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

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“BIG 50” – An informal association of the 50 largest law enforcement associations in the United States.

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Executive Director's Message

POLICE OFFICER MARK CHAPARIAN, EXECUTIVE DIRECTOR

You Got 15 Minutes?

There is a decision looming to be made by you, our members, in the coming months. What path shall we take to guarantee the stable level of union representation to which we have grown accustomed? Maybe the first question you have is, "Mark, what are you talking about?"

Earlier this year, during the last Nevada Legislative Session, a new law called SB 241 was created. This new law requires all public sector unions, like the LVPPA, to reimburse their employers (LVMPD) for all compensation that employees receive for being "allowed" to work at the union conducting union business on your behalf. In short, Metro is going to demand that we, the membership of the LVPPA, pay for, or give concessions equal to, the benefit that Metro pays on behalf of each full-time Board member. Metro plans to calculate the roll-up costs for each of the seven full-time representatives assigned to the LVPPA. This calculation typically includes things paid by Metro such as salary, pension contributions, health care premiums, workers' compensation insurance premiums, etc. The law was created because some people in our community believe it's wrong to employ police and corrections officers who don't perform traditional police and corrections functions. *In other words, they don't want to pay for any officer who works to ensure that those who protect others are protected as well.*

It's ironic to me that this type of law was created, yet I can point to several other unaffected positions all around the Department that are helpful to the overall mission, yet have no direct impact on enforcing laws. Our function here at the LVPPA is much, much deeper than just traditional union work, as so many people like to stereotype us. We do negotiate and administer our contracts, take grievances, fight and mitigate discipline, etc. However, our role does not stop there. We also serve as a "benefits section" for LVMPD. We are advocates P# 868 for employees in so many ways. We help oversee our health care benefits, advocating to ensure our people receive the best health care, dental and vision possible. We are there to make sure management doesn't make decisions based solely on what may be fiscally beneficial to the Department yet devastating to our members. We review new policy drafts, sit on committees and boards that Metro deems necessary and that ultimately decide your fate in instances from vehicle accidents to critical uses of force. We are your voice, your advocate, and in some cases, your lifeline. We are busy untangling the messes our administration often creates that usually negatively impact our members. We spend time with elected officials to attempt to influence them to vote for "more cops," support stronger laws protecting police and corrections, and maintain the pension and benefits that all of us have worked so hard to achieve. The bottom line is this: When there is a problem, members call the LVPPA, and we work diligently to get it resolved. When there is an officer-involved shooting, the LVPPA is there making sure you are protected legally, administratively and ethically. This list goes on, and I'm sure I've made my point.

The LVPPA and LVPMSA, on behalf of the membership, are suing LVMPD in federal court, declaring SB 241 as unconstitutional as it is applied to representative associations. We are seeking an injunction to stop Metro from what is nothing less than an attempt at union busting. We have also been following and support the case that PPACE filed with the Employee Management Relations Board and have submitted amicus briefs in anticipation of the decision we are all hoping for. We are lobbying hard to change the makeup of the Nevada Assembly and Senate for the 2017 session so that we can seek legislative relief at that level as well.

So what's the plan to make sure that the LVPPA continues to exist and do what it does now and in the future? There isn't *one* plan, but I'd like to share a plan that I think may work best for the membership. Other substandard plans include increasing dues; depleting reserves; reducing service and benefits; farming out responsibility to outsiders unfamiliar with our issues, inexperienced and likely unreliable; or closing up shop altogether. Ultimately, you, the member, will decide where, what and how the LVPPA is and will be in the near future. *This plan is one of several that we will roll out and ask you to decide in the near future. Keep in mind, this is only a rough plan at this point, but clearly stands above and beyond the rest. No matter what, you will always have the final say.*

The Plan

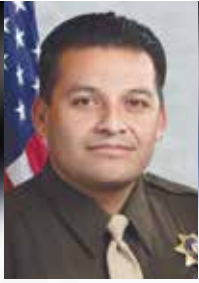
We each earn four hours of sick time each pay period. That equals a total of 104 hours of sick time each year that we are employed. With the exception of a very few, our sick hours are "capped" at 1,250 hours that can be considered for "cash value" upon retirement. Assuming one did not use any sick time, it would take 12 years to reach the "cap." Everyone hired after July 1, 1988, is offered zero cash value upon retirement of anything over 1,250 hours. Hours that one may accumulate above and beyond the 1,250 cap may only be used if every other time bank has been depleted due to a catastrophic event for yourself or a loved one. In essence, the vast majority of us will simply lose the time above and beyond the 1,250-hour cap during our careers. We have a plan to capture a small portion of that time, which likely will be wasted anyhow, and put it to good use to "pay" for the time used for permanently assigned LVPPA representatives. Allow me to explain.

If we modified the contract to reflect that if everyone earns four hours of sick time each pay period and 15 minutes (that's .25 hours) were to be put into an Association hour bank, one would essentially earn and accumulate a net 3.75 hours instead of four hours each pay period. The difference to an individual would mean that instead of accumulating 104 hours each year, one would accumulate 97.5 hours. In the grand scheme, instead of taking 12 years to reach the 1,250-hour cap, it would take you 12.8 years to reach the cap. To put it yet another way, donating 15 minutes of sick time each pay period to ensure the LVPPA can continue to function and operate would delay reaching the maximum 1,250 cap by approximately 9.5 months over a career.

Some people may wonder what would happen if they do get sick and need those few extra hours during their careers. The contract already addresses catastrophic leave and each member is eligible to receive 160 hours of "cat leave" in his or her career. In a 25-year career, one would have donated approximately 160 hours at .25 hours a pay period to fund the LVPPA full-time officers. When it's put that way, one can see even if the worst-case scenario were to happen to you during your career and you actually needed the 160 hours, it's given right back to you and you're whole.

