



LVPPA VEGAS BEAT

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See Page 4

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

VOLUME 14 | ISSUE 4

November/December 2019

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AND *Bright*

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FROM THE LVPPA

CELEBRATE WITH US: SANTA DAY, DECEMBER 7

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

NAPO – National Association of Police Organizations, representing over 241,000 law enforcement officer members in more than 1,000 police associations nationwide.

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

UCOPS – The United Coalition of Public Safety





President's Message

DETECTIVE STEVE GRAMMAS, PRESIDENT

Holiday Stress

We are approaching the end of 2019, and with that comes the stress of the holidays. As our children and loved ones begin decorating for all the holiday festivities, we law enforcement professionals may be feeling a sense of unease. That's because we sometimes have a tough time dealing with all the stress this time of year brings. Whether it is work, family, caring for parents, budgeting, shopping or any other topics that concern you, you need to know there are people who can help.

I think one of the most underutilized benefits we have through the Health and Welfare Trust is our Behavioral Healthcare Options (BHO), or counseling benefits. I know as officers we try to compartmentalize a lot of issues, but sometimes doing that can result in things like anger, overindulging in alcohol, excessive use of prescription drugs or engaging in other activities or behaviors that we feel might "take away the pain." The law enforcement profession is a very stressful profession. We see and do things that keep us up at night — things we probably wish we didn't have to see or relive, but it is there. Dealing with these issues in a healthy, productive way is far more effective than turning to the bottle to self-medicate. Take the time to explore the benefits you have available to you. Contact Kelly Taylor, our Health and Welfare Trust administrator, and have her walk you through everything you have at your disposal.

In addition, please do not forget the new legislative change as it relates to PTSD. I have known officers who have shared stories with military troops who have been

deployed in war zones, and the troops say the officers have probably been exposed to far more than they ever have. If you find yourself on a call or incident where something is very disturbing to you, fill out the paperwork to document the issue. LVMPD, more than likely, will deny the claim, but it starts the ball rolling on a potential future claim, should you need it. Like most things, if you don't have it documented, it didn't happen. Take the time to fill out the paperwork. If you need help, reach out to any of the Board members for assistance.

I guess, in the end, the point of this article is to let you know that if you are struggling and do not know where to turn, there are people who can help. Don't be afraid to seek out the help you need. There is something I tell all of the new officers at the Academy when we get the opportunity to present to them. I say to them: "This is a wonderful and great career; however, if this job drives you to the point of thinking about hurting yourself, you need to get out." This career is not worth your life. We are seeing an alarming number of our brothers and sisters taking their lives across the country. Nothing can replace a father, mother, brother, sister, child or friend. The grief you leave behind could be something those people never recover from. If this describes you, go get help. If you don't know where to turn, call me directly.

I'd like to close by dedicating this article to my father, retired LVMPD officer Jerry Grammas, P# 2331. He passed away suddenly in September. You'll be forever missed but always remembered, Pop.

Have a great holiday season and thank you all for your membership. Stay safe. **VB**

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

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 Thursday, December 5, 2019, 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 the Retirement section 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.



A Look Back at 25 Years of COLAs

CORRECTIONS OFFICER SCOTT NICHOLAS

Vice President

The following is a history of COLAs, health and welfare contributions and PERS contributions over the last 25 years. **VB**

YEAR	COLA	H&W	PERS	NET COLA
1996	4.5%	\$2,548	27%	4.5%
1997	2%	\$2,913	28.5%	1.25%
1998	3%	\$2,913	28.5%	3%
1999	2.5%	\$2,913	28.5%	2.5%
2000	2.5%	\$2,913	28.5%	2.5%
2001	4%	\$3,337	28.5%	4%
2002	4%	\$3,469	28.5%	4%
2003	4%	\$3,609	28.5%	4%
2004	4%	\$3,753	32%	2.25%
2005	3.5%	\$5,549	32%	3.5%
2006	3.5%	\$6,382	33.5%	2.75%

YEAR	COLA	H&W	PERS	NET COLA
2007	3.75%	\$7,339	33.5%	3.75%
2008	3.75%	\$8,439	33.5%	3.75%
2009	0%	\$9,073	37%	-1.75%*
2010	0%	\$8,573	37%	0%
2011	0%	\$8,573	39.75%	-1.375%
2012	0%	\$8,573	39.75%	0%
2013	1.5%	\$9,727	40.5%	1.125%
2014	1.5%	\$10,600	40.5%	1.5%
2015	2%	\$10,600	40.5%	2%
2016	2% BWC .25%	\$10,600	40.5%	2.25%
2017	2% BWC .5%	\$10,600	40.5%	2.5%
2018	2% BWC .25%	\$10,600	40.5%	2.25%
2019	2.25%	\$10,600	42.5%	1.25%
2020	2.5%	\$10,250	42.5%	2.5%

*LVMPD paid the employee portion of the PERS

RETIREMENTS

8/23/2019	Mark J. Grandusky*	P# 6292	CO II	20 Years
9/1/2019	Mark Vaughn	P# 6040	PO II	21 Years
9/4/2019	Stephen A. Ouellett	P# 4988	PO II	24 Years
9/5/2019	Robert J. Neumuller	P# 9416	CO II	13 Years
9/5/2019	Keith R. Pool	P# 7300	PO II	18 Years
9/10/2019	Jackie W. Pope Jr.	P# 4053	PO II	27 Years
9/10/2019	Samuel Smith	P# 6424	PO II	20 Years
9/19/2019	Robert Pettit	P# 7310	PO II	18 Years

