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

VOLUME 8 | ISSUE 1

May/June 2013

USE OF FORCE: WHAT DOES THE LAW ACTUALLY SAY?

Full story on page 16

ALSO INSIDE

Coming to a Briefing Near You Page 4

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— What You Need to Know Page 10



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LVPPA-0506

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Information and offers provided exclusively for members of the Las Vegas Police Protection Agency. Promotions end June 20, 2013. Call to schedule an appointment at the AAA Hearing Aid Clinic nearest you today: 8870 S Maryland Pkwy, Suite 100 or 8430 W Lake Mead Blvd, Suite 134.



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

The PPA Is Coming to a Briefing Near You

For the past couple of months, some of us on the PPA Executive Board have been attending briefings around the Department. If we have not made it to you yet, don't worry, we will. The purpose of these briefings is not only to bring you important information but also to answer any questions you may have. So far, what we have been most frequently asked about is the reserve officer program that you may have been hearing about, and body cameras. Up until now we did not have much information about either of these issues. Recently, however, I had the opportunity to speak with the Sheriff and ask him some questions about both of these matters. I am glad to say I now have some information that I can share with you on both topics.

First, let me address body cameras. The Sheriff told me the Department would like to expand the current testing and evaluation of these cameras here at Metro. We let the Sheriff know that we still believe body cameras are a mandatory subject of collective bargaining and that we would litigate the matter if need be if he tried to force all of our officers to use them. The Sheriff then advised that the expansion, testing and evaluation of cameras would be done strictly on a voluntary basis. Of course that relieves some of the concerns the PPA had, at least for now. I want to stress that the PPA does not want to stand

in the way of any officer who *wants* to use one of these cameras; we simply don't believe that the Department has the ability to unilaterally *force* these cameras upon any officer.

Now on to the reserve officer program. The Sheriff has advised us that the Department ideally would like to have about 250 reserve officers who would be willing to assist patrol on a voluntary basis. However, he noted that he is not sure if he will actually be able to get that many in our community to volunteer. The Sheriff also said that he envisioned having the bulk of these volunteer reserve officers help out down on the Strip to ensure the safety of both tourists and locals alike. The PPA has no issue with anything that helps ensure the safety of the public and our officers. We did, however, let the Sheriff know that we do not believe reserve officers should be allowed to sign up for Special Events overtime, and that it should be up to each individual officer if he or she wanted to ride with a reserve officer. We were told that the Department has no issue with either of these caveats.

As an aside, during this meeting we were able to resolve some other minor differences between the Department and the PPA. I would say that, overall, the meeting was very helpful. We will still be trying to get to your station if we haven't made it there yet. Keep your questions coming and we will do our best to get answers to you. Also, if we have already been to your area but you have questions about anything, please feel free to call any of us on the Executive Board and hopefully we can assist you.

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

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INSIGHT

A politician should have three hats: one for throwing in the ring, one for talking through, and one for pulling rabbits out of if elected.

—Carl Sandburg (1878-1967)

In Ferdinand Lundberg, comp.

Politicians and Other Scoundrels, p. 91, 1968



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Keep Your Head Up

POLICE OFFICER MARK CHAPARIAN

Assistant Executive Director

In a world rocked with scandal, violence, corruption and betrayal, it is easy to become cynical in our day-to-day interaction with our family, friends and coworkers. Cynicism is evil and sucks the life out of your body and soul. Don't fall victim to negativity and allow it to destroy everything you've worked so hard to build. Analyze the negativity in your life and take measures to control it. So many of us don't even recognize what has happened to us before it's too late.

Here are some ideas to help you stay focused on the positive that life has to offer, and lift you from a dark disposition. Share this with someone in your life who may need it.

- Get plenty of exercise
- Drink lots of water
- Eat healthy foods with proper portions
- Avoid excessive drinking
- See your physician regularly
- Set reasonable goals
- Turn off the TV and talk

- Actively listen to your family members
- Cook and make dinnertime a family priority
- Read and share your ideas and thoughts
- Spend time outdoors
- Clean that area of your house you've been putting off
- Make a financial plan
- Surround yourself with people who are positive about life
- Tell each of your family members how much you love them and why
- Reflect upon your life and count your blessings
- Forgive others who have betrayed or dishonored you
- Seek and explore religion or counseling

Time and attitude seem to always repair what seems broken. There will always be issues to deal with and people who disappoint you. You probably cannot control your world as much as you'd like but you *can* control how you react to things happening in your world. Use your energy to see all the good this world has to offer and you'll be amazed at what you'll find. Long ago, I read somewhere that one should live their life P# 3522 to the fullest all the while remembering that someone will likely write your eulogy based on your choices. How will your eulogy read? **VB**



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Employee Mediation Program — Better Than an IAB Investigation

CORRECTIONS OFFICER THOMAS REID

Assistant Executive Director

Last month, a couple of advocates of the Department's Employee Mediation Program came to a PPA Board of Directors meeting and gave us a presentation on this program. I wanted to share with you highlights of this program and how it can provide closure on minor complaints.

Department Policy 5/101.25 states that the Employee Mediation Program is a cooperative effort between the Department, the Clark County Neighborhood Justice Center and the Citizen Review Board (CRB). The idea of the program is to provide a method of resolution for some complaints alleged against Department employees by citizens or other employees. The process is nonjudgmental and will not result in any discipline, administrative action or any sort of report. The goal is simply to discuss what occurred, allow each party to understand the other's side of what occurred and try to resolve issues and restore relationships through communication. This alternative to an Internal Affairs investigation provides an opportunity for participants to communicate informally with the assistance of trained mediators. These mediators are not Department employees and do not report to or through any Department chain of command. This process may also be used to resolve differences that arise between Department members and/or citizens and that have not yet been raised to the level of a formal complaint.

Mediation is not appealable through any grievance process. And this just makes sense as there is no finding or discipline following the mediation. Once the mediation process is completed, the internal review of the allegation is considered to be a closed and confidential matter.

Mediation can be initiated by the Citizen Review Board, Internal Affairs or supervisory members of the LVMPD. In addition, employees may request mediation through their supervisor to resolve a perceived issue before it becomes a formal complaint. Likewise, the complainant or the subject employee can decline to participate in the Mediation Program. This process is strictly voluntary and you cannot be forced to participate. If you choose to not participate, then the formal Internal Affairs investigation will proceed as per the normal Department policy.

If you choose to participate in the Mediation Program, there are some guidelines that apply:

- The Mediation Program is confidential and a successful mediation is the final resolution of the complaint; it may not be appealed, grieved, reopened or pursued further by either party.
- The mediation cannot be recorded.
- It is recommended that civilian attire be worn.
- No participant may be armed and weapons can be secured at the mediation site.
- The employee may have a representative accompany him or her to the mediation as a non-participatory member.
- The employee and the complainant must agree to the mediation.
- Employees must conduct themselves in accordance with the Department's standards of conduct.
- Overtime is not authorized when attending mediation.

The mediation process is considered "successful" if the parties communicate and reach some understanding about what occurred and why. Further, it is deemed "successful" even if the complainant is intentionally disruptive or uncooperative to the degree that the process cannot be facilitated or if the complainant fails to show up or complete the process, so long as the employee shows up to participate in good faith.

The mediation process is considered "failed" if the employee is intentionally disruptive or uncooperative to the degree that the process cannot be facilitated, or commits a serious violation of Department policy during the process.

Neither side has to concede or apologize to the other; it is acceptable to agree to disagree. The goal is simply to have both participants hear one another out and be respectful — then the mediation has been a success. The final step is for the Clark County Neighborhood Justice Center to inform the referring party, in writing, that the process was successful or failed. A failed process or declined mediation attempt will be referred for investigation to IAB.

