

**The Arizona Fraternal Order of Police
Arizona Labor Council Legal Plan**



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Arizona State F.O.P. Appointee

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D.O.C. Employee Representative

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Arizona State F.O.P. Labor Committee Chairman

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I. Introduction: The Arizona Fraternal Order of Police Arizona Labor Council Legal Plan, hereafter referred to as “the Plan”, is a self-funded legal plan established in partnership between the Law Offices of Yen, Pilch, Robaina, & Kresin, hereafter referred to as “the Firm”, and the Fraternal Order of Police Arizona Labor Council, hereafter referred to as “the ALC”. The Plan’s primary purpose is to provide Members with experienced attorneys who are qualified to defend Members in employment-related civil, criminal, and administrative matters. The Plan provides Members and their families with access to attorneys to advise and represent them in the diverse kinds of legal matters they are likely to encounter in our increasingly complex society.

II. Membership Qualification: To qualify for access to the Plan’s benefits, Members must be current in the payment of the Member’s FOP and ALC dues.

III. Accessing Attorneys: Members may contact the Firm directly on weekdays between 9:00 am and 5:00 pm by calling (602) 241-0474. Once their membership is confirmed, a Firm attorney will return the Member’s call.

If a Member needs to contact a Firm attorney for a Critical Incident during non-business hours, they may call the Firm’s Critical Incident Line at (888) 382-8805. The Firm’s Critical Incident Line is reserved for after-hours Critical Incidents only.

IV. Definitions:

“Critical Incident” means an Employment Related incident that requires immediate legal response to defend a Member, such as an officer-involved shooting or in-custody death.

“Dependent Children” means a Member’s children under the age of 18, or under the age of 23 if they are a full-time student residing with the Member.

“Employment Related” means the alleged acts or omissions which give rise to the incident were performed as a result of a Member’s job duties, and are consistent and within the course and scope of the Member’s job duties and training. This includes incidents outside the bounds of work hours if the alleged acts or omissions are also directly related to the Member’s certifications and the expectations of their employer.

“Local Lodge” means the FOP Lodge that a Member should belong to and is charged with representing the Member.

“Member” means a member of the Plan.

“Spouse” means a Member’s legal wife or husband on the date of incident.

V. Critical Incident Callouts: Members receive statewide 24/7 attorney response to Critical Incidents. When appropriate, this includes simultaneous response by a Local Lodge representative.

VI. Administrative Representation: Subject to the terms, conditions, and exclusions specified in the Plan, Members, Spouses, and Dependent Children receive the following:

A. Attorney representation at pre-disciplinary and post-disciplinary administrative hearings, including disciplinary appeals to merit boards, personnel boards, commissions, the Arizona Peace Officer Standards and Training Board (AZPOST), or other administrative tribunals.

B. Salary Reimbursement Option. In lieu of receiving the above attorney representation, a Member may elect to be paid reimbursement for lost salary of up to 20 hours of the Member's lost base pay salary or \$500, whichever is less, under the following conditions:

1. The Member has a legal right to administratively appeal a suspension or other discipline which results, or may result, in lost salary; and
2. The Firm and the Member agree that it is not, or may not be, in the best interests of the Member to pursue the Member's appeal rights.

This election cannot be rescinded or reversed once made, and cannot be exercised more than once every five (5) years.

VII. Employment Related Criminal Representation: Subject to the terms, conditions, and exclusions specified in the Plan, Members receive the following:

A. Attorney representation for a Member who is charged or indicted with a criminal offense for acts or conduct that are Employment Related as defined in Section IV above.

B. Reimbursement of attorneys' fees up to \$5,000 if a Member is charged or indicted with a criminal offense for acts or conduct which the Member believes are Employment Related if each of the below conditions are met:

1. The Firm declines to provide criminal legal defense because, the Firm, after its exercise of due diligence, determines the offense is not Employment Related as defined in Section IV above;
2. The Member is tried and found "not guilty" of the offense;
3. The offense alleges acts or omissions that are later determined by a court of law or by a majority vote of the ALC Executive Committee, to be within the Member's job duties as a law enforcement officer or in the performance of their primary assignment or certifications as a law enforcement officer; and
4. The Member continuously maintains their ALC membership until such time as the Member is found "not guilty" of all offenses.

