

AELE LAW ENFORCEMENT LEGAL CENTER

LEGAL ASPECTS OF

DISCIPLINE AND INTERNAL INVESTIGATIONS

FOR LAW ENFORCEMENT, PUBLIC SAFETY AND CORRECTIONS

A THREE DAY PROGRAM FOR...

- ★ **Chiefs and public safety administrators**
- ★ **Internal affairs investigators**
- ★ **City and county attorneys**
- ★ **Union/association officials**
- ★ **Personnel administrators**
- ★ **Civil service commissioners**



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LAS VEGAS

DECEMBER 10-12, 2012

**INCLUDES A HALF-DAY SEGMENT ON MANAGEMENT AUDITS OF
INTERNAL INVESTIGATION AND CITIZEN COMPLAINT PROCEDURES**

*For future workshop dates and site information,
visit our website at <http://www.aele.org>*

PROGRAM CONTENT

For a detailed agenda, see our website at www.aele.org

Program Introduction

- Program Goals and Objectives
- Review of Workshop Materials
- Use of AELE Website and Resources
- Computer Technology
- Nature of Discipline Litigation
- Why Discipline is a Difficult Area
- Types of Systems
- “The Virtual (Electronic) Investigation”
- Substantive and Procedural Due Process

First Amendment Related Conduct

- What is Covered
- Speech Issues
- Public Interest & Private Interest Speech
- Association Rights
- Political Activity
- Criticism of Superiors
- Chain of Command Rules
- Protected and Unprotected Speech
- Sexual Activity
- Hairstyles and Grooming
- Consistency Problems
- Prior Restraint
- Exempt Employees
- The Balancing Test
- Damage Suits

Conduct Unbecoming Rules

- Use of the Rule
- Off-Duty and On-Duty
- Common Pitfalls
- Drafting Problems
- Vagueness and Consistency
- Scope

Disciplinary Procedures

- Procedural Due Process
- Types of Hearings
- Types of Evidence
- Case Preparation

Disciplinary Investigations

- The Complaint Process
- Investigation Procedures
- Locker, Car and Desk Searches
- Telephone Monitoring
- E-mail and Computers
- Videotaping

- Representation
- Witness Statements and Interviews
- Disclosure of Investigation
- Procedural Bill of Rights
- Record Keeping
- Investigation Review
- Types of Complaints

Disciplinary Interrogations of Employees

- Advice of Rights
- Representation Issues
- Interview Considerations
- Relationship to Criminal Investigations

Rules of Efficiency

- Incompetence
- Inefficiency
- Secondary Employment
- On- and Off-Duty Application
- Residency
- Sick Leave
- Equipment and Property
- Absence and Lateness
- Financial Disclosure
- Fitness for Duty
- Job Performance
- Criminal Conduct
- Rules, Policies and Procedures
- Agency and Supervisory Orders
- Truthfulness and Reports

The Decisional Process

- The Elements of Just Cause
- Penalty Considerations
- Types of Penalty Systems
- Court Review Standards
- The “Substantial Evidence” Test
- Administrative Review
- Burdens of Proof
- Preserving the Record
- Evidence Issues
- Types of Proceedings
- Arbitration Considerations
- Federal Court Considerations
- Classes of Exempt Employees

New Troublesome Issues

- The Untruthful Employee
- “Brady” Discovery Problems
- Transfer and Reassignment
- Transfer as Punishment

- Transfers for Agency Efficiency
- Orders and Directives
- Employee Evaluations
- Poor Performance and Inefficiency
- Financial Disclosure
- “Whistleblower” Problems
- Retaliation Problems

Substantive Rules of Conduct

- On-Duty vs. Off-Duty
- Application
- Drafting/Wording
- Standards
- “Savings” Clauses
- Content
- Distribution
- Court Standards
- Substance Abuse

Auditing and Managing the Discipline and Internal Affairs Function

- Complaint Processing - Thoroughness and Timeliness
- Investigation Protocols and Procedures Compliance
- Quality Assurance
- Central Indices
- Early Warning Systems
- Exit Interviews Complaint Disposition
- Relationship to Civil Liability

Post-Incident Analysis and Review

- Training Considerations
- Assessing Training Needs
- Management and Analysis of Lawsuits
- Access and the Chain of Command
- Policy and Procedure Analysis
- The Review Process

Risk-Based Discipline Auditing Fundamentals

- The Auditor’s Role in Assessing Risk
- Risk Activities
- Personal and Organizational Losses
- Community and Reputation Losses
- Control Risk
- Inherent Risk
- Detection Risk
- Residual Risk
- Audit Risk

REMARKS

- ★ **All training will be held at the hotel facility. Registration is from 8:15 to 9:00 a.m. on Monday. Class hours are 9:00 a.m. to 4:45 p.m. Monday and Tuesday, and 8:00 to 11:00 a.m. on Wednesday.**
- ★ Training or prior familiarity with legal procedures is not necessary. Instructional techniques are employed that will benefit both lawyers and lay personnel. Ample time will be allowed for questions. Participation by attendants is encouraged.
- ★ Registration includes luncheons on Monday and Tuesday.
- ★ The staff and speakers, as their schedules permit, will be available during the workshop to answer questions.
- ★ Workshop attendance will be limited; seating will be arranged behind narrow tables to facilitate discussion. If a larger number of persons register than can be accommodated, those in geographical proximity will receive preference.

