer just like you are. We all have the very same interests and concerns for a safe, productive, non-hostile, lucrative career as you do. We are not "untouchable" in our assignments, nor P# 10098 have any of us ever forgotten where our loyalty lies.

The vast majority of the members I speak with on a daily basis understand this and know this to be true. From time to time however, I run into some members who may question our loyalty, our desire to serve fellow officers and our will to fight the fights we know are right and even doubt our wisdom and experience when we suggest to negotiate instead of fight a case we are clearly going to lose. I have always found it ironic that the Department will trust its officers to guard the President of the United States while carrying multiple firearms and never bat an eye, and yet will make policy that those same officers shall not enter the station key room unsupervised. If that sounds as ridiculous to you as it does to me, think about how ridiculous it sounds that you would certainly trust me with your *life* while in the field and yet may doubt my ability as it relates to our contract, a Metro management decision or the ability to know what politician to endorse because they support what we fight for each day.

If you find yourself to be one of those people, ask yourself why. If you observe others acting in such a manner, ask them why. In the meantime, get involved with your Association, get to know your area representatives, attend general membership meetings and participate in Association functions. If America trusts me to stand next to the president while I carry a firearm, won't you trust me to negotiate a contract, fight for you at IA and advise you as issues arise with Metro management?

I offer my sincere thanks to all who continually support the Association and its commitment to excellence to its members. Only together can we build a strong future for ourselves. **VB**

Would you like to proudly display your support for the Police Protective Association?



Visit the PPA to obtain your bumper sticker.

INSIGHT

Organization is a means of multiplying the strength of an individual.

— Peter F. Drucker (1909-)
The Effective Executive, 1.3.3, 1967



Make Sure Your Benefits Go to Those You Want

CORRECTIONS OFFICER THOMAS REID

Assistant Executive Director

The other day I got a call from an LVMPD retiree informing me that another retiree was not doing well health wise and had some questions about the benefits she might be able to pass on to family members after death. Death and dying are not great subjects to write about, and these calls are never welcome, but it is part of life. Your wishes of who gets your money and other benefits are important. The fact is that when a loved one or a Department member passes away, the paperwork involved is immense, and the sheer time you spend on the phone or in person getting information on what the deceased person had in the way of insurance benefits can drive you crazy. Preparing and keeping updated information detailing who you want to receive these benefits is vital to you and your loved ones. Family situations such as marriage, divorce, births and

retirements play a role in changes you may want to make to your beneficiary designations. It is highly recommended that at least once a year, or any time you have a change in your family status, you verify and update information with each of the following agencies and companies listed below. This list is only a baseline of agencies to get you started in updating your beneficiary information. Your own private insurance or other wills and trusts need to be considered as well. **VB**

Agency	Phone Number	E-mail	What You Need
LVMPD Payroll	(702) 828-3977	payroll@lvmpd.com	Beneficiary Packet
NV PERS	(866) 473-7768	www.nvpers.org	Forms Available Online
LVMPDEH&WT	(702) 413-1701	umr-medicalbenefits@umr.com	Beneficiary Form
LVPPA	(702) 384-8692	office@lvppa.com	Beneficiary Designation Form
LVMPD SPA	(702) 452-5765	www.lvmpdspa.com	Beneficiary Change Form
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Make My Day, Cancel the R.J.

POLICE OFFICER PAUL BIGHAM

Treasurer

The title has a catchy tune, doesn't it? While some of you will remember this, a lot of you will not. Many years ago, the *Review Journal* took it upon itself to bash the Metropolitan Police Department. The *R.J.*'s articles came at us for a lot of different reasons. They made a big deal out of the so-called "50k Club," listing all of the Metro officers making more than \$50,000 a year. I suspect this was done mostly to sell newspapers; after all, for them it is all about making money. We took a huge beating in the press back then. It left many of us wondering, "Why isn't the Administration or staff responding to clear up this misinformation and misunderstanding?" It seems the press can take all the shots they want at us, yet we have almost no recourse. Back then, someone more clever than me had some bumper stickers made with that saying on it, "Make my day, Cancel the *R.J.*" Then a whole bunch of us canceled our subscriptions to the newspaper and hit them in the only place they might feel it — the pocketbook. Today you can get your news online free, so there really isn't any reason to pay for this biased newspaper.

Unfortunately, the scenario above probably sounds like a broken record to many of you. Here we are again, with the *Review Journal* doing yet another negative series on our Department, this time focusing on officer-involved shootings. The general theme seems to be that our officers are out of control. "Rogue officers" is a term commonly used to describe the dedicated men and women of this agency. Another thing we are hearing is the allegation that the Department refuses to change the way it does business. Of course, those of us here know that is not true; these days you have a hard time keeping up with all the alphabet oversight groups — CRB, FIT, CIRT, etc. — that seem to be growing by the minute. There are tons of critics out there who think they know how to do better police work than the police. I really enjoy the bloggers who are given the opportunity to comment following stories that are printed in the *R.J.* These blogs just prove how many police haters, morons and screwed-up people there are out there hiding behind their computer screens, spewing hatred and misinformation by the bucketloads under anonymous and fictitious names. They use made-up names because they have no spine to put their real names to their outrageous comments.

As I am writing this, I received a phone call from a member who is very upset at the way our Department has been handling one of the recent controversial officer-involved shootings. He is very vocal in his belief, shared by his entire

squad, that we have been isolated by our Department and are leaving our officers hanging out to dry with no support from the purported leaders of this agency. This same officer wanted to know why the PPA was not fighting back by way of questioning the Sheriff's decision to conduct news conferences only in certain shootings, telling the public and the press to be patient and wait for reliable facts that will come out through a thorough investigation and asking the Sheriff to respond to the media only after the investigation has occurred, not before. It would certainly go a long way with our officers if this is the response that the Sheriff provided.