This Section includes incidents outside the bounds of work hours if the actions are Employment Related and are directly related to the Member's certifications as a law enforcement officer and the expectations of their employer. The Plan does not cover, and is not intended to cover, personal criminal matters or solely personal, non-Employment Related actions that are criminally charged or indicted.

VIII. Bail Bond 50k: The ALC will pay a bond premium for a bail bond up to a bond amount of \$50,000 if a Member is charged with an Employment Related criminal offense. The Member is responsible to abide by all court orders and to take all action necessary to ensure that any and all refundable bond payments are refunded to the ALC.

IX. Civil Representation: Subject to the terms, conditions, and exclusions specified in the Plan, Members receive the following:

- A. Attorney representation to defend against Employment Related civil actions to the extent that the Member's employer does not provide legal representation to the Member.
- B. If the Member's employer provides legal representation, the Firm, at the request of the Member, will monitor and review the progress of the case to ensure the matter is handled in the best interest of the Member.
- C. If a Member recovers damages other than costs or attorneys' fees, the Firm and the ALC shall not seek reimbursement of costs from the Member.

X. Class Action Lawsuits: Members may receive attorney representation in class action lawsuits, as approved by the Local Lodge and the ALC in consultation with the Firm.

XI. Employment Related Medical Matters: Subject to the terms, conditions, and exclusions specified in the Plan, Members receive the following:

- A. Workers Compensation. Attorney representation in Workers' Compensation matters as follows: No upfront costs for accepted contingency fee cases. For non-contingency fee cases, Members receive up to \$2,000 of legal services and, if determined to be necessary by the Firm, up to \$400 of additional costs.
- B. Medical Retirement. Attorney consultations regarding state- or employer-provided pension and retirement matters. If a Member desires to retain the Firm to represent them in seeking to obtain pension benefits, including accidental disability pensions, the Firm may provide representation to the Member at discounted rates.

XII. LEOSA/HR218 Coverage: Subject to the terms, conditions, and exclusions specified in the Plan, Members receive the following:

- A. Inside the State of Arizona:

1. Use of Deadly Force. The ALC will provide up to \$3,000 for legal services if a Member is criminally investigated for use of deadly force if they have a current and up-to-date LEOSA certification, provided that they committed no separate, unrelated, unlawful act during the incident. This provision is subject to a \$300 deductible. The Firm and the ALC commit to working with the Grand Lodge, the attorneys from the Grand Lodge, and the Member's Local Lodge to monitor the case and seek additional resources and funding, if necessary.

2. LEOSA Carry. The ALC will pay up to \$2,000 for legal services if a Member is criminally investigated for incidents involving the carrying of a firearm if they have a current and up-to-date LEOSA certification, provided that they committed no separate, unrelated, unlawful act during the incident, and the carry was lawful under LEOSA guidelines. This provision is subject to a \$300 deductible. The Firm and the ALC commit to working with the Grand Lodge, the attorneys from the Grand Lodge, and the Member's Local Lodge to monitor the case and seek additional resources and funding, if necessary.

B. Outside the State of Arizona:

1. Use of Deadly Force. The ALC will provide up to \$5,000 for legal services if a Member is criminally investigated for use of deadly force if they are currently employed as a certified law enforcement officer or have a current and up-to-date LEOSA certification, provided that they committed no separate, unrelated, unlawful act during the incident. This provision is subject to a \$300 deductible. The Firm and the ALC commit to working with the Grand Lodge, the attorneys from the Grand Lodge, and the Member's Local Lodge to monitor the case and seek additional resources and funding, if necessary.

2. LEOSA Carry. The ALC will pay up to \$3,000 for legal services if a Member is criminally investigated for incidents involving the carrying a firearm if they have a current and up-to-date LEOSA certification, provided that they committed no separate, unrelated, unlawful act during the incident, and the carry was lawful under LEOSA guidelines. This provision is subject to a \$300 deductible. The Firm and the ALC commit to working with the Grand Lodge, the attorneys from the Grand Lodge, and the Member's Local Lodge to monitor the case and seek additional resources and funding, if necessary.