I'm hoping that each of you reading this will give this some serious thought and consideration. Ask yourself and your peers, why wouldn't this plan work and what is really the better alternative? I don't believe that we all got where we are by the grace of God himself. From time to time, you have to step back and make a calculated decision, take some risks and have a little faith. We are but one ship with many people on a rough sea. The opposition is counting on you to waffle. I'm asking you to join us to fight, organize and come together like no other body of law enforcement professionals ever has. Let's show them solidarity like never before!

As always, be safe! **VB**



The Endorsement Process for a Better Tomorrow

POLICE OFFICER MIKE RAMIREZ

Assistant Executive Director/Director of Governmental Affairs

One might question what policing and politics have to do with one another. Actually, these two things are more intertwined than most people may think. A police agency can be defined as a legitimate governmental body given the authority to maintain order, prevent crime and enforce the laws of government created by the elected officials. In order for politicians to have the opportunity to have their laws and policies presented, heard and passed, they must first win an election. That's where we come in. Our PPA is a strong, influential union that is a successful participant in politics these days, and the candidates will seek our endorsement. As a union, we will only endorse candidates who stand on the same side of the fence as us on issues that pertain to our jobs, livelihood, safety and well-being. We will fight to elect candidates who can help us once elected, and occasionally we are in a position to fight against those candidates who clearly can be detrimental to our goals and objectives. So basically, we are intertwined because we need each other ... they need us to help get them elected, and we need them to help us in a manner that is in the best interest of our members. We do not want to see what happened in the 2015 legislation session repeat itself. That is why we are working diligently with other law enforcement stakeholders to be on the same page. We need to stay united as one.

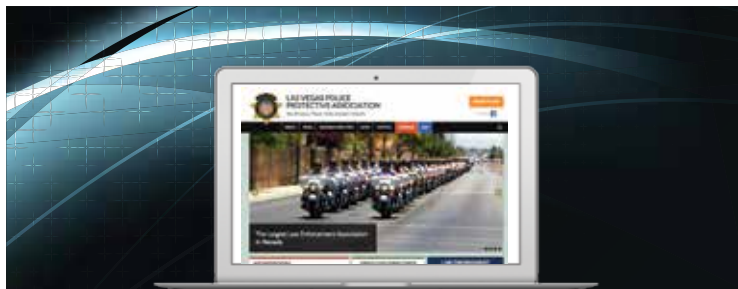
The endorsement process is somewhat of an art. It is the art of exerting one's belief and ideals over a governing body or political entity. We have control over whom we choose to endorse, and sometimes this means that we as a union, often in conjunction with other unions, can actually influence the outcome of the election. It truly is important to stand strong and unionized in getting the proper people into our local and state elected offices. Politics influence who will hold various positions, including judges, governors, senators, assembly

members, county commissioners and city council members, all of whom have influence over our pay, benefits and the laws we are obligated to uphold. Within our local elections, we have been influential in legislation regarding pay increases and benefits, your right to collectively bargain and your PERS retirement.

As a policeman, I have served under three different Sheriff's administrations (Young, Gillespie and now Lombardo). I had an excellent opportunity to observe differing leadership styles. This position is highly political and, depending on how the Sheriff plays his cards, can sometimes determine the changes that get made to our Department. In my years in the Department, many reforms have been made to our profession through the political arena, including basic educational, training, policies, selection criteria, more stringent oversight, transparency, etc. We might not all see eye-to-eye on all subjects, but collectively as a union, we have to pick our battles and do what is best for the members as a whole!

Endorsement ... an art, a game, a process ... call it what you want, but the one word I want all of you to associate with the endorsement process is the P# 14080 word "important."

As always, feel free to contact me anytime with questions or concerns at mramirez@lvppa.com or (702) 373-1006. Stay safe out there, and enjoy your holidays! **VB**



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Got a Citizen Review Board Letter? We Can Help

CORRECTIONS OFFICER THOMAS REID

Director of Operations

In 1999, the Citizen Review Board (CRB) was established for the purpose of providing civilian review on investigations of alleged police misconduct by peace officers employed by the Las Vegas Metropolitan Police Department. The board reviews complaints of misconduct filed by citizens and makes recommendations to the Sheriff for discipline, as well as advising on departmental policies and practices. The stated goal of the CRB is to ensure the integrity of investigations of police misconduct and to enhance community confidence in Metro. Although the Association disputes some of the procedures and policies of the Citizen Review Board as being in violation of substantive due-process rights, as well as federal and state law, we are recommending that our members comply with all requests from this board.

Unlike when you get an official Notice of Internal Investigation, which is accompanied by a personal phone call to you and then an email of the notice and your Police Officer Bill of Rights (NRS 289), the CRB notice is only mailed to you. The Association has no idea that you have been notified of a citizen complaint unless you contact our office and tell us.

The most common request in these letters is to respond to a screening committee investigation regarding a citizen's complaint. If you receive such a request, do not sign any waiver forms included in the letter. Immediately contact the LVPPA and speak to our legal department. We will set up an appointment with you to obtain your version of the events and will ascertain if any documents or statements are needed. The Citizen Review Board generally does not have access to any Department documents and the only information it has is the citizen's allegations.

Remember that you only have 30 days to respond to these allegations. Don't wait until the last day to contact us, please.