Please know that the PPA has tried to respond on our officers' behalves. Believe it or not, we have written editorials and even tried to take out paid advertising in pages of the *R.J.* to get our officers' message across P# 6440 to the public, but the paper's powers-that-be will not print them even when we are willing to pay for our page. So much for unbiased news reporting.

Another thing I would like to comment on is the idea that some of our own officers are calling the *Review Journal* and giving reporters information that should not be released. All I have to say is — ARE YOU KIDDING ME? Working the streets, these people might be called things such as a snitch or a rat. Understand that by leaking information, much of which is not based in fact but only rumor, all you are doing is hurting each other and our Department. Our Department has a public information officer in the Sheriff's office who is tasked with providing information to the media. And while we may not like all the statements that come from the Sheriff's office or his public information officer, we shoot ourselves in the foot leaking information that is simply inaccurate or has nothing to do with the incident in question. Often times, it just makes a bad situation even worse. What could you possibly gain by giving away the involved officer's name to the media before it is due to be released? Or for that matter, what do you or this agency gain by disclosing the officer's rumored IAB and discipline history right after a shooting? Can't you see that this may taint the public's opinion about the officer or the incident no matter how justifiable the shooting or use of force was? Remember, that could be you who is put in a position of having to use deadly force. Do you want your perfect career played out in the press? Do you want to be judged by superfluous and inaccurate information? I think not. Remember what your momma used to say, "If you don't have anything nice to say about someone, then don't say anything at all!"

And by the way, make my day, cancel the *R.J.* VB

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Cops: Reprocrats or Demlicans?

DETECTIVE MICHELLE R. JOTZ

Director of Governmental Affairs

The campaign season is in full swing, and legislators and potential legislators are looking for endorsements. During the 76th Session of the Nevada State Legislature, I wrote about some of the battles we were fighting in order to protect our cops. Some of the things we were fighting for related to your right to collectively bargain (contract negotiations), your retirement benefits (PERS), maintaining binding arbitration (which we received many years ago in exchange for the right to strike) and the Heart and Lung Bill. There is an interesting paradox when it comes to what we would like to see passed in the Legislature. It was explained to me that cops are typically Republicans with Democratic needs. We support law and order and we care about our retirement benefits and collective bargaining, therefore, we are Reprocrats* (or Demlicans, if you prefer).

While spending four months in Carson City for the Legislative Session, I watched as bill after bill was proposed to eliminate binding arbitration and collective bargaining, decimate the Heart and Lung Bill, change PERS from a defined-benefit to a defined-contribution system and much, much more. This was where you start to see a pattern. The bills that did all those horrible things to public employees and what we work for were proposed, supported and

sponsored by Republicans. I sat in a meeting with labor leaders and Assembly Minority Leader Pete Goicoechea, who told us that he would leverage public employees for the budget. When offered documentation to show that he might have misinformation, he wasn't interested in reviewing it.

I don't mean to say that we have had no support from Republicans. In fact, Assemblyman John Hambrick was extremely supportive in that he sponsored the Coroner's Inquest Bill proposed by the PPA that ultimately failed (by no fault of Assemblyman Hambrick's). We do have Republican friends, and we work hard to keep it that way. This is where things get complicated. When making a decision on whom to support or endorse, we often have to choose between the things that are most important to us. Do we choose the side that will work to protect the retirements we have worked so hard for and our right to have a contract, or do we choose the side that has vowed to take those things away?

The upcoming 77th Legislative Session in 2013 is sure to be an uphill battle given the changing faces of both houses of the State Legislature. I'm available to answer any and all questions regarding the PPA's involvement in the legislative process.

Stay safe. **VB**

**Special THANKS to David Kallas for explaining this to me!*

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NRS 289 - The Peace Officers' Bill of Rights: YOUR RIGHTS

DETECTIVE DARRYL CLODT

Sergeant-At-Arms

It is so important that we all understand this section of our state laws. Why? Because the Peace Officers' Bill of Rights is the section of state law that protects all of you as police officers. It was created to protect all law enforcement officers in the state of Nevada. In particular, I would like to discuss what I believe to be the most important sections of this statute for individual officers. Keep in mind that these rights have to be triggered by you and are based on your belief that you may be subject to punitive action. In other words, if you believe that you are involved in an interview or even a mere discussion with your supervisor that is going to lead to discipline, you must mention your concern, and then you may ask for a representative.

Obviously, the Department does have to be able to ask about our work performance. The key here is to look at what you think will happen after you talk, so ask questions and talk with your supervisors. If they truly are doing their job, they should tell you whether they are looking at something that might result in discipline. Unfortunately, as we all know, there are a few supervisors who seem to not play fair, and these are the ones I want to warn you about. Trust me, they are out there. Below, I reference some of the statutes to remind you all of what they provide.

NRS 289.057 Investigation of allegation of misconduct; suspension without pay; review of file by peace officer in certain circumstances; law enforcement agency prohibited from keeping or making record of investigation or punitive action in certain circumstances.

1. An investigation of a peace officer may be conducted in response to a complaint or allegation that the peace officer has engaged in activities which could result in punitive action.

Once you believe that a punitive action is going to take place, here are some of the things that the Department is mandated to do for you.

