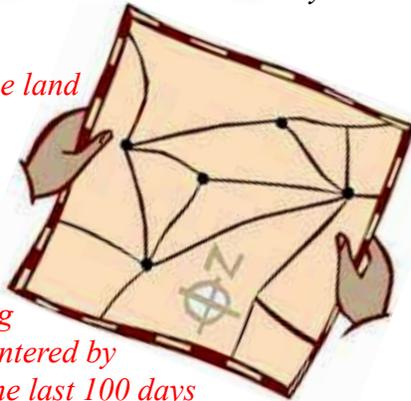




## Lay of the Land

By Mark Spencer

*Knowing the lay of the land is helpful in charting a course for military campaigns, family trips, team strategies, and labor movements. I'm hopeful that sharing issues and events encountered by your Association over the last 100 days will inform you of what's taken place and give you a sense of what's coming up. The past can be an indicator of the future. Here's the lay of the land:*



- A one-day suspension for patrol is now 8-hours instead of 10. The penalty of a suspension should match the benefit of a holiday – for everyone. Labor Relations Administrator Bob Oberstein as well as Assistant Chief Tom Lannon were instrumental in obtaining resolution to this grievance issue.
- A shotgun/rifle rack is being placed in the passenger compartment of new Tahoes. Imagine not having to take your eyes off a gun battle in order to lay your hands on a weapon. Thanks to Bryan Hanania, Frank Marino, Tammee Turcott, and Sil Ontiveros for helping to meet the needs of frontline patrol officers. The 4th floor's approval of this change sets the stage for a safer working environment for patrol.
- Deviation from the matrix seems to be as painful for some chiefs as removing of an impacted molar is for some patients. A handful of DRBs have taken place where a maximum 40-hour suspension was in play but peers and citizens on the board thought training was more productive than punishment. After overturning a recommended suspension at the end of a DRB, one of the board's citizens approached the PLEA member in attendance. I overheard their words of encouragement: "You should receive a commendation NOT condemnation."
- Your discontent about the Department's illegal immigration policy received overwhelming support locally and media coverage nationally. The discretionary ability for officers to contact ICE when there's reasonable suspicion to believe a person is in the country illegally reflects the common sense found in rank and file and mimics the concerns of the citizens in Phoenix. Aren't citizens the real boss in the end?

- If you can believe reports, Executive Assistant Chief Mike Frazier left with a \$25,000 bonus, Glendale received a 19% pay increase, and only 18 applicants showed up when Employment Services recently went recruiting in San Diego. One officer told me that of the eight laterals he came over with, only three of them were still here. With Prop 1 in mind, we are now at a vacancy rate at over 600. In addition, Phoenix PD is now second from the bottom in the Valley (one ahead of MCSO) for topped out base pay. Clearly wages is the issue at the negotiation table.
- Successful meetings and accomplishments with the City Council as well as with City and Department managers are underway. The Arizona Police Association's City Council endorsements of Phil Gordon, Maria Baier, Thelda Williams, Claude Mattox, Michael Nowakowski, and PLEA's support of Prop 1 were all successful. Congratulations to the candidates! Special thanks to Councilman Mike Johnson for your leadership, support, and perspective – it's encouraging to your law enforcement partners.
- Soon there will no longer be any "badge-carrying" attorneys that work for the Phoenix Police Department. Functioning as both sworn personnel and attorneys, Bob Kavanagh, Heidi Knoll, Tom VanDorn, and Eric Edwards will become pleasant memories of the past. Their unique role was important to those who work the same streets they patrolled. The legal advice for the Department will now come from blue suits instead of blue uniforms.
- PLEA assisted a member with filing a multi-million dollar lawsuit against a PSB investigator who allegedly hid exonerating evidence in an administrative misconduct investigation. This evidence was crucial in overturning his unwarranted termination. Everyone has civil rights – police officers do too. Trespassing upon these rights is a serious concern for your Association.
- The Department rescinded a \$50 an hour off-duty wage cap they imposed on Phoenix Officers for Super Bowl Events. A free market works! Assistant Chief Joe Yahner and Commander Jeff Halstead presented PLEA a practical scheduling philosophy for upcoming national events in Arizona. The Department's wish is minimum disruption of work schedules. The upcoming events include the Super Bowl, the FBR Open, and the Fiesta Bowl. Get ready for the NBA All-star Game in 2009.
- For the first time that I can remember, PLEA members are walking in off the street to see your PLEA Grievance Chair Billy Coleman. They're volunteering to become PLEA reps. Billy, Dave Kothe, and all the current reps are continuing the difficult but important task of "protecting the protectors." In addition to this, PLEAPAT has become an encouraging success. Call the PLEA office if you're interested in becoming a TRIPLE PLAYER.