In closing, if you are asked to participate in the Mediation Program, consider the upside of this process (quick resolution with no risk of discipline) compared to going through a more formal investigation with its uncertain outcome. **VB**

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Improving Public Perception

POLICE OFFICER MIKE RAMIREZ

Secretary

We have a job to do: to serve and protect. Whether or not we are actually serving and protecting can only be judged by our local community. In polls conducted, both locally and nationally, the perception of police was on average around 70% favorable, 10% unfavorable and 20% indifferent. The economy and local and national legislation over the years have forced police departments to tighten their belts, which actually makes it harder for us to do our job — doing more with less — but we still have a job to do. Although many of you may not think that improving the public perception is an important part of our job, it should be. The more favorable public perception we have, the more likely we are to have public support when it comes to the ongoing legislation that affects our jobs.

A citizen's personal experience with the police will affect his or her overall assessment of the police as a whole. The more recent the experience, the more it will affect their opinion. With this in mind, there are small things that can make a difference. For example, a complaint that we often hear is that citizens are stranded on the side of the road and they watch as police officers drive by without stopping to assist. It seems so simple to stop and offer to call for a tow truck or to set flares to protect them. I understand that there are several reasons

that an officer might not stop, i.e., calls are holding, personal stats need to be increased or even the fear that fellow officers will accuse you of “sand bagging” so that you don't have to take a call. With the shortage of manpower and officers running from call to call with little or no break time, it makes it difficult to stop for something so seemingly unimportant. Although I understand this, the citizen stuck on the side of the road does not. A simple gesture can go a long way in showing that we really do care about the John Q. Citizen.

The example above is just one suggestion of how to improve the public's perception of us. Any type of informal contact with citizens can assist in the improvement of relations between the police and the community. At the end of the day, the calls, the stats and the shortage will always be here. They were here when you were hired and they will continue to be here long after you are gone. What stays the same, regardless of our internal challenges within the organization, is the public's opinion. I realize our job is difficult and it would be naive to assume every single citizen can be attended to, but we can at least make an effort. Although our goal should be to get a 100% favorable review, I realize that is not realistic. However, every little bit counts. A more favorable public perception could mean increased staffing, resources, etc. for us. As always, be safe out there. Please know that the Association will always fight the fight for you. **VB**

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Now What?

CORRECTIONS OFFICER SCOTT NICHOLAS

Treasurer

The most common question I'm asked in my role as a PPA Executive Board member is, "Now what?" The LVPPA has been working hard on improving and increasing communication with our members. I'm sure you know we publish this *Vegas Beat* magazine that you receive six times each year. We also have a website (www.lvppa.com) with current information. We send out email blasts to your personal email address if we have one on file to help provide updated information that is particularly time-sensitive. The most recent addition to our communication efforts are our video productions and distributions via email, an effort spearheaded by David Roger and designed to provide timely information and responses to "hot" issues that come up. Our videos seem to be the easiest way to keep you up-to-date on current events and changes that take place within our Association and LVMPD. We certainly understand that our members have other things to do besides work and try to stay up-to-date on the various issues that affect them, not to mention the never-ending changes implemented by the Department these days! That is why our goal is to help you be prepared in the event of an in-custody death at CCDC or on the street, an officer involved shooting, a Force Investigation Team interview, a Critical Incident Review Team interview, a Critical Incident Review

Process hearing, or even a simple witness interview conducted by Internal Affairs.

Again, one of the first questions our members ask when involved in some sort of critical incident is, "Now what?" That's where the PPA comes in. When we are contacted about a critical incident, one of our representatives will contact you. Often, a representative will actually respond to wherever you are. And in many circumstances, we will arrive with a PPA attorney; this is generally in the case of all major incidents such as shootings or in-custody deaths. As I know you are aware, the process of investigating these events changes on an almost monthly basis and we will do our best to pass along to you relevant information about those changes. In the meantime, please open your emails, including the videos that we are sending you, so you will have a better idea how the process works — and what will come next if you are involved in any of the myriad of alphabet proceedings we have these days, including of CRB (Citizen Review Board), IAB (Internal Affairs), ARB (Accident Review Board), CIRT (Critical Incident Review Team), FIT (Force Investigation Team), ARB (Animal Review Board), UOF (Use of Force Board), TRB (Tactical Review Board), CIRP (Critical Incident Review Process), etc.

One last thing I want to stress is that it is so important for you to know who your area PPA representative is, and to have his or her phone number and the PPA phone number readily available in the event you find yourself in one of these critical incidents and have questions before we are able to arrive. If you are involved in an in-custody death, a 405 at CCDC, an officer involved shooting or are just on the same shift and hear about one, call us or call your area representative and have them get in touch with us. This will help us get a jump start so we can start helping you. We want to know as soon as possible if there is a problem. This will also get us moving sooner in case there is a "glitch in the phone system" and we don't receive a call from dispatch about the event. Thanks and be safe. **VB**

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INSIGHT

Wealth is a relative thing since he that has little and wants less is richer than he that has much but wants more ... A tub was large enough for Diogenes, but a world was too little for Alexander.

—C. C. Colton (1780-1832)

Lacon: Or Many Things in Few Words; Addressed to Those Who Think, 1,426, 1823

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Understanding Your Pension Benefit

DETECTIVE KIRK HOOTEN

Director of Governmental Affairs

Having spent the last two months at the 77th Nevada Legislative session, I now have a clearer picture of just how important accuracy is in evaluating our public employee pension benefit. What I have seen is a general lack of understanding of how our system works, why it is even necessary and how it impacts our state.

Surprisingly, this general lack of understanding is largely within our own people — people earning the benefit. This is especially problematic when members of the public or media begin to assail our benefits, and our members do not have the knowledge to defend it.

I do not profess the ability to explain all the nuances of the Nevada Public Employees Retirement System in the brief context of this article. I do hope to begin a long and arduous process of starting an educational/informational dialogue among our members on NVPERS and the pension benefit in public service in general. I believe our members should be diligent in understanding their benefit, why it is part of public service and why it is necessary. In addition, I want our members to have the tools to defend salacious and envious attacks from those not receiving the benefit.

The first thing to address is why do we receive a pension in the first place? There are many reasons that people go into public service but for many, it is the stability

over the long term that the position comes with. You, as the employee, make a commitment to a non-portable retirement benefit and in return for your loyalty and lengthy service you get a pension.

The first part of the equation is that for public employers to be able to attract quality employees and compete with the private sector, they have to have something to offer. A secure, defined benefit pension is the proverbial carrot being dangled. Many public employees have education and specialized work experience that would enable them to attain jobs and positions in the private sector at a much higher salary. The pension benefit is the great equalizer.

The second part of the equation is retaining these employees after you have hired them so all the training and experience invested is not lost through constant employee turnover. This is very common in the private sector since professional employees often seek to improve their earnings and benefits by changing companies, cities or even countries in looking for a P# 13295 better deal. The public sector has to have the ability to retain its employees by providing something of value for loyalty in service. The pension benefit and its increase in value for accrued vested service credit is, again, the great equalizer.

(continued on page 24)

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Accident Review Board (ARB) — What You Need to Know

DETECTIVE DARRYL CLODT

Sergeant-At-Arms

I believe that it is incumbent on all of us to be well informed about the Accident Review Board, or what we often refer to as the ARB. Many of us, as police and corrections officers, drive a lot of miles in the performance of our job duties. It amounts to millions of miles per year. And yes, along with those miles come our fair share of fender benders, collisions, you name it — some minor and others not so much. No matter the circumstances, accidents will get you an invite to the ARB. I will try to impart what I believe are the most important things you might need to know about this process if you find yourself before that board.

As we all know, when that unfortunate event does take place, traffic comes out and does the investigation. So here is the first point of issue. If you receive a traffic citation, please come see us at the LVPPA office so that we are aware of this fact. It is our belief that you should not be “double dinged.” Somehow the Department seems to think if you make a mistake on the road, that because you are a commissioned officer, one form of discipline is not enough and that you should be subject to both a citation and then discipline on top of that! This just doesn't seem right — if a citizen is at fault he or she just receives a citation, case closed.

