

The “Check and Mate” Newsletter No. 1

(A bi-weekly newsletter to inform Union members on important grievance results, trends, procedures and important information relevant to a better quality of work life.)

Freedom of speech is a principle that supports the freedom of an individual or a community to articulate their opinions and ideas without fear of retaliation, censorship, or sanctions. The term "freedom of expression" is sometimes used in its stead but includes any act of seeking, receiving, and imparting information or ideas, regardless of the medium used. Freedom of expression is recognized as a human right under article 19 of the Universal Declaration of Human Rights (UDHR) and recognized in International human rights law in the International Covenant on Civil and Political Rights (ICCPR). Article 19 of the UDHR states that “everyone shall have the right to hold opinions without interference” and “everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”.

This important right is slowly being stifled by two very distinct but related mediums within our immediate sphere:

Firstly - uneducated directives by those who profess to lead departments under their commands under the guise that we must act and speak in a certain way to best represent the companies they represent when in fact, the restrictions just protect their own interests and goals.

Secondly - our own lack of knowing or just plain compliance and laying down and taking it.

I say related because it is easy to fall into the complacent trap of just agreeing with something, no matter how absurd, just as long as we don't stir the pot.

Related because it is easier to lay down than fight, especially when alone, when a band of baddies are heading towards us.

Related because most good folks have not realized that the power of communication and speech is, *de facto*, much mightier than the sword.

We, who belong to the Arizona Correctional Peace Officers Association, should all get on the same page right now and agree, as one family, that this important freedom should not be allowed to be stifled by anyone or anything. We, who belong to this organization, should realize that the only way anything gets accomplished in our chosen profession is by acting as one unit, as one mind.

Every year during training, we are constantly reminded that everything that happens in our daily lives, if it can impact the departments best interest, needs to be documented, and well it should be.

We are reminded that if we witness misconduct, we are to report it, as well we should.

We are reminded that if we ourselves should happen to engage in misconduct, we are to report it immediately, as well we should.

But something is severely lacking.

What is it?

That something is the abuse of power that so often transpires in high stressed careers like law enforcement and the like. The lower tiered employee is required to act in the most ethical manner possible but very often, it appears that the higher tiers are exempt.

This is a sad, but true reality, and anyone who denies this fact is either extremely complacent or just plain lying.

Let us speak plainly, you and me. We are both on the same team so lies and sugarcoating subjects are unbecoming.

There seems to be a muting of voices when lower tiered staff are held accountable for transgressions but those in positions of authority seem to go unscathed when they do their naughty little deeds.

Case in point and the whole reason I am standing on this soap box: as many of you already know, I have been preparing and resolving employee grievances since at least 2002, for both the union since its inception and for one director in an official capacity. I have personally lost count of how many grievances were resolved where the grieving employee was right and it was shown that a supervisor had made very bad decisions or outright bad behavior yet no follow through for the supervisor was sought. The employee got their "You're correct" letters and your "grievance is being upheld" statements yet the offending party just grinned and continued to drive on unscathed.

And it is still continuing as we speak.

So, let us start doing something about it, shall we?

As state employees, you are required to report all misuse of power, misdeeds and transgressions in the form of an Information Report or other medium.

As your Grievance coordinator, it is my duty to report, to you all, as members of a recognized employee organization, any misuse of power, misdeeds and transgressions that come my way as well, during the grievance process that I personally get involved with.

If any person, no matter what rank or station, within the department for which you serve, wish to act unbecoming, vindictive or unprofessional, and it is discovered during the course of a grievance, then they should be documented for all to see so that we may learn ways to correct

and avoid their actions and that they may in turn, learn, that they can't treat people the way they do and get away with it any longer. If the higher echelon wants to pretend that it is good policy to sweep trash under a rug, well, then we'll just have to pull the rug back for all to see.

With that said, let it be known that as a Union, we should **NOT** work or report out of spite, but out of a sense of fairness and duty. We should praise each other and our administrators as well, when we are working together as a team and mutual respect, courtesy, and fairness are being displayed.

This is not about retaliation or pointing our fingers going "Na-nana-naa-nah!" or "Take that!" but about going back to what this department should be rooted in: Fairness, Firmness and Consistency.

Everything that I document in this forum from here on out is straight from the battlefield.

I am personally involved in every step of the grievance process and all union members, from this moment on, should never enter a review process without a representative being present.

Why?

Simple.

Because, "Two eyes see more than one."

Without further ado, I present a case file from a grievance that just transpired and was resolved successfully but not without a fight: an unnecessary fight. Whether staff or administrator, when you're wrong, you're wrong. Have some dignity and just say you were wrong and let's move on, shall we?

We present the case for your education and as a lesson that when you're right, you're right!

Try to see it as a post analysis of a good Chess Game for more often than not, this is how the grievance process transpires with both sides thinking they have the upper hand, tactics being deployed to confuse and deflect and bluffs along with bad moves being covered along the way. But just like in a game of chess, there are rarely stalemates or draws amongst serious plays with the one who played, correctly, coming out on top.

The names of all parties involved have been suppressed as they know who they are and the reality of life is that Freedom of Speech, much like Freedom in general, no matter how free it may appear, is not free at all.

Besides, we won't allow ourselves to succumb to the same games that often lead to a grievance being filed.

Only the results and lessons learned are of relevance here.

Let us call this case then:

The Titanic

I picked this title because it best describes how administrators treated this grievance from its very inception. They were like a couple of folks who knew they were in a sinking ship but instead of jumping overboard and admitting that the boat was sinking, resolved themselves instead to trying to scoop the overflowing water coming from the hole, they themselves had created, with a couple of Dixie cups.

