Greetings Fellow DAV Comrades,

Here we are looking at the conclusion of another year just over the horizon! I hope everyone had a wonderful Thanksgiving with family and friends. We should all be thankful for what we do have and not worry so much about what we do not have. I want to thank everyone for your dedication in supporting the DAV’s programs which continue to benefit those who have served our country. The precious time you take away from family members to devote to those who may be less fortunate than us does not go unnoticed. Whether volunteering as a van driver, ensuring veterans have adequate means of getting to needed medical appointments or performing duties as a Chapter Service Officer developing benefit claim packages, your efforts are the lifeblood that leads to the success of our mission objectives.
In addition, I praise and thank all those who occupy the leadership positions at the Committee, Chapter and Department levels. Their efforts are the glue that holds everything moving in the same common direction.

I pass the Department’s Thanks to the DAV Auxiliary Commander Robin Linton and the DAV Auxiliary Team for 2018-2019. The actions of the Units complement the Chapters activities and makes both entities stronger. Congratulations on standing up new Auxiliary Unit 16 in Prescott and Unit 36 in Coolidge. We look forward to working with you in the upcoming year.

As noted in previous editions, the Sr Vice, Glenn Hohman, as your Service Commissioner, has been revamping our State-wide Transportation System. We received 6 new vehicles in November which have been disbursed as needed. During our November Finance Committee Meeting, we committed to ordering 6 new vehicles again this year for delivery in the Summer/Fall of 2019. This action constitutes a 45% replacement of our 27-vehicle fleet in a two year time frame. This action was necessitated by mileage exceeding 300,000 miles on many of our current vehicles. A mileage matrix has been created to result in a “rolling replacement” program which will result in 3 or less vehicles requiring replacement per year in the future. Kudos to Glenn for all the research put into this effort.

The repair work at our Dept HQ resulting from “The Great Flood of 2018” has been completed. Additionally, we have modified usage of work spaces resulting in a more efficient operation and less labor intensive taskings. New paint, flooring and furniture combines to create a “warmer environment”. So, if in the area, stop by for a visit.

The Newsletter is easily accessed at www.azdav.com We will continue to produce this electronic product on a quarterly basis. In addition to articles by our Line Officers we will always have room for input from any of the Chapters. This venue is a great way to advertise Chapter activities and events. There will be attachments and links to other web sites as we continue to expand the information we provide to our members.

I am seeking someone willing to discuss the position of “Director of Communications” for Public Information. This would involve interface with local media outlets and community leaders. If you may have an interest in this area contact me for further discussion.

As we move through the Christmas season toward the New Year let us remember what the season is truly about. I look forward to serving you as we move our organization into the future.

“Nobody can do everything, but everybody can do something”.

John M Burden
It is hard to believe that we are already half way through the year.

We have accomplished many things so far this year.

1. Department is now recovered from the flood of 2018 and our offices are looking great.
2. We did have a major plumbing problem that required the floor at 34 W Dunlap to be dug up but that is now fixed.
3. We replaced the roof at 38 W Dunlap and recoated the roof at 34 W Dunlap.
4. Department with the help of SDB who raised over $50,000 for us this year, we are able to purchase 5 New vans.
5. All the Financial reports from all of the chapters have now been sent to National. I want to thank all of the Chapter Treasurer’s who work very hard to get these done.
6. I want to remind everyone to file your 990’s on time and to make sure that you renew your license with the Corporation Commission.
7. National has sent out warnings on Copyright infringement and I know many chapters are getting into websites and social media. Please read the following 4 pages for guidelines on what is OK to use and what is not.

I Want to wish everyone a Very Merry Christmas

And a

Happy New Year
This past year, one of our departments faced the possibility of litigation for copyright infringement. The General Counsel’s Office assisted the department in reaching a resolution before any legal action ensued. In light of this issue, we thought it would be informative to provide a brief discussion of the recent DAV dispute and an overview of copyright law.