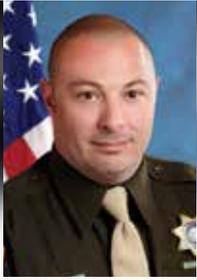
*Corrected from the September/October issue



CALENDAR

- November 23** UNLV Game
- November 28** Thanksgiving Day
- December 3** General Membership Meeting, 5 p.m. *
- December 7** Santa Day
- December 24** Christmas Eve
- December 25** Christmas Day
- December 31** New Year's Eve
- January 1** New Year's Day

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



The Importance of Being Articulate

POLICE OFFICER BRYAN YANT

Sergeant-at-Arms

Now more than ever, when every word and thought is scrutinized, one must be articulate — during your daily interactions on calls, the tense moments of giving verbal commands, when accurately writing a report, in an interview with Internal Affairs and, most importantly, in an interview related to an officer-involved shooting. Officers must wear many hats and have many skills, but our words and the ability to use them effectively can be the most crucial skill.

Far too often, we see in our daily lives others lacking the ability to effectively communicate. With the advancement of technology and cellphones, texting took over. I remember when texting meant having to hit a number several times on the phone to scroll through letters. It took so dang long. Now people would rather text than physically talk.

So much can be lost in translation in texting, but let's not overlook the abbreviations that have evolved from texting and even the emoji faces. Oh yeah, and let's not forget about autocorrect, which is sometimes helpful — except when I type my favorite four-letter word and it changes it to duck... I'm sure in my mind the word duck has never been used. Thanks to autocorrect, spelling has been overlooked.

your performance in the field. Sharpen your tools and use your words effectively. Review your body-worn camera prior to writing a report or doing an interview so you can actively listen to what was said and recall all the facts. Paint the picture of what occurred and relay your thoughts and feelings. You can't assume the reader or interviewer understands your points. You must thoroughly describe everything as if they were a layperson.

If you feel that your writing or public speaking is behind the power curve, please invest in your future. Take a college class or online class on this. Practice speaking in front of friends. There are many educational books available on these subjects. By investing a little time in this field, your performance will improve and you will feel more confident in your abilities going into an interview where you have to explain why you took the actions that you did. Far too often we see officers who in their minds know why they took the actions they did and were justified in doing so, but when it comes time to complete a report or interview, they have trouble explaining their actions. Failing to articulate your actions can be catastrophic.

At the end of the day, your ability to be articulate can be impactful in many ways. It could mean that felony arrest you made is fully prosecuted due to an excellent case and reports instead of being dealt out after lengthy questioning and lack of information provided. Your internal interview for a discourtesy could be closed on a prelim investigation because, on body camera, your words and orders were clear and concise. Or you could be brought before IA to explain the actions you took and why you took them. Use your words to your advantage. Use them to document what occurred, painting the entire picture. No one knows your story unless you tell it. Body-worn cameras don't paint the full picture. We can prepare you for your interview, but it is up to you to tell your story. If you are not articulate, someone may tell your story for you or how they believe it is. Don't let that happen. Be your own Picasso with your words. **VB**

Articulate

adjective

(of a person or a person's words) having or showing the ability to speak fluently and coherently; synonyms: eloquent, fluent, effective, persuasive, lucid, expressive, silver-tongued

verb

express (an idea or feeling) fluently and coherently; synonyms: express, voice, vocalize, put in words, communicate, state

Being able to articulate what is told to you as an officer, or what you want someone to do, or what you saw or did as an officer is paramount in our job. You have to be able to take what you remember or are thinking and reproduce it in written documents and verbally in interviews. Being P# 13298 articulate is like being a storyteller. Sometimes, being articulate is like being a word ninja. Our thoughts are translated to words, and through your words and thoughts you will be judged on

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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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Let's Talk About the LVPPA RV

POLICE OFFICER MIKE RAMIREZ Director of Governmental Affairs

The holidays are coming up, and I wanted to start off by wishing all of you a safe and festive holiday season!

You might be bored stiff with all the normal politics talk that I typically write about, so this time I want to shift gears a bit. Let's talk about something fun or interesting. Let's talk cars. Well, more specifically, RVs — even more specifically, the LVPPA RV. A few years ago, we collectively decided to purchase an RV to primarily be used as a mobile vehicle for OISs. If at any time you arrive at a scene and see our RV, it means there was an OIS or an in-custody death.

Please note that the use of the RV is for *members* only and is a place for the officers involved in the OIS to gather their thoughts, talk to their attorney/representative, get a bite to eat, talk to their loved ones on the phone, watch television and relax for the long process ahead of them. In addition, it gives the involved officers an opportunity to get out of the elements (cold or heat) as well as limit their exposure to the media at the scene. Although the RV is a perk for our members only, it more specifically is for members who were directly involved in the scene. It is not uncommon that there are multiple officers involved (shooters, witnesses, etc.), and the RV gives us the space to have several people all in one spot.

