



# ***The Voice of Arizona Law Enforcement***

**Volume 5, Issue 1**

**Spring 2004**

## **Low Pay, Poor Training, Large Turnover Major Causes of DOC Hostage Situation**

In the aftermath of the longest hostage siege in modern American history involving corrections officers, Arizona governmental officials are pointing fingers at each other — and away from themselves — in trying to explain the causes for the chronic problems in the state prison system.

The 15-day crisis began January 18, 2004, when a pair of violent inmates with “nothing to lose” took two corrections officers hostage and command of a prison tower at the Lewis Complex near Buckeye, Arizona.

“This is the nightmare of every correctional officer,” Sgt. Joe Masella, president of the Arizona Correctional Peace Officers Association, said hours after the crisis began. He quickly became the CO spokesperson during the crisis as well as union liaison with Governor Janet Napolitano and DOC Director Dora Schriro.

What happened at Lewis Prison that allowed two “lifers” to hold an entire prison at bay for 15 days, and what can be done to prevent another such crisis here or elsewhere? (See stories on Pages 4 and 5.)

By all accounts from several different quarters, the Arizona prison system represents violence and rebellion waiting to happen.

“I blame (former DOC Director) Terry Stewart and his henchmen,” Masella said. “He’s the one who set up our pre-

sent training standards. He’s the one who ignored our funding needs. And, he’s the one who refused to listen to us when his decisions caused everything to go into a bucket.”



Generally low wages, a crazy-quilt wage classification system that has some sergeants earning less than the officers they supervise, and new hires getting paid the same as experienced officers, plague the system. Also, serious under-staffing has been caused by a turnover rate that approaches 30 percent annually.

For example, in the Morey Unit of Lewis Prison, where the siege occurred, some 200 positions (19 percent) are vacant. Of the 800-plus positions that are filled, half of the officers have two years or less of service (including their seven weeks of training at the Correctional Officers Training Academy).

With Arizona in a budget crunch, the State Legislature has ignored recent

pleas for more DOC funding, while at the same time passing more tax exemptions and reductions for business.

But, Masella said, there are some rays of hope for the state prison system.

“Our new director (Dora Schriro) is a breath of fresh air,” he said. “On the job only six months, she spent the first four months fighting prison privatization, a popular sentiment among legislators. She was at Lewis most of the time during the hostage crisis, and anything we asked her for we got, usually within hours,” Masella added.

Also, Schriro asked Masella to help set up a volunteer program for off-duty officers from other prisons to perform staffing duties at Lewis to supplement its personnel during the crisis. It was a highly successful program.

Both AZCPOA and AZCOPS also had high praise for Governor Napolitano for setting up an independent investigation into the crisis that included corrections officials from other states.

“They both provided cool-headed leadership during this crisis. Bottom line: our people got out alive,” Masella said.

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# President's Message *by Jim Parks*

## *Brady* (“Liar’s”) List A Most Important Issue

As we all know, one of the most important issues facing law enforcement is the one surrounding the *Brady* List (“Liar’s List”). Over the past year we have been fighting this issue because there appears to be no set standard for placing an officer on the list, removing an officer from the list, or who defining makes those decisions.

By way of a brief background, in *Brady v. Maryland*, 373 U.S. 83 (1963), the United States Supreme Court held that a defendant’s constitutional due process right to a fair trial was violated when evidence favorable to the defendant (which was specifically requested by the defense) was withheld by the prosecution. Later cases broadened this principle, requiring prosecutors to not only disclose potentially exculpatory evidence, but also to actively seek out and disclose that information. Disclosure under *Brady* has come to include officer untruthfulness in disciplinary proceedings.

The problem we are currently having with the County Attorneys throughout the state is that they are placing officers on a “list” based on their *belief* that the officer was untruthful or had engaged in a form of misconduct that fit the criteria under *Brady*. They are doing so without any formal findings having been made in some cases, such as in Maricopa County, for example. Maricopa County Attorney Rick Romley refused to remove a department member from the list even after being cleared of any wrongdoing by a full DPS investigation.

Where was the due process in all of this? That’s simple! It was nonexistent. It is everyone’s belief that when we become Police Officers we somehow lose our CONSTITUTIONAL DUE PROCESS RIGHTS. Imagine that!