If you are involved in an accident, per policy it will be reviewed by the ARB. Generally, this board meets once a month and looks at the past month or so of Department members' on-duty accidents. You must keep in mind that if you get a notice to appear, you need to pay attention to whether the appearance is mandatory; the notice itself will clarify if the appearance is mandatory or not. If it specifies that it is, then you **MUST** appear. This notice of a mandatory appearance is an order just like a notice to appear for an internal investigation. Also, your supervisor is required to be there as well. If it is a non-mandatory appearance notice then obviously you do not need to be there. And if this is the case, my advice to you is not to come — it generally is not going to change the board's mind on any issues and just leaves you open to any questions that may arise. Typically these non-mandatory appearance notices involve minor matters. If you do choose to come, understand that they can ask you questions about your accident. And if you are there for questioning you might say something that may lead to a different outcome, i.e., more discipline, and you will never know what the original outcome would have been. So the bottom line is: do not go to non-mandatory ARB reviews!

If you are before the board on a mandatory appearance notice, know that during this meeting you will be represented by the PPA. One of the things we do during this process is we make sure the board only brings up what they are permitted to regarding past accidents. For example, if you had a previous accident before the one you are before the board on now, it may only be brought up if it is within a specified time. If you received a written reprimand for a prior wreck, the board can bring it up for only 18 months and then it purges out of your file, and so on, according to the contractual purge periods in the collective bargaining agreement. These are just a few important facts to know. As always please use your representatives for all interviews you go to. Until next time, stay alert and stay alive. **VB**

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INSIGHT

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And every time they make a law it's a joke.

—Will Rogers (1879-1935)

In P.J. O'Brien, *Will Rogers, Ambassador of Good Will, Prince of Wit and Wisdom*, 9, 1935

RETIREMENTS

03/07/2013 Augustus Symonette III, P# 5397	PO II
04/12/2013 Gregory P. Rundell, P# 3311	PO II
05/02/2013 Joseph A. Pilette, Jr., P# 3668	PO II
05/09/2013 James A. Carroll, P# 3656	PO Sgt.
05/30/2013 Gregory B. Finley, P# 5186	CO II
06/04/2012 Alfred R. Gibson, P# 4439	PO II



New Use of Force Process (CIRP)

DETECTIVE RORY NESLUND

Director of Communications

Well, here we are again with a new acronym; I know it's hard to believe. The new term we will all get to know probably far too well is CIRP or Critical Incident Review Process. CIRP is the process that will be taking the place of the old Use of Force Board that we are all familiar with. The institution of CIRT (Critical Incident Review Team) and the administrative review of any major incident or use of force made the old process obsolete. As we sat with our members during the Use of Force Board process it quickly became apparent to us that there was a lot of information being presented in that board that had nothing to do with the actual use of force. The board became a total review of the incident. I sat there and listened to the presentations that spoke of old policy vs. new policy, a review and critique of when a vest was put on, what channel your radio was or wasn't on, etc. It clearly became more a review of the tactical or administrative process rather than the actual use of force. Does any of that really matter at the split second in time when a suspect pulls out a gun and starts shooting at a police officer, and the officer is forced to do the ultimate and eliminate the threat? I say hell no!!

That being said, I do believe in the overall CIRT process and making everyone on this agency, and law enforcement in general, a little safer and a little smarter. The Use of Force Board is not the place for that though. From the moment this process began, some of us at the PPA began to have discussions with executive staff about the process. It was our belief, as it was some of theirs, that the process needed to be bifurcated into a use of force review and a tactical review, or "internal debriefing" of the incident. The use of force review should be just that — a review of the actual force used to see if it was justified or not. The tactical or internal review should be where all the other issues surrounding the event are discussed. Through many internal discussions with staff and Office of Internal Oversight members, a new process was born.

The new process is known as the CIRP. According to policy (5/101.02), the CIRP encompasses two separate but related boards whose combined purpose is to conduct a thorough review of all aspects of incidents involving the use of deadly force by Department members. The CIRP is a two-part process that examines tactics utilized by the member, as well as decision-making, department policy and procedure compliance, training, supervision and the use of deadly force in these incidents.

The two boards created from this are the Use of Force Review Board (UFRB) and the Tactical Review Board (TRB). The vision was to have the UFRB look at the actual use of force and the TRB to look at all the surrounding circumstances of the entire event. By policy, the boards are defined as the following:

Use of Force Review Board (UFRB): As a primary component of the CIRP, the UFRB hears and issues findings regarding the actions of Department members who actually used or who directly ordered the use of deadly force during the course and scope of their duties, whether or not such force resulted in death or serious injury.

Tactical Review Board (TRB): The TRB will hear CIRT findings. The TRB can validate, overturn or modify the findings regarding the actions of all Department members who participated, in any capacity, in incidents where deadly force was used during the course and scope of their duties, whether or not such force resulted in death or serious injury. Animal shoots are to be heard by the TRB.

The boards will be held one after the other. The UFRB will convene and a decision will be given. The TRB will then convene right after the UFRB and the remaining facts surrounding that incident will be discussed. The UFRB members will be similar to those who previously sat on the Use of Force Board, which as you probably know, included citizens. The TRB on the other hand, will not include any civilian members. So at the conclusion of the UFRB, only the commissioned members of the board will continue to participate in the tactical review. Although the people that make up the TRB are less in number than the UFRB, the ones that will continue to be involved in that process will be the same people that were in the UFRB. That will make the transition fairly easy into the TRB process.

It is our understanding that the finding of the UFRB will be made public, but the finding of the TRB will be held confidentially within the agency. This is a new process and without a doubt will need to be tweaked a bit as we go. This is a benefit in our eyes, to have the process bifurcated into the two boards. We will be monitoring it closely and we will continue to have conversations with executive staff and OIO when needed to make this the best non-adversarial process as possible for our members. I appreciate the staff and OIO allowing us to be engaged in the process and moving this forward.

As always, please stay safe and feel free to contact me with any questions or concerns. **VB**



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JOHN DEAN HARPER
General Counsel

Odds and Ends

Since the Association has been using video and email to keep you updated about the latest law related information, I thought I would write about some random issues that have cropped up since my last column.

Specialty Health/CCSMI

In my fifteen (15) years at the Association, our members have consistently had problems with the Department's workers' compensation Third Party Administrators (TPA) and consultants (I can say that my experience with the City of Las Vegas has been much more pleasant). The Department has a self-funded plan. Some people might remember that when CCSMI was the TPA the first time, records faxed by members would get "lost" in a black hole time and time again. If members of the Department's Health and Safety Bureau and CCSMI liked you then you might get something done, if they did not, forget about it. And then one day, those employees "disappeared" without an explanation by the Department and CCSMI was subsequently replaced by Tri-Star.

Tri-Star seemed to be less subjective in its treatment of our members, but it was understaffed. Toward the end of its term, it had added another claims person and seemed to process claims in a more timely fashion when "lo and behold," CCSMI was back.

Since February 2008, Specialty Health has contracted with the Department to provide medical management oversight of its workers' compensation claims. When you look up Specialty Health's website (www.specialtyhealth.com), you see that it boasts that: "Our medical model has achieved a 63% savings." Specialty Health controls the Department's list of providers and it has become pretty obvious that the list contains medical providers that toe the Specialty Health line.

In the past few years, I have seen a trend for Specialty Health to disallow diagnostic tests such as MRIs, CT Scans, etc., and recommended that the member go to physical therapy instead. This is not always a bad thing, as physical therapy can be effective in some situations. However, in talking to our members and reviewing actual denials, I have come across what appears to be a problematic trend whereby a doctor denies a request for surgery, a diagnostic test, etc., after claiming that he called the treating physician and either "left a voicemail" or "left a message with [a name of a staff member]." In those cases, a doctor never attempts to re-contact the treating physician and makes his decision to deny without the treating physician's input.