Continued on page 2

# Lay of the Land

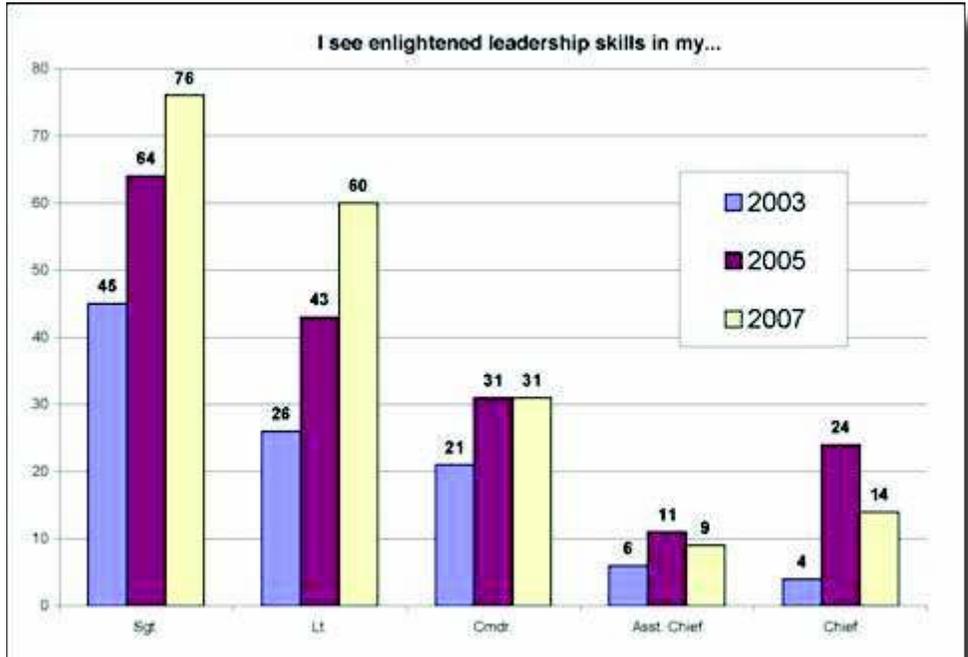
Continued from page 1

- In pursuit of seeking relief for a member for the Department failing to pay standby pay, PLEA filed a lawsuit. The City filed to have attorney fees paid by PLEA in the amount of \$150,000. The judge denied the motion. Perhaps the Department will be willing to define a day as starting a moment after midnight and not invest anymore losses in a \$40/\$60 benefit that overburdened detectives are entitled to.

- Some years have gone by where not a single PLEA member lost their life. Sadly during the past year, time stopped for nine valued PLEA members, both active and retired. Two of the losses were in the last 100 days. Assistance and participation by all police personnel at funerals is professional, caring, and honorable. The loss of a comrade can be softened by the compassion we show.

Maps are useful in planning strategies, trips, and movements. A chart is helpful in comprehending the lay of the land. A crucial map for your Association is the PLEA membership survey. Your comments and input are like a compass. A 50% increase in this year's survey made for an easy-to-read atlas. The 2007 survey showed a consistent pattern seen over the last decade within the Phoenix Police Department.

- 56% said that their number one serious concern was manpower.
- 43% said that their morale was high – the same as when Hurtt was here in 1999. 88% said that the Phoenix Police Department is a good place to work – it was 83% under Hurtt.
- 37% believe that management treats them fairly in the investigative process. 21% feel that misconduct investigations are thorough and accurate.
- 9% think that lower level supervisors are treated the same as they are. 3% think that upper level managers are treated the same as they are.
- 59% said that discipline was NOT applied fairly under the OLD discipline matrix. 16% said that discipline was NOT applied fairly under the NEW discipline matrix. The new compressed



discipline has created a marked improvement in the reception of corrective action taken by the Department.

- 84% said that discipline transfers exist.
- 4% believe that the Department deals effectively with disruptive supervisors. 81% want input in evaluating their current supervisor.