XIII. Employment Contract Development: Members may receive attorney assistance with development and negotiation of employer agreements/MOUs, if authorized by the ALC, the Local Lodge, and the representative bargaining unit. The National FOP Labor Services Division is also available to assist in this matter.

XIV. Estate Planning: Subject to the terms, conditions, and exclusions specified in the Plan, Members receive the following:

A. A will for Members and Spouses.

- B. General durable powers of attorney for Members and Spouses.
- C. Attorney representation in the probate of a Member's estate for survivors of Members who are killed in the line of duty or in off-duty accidents caused by others.
- D. Discounted comprehensive estate planning, including living trusts, wills, powers of attorney, and more, at 50% of the Firm's standard rates. Members are encouraged to contact the Firm for details.

XV. Traffic-Related Matters: Subject to the terms, conditions, and exclusions specified in the Plan, Members receive the following:

- A. Attorney representation to defend against civil traffic violations.
- B. Attorney representation for recovery of personal injury damages at a discounted contingency fee of 25%.
- C. Ten (10) hours of attorney representation and assistance to defend against loss of a Member's driver's license or to seek property damage recovery.

This Section is not limited to Employment Related traffic matters.

XVI. Off-Duty Work: Subject to the terms, conditions, and exclusions specified in the Plan, the Plan's benefits extend to off-duty employment matters if the primary nature of the off-duty employment is as a law enforcement officer.

XVII. Free Consultations: Members receive consultations with a Firm attorney, either telephonic (unlimited) or in-person, for any personal legal matter which the Firm would otherwise agree to handle. (The Firm charges non-Members for consultations.)

XVIII. Discounted Rates on Other Matters: Members receive discounted hourly rates or discounted contingency fees for legal services not otherwise provided by the Plan and which the Firm would otherwise accept at significantly higher rates. Some legal services are charged on a discounted flat fee basis, such as non-Employment Related criminal cases, business formation, and incorporation. The Firm may require a retainer on a case-by-case basis for matters that it accepts at a discounted rate. This Section includes attorney representation in civil actions which are affirmative in nature, and in which the Member is a plaintiff.

XIX. Expert Witnesses: The Firm may provide expert witnesses if the Firm determines that an expert witness' testimony will bring added value and weight to a Member's legal case. The Firm, in its discretion, may determine whether and when to retain an expert based on the Firm's reasonable and sound legal judgement.

XX. Member Conflicts and Supervisory Clause:

A. If the Firm determines that a conflict of interest or other potentially disqualifying conflict exists or may arise, the Firm may refer a Member to other ALC-retained counsel at no additional charge to the Member.

B. Supervisors, regardless of rank, are entitled to legal defense of all disciplinary actions brought against them by their department or agency. Supervisors are entitled to all other legal benefits of ALC membership.

XXI. Exclusions to Plan Benefits: The Plan does not include or provide benefits for the following:

A. Pre-existing conditions, which are defined as acts which give rise to litigation or disciplinary proceedings which are alleged to have occurred or started prior to the Member's enrollment in the ALC or during a lapse in dues payments, and about which the Member had reasonable notice that the acts might serve as the basis for litigation or disciplinary proceedings at the time they first became a Member or during a lapse in dues payments, even though litigation or an administrative proceeding was not initiated until after such date.

B. Matters, claims, or defenses otherwise covered by the Plan which the Firm and the ALC Executive Committee determine to be frivolous or unmeritorious, including decisions to appeal any judgment or decision by a court, judicial tribunal, or quasi-judicial tribunal.

C. Matters which the Firm is prohibited from handling under applicable Rules of Professional Conduct.

D. Matters which the ALC Executive Committee, in its discretion, directs the Firm not to pursue because the matter does not advance the principles and interests of the FOP, the ALC, or law enforcement.