If this analogy seems disrespectful to the administrators involved in this case then they should perhaps aim that critical perception upon themselves and realize just how disrespectful it was to the two employees involved who had to endure an unnecessary disciplinary sanction, an unfair investigative process, and an unprofessional and totally unprepared treatment during the review process.

In a nutshell:

The employees involved were two staff members who traveled out of state for training. Upon their return, they completed their PARS with travel time included. Their supervisors then advised them and other attending staff during a meeting that their PARS were being changed to reflect a new calculating time obtained from recent policy and other sources. Relevant to know is that during that meeting, one of the supervisors advised them unprofessionally that if they weren't happy with the way things were being handled in that area then they were free to explore other areas within the department.

So much for yearly training admonishing against such statements. The staff members even documented the aggressive comments on Information reports to record the incident where they disclosed that this was not the first time this supervisor had acted in this manner.

When the staff went to sign their PARS, they realized that the PARS had the wrong times calculated and was changed by someone other than themselves. So as per policy allows, they corrected the times and initialed the corrections.

What followed was that one employee was placed under a 601 Investigation for insubordination for changing the PARS. The other employee who also corrected the PARS was not placed under an investigation. However, in the end, both staff received Letters of Reprimand for the same allegation.

Creepy! So much for Fair, firm and consistent.

Letters of Reprimand for changing your PARS to reflect correct times?

Both staff filed grievances with assistance from the union. Both staff were also assigned union representatives to be present with them during the review process with the review authorities.

The argument was simple: Someone other than the employee had changed the PARS and to add to the problem, calculated the wrong times anyways. Policy is clear on the PARS process and is in black and white.

However, and here abbreviated, as to not overkill this unfortunate situation or your time, is a rundown of the sinking ship this situation was for the administrators involved:

- When asked during the Step I review concerning who changed their PARS, the reviewer answered with “I’m not at liberty to speak of that right now.” This is a direct quote mind you. Remember, the grievant had a representative present taking their own notes as well. Not at liberty? Seriously? What is the purpose of the review then? An unprepared reviewer. Shocker!
- The step I reviewer stated when asked further basic questions that “I can’t intelligently answer that question right now.” Once again, a direct quote. That response speaks volumes of just how seriously they took this complaint.
- With the second grievant, the step I review authority stated that it was timekeeping who in fact changed the PARS. I’m sorry, come again? Weren’t you just “not at liberty to speak” of this? For the record, Dixie cups hold only so much water.
- As an interesting side note, the Step I authority chose for her recorder an Ex-offender who is now employed by A.D.O.C. Now in all fairness, we get it. If the department wants to hire ex-offenders to work within close proximity to the affairs of the department, then what can you do but, hey! Wait a minute! Here’s a strategic thought: recidivism is a sad fact and does happen and to meet an offender under one’s charge back in custody who sat in during a delicate and personal matter such as a grievance is to say, a bit awkward. What do we do then? Submit an Information Report stating that you know the inmate because she sat in on your grievance? Yeah. That would go over well like breaking wind in church. Not to mention that policy strictly prohibits any contact with an ex-offender while under the employ of the dept. So, how does that affect staff now that the ex-offender is an employee of the dept. of Corrections? Can staff date her if they fancy her? Ridiculous and absurd! We are further looking into this matter because it appears highly inappropriate to allow an ex-offender to work in such a sensitive area as the hub of A.D.O.C., Central Office, and be allowed such access to sensitive and personal employee information. Let me reiterate in case you didn’t believe your ears the first time I said it: An ex-offender was present during the step I grievance taking notes for the Step I authority. I’m glad I repeated it because frankly, even I couldn’t believe it when I said it and, shucks, I was there.
- So, the Step I authority didn’t clarify the questions asked so we moved on to Step II.
- The Step II authority stated that timekeeping changed the PARS because the employees weren’t available to change them themselves. This is a sad fib. The reality was that both employees were indeed available at all times. This excuse is the equivalent of trying to save a sinking ship with a Dixie cup, hence, once again, the Titanic. As for the issue of an ex-offender being present taking notes during the grievance, the Step II authority defended her stand by stating in an annoyed tone that the ex-offender was now an

employee of the department. She didn't bother supporting or discussing the officers view that it may be inappropriate.

- Final Score: Ex-offender - 1 / Staff – 0
- Did I already mention the Dixie cups used to bail water out of this shrinking ship?
- Neither the Step I nor the Step II authorities bothered to confirm if the times were inaccurate as the employees alleged. Instead the Step II authority dropped the Letters of Reprimand for both employees thus resolving this case favorably for both staff members. But there was a catch: they were both to receive a Letter of Instruction as a lower sanction. A Letter of Instruction for what? They were then told that the grievance was now resolved because they couldn't grieve a Letter of Instruction and right they are! Good for them! They found a weak resolution and implemented it with no shame. No explanations were given or offered as to why they even got disciplinary in the first place: one through an investigation and the other without. Nor did they answer completely, concretely, or intelligently, while they were at liberty of course, any of the questions asked.

Lessons learned:

- If you're right and are supported by policy, then do it.
- If you receive an unfair and misguided disciplinary sanction through shady procedures, then grieve it.
- If you decide to grieve it, please call us.
- If you call us, we will ground guide you all the way to home base.
- If they behave indecent, we will document it and expose it. Period.
- Never attend a grievance review without a representative. Two eyes see more than one.
- Either way, we must have been correct. Why else would they drop the disciplinary?

We will be posting current newsletters every couple of weeks in the spirit of keeping you well-groomed and well informed, both physically and mentally.

So, check your union website often and stay strong.

Yours in Solidarity,

Carlos Garcia

Executive Grievance Coordinator

