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

VOLUME 8 | ISSUE 6

March/April 2014

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**"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**

## Electing a New Sheriff

As all of you who work here at Metro know, we will be electing a new Sheriff this fall. This may be one of the most important Sheriff elections in my 30 years here at Metro. Over the next several years, our new Sheriff will face several crossroads, and the decisions he makes will have longstanding consequences in both our workplace and our community.

Let's talk about a few of the decisions the new Sheriff will have to make that I believe will be critical to all the employees here at Metro. First and likely the biggest concern is the budget. Our current Sheriff has been telling people for several years now that Metro has a budget shortfall. After looking over the budgets from the past several years, I concur that we do indeed have a shortfall, but until now the Sheriff has been able to fill it with what we have all come to know as the "end fund balance." I could go into great detail about the end fund balance, but the bottom line is that at some point there will be no end fund balance to help offset the deficit in our budget. In 2013, the legislators passed Senate Bill 1, which allowed the Sheriff to use some of the money from the first quarter-cent of the More Cops tax to supplant the budget for a period of three years. At this point, there are only two of those three years left, and when that ability goes away you have to wonder what the Department

will do. The City and the County are just going to have to put more money into the Metro budget.

Now for the More Cops tax issue. As you know, the new part of this tax still has not passed in the County Commission. I think that getting this additional sales tax passed should be one of the top priorities of the new Sheriff. Not only have we lost a lot of commissioned positions over the past few years here at Metro, but we have also lost many civilian jobs. Both these commissioned and civilian jobs are important to the mission of the Department and need to be brought back so we can effectively fight crime.

The rate of pay we all earn, as well as benefits offered to our employees, is a question that will also need to be addressed in the years to come. Should the new Sheriff continue to ask the current employees to take cuts in pay, or maybe further change the pay structure for new employees? I do not believe either of these options is viable. The first option cannot continue, as current Metro employees have given more than their fair share and there is nothing left to give. The second option is equally bad, because you get what you pay for and the Department will no longer be able to recruit quality employees if it cuts further into the pay and benefits available to new employees. If this organization is to continue to be the finest police department in the country, we need to have a compensation package that will attract the best and the brightest candidates. Our benefits will continue to be a topic of discussion. The one benefit currently in the limelight is our health care insurance. It is no doubt getting more expensive, but it is vital to a P# 6272 healthy workforce. Your benefits have already been cut, and by now you have heard that you no longer have life insurance provided by the Health Trust. It is time for the new Sheriff to help the associations secure these benefits at the contract table.

Now let's talk about the community and its relationship with our Department and our Sheriff. I still believe that the vast majority of our community supports Metro and law enforcement in general here in Clark County. We certainly have a vocal minority of people in our community who are not happy with anything we do, but sadly I don't think that will ever change. There is no doubt that crime is on the rise in our community, and with this and other problems it will be imperative that our new Sheriff keep the community on the side of law enforcement.

The next problem for the new Sheriff to face may be the most difficult of all. Our new Sheriff will have to put the swagger back in the office of Sheriff with the other elected officials. This statement is by no means meant to be disrespectful to our current Sheriff; he has been Sheriff through very difficult times, but the new Sheriff must again be able to gain the support of elected officials around our city and county or Metro will have some hard days ahead. All these problems will fall directly at the feet of our new Sheriff on the first day of his administration. I don't know why anybody would want to be Sheriff, but God bless those who have done it in the past, the current Sheriff and those willing to fight to have that job in the future.

You all have a vested interest in who will be elected as your next Sheriff. I ask that you pay attention to the issues and vote for the person who you think can best lead this agency into the future.

As always, be safe and keep up the good fight. **VB**

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# It Isn't Broken, It's Underfunded!

## POLICE OFFICER MARK CHAPARIAN

Assistant Executive Director

No matter what the subject is lately, it seems that everyone has a better idea or has figured out what the "scam" is. Someone has read about it on the Internet, someone else has a buddy who told him this or that. Blah, blah, blah! Everyone has the "answers" to fix what is perceived as a broken or mismanaged Health Trust fund. The blame game needs to end and people just need to realize that the Las Vegas Metropolitan Police Department Employee Health and Welfare Trust (the "Health Trust") is simply, matter of fact, without a doubt, underfunded. Allow me to explain why I feel this way and why you all should start asking questions of the funding sources as to why they continue to act and feel as if *your* health care is a subjective concern instead of an objective one.

The Health Trust accumulates funding from four primary sources: employer, employee, retiree and member use fees. Let's explore the *employer* funding source a little further, as I'm sure you all agree that the employee, retiree and member use fees are already high enough.

Our employer, the LVMPD, pays \$9,726.62 each year, or about \$810 each month, into the Health Trust fund on behalf of *current, active employees only*. Sound like a lot of money? In comparison, the Clark County Fire Department Health Trust receives \$12,480 a year, or about \$1,040 each month, from Clark County. The Las Vegas Fire Department Health Trust receives about \$13,000 a year, or about \$1,083 a month. In fact, the Las Vegas Metropolitan Police Department contributes the *least* funding into health benefits for its employees of any comparable emergency services organization in the region! If you ask Metro management why that is, they may blame the PPA, the Fiscal Affairs Committee, the poor economy, etc. The plain and simple truth is that Metro, in its infinite wisdom, views *your* health care with a subjective tone instead of where it belongs, in the objective mindset. I've had countless conversations with members of management who say things like "Take a zero COLA and we'll give you some more health care funding," or "Your plan is too rich; our budget needs to dictate what benefits you all receive, not vice versa." I do not believe that our hardworking men and women should have to choose between competent, affordable health care and a cost-of-living wage increase. Keep in mind, Metro contributes *zero* dollars to fund retiree coverage. Not a single dime is paid on behalf of our retirees by their former employer. Remember, funding from Metro is only for current, active employees. This problem has been exacerbated by Metro's last five-year hiring drought; even though money was present to hire more than 250 police officers alone, few or none were hired. By my calculations, Metro is down about 450 officers due to the neglect in making up for attrition and withholding funds earmarked for new cops that were never spent to hire them. Why is all this important to the Health Trust funding equation? Each new cop typically brings in a small surplus to the Health Trust because the typical candidate is single, is healthy and does not seek medical services. If the Health Trust was to receive funding equivalent to what the Las Vegas City Fire Department receives from the City of Las Vegas, based on 3,500 commissioned Metro employees, the Health Trust fund would be about \$11,500,000 richer each and every year! In short, the recent increases in premiums, reduction of services and migration of some groups away from the Health Trust would likely *not* have occurred if proper funding were in place and if budgeted hiring had taken place.