NRS 289.080 Right to presence and assistance of representatives at interrogation or hearing relating to investigation; confidential information; disclosure; record of interrogation or hearing; right to review and copy investigation file upon appeal.

1. Except as otherwise provided in subsection 3, a peace officer [who is the subject of or a witness in an investigation conducted pursuant to NRS 289.057] may upon request have two representatives of the peace

officer's choosing present with the peace officer during any phase of an interrogation or hearing relating to the investigation ... including, without limitation, a lawyer, a representative of a labor union or another peace officer.

2. A representative of a peace officer must assist the peace officer during the interrogation or hearing. The law enforcement agency conducting the interrogation or hearing shall allow a representative of the peace officer to explain an answer provided by the peace officer or refute a negative implication which results from questioning of the peace officer but may require such explanation to be provided after the agency has concluded its initial questioning of the peace officer.
3. A representative must not otherwise be connected to, or the subject of, the same investigation.
4. Any information that a representative obtains from the peace officer concerning the investigation is confidential and must not be disclosed except upon the:
 - a. Request of the peace officer; or
 - b. Lawful order of a court of competent jurisdiction.

A law enforcement agency shall not take punitive action against a representative for the representative's failure or refusal to disclose such information.

5. The peace officer, any representative of the peace officer or the law enforcement agency may make a stenographic, digital or magnetic record of the interrogation or hearing. If the agency records the proceedings, the agency shall at the peace officer's request and expense provide a copy of the:
 - a. Stenographic transcript of the proceedings; or
 - b. Recording on the digital or magnetic tape.
6. After the conclusion of the investigation, the peace officer who was the subject of the investigation or any representative of the peace officer may, if the peace officer appeals a recommendation to impose punitive action, review and copy the entire file concerning the internal investigation, including, without limitation, any recordings, notes, transcripts of interviews and documents contained in the file.

Let's hope this agency wakes up and realizes that being one of the leading agencies in the nation in internal affairs-type issues is not a good thing. I plan to write more on this in the next issue, so until next time, as always, stay alert and stay alive. **VB**



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Partners with the Community — Are They Even Qualified?

KIRK HOOTEN

Director of Communications

During a recent visit to the headquarters complex, I ran into a very tenured officer who I had worked with many years ago in patrol. This officer and I had a conversation about how he had worked almost his entire career in patrol and still loved it. The only reservation he had was having to break in so many new partners. Nowadays, the new officers weren't interested in learning from a seasoned veteran and acted as if they had it all figured out, in spite of little-to-no experience. The conversation went on about how important a quality partner is in patrol and law enforcement in general.

As we stood there talking, I couldn't help but notice the 12-inch block letters on the wall at the entrance to the Metro Campus that read "PARTNERS WITH THE COMMUNITY." The cynical part of me immediately saw the irony in this and thought, "The community is really not a very good partner at all, and in fact they're not even qualified to be our partner." Would any officer want to go push a black and white for 10 hours on a regular basis with a partner whose only qualification was sitting through the citizen's academy? Would our SWAT team like to include them on their next armed barricaded suspect entry? Clearly the answer is no. Yet these are the same people who vocally scrutinize our every move in the public eye without any legitimate frame of reference. There is a reason that panels of surgeons conduct reviews of surgical work and not truck drivers: The truck drivers aren't qualified to critique the surgeon! Why, then, do we accept that an individual or group from the community can critique the actions of someone with years of training and experience in law enforcement with only having attended a civilian academy and read a few books on police work, at best?

In all fairness, and before I go completely off on a tangent about why the community is not a good partner, I will concede that I believe the intention of the phrase is that we are partners with the community in making Las Vegas a better and safer place to live. Let's be clear, I do believe that.

However, during my career, the community seems to think they know everything about our jobs and how to do them, and isn't shy about telling us. Sadly, we have allowed them to run their mouths unchecked, and they now they think our lack of push back is a concession that we think they are either right or qualified to critique us. Neither thought could be further from the truth. There are numerous examples where the unqualified community asserts its knowledge of our business and fails us as our partner. The Citizen Review

Board, use of citizens on our Use of Force Board and nearly all media coverage are just a few examples.

I recently sat through a presentation by Andrea Beckman from the Citizen's Review Board. Although the presentation was thorough and professional, I was struck by just how much Ms. Beckman thought she knew about police work. She acted as if she was a retired 30-year veteran officer who knew all the nuances of police work and had been there and done that. It really started to aggravate me that an outsider to our profession felt she was an expert in police work. A reporter covering baseball for 30 years might know a lot about baseball, but that doesn't give him the skills or experience to put a uniform on and step into the batter's box to face a 90mph fastball, track down a fly ball on the warning track or criticize the player who erred on one of those plays.

As far as using citizens to gain a transparent review of certain situations, there are pros and cons. The pros are obviously that representatives of the community are able to participate in a review of police actions and pass along their perceived unbiased findings. This process furthers the "transparency."

The cons on this issue are complex and in part relate to the overuse and misunderstanding of the word "transparent." Transparent is defined as being characterized by visibility and accessibility and the ability to be seen through. The missing application of this definition is that transparent still employs a level of protection. A windshield is transparent, able to be seen through, but it still offers a layer of protection from a bird hitting you in the face as you drive down the freeway. Unfortunately, I think the vocal critics in the community want an unprotected rather than a transparent review.