There have been a few misconceptions about the purpose of the RV, and I want to clarify. If you were not involved in the OIS but show up at the scene and see the RV, you are welcome to stop by. We can supply you with a drink or some snacks or even a restroom, but please note it is not a place to hang out and relax or to shoot the P# 1825 breeze. So please do not feel offended if we ask you to leave if you are not involved. I definitely don't want to imply that the RV is not for general membership use, I just want to make sure I clarify the primary purpose behind it and the importance of having a safe and comfortable place for the *involved* officers.

Our RV has proven to be a successful addition to the LVPPA's amenities and services. Ideally, there would never be any OISs or in-custody deaths, which would then mean no need for our RV. However, the reality is that sometimes these things happen and we want to be prepared to take care of our members. The RV is parked at our LVPPA office when not in use and if any members are interested in taking a quick tour of it, by all means, feel free to contact us at the LVPPA office. For those who have not seen it and are curious, I have included a few photos of it.

As always, take care out there. Be safe, and feel free to contact me any time at mramirez@lvppa.com. **VB**



Many thanks



To our friends at LVPPA:

We respect and appreciate your mission to protect those who protect us.

**It's our honor to serve you,
who serve our community.**



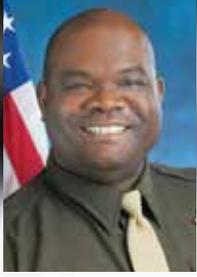
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United We Stand

CORRECTIONS OFFICER MYRON HAMM

Director of Corrections

I recently attended the Law Enforcement Association Leadership Symposium in San Diego. The recurring theme this year seemed to be membership in associations and the public's rush to judgment to indict officers. Everyone remembers Officer Ken Lopera and the Department's rush to judgment. I met the president of the Houston Police Officers' Union, Joe Gamaldi. They were facing a similar situation involving a Houston Police Department officer named Shane Privette. Officer Privette arrested a subject who was a violent repeat offender out on parole. Upon attempting to take him into custody, the subject began to resist. Once he was taken to the ground, he continued to fight and refused all verbal commands. This entire incident was captured on body camera.

Ironically, the first sergeant that arrived on the scene and the chief of police agreed that Officer Privette was not excessive in his use of force, and so he was completely exonerated by the HPD after an Internal Affairs Division investigation. Imagine their surprise when the district attorney indicted Officer Privette for a first-degree felony that could carry a sentence of up to 25 years in prison. The Houston Police Officers' Union, much like

the LVPPA, rallied around their officer and had an outpouring of support. I am happy to report that the Houston Police Officers' Union launched an offensive and was able to get a second grand jury to convene. This time, the outcome was different and Officer Privette was cleared.

It is truly unfortunate that we in law enforcement are facing the same dire circumstances all over the country. We expect the second guessing and the rush to judgment from the general public, but when it comes from those within the law enforcement family, it is a bitter pill to swallow. As pointed out at the conference, part of the problem is there are so many organizations (unions), and each claims to be the voice or the savior of the masses. Collective bargaining is always the target of the administration in every department.

We here in Nevada are fortunate that we are able to negotiate through our CBA. When you speak with representatives from Seattle, Los Angeles, San Jose, San Francisco, Nebraska and many others, the theme is the same: How do you keep all your members happy? We here at the LVPPA have embarked upon a mission of bringing members together by including their families at events such as UNLV tailgating, Halloween Trunk or Treat, Golden Knights hockey games, Aviator baseball games, Easter Egg Hunt, Santa Day, St. Patrick's Day and many more.



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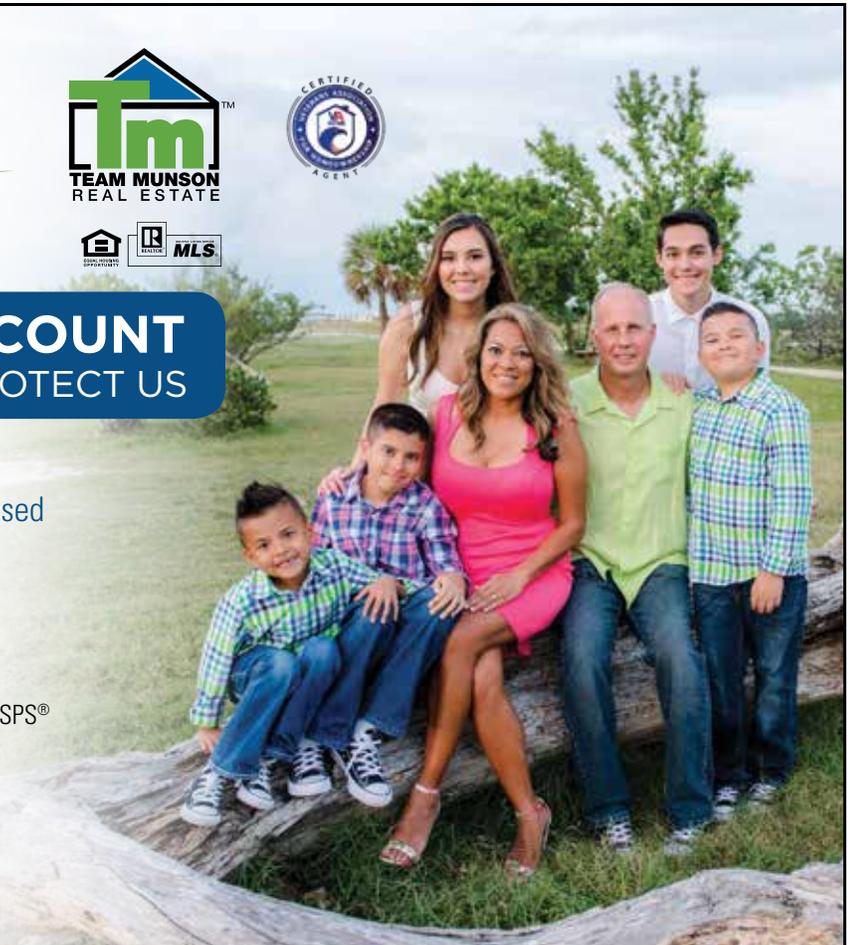
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Unfortunately, there is always someone out there who feels that another union or association can do more for them than our group. About five years ago, I was working at the North Valley Complex and a code was called. A subject decided he wanted to fight with our P# 16027 officers, and during the struggle the subject had a heart attack and died. I was one of the responding officers, and the two officers who were actually involved in the altercation were not members of the LVPPA. I contacted my full-time representative, and within 40 minutes he arrived with three other representatives and an attorney. There were detectives, sergeants, lieutenants and captains all over the place. Our attorney gathered us all in one place and spoke to *each member* individually.