Even if you are being represented by other counsel, if you have a similar situation, please contact me so that I may address this situation with the Department. In the meantime, the Association has requested and received the contracts that CCSMI

and Specialty Health have with the Department. I am going to evaluate them and give the Executive Board a report, which should be done by the time this goes to press.

It is my observation that the Department tends to deny claims in the hopes that the officer will go away; it also appears that claims are also stretched out, to further frustrate officers so that they will be happy with anything they get. In short, it appears as if the Department treats most claims as if the officer is a malingerer and trying to take advantage of the situation. The problem is that this theory is wrong both in disciplinary and injury cases. Ninety-nine percent (99%) of our members want to get back to full duty and do not like being at home or on light duty. The inordinate extension of claims causes morale issues that make our members wonder if anyone really cares about them and, even worse, I believe it makes them think twice when they face a foot-pursuit or use of force situation in the future. This hesitation may cause them to be injured, or affect their officer safety. The Department seems to not be aware of the long-term repercussions of running a stingy workers' compensation system.

More Workers' Compensation

Make sure you file an Occupational Injury Report within seven (7) days of an injury. Even if you think it is a muscle pull or something that will heal, fill out the form. If you do heal and do not need medical attention you wasted five (5) minutes, if you did not file and you really do have an injury, you will be denied coverage. If you have any questions, call or email me.

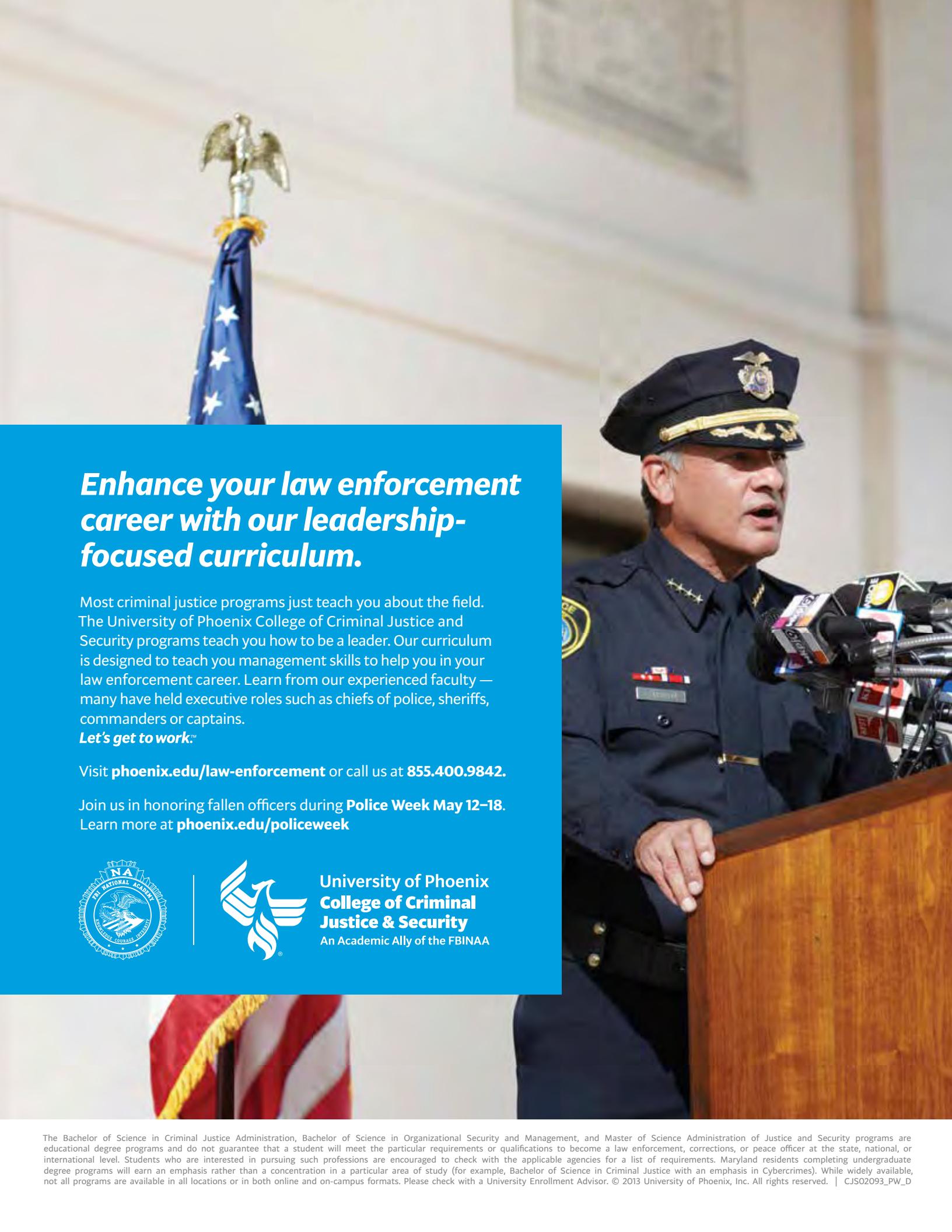
Law Enforcement Assistance Fund

The PPA Charities has been renamed the Law Enforcement Assistance Fund (LEAF). As a reminder, LEAF is 501(c)(3) non-profit corporation that provides college tuition assistance for surviving spouses and adult children of PPA members killed in the line of duty. It also provides Christmas and birthday presents for those same children who are minors. LEAF is happy to welcome two (2) new outside board members, Virginia Valentine (President, Nevada Resort Association) and Sandy Mangold (Retired Colonel USAF/Professor/Business Owner). The board of directors of LEAF wants to thank former board member Terri Janison for her outstanding service to the charity and welcomes her continued participation.

We are working on having some annual fundraisers such as a 5K run and a golf tournament. Also, remember that you can donate to LEAF via a payroll deduction with the Department.

Fifteen Years and Counting

Laura Paletta, Kathy Werner Collins and I are celebrating 15 "interesting" years with the Association. I am certain that I can say on behalf of the three of us that we are honored to work with such a fine group of people here at the Association and with such a dedicated membership. **VB**



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Sheriff's Message

SHERIFF DOUGLAS C. GILLESPIE

Leadership and Making Decisions

Our leaders need to be decision makers. I want to take a moment to share my thoughts on leadership and making decisions. Leadership means many things, depending upon who you speak to or what article or book you happen to read. We can all agree there is much more to leadership than simply barking orders to subordinates to get things done. There is no one individual that knows everything and stands alone in accomplishment.

I have focused on leadership in past articles. The reason I chose to revisit it in this issue is because I feel that it is vitally important within our organization, and to policing in general. I don't think there is a more important topic in our profession today. Leadership is the principal element that dictates the success or ultimate failure of an organization, regardless of whether we are referring to a policing organization or a Fortune 500 company.

We have some of the finest, most skilled P# 6244 and dedicated people in the law enforcement profession working here at the Las Vegas Metropolitan Police Department. We owe it to the people who work here to provide the best leadership model in the country, and to continue to strive to improve that model every day.

The term "leadership" is significant because it implies power and influence

over others. Strong leadership can be exhibited when a leader provides direction during a dynamic emergency or disaster. It can also be evidenced when a leader shares knowledge through guidance and mentorship to subordinates who are trying to increase their professional skill level or trying to get a promotion to a position of greater responsibility.

We go to great lengths to train and equip our current and future leaders, both commissioned and civilian, to provide them with the best foundation possible to guide this organization — and with good reason. Leaders are expected to make the decisions that may ultimately impact this agency into the future. We have all seen the effects poor leadership and poor decision making have had on police departments across the country. Federally mandated Consent Decrees, civil litigation and internal turmoil have done irreparable damage to many departments. The damage may not simply be financial losses due to civil liability, but also damage that can be done to the community trust that we work tirelessly to build. Leaders, directly or indirectly, impact their immediate working environment, the organization and the community. That is why it is important that we get it right.