The Health Trust operates as a cash business: funding coming in versus expenses going out. There are reserves in place to accommodate fluctuations and unforeseen circumstances. Healthy, solid reserves are instrumental and considered a "best business practice." A recent internal probe of the Health Trust's administrative costs landed that cost at approximately 4%. By industry standards, that is

very low and the threshold of concern is placed when those costs exceed 10%. The Health Trust has taken several steps to reduce costs by implementing a plethora of programs, both internal and external. There has been much chatter around Metro that we should change the Health Trust model to an "internal self-funded health trust" (aka Metro-run health care as they see fit). I don't know about you, but I would prefer that my health care plan *not* be run like the police department has been for the last several years. Another brilliant idea that keeps popping up is the "fully insured product" (aka a big, brand-name, off-the-shelf insurance product). If we are underfunded now, how in the world would we pay a premium to a company that has shareholders to make profits for and still provide you and me with comprehensive health care? Don't be fooled; it's a trap that most companies are moving away from, not moving toward. In short, I think I've made my point: Metro is going to have to come to the realization that providing decent, competent, affordable health care for each and every one of its commissioned employees is not subjective; it is clearly objective! We don't need to reinvent the wheel. It's really simple: If you starve the Health Trust fund, it will not be able to provide or survive as intended. The employees, retirees and their families have had enough! It's time for the Las Vegas Metropolitan Police Department to step up, properly fund its Health Trust fund and stop acting as if this issue is going away. **VB**

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# Member Spotlight

## POLICE OFFICER MIKE RAMIREZ

Secretary

Naturally, many of our members know one another because we work together on a regular basis. However, even then we don't always know someone's background, how they ended up as part of the Metropolitan Police Department or what makes them tick. I thought it might be of interest to spotlight some of our members so that we can all get to know and really appreciate one another. So as the first of a series, I sat down with John Poulsen, Northeast Area Command, to get a glimpse into his life.

John left his hometown of Riverside, California, to join the Navy. He spent his first five years of military duty on a submarine. Although many would find five years on a submarine to be interesting, the next five were even more impressive as John became the chef for Vice President Cheney. This new position prompted a move to Washington, D.C., where he and eight others were assigned in various roles to Cheney. He had the opportunity to fly on Air Force Two all over the world. He even got to experience riding on Air Force One once, from Washington, D.C., to Turkey. With Cheney being from Wyoming, John was often responsible for fixing his favorite meal of New York strip steak, baked potatoes and a glass of Johnnie Walker Red with a snack/dessert of peanuts. John says Cheney could polish off half a bottle of peanuts like it was nothing, or at least until his wife would advise him that he had enough.

Once John's military career came to an end, he was interested in going into law enforcement and wanted to be closer to home because he had two young kids. By this time, all of his family, with the exception of his father, lived in Las Vegas. He considered the Los Angeles Police Department; however, at the time, there was a considerable amount of scandal going on there, which created a lack of public trust, and John wasn't interested in being part of that. John's brother had lived in the Las Vegas area when John was younger, and John had visited many times. The visits included trips to Lake Mead and the Las Vegas Strip. He felt that Las Vegas had a big-city atmosphere with a small-town feeling, so he pursued a police career here. He considered the North Las Vegas and Henderson police departments but ultimately preferred to be one of the "big boys on the block," so he chose to pursue Metro.

He applied for Metro and was accepted into the Academy in 2005. The process for applying was similar to the process he endured when applying to

work for Cheney, so John was well prepared for it. He was surprised, however, at P# 5209 the number of people applying to this agency. The memory that sticks out the most during his Academy time was an incident in which he and his platoon were practicing the felony car stop practical. They all had their guns out with their yellow swizzle sticks in the barrel and were yelling the commands. The next thing he knew, the police showed up and the school next door went on lockdown. They had to call their TAC officer to rectify the situation, and looking back, it was pretty funny but also a bit scary.

Once John completed the Academy, he started his field training in the Southwest Area Command. It was day shift and he was primarily dealing with the regular John Q Citizen and had no crazy experiences. All of that changed when John moved on to Phase 2 of training and was assigned to swing shift, North East Area Command. The difference was night and day, both literally and figuratively. "We were running and gunning," said John, referencing his experience. On his second day, he arrived on a homicide where he saw the victim take his last breaths in front of him. During his training period, generally speaking, the FTOs would stand back and let John handle the business. They would only step in if something was unsafe. Once field training was over, he felt confident in his ability to handle calls on his own.

When asked what his scariest moment on the Department was, John explained an incident that occurred about four years ago. In response to a call of a stabbing, they set up a perimeter off of Eastern Avenue. Someone saw the suspect get out of a cab and run into the neighborhood. K-9 officers located the suspect in a shed and requested assistance, to which John responded. As the dog was pulling the suspect out of the shed, he heard the K-9 officer say, "Don't shoot me." John turned his head to the right and there was an elderly man with a .357 Magnum standing only two feet away from the K-9 officer, pointing the gun at his head. John raised his firearm and was pulling back on the trigger when he heard the elderly man's son yelling, "Dad, it's not me." Apparently the older man thought the K-9 officer had his son, not realizing there was a suspect in the shed.