The legal process commenced as most do – with receipt of an attorney letter. The lawyer represented a photographer, and the image at issue was a photograph of an iconic event in that particular state. The department copied the photograph from the internet (where there was no indication that it was subject to copyright), placing it on the department’s website. The department’s unauthorized use of the photograph did not arise from malice or nefarious intent. Interestingly, before entering the legal practice, the attorney for the photographer worked for twenty years as a commercial freelance photographer. The attorney’s letter demanded $6,500 to settle the matter, and the parties subsequently negotiated the terms of a settlement.

To find the genesis of copyright protection, one needs to look no further than the United States Constitution. In particular, Article I, Section 8 of the United States Constitution provides Congress with the power among other things: “To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” To effectuate this power, Congress enacted the Copyright Act of 1976, which provides the basic framework of the current copyright law. The Act defines copyright as the legal protection of “works of authorship fixed in any tangible medium of expression” and touches our lives on a daily basis, whether you read a book, watch a film, transfer music, or take a photograph. Copyrightable works generally include the following:

- Literary works
- Musical works
- Dramatic works
- Pantomimes and choreographic works
- Pictorial, graphic, and sculptural works
- Motion pictures and other audiovisual works
- Sound recordings
- Architectural works

Conversely, copyright protection does not extend to ideas, procedures, methods, titles, slogans, familiar symbols, and listing of ingredients to name a few.

Under federal law, a copyright owner is entitled to recover his or her actual damages or in the alternative statutory damages in a sum not less than $750 or more than $30,000. The court may also increase the statutory damages to not more than $150,000 if it finds the defendant committed the infringement willfully.

Copyright issues are often hot topics in the news, especially in the music industry. One of the recent cases involved the Estate of Marvin Gaye. Specifically, the Estate accused the creators of the popular 2013 song “Blurred Lines” of copying the musical style of Mr. Gaye’s 1977 quintessential hit “Got To Give It Up.” In the end, the creators did give it up after a jury in California returned a multi-million dollar verdict and the
judge subsequently ordered the Estate was entitled to fifty percent of all royalties. In March 2018, the Ninth Circuit Court of Appeals affirmed the jury verdict on all issues except for the personal liability on behalf of one of the song’s contributors.

The Marvin Gaye case illustrates the law’s aim to balance the interests of those who create content with the public interest in having the widest possible access to that content. However, while copyright law may involve multi-million verdicts, disputes oftentimes appear on a smaller scale in the most unlikely instances. Case in point – the threatened litigation with the DAV department.

What could one learn from this incident? Here are some takeaways:

1. Widely available works of authorship, such as images, words and music, are often subject to copyright protection.
2. The statutory penalties are substantial, and the copyright owner does not need to prove an intentional violation to receive damages.
3. Permission to use a copyrighted work must be in writing, and the person providing the permission should be the copyright owner.
4. A copyright owner does not need to necessarily identify a work as copyrighted in order for the work to have protection under the law.
5. Some attorneys make it their practice to research (some may say troll) the internet, looking for potential copyright litigation. Once found, an attorney sends a boilerplate letter, accusing the entity of copyright infringement and requesting certain payment to settle the matter.
6. Get the picture (pun intended) and be careful what you get off the internet.

Nonprofit Advisor is prepared by the Office of the DAV’s General Counsel and is published quarterly for the informational use of DAV Departments and Chapters. This newsletter is not intended to replace legal advice that may be required to address individual situations.
The last issue of the newsletter related the actual story of a copyright claim that a DAV department was forced to settle — for several thousand dollars — just because a member newsletter featured a photograph of an iconic public event. The department downloaded the photograph from an internet site, where there was no indication of copyright or restriction on reproduction. It didn’t matter. The photographer had hired a professional researcher to use sophisticated search tools to identify unauthorized usage of his work. The DAV department had no viable defense. Copyright law is heavily weighted in favor of the creator of a work.