I believe sound leadership and decision making requires key elements to be successful. The first, and possibly most critical element for a leader and decision



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maker, is communication that extends from top-to-bottom and from bottom-to-top. Decisions are aided greatly when a leader listens to different perspectives that may differ, or even challenges his/her own conventional thinking. Effective leaders put aside their egos and focus on team accomplishment to achieve greater results that benefit everyone. It is also just as important for a leader to communicate to others exactly what he/she wants to accomplish and produce a collaborative environment for problem solving.

Another crucial element is commitment. Experience has taught me that the best leaders exhibit a commitment to getting the job done and setting an example for others to follow. That measure of commitment is what drives leaders to put in the extra time and effort to thoroughly understand problems and to gather facts to make more informed decisions. They also consistently challenge conventional concepts for addressing problems and become change agents for the agency.

Once a leader has acquired the facts needed to act, he/she must have the confidence and attitude to take charge and move forward without hesitation. That confidence should not be born of arrogance, but through a foundation of knowledge developed through proper preparation, training and experience.

There is also ownership and accountability for the decisions that are made. I realize some decisions are made in an instant with little time to deliberate. Leadership decisions may often be scrutinized or questioned; however, effective leaders view that as a personal and professional challenge. They realize that their decisions may be scrutinized, but they persevere and move on unfazed. Leaders will take every opportunity to learn and grow from both their successes and mistakes to become better prepared for the next challenge.

Strong and decisive leadership helped to build this agency over the past 40 years into a premier organization and a model for other agencies across the country, which is no small accomplishment. The quality of our people is what continues to make this organization stand out in the law enforcement community. The quality of our leadership must continuously strive to evolve and improve to keep this organization where it is right now...on the cutting edge of law enforcement in this country. **VB**

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USE OF FORCE: WHAT DOES THE LAW ACTUALLY SAY?

By Lieutenant Scott Karkos

Are Federal Laws Overly Restrictive?

The new Use of Force Policy (UOF) leads one to believe that the courts are restricting what kind of force an officer can or cannot use. That is simply not true at all. The bar was set by the U.S. Supreme Court (SCOTUS) in the *Graham v. Conner* decision.¹ Any force used must be “objectively reasonable.” That is the standard; the law of the land. Nowhere does SCOTUS state that officers must use the “minimal” or the “least intrusive” amount of force to seize a suspect, or to restrain an inmate or withdraw. That is simply not found in the Constitution of the United States, nor any court decision, and we are doing a disservice to our officers by making them believe that they MUST choose the least intrusive amount of force, including disengagement, when detaining/seizing a suspect, or must exhaust all other methods, including retreating, before resorting to deadly force. Again, that language is not found in federal law. It may be found in Department policies and such, but it actually conflicts with federal law.

Force Continuums: Are They Based in the Law?

For those who have been around long enough, we recognize the latest force options as eerily similar to what was in effect in 1991, which is the “step ladder” representation. Force continuums are found nowhere in federal law, and as a matter of fact, are refuted by the Federal Law Enforcement Training Center² (FLETC). FLETC no longer teaches continuums. The reasoning is that it goes against what SCOTUS has ruled. In the *Graham* decision, SCOTUS states that under the 4th Amendment, force is not capable of precise definition or mechanical application, yet that is what force continuums try to do: they are trying to define what SCOTUS says is not capable of being defined. Continuums are purely subjective in nature. For instance, let’s say a suspect is 5 feet 10 inches tall, weighs 200 pounds, and is threatening to fight any officer who tries to arrest them. To an officer who is 6 feet 2 inches tall, weighs 250 pounds and is young, “reasonable” could be simply going hands-on with the suspect. But take a 5-foot-2-inch officer who weighs 120 pounds, going hands-on is not reasonable. He or she may feel the need to use a baton, OC Spray or the ECD to take the suspect into custody. This kind of discrepancy is not found in our policy model. It does not take various factors into account. It is a subjective viewpoint, not an objective one, and SCOTUS states that the level of force used must be “objectively reasonable.” It makes no sense holding officers to a subjective standard when the law states that the standard is an objective one, not a subjective one. Continuums conflict with *Graham*.

Why Add “Clarifying Language” to *Graham*?

Next, the UOF Policy added five additional steps³ to determine what is “objectively reasonable.” They are as follows:

- d. The influence of drugs/alcohol or the mental capacity of the subject;
- e. The time available to an officer to make a decision;

- f. The availability of officers/resources to de-escalate the situation;
- g. The proximity or access of weapons to the subject;
- h. The environmental factors and/or other exigent circumstances.

These five extra steps (d–h) are not found in the *Graham* decision at all. Also, there is language just below these extra steps that states, “The officer will use a level of force that is necessary and within the range of objectively reasonable options.” Again, there is no “range” of objectively reasonable options found in the *Graham* decision. These additions have nothing to do with federal law, but are feel-good measures that the public wants to foist upon us. Another line in the policy states: “Reasonable and sound judgment will dictate the force option to be employed.” Sound judgment sounds good, but it too is not found in the language the Court used in *Graham*. Deadly Force Policy now requires of officers that “all other lesser alternatives have been reasonably considered



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and exhausted prior to the use of deadly force,” to include disengagement. That language is not found in federal law or the Constitution. As a matter of fact, the 9th Circuit Court refutes it as well. In the *Scott v. Henrich* case (1994),⁴ the Court stated that requiring officers to choose the least intrusive option would require them to have “superhuman judgment.” The 9th Circuit Court has refuted the belief that officers must use the least amount of force. The force used must simply be reasonable, which supports the *Graham* decision. In *Hammer v. Gross*, the 9th Circuit Court in En Banc stated, “The question is

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¹ *Graham v. Conner*, 490 U.S. 386, 397, 109 S. Ct. 1865 104 L. Ed. 2d 443

² FLETC Podcast: *Use of Force Continuums*; Jenna Solari and John Bostain

³ Las Vegas Metropolitan Police Department Manual: Section 6/002.00 Force, Use of

⁴ *Scott v. Henrich*, 9th Circuit 1994

USE OF FORCE: WHAT DOES THE LAW ACTUALLY SAY?

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not simply whether the force was necessary to accomplish a legitimate police objective. The question is whether the force used was reasonable in light of all the relevant circumstances.”⁵

Vehicle Pursuits: What Does the U.S. Supreme Court Say?

Moving on to car chases, policy states that chases can be done only for violent crimes, and then lists other pending factors whether to pursue or not, with the maximum speed for Code 3 Driving waived for pursuits. This too is not found anywhere in federal law. In *Sykes v. United States* (2011)⁶ SCOTUS stated, “A perpetrator’s indifference to these collateral consequences has violent — even lethal — potential for others. A criminal who takes flight and creates a risk of this dimension takes action similar in degree of danger to that involved in arson, which also entails intentional release of a destructive force dangerous to others ... The attempt to elude capture is a direct challenge to an officer’s authority. It is a provocative and dangerous act that dares, **and in a typical case requires**, the officer to give chase.” SCOTUS cites the *Scott v. Harris* (2007)⁷ decision in which the Court states that officers are not duty bound to end pursuits because they are too dangerous. It is the criminal who is causing the danger, not the officer. The Court refuted the plaintiff’s (Harris) argument that the whole chase could have been ended and no one would have gotten hurt if the police would have given up. The court placed the blame solely on the criminal. Again, it states that officers in a typical (not an unusual) case are *required* to give chase. In the *Sykes* decision, SCOTUS has said that a felony vehicle pursuit itself constitutes a violent felony under the federal Armed Career Criminals Act. Yet our policy goes against what federal law states, and what SCOTUS requires, by putting unnecessary restrictions on

pursuits. We cannot pick and choose which case to follow. If we are going to follow the 9th Circuit Court’s feelings in regard to “intermediate force,” then we surely should follow the U.S. Supreme Court’s wording in *Sykes*. After all, which court carries more weight?