Although John has experienced some scary moments, there have been some very positive, rewarding moments for him as well. He remembers working a 411 call in which he pulled up at a store. A man in a Porsche pulled up and said, "Hey, officers, there is a \$20 credit for you at that store, so go get whatever you want." There tends to be so much negative publicity about Metro, so when this gentleman did this for John, it put a smile on his face to know that there are people out there who appreciate the police.

John was given a piece of advice once from a SWAT officer. He was told, "It does not matter what you do, just win." You can't worry about policy or what the public sees at all times; you just need to win.

We get so entrenched in our roles as police officers sometimes that we don't always take the time to get to know one another. It was definitely a pleasure speaking with John and learning a little bit more about him as a person, and I encourage all of you to do the same with your fellow officers. We all perform similar roles with Metro, but our backgrounds could be worlds apart. Always be safe out there, and know that we are here to fight the fight for you. If you know anyone with a unique background, feel free to email me at [mramirez@lvppa.com](mailto:mramirez@lvppa.com). **VB**



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# Purging Your Personnel File

## CORRECTIONS OFFICER SCOTT NICHOLAS

Treasurer

If you have had a sustained complaint come out of an internal investigation, whether at the Bureau level or from Internal Affairs, and you have subsequently been disciplined through the adjudication process, one of the most important things to keep track of is the purging of your personnel file. Here is some information right out of the Collective Bargaining Agreement:

### 25.3 Personnel Files.

**Employee Access.** Each employee shall, during normal business hours of the Labor Relations Section, have a right to access his or her own personnel file by appointment....

**Purging.** All disciplinary matters will be removed from the personnel file at the following times and under the following conditions. A subsequent discipline of a similar nature is defined as a disciplinary action that is similar because it is:

- a performance issue;
- a misconduct issue as defined in Civil Service Rule 510; or
- adjudicated through the Accident Review Board process.

Aside from the separate categories set out above, extension retention in the personnel file will occur in both the area of performance or misconduct if there is a reasonable similarity. For example, a performance discipline will extend a misconduct discipline if it is reasonably similar to the performance discipline in question.

Written Reprimand — 18 months after the date the employee signs or is given the opportunity to sign the adjudication or three (3) months after the filing of the statement of complaint. The earlier of these two dates will start the purge period. Any subsequent discipline of a similar nature shall extend the purging of the original discipline by another 12 months or the purge length of the latest disciplinary action, whichever is shortest.

Minor Suspension — three (3) years after the date the employee signs or is given the opportunity to sign the adjudication or three (3) months after the filing of the statement of complaint. The earlier of these two dates will start the purge period. Any subsequent discipline of a similar nature shall extend the purging of the original discipline by another 24 months or the purge length of the latest disciplinary action, whichever is shortest.

Major Suspension — five (5) years after the date the employee signs or is given the opportunity to sign the adjudication or three (3) months after the filing of the statement of complaint. The earlier of these two dates will start the purge period. Any subsequent discipline of a similar nature shall extend the purging of the original discipline by another 24 months or the purge length of the latest disciplinary action, whichever is shortest.

Disciplinary Transfer — two (2) years after the date the employee signs or is given the opportunity to sign the adjudication or three (3) months after the filing

of the statement of complaint. The earlier of these two dates will start the purge period. Any subsequent discipline of a similar nature shall extend the purging of the original discipline by another 24 months or the purge length of the latest disciplinary action, whichever is shortest.

In all circumstances where investigations are delayed because of a criminal investigation, the purging date will be the date the employee signs or is given the opportunity to sign the adjudication, or three (3) months after the completion of the criminal investigation or the date Internal Affairs is cleared to conduct their investigation. The earlier of these dates will start the purge period.

A contact report will not be maintained in the personnel file. Contact reports in a supervisory file may be utilized to show that discipline was warranted.

Purged documents may be retained by the Department pursuant to any applicable statutory document retention schedules; however, such documents may not be used by the Department for disciplinary purposes in the future. Evidence of purged discipline can only be raised for rebuttal purposes in an administrative hearing if the employee claims he/she has no disciplinary history.

So remember to make an appointment to go view your personnel file and make sure that it has been purged.

As always, be safe, and thank you for your membership. **VB**

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# Metro Health Trust and Workers' Compensation

## CORRECTIONS OFFICER THOMAS REID

Director

The Board of Trustees of the Las Vegas Metropolitan Police Department Employee Health and Welfare Trust (the "Health Trust") would like to remind you of the plan's exclusion pertaining to claims related to a workers' compensation illness and/or injury. Please understand that you could be held responsible for payment of medical expenses if you do not follow the appropriate procedures pertaining to filing a timely and complete workers' compensation claim.

The Health Trust's Summary Plan Description (SPD), Part 12 (24), page 85, "Work-Related Injuries, Illnesses or Conditions," states the following: "The plan does not cover expenses incurred by you or any of your covered dependents for any injury, illness or condition arising out of or in the course and scope of employment, including but not limited to lung disease, heart disease, certain contagious diseases and hepatitis. The plan may pay claims pending a workers' compensation determination regarding course and scope of employment if the appropriate repayment agreement is signed and all the plan's rules and requirements are followed and satisfied. Details of third-party recovery rules can be found in the SPD Part 15 starting on page 91."