*This is the lay of the land over the last 100 days. A good road makes for a smooth journey. I feel that staying the course on three clearly marked avenues will ensure a good trip. These avenues are: 1.) providing experienced and effective representation in both discipline and negotiations, 2.) allowing police management the chance to succeed and improve through accountability, and 3.) facilitating current and expanding future partnerships in every arena important to PLEA members.*

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# Think Twice

By Bob Kavanagh

***I don't get in trouble – I follow policy - I don't need the union!! Think Again.***

I was a PLEA member most of my career as a patrol officer. I wasn't a "rah, rah" union guy, but I knew that my membership was sort of like an insurance policy against unwarranted adverse employment actions. Even those with the best intentions make mistakes, but the union was there to insure fair treatment. Times have changed. Adverse employment actions are the least of your worries.

The union offers much more than just a layer of protection against unfair personnel actions. I have been retired now for over seven years. During that time I devoted my law practice almost exclusively to criminal defense. Over the last four years, I have represented numerous police officers in criminal or potential criminal matters. For alleged criminal conduct that occurred in the course and scope of employment, or in other words, duty related, the union financed the entire defense for its members. The majority of the cases involved allegations of excessive use of force, in-custody deaths, and officer-involved shootings. The union members paid absolutely nothing out of their pockets.

During the past year, I had the privilege of representing several police and corrections officers in duty related criminal matters who were not union members. Those officers paid for their own defense. Even on relatively minor matters, and with a substantial

discount, the cost of representation is worth more than several years of union dues. Not many police or corrections officers can afford to finance their criminal defense, especially when the charge is aggravated assault or some form of homicide (questionable police shooting; pursuit resulting in a traffic accident with injuries, in-custody death, striking a handcuffed prisoner, etc.).

Whatever you think about police unions, think twice about not being a member. You can not afford not to be a member. Today's society is extremely violent. You may be faced with a perceived life or death situation the next time you answer that radio call, make that traffic stop, or simply approach that suspicious person. You will be second guessed for your actions. The Phoenix Police Department has a detail that investigates allegations of criminal misconduct against police officers and virtually nothing else. That fact alone says it all. Protect yourself, your family, and your financial peace. Keep your union membership, or if you are not a member, enroll as soon as you can, before that unexpected, life-altering incident happens.

*Bob Kavanagh is a practicing criminal defense attorney and retired from the Phoenix Police Department in October 2000 as a lieutenant in the Department's legal unit. Bob has been a useful and caring advocate for PLEA members on numerous occasions. He can be reached at: [robertkavanagh@azbar.org](mailto:robertkavanagh@azbar.org)*

## IMPROVEMENTS AND APPRECIATION

I know that many, if not all of you, have seen the new Tahoes that are out on the street. The next order will arrive by the end of the year and begin hitting the street by early spring. One major upgrade is that the shotgun and rifle racks have been moved to the front passenger compartment and will be mounted vertically between the front seats. This is a major change from past practice and one that has overwhelming support from first responders. The endorsement of this improvement by the 4th floor is an encouraging example of foresight.

I would like to personally thank Commander Silverio Ontiveros, Officer Franklin Marino and Tammee Turcott for their hard work in upgrading our police fleet. We have been studying and testing vehicle upgrades to include lighting and equipment since 1999. These three individuals have worked tirelessly and without a lot of thanks to implement what you see on the street today. In addition, the latest upgrades in equipment and vehicles could not have been accomplished without ALL the members of the Department's Vehicle Committee. On behalf of the Phoenix Law Enforcement Association and me, thank you for all that you have done. Your efforts have not gone unnoticed.

By Officer Bryan Hanania



# BLUE TEAM

By Sgt. Dave Lane

During my near 35 years of service to the Phoenix Police Department, with 18 as a sergeant, I have experienced both the good times and the bad. Fortunately, there have been many more good ones than bad. I have also developed many friends - some are gone (passed on), some are just retired, and many are still here serving and leading our department. Even after these many years of service, I have never understood some things about the way we do business and our lack of desire to change. Why do we seem to take better care of our officers after they are hurt or have lost their life than when they were productive employees? Why do we continue to “throw good money after bad?”