WORKSHOP MATERIALS, REFERENCE SOURCES, AND CONTINUING AELE LEGAL REFERENCE SUPPORT

Each attendant will be provided:

- ★ Workbook containing copyrighted lecture outlines and case citations
- ★ CD-ROM containing extensive source material, relevant cases, and in-depth articles
- ★ Directions for accessing legal research through the AELE comprehensive web page for case review/research, experts, and legal, procedural, and tactical website links
- ★ Certificate of Attendance

MANDATORY CONTINUING LEGAL EDUCATION

- ★ AELE has received approval for this course in Nevada and AELE has been approved as a CLE provider in California. Other states with MCLE and In-Service requirements have accredited this seminar in prior years. For additional information, see www.aele.org/cle.html

FACULTY

- Paul Coble** Retired Captain, LAPD, 21 years. Served as special labor counsel to the Chief of Police, and as Employee Relations Administrator. Represents agencies throughout California in employment, labor, discipline and civil rights matters. Frequent lecturer and author.
- G. A. “Jack” Pecoraro** Former Executive Director of the Illinois Assn. of Chiefs of Police. In state government, he has prior service as the Chief of the Secretary of State’s Police and as a Deputy Director of the Dept. of Corrections. In municipal government, he has served as a Police Legal Advisor in Chicago and Springfield.
- Emory A. Plitt, Jr.**
(Course Director) Judge, Harford County Circuit Court, Maryland; former General Counsel, Maryland Department of Public Safety & Correctional Services and former County Attorney. Past Chair, IACP Legal Officers Section. Lecturer for FBI, IACP and AELE. More than 35 years experience in civil liability, discipline, and personnel litigation in public safety agencies.
- Ron Sanchez** President of Veritas Assurance Group, a California law enforcement risk-based auditing, training and consulting organization. As an LAPD Captain, he launched its newly created Audit Division. He is a Certified Government Auditing Professional and Fraud Examiner.
- Michael P. Stone** Attorney, specializing in police litigation since 1980, following 13 years service as a police officer, sergeant and police attorney. His firm represents police associations and individual officers in disciplinary matters, civil litigation and criminal defense.

***(Because of trial schedule changes or other unplanned events,
we may have to engage substitute speakers with similar knowledge and experience.)***

DISCIPLINE AND INTERNAL INVESTIGATIONS REGISTRATION INFORMATION

Telephone (800) 763-2802
or (847) 685-0700

Fax (24 Hours) (800) 763-3221
or (847) 685-9700

HOTEL

Upon registering with AELE you will receive an attendant's memo outlining the workshop activities. Hotel reservations are the individual registrant's responsibility and should be made as soon as possible.

The Orleans Hotel & Casino is located at 4500 W. Tropicana Avenue, Las Vegas, Nevada 89103, (800) 675-3267. A limited number of rooms have been reserved if booked before November 8, 2012 at a maximum rate of \$45 per night, single or double occupancy, Sunday through Thursday. The group code "2AELC12" must be used to obtain this rate. Reservations can also be booked through the Hotel's website at www.orleanscasino.com/groups using the group code. Due to promotional pricing offers, rates could be lower if booked by phone or on an internet site without the group code.



AELE WORKSHOPS
P.O. Box 75401
Chicago, IL 60675-5401

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This form can be completed online. Put your mouse pointer on a blank line and then type your information. Then print the form and fax it to 1-800-763-3221 or mail to AELE.

TUITION

REGISTRATION: Fees for the workshop are: \$795.00 for the first person and \$695.00 for each additional person from the same government agency or private employer (including the attorney for the entity).

• \$ _____ is due; Check enclosed; Bill agency; Charge my credit card Purchase Order No. _____ (if needed).

VISA, MC, Am Exp or Discover accepted. Credit Card# _____ Exp. Date _____



Signature (if using a Credit Card) _____

CANCELLATION POLICY: The tuition is fully refundable if cancellations are made before Monday, December 3, 2012. Otherwise, a \$100.00 cancellation fee will be charged per attendant. Upon written request, you may transfer your tuition to a future workshop.

REGISTRATION FORM

Register me for the Discipline Workshop, December 10-12, 2012

Name _____ Title _____ Attorney
 Non-Attorney

Agency or Organization _____

Address _____

City _____ State _____ Zip _____

Business Phone (_____) _____ E-Mail Address _____

Fax Number (_____) _____ **Our Federal Tax ID # is: 36-6140171**

I hereby authorize AELE to confirm my registration (or to send information relating to this seminar) by (a) sending me a fax at the above number, and/or (b) sending me an e-mail, and/or (c) telephoning me at the above number.

Signature (Required): _____

RETURN PROMPTLY

DO NOT DELAY REGISTRATION WHILE AWAITING FORMAL APPROVAL OR A PURCHASE ORDER.

SEND OR FAX A COPY OF THIS APPLICATION, MARKED "PENDING APPROVAL."