*What does this mean to you?* If you are diagnosed with a work-related

injury and/or condition as a result of your occupation, you *must* file a workers' compensation claim. This applies not only to obvious on-the-job injuries, but also to conditions that are "presumed" to be occupational illnesses, such as heart or lung conditions and hepatitis (NRS 617.455, NRS 617.457 and NRS 617.485). Your health plan will not cover services related to certain conditions, regardless of whether or not your claim was accepted or denied by the workers' compensation administrator. It is your responsibility to file a workers' compensation claim and follow it through to avoid the claim being denied by workers' compensation and the Health Trust, which would leave you responsible for payment of the claims.

*Heart and lung disease:* These are conclusively presumed to be work-related for active and retired commissioned police officers who have been employed full-time for five years (heart) and two years (lung).

*Hepatitis:* This is conclusively presumed to be work-related for active and (to a certain extent) retired commissioned officers who have been employed full-time for five years or more, unless the particular type of hepatitis is diagnosed upon initial employment. The presumption ends for retirees after they are retired for one year.

Should your physician diagnose you with one of these conditions, you must contact the Department's third-party administrators for workers' compensation issues, Cannon, Cochran Management Services, Inc., better known around Metro as CCMSI. They can be reached at (702) 477-7010. They can assist you with filing your claim. It is important that you make this claim as soon as possible. In most cases, you have only seven days to file the Occupation Injury/Illness/Exposure Report (LVMPD 26), and then you have up to 90 days to complete the Claim for Compensation form (C-4 form) and return it to the Workers' Comp detail for review and processing. If your claim is denied for any reason, the Health Trust plan rules require you to file an appeal with the time limit, usually 70 days, and continue to pursue the claim under workers' compensation.

We realize that the workers' compensation appeal process may take some time; therefore, you will be required to complete and sign (along with your attorney, if you retained one) a repayment agreement, which then allows the Health Trust to pay for the care of your illness or injury while you are pursuing your case. Please contact UMR with a copy of your workers' compensation denial, proof of your appeal to the next level and the signed repayment agreement, so that your claims may be paid. It will be your responsibility to notify UMR once your claim has been finalized. As always, if you have any questions, please call UMR at (702) 413-1701 or the Health Trust's Health Plan Director, Kelly Taylor, at (702) 641-2160. **VB**

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## INSIGHT

A commander should have a profound understanding of human nature, the knack of smoothing out troubles, the power of winning affection while communicating energy, and the capacity for ruthless determination where required by circumstances. He needs to generate an electrifying current, and to keep a cool head in applying it.

— B.H. Liddell Hart (1895-1970), *Thoughts on War* (1944)



# Time Marches On: Class 1-94 Turns 20

## DETECTIVE KIRK HOOTEN

Director

By the time this article is printed, the members of LVMPD Police Academy Class 1-94 will have celebrated their 20-year anniversary. Although it truly seems like only yesterday, February 1994 was legitimately a long time ago! The Dallas Cowboys had just destroyed the Buffalo Bills in the Super Bowl for the second straight year, Bill Clinton was the newly elected president of the United States and I had hair! Well, not much.

Much has changed in the past 20 years, most of it good, some causing pause for reflection, but I can honestly say that when I see one of my Academy classmates today, I am happy to smile and share a handshake, a hug or a cold beer. This fondness is based on a bond forged during our Academy, that period of time when we all were somewhat confused and green in Metro life and wide-eyed at what would lie ahead. We started that Academy with a 20-year-old Tracy Rowland, a 53-year-old Jim Carragher and everything in between. Some have promoted through the ranks, some have made careers in specific disciplines of police work, P# 14191 some have moved on to other jobs in the private sector or other police departments, some have retired to enjoy the fruits of their hard work and, sadly, some have passed. This is a standard sampling for a group in our profession.

I could ramble on with story after story about working with or around just about every one of you over the years, but it would take up too many pages and the statutes of limitations have not expired on some! In this article, I would like to simply recognize all of my classmates, many of whom have had a significant impact on my life and career through work and friendship, all of whom I respect immensely for their choice of and dedication to this very difficult profession. We are forever tied together by LVMPD Academy Class 1-94.

(Insert a shot glass of Jameson and a toast to you all!) To us, and those like us!

Fifty-eight souls graduated from Class 1-94 (48 LVMPD, 10 HPD). Where are they now?

Russ Abbondandolo: SGT, LVMPD (active)  
Shawn Allen: LVMPD (retired)  
Steven Beaty: LVMPD (unknown)  
Terry Bernard: SGT, LVMPD (active)  
Dolphis Boucher: LVMPD (active)  
Jon Brown: SGT, LVMPD (retired)  
James Carragher: LVMPD (unknown)  
Ray Castro: LT, HPD (retired)  
Thomas Chiello: LT, HPD (active)  
David Cienega: LVMPD (active)  
Derrick Clark: LVMPD (unknown)  
Donald Cullison: SGT, LVMPD (retired)  
Rick Delisser: LVMPD (SGT, San Jose PD)  
Tim Donnelly: HPD (retired)  
Sean Donovan: LVMPD (left Department)  
Brian Dunaway: CAPT, HPD (active)  
Harry Fagel: LT, LVMPD (active)  
Chris Fithen: LVMPD (unknown)  
Rich Gay: LVMPD (retired)  
Dano Giersdorf: LVMPD (active)  
Richard Goltart: LVMPD (active)  
Alan Hepp: LVMPD (deceased — RIP)  
Frank Hernandez: SGT, LVMPD (retired)