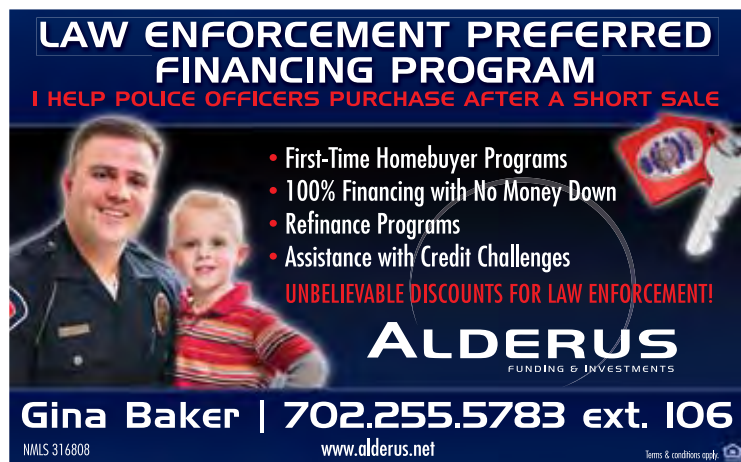
The citizens on the Use of Force Board are, for the most part, good people who are very supportive of what we do and how we do it. Occasionally, the process is a little skewed as they morph into critiquing the tactics of the officers in that forum rather than simply evaluating if the force was justified. My favorites are the former officers from Mayberry who offer their insight from times long past in a land far, far away. Again, are they qualified to evaluate the actions of officers in this jurisdiction and in these times? Most of the time, I don't think so.

The media is an uncontrollable animal that can't be reasonably dealt with. The phrase, "you can't fight the people who buy ink by the barrel," certainly applies here. I do think the media unduly influences our community into believing they know more about our profession and have the ability to evaluate our actions. This constant negativity in the press results in the community questioning our actions based on a prevailing attitude rather than the nuts and bolts of the particular action. I think some response from the Department and our association could and would offset the damage being done to public perception by the media outlets. Unfortunately, as stated earlier, they control the ink and what is printed or aired. We have been flatly refused the ability to respond or place our ads in their forums on numerous occasions.

In closing, I would like to say that I do recognize that the majority of the community is very supportive and doesn't assert that they know how to do our job on a daily basis. I just feel that the vocal portion of the community that thinks they know police work from a book readers' perspective isn't very different from the brand new officers who have it all figured out on day one and disregard the advice and mentoring of a seasoned veteran.

Sheriff, you are the seasoned vet in this case. Help the community understand that their role as our partner is to enable and aide us in keeping our community safe, not to question and criticize our actions to such an extent that officers choose to do nothing while on duty simply to avoid the scrutiny and condemnation that comes with the never-ending review from our purported "partners." **VB**

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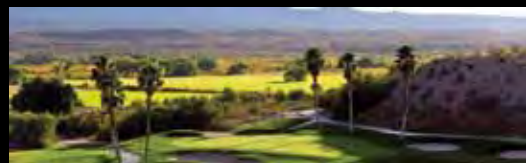
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KATHY WERNER COLLINS
General Counsel

Won't Get Fooled Again

Recently, we have had a couple officers contact our office feeling they had been fooled into giving a voluntary statement in a criminal investigation under the belief that their interview was purely an administrative one and that their statement might even be protected under *Garrity*. Unfortunately, that was not the case and in one situation, it ultimately led to the officer's resignation, while in another, representatives at the PPA picked up on what was going on and intervened to prevent the voluntary statement from occurring. I would not go so far as to say that those conducting the criminal investigation were trying to trick the officers. However, they were certainly not directly forthcoming in advising the officers in question that they were conducting a criminal interview, that any statements the officers gave could be used against them in a criminal setting and that they were expressly not protected by *Garrity*. This article, therefore, is to remind all of you once again what does and does not constitute a statement to law enforcement officials that would be subject to the *Garrity* protections.

A brief review of the *Garrity* case and what it stands for is appropriate here by way of background. The *Garrity* decision and its resulting protections are some of the most important rights that exist for you, as police officers. The basic idea of the *Garrity* protection is that an officer cannot be compelled, by threat of discipline and/or termination, to make statements that may be used in a subsequent criminal proceeding. Likewise, an officer cannot be terminated for refusing to waive his or her Fifth Amendment right to remain silent. See *Gardner v. Broderick*, 392 U.S. 273 (1968). A bit of background about these two important cases is helpful in understanding these rules.

In *Garrity v. New Jersey*, 385 U.S. 493 (1967), some police officers were questioned during the course of a state investigation concerning alleged ticket fixing. The officers were ordered to respond to the investigator's questions and informed that a refusal to respond to the questions would result in their discharge from their employment with the police department. The officers answered the questions. Their answers were subsequently used to criminally convict them. On appeal from those convictions, the United States Supreme Court ruled that the use of the officers' statements in criminal proceedings violated the Fifth Amendment's guarantee that citizens cannot be compelled to be witnesses against themselves. The Court held that "the choice imposed on the officers was one between self-incrimination or job forfeiture," a choice the Court deemed "coercion." The Court stated that "policemen ... are not relegated to a watered-down version of constitutional rights," and ruled that statements that a law enforcement officer is compelled to make under

the threat of possible job loss could not subsequently be used against the officer in a criminal prosecution.

In *Gardner*, a police officer who was being questioned about alleged bribery and corruption was discharged after refusing to sign a waiver of immunity that would have allowed the use of his statements in a subsequent criminal prosecution. The Court reversed the officer's termination, holding that the officer was discharged solely for his refusal to waive a constitutional right. The Court ruled that while a law enforcement agency can conduct an administrative investigation of an officer, it cannot in the course of that investigation require the officer to waive the immunity necessary under *Garrity*.