A similar incident has occurred in



**AZCOPS President Jim Parks**

Sierra Vista, where an officer was placed on the “liar’s list” due to the County Attorney believing the officer was untruthful. However, just as in Maricopa County, when new information was brought to the attention of the County Attorney, he refused — and is still refusing — to remove the officer from the list. This, in spite of the fact that there is no legitimate reason to keep him on the list. Again, we have a County Attorney being driven by emotion and his personal beliefs.

AZCOPS General Counsel Martin Bihn is currently working on a solution, and will continue to do so until we right this injustice.

The unjustified placement of an officer on a *Brady* list is, in many cases, a career ender. An officer on the list is often barred from holding any position which might result in the officer testifying in court. Officers lose the ability to promote or transfer and are stigmatized as “liars.”

Working to address this problem, the AZCOPS Executive Board has recently met with Jerry Landau, a former chief deputy in the Maricopa County Attor-

ney’s office. Landau is the Republican frontrunner in the election for Maricopa County Attorney. He assured us that, as the County Attorney, he would work with us to develop a uniform standard to apply throughout the state.

This would include developing procedures for officers to challenge placement on the list as well as allowing the officer to present evidence as to why he/she should not be placed on that list. This would not be the County Attorney’s decision alone. A panel, upon hearing all the evidence, would make that decision.

This is not happening now under “Romley’s Rule.”

Landau also believes that if an officer is exonerated, *Brady* no longer applies and that officer should immediately be removed from the list. We believe Landau has the vision and fortitude to make this happen.

As long as County Attorneys can keep personalities out of the equation and be professional we can get through this. This will be a long, hard battle. Be patient and keep watch over one another. We will keep you posted. ■

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# Know Your Legal Rights



## *Corrections Use-of-Force Critical Alert Issued*

By General Counsel Martin Bihn

It is apparent that the Arizona Department of Corrections still has not curbed the abusive and illegal conduct of its CIU investigators. This is particularly true in use-of-force incidents.

Recently there have been several use-of-force incidents involving abusive inmates. In one incident a Level 4 inmate was being cuffed when he started to struggle. As the two officers tried to restrain the inmate, he broke one of the officer's fingers, which was caught in the cuffs. The inmate was taken to the ground and order was restored. The inmate was not, in any way, injured. This is a fairly typical occurrence in the high security units with these "worst of the worst" inmates.

CIU got wind of the incident and, instead of investigating the assault on the officer, CIU viewed the matter as an assault on the inmate. Through AZCPOA and AZCOPS legal the member was advised to invoke his 5th Amendment rights to defend against any wrongful criminal investigation. AZCOPS legal sent a formal letter to the warden and CIU that the officer was represented and invoking his rights.

CIU brought in the first officer, read him his Miranda rights and attempted to question him. The officer remembered his AZCPOA and AZCOPS training, invoked his 5th Amendment rights and declined to give a statement. CIU investigators got angry and abusive and tried to coerce the member into giving a statement. Our member continued to refuse and was finally allowed to leave the interview room.

CIU then brought the second officer in for questioning. Also advised by AZCPOA, he, too, immediately invoked his rights. CIU investigators grew angry and harassed him for nearly an



**General Counsel Martin Bihn**

hour, trying to convince him that he was just a "witness." CIU finally allowed the officer to contact AZCPOA after the officer repeatedly requested counsel and union representation.

The officer was put in touch with AZCOPS legal and again advised to invoke. After it became clear that CIU was ignoring the officer, AZCOPS legal spoke directly to CIU. The investigators again stressed that this officer was only a "witness" whose statement was needed to prosecute the other officer. AZCOPS legal suggested that if this were true then CIU should invoke Garrity and let the officer give a fully immunized statement. CIU refused.

It is clear that CIU was lying to the officer and to AZCOPS legal. CIU wanted to coerce a confession before criminally charging both officers. Only after AZCOPS legal intervened did CIU agree that the officer was free to leave. As he was leaving, he overheard the CIU investigators complaining that now their "criminal case" was dead.

The moral of this story is that CIU will not hesitate to violate your constitutional rights and will treat you worse than a common criminal. You need to stand up for your rights and refuse to give in to these tactics. From our side, we have begun to address this issue

with Management and are considering filing AZPOST complaints against the certification of these CIU investigators.