Kirk Hooten: LVMPD (active)  
Ray Horsley: LVMPD (active)  
Monica (Hutchinson) Metzger: LVMPD (active)  
Oyong Hutton: LVMPD C.O. (active)  
Lynn Irwin: LVMPD (unknown)  
Chris Jones: CAPT, LVMPD (active)  
Joel Kisner: LVMPD (active)  
Teresa (Kyger) Mogg: LVMPD (active)  
Jason Letkiewicz: CAPT, LVMPD (active)  
Anthony Longo: SGT, LVMPD (retired)  
Waldemar Lukowski: LVMPD (active)  
Jerry Macdonald: SGT, LVMPD (active)  
Clint Malburg: LVMPD (active)  
Bobbi Manning: LVMPD (retired)  
Mark Martin: LVMPD (unknown)  
Scott Mees: LVMPD (active)  
Dean Mills: LVMPD (retired)  
Tim Moniot: LVMPD (retired)  
Kevin Morgenstern: LVMPD (active)  
Jason Nimark: HPD (unknown)  
Freddie Olige: LVMPD (retired)  
Randy Paar: LVMPD (retired)  
Todd Peters: Deputy Chief, HPD (active)  
Brian Pollard: HPD (active)  
Bill Rohac: LVMPD (left Department)  
Tracy Rowland: LVMPD (active)  
Joe Roy: SGT, HPD (active)  
Ron Russo: SGT, HPD (retired)  
Kerry (Silber) White: LVMPD (active)  
Mike Szeles: LVMPD (retired)  
Chris Tomaino: CAPT, LVMPD (active)  
Tim Vaughan: LVMPD (active)  
Roger Williams: LVMPD (unknown)  
Julie Wise: LVMPD (active)  
Greg Ziel: SGT, LVMPD (active) **VB**

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# Seniority

## DETECTIVE DARRYL CLODT

Director

What an important word, seniority. It is an all-powerful word here on the police department. We all hear about the importance of seniority from day one. Everyone is always asking: What is your P#? What is your date of hire? What is your seniority? But what is seniority, really, and what is it good for?

Let's look at what Metro says it is. The policy manual references senior officers when talking about two-man units and basically says that the senior officer will be held accountable for all decisions made in that car on that shift. Pretty big responsibility, wouldn't you say? But as a practice, I don't think we use two-man cars very often.

Now let's look at what the contract says:

**19.1 Definition.** Seniority shall be determined based upon the employee's date of classification as a Police Officer or Corrections Officer. In the event of any sort of reduction-in-grade, this determination will include any time the employee accrued in the class series as a Sergeant, Lieutenant, or Captain, so long as there has not been a break in service.

Where employees are hired on the same date, seniority will be determined by their placement on the Civil Service eligibility list. Placement on the eligibility list is determined by overall score in the entry examination process. In the event of ties, the date and time of the employee's application for employment with respect to the eligibility list in question will be the determining factor.

Seniority for police officers will be based on promotion to a Police Officer 1 and ranked in the following order:

1. Corrections officers reducing in grade to Police Recruit;
2. Military deferrals from previous eligibility lists;
3. Cadets promoting to recruit;
4. Recycled recruits;
5. Ranking on the eligibility list.

Seniority for corrections officers will be based on promotion date to a Corrections Officer 1 and ranked in the following order:

1. Military deferrals from previous eligibility lists;
2. Recycled corrections recruits;
3. Ranking on the eligibility list.

Employees who have been rehired as a police or corrections officer, the seniority date will be the employee's current hire date. In the event there are two or more

rehires on the same day, the officers will be ranked according to prior service time in classification.

**19.2 Bridging Time.** Employees on the Department's payroll as of June 30, 1982, who have had a break in service, shall have seniority determined as if their combined years of service were continuous and without break. For persons hired or rehired on July 1, 1982, or thereafter, any break in service shall not be bridged for the purpose of determining seniority. Except as provided in this section, seniority shall be calculated based upon the employee's current date of hire. Ties regarding seniority ranking are resolved as provided in the Civil Service Rules.

**19.3 Application.** In the selection of days off, in lieu of holiday, compensatory time, bonus time, professional leave and vacation leave preference, first choice shall be given those employees holding the greatest amount of seniority as determined in 19.1 Definition and 19.2 Bridging Time.

Annotation: In 2005, the parties added the ability to use seniority for the selection of in lieu of holidays; however, once the holidays are scheduled no bumping can occur.

So that is really what seniority means in both policy and contract. It is also known by many to have a lot of unwritten meanings or benefits that differ from place to place. I'm sure many of you have worked in an area where a sergeant has used your seniority to determine what lunch spot you get and what time you get to go to lunch. As some of you know, working in some specialized units where new cars are available, the newest and best generally go to senior detectives first, with the trickle-down effect then taking place with the rest of the cars. And I'm sure there are many other times when seniority is considered in a particular decision. One thing you can count on is that it is always changing. You are guaranteed to be the junior officer at some point in your career, and someday you will be the top dog. I remember when I thought I was going somewhere when I was in the top 1,000 of active police officers. But the years went by, and I now find that I am just about within the top 100 active police officers. (Of course it took about 22 years to get there!) My message in all of this is twofold. First, always know what the Department can do to you in reference to your seniority. In my opinion, seniority is the *only* thing of real value that we own here at Metro. The agency cannot change it, remove it, cut it or reduce it. It is yours for life. The second and most important is that seniority is our history here at Metro, and while I know it seems like you will never get there, hang on, because we will always need cops and your day to be top dog will come eventually.

Until next time, stay alert and stay alive. **VB**

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## INSIGHT

Everyone is aware of the vast difference between a number of men as a chance collection of individuals and the same number of men as an organized group or community. A community has purpose and plan, and there is in us an almost instinctive recognition of the connection between unity and strength.

— J. Glenn Gray (1913-1977),

*The Warriors: Reflections on Men in Battle* (1959)



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**KATHY WERNER COLLINS**

General Counsel

## The *Garrity* Protection in Internal Affairs

In the past few years, we have seen a couple of cases move through our office that are similar in nature and that have turned out badly for our officers. I hope that this article will give you some insight into this recurring issue so that you may be able to avoid a similar problem. These cases have involved officers who were facing criminal charges and were at the same time facing internal administrative charges stemming from the same acts or conduct.