I cannot stress enough that in order for the *Garrity* protection to apply, the statement sought to be protected must be coerced and not given voluntarily. This means essentially that there must be an order, under threat of termination or some other disciplinary action, to give a statement on a work-related matter. This standard is a subjective one. In other words, "[b]efore a Police Officer's testimony will be considered 'coerced' within the meaning of *Garrity*, he must show that he subjectively believed that he would lose his job if he refused to answer questions and that his belief was objectively reasonable." *U.S. v. Waldon*, 363 F.3d 1103 (11th Cir. 2004). While you can generally meet this standard, remember that statements that are purely voluntary or spontaneous, statements to nonsupervisory fellow officers and statements to third parties are not protected by *Garrity*.

There must also be a threat of discipline and/or termination for *Garrity* to apply. This *Garrity* trigger or requirement is interpreted strictly by some courts and liberally by others. Some courts hold that unless there has been an explicit threat of termination, *Garrity* does not apply. For example, certain courts have held that even though an agency's rules require an officer to obey a lawful order, which might impose upon him an obligation to answer questions regarding a work matter, the fact that there may be adverse consequences if he fails to cooperate does not mean that he was "compelled" to incriminate himself. Another court reasoned similarly in finding that even though an officer was told she would be charged with obstruction if she refused to answer questions in a criminal investigation, her statements were voluntary because she was not told specifically that she would be fired if she exercised her Fifth Amendment right to remain silent. On the other hand, some courts find *Garrity* to apply reasoning that an officer could logically conclude that termination might occur when he is reminded that his job depends on his going to an interview and that policy requires him to cooperate. Keep in mind that even in courts where an express threat of discipline is not required, there must still be an "objectively

(continued on page 20)



Joining the Team

DAVID ROGER
General Counsel

Finally, I have joined the good guys as a member of the LVPPA legal team. I can't tell you how honored I am to work with your organization. I have been asked to write a few words introducing myself.

I am a longtime Las Vegas who graduated from Bishop Gorman High School in 1979. I went on to the University of Nevada, Las Vegas, where I majored in accounting and graduated in 1983 with a Bachelor of Science degree in business administration, and then I went to law school.

After graduating from California Western School of Law in San Diego in 1986, I returned to Las Vegas, passed the Nevada bar exam and went to work as a law clerk for then-Clark County District Court judges Stephen L. Huffaker and Paul Goldman.

In 1987, I was recruited by the district attorney's office and became a deputy district attorney. I was soon assigned to the Major Violators Unit, where I prosecuted career criminals and murderers and rose to chief deputy district attorney.

I was first elected as Clark County district attorney in 2002, and was re-elected in 2006 and 2010.

During my 25-year career as a prosecutor, I handled thousands of cases and approximately 70 jury trials, including 38 that were murder trials.

I was a director of the National District Attorneys Association, member and past president of the Nevada District Attorneys Association and fellow at the American College of Trial Lawyers.

My wife, Susan, is a Las Vegas Municipal Court judge. Our 15-month-old daughter, Holly Marie, is the joy of my life.

To say that I was thrilled when Chris Collins asked me to join this organization would be an understatement. I have spent

(continued on page 20)

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David F. Kallas

Government Affairs/Community Outreach and Labor Relations Director



From left: Ed O'Bannon, David Kallas, Rich Abajian, Tim Grgurich

Dave was a Metro Patrol Officer for 10 1/2 years and a Metro Criminal Intelligence Detective for 10 1/2 years.

From March of 2001, until he retired in September of 2009, Dave served as both the Executive Director and Director of Governmental Affairs for your Las Vegas Police Protective Association.

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TERRI LAIRD

Director of Membership Development

RPEN was formed in 1977 by a group of Nevada public employee retirees that included the state's first executive officer of Public Employees' Retirement System (PERS). These founders discovered that upon retirement, retirees not only lived on fixed incomes, but saw an increasingly greater percentage of their retirement income spent for health care.

RPEN is not PERS, but a membership association that advocates for PERS retirees. Collecting a PERS check monthly does not make you a member of RPEN. Joining RPEN offers you protection at the Nevada State Legislature and a voice at PERS. RPEN is a strong supporter of our PERS retirement system. Our Executive Committee and Committee chairs have underscored the importance of preserving this system to ensure that it remains solvent and viable and that its funds are used for providing retirement benefits.

In the last year, the assault on public employees has escalated, and it is possible that Nevada's Defined Benefit Pension Plan may be challenged at the 2013 session of the Nevada State Legislature. While it won't immediately impact existing retirees in the plan, it would definitely impact existing workers and any new hires coming into the plan. RPEN will be there to represent our nearly 10,000 dues-paying members. As you know, there

is strength in numbers, and we are continually working to build our membership base.

Joining RPEN is easy. Dues are only \$4 per month payable by PERS deduction or by cash on an annual basis. Active employees who are vested or age 50 or older may also join on a cash basis. Southern Nevada is served by RPEN chapters in Las Vegas, Henderson, Boulder City, Pahrump, Bullhead City, Mesquite/Overton and Lincoln County (Caliente/Pioche/Alamo). An RPEN membership application is included on the next page. For more information or to obtain additional applications, please visit our website at www.rpen.org or call our state headquarters in Carson City at (775) 882-7832. **VB**

INSIGHT

The pessimist is the man P# 6609 who believes things couldn't possibly be worse, to which the optimist replies, "Oh yes they could."