If the CRB does not hear from you, the most common decision it makes is to have Internal Affairs conduct an investigation, or in some cases, have you subpoenaed to appear in front of a CRB hearing panel. Don't let it get that far down the road. Allow our legal department to interview you, usually by phone, and respond to the Citizen Review Board on your behalf. This benefits you in that, as the subject officer, you are not "married" to a statement. Since the response is generated by the legal department, there is no statement that can later be dissected or compared and contrasted to other statements

(continued on page 13)

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Searches

DETECTIVE DARRYL CLODT

Sergeant at Arms

Seems like this topic is becoming frontline stuff today. I just wanted to share some thoughts on the topic of searches. We all know there are many searches you can do — a search of a person, car, house, etc. At some time in all of our careers, we even use the search warrant and exemptions to the search warrant. It is the personal search I would like to talk about a little more today. It seems more and more suspects are being stopped today than before, a result of more people now living in the city, an increase in crime and maybe just due to the volume of calls being handled by patrol officers today.

It is also these personal searches that seem to be causing some alarm. As most of you know, we have had several cases in which guns and knives that were somehow missed during suspect searches ended up in our jail — in one particular case, a full-size semi-auto pistol. It would be ridiculous to say that we are perfect and this should never happen. Maybe it's better to say that we should try to prevent this from happening, to the best of all of our abilities. That being said, what can we do better? Is there a new process that would work well?

I think we all agree that allowing weapons of any kind in the jail is a disaster waiting to happen. I see all the kneejerk reactions to incidents that happen all the time. Rarely does the so-called fix ever really address the problem. It's kind of like saying, "Let's take all the guns away from people to address the one or two individuals responsible for the problems."

However, all too often the easy fix is the mass punishment of the working officers. I often wonder where they ever came up with that idea. If they say the military, they should probably take a good look in the mirror, as the real truth is that in the military, the bosses get in trouble for the actions of the troops. Wow, there is a concept I would like to see adopted.

So how do we keep weapons from entering the jail? How about good old-fashioned police training? Sorry, you cannot come in and try to reinvent the wheel. It is round, has always been round, and contrary to what some may think, it does not roll well shaped as a square! Here are a couple ideas.

Teamwork: The last time I looked, we all do not work alone. Ask your partner to double check your suspects. Volunteer to do a third search of a person arrested. If three officers arrive on the call, then there are three chances to find weapons, dope, whatever.

I do not live in a bubble; people are human and are going to make mistakes. So knowing that, why the metal detector is only used for the citizens coming into the jail to visit is a problem to me. We should have a metal detector that all arrested people walk through before going into the jail! If money is the issue, then that is an easy fix for an organization that has over \$520 million for a budget.

I truly hope we all agree on this matter. The results depend on it. I *do not want* to get the call that we have had an officer killed in the line of duty due to a weapon being missed in the jail. What do you all think and have to say about this? Please reach out and let your thoughts be known, as this is your union.

I wrote this as an eye-opener for all of us. Whether you are the arresting officer, receiving transport officer, corrections officer or the Sherriff, please be careful. Practice what we all have been taught. Look for real ways to solve the problem, not shotgun answers. As always, this union is *yours*, this Department is *yours*. The slogan I picked up many years ago in my military life is for real: *Stay alert, stay alive.* **VB**

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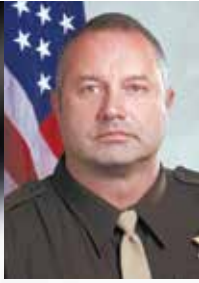


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The Matrix

CORRECTIONS OFFICER SCOTT NICHOLAS

Treasurer

I receive a lot of calls during the year regarding discipline, what an officer may face if a Statement of Complaint (SOC) is filed, and what the eventual disciplinary outcome would be. On pages 14 and 15 is the latest version of the disciplinary matrix that is used by your supervisory chain and in consultation with labor relations when discipline is warranted. Of course, there are mitigating and aggravating circumstances that are applied in many cases, which can lessen or increase the ultimate discipline you receive.

Please take a look at line item 30 (on page 15). Truthfulness is required at all times during an internal investigation. Not being truthful during an official internal investigation will get you fired ... every time!

The bottom line is, don't lie!

Thanks for your membership, and as always, be safe. **VB**

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Keep Your Head Down, Eyes Up and Stay Safe

POLICE OFFICER BRYAN YANT

Director of Technology

As you all are aware, violence toward police officers is on the rise nationwide. We have all heard the stories of officers being attacked. Unfortunately, it doesn't matter if you are pumping gas, sitting at a red light or even eating: We as police officers are targets, and we have to remain vigilant. A heightened sense of vigilance, however, can be taxing, especially when our profession is under more and more scrutiny and criticism. In the age of technology, with cellphone cameras and video recorders, it is safe to assume your interactions with the public will be recorded and posted to the Internet or local news outlets.

Is this a war on cops? We encounter people in their worst moments on day-to-day calls. We can no longer assume any call or stop is routine. Often, the people we encounter know that they have committed a crime, even if we do not know it, and fear having their freedoms taken away by being arrested. This brings out their fight-or-flight response, which can lead to a deadly attack against officers. Encounters with the mentally ill are often dangerous. If they are armed and committed to their plans to injure officers or commit suicide-by-cop, there is very little we can control. As officers, we represent law and order. Some people resent this fact and believe that the government and police have no right to take action against them, and they believe that they can take action against us. Recently, here in Clark County, we have seen attacks against our officers by these subjects, which have resulted in officer-involved shootings.