### **Rules of the Road**

1. If approached by an investigator (CIU or Admin) do not offer any information unless served with an official notice of either criminal or administrative investigation. Investigators, who essentially have no basis for an investigation, are known to conduct "fact-finding" missions to gather information from members before a formal investigation is started.

2. Do not speak with investigators unless a formal investigation is in place. If investigators claim to have a valid open investigation, ask for the investigation number issued by I&I or CIU. If they do not produce it, then this is a "fact-finding" interview. Go back to Rule Number 1.

3. Immediately find out if the investigation is "criminal" or "administrative." If it is criminal, immediately say, "I am invoking my 5th Amendment rights and am not giving a statement."

4. We do not give statements in criminal investigations. If it is an administrative investigation you are compelled to answer the questions. You are, entitled to have a union representative present during questioning. Demand to have the AZCPOA representative present. Also, before giving any statement, simply say, "You are ordering me to answer these questions, right?" When they say yes, then give your statement. If they say no, then leave the interview.

5. If you are ever read your MIRANDA rights, immediately invoke your rights and leave the interview.

**Be careful! In most cases, CIU is a greater threat to you than the inmates.** ■



# AZCOPS News From

## *The Hostage Taking of Corrections Officers:*

America's longest hostage situation involving corrections officers is over, thankfully with no deaths or disabling injuries. But lessons need to be learned from this near-tragedy in the desert of Arizona earlier this year. And, changes must be made to prevent it from happening again.

For 15 days Arizonans, particularly those in law enforcement, held a collected breath while two violent career criminals menaced and assaulted a pair of corrections officers in a control tower at the Lewis Prison complex near Buckeye. Ricky Wassenaar, 40, was serving a 28-year sentence for aggravated assault and armed robbery, and Steven Coy, 39, was incarcerated on seven consecutive counts of life in prison for sexual abuse, sexual assault, kidnapping, aggravated assault and armed robbery.

Both were working the graveyard shift in the Morey Unit's kitchen where mostly new, inexperienced officers — "fish" — are assigned duty. Armed with a hand sharpened rod, Wassenaar cornered the one officer supervising an 18-inmate crew, then locked him in a tool room. When he failed to get all but Coy to join him, he donned the officer's uniform, shaved off his beard and left the kitchen and walked the 50 yards to the control tower, leaving Coy behind to guard the others.

In the tower, a 21-year-old officer with just three months experience saw a person in uniform waiting below and buzzed him in. "Who is it?" asked the second officer, a 33-year-old female with three years experience, but newly re-assigned to the Lewis Prison. "I don't know," the young officer replied.

Keeping his head down, Wassenaar climbed the stairs to the second floor, hit the young officer in the face with a

stirring paddle, then bashed the charging female officer in the eye, securing control of the tower. Putting a shank to the female officer's neck, Wassenaar demanded instructions on how to access the tower's weapons and use its controls. He then handcuffed the male officer and shoved him downstairs.

Moments later a guard walking past the tower looked through the ground floor window. He mistook the struggling "uniforms" as horseplay, shouted for them to answer their radio, then left without reporting the incident. The hostage taking would go on for two hours before being reported.

"This is not a drill! This is not a drill!" a sergeant would have to scream before other officers responded to the crisis after ignoring an earlier radio alarm.

Meanwhile, Coy had assaulted a female civilian kitchen worker on duty, then assaulted two officers he encountered as he headed for the chow hall, then into the prison yard. Coy encountered several responding officers in the yard, where he was pepper sprayed and spread-eagled on the ground. He was rescued by Wassenaar, who stepped from the tower firing an AR-15 semi-automatic weapon. As the officers retreated Coy ran to the tower.

A prison lockdown was ordered, officers were issued shotguns with birdshot to protect the command center, and ordered to shoot anyone they didn't recognize coming through the yard doors.

During the ensuing siege, the female officer was assaulted by both inmates as a tense period of negotiations began.

Wassenaar telephoned his first demand. Saying that the injured male officer needed medical attention, he wanted to trade him for a lieutenant.

Denied, he then asked for pizza, which he got, but was denied a helicopter.

By Day 2, hostage negotiators, profilers and assault teams were at the prison.

DOC Director Dora Schriro, herself just seven months on the job, was out of state when the crisis began. She flew back to Arizona to assume command during the standoff.