Least Intrusive/Minimal Force Is Not Found in Federal Law

The 9th Circuit Court case that helped changed our UOF Policy is the *Bryan v. McPherson* decision (2010).⁸ It created the language of “intermediate force” now found in our UOF Policy. This was an ECD case that originally only decided that an officer didn’t have qualified immunity so a civil suit could go forward. What we failed to hear was that same exact court reversed itself the following year (2011) and gave the officer qualified immunity because at the time of the incident, a reasonable officer would have “mistakenly” concluded that the use of the ECD in this instance was REASONABLE. There’s that term again. The case was then dropped. It never went to trial. Also, the court stated, “**We do not challenge the settled principle** that police officers need not employ the ‘least intrusive’ degree of force possible.”

Other court cases involving force that are relative to this topic are as follows:

- *Forrester v. San Diego*, 9th Circuit Court (1994):⁹ This case deals with “least intrusive/minimal force” versus “reasonable force.” The Court determined that the force used has to be reasonable, not minimal.
- *Gregory v. County of Maui*, 523 F.3d 1103, 1107 9th Circuit Court (2008): “...that the force used by the officers was proportionate to both. **The 4th Amendment does not require more.**”¹⁰
- *Scott v. Henrich*, 9th Circuit Court (1994): “Officers need not avail themselves to lesser alternatives of force. The test is one of reasonableness, not escalation.” “Officers need not experiment with force by escalating from one level of force to another.”

⁵ *Hammer v. Gross*, 9th Circuit En Banc 932 F.2d at 846

⁶ *Sykes v. United States*, Supreme Court of the United States (2011)

⁷ *Scott v. Harris*, 433 F.3d 807 9th Circuit (2007)

⁸ *Bryan v. McPherson*, 590 F. 3d 767; rehearing en-banc denied 630 f. 3d 805 9th Circuit (2010-2011)

⁹ *Forrester v. City of San Diego*, 25E.3d at 807-08 9th Circuit En Banc 1994

¹⁰ *Gregory v. County of Maui*, 523 F.3d 1103, 11707 (9th 2008)

“...The severity of Gregory’s trespass and of the threat he posed were not overwhelming, but we are satisfied that the force used by the officers was proportionate to both. The Fourth Amendment does not require more.”



Deadly Force: Is There a Lawful Duty to Exhaust All Other Methods?

Well, what about deadly force? Are there differences in policy in the *Graham* decision and other case law and what is found in our UOF Policy? Well, the answer to that question is “yes.”

- *Forrett v. Richardson*, 9th Circuit Court:¹¹ “Officers are not required to exhaust every alternative before using justifiable deadly force.”
- *Plakas v. Drinski*: 115 S. CT. 81 (1994)¹²

“*There is no precedent in this circuit (or any other)* which says that the Constitution requires law enforcement officers *to use all feasible alternatives to avoid a situation where deadly force can justifiably be used*. There are, however, cases which support the assertion that where deadly force is otherwise justified under the Constitution, there is no constitutional duty to use non-deadly alternatives first.”

Now, look how preclusion is defined by our UOF Policy:

“*Preclusion*¹³ – *All other lesser alternatives have been reasonably considered and exhausted prior to the use of deadly force, to include disengagement.*”

Again, our UOF Policy is including additional steps to what the *Graham* ruling has established. There is no duty to disengage. There is no duty to use all feasible alternatives found in *Graham* and other rulings cited above. Preclusion as defined in our UOF Policy has no basis in the law.

Graham lists three factors to determine if the amount of force used is objectively reasonable. They are:

- a. The severity of the crime(s) at issue;
- b. Whether the subject poses an immediate threat to the safety of the officer(s) or others;
- c. Whether the subject is actively resisting arrest or attempting to evade arrest by flight.

There is no language found in *Graham* that states an officer must try to de-escalate the situation. Can the officer attempt to de-escalate? Of course, as long as that action is...wait for it...objectively reasonable.

Best Practices and Industry Standards Versus the Law

There is a growing trend of “best practices” and “industry standards” coming up and being pushed upon departments across the nation. Entities such as the ACLU, NAACP, IACP and IALEFI all suggest practices that LEO agencies should follow. These “best practices” actually conflict with settled case law, the Constitution and SCOTUS. Departments are placing themselves in jeopardy when they make very restrictive policies that are not based on the law, but “feel good” steps to appease those in the public who complain

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¹¹ *Forrett v. Richardson*, 112 F.3d 416, 9th Circuit

¹² *Plakas v. Drinski*, 115 S. CT. 81 (1994)

¹³ Las Vegas Metropolitan Police Department Manual: Section 6/002.00 Force, Use of

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USE OF FORCE: WHAT DOES THE LAW ACTUALLY SAY?

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about how law enforcement conducts its business. It sets up unnecessary settlements to suspects when an officer violates a restrictive policy that is not backed by law.

Several groups have published “best practices” standards. These are usually based on “risk management” tactics and not law. One such study, “Understanding, Analyzing, and Applying Force Standards of Accountability,”¹⁴ states the force used should only be that “minimum application of force to reasonably safely accomplish lawful objectives.” This too goes against what SCOTUS has ruled. Again, any force used must be objectively reasonable, not minimal. I don’t know how to put this more plainly. There is no duty to use minimal force. Holding an officer to the least intrusive or minimal standard is a subjective view, not an objective one.

From the same study:

Officers trained, guided, and encouraged to:

- Consider least injurious/intrusive enforcement options
- Use least injurious (risk/benefit analysis) force
- Make least injurious force-option decisions based on (knowledge/understanding of):
 - Identified collected intel (courts’ perceptions?)
 - Physiological, metabolic and serious psychological distress identifiers
 - Accurate ‘quantum of force’ decision making (a term not found in any court language)

This too goes against what SCOTUS has ruled in the *Graham* decision, and even 9th Circuit Court decisions. Police are not bound to use the least

intrusive, minimal or least injurious force. By doing so, it requires officers to make subjective decisions and not objective ones. It makes them try to use superhuman judgment, and makes officers run through various levels of force and tactics. All this language does is muddy the waters when an officer must decide what type of force to use, and goes against case law.

In a *The Police Chief* magazine article¹⁵ it states, “While a police officer is not required to retreat, cease, or delay efforts to make an immediate, lawful arrest, this *may be* the best course of action and, thus, a legitimate approach to consider. Having multiple options provides the best opportunity to reasonably employ force. Choices are good. This holds true for use of force situations.” Sounds good, doesn’t it? P# 6844 Now compare this to the FLETC view.¹⁶ Their view is that options are a subjective standard, not an objective one. An officer should be able to immediately go to the level of force that is reasonable instead of trying to experiment with one type of force, then something else, then something else. If the officer would have chosen the most likely level of force that was reasonable to seize a person, there would be less chances of injury. This is backed up by court decisions already mentioned. Officers don’t have to go through several different types of force. They just have to use a level of force that is reasonable given the situation they find themselves in.

These types of opinions by certain groups have no basis in the Constitution and actually go against what the Court stated in *Graham*.

It seems the trend nationwide is to get away from FEDERAL LAW and start using more restrictive “best practices,” which puts officers in a bad situation that creates hesitancy. I will also point out that this “**less intrusive means**” language has never been an element of use of force analysis by the U.S. Supreme Court and is contrary to all of the other U.S. Circuit Courts. As a matter of

¹⁴ “Understanding, Analyzing, and Applying Force Standards of Accountability,” Michael Brave ESQ, M.S. National/International Litigation Counsel, TASER International Inc.

¹⁵ *The Police Chief* magazine, *Reviewing Use of Force Practices*, Nov 2012 David J. Spotts

¹⁶ FLETC Podcast: *Use of Force - Myths and Realities Part 1*. Tim Miller, John Bostain



fact, there are court cases that state the opposite — that an officer has no duty to use the “least intrusive” means available. I believe there is a good, decent intention in trying to reduce use of force/deadly force incidents, but by doing so, the unintended consequence is putting officers in bad situations and trying to come up with a subjective way to use any force that may be needed. It is requiring officers to attempt to take a suspect into custody without hurting him/her. This is an unreasonable request and sets up officers for failure.