You know the story: An officer gets arrested for some allegation of criminal misconduct; the criminal matter moves at a snail's pace through our court system; in the meantime the officer is charged by the Department with Conduct Unbecoming stemming from the same conduct that led to the allegation of a criminal act; although the criminal case is in its infancy, Internal Affairs plows ahead with the administrative internal investigation. Unfortunately, this common scenario creates some tough decisions for the officer. As you can imagine, officers (not to mention their outside criminal attorneys) are often reluctant to appear in Internal Affairs to tell their side of the story with regard to the facts leading to the criminal allegation. And frankly, we here at the PPA recognize that there is some skepticism about whether an Internal Affairs statement will then be made available to others who are involved in the investigation and prosecution of the criminal matter. With these concerns in mind, here is what you need to know.

First, the Department will not hold the internal administrative investigation in abeyance until the criminal matter is concluded. Officers in this situation often ask us to get the internal investigation stayed while the criminal matter unfolds. The thought is that then, when they are finally required to talk with Internal Affairs, they will not have to worry about where this information may end up and if it may be possibly be used against them criminally. In this regard, the officer often feels that because he or she is now on unpaid leave (which is typically the case when one is charged with a felony), the Department should have no concern about simply waiting to conduct the internal administrative investigation. Unfortunately, that is not the case. As you can well appreciate, some of these criminal matters may take years to unfold in the court system, especially if it is a contested matter that will go to trial. More importantly, however, the Department consistently responds that because each venue involves a different burden of proof (beyond a reasonable doubt in the criminal setting but just clear and convincing evidence in an administrative matter), it may have proof to discipline or terminate even if the criminal matter is not proven. In other words, the Department really does not care what the outcome of the criminal matter is, and this outcome will not impact the result on the administrative side of the case. So know in

advance that there has never been a time when Metro allowed an internal matter to linger uninvestigated until the completion of the underlying criminal case. As an aside, you do have the ability to ask that a matter be postponed for a period of time, but in order to do so you must be willing to use your accrued time, and if you do so it will obviously then not be available at the time when you would have otherwise been cashing out.

Second, what you say in Internal Affairs is P# 12856 protected. That protection stems from a United States Supreme Court case, *Garrity v. New Jersey*, 385 U.S. 493 (1967). In that case, 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 were 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," which the court deemed "coercion." The court ruled that statements that a law enforcement officer is compelled to make under threat of possible loss of his or her job could not subsequently be used against the officer in a criminal prosecution.

Likewise, an officer cannot be terminated for refusing to waive his or her Fifth Amendment right to remain silent, as established in *Gardner v. Broderick*, 392 U.S. 273 (1968). 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 he 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*.

The basic idea of these cases 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. However, and here is where our officers seem to go awry, once an officer is given notice to appear in Internal Affairs and compelled to answer questions but afforded the protections of *Garrity*, that officer will then most likely be terminated for gross insubordination in the event that he or she refuses to answer, even when criminal charges are pending. And understand that from a discipline standpoint, it makes no difference that the officer's refusal to answer is based upon his or her attorney's advice to assert his or her constitutional rights.

So while it is not uncommon for outside criminal attorneys to advise their clients to refuse to talk to Internal Affairs, it is imperative that you understand the ramifications of that decision. It may be the case that the officer's concerns about the criminal matter outweigh the officer's interest in saving his or her job, and that the fear of the IA statement falling into the wrong hands is just too great to take the chance. Obviously, I cannot absolutely assure anyone that these concerns are not valid or that this will never happen. I can, however, tell you that to date we have never had information obtained by Internal Affairs fall into the hands of those who were investigating or prosecuting a criminal case. Regardless, when concerns of this nature arise, the officer involved often simply chooses to resign without ever appearing before IA. Just know that if the decision is not to resign, the only alternative to avoid termination for gross insubordination is to appear in Internal Affairs as noticed and answer questions reasonably within the scope of the notice.

I hope you find this information informative. As always, don't hesitate to contact me if you have any questions. **VB**

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## INSIGHT

Every act of conscious learning requires the willingness to suffer an injury to one's self-esteem. That is why young children, before they are aware of their own self-importance, learn so easily; and why older persons, especially if vain or important, cannot learn at all.

— Thomas S. Szasz (1920-2012),  
"Education," *The Second Sin*, 1973



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# The Explorer Program

## OFFICER MICHAEL RODRIGUEZ

Stop. Before you read on, take a moment. Think back, or maybe way back for some, to when you first knew you wanted to pursue a career in law enforcement. What factors in your life pushed you to accomplish your goal? What drove you to take the first step toward where you are today? How old were you? And who was influential in helping you make that decision?

Our Department's Explorer Program is designed to educate youth ages

16 through 21 by developing an interest in law enforcement while instilling life skills such as leadership, academic excellence, respect and physical fitness. The program also works to develop relationships between LVMPD and the community's youth. Our Explorer Program offers specializations in Police, Corrections, Dispatch and Crime Scene Investigation that further allow members to experience exactly what those career paths are all about.

The program is certainly unique in many ways and affords young adults from across the valley opportunities that they may otherwise not get. They

learn basic procedures and even some advanced tactics based on the program they're assigned to. Explorers participate in observations throughout the Department, including ride-alongs and sit-alongs. They learn firearms fundamentals and participate in an annual Explorer academy. They participate in community service activities throughout the year and help our Department during most community events. Explorers travel across the country and are put to the test against members of other agencies' programs during scenario-based competitions. Each of these opportunities allows our Explorers the chance to experience this career for themselves so that when the time comes, they may make an educated decision about pursuing this profession.