The point to this story is that you never know when you will become involved in a critical incident. You could be Ken Lopera, Shane Privette or the other two officers from my story who were left on an island. I am asked a lot what I feel my job entails and I always respond that we are concerned with two main goals — keeping our officers out of trouble and maintaining employment. The only way these goals can be accomplished is if we are all on the same page. The greatest strength of any team is to remain united, even when everyone else is against you. A wise man once said, "A family doesn't need to be perfect; it just needs to be united." **VB**

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Investing in the Future

DETECTIVE BRIAN GRAMMAS

Treasurer

The Las Vegas Police Protective Association is proud to announce the recipients of our first annual LVPPA scholarship awards. The inaugural winners were Eliana Rebecca Morgenstern, daughter of Detective Kevin Morgenstern, and Hailey D'Angelo, daughter of Officer Vince D'Angelo and Corrections Lieutenant Kimberly Brodeur.

The winners were announced and formally recognized at the general membership meeting held on September 5 at the LVPPA headquarters. President Steve Grammas, along with the Executive Board and the Board of Directors, presented both recipients with their scholarship awards as LVPPA members in attendance looked on. Hailey's father, Vince, accepted her award on her behalf as she is attending school at Ottawa University in

Arizona. Eliana, who is staying in Las Vegas to attend UNLV, was present to accept her award. All candidates were required to submit an essay, and the Board was extremely impressed with the writing ability and the passion that each candidate demonstrated with their words.

To the LVPPA, this scholarship represents an investment in the future and is a way of acknowledging the hard work of these fine young adults. Both of these young ladies have basically grown up on this Department; they have supported and admired the hard work of their parents, and it shows in their maturity and desire to further their education. We are extremely proud to have such fine representatives of the LVPPA, and we would also like to thank the parents for raising such great young people. Eliana and Hailey are shining examples of what our future leaders and the next generation has to offer. Both recipients received \$5,000 scholarships. We at the LVPPA are proud to have a hand in their future. **VB**



President Steve Grammas with scholarship winner Eliana Rebecca Morgenstern



President Steve Grammas with Officer Vince D'Angelo, father of scholarship winner Hailey D'Angelo

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2019



Are You Really a Member of the Metro Family?

OFFICER JOHN ABEL
Secretary

We all remember that feeling of walking across the stage at our police academy graduation and feeling like we are part of a family. Most of us probably remember being told that we are now part of the “Metro family.” When I represent officers at Internal Affairs or arbitration, they often lament not feeling like a member of the Metro family. What I tell them, and what I am telling all of you, is you are not a member of the Metro family. As much as it pains me to say it, you are a number on a budget line.

As your union representative, I know that we all have bad days. On those bad days, sometimes we do not abide by policy. Sometimes officers have a bad enough day that their actions warrant termination in the Department’s eyes. The non-commissioned employees who work at LVMPD Labor Relations and write the adjudications do not consider or care how their determinations will drastically affect you and your family. Your complaints P# 8711 of unfair treatment by leadership fall on deaf ears. They do not care that once you are fired you are less employable than an ex-felon — not because you broke the law, but because you broke policy. They will throw the book harder at an officer than they do at actual criminals. They will say that

your actions were criminal in nature and even write that in the adjudication, having never submitted the case to the DA’s office for prosecution — all to make it more difficult for you to fight for your job back. Does that sound like being a member of a family?

If you are on probation, it is even worse. I remember a time when probationary employees were rarely non-confirmed unless it was during field training. This last fiscal year, LVMPD has non-confirmed or fired more PO Is for non-training issues than they have in a long time. They do this because a probationary employee does not have the same grievance rights as a non-probationary employee. They think they are clairvoyant about what kind of employee you will be in the future, and they decide that cutting their losses is the better option. The civilians in Labor Relations have never been a commissioned officer and have no idea what we go through on a daily basis. They do not see all the good we do within the community. They take your one bad day and paint you as a bad officer.