Gov. Janet Napolitano had already received the first of numerous briefings she would receive during the next two weeks.

Wassenaar, clearly in charge, started making a series of demands for food, cigarettes, media interviews, and a key to loosen the handcuffs on both hostages.

The inmates, who had hoped to use command of the tower to gain their release and escape, were going nowhere. The team of negotiators, figuring time was on their side, decided to be patient.

They presented a plan of surrender to the inmates, but were rebuffed with a "We still have more options than that," from Wassenaar. Issuing his first of many threats, Wassenaar said that both inmates were doing life sentences and had no fear of dying. If they died, so would the hostages, he said.

On Day 4, Wassenaar spotted a hole in the fence surrounding the tower that had been cut with bolt cutters by a tactical team the night before. Enraged, he climbed on top of the tower and fired a gas canister into the yard, threatening to spray the complex with bullets.

It was the opportunity the tactical team had been waiting for, but the decision had already been made not to take a *(Continued on next page.....)*



## The Chronology of an Arizona DOC Crisis

(.....continued from previous page)  
shot unless both inmates were clear targets and could be brought down together.

On Day 6, Wassenaar, angered by stalled negotiations for food and a perception that the tower would be stormed, he flew into a rage. He threatened to cut off one of the female officer's fingers. "you want to hear some (expletive) screaming. It doesn't matter to me how this (expletive) thing ends."

The next day, Jan. 24, the injured officer was released in exchange for food.

Negotiations continued for the next several days, with the inmates taking turns on the tower roof. Offered were transfers to out-of-state prisons in exchange for surrender. But Wassenaar talked of his dream to go to Alaska or Vermont and live in the back woods. Tension built and the talks dragged on.

Throughout the siege, suggestions by some, including some legislators, were to storm the tower. But the negotiating team was determined to be patient and, on the 15th day, Wassenaar signaled his willingness to surrender. Disregarding a death pact made with Coy, Was-

senaar whispered over the radio that he was willing to take the deal (transfer), but that Coy wasn't. "Either I shoot the guy, or you shoot the guy," he told authorities.

That evening at 6:20 p.m. the two inmates and the female officer emerged from the tower, ending the ordeal.

No less than three investigations, initiated by DOC, the Governor, and the State Legislature, were soon started. The preliminary conclusions of the Governor's Blue Ribbon Committee is shown below. ■

## What Went Wrong at the Lewis Prison Complex?

A preliminary report by a Blue Ribbon Committee appointed by the governor observed the following.

1. Officers conducted hurried and less than adequate pat-down searches of Wassenaar, Coy and the other inmate kitchen crew providing the opportunity for inmates to retrieve weapons or other contraband secreted in the yard.
2. Kitchen duty, where there were no monitors and only one officer, was not appropriate for the two violent inmates.
3. Officers were unable to defend themselves with pepper spray when attacked with an edged weapon. Officers were not equipped or trained to respond effectively as a team to an armed inmate.
4. There were too many tower access points — Wassenaar entered from one yard and Coy from another — and there was no established positive identification protocols.
5. Monitoring throughout the prison does not take advantage of technology.
6. Correctional officers lacked situational awareness...(which) not only affected facility security but exposed officers and facility employees to harm.
7. Many officers failed to respond appropriately to IMS calls, (but) no codes or

practices exist to differentiate between an IMS simulation and actual occurrence.

8. State and local law enforcement agencies do not regularly convene to practice negotiations.

9. The DOC inmate classification system is cumbersome and unreliable and has not been evaluated since the 1980s.

10. Good prison security and management require more than just good correctional officers; it takes a team approach.

11. Testimony received from DOC employees strongly suggests that uniformed and civilian staff are under trained and, in some cases, untrained in many areas, some critical.

12. Inexperienced officers, when placed together in high-risk settings, are more likely to fail in the performance of their core functions than if they are teamed with experienced officers.

13. Correctional facilities are understaffed. Correctional officer positions remain unfilled while the prison population grows every month. At Lewis Prison about 200 (19%) of the 1,029 officer positions are vacant. Of those filled, half are by officers with two years or less of service. In many in-

stances, junior officers are led by other junior officers prematurely promoted.