I knew I wanted a career in policing after becoming an Explorer with the Ann Arbor (Michigan) Police Department and going on my first ride-along at a young age. I was captured by the excitement of patrol. I remember getting to use the radio for the first time, getting to activate the emergency equipment while rolling Code 3, and watching officers interact with



one another and the public. Looking back, each of these things was small, and as a police officer today they have become routine. But at the young age of 16, nothing could compare to it. Nothing came close to the feeling of donning my bulletproof vest and my crisp uniform and sitting in the passenger seat of a patrol car for a shift.

While I enjoyed learning how police conduct a vehicle stop or respond to calls for service, most of all, I enjoyed the officers. To me, my advisors made the program what it was. I looked up to them. I saw their dedication and their genuine interest in helping each of us. Our advisors were motivated to see us succeed and provided us with opportunities for success by teaching us professionalism and how to conduct ourselves on and off duty. Our advisors taught us pride and what it meant to be part of something larger than ourselves. They taught us how to work toward a greater mission. We traveled. Our advisors took us to new places and showed us that there was more to the world than just southeast Michigan. They gave us direction in life. They also showed us that there was more to life than policing and that having a well-rounded outlook would, in the long run, help us. In every way, our advisors helped us to achieve our goals.

The Explorer Program undoubtedly helped me obtain my career, and I always vowed that once I was able to, I would become



involved so that I might give back to a program that helped get me where I am now. Today, as an Explorer advisor, I see my teenage self in the young Explorers. I think back to when I was in their place, with so much ahead of me and so much to learn. I remember what it's like to be an impressionable young adult and to want nothing more than to be a cop.

Today I see how excited they are to attend weekly meetings and learn all about this fulfilling career. I see the pride they have in our Department and the community we serve. I see our Explorers transform and gain confidence, respect and maturity as they grow older. Their drive to succeed, pursue their goals and achieve a career with this agency is awesome to watch, and giving them the tools they need to obtain the job while watching them build upon those is truly inspiring. And of course, watching your former Explorer graduate the Police Academy, knowing that you helped cultivate that desire, that persistence, that drive, is a unique experience in and of itself.

Throughout its nearly 35-year history, the LVMPD Explorer Program has seen countless successes. Hundreds of former members have gone on to pursue law enforcement



(continued on page 16)

(continued from page 15)

careers, both civilian and commissioned, with this agency and others across the country. For those who didn't, they learned valuable attributes that have helped them land successful careers in various other fields. The program has received national recognition during competitions and P# 13417 conferences and has been a model for other programs.

Advisors play an essential role in this program: We lead, direct, guide and of course advise our young adult members. While the Explorer Program is largely managed by the Explorers themselves, our advisors are the ones who provide weekly instruction. Advisors come from sections and bureaus all across this Department, including patrol and corrections officers, detectives, SWAT operators, crime scene analysts, dispatchers and civilian support staff. They volunteer their time and are able to provide specialized instruction based on their current and past assignments. They





knowing that you have a group of young adults who look up to you. Their excitement will remind you why you chose this career and why this job is better than any other.

So as you read this, think about that group of teenagers who are striving to obtain what you have: a career with LVMPD. We all have demands both in and outside of work, and yes, being an advisor takes time and dedication. But consider helping out as much as you can, even if it is only a little bit. Consider being that advisor whom Explorers want to emulate, that role model who offers guidance and direction. And think about the feeling you'll have when you see that you've inspired just one young adult to discover a career in law enforcement.

For more information on how you can become involved in this worthwhile organization, please email [Explorers@LVMPD.com](mailto:Explorers@LVMPD.com). **VB**

give the Explorers the opportunities to see that this career has so much to offer, and give them long-term goals to pursue. Advisors are the lifeblood of the Explorer Program.

Interestingly, becoming an advisor will also offer you the opportunity to develop your career. You'll have the chance to lead and supervise others in both large and small groups. You'll gain experience in teaching. Being an advisor will allow you to improve your tactics while on the job, because by training Explorers you'll see exactly where common mistakes are made. As an advisor, you'll be motivated to perform your job to the best of your abilities,



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# What You Say Can Hurt You

## MICHAEL WILLATS

Associate Attorney, Woodley & McGillivray

Law enforcement officers are somewhat unique in that their jobs call upon them to testify in court. Departments can sometimes overreach on the need for this and, citing alleged misconduct that questions an officer's propensity for honesty, whether occurring on or off-duty, may attempt to terminate an officer's employment.

According to *Giglio v. United States* (1972), prosecutors are required to disclose evidence that may be used to impeach a prosecution witness to the defense. To enable these disclosure requirements, investigative agencies turn over evidence that may be used to impeach their agents. As stated in *Cameron v. Dep't of Justice* (2005), *review dismissed* (Fed. Cir. 2006), upon receiving this information from the respective investigative agency, the prosecutor evaluates "whether the impeachment evidence must be turned over to the defense." When potential impeachment evidence exists against an officer, a department may claim that an officer is "Giglio-impaired" because the impeachment evidence could allegedly limit the value of the officer's testimony. See *Hathaway v. Dep't of Justice*, 384 F.3d 1342, 1349 (Fed. Cir. 2004).

As part of its *United States Attorneys' Manual*, the Justice Department has

provided guidance on what type of information must be turned over as potential impeachment information:

(a) *specific instances of conduct of a witness for the purpose of attacking the witness' credibility or character for truthfulness; (b) evidence in the form of opinion or reputation as to a witness' character for truthfulness; (c) prior inconsistent statements; and (d) information that may be used to suggest that the witness is biased.*

Many state and local governments have adopted similar policies. Officers and unions should be vigilant in ensuring that overly broad interpretations by departments are not applied as an excuse to attempt to discipline individuals the departments consider to be "difficult" employees. One red flag is when the impetus for labeling an officer Giglio-impaired is management within the department itself rather than any concern expressed by the prosecutorial arm of the public agency.