In my opinion, they have gotten it wrong on multiple occasions when body-worn cameras have contradicted their adjudication report. I have also seen instances where they insert their own untrained and biased opinion in an adjudication report. While I cannot prove it, it is my opinion that there are termination and non-confirmation cases that are not treated fairly. We

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have seen officers who are facing termination or non-confirmation whose jobs were saved due to Department politics.

The majority of officers love this profession because of the positive impact we have on our community, but I just want you to understand that you are not a member of the Metro family like you are led to believe as a new officer. You are expendable to the LVMPD, but the men and women at the LVPPA do all in their power to make sure that you are treated as fairly as possible because you are a member of the LVPPA family. **VB**

CONGRATULATIONS

*to the contest winners
from the last issue!*

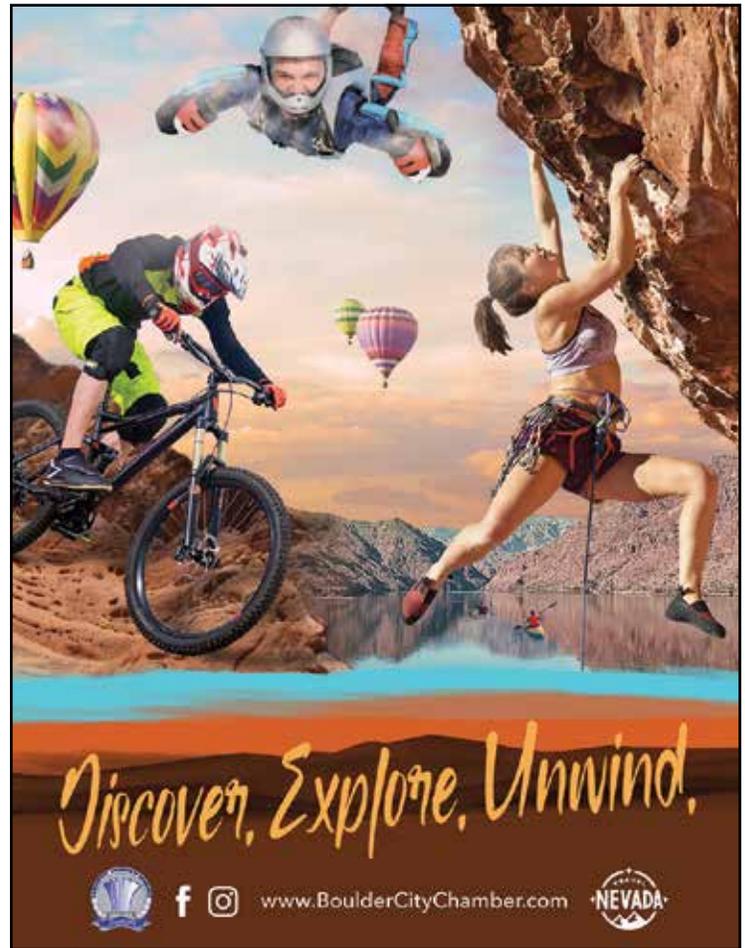
September/October

Hidden Symbol Contest (\$250)

Laura Van Dyke, P# 15704

P# Contest (\$50)

Pamelisa Travis, P# 6295



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DAVID ROGER
General Counsel

Recently, we concluded an arbitration hearing with the Department concerning our collective bargaining agreement. This article will describe the process set forth in NRS 288.215.

Expedited Hearing

Because police and firefighters are important to the safety of our state and are prohibited from striking, the Legislature provides an expedited process for resolving contract disputes. From beginning to end, the process should take less than 60 days. Of course, the parties may agree to extend the timelines.

Government’s Ability to Pay

As an initial matter, the arbitrator must determine whether the government is able to pay for any increase in wages and benefits. The employer is entitled to exclude 16.7% of the general fund balance from the amount available for monetary increases.

In the event that the parties seek a multi-year contract, the arbitrator must be assured that the employer is able to afford increases each year.

Comparable Jurisdictions

The parties may present evidence of wages and benefits from other entities from within the state and other comparable jurisdictions. While there are no restrictions, arbitrators typically rely on other local contracts to determine the reasonableness of the offers. This is because local contracts take into account relevant cost-of-living indicators and are more relevant.

Final Offer

At the conclusion of the hearing, each side must submit directly to the arbitrator their final offer. The offers are not presented to the opposing side until the arbitrator has both offers.

Arbitration — Rolling the Dice



Because police and firefighters are important to the safety of our state and are prohibited from striking, the Legislature provides an expedited process for resolving contract disputes.

Decision

After receiving both offers, the arbitrator must select one of the offers and issue a report. The arbitrator must select one offer in its entirety. The final decision may not incorporate individual awards from the different offers. In other words, the arbitrator must select the best offer, just like in Major League Baseball arbitrations.