Most recently, I attended training for a new program termed the BLUE TEAM. Let's face it this is not a team. That word is used to confuse the young supervisors who don't know any better and are afraid to ask. This idea features the use of software called I.A. Pro. This program has nothing new to offer. Over eight years ago, while part of the then newly created Loss Reduction Unit, Executive Assistant Chief Dave Brewster, Commander Marcus

*Why do we seem to take better care of our officers after they are hurt or have lost their life than when they were productive employees?*

Aurelius, Commander Jack Harris (now Public Safety Manager Harris), and I met to review this same software which at that time was called I.A. Pro. It is still called I.A. Pro by the manufacturer.

It was a unanimous decision at that time that this software would not meet the needs of our department. One of the major reasons for the decision was that the software does not allow any positive comments to be entered into the database. Furthermore, this one-sided performance-tracking software was very costly.

It was decided at that time that we, (the department), would create our own employee performance-tracking system which we now know as P.A.S. (Personnel Assessment System). This decision was made after reviewing several personnel performance tracking systems used by other departments. What we found after reviewing them was that they were either too expensive or not effective for our needs.

At the direction of Commander Harris, I met with a Neighborhood Block funding committee at Encanto Park that was chaired by Assistant Chief Woodward. I conducted a PowerPoint presentation to explain the P.A.S. system. The presentation included the “Black Box” (driving performance-tracking system). As a result, we were awarded a large grant to begin working on the P.A.S. system. Now that the P.A.S. system is operational and has demonstrated its capabilities of extracting performance tracking data from all the current data sources throughout the department, to include positive data (such as commendations), I have to ask, “Why do we need another system that records only negative information on personnel?” This new program called BLUE TEAM is designed to record all negative, frivolous, and ridiculous information, to include coachings, issued by supervisors.

A coaching issued by a supervisor is meant to remain in the supervisor's notes until the next P.M.G is given to the officer. After that, the notes and information contained therein become the property of the supervisor not to be used against the officer again. Does anyone really think that once the information is entered into the BLUE TEAM tracking system that it will self-purge?

When asked at the training session, the instructor from P.S.B. said he did not know if information that was no longer usable would self-purge. In fact, the instructor said the reason this system

was revisited is that one of our assistant chiefs attended a seminar where he learned that the Phoenix Police Department's annual average of citizens' complaints was much lower when compared to departments of like size. Maybe we're doing a better job in dealing with our citizens. I hate to think that we are now out to get our “quota” of complaints so we can be at the national average.

Patrol supervisors are now inundated with superfluous details. Already it's as though the executive staff wants them to stay in the station all day doing paperwork. There are injured prisoner reports, P.A.S. system entries; monthly notes, review of officers' paperwork, monthly random off-duty work inspections, random Taser inspections, and enough emails to “choke a horse”. These reviews and entries are mandated as part of a supervisor's daily routine.

All of the above systems have created a department of non-physical communication. There is no face-to-face communication and no discussion, which leads to no resolutions. The BLUE TEAM concept would only further this non-physical, non face-to-face communication quagmire.

When was the last time a supervisor thanked one of their officers for just doing his/her job or gave him/her a pat on the back or sent out a positive group message to encourage them without having to document it in one form or another? I'm sure some supervisors do this, but not enough of us do because the system teaches us to document everything we do. Where did “Enlightened Leadership” go?

When comparing salaries, we are now ranked eleventh of the thirteen of highest salaries among police departments in the Valley. We are not making it any better with the BLUE TEAM concept. There appears to be an assumption that supervisors are “sweeping complaints under the rug”. I think most supervisors are doing their jobs and they should be allowed to continue to address complaints using the system that already exists.

As a department, we have the ability to make a difference to both the employees and citizens, but we need to positively restructure our department, and not just rename our specialty details or create new ones that are redundant in their police mission, and then continue to conduct business as usual. Let's get back to the basics - beat accountability, neighborhood revitalization, and response to real calls for service with the manpower to service the citizens well. We can do as New York did - take back the streets and win this battle on crime with reorganization and with a positive attitude. This includes addressing the illegal alien problem and not just pointing fingers at the Federal Government.

Recently, while addressing a group of lieutenants and their commander on beat accountability, I made the comment that officers need to get out of their cars and talk to people. There was a response that some areas are not safe to do that. Well, that is where you start to take it back. If it's not safe for an armed officer, what about the citizen who lives there?

Why can't we address these issues, instead of doing more recording of negative information on officers so we can get our “quota” and be more “average” like other cities our size? Let patrol supervisors do their job, be on the street with their officers, empowering, supporting, and training. If it's not illegal, immoral, or unethical let's do it. Operation Orders are a guideline for those who have no common sense. That's all this job is, common sense and solving problems.