Do Federal Laws Require Officers to Be Perfect?

The public (at least the people who are constantly complaining about police brutality), expects the following:¹⁷

- 100 % perfect outcomes
- 100% perfect decisions
- 100% perfect evaluations
- 100% perfect observation/knowledge

Now, consider the following facts:

- 95% is “beyond a reasonable doubt” in convicting someone
- 75% is considered “clear and convincing”
- 50.1% is “preponderance of evidence, PROBABLE CAUSE, reasonable suspicion”

We as law enforcement officers are not required to be 100% correct in anything we do as that would require us to exercise the “superhuman judgment” that the courts have already refuted. All that is required of our application of force is for it to be “objectively reasonable.” When an arrest is made, it is not under Absolute Cause, it is under Probable Cause. There is no “perfect” call and officers are not required to exhibit perfection. It is not reasonable for the Department to expect officers to make the best decision all the time. All we can expect is for officers to make a reasonable decision, which SCOTUS had affirmed. Anything other than that makes it subjective, not objective.

Are We Really Required by Law to Protect People?

If the public or our Department is going to overly restrict officers so no one gets hurt or shot and expects 100% outcomes, then the following court case should be considered: *Deshaney v. Winnebago County*.¹⁸

In *Deshaney*, SCOTUS ruled that the Due Process clause (14th Amendment) “does not impose affirmative duties on **governments and their officials to prevent private harm.**” In other words, police, or any government entity, have no duty to protect the public, unless the government has a special relationship with the injured person or the government created the danger to the injured

(continued on page 22)

¹⁷ “Understanding, Analyzing, and Applying Force Standards of Accountability,” Michael Brave ESQ, M.S. National/International Litigation Counsel, TASER International Inc.

¹⁸ *Deshaney v. Winnebago County*, 489 U.S. 189 (1989) SCOTUS

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USE OF FORCE: WHAT DOES THE LAW ACTUALLY SAY?

(continued from page 21)

person; a very high bar to reach (example: jail/prison environment where a government entity is in “control” of an individual). Of course, we scoff at this as we feel there is a duty to protect the public, but in reality, we have no duty to do so. If there is a fear of using unjustified force, then we should simply not respond to calls for service as we can’t be held liable for doing nothing. Silly, isn’t it? Yet another part of the *Plakas* decision states, “Other than random attacks, all such cases begin with the decision of a police officer to do something, to help, to arrest, to inquire. If the officer had decided to do nothing, then no force would have been used. In this sense, the police officer always is the cause of trouble. But it is trouble which the police officer is sworn to cause, which society pays him to cause, and which, if kept within constitutional limits, society praises for causing.” We are expected to make trouble, not run from it (trouble being defined as arresting a suspected law breaker).

Does Metro Really Have a Deadly Force Problem?

A preliminary report titled “Restraint in the Use of Deadly Force”¹⁹ was completed in 2012. The article dealt with the fact that there is a public and media perception that officers are using unreasonable deadly force much more and is reaching proportions out of control. According to this study, the exact opposite was found. This study found that in 93% of the deadly force encounters by officers who were surveyed, officers displayed restraint when they could have legally and morally utilized deadly force. That means only in 7% of the situations surveyed, officers stated that they indeed used reasonable deadly force and not all those were fatal shootings. The study admits that they don’t have enough information to determine why and what factors may be in

play for those officers who did not use deadly force and it will be the subject of a further study as there is presently no known study of this nature. I do not know if Metro compiles these stats or not, but I believe that officers have exhibited this restraint in a similar percentage as found in this study. If our level of restraint is near the 90 percentile, then does Metro really have a problem with its current training in using force? We are not required to be perfect, but if this study is an indication, the level of restraint is quite an accomplishment considering the percentage of information needed to arrest someone is “only” 50.1%. This kind of information needs to be released to the public to show that Metro does indeed properly train its officers in the use of force, particularly deadly force. Metro completes approximately 90,000 arrests each year (city and county), and how many fatal shootings does it average per year? Let’s say that out of 90,000 arrests, “only” 30 involved deadly force shootings (not fatalities, just shootings that were at the level of deadly force) and that percentage is a miniscule .033% of interactions between officers and the public that led to an arrest. Does Metro really have a problem with the amount of times its officers use deadly force?

Perhaps the Department should concentrate more on educating the public about what the law actually is and that Metro shows a great deal of restraint and professionalism, instead of applying more restrictions on officers and expecting them to exercise the “superhuman judgment” that the Court has soundly refuted. The recent Collaborative Reform Process²⁰ study by Community Orientated Policing Services (COPS) found that our UOF Policy is way too long. This came about from an investigative report published by the *Las Vegas Review-Journal*. We can resolve that by simply going with the standards found in the *Graham* decision, which is the law of the land. Do we really need to be reformed when we don’t have an issue to begin with? If we had an

¹⁹ *Restraint in the Use of Deadly Force*, Anthony J. Pinizzotto, Ph.D, Edward F. Davis, M.A., Shannon B. Bohrer, M.B.A., and Benjamin J. Infanti, M.A. 6/27/2012

²⁰ *Collaborative Reform Process: A Review of Officer-Involved Shootings in the Las Vegas Metropolitan Police Department*, James K Stewart, George Fachner, Denise Rodriguez-King, Steve Rickman. 2012



issue, then the FBI and other national agencies would already be investigating Metro's alleged abuses. There were several entities that found fault with Metro's policies, but these entities are typically against a lot of force used by police officers. Nowhere are there groups that are supportive of Metro's actions and policies. This was a one-sided view only, not a balanced approach. It is a fault that doesn't seem to be realized or even considered.

The COPS study found that from 1990 through 2011 there were 311 Officer Involved Shootings (OIS). This averages 14.136 OIS per year. I only have reliable booking numbers from the years 1998 to 2011 so I will only use these years in comparisons and draw averages in OIS and Bookings (only bookings at the Clark County Detention Center; does not include the number of misdemeanor bookings at the City Jail by Metro personnel).

- 1998-2011, OIS total 229; yearly average 17.6/year
- 1998-2011, Bookings at CCDC total 835,101; yearly average 64,239/year

This gives us a percentage of .0274. That means that in the 64,239 bookings per year, an average of .0274% resulted from OIS. This total does not include the amount of bookings Metro did at the City Jail so the percentage is even lower than .0274%. That means 99.9726% of the arrests made do not involve OIS! Pretty darn near perfection, if you ask me. If Metro personnel use deadly force in less than .0274% of all arrest situations (that doesn't even include contact with officers and the public resulting in no arrests), it means that Metro's officers are well-trained and truly display restraint in the use of deadly force. There is no factual data that shows Metro personnel are trigger-happy thugs who do not show respect for the lives of citizens. It shows that officers are well-versed in the law and professional.

IA Investigations Are Affected

During an IA investigation concerning use of force, a determination needs to be made whether there was a policy violation or not. Are these decisions based on a subjective or objective viewpoint? Are they rendering a decision based on what they think the officer should have done or do they base their decision on whether the force used was objectively reasonable or not? The former is purely a subjective viewpoint as they decide what the officer could have done differently. Discipline should not be based on someone's subjective viewpoint but on a totally objective viewpoint. An officer typically has several options to use in any force situation. All we should be requiring is that the officer must use a tactic that is reasonable, not "better" than what the officer chose to use. After all, "better" is a subjective term. Now for training purposes from CIRT, their opinion could be relevant in providing officers another viewpoint in why they could have used something different, but it shouldn't be part of any discipline, and only for training to help an officer understand there are other tools available.

Let me say it one more time: "Objectively Reasonable." It really is that simple.