Conclusion

Just like jury trials, arbitration is a crapshoot. By going to arbitration, the parties must rely on a third party to decide their financial future. Many times, the parties are too far apart to resolve issues themselves. However, arbitration is still a gamble. **VB**

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The Myth

of Positional and Restraint

ASPHYXIA



CHAD LYMAN
LVPPA Director



have been a police officer since the late 1990s and have been taught the idea of positional asphyxia for most of that time. As a result of extensive training and attempting to stay up on research and the latest studies on using force and defensive tactics, I know that scientific studies reject the idea of positional asphyxia or restraint asphyxia. In addition, the very medical examiner who coined the phrase “positional asphyxia” as it relates to police restraint procedures has now refuted his own hypothesis in court under oath and now testifies that he was wrong to use positional asphyxia in this context. More on that later.

I started my law enforcement career in Portland, Oregon, with the Portland Police Bureau. The term positional asphyxia as it relates to police restraint procedures was coined by Dr. Donald Reay. Dr. Reay served as the King County chief medical examiner for over two decades. In 1988, Dr. Reay conducted a study in which he concluded that hog-tying a suspect and leaving him face down leads to death from respiratory dysfunction and asphyxiation. He stated the LEO restraint procedures caused death and coined the phrase “positional asphyxia.” Dr. Reay himself conducted a follow-up study in 1997 at UC San Diego. Dr. Reay acknowledged that this study refutes his earlier work. Steven B. Karch, M.D., of Scottsdale, Arizona, states in his October 2017 paper, “Sudden Death During Law Enforcement Restraint,” that “everyone now agrees that there is no scientific evidence to support the idea that hog-tying or any other body position plays any role in causing life-threatening respiratory effects.”

As I started my LEO career in the Pacific Northwest, I was taught that I should not put weight on a prone suspect’s back or I might cause death through positional asphyxia, especially if the suspect was handcuffed. I was further taught that simply leaving a suspect handcuffed on the ground face down and prone could cause death. To eliminate this lethal threat of sudden death to the suspect, we were taught to place the suspect on their side or sitting up. Prior to actual research being conducted by doctors and scientists, I just accepted that these sudden deaths were a result of the suspect’s position. I now know better.

In October 2017, at a National Association of Medical Examiners (NAME) conference in Scottsdale, Arizona, Dr. Karch delivered a presentation about positional or restraint asphyxia based around LEO custody procedures. Dr. Karch is an internationally respected pathologist and international expert on the effects of illegal drugs.

The first thing to understand about any sudden unexplained custody death is that they are extremely rare. Only one out of a thousand resistant arrests ends in a death for a suspect. In his presentation, Dr. Karch used 2008 numbers on police use of force and sudden unexplained custody death or arrest-related death (ARD). Statistics from 2008 show 43 million police-civilian encounters. Force was threatened in 560,000 (1.4%) of all encounters. There were 13 million arrests, and 600 deaths occurred. Dr. Karch states that ARD subjects were 80% white, middle-aged and overwhelmingly male (90%), and that most were narcotics and stimulant users. Again, these deaths are rare. The themes of Dr. Karch's presentation were:

- In about one-third of the cardiac arrests that occur in the young, we cannot find an anatomical cause. The message here: Don't automatically blame the police if a heart defect is not immediately seen. Even young athletes die with little medical reason at times.
- Heart abnormalities are often not evident from a simple autopsy.
- Prone restraint and positional asphyxia have been thoroughly and scientifically debunked as a cause of ARD. Despite this, this disproven junk science is still used on a regular basis to blame law enforcement for a sudden in-custody death.

Those who promulgate the idea that prone positioning is clearly harmful need to be educated that all the available peer-reviewed data suggests that quite the opposite is the case.

Some of this may be related to the actual function that a medical examiner fills. When there is a death, the medical examiner is required to issue a manner of death (MOD) ruling. Some common choices for the medical examiner to select are natural, accidental, undetermined, homicide or suicide. The cases of ARD where positional asphyxia is alleged (in-custody deaths where the suspect has resisted physically) and officers do not use lethal force but the suspect suddenly dies are almost always listed as homicides (can be justified or unjustified). This is despite the fact that the officer did not use lethal force, and the suspect sustained no lethal injury from the application of force. The suspect just suddenly died during the event, so the medical examiner lists this as a homicide. Dr. Mark Kroll points out the irony of this by noting the medical examiners' attitude is "the police touched him, therefore it was death at the hands of another. Weird how the paramedics are never criminally charged for similar circumstances" (from Dr. Kroll's email presentation on arrest-related death, November 14, 2017).

Often, officers have a suspect who runs from them and then physically resists arrest when officers catch up to him or her. These suspects may show signs of emotional distress or not. If they do have signs of emotional distress — sweating profusely, taking clothes off, unresponsive to verbal commands, preoccupied with breaking glass, history of mental illness, superhuman strength, paranoid, resisting full force with no let up, etc. — we now know as a profession that the suspect is in medical distress. We know from training and experience that an ARD or a sudden unexplained death event could occur. It is common for officers to realize the suspect needs medical and

to request medical and have them expedite for a possible emotionally distressed suspect.

In recent years, I have seen a trend of suspects who do not appear mentally ill, but they run from the police and resist arrest until handcuffed. During the custody phase or once secured, they may state they cannot breathe. The age-old LEO answer is, if you can talk, you can breathe. While it does appear accurate to me that they can get some air in as they are talking, do not misunderstand — they may still be having some cardiac distress. Even though they can currently breathe, the tightness they feel in their chest could be a precursor to a significant cardiac event. They may suddenly go down and become unresponsive. Resist the urge to tell suspects "if you can talk, you can breathe," "toughen up" or "don't fight the police." If you knew the suspect would be dead in 90 seconds in your cuffs, would you make such comments? If you have made such comments, I understand them, but they are very hard to explain later if your suspect has a sudden medical condition that results in their death. If your suspect states repeatedly they can't breathe, a better response would be to expedite medical for them.