# Brady v Maryland... should I be worried?

By Levi Bolton Jr. – Chairman

It has been over a year since I spoke to you last about the so-called Brady list of employees and what potentially it may mean to you. As you may recall Brady v Maryland is not a new case nor is its close cousin Kyles v Whitley. Both are capital murder cases and both involve the government's obligation to disclose certain information to the defense. The United States Supreme Court has met a time or so since our graduation from the police academy and clearly since 1963 when Brady was decided. In at least several of those fateful meetings other court cases have very clearly defined what the government's disclosure duties are and made sure that the prosecutor knew that that duty included information on its witnesses including police officers.

The Maricopa County Attorney's Office has the unenviable task of accepting and reviewing information submitted by our agency that may have Brady implications. A panel of seasoned attorneys, many if not all are bureau chiefs, examine the files that have been turned over to their office and following a thorough examination of the information contained in the submitted documents, they then decide whether to place the affected employees name upon the LEID (Law Enforcement Integrity Database).

The merits of the information submitted actually reside within the four corners of the documents under review. Once the LEID committee has determined that the MCAO has a duty to disclose this information, the employee's name is placed on the LEID and the documents are retained to meet its disclosure obligation. But it doesn't end there. The MCAO still files pretrial motions to request an in camera examination by the courts to determine if the information is admissible. Remember, that having to give up the information is not the same as getting to use it. In a vast number of cases the prosecutor successfully argues against the admissibility of the information and despite its disclosure the files are returned to the court for destruction and the court prevents its use in the forthcoming trial.

So, how does one find him or her self on this list? Perhaps the easiest way to describe the kind of stuff that will likely land you on this list may be found among this cast of conduct categories: contrary or conflicting statements about the facts of the case; false reports by the officer in other cases; evidence undermining the officer's expertise; misconduct involving moral turpitude, untruthfulness or bias; misdemeanor convictions involving moral turpitude; reputation for untruthfulness; racial, religious, or personal bias against the defendant personally or as a member of a protected group.

Once on the list, is it possible to get off the list? Simply stated... "Yes", but removal requires a rebuttal and the rebuttal must be submitted in writing. Should you receive a notice from the Maricopa County Attorney's Office that your name has been added to the LEID, PLEA will assist you in preparing a rebuttal. You must contact the PLEA office to arrange for an appointment to examine your Brady status and assist in rebuttal preparation.

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**MICHAEL NAPIER** has been representing Phoenix officers for over 32 years. Mr. Napier is one of the most experienced labor and personal injury attorneys in Arizona. Mr. Napier has represented hundreds of officers before administrative bodies throughout Arizona, and has assisted critically injured officers and the survivors of the officers in obtaining compensation for their injuries and losses.

**JANET FELTZ** was admitted to practice in Arizona in 1985. Prior to joining the firm in 2005, she served as an administrative hearing officer for twenty years in disciplinary and other employment matters on behalf of merit boards and commissions throughout the State. She also served as an administrative law judge for the Arizona Department of Economic Security from 2001 – 2005.

**ANTHONY COURY** has focused his 9 years of practice primarily on personal injury and wrongful death lawsuits in which he has served as plaintiffs' counsel. He has experience in cases dealing with dram shop liability, negligence, governmental claims and products liability including service as counsel on the litigation team for Phoenix Police Officer Jason Schechterle.

**JOHN COMMERFORD** was a partner in two firms which practiced in personal injury litigation before joining the firm. His experience is in cases dealing with product liability, nursing homes, dram shop liability, medical malpractice and governmental claims, to name a few. He has also practiced in developer rights and employment.

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## INSIDE PASSAGE OF ALASKA

Debbie Nordeen from Travel House, wife of retired Phoenix Officer Allen Nordeen, has put together a group cruise traveling up the beautiful inside passage of Alaska departing roundtrip from Seattle on June 13, 2008 on Celebrity's Infinity. We have Fantastic pricing for the Concierge Class Balconies and other types of cabins. This cruise is a great way for families and friends to spend quality time together.



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- June 17 Juneau
- June 18 Cruising Inside Passage
- June 19 Victoria, British Columbia
- June 20 Seattle

For Pricing, please contact me at Travel House 602-277-2450 or my cell 602-361-0582.