Due to the potential for departments to abuse these standards, law enforcement officers should be particularly careful when questioned in administrative proceedings. Unfortunately, some officers at interrogations that are part of administrative investigations will guess as to minute details, attempting to be helpful to the investigators. Unlike criminal proceedings, the facts in administrative matters may evolve out of routine or even mundane events.

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An officer may be called upon to recall a passing comment or the details of an interaction between colleagues that occurred weeks or even months earlier. While the questioning related to an administrative investigation may stem from a seemingly unimportant interaction or event, the answer an officer provides in these proceedings may be used by departments in the same manner as false testimony given in a criminal proceeding.

Partial acknowledgments in administrative investigations are problematic for many officers. An officer who does not definitively remember the event may be asked by the department or agency investigator whether it is possible that the alleged misconduct occurred. Wanting to answer the question, a common response from officers is, "I don't remember, but it could have." In many situations the respective department or agency will take that answer as an admission of guilt, and thereafter seek to use it against the officer to support proposed discipline. Alternatively, an officer who subsequently remembers the events more clearly and changes his or her testimony in a later proceeding may be exposed to an allegation of inconsistent statements, and ultimately a charge of untruthfulness. The correct answer is "I do not remember." Do not speculate on whether it is possible that an event occurred, even if asked to do so.

An officer subjected to questioning who is unable to clearly remember facts and details should avoid speculating or agreeing that the events at issue occurred unless that individual is sure of his or her answer. Officers should remember that "I do not remember" can be the right answer. **VB**



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# INSIGHT

A capacity to change is indispensable. Equally indispensable is the capacity to hold fast to that which is good.

— John Foster Dulles (1888-1959)



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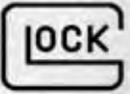
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# CALENDAR

- March 6 General Membership Meeting, 5 p.m.
- March 14 November Elections Candidate Filing Deadline

*\*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.*

## THANK YOU LETTERS

From the Family of Laura A. Thibodeau  
Las Vegas PPA,

Thanks so much for the beautiful flowers. Laura was so proud to be a part of the Metro family and I was so proud of her.

Sincerely,  
Lynn Stewart

## CONGRATULATIONS

*to the contest winners from the last issue!*

**January/February**

**Hidden Symbol Contest (\$250)**

James Kurashige, P# 8536

**P# Contest (\$50)**

Wendy Butler, P# 8720

## INSIGHT

Fame is a vapor, popularity an accident, riches take wings, those who cheer today will curse tomorrow; only one thing endures — character.

— Horace Greeley (1811-1872)

## 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.

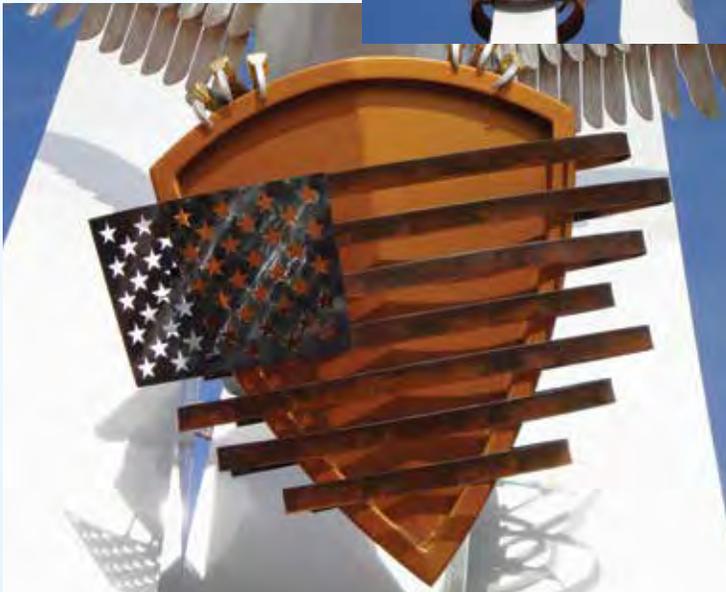
Would you like to proudly display your support for the Police Protective Association?



Visit the PPA to obtain your bumper sticker.



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

Wage Type	Deduction Type	Deduction Amount	Start Date	Stop Date	
<b>DUES</b>					
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 (all pay periods)				
5008	SPA Dues (24 pay periods)				

<b>MISCELLANEOUS DEDUCTIONS</b>					
5200	Law Enforcement Assistance Fund (LEAF) (24 pay periods)				<input type="checkbox"/> One Time <input type="checkbox"/> Recurring
5435	PMSA Foundation (24 pay periods)				<input type="checkbox"/> One Time <input 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				

<b>LOANS</b>					<b>Declining Balance</b>
5411	Employee Reimbursement		Reason:		
5223	BPA Loan (all pay periods)				\$
5220	PPACE Assoc. Loan (all 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)				\$

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

# Now There Are **500** More Reasons Why It Pays to Read



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

## Giveaway #1:

One **\$250** prize

1

Members who find the hidden  in this issue of *Vegas Beat* and register through [www.LVPPA.com](http://www.LVPPA.com) will be entered into a drawing for \$250. You must enter by Friday, April 11, 2014, to be considered eligible. Telephone entries will not be accepted. Visit our website for more details.

## Giveaway #2:

Five **\$50** prizes

2

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!

Excludes P#s listed in Retirement and End of Watch sections of *Vegas Beat*

**Cash is great, but our giveaways aren't the  
only reasons to read *Vegas Beat*.**

Each issue gives you the latest information on

- Contract negotiations
- Benefit changes
- Retirement considerations
- Hot topics on the job
- Association news
- Upcoming events

**For so many reasons, it pays to read *Vegas Beat*.**

This giveaway is open to LVPPA members only. You must be 18 or older to win.



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