Or is it a change in society? Times have clearly changed. It doesn't take a sociologist to see this. Just look around and the signs are everywhere, from the acceptance of violence on television, in video games, and by professional athletes, entertainers and social media. Our values, morals, family structure and upbringing, in my opinion, have deteriorated. I was born in 1976, and was brought up to listen to teachers and parents, be respectful and polite, say "sir" and "ma'am," work hard and respect the law. Clearly today's era is vastly different. Sociologists list many factors as to why this change has occurred, from economics, single-parent families, poor education, crime and violence. We can change and impact society by our professional demeanor and treating everyone with respect, as we have always done.

No matter what any use-of-force policy or de-escalation policy states, or even if every officer wears a body camera, we will not be able to stop officer-involved shootings and the motivated suspect committed to doing harm to us. Recently, after an officer-involved shooting, we were asked by a staff member, "Officer-involved shootings are up, what can we do about them?" To me, the answer is easy. If the subject simply complies with lawful commands, does not produce a weapon and does not use that weapon against the police, the officer-involved shootings will not occur.

Law enforcement has traditionally been supported P# 4719 by the community we serve and from within our families. All too often, the negative rhetoric is heard louder and pushed to the forefront of the media. We appreciate the support from our community, and over the last few months, the community support has been overwhelming. When you leave the station for your shift, know that not everyone is against you. Embrace the supporters, and train to protect yourself from the attackers. Stay vigilant, watch your back and look after your partners. You deserve to go home after each shift the same way you came in. Do not be afraid to use force out of fear of discipline and media scrutiny. We support you and will stand beside you and defend your actions. Stay safe and continue providing our community with the highest level of professional police service that it expects and deserves from the LVMPD. **VB**

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Waiving Your 48-hour Notice? Know Before You Go

DETECTIVE STEVE GRAMMAS

Secretary

This month's article is going to focus on your right to 48-hour notice before an interview. NRS 289, the Rights of Peace Officers, affords you the right to a representative of your choosing for any internal investigation whether you are a subject officer or a witness officer. You are also afforded the right to a minimum of 48-hour notice prior to the interview taking place. These rights and protections are built in to afford you the best possible preparation for any interview. Lately, we have had a few IAB notices and CIRT interviews for which the right to waive the 48-hour notice has been asked by the investigators or mentioned. Sometimes, in all fairness, this waiving of rights can benefit you to afford you the ability to get the interview over with or assist you in getting the interview done because you are taking an extended leave. What should be noted, in these cases, is that if you are absolutely needed as an interviewee, the case can wait until you return to duty. In rare instances, the Department has authorized the payment of overtime to have you come in for an interview while you are on leave.

We at the PPA say enjoy your time off and don't rush anything until you're absolutely prepared and ready. The investigation can wait. Sometimes it is

mentioned because the investigators themselves are going on leave and it would assist them to get your interview done. Sometimes you will be told, "It really isn't a big deal. The interview will be quick. It is only to clear some things up, and you're not in trouble for anything."

The truth is, that may be true. But what if one thing you say in that interview changes you from witness to subject? There is no worse feeling than going from "not a big deal" to investigators stopping the tape and noticing you as a subject. Things like this happen but are preventable with a rep at the interview watching your back. Now, I am not saying that at all of the interviews without 48-hour notice you will not have a representative there. Quite the contrary. Unless you opt not to bring a rep with you, we will show up, if available. That's not to say we couldn't all be tied up, out of town, in a mandatory meeting bargaining a new contract at IAB or CIRT, or already assigned to a shooting or critical incident. In this case, if you choose to waive your 48 hours, you may be going in alone. The reason the 48-hour notice is so critical to representing you to the fullest extent that the PPA can is because we also need time to prepare. The investigators have already reviewed the case, interviewed other witnesses and prepared themselves specifically for your interview. In most cases, questions for you are already written out and studied to elicit the information they need to move forward. We need that same time to talk with you and the other reps to prepare ourselves to counter or clarify any negative questions the investigator may ask about you, the event or other officers involved. What you say as a witness may be used against your fellow officers. We will never advise you to change your view or story. With the proper prep time that a 48-hour notice gives, you and the PPA have the ability to offer and ask clarifying questions as to why or how things may have happened at a scene or situation. We also may be able to refute negative statements against other employees to minimize or eliminate any discipline they could sustain from your interview.

Without proper preparation or with no representation at all, you may fall into answering questions that you possibly, if it was obtained as a violation of NRS 289, may not have needed to answer. It is for the above listed reasons that your PPA does not support the normal practice of waiving your 48-hour notice. Even if you do decide to go that route — like you're at IAB for an interview and when done the other IAB team says, "Hey, while I've got you here, can we just knock out this other one that you're a witness to real fast?" — please call and talk to a rep prior to walking into that interview. Give us the heads-up and let us help guide you, give you some background about past cases that may have been similar, and prepare you as best as possible.

Now, if the notice or phone call or conversation calls you a *subject*, never, never, *neeeeeever*, waive 48-hour notice, even if a rep can be there in five minutes. We definitely need the time to represent you properly. Lastly, I would offer this: You pay with your hard-earned money for PPA representation in *any* and *all* cases. Use us! Not using us for representation is like getting in a car wreck where you're at fault, cause \$5,000 in damage to the other vehicle but pay out of pocket for the damages. That is not going to happen. You're going to use that service that you pay monthly for to cover your butt. The PPA is no different and should be treated in the same manner. No case is too big or too small for us. The Executive Board works for you! Use us as often as possible to get your return on your PPA dues investment.

So the next time any interviewer asks you to waive your 48-hour notice to do a "quick" interview, call a rep, or decline and let us do our job of helping you and watching your back. When in doubt, take your afforded 48-hour notice before being interviewed. As always, if you have any questions, you can call or email any member of the Executive Board that you choose. **VB**

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DAVID ROGER
General Counsel

Are You Wasting Time Obtaining a Warrant to Search a Vehicle?