Representing 91G squad members, Jeff Jakmer and Steve Reed facilitated a PLEA gift for 9 year old Trashae Duchane. The squad delivered the gift basket to her on Monday November 19 at County Hospital. The officers rescued her from a serious child abuse situation. Donations on Trashae's behalf can be made at any Chase Bank branch.

# Fallen Heroes



Phoenix Police Officer  
Al Bluhm  
December 28, 1970



Phoenix Police Officer  
Dale Stone  
December 28, 1970



Phoenix Police Officer  
Darrol Yoos  
December 22, 2005

PLEA Office will be closed December 24th & 25th; Close at noon 12/31, all day 1/1/08. A Happy and Safe Holiday to All from the PLEA Office Staff.

Membership meetings in December will be on the 26th. at 7:30, 12:30, and 5:30. The Next Board Meeting is on December 18, 2007 and members can attend at 8:30 am.

Correction to calendar insert:  
Chaplain John South 602-495-1677

## Welcome New Members

Dobie Adam	Trevin Janser
Mdgouhs Ali	Russell Leiber
Bernard Austhof	Nick Miller
Benjamin Belmares	Amanda Morris
Jason Brant	Brooks Naegeli
Joseph Bruno	Biju Panicker
Paul Brown	Elizabeth Soto
Yasmin Campara	Jason Stokes
Carleton Carey	Minde Swaine
Jesus Chichil	Christopher Talley
Aaron Coon	Jesse Williams
Max Decker	John Wing
Joshua Edelson	Ralph Woods
Raymond Gaudet	Rich Yackley
Matthew Haney	Ryan Zilka

## Law Enforcement Night

Saturday, January 5



7:00 pm

Jobing.com Arena



FREE Coyotes Hat with every ticket purchased



### "A Salute to Law Enforcement"

To show our support to our Arizona Law Enforcement and their commitment to our community, the Coyotes are offering all those in law enforcement, their family and friends an exclusive opportunity to purchase discounted game tickets to our game on Saturday, January 5 vs. the Anaheim Ducks. This exclusive offer allows you to save money and receive priority access to great seats. Plus, the Coyotes will honor those who serve with pre-game and intermission ceremonies!

### \$22 (\$80 value!) Scores You:

- Upper-level seat (reg. \$28)
- FREE hot dog and soda voucher (\$7 value)
- Coyotes long sleeved t-shirt (\$20 value)
- Coyotes hat (\$25 value)
- Groups of 10 or more will be recognized on the scoreboard

Total Package Value - \$80

### \$35 (\$107 value!) Scores You:

- Lower-level seat (reg. \$55)
- FREE hot dog and soda voucher (\$7 value)
- Coyotes long sleeved t-shirt (\$20 value)
- Coyotes hat (\$25 value)
- Groups of 10 or more will be recognized on the scoreboard

Total Package Value - \$107

\$2 from every ticket purchased goes to support the 100 Club of Arizona

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 Phone \_\_\_\_\_ Email \_\_\_\_\_  
 # of Upper-Level Tickets (\$22) \_\_\_\_\_ # of Lower-Level Tickets (\$35) \_\_\_\_\_  
**Method of Payment:**  
 Check - Check # \_\_\_\_\_ (made payable to Phoenix Coyotes)  
 AMEX  Discover  MasterCard  Visa  
 Card # \_\_\_\_\_ Exp. Date \_\_\_\_\_  
 Signature \_\_\_\_\_ Date \_\_\_\_\_

For more information or to order by phone, contact Jake Carlson at 623-772-3218 or Jacob.Carlson@PhoenixCoyotes.com, or fill out the order form and fax to 623-872-2163, Attn: Jake Carlson.

Deadline to order is Friday, January 4 at 5pm. All orders are subject to availability.

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***If You Have A Grievance***

**FIRST:** Attempt to resolve the matter informally with your supervisor.

**SECOND:** If you cannot resolve this with your supervisor, contact one of the representatives above.

**REMEMBER:** There are time limits to initiate a written grievance.

**RECORD:** If You Are Being Investigated  
All interviews once you have been given an NOI.

**COPY:** All memos or paperwork related to the investigation.

**TRUTHFULLY:** Answer all questions related to the investigation.

If you are called by Professional Standards Bureau or any police supervisor regarding an investigatory interview or interrogation, you may have PLEA representation during that interview.  
Call for representation as soon as possible. For your convenience, a PLEA board member and representative are available 24/7.

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