— Vladimir Bukovsky, *Manchester Guardian Weekly*
July 10, 1977

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RPEN works for retired public employees by:

- Serving as a voice for retired public employees during Nevada Legislative Sessions.
Supporting cost of living increases retired public employees receive.
Serving as a retiree advocate at PERS board meetings and meetings of other legislative, state and local governmental boards and committees.

Please take a moment and complete the RPEN membership application below. (Please Print)

Name Telephone Number

Address City State Zip

Check here if you wish to receive email

E-mail from the State Office on retiree issues Birthdate

Last Public Employer City where you worked

(if applicable)

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I would like to join RPEN as a: CASH Member PERS Deduction Member (Please indicate payment method)

CASH MEMBER: If you wish to join as a CASH member, send no money with the application. A partial annual dues invoice for pro-rated dues will be sent to you when your application is received. Cash members are billed annually in July.

PERS MEMBER AUTHORIZATION: I hereby authorize the Public Employees' Retirement System (PERS) to deduct RPEN dues as I have designated below at the rate of \$4.00 per person per month. I understand this will continue in the amount established by RPEN until I notify RPEN in writing to discontinue the deduction(s).

NUMBER OF DEDUCTIONS: (circle one) ME (OR) MY SPOUSE AND ME, @ \$4.00 each per month from: (circle one) MY (or) OUR monthly PERS check (s).

MY RETIREMENT DATE SPOUSE'S RETIREMENT DATE (if applicable)

MY SIGNATURE SPOUSE'S SIGNATURE (if applicable)

CHAPTER DESIGNATION: In addition to our legislative efforts and informational newsletters your membership in RPEN provides you with a network of local chapters in 17 Nevada communities. These chapters meet on a regular basis with speakers who make presentations on topics of importance to retirees. PLEASE CIRCLE the chapter you wish to belong to: Boulder City, Bi-Valley (Yerington), Carson City, Churchill, Elko, High Desert (Laughlin, Bullhead City, Kingman), Henderson, Las Vegas, Lincoln, Mineral, Pahrump, Sparks, Tonopah, Two Rivers (Overton-Mesquite), Washoe, White Pine or Winnemucca.

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FBI Reports on Officers Killed and Assaulted in 2010

In 2010, there were 69 alleged offenders who were identified in connection with the 56 law enforcement officers feloniously killed. Of these 69 offenders, 57 (82.6%) of them had prior criminal arrests and 19 (27.5%) were under judicial supervision at the time of the incident.

From 2001-2010, there were 587 known offenders in connection with felonious officer deaths, and 483 (82.2%) had prior criminal arrest; 375 (63.8%) were convicted on prior criminal charge; 101 (17.2%) received juvenile convictions on prior criminal charges; and 304 (51.7%) received parole/probation on prior criminal charges. Prior arrests were for a crime of

violence (261), murder (26), drug law violation (262), assaulting an officer/resisting arrest (133) and weapons violation (226).

Of the 587 known offenders, 164 (27.9%) of them were under judicial supervision at the time of the incident; 80 (13.6%) were on probation; 54 (9%) were on parole; three (0.5%) were in halfway house; eight (1.3%) were escapees from penal institutions; 18 (3%) were on conditional release, pending criminal prosecution; and one was not reported.

(Editor's note: For more information, please refer to the chart below and on page 19.) VB

Law Enforcement Officers Feloniously Killed

Criminal History of Known Offender, 2001-2010

Criminal history	Total	2001 ¹	2002	2003	2004	2005	2006	2007	2008	2009	2010
Number of known offenders	587	74	63	58	61	56	57	66	42	41	69
Prior criminal arrest	483	54	52	47	49	53	42	60	36	33	57
Convicted on prior criminal charge	375	42	38	42	39	41	30	46	24	28	45
Received juvenile conviction on prior criminal charge	101	9	8	16	15	8	8	14	6	8	9
Received parole/probation on prior criminal charge	304	31	34	29	34	34	22	39	18	26	37
Prior arrest for:											
Crime of violence	261	24	22	28	30	25	25	32	16	23	36
Murder	26	3	2	3	2	1	3	2	1	2	7
Drug law violation	262	26	31	26	27	26	26	38	19	13	30
Assaulting an officer/resisting arrest	133	16	7	19	15	12	11	20	6	9	18
Weapons violation	226	23	21	17	25	21	24	29	14	18	34


¹The 14 known offenders involved in the events of September 11, 2001, are not included in this table.

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This issue contains TWO ways to win your share of **\$500 CASH!**

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We've hidden **five personnel numbers** within this issue of Vegas Beat. If your number is among them and you call (702) 384-8692 to let us know that you found it, you'll win **\$50**. If you didn't find your number this time, try again in the next issue where we'll hide five more!

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This giveaway is not a drawing and is open to LVPPA members only. You must be 18 or older to win.