Many officers have asked whether LVMPD policy imposes greater restrictions on vehicle searches than is required by the U.S. Supreme Court. Investigations have stalled while detectives obtained unnecessary search warrants for automobiles.

LVMPD Vehicle Search Policy

LVMPD Policy 5/200.01, Section VI (B)(2) states that an exception to the warrant requirement is the “Probable Cause Vehicle Search.” The exception, as defined in the policy, states, “If a vehicle is *readily mobile* and probable cause exists to believe it contains contraband or evidence, the Fourth Amendment permits officers to search the vehicle. This rule applies even when the occupants are lawfully arrested before the search.”

The requirement that the vehicle be *readily mobile* has caused unnecessary confusion with officers. As will be discussed in this article, while some cases reference this language, mobility is not a controlling factor in this exception to the warrant requirement.

Federal Constitutional Law: Automobile Exception

In 1925, the U.S. Supreme Court decided the case of *Carroll v. United States*, 267 U.S. 132, 45 S.Ct. 280 (1925). The *Carroll* court upheld the warrantless search of an automobile based upon probable cause. The court explained that the exception to the warrant requirement is justified because automobiles are mobile, and suspects may drive the vehicles away while officers secure a search warrant.

Subsequently, the court stated that mobility is not an element of the automobile exception, but merely a rationale for departing from the warrant requirement. Later decisions explained that because vehicle owners operate their cars on the open highway, and in plain view, they are afforded a lesser expectation of privacy, which is the cornerstone of Fourth Amendment jurisprudence. See *California v. Carney*, 471 U.S. 386, 105 S.Ct. 2066 (1985).

In *Michigan v. Thomas*, 458 U.S. 259, 261, 102 S.Ct. 3079, 3080, (1982), the court explained succinctly: “In *Chambers v. Maroney*, 399 U.S. 42, 90 S.Ct. 1975, 26 L.Ed.2d 419 (1970), we held that when police officers have probable cause to believe there is contraband inside an automobile that has been stopped on the road, the *officers may conduct a warrantless search of the vehicle, even after it has been impounded and is in police custody.* (Emphasis added.) We firmly reiterated this holding in *Texas v. White*, 423 U.S. 67, 96 S.Ct. 304, 46 L.Ed.2d 209 (1975). (Citations omitted). It is thus clear that the justification

to conduct such a warrantless search does not vanish once the car has been immobilized; nor does it depend upon a reviewing court’s assessment of the likelihood in each particular case that the car would have been driven away, or that its contents would have been tampered with during the period required for the police to obtain a warrant.” *Id.*

Nevada Decisions Post *Carroll v. United States*

It is well established that states may impose greater constitutional restrictions when interpreting state constitutions. However, Nevada has traditionally followed U.S. Supreme Court decisions in the area of the Fourth Amendment.

In fact, the Nevada Supreme Court adopted the *Carroll* decision in *Wright v. State*, 88 Nev. 460, 472, 499 P.2d 1216, 1224 (1972). For well over 25 years, Nevada law enforcement officers conducted warrantless searches of automobiles based upon probable cause.

However, in a series of three decisions, the Nevada Supreme Court wreaked havoc in the law enforcement community. See *State v. Harnisch (Harnisch I)*, 113 Nev. 214, 931 P.2d 1359 (1997); *Barrios-Lomeli v. State*, 113 Nev. 952, 944 P.2d 791 (1997); and *State v. Harnisch (Harnisch II)*, 114 Nev. 225, 954 P.2d 1180 (1998). The cases imposed an additional requirement that the vehicle had to be readily mobile and exigent circumstances had to exist before officers could conduct a warrantless search. Because these decisions are no longer controlling, the holdings will not be discussed further in this article.

Finally, in 2013, the Nevada Supreme Court made a 180-degree turn and reverted to the holdings in *Carroll v. United States*, *supra* and *Wright v. State*, *supra*. The Court in *State v. Lloyd*, 129 Nev. ___, 312 P.3d 467 (2013) explained: Nevada’s automobile-exception case law has been criticized as “produc[ing] confusion, while doing little to enhance the protection of individual privacy interests.” (Citation omitted). The criticism is fair. The constitutional protection in the federal automobile-exception case law lies in the requirement of probable cause to believe that the vehicle contains contraband or evidence of a crime and in the car’s inherent mobility, not the peripheral factors identified in the *Harnisch* cases and their progeny. And the confusion in our case law not only makes it difficult for district courts to apply the law, it also makes it difficult for police to comply with the law in the field.

In the 90 years since *Carroll* articulated the automobile exception, the Supreme Court “has slowly and cautiously developed this narrow exception to the warrant requirement into a balanced doctrine that protects privacy concerns while providing clear guidelines for effective P# 8781 law enforcement.” (Citation omitted.) Given that the Fourth Amendment and Article 1, Section 18 of the Nevada Constitution use virtually identical language, independently deriving a different

formulation to protect the same liberty that the U.S. Constitution secures — and paying for that difference with confusing rules and unpredictable, oft-litigated results — cannot be justified. (Citation omitted). We now conclude, as a number of sister states have, that our state constitution compels no different automobile exception to its warrant requirement than the Fourth Amendment does. Id.

Today, pursuant to *Carroll v. United States, supra*, and *State v. Lloyd*, officers may search an automobile without a search warrant based upon probable cause. It is irrelevant whether the vehicle is stopped by police officers or parked on the side of the road. It is immaterial that the vehicle is parked in an impound lot. Likewise, it makes no difference whether the vehicle is occupied. The sole issue is whether the officer has probable cause to believe that contraband or evidence is located in the automobile. **VB**

THOMAS REID

(continued from page 6)

or reports. By doing this, we can avoid potential questions of truthfulness because the officer said “something different.”