14. DOC officers are underpaid, both in absolute terms and in comparison to the pay scales of other jurisdictions. The DOC pay scale leads to family hardships, low morale and high attrition. A sergeant with ten years of experience testified at a public forum that he would be eligible for food stamps and AHCCCS (Medicaid alternative) benefits if his annual income were only \$933 less. He suffered a pay cut when he was promoted — most sergeants are paid less than the officers they supervise.

15. The Nevada DOC, which offers higher pay, recently set up a recruiting station near the COTA facility outside Tucson to lure academy graduates. After being trained at the expense of Arizona taxpayers, half of the class went to work for the state of Nevada.

16. While most staff performed admirably during the (hostage crisis), there were many administrative errors in the preceding months and years. It (is) evident that numerous deficiencies in supervision and performance contributed to the hostage situation. ■



# AZCOPS News Across Arizona

## *Legal Team Beats DOC Again in Jose Munoz Trial*

By General Counsel Martin Bihn

After a four-week trial, on March 8, 2004, a Maricopa County jury found Correctional Officer and AZCPOA member Jose Munoz not guilty on three counts and hung on two remaining counts against him.

This is another case arising out of inmate allegations of CO misconduct. After having its case effectively gutted by the jury, it is doubtful that the prosecution will attempt to re-try the two counts on which the jury could not reach a verdict. This case represents another huge victory for Correctional Officers in the continuing legal battle against inmate false allegations.

Four female inmates accused CO Munoz of sexual contact with them while they were locked down in a seg-

regated area of Perryville Prison. Significantly, Munoz's co-workers, two female COs, repeatedly told DOC investigators and the jury that there was no way that the accusations could be true. In fact, Munoz's co-workers testified that, given their own duties and the layout of the prison, that it was impossible for the accusations to be true.

This is now the second consecutive huge legal defeat for DOC arising out of false allegations in the Perryville facility. Members will recall that two years ago AZCPOA member Derrick Allen faced similar false accusations. In that case, DOC fired CO Allen after he was indicted by a Maricopa County Grand Jury. AZCOPS legal team won CO Allen's job back (while the criminal charges were pending) by proving that the inmate accuser lied and that the DOC investigator had engaged in sig-

nificant misconduct. The criminal charges were subsequently dismissed and CO Allen is now suing DOC, its investigator and prosecutors.

After getting spanked in the Allen case, DOC took a different approach with CO Munoz. Not wanting to lose at the Personnel Board, DOC decided to wait and play its cards at CO Munoz's trial. Of course, CO Munoz continued to do his job with the same skill and dedication while waiting to be vindicated. While DOC's initial investigation took place under the previous administration, hopefully, DOC has learned its lesson and will stop believing inmates over the officers and conduct fair and unbiased investigations.

We will bring you more updates and comments from CO Munoz in the near future. ■

## *Dan Saban Endorsed for Maricopa County Sheriff*

In a press conference in Phoenix on Feb. 17, AZCOPS officially endorsed Republican candidate Dan Saban for the office of Maricopa County Sheriff.

"This endorsement was based on Dan's 28 years of law enforcement experience and his commitment to the citizens of Maricopa County as well as to the law enforcement community," AZCOPS President Jim Parks said.

"Dan believes that by strengthening the partnership between government, law enforcement and the community, they can attack issues as a team by keeping the lines of communication open.

"And, Dan believes that if those lines are not kept open success will be more difficult, if not impossible, to obtain. For these reasons we are fully supporting Dan Saban for Maricopa County Sheriff," Parks said.



**SHERIFF'S CANDIDATE** Dan Saban (left) receives an AZCOPS shirt from President Jim Parks. The Republican received the union's endorsement for Maricopa County Sheriff in the upcoming September Primary Election.

The endorsement decision was made by AZCOPS and the Maricopa County Deputies Association after union ques-

tionnaires were sent to the candidates and individual interviews were jointly conducted. ■

### **Brice Case Updated**

Norm Brice, whose fight to be reinstated by the Peoria Police Department was upheld in Maricopa County Superior Court on January 20, 2004, must fight on. With AZCOPS' support, he was previously exonerated of any wrongdoing by the County Attorney.

Brice was fired over a year after using lethal force against a man threatening his baby during a hostage situation.

General Counsel Martin Bihn reports that the City of Peoria has decided to appeal the January court decision. "We expect to prevail there as well," but the city probably will petition the Arizona Supreme Court for review, he said. ■



# Our Associations at Work For You

## AZCOPS Still Fighting to Reinstate of El Mirage Sergeant

Former El Mirage Police Sergeant Tim Brookshire continues his fight, along with AZCOPS legal, for reinstatement to his job.