Law Enforcement Officers Feloniously Killed

Status of Known Offender at Time of Incident, 2001–2010

Status		Total	2001 ¹	2002	2003	2004	2005	2006	2007	2008	2009
Number of known offenders	Total	587	74	63	58	61	56	57	66	42	41
Under judicial supervision	Total	164	12	16	18	16	25	15	19	11	13
	Probation	80	8	10	9	8	11	5	10	3	7
	Parole	54	4	3	5	4	10	5	7	5	3
	Halfway house	3	0	1	0	1	1	0	0	0	0
	Escapee from penal institution	8	0	1	1	0	2	3	0	0	0
	Conditional release, pending	18	0	1	3	2	1	2	2	3	3
	Not reported	1	0	0	0	1	0	0	0	0	0
Known to agency as	User of controlled substance	131	14	14	16	12	18	9	9	11	10
	Dealer of controlled substance	95	11	10	15	10	13	11	9	5	5
	Possessor of controlled substance	91	6	13	12	10	12	7	12	9	2
Under influence of controlled substance	Total	65	8	10	7	4	9	5	8	3	1
Intoxicated/under influence of alcohol	Total	59	11	4	5	7	6	4	11	2	2
Known to agency as having prior mental disorder	Total	40	7	2	4	9	3	4	4	2	3
Relationship between victim officer and offender	Through law enforcement	76	13	11	5	9	11	5	6	5	3
	Through non-law enforcement	7	0	1	1	2	0	1	1	0	0
	No known relationship	478	61	51	52	50	45	44	56	36	33
	Not reported	26	0	0	0	0	0	7	3	1	5

¹The 14 known offenders involved in the events of September 11, 2001, are not included in this table.

Source: FBI 2010 Officers Killed and Assaulted Report.



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WON'T GET FOOLED AGAIN

(continued from page 12)

reasonable" belief that some adverse employment action may occur for failing to give a statement.

Once we know *Garrity* applies, i.e., once we have determined that the department has ordered an officer to answer questions under threat of disciplinary action and advised the officer that the answers to the questions will not be used against the officer in a criminal proceeding, if the officer then refuses to answer appropriate questions, the officer may be disciplined for insubordination. Since the officer's answers cannot be used against the officer in a subsequent criminal proceeding, discipline for refusal to answer questions in an internal interview is allowable even if the officer is also the subject of an ongoing criminal investigation.

A final point to keep in mind is that a compelled statement under *Garrity* provides immunity in a subsequent criminal proceeding. The statement can however be used for many other purposes. For example, the statement can be used in a subsequent disciplinary proceeding against the officer, it can be used in a civil lawsuit brought against the employer and the officer and it can even be used in a criminal prosecution of someone other than the one giving the statement.

It should be noted that even NRS 289.060(3)(b) requires a law enforcement agency to inform the peace officer immediately before a hearing or interrogation that failure to provide a statement or answer questions related to the alleged misconduct may result in a charge of insubordination. While this is in fact part of the *Garrity* warning, this statutory language requires that an officer be expressly advised that he is being compelled to provide a statement and answer questions related to his alleged misconduct and that failure to provide a statement or answer questions may result in the agency charging him with insubordination. By requiring that this language be placed on the record, there will be no doubt that *Garrity* is in effect so as to preclude the use of an officer's statement in any other proceedings in an effort to use that information against him criminally.

So what is not protected under *Garrity*? Pretty much everything else! So for example, if a detective from some arm of the bureau calls and asks

you to come speak with him, you need to know that the interview that he is seeking would not be protected by *Garrity*. Similarly if some officer contacts you wanting to informally talk with you about an incident or event, assume the same thing — no *Garrity* protections. Again, you will be specifically advised if and when you are deemed to be protected by *Garrity*, so don't make the same mistake that others before you have and assume that simply because you are speaking with the Department, that your statement is in any way protected. The better practice is to assume the opposite — that unless advised otherwise, you are giving a voluntary criminal statement that can and will be used against you. Additionally, when in doubt, please feel free to contact any of our representatives and they will be happy to instruct you further.

I hope that the information contained in this article gives you something to think about and perhaps even helps you avoid making the same mistake others before you have made. I am always available should you have any questions about what is addressed in this article or any other matters. Please do not hesitate to contact me. **VB**

JOINING THE TEAM

(continued from page 13)

my career working with cops and could not imagine not being associated, in some way, with P# 917 law enforcement.

Chris has assigned me to respond to officer-involved shootings, represent officers at coroner's inquests and defend members in misdemeanor cases. I will also handle matters before the labor management committee and arbitrations. Of course, I will also field any other matter that comes through the door.

I am excited to start my new career working alongside John Harper and Kathy Collins. Please e-mail me at DRoger@LVPPA.com with topics you would like me to address in future articles. Remember, I am here to serve you, and I am just a phone call away. **VB**

Discount Theme Park Tickets

Tickets may be purchased in person at the LVPPA office located at 9330 W. Lake Mead Blvd, Suite 200 during normal business hours (M - F 7:30a - 5p).
ACCEPTABLE METHODS OF PAYMENT ARE CASH, CHECK, CREDIT/DEBIT (Visa/Mastercard only).

For questions and information, please contact the LVPPA at (702) 384-8692.

The LVPPA makes no profit from the sales of Theme Park Tickets;
however, our ticket costs are rounded to the nearest dollar.

THEME PARK	TICKET	GATE PRICE	LVPPA PRICE
Knott's Berry Farm	One Day Ticket - Adult	\$47.99	\$32.00
	One Day Ticket - Child (3 and up under 48" tall)	\$26.99	\$23.00
	2 and under Free		
Legoland	Two Day Ticket - Legoland Only - Adult/Child 3-12	Adult - \$92.00/Child - \$82.00	\$59.00
	Two Day Ticket - Legoland Hopper - Adult/Child 3-12 (Legoland, Sea Life, Water Park)	Adult - \$110.00/Child - \$100.00	\$69.00
	2 and under Free		
Magic Mountain	One Day Ticket - Adult/Child	\$61.99	\$33.00
San Diego Zoo	One Day Ticket - Adult	\$42.00	\$37.50
	One Day Ticket - Child (3-11)	\$32.00	\$29.00
	2 and under Free		
Sea World	One Day Ticket - Adult/Child	\$69.99/\$61.99 one day ticket	\$48.00
Universal Studios	One Day w/6 months free Ticket — Adult/Child under 48"	\$77.00 one day	\$67.00
	2 and under Free		
Wild Animal Park	One Day Ticket - Adult	\$42.00	\$37.50
	One Day Ticket - Child (3-11)	\$32.00	\$29.00
	2 and under Free		

THANK YOU LETTERS

12/20/11

Hi Mark,

Waaay to go! I loved your recent article in the *4th Quarter Health Benefits* regarding taking responsibility for personal choices. Someone had to say it — and congrats to you for getting the message out there.