It has been the Association’s experience that only a small percentage of those complaints making it to the Screening Committee ever go to a Citizen Review Board hearing. If the complaint does reach that level, the Association will represent you in that forum.

Citizens have become very well-versed on how to submit alleged complaints on officers in any number of outlets, like IAB, CRB and over the Internet. Your Association is standing by to help you get your story out of what really happened ... just give us a call. We are here to help. **VB**

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Disciplinary Decision Guide

CONDUCT		FIRST	SECOND	THIRD	FOURTH+
	Minor performance or conduct issues may be dealt with by counseling employees and documenting these counselings on contact reports. A contact report is not discipline and is only used to retain written documentation of important events.				
1	Any conduct or performance issues not listed below, where the supervisor believes a written record of discipline is necessary in the personnel file to correct the behavior with or without prior counseling	Written reprimand	Minor	Major	Major/Termination
2	Any conduct or performance issues not listed below, where the employee has received a prior counseling for a similar or dissimilar problem	Written reprimand	Minor	Major	Major/Termination
3	Alcohol-related incidents, not related to DUI	Written reprimand/ Minor	Major	Major/ Termination	Termination
4	Inappropriate use of force	Written reprimand/ Minor	Minor/Major	Major/ Termination	Termination
5	All other conduct or performance problems where an employee has received one or more written reprimand(s) for a similar or dissimilar offense (except for traffic accidents, unless there is a clear connection to the conduct)	Minor	Major	Major/ Termination	Termination
6	Any other act or omission undertaken by the employee that is detrimental to the Department in achieving its goals and living up to its mission and values statement	Minor	Major	Major/ Termination	Termination
7	Insubordination: Direct refusal to comply with a lawful order and employee continues to disobey after a warning of discipline is given. Employee directs abusive language or comments toward a superior or exhibits manifest disrespect.	Minor	Major	Major/ Termination	Termination
8	The accessing of information system(s) that contain or may contain criminal history or personal information for reasons not related to official purposes	Minor	Major	Major/ Termination	Termination
9	4/101.06 Disputes/Arrests/Investigations Where Personally Involved	Written reprimand/ Minor	Major	Major/ Termination	Termination
10	5/102.27 Observers in Police Units	Written reprimand/ Minor	Major	Termination	
11	4/101.02 Associating With Persons of Ill Repute	Minor	Major	Termination	
12	4/103.22 Unauthorized Weapons and Ammunition	Minor	Major	Termination	
13	5/103.05 Use of Department Vehicle for Travel Outside of Nevada (related only to taking vehicle out of state without permission)	Minor	Major	Termination	
14	5/103.29 Reporting Department Vehicle Accidents	Minor	Major	Termination	
15	4/105.09 Police Business Confidential	Written reprimand/ Minor	Major/ Termination	Termination	
16	4/106.02 Aiding, Supporting and Protecting Fellow Officers	Minor	Major/ Termination	Termination	
17	4/109.08 Misappropriation of Property	Minor	Major/ Termination	Termination	
18	4/110.05 Release of 9-1-1 Telephone Number and Address Information	Minor	Major/ Termination	Termination	
19	5/109.05 Civilian Firearms and Aerosol Defensive Spray	Minor	Major	Termination	
20	DUI violations by employees	Major	Termination	Foundational evidence for DUI violations by employees will be determined through field sobriety tests, preliminary breath tests, blood tests, Breathalyzer test or admission of impairment by the employee.	
21	The accessing of any information system(s) which contains or may contain criminal history or personal information for reasons not related to official purposes and then disseminates the information to another party.	Major	Major/ Termination	Termination	

CONDUCT		FIRST	SECOND	THIRD	FOURTH+
22	4/101.19 Truthfulness Required at All Times	Major	Major/ Termination	Termination	
23	4/101.03 Fraternalization Prohibited	Major/ Termination	Termination	Members shall not fraternize with, engage the services of, accept services from, or do any favors for any person in the custody of the Department except as set forth in writing by the unit commander. Termination will apply if a member associates socially with or fraternizes with the spouse of any person in the custody of the Department, as it applies to a sexual encounter and the member has knowledge of the custody status.	
24	DUI violations by employees in a Department vehicle	Major/ Termination	Termination	Foundational evidence for DUI violations by employees will be determined through field sobriety tests, preliminary breath tests, blood tests, Breathalyzer test or admission of impairment by the employee.	
25	Criminal conduct classified as something less than a felony (other than traffic and not otherwise defined herein)	Major/ Termination	Termination	Issuance of a check or draft without sufficient money or credit can be considered a civil matter if the employee, upon notification that the bank refused the check, pays the holder of the check the full amount due plus any fees, within five days of such notice, regardless of the method of notification. If the employee fails to make this timely restitution, the conduct will be considered a criminal act.	
26	4/108.10 Use of Position in Civil Cases Where Personally Involved	Major/ Termination	Termination		
27	Domestic abuse violations by employees	Major/ Termination	Termination		
28	5/110.24 Drug-Free Workplace: Use of Controlled Substances, Dangerous Drugs and Medications (Prescription)	Major/ Termination	Termination		
29	Any act or omission of such an egregious nature that the employee is rendered ineffective in his position and/or the act or omission would tend to bring the Department into public discredit	Major/ Termination	Termination		
30	4/101.19 Truthfulness Required at All Times: Employees formally noticed of official investigations conducted by the Department who are found to be untruthful during the investigations or who are found to be untruthful in completing official Department documents	Termination			
31	Criminal conduct classified as a felony in Nevada, other state, or by federal statute	Termination	Issuance of a check or draft without sufficient money or credit can be considered a civil matter if the employee, upon notification that the bank refused the check, pays the holder of the check the full amount due plus any fees, within five days of such notice, regardless of the method of notification. If the employee fails to make this timely restitution, the conduct will be considered a criminal act.		
32	Gross insubordination: battery on a superior, refusal to obey order where such refusal puts the public or fellow employees at risk. Also, where appropriate warning is given, the employee will be terminated if he does not comply with a lawful order.	Termination			
33	Any act of violence by an employee against another employee in the workplace	Termination	Violence is defined as an act of aggression that occurs in a work setting and causes physical harm to another employee.		
34	Gross inappropriate use of force	Termination			
35	Theft	Termination			
36	4/101.14 Refusal to Testify	Termination			
37	4/101.18 Cheating on Employment/Promotional Exams	Termination			
38	4/102.06 Giving Assistance to Suspects	Termination			
39	4/106.07 Protection of Identity of Undercover Operatives	Termination			
40	5/110.24 Drug-Free Workplace: Use of Controlled Substances, Dangerous Drugs and Medications — Illegal drugs as defined by NRS 453 and/or policy	Termination			