E. Matters in which the Firm or, in hierarchical order, (1) the ALC, (2) the FOP, or (3) any FOP lodge, may be an adverse party, including any of these entities' directors, officers, agents, or employees.

F. The Firm may elect to represent an entity described in Section E above in defense of actions brought forth by a subordinate entity if the Firm determines the defense has merit. The entities described in Section E above recognize a hierarchical priority for Firm representation, and consent to the Firm's decision regarding the representation of any such entity against claims from a subordinate entity.

G. Administrative Remedies. The Firm will not interfere with a Local Lodge or representative bargaining unit's right and responsibility to resolve any Member's matter or controversy through lodge- or employer-provided administrative remedies. These matters may be referred for resolution to the Local Lodge. Such administrative remedies

are necessary both to provide a strong legal foundation and to allow for potential resolutions at the lowest possible levels.

H. The Plan does not entitle Members to representation in any action, appeal, or other proceeding, whether civil, criminal, or administrative, that involves charges, claims, accusations, or allegations of wrongdoing by a Member against another Member, unless the matter is first reviewed and approved by the Firm, the ALC Executive Director, and the ALC Chairperson, in consultation with the Members' Local Lodge.

I. The ALC Executive Director may terminate a Member's membership in the Plan if the Member is determined to have been untruthful to the Firm or the ALC, or if the Member fails to timely cooperate or respond to subpoenas, deadlines, or reasonable advice or requests for information from the Firm, the ALC, or the Member's Local Lodge.

J. Except as expressly otherwise provided herein, no benefits are provided by the Plan if similar benefits or legal representation are provided by another entity, such as legal insurance, a Member's employer, their employer's insurer, or another law enforcement group or association.

K. The Plan, including Section XIII above, shall not be construed in a manner that conflicts with any law or regulation that prohibits federal employees from joining or participating in a union, or who are represented in the workplace by a non-FOP organization duly elected by the members of a defined bargaining unit. The Plan does not provide criminal defense coverage to Members who are also members of the Federal Lodge, or who otherwise receive criminal defense coverage through the National FOP Legal Plan.

L. The Plan does not provide criminal defense coverage to Members who are charged with, accused of, or alleged to be using or possessing illegal drugs, or for DUIs or related offenses, unless the Member denies the charge, accusation, or allegation, and the underlying factual allegations are baseless.

XXII. Coverage Forfeitures, Denials, and Appeals:

A. Members must access the Plan's benefits by following the procedures outlined in the Plan, including Section III above. For matters covered by the Plan, no benefits shall be provided to Members who hire or retain an attorney on their own, or who otherwise do not follow the procedures described in the Plan.

B. If a Member has concerns regarding representation by a Plan-assigned attorney, the Member should address those concerns with their assigned attorney. If the Member's concerns are not resolved, the Member should address those concerns with the Firm, who may assign a different attorney. Reassigning attorneys is the Firm's responsibility. The Firm will reassign attorneys in its discretion, in the Member's best interest, and in

consideration of efficient operational practices and adherence to applicable ethical responsibilities.

C. If the Firm denies or refuses Plan coverage to a Member, the Member may appeal the Firm's decision in writing to the ALC Executive Director, and shall copy the Firm on their communication to the ALC Executive Director.

1. A Member's written appeal under this Section must contain relevant, truthful details, and must include:
 - a. A description of the matter for which the Member seeks coverage under the Plan;
 - b. A description of the Member's involvement in the matter;
 - c. The reason for denial of coverage under the Plan, if known; and
 - d. The reason why the Member believes the Plan should provide representation for the matter.
2. By submitting an appeal to the ALC, the Member waives their attorney-client privilege and consents to allow the Firm to respond to the Member's appeal, which the Firm may do within 14 days.
3. After the Firm has an opportunity to respond to a Member's appeal, the ALC Executive Director, alone or in consultation with the ALC Chairperson, shall advise the Member and the Firm of the ALC's decision whether coverage is required under the Plan. Such decision shall be final, binding, and unappealable to any judicial or quasi-judicial tribunal. No such decision by the ALC's Executive Director or Chairperson shall give rise to any right or cause-of-action of any kind whatsoever.