I have to admit that when I first started reading I assumed you were going along with the standard B.S. — wow, what a breath of fresh air. Now P# 9823 if you could just get the worst offenders to wake up and get a grip. Perhaps you could do a follow-up showing just how much their “immediate gratification” ends up costing us all in premiums. But thanks for trying.

Penny O’Hair

EDITORIAL POLICY

1. Opinions expressed in *LVPPA Vegas Beat* are not necessarily those of the Las Vegas Police Protective Association.
2. No responsibility is assumed for unsolicited material.
3. Letters or articles submitted shall be limited to 500 words and must be accompanied by writer’s name but may be reprinted without name or address at writer’s request.
4. Freedom of expression is recognized within the bounds of good taste and limits of available space.
5. The Board of Directors reserves the right to edit submissions and/or include Editor’s Notes to any submitted material.
6. The deadline for submissions to *LVPPA Vegas Beat* is approximately 30 days prior to the issue date.

RETIREMENTS

1/25/12	Janet M. Beck, P# 3626	PO II
1/27/12	John A. Lybbert, P# 2302	PO II
2/01/12	Dean R. Leslie, P# 3519	PO II
2/02/12	Richard Zaccara, P# 4115	Police Sergeant
3/01/12	Dale C. Toney, P# 4502	PO II
3/09/12	Joseph T. Destito, P# 4056	PO II
5/10/12	Peter V. Bonasera, P# 4336	PO II

CONGRATULATIONS

TO THE CONTEST WINNERS FROM THE LAST ISSUE!

Hidden Symbol Contest (\$250)

Kevin Beck, P# 9629

P# Contest (\$50)

Jerry Pearson, P# 7323

Michael Rodriguez, P# 12717

Cesar Urena, P# 9037

Michael Twomey-Walsh, P# 6501

Melvyn English, P# 4342



CALENDAR 2012

March 4	General Membership Meeting
March 11	Daylight Savings Time Begins
March 17	St. Patrick’s Day
March 20	Spring Begins
April 6	Good Friday
April 8	Easter
June 3	General Membership Meeting

* *General Membership Meetings are quarterly rather than monthly. If you need to present something before the Board prior to a regularly scheduled General Membership Meeting, please contact the PPA office so you can be accommodated.*

WHAT WE DO FOR YOU

DECEMBER 2011 / JANUARY 2012 REPRESENTATION STATISTICS

LABOR MANAGEMENT BOARDS

	Hearing Date	Alleged Violation(s)	Original Discipline	Decision
	1/12/12	Contract Issue -Not Receiving ADP though working as a Trainer	n/a	Appeal Granted - Awarded ADP back to time of grievance forward

PRE-TERMINATION HEARINGS

	Hearing Date	Alleged Violation(s)	Original Discipline	Decision
	11/30/11	Arrests w/o Warrants; Use of Force; Transporting Prisoners; Interaction w/ the Public	Termination	Upheld
	1/23/12	Conduct Unbecoming involving two felony crimes	Termination	Upheld

ARBITRATIONS

	Hearing Date	Alleged Violation(s)	Original Discipline	Decision
	NA	2nd DUI	Termination	Settled - Reduced to 40 Hour Suspension
	NA	2nd DUI	Termination	Settled - Reduced to 40 Hour Suspension

CITIZEN REVIEW BOARD COMPLAINTS

Dismissed	Alt. Recommended	Referred to IAB for Review	Concurred w/ IAB Finding	Pending CRB Decision
0	0	2	0	2

OFFICER INVOLVED SHOOTINGS/USE OF DEADLY FORCE INCIDENTS

Date	Use of Force Board Decision	Inquest Decision
8/27/10	Justified	Pending
11/15/10	Justified	Pending
11/15/10	Justified	Pending
12/26/10	Pending	NA
2/15/11	Justified	Pending
2/23/11	Pending	Pending
3/8/11	Justified	Pending
4/3/11	Justified	Pending
4/12/11	Justified	Pending
4/19/11	Justified	Pending
5/27/11	Justified	Pending
7/5/11	Justified	Pending
7/14/11	Justified	Pending
8/26/11	Pending	NA
9/9/11	Justified	Pending
10/24/11	Pending	NA
11/6/11	Pending	NA
11/21/11	Pending	Pending
12/12/11	Pending	Pending
1/17/12	Pending	Pending
1/21/12	Pending	Pending
1/24/12	Pending	Pending
1/31/12	Pending	NA
2/1/12	Pending	Pending

INTERNAL AFFAIRS SECTION AND BUREAU LEVEL INTERVIEWS

Declined	Represented	Total
49	135	184

ACCIDENT REVIEW BOARD

Unk	Excusable	Non-Negligent	Negligent	Rescheduled
0	0	1	33	6

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Otoplasty (ear reshaping)

Rhytidectomy (facelift/neck lift)

Chin augmentation

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