This article, including the opinions expressed in it and the research contained in it, are the views and work of the author and not necessarily those of the Las Vegas Police Protective Association. This work was unsolicited and the Las Vegas Police Protective Association assumes no responsibility for it. VB



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UNDERSTANDING YOUR PENSION BENEFIT

(continued from page 9)

This is really a pretty simple concept. To attract and retain high quality employees in public service, the employer has to be able to compete with high dollar, high turnover private industries offering quick financial packages and portable retirement options. These employers offer little if any security or stability for the long term.

Our state is still one of the smaller states in population and we are the SMALLEST group of public employees in the entire country. This is an aspect often overlooked when discussing public employee compensation and benefits, but it highlights the importance of having the ability to attract quality employees into public service with a competitive compensation package. There are far more lucrative packages in the private sector and our public employers would lose trained, qualified employees if there was no anchor in place to retain them.

The focus on public employee pensions only became an issue in recent times when the economic downturn highlighted the relative stability and significant value of a guaranteed pension benefit. In addition, mismanagement by numerous states and municipalities fueled a conservative debate about the sustainability of such systems, and through media exploitation brought widespread panic to the public in the form of political posturing.

Although many media and conservative “think tanks” continue to take sniper shots at our pension funds, the benefit to the overall well-being of the economy is completely ignored. In a smaller state like ours, where many benefit recipients remain in the state, the economic impact is a huge part of the state’s economy. It is almost like recycling money. I have copied some of the highlights from the NVPERS *Impact on Nevada* publication that illustrates this point:

- Nevada PERS paid more than \$981 million in pension benefits last year.
- Expenditures resulting from Nevada PERS pension payments supported more than \$390 million in income for state residents other than Nevada PERS retirees.
- More than 5,700 jobs statewide can be attributed to Nevada PERS pension payments.
- Nevada PERS pension payments supported more than \$1 billion in total economic output in the state and more than \$433 million in value added.
- Payments made to Nevada PERS retirees supported more than \$196 million in federal, state and local tax revenue.
- Each dollar paid out in pension benefits to Nevada PERS retirees residing in the state supports \$1.28 in total economic output in Nevada.
- Each dollar in taxpayer contributions to Nevada PERS supported \$6.21 P# 13525 in total economic output in Nevada.

In closing, I will begin trying to gradually educate our membership on the overall benefits of NVPERS, the specific details of the benefit and the intricate differences between types of pension benefits. Ultimately, I want to provide our members with general knowledge and defensive talking points to accurately respond to the questions and inaccurate attacks on our benefits. More boring info to follow! **VB**



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The LVPPA invites all members to help take care of our own. The LVPPA has a 501(c)(3) charity organization now called the Law Enforcement Assistance Fund (LEAF). The goal of this organization is to help the survivors of fallen officers. 2009 was a rough year, a tragic year that hit all of us a little close to home. The long-term goal of the charity is to ensure that survivors have the opportunity to go to college. As such, the charity will donate the cost of Nevada state tuition rates to the survivors of fallen Metro officers, to include children and spouses. The charity got off to a strong start, but we need your help and ask all officers to donate. Please look into your hearts and determine if you can give. The back of this form is a payroll deduction form. Just rip out this page, fill out the back with your deduction amount in block 5200 under LVPPA Metro Charities, then send the form in a 1000 miler to the LVPPA for processing. LEAF hopes that you will never need this, but will be here when you do. **VB**



LAS VEGAS METROPOLITAN POLICE DEPARTMENT
PAYROLL RECURRING DEDUCTIONS SHEET

Employee Name	P#	Daytime Contact Number
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Wage Type	Deduction Type	Deduction Amount	Start Date	Stop Date	
DUES					
5009	Black Police Dues (24 pay periods)				
5010	NLPOA Dues (24 pay periods)				
5007	PMSA Dues (24 pay periods)				
5005	PPA Dues (24 pay periods)				
5006	PPACE Dues (24 pay periods)				
5008	SPA Dues (24 pay periods)				
MISCELLANEOUS DEDUCTIONS					
5405	City Hall Parking (24 pay periods)				
5200	LVPPA Metro Charities (24 pay periods)		ASAP		<input checked="" type="checkbox"/> One Time <input checked="" type="checkbox"/> Recurring
5403	Police Museum (24 pay periods)				<input type="checkbox"/> One Time <input type="checkbox"/> Recurring
5404	Prepaid Legal Svcs. (24 pay periods)				
5400	United Way (26 pay periods)				<input type="checkbox"/> One Time <input type="checkbox"/> Recurring
	Other				
LOANS					
					Declining Amount
4532	Misc. Payback (one time deduction)		Reason:		
5200	PPA Assoc. Loan (24 pay periods)				\$
5220	PPACE Assoc. Loan (24 pay periods)				\$
5210	SPA Loan (24 pay periods)				\$
5410	Purchase Retirement (24 pay periods)	<i>To purchase retirement you must initiate your request through PERS. You may stop the deduction using this form.</i>			\$
5413	Purchase Retirement 2 (24 pay periods)				\$

Employee Signature & PN <i>(Sign name as it appears on paycheck)</i>	Date	Representative Signature	Date



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THANK YOU LETTERS

LVPPA,

I wanted to take this chance to tell you how very much I appreciate all you did (and are doing) for Darryl and me through this whole ordeal! Needless to say it was and continues to be a very stressful situation and all of your thoughts and prayers, your visits and texts (and food and ice tea for me) helped more than I can begin to tell you! I have come to realize what an amazing group of people you all (the "police community") are and I am genuinely honored to be a part of this amazing "family"!

Thank you from the bottom of my heart!
Lori Clodt

Dear Las Vegas Police Protective Association:

In May of 2011, my 7-year-old daughter

Delaney was not feeling well. We took her to the doctor and they tested her blood. They had us rush her to the ER as her blood glucose level was 567. By the time we arrived at the hospital the numbers were in the 600's. Doctors said she was close to ketoacidosis or diabetic coma. Since then, she has made great strides in

controlling her diabetes. In November, she participated in The Junior Diabetes Research Foundation (JDRF) Walk to Cure Diabetes fundraiser. I am so thankful to the LVPPA Metro Charities for their support. Delaney was very successful in her fundraising. Because of your support, she had a great group of people walking with her and was able to come very close to her goal of \$1,000. I know there are a lot of organizations requesting your support and your willingness to assist my daughter meant a lot to me. Thank you again for your donation and supporting her in her efforts.

Thank you for all you do not only for our officers, but everything you do to support our families. Again, thank you for your support.

Sincerely,
DuWayne Layton



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- May 12 20th Annual TOP COPS Awards Ceremony, 7 p.m. at The Omni Shoreham Hotel
- May 12 Police Unity Tour Arrival Ceremony, 2 p.m. at National Law Enforcement Officers Memorial
- May 13 25th Annual Candlelight Vigil, 8 p.m. at National Law Enforcement Officers Memorial
- May 15 National Peace Officers' Memorial Service, 11 a.m. at the U.S. Capitol (west front)
- May 12 Mother's Day
- May 27 Memorial Day
- June 6 General Membership Meeting* 1700 hours at the PPA
- June 14 Flag Day
- June 16 Father's Day
- July 4 Independence Day

** 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.*

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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.



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	Two Day Ticket - Legoland Hopper - Adult/Child (3-12)		
	(Legoland, Sea Life, Water Park)	Adult - \$110.00/Child - \$100.00	\$71.00
	2 and under Free		
Magic Mountain	One Day Ticket - Adult/Child	\$64.99	\$36.00
San Diego Zoo	One Day Ticket - Adult	\$42.00	\$39.25
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	2 and under Free		
Sea World	One Day Ticket - Adult/Child (3-9)	\$73.00/\$65.00 one day ticket	\$61.00
	2 and under Free		
Universal Studios	3-Day Ticket (Credit Card Payment ONLY)	\$80.00	\$69.00
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	2 and under Free		

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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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