I don't know what the suspect's medical condition is in the field — I am not a doctor. But what I have learned repeatedly from medical professionals in training is that positional asphyxia as it relates to LEO custody procedures has been debunked in scientific studies. In Dr. Karch's presentation to other medical doctors, he stated that "once positional asphyxia was no longer considered a real entity, it was replaced by the term restraint asphyxia, meaning weight applied to decedent's back." The amount/duration of force applied to the back of a suspect sufficient to cause death has never been specified in modern

studies, though Karch said there are several definitive older studies that recorded the exact force and duration needed to make someone stop breathing. Dr. Karch noted there are two kinds of compression recorded throughout history. One is a dynamic and sudden weight, while the other is a gradual continuous pressure.

Drawing from medieval torture records, Dr. Karch noted that weights of well over 400 pounds were not fatal when applied to subjects. Karch said court records from the 1700s



recorded times of compression and weights, and these records were meticulously kept. He lists examples of weights of 400 pounds or more with times of 30 minutes to over an hour, and the subjects survived. He also lists an individual who had 675 pounds applied for 15 minutes who died.

Contrast this with the custody process, where the suspect is not tied down and weight is not truly "on him" as officers struggle with the suspect. Even if

Continued on page 20

THE MYTH OF POSITIONAL AND RESTRAINT ASPHYXIA

Continued from page 19

there are two 220-pound officers struggling with a suspect and laying on him, you could not say the suspect had 440 pounds of weight on him, as the officers are only partly on the suspect and their weight is distributed on the suspect and on the ground. The suspect and the officers are moving, and weight distribution is changing as well. These events last anywhere from seconds to minutes, and the weight distribution is never constant or long term. The idea that these rapidly evolving physical struggles cause positional asphyxia resulting in death has been disproven in multiple studies that can easily be found in modern times.

An unscientific example of this is the baseball pitcher who clinches the World Series. In a moment of celebration, his teammates rush the field, tackle him to the ground and “dog pile” him. I have seen pictures of these celebrations where it appeared there was a tower of people on the winning pitcher, with additional teammates literally jumping onto the pile. These piles are far larger and generally last longer than two or three officers struggling to handcuff a suspect. No one is

No matter how many studies refute the myth that prone positioning interferes with breathing, it continues to be brought up.

dying in these celebratory pileups, and there are no warnings released that participating in them could be lethal for the prone athlete on the bottom. I do not deny that suspects occasionally die during struggles to handcuff them. I reject the idea that the causal factor in their death is prone restraint procedures, and doctors and scientists who study the process agree with me.

Both Dr. Karch and Dr. Kroll say that a more ridiculous idea is that simply leaving someone who is prone and restrained can result in death of the suspect. Dr. Karch cited a study conducted by Valdosta State University (Georgia) researchers, which replicated studies done in Canada. This study tracked all arrests in 17 jurisdictions over a year's time. Arrestees in the prone position were there for one to five minutes, and forcible measures were used to put them in the prone position in 71% of the cases. Suspects were cuffed 96% of the time. The cuffs were applied in the prone position, and in a quarter of the cases the suspect was hobbled. There were no deaths.

These studies indicate that an ARD after custody and cuffing, most of the time on the ground, is not in and of itself a causal factor for in-custody death. In fact, many times with obese patients who struggle to breathe, they are placed in a prone position to increase breathing. The Faculty of the Royal College of Anaesthetists (United Kingdom) has stated that “prone positioning has a broadly positive effect on the respiratory system.” This



same facility uses prone positioning for intensive care settings for patients with poor lung function.

So why are our suspects suddenly dying? At the October conference, Dr. Karch stated these are cardiac events and not pulmonary events. These suspects feel they can't breathe due to cardiac stress, often magnified by narcotics use and unknown heart conditions. Dr. Karch offered a breakdown of the term “stress,” which is a derivative of the Latin verb “strictus,” meaning “to draw tight.” For medical purposes, Karch explained, stress is defined as “a physical or mental condition causing mental or physical tension.” For most forensic purposes, “stress is the elevation of stress hormones.” These would imply epinephrine or norepinephrine.

In his presentation, Dr. Karch noted a 2016 study by Dr. Lydia Krexi, who studied 110 cases of sudden unexpected death among subjects under 40 who died during or shortly after a “stressful event.” These events included altercation or arguments (45%), physical restraint of some type (31%), police custody procedures (10%), an important exam (7.2%), receiving bad news such as a death (4%) and car accident without injuries (2.7%). None of the cases studied resulted in any significant injury that would be likely to cause substantial harm or death.

This study highlights the fact that people respond differently to stress. There is no way that an officer on a call can anticipate or know that someone may have a lethal cardiac response to non-lethal custody measures.