A hearing officer ruled in January that Brookshire's firing last fall was not justified. Despite that ruling, the City of El Mirage has indicated that it may appeal the decision.

A seven-year veteran, Brookshire, was terminated due to an incident last June that involved his taking a call from an intoxicated police lieutenant who was

in a domestic violence dispute with relatives. The lieutenant asked for a ride home.

Leaving phone messages that night for his supervisor, Brookshire obliged the lieutenant with a ride. He also said he talked to the police chief and another lieutenant the next day. Brookshire later learned his supervisor's phone was not working.

Four months later Brookshire was charged with failing to report a problem to the department and not being

honest with his superiors.

"The most serious allegation against him is that, several months later, he was unable to accurately recite the events of the evening and the next day," Hearing Officer Theodore Jarvi wrote in his January 12 opinion. "There is not even any ambiguous evidence that he lied or provided false information to his superiors," Jarvi added.

"I know I haven't done anything wrong. I wouldn't put my integrity on the line for anyone," Brookshire stated.

## AZCOPS Legal System Works Again For Officer-Involved Shootings

The presidents of two other AZCOPS associations have written to express their gratitude for the work done on behalf of their members by the union's Legal Team.

"Last night (March 17, 2004) several Scottsdale Police Department members were involved in a shooting that took place in Phoenix. One of the involved officers was one of our members," said Jim Hill, President, Police Officers of Scottsdale Association.

"At 2140 hours I received a page from the answering service and was instructed that a member was requesting

assistance. I contacted AZCOPS General Counsel Martin Bihn and I gave him the information. Martin contacted our member and gave him an ETA of 15 minutes from the scene. From the time I was first notified until our member was contacted by an attorney was less than 10 minutes" Hill stated.

"This was a great example of how the system works; United We Stand" Hill added.

Mike Thomas, president of the Nogales Police Officers Association, also credited AZCOPS Legal with quick action to protect one of his officers.

"On March 14, 2004, at 0245 hours one of our officers was involved in a shooting after pursuing a vehicle from Nogales to Rio Rico. The suspect vehicle stopped, then tried to run over the officer after she exited her vehicle. The officer fired, hitting the passenger and forcing the driver to swerve off the road. After a brief foot chase the driver was caught. The passenger was medicated to a hospital," Thomas said.

"The system works — AZCOPS Attorney Mike Storie responded immediately from Tucson to protect our member's rights. Thank you, AZCOPS," Thomas said. ■

## Third Annual Convention in Laughlin, Nevada Approaching Fast

The Third Annual Convention of AZCOPS will be held this year on Saturday, Oct. 16 at the River Palms Resort and Casino in Laughlin, Nevada.

There will be lots of things for you and your families to enjoy, such as the Horizon Movie Theater, Horizon Outlet Mall, three area golf courses, jet skiing, riverboat rides, river taxis, and more. A hospitality suite will be hosted from 1900 to 2200 hours on Friday, Oct. 15.

There is no cost to attend the conven-

tion. The cost of the rooms are \$35.00 per night for Friday and Saturday night. If you wish to arrive on Thursday or stay Sunday night, the cost is \$20.00 per night. To reserve your room contact the River Palms at 1-800-835-7903 and ask for hotel reservations, then refer to group code AZCOPS1. Make reservations early, then contact our Tucson office. We need an accurate count of delegates. Also, you must contact the Tucson office for reservations to Saturday's lunch, hosted by AZCOPS. We must know the exact number of people.

The three training classes (TBA) will be taught by Martin Bihn, Mike Storie, Rich Anemone (TPOA), Chuck Foy (PPOA), Mike Gurr and Larry Lopez (TPOA). We have had very positive feedbacks on these instructors in past years and have asked them to again provide their training and expertise.

Also, we will have three \$100 drawings throughout the convention (no cost). There will also be a drawing for a Glock 27 40 cal. handgun at \$5.00 per ticket, or three for \$10.00. ■

# Arizona Conference of Police and Sheriffs, Local 7077

Affiliated with Communications Workers of America/  
National Coalition of Public Safety Officers, AFL-CIO

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