Metro: Our History, Our Story

STAN OLSEN

Retired LVMPD and President, Metropolitan Police Museum and Historical Society

There are few on the Department today who remember our roots, but we haven't always been Metro and we haven't even always been here. Today, we are one of the largest police departments in the United States, but when compared to all other large police departments, we are the youngest at only 42 years old.

The Las Vegas Metropolitan Police Department is the offspring of the Clark County Sheriff's Office (CCSO) and the Las Vegas Police Department (LVPD), and was created by legislative action. The creation of Metro was a grueling six-year process that began with the discussion of merging the two agencies' records and crime lab. The back-and-forth negotiations on how to accomplish that resulted in an expansion of the areas to merge, eventually leading those involved to the understanding that the only way to make it work was everyone or no one. This led to other logistical issues.

The Sheriff's Office commissioned some dispatchers and records staff; LVPD did not. This issue would play a pivotal action in a couple of years. The LVPD had matrons (female corrections officers), and the CCSO policy was that deputies worked in the jail before they worked the streets; the LVPD not. The Sheriff's cars were black and LVPD had blue and white.



Will Deiss, P# 16

Uniforms and type of firearms had to be decided on. There was an endless list of to-dos to make this work. Finally, on July 1, 1973, Metro was born.

The early merger time P# 14878 was an amazing time. Much like cells joining to form a new life, two rival agencies combined into a single organization. By the Nevada Constitution, the sheriff of a county is the primary law enforcement officer. Because of this, that person, Ralph Lamb, became the first Sheriff of the Metropolitan Police Department. The Chief of the LVPD was John Moran and he became the undersheriff. Dates of hire for each employee

had to be merged and P#s assigned.

At the time, we weren't that large, with about 500 total employees. Sitting in briefing was a daily "event." There were CCSO uniforms, LVPD uniforms and Metro uniforms. LVPD guys carried revolvers and CCSO guys had semi-autos. The only common item was our badge. We all wore a Metro badge. "Scumbag rookies" were told where to sit and your P# was many times a source of laughter,



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especially for those over 1000. Thankfully mine was 998. There were arguments over manpower deployment between LVPD sergeants and CCSO sergeants, and on a couple of occasions, fights between officers.

One of the primary strategies of the merger was to adopt what was referred to as "the best of both worlds." This meant that each agency was examined for differences in pay, benefits and other issues. For example, the deputies were paid more, but did not have civil service, whereas the city cops did. The County had longevity, paid once a year, but LVPD was paid monthly. Plus, as stated previously, uniforms, guns and cars had to be equaled.

At the time, the LVPD had the PPA; the CCSO had no such organization. The leader of the PPA was Detective Will "Pappy" Deiss. Will joined the LVPD in 1953 at age 23. He was one of the original members of the PPA and later served as president for 11 years. I knew Pappy and eventually, as the case with all PPA leaders, his shelf life reached its expiration date. In spite of this, he needs to be remembered for how hard he worked and how much he contributed for the police officers of Metro. He was instrumental in the discussions where the best of both worlds was involved during the merger talks. Deiss retired in 1979 with nearly 27 years service. **VB**



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Fit for Duty

POLICE OFFICER II DAVID TILLEY

Member

David Tilley writes regularly for Vegas Beat to highlight the importance of fitness and to share some of our members' fitness routines and secrets. If you would like to be profiled, feel free to reach out to him at D14202T@lvmpd.com.

Highlighted Member

Mark Lafavor, P# 13887

Height: 6'2"

Weight: 220

Years on the Department: Six

You are what I would consider an endurance athlete.

Not only do you compete in triathlons, but you run races and do bicycle-only events, like criterium racing and century cycling. For those of us who are uninformed, can you explain what criterium racing and century cycling are?

Criterium racing is a bicycle race on a closed-road course approximately one mile, plus or minus, in length that is timed with a specific amount of laps. The race officials determine the amount of laps based off the average lap times, and can last 30 to 60 minutes. Criterium, or "crit," racing is very fast paced with average speeds close to 30 miles per hour, and involves cornering through turns with cyclists elbow to elbow. Racing in a crit is very difficult physically and requires good bike-handling skills. You have to push yourself physically throughout the race, staying on the wheel of the rider in front of you and sprinting out of the corners to gain or maintain your position. Century rides are 100-mile rides and are typically more recreational, but do require a level of endurance to complete. You have to dedicate time training on your bike to be competitive and to be able to be successful in completing the race or ride.