Out of all of the cases studied, only 10% of suspects died while struggling with the police, only slightly more than the 7.2% who died due to a stressful test. Doctors understand and have demonstrated repeatedly that restraint procedures, including prone procedures and positioning, are not causing these events. If officers take suspects to the ground for handcuffing, it does not increase the lethality of the event. If there is weight on the suspect on the ground, it has not been established as a causal factor, and if I leave the suspect prone on the ground after being handcuffed (or even hobbled), there is no scientific link to causing sudden death.

No matter how many studies refute the myth that prone positioning interferes with breathing, it continues to be brought up. No one who brings up this myth can cite any scientific data to back up their assertion. I see departments continue to include “positional asphyxia” and prone positioning in their policy, which indicates a novice level of P# 15354 understanding on this issue, since Reay himself has refuted his own findings and actually stated in court he was wrong.

There are numerous papers and studies that have shown there are no breathing issues resulting from being placed in the prone position, and it would take extremes in weight and duration to actually stop someone from breathing. Those who promulgate the idea that prone positioning is clearly harmful need to be educated that all the available peer-reviewed data suggests that quite the opposite is the case. In 2016, Dr. Karch published an arrest-related death article that states that attempts to introduce the newly defined “positional asphyxia” into the court system have been rejected by several U.S. courts. Everyone now agrees there is no scientific evidence to support the idea that hog-tying or any other body position in LEO custody procedures plays any role in life-threatening respiratory effects. Positional asphyxia as used in court is unsupported by any experimental data.

So how does this apply to the field? You are not “killing” your suspect while struggling on the ground and handcuffing them. Your suspect will not die simply because you leave them prone while cuffed or hog-tied. Do not ignore or discount a suspect who complains that they can't breathe. While they are probably not having a pulmonary (breathing) event, they are very possibly having a cardiac event. The recovery position (on their side) can still assist in case they vomit (so they don't aspirate), and if they lose consciousness, it can prevent their tongue from blocking their airway. However, if I don't use the recovery position and a suspect dies, the lack of utilizing the recovery position is not a causal factor (absent aspiration). These events are overwhelmingly cardiac events related to the suspect's medical history, narcotics use and physical and emotional reactions to stress. All of these factors are outside of the officer's ability to forecast, prevent or control. These deaths are medical events, not use-of-force events. If you have a sudden in-custody death, remember to seek a representative to help you navigate the process around this widely misunderstood phenomenon. **VB**

A TRIBUTE TO Captain Larry Burns

SAM DIAZ
LVPPA Member

There are countless stories of what Captain Larry Burns did for others; this is one of them. I was lucky enough to be in Bolden before Captain Burns retired, and I am proud to have been a part of Bolden Pride.

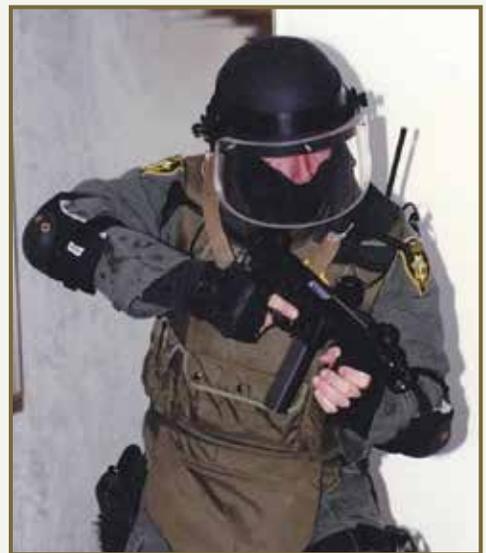
I arrived in Bolden in October 2011, and on the day I arrived I was told Captain Burns wanted to see me. Being a military veteran, I thought the more I stayed out of the captain's radar, the better. Captain Burns had me come into his office to welcome me to the area command and to tell me about the great things that were happening in Bolden. The main thing I remember was him explaining how the community sees police cars pass by every few minutes, but they never get to know the police officer in the vehicle. He wanted us to get out of our police cars and into the community to personally meet all the people we served.

As I got to know and work for Captain Burns while assigned to Community Oriented Policing, the brotherhood I felt in Bolden was something familiar to what I had experienced when I served in the active-duty military. The Bolden leadership made it feel like a family. Larry had a great way of explaining what he needed us to get done. He would sometimes say, "You may not agree with it, but do it for me."

Captain Burns also had a unique way of making you feel special when you were speaking to him. He would put his phone away and give you his full attention without checking the time. He was so attentive that he would often have to be reminded that he'd better be on his way to his next meeting because he was going to be late. Showing this type of importance to others is something I try to do every day. When I am speaking to somebody, they have my full attention and are the most important person to me at that moment in time.

In 2012, I had a family death. We were with my family member at the local hospital on the evening they died. We were later discharged and went back to our home. My family stayed home while I went to get dinner for everybody. When I returned, I saw Larry's work SUV parked in front of my house. I quickly went inside and was greeted by Larry and his wife, Annie, in my living room; they wanted to check on my family. Larry said something to me that night that I now use as encouragement for others who are going through something terrible in their lives because it helped me during that difficult time. He said, "Everybody goes through something horrible in their lives, it is what you do after that matters."

Larry was an inspirational leader who I would have done anything for because of what he did for my family and how he made me feel part of the Bolden family. His career was the pinnacle of honor and love for his community, dedication to his family and the men and women he was responsible for in the LVMPD. **VB**



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