Some people have a difficult time starting a fitness routine and sticking to it. How did you start and make it part of your daily routine?

It helps to have a partner to train with and to hold each other accountable, and for me, it's my wife. She pushes me and keeps me on track at times. My wife is a huge believer that you need to have a routine and stick to it. We also both belong to a men and women's cycling team, Velo Vegas, and ride with our team several days a week and have several friends who are endurance athletes. I also use several apps and web-based programs, like Strava and Garmin Connect to create training plans and track my progress. The programs are easy to use, are compatible together and have built-in training programs for different sports, or even just basic workout plans for strength training.

With all the running, biking and swimming you do, it is obvious you are in great shape. Any competitor will say competing is not just physical strength, but mental strength as well. How do you prepare physically and mentally for a competition?

I would say that competing in endurance sports is 80% mental and 20% physical. Your mind will tell you that you are done long before your body will quit. One technique that I use is creating a mantra, and when you think you are done mentally, repeat your mantra to yourself and keep moving. My mantra is,



"Pain is temporary ... Quitting is forever." I didn't come up with the saying, but heard it before and it stuck with me. This helps me to push on past my threshold. I have this on my road ID to remind me when I need to be reminded. When I am about a week out from a race, I start visualizing the race and going through my race mentally. This helps me to get into my racing mindset. For example, when I am transitioning from my swim to my bike during a triathlon, I think of the steps — pull my swim cap and goggles off into the sleeve of my wetsuit, get the wetsuit off, put on my helmet first, then race belt with bib, bike shoes, sunglasses, etc. — until it is something that you do without even thinking about it. As for the physical part of preparation, I like to mix up my workouts. I usually will incorporate biking, running and swimming, but it is also imperative to add core, strength training, cardio and plyometric workouts to my routine.

Can you give the readers specifics on how you fuel your body? How do you stay disciplined enough to stick with your diet?

There are so many differing opinions on what the best diet is to follow out there in the fitness world. For me, I have tried several different ones, and the most sustainable one is portion control of good foods that are nutritionally balanced, low fat, non-processed foods. I eat a lot of chicken, turkey and fish and tons of vegetables. Again, it is difficult to stay on any specific, restrictive diet all the time, so if I do eat out it is all about portion control and trying to choose the better option on the menu. I also consult the owner of the Northwest Max Muscle, Jennifer Lee, who is a certified nutritionist. She creates balanced meal plans specifically tailored for the training and activities that I do. I use

supplements during training and on race day, but do not switch or use anything that I haven't used before on race day to avoid gastrointestinal issues.

Any upcoming competitions we should be aware of?

I just completed my fifth triathlon of the season with a first place win in my division, and have one more at the end of October. I also will be representing DTAC in the 2015 Brass Challenge by competing in the bike time trial and will be running with a team of friends in the 2015 Ragnar Relay Race.

How has being fit help you be a better police officer?

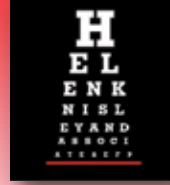
Being fit for duty is important for, first and foremost, safety reasons. The bad guys size us up all the time. If you are fit, they may not take the chance of fighting or resisting you. If you have to chase a suspect on your bicycle or on foot, you need to have the endurance to be able to take that suspect into custody at the end of the chase. Fitness is also important because it can reduce work-related injuries that could put you on light duty. I think it is also important to be fit for the image of the Department in the eyes of the public. Perception is everything nowadays.

What advice would you give officers looking to adopt a healthier lifestyle?

Join a gym that offers group workouts, boot camps, CrossFit or any gym that offers free classes. I have found that the best way to get started and keep going is to be part of a group. Group workouts can help to keep you accountable and push yourself to higher levels of fitness, and can be very motivating. There are numerous gyms in Las Vegas that are reasonably priced and have a lot to offer for new members who join.

If you were the Sheriff, how would you incorporate fitness into the Department?

I would like to see gyms at the stations to make it easier to get a workout in before or after your shift. This could possibly motivate others to work out at the stations, either as a group or individually. **VB**



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

Giveaway #1: One **\$250** prize

Members who find the hidden  in this issue of Vegas Beat and register through www.LVPPA.com will be entered into a drawing for \$250. You must enter by Wednesday, December 9, 2015, to be considered eligible. Telephone entries will not be accepted. Visit our website for more details.

Giveaway #2: Five **\$50** prizes

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
- Retirement considerations
- Association news
- Benefit changes
- Hot topics on the job
- 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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CALENDAR

- November 1 Daylight Saving Time ends (fall back!)
- November 3 Election Day
- November 11 Veterans Day
- November 26 Thanksgiving
- November 28 Photos With Santa at the LVPPA
- December 25 Christmas

**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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THANK YOU LETTER

Mark,

Hope all is well in PPA, you guys rock. I had to go to the ARB yesterday with one of my guys who should not have been there — he was driver two and not cited or at fault.

Darryl Clodt was a fighter and stood up for an innocent officer and did so without fear of the administration and did not back down.

It was nice to see there are men here that still have courage to do what is right.

LVPPA Member

RETIREMENTS

09/18/15	Melvin Weaver, P# 7445	PO II
10/14/15	Jennifer Vershall, P# 6431	PO II
10/27/15	Alan Hartwick, P# 2766	CO II
11/02/15	Erik Meltzer, P# 13460	PO II
11/05/15	James Bozek, P# 3381	PO II
12/30/15	Kelly Korb, P# 3373	PO II

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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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