It is not only calendar-type pictures that are subject to protection. This issue of the newsletter is intended to alert DAV departments and chapters to other liability-creating traps that may exist for those who — with no bad intention or malice — use property owned by others.

Can we use “public domain” musical works in our bar/lounge operation or at an event and not worry about a license fee?

The universe of “public domain” musical works is actually a lot smaller than you might think. In the United States, musical works published before 1922 are now in the public domain. So those can be played with no fear of adverse consequences. And “played” means just that — by live musicians. If you are thinking of playing recordings (records, tapes, CDs, downloads) of performances of musical works, read on.

Okay, you’ve got my interest. What about recordings?

In October 2018, the Music Modernization Act was signed into law. This legislation affects recordings and basically provides that sound recordings will enter into the public domain either 95 years after they were released or 120 years after they were recorded, whichever comes first. Recordings made prior to 1923 will enter the public domain in 2021. (Take heart, there is a good argument to be made that those recordings are in the public domain now. So feel free to crank up the Victrola...)

How do we find out about license fees and is there any real possibility we’ll ever get caught?

First, the “getting caught” question. The DAV department was understandably shocked when it was contacted by an aggressive copyright lawyer. In addition, it is well known that the so-called “performance rights organizations” (PROs) send “spies” to restaurants and other places where people gather and music is likely to be played. And the “penalty fees” for unlicensed use can be hundreds of times greater than the license fees. The best place to start is with the PROs. The main ones in the United States are BMI, ASCAP and SESAC. Those organizations can guide you further. PROs are basically royalty- collecting clearing
houses. Note: if the music being played is through a service like Pandora, check with your provider first to see if the license fees are included with your subscription.

Do you have any more good news?

Sure. Departments and chapters should also be wary of using “celebrity images” as attention-getters for events or promotions. In recent years, there has been much legislation to recognize and protect the images of celebrities living and dead. A leading case of “image of the dead” is Elvis Presley.

Elvis? Hasn’t he left the building?

Nope. When Elvis died, his estate was essentially bankrupt thanks to some seemingly shady dealings by his manager. His former wife, Priscilla Presley, realized that there were only two assets that might produce revenue: (a) Graceland (by means of admission charges) and (b) Elvis’ image (through a series of licensing agreements). The problem was, at that time, the law was unsettled on whether the image of a celebrity could pass to his/her heirs as property. The two leading cases had reached opposite outcomes. The heirs of Bela “Dracula” Lugosi lost the battle. The widows of Stan Laurel and Oliver Hardy won theirs.

Priscilla Presley created the so-called “Elvis Lobby” and succeeded in having many state laws enacted that supported her position. The tactic worked. Within a few years – by 1997, to be exact – the once-bankrupt Presley estate was worth in excess of $200 million. It is worth much more now.

Celebrities living and dead now protect their images with great care and, often, with great aggression. With the bulk of Elvis’s first fortune gone forever, Priscilla was forced to make the best of what remained, namely Graceland, and Elvis’s name and likeness. Now anyone who tries to use Elvis’s name or likeness -without the consent of Presley Enterprises will pay the price. Demand letters are routinely sent by the Presley lawyers to charities, schoolteachers and anyone else who – even with the best motives – tries to use the King to promote a business, an event or a cause.

So what’s the final word on images?

Instead of Elvis, or Catherine Zeta-Jones or even Groucho Marx, we’d suggest using a picture of your department or chapter adjutant. With permission, of course!
Glenn Hohman  
Sr. Vice Commander

As we gear up for winter, that will include our mid-winter meeting in January, the Legislative Conference national holds in February, and all of the holiday festivities in between. It is a great time for our families and extended families and friends to share time and memories, while making new memories. However, the task of taking care of our Veterans never ends, and our tireless volunteers are continuously helping out in every chapter, auxiliary and also at the Department. Within the last month, the Northern Arizona VA Health Care System and the Southern Arizona VA Health Care System received a total of 5 new DAV vans from the DAV to facilitate getting Arizona’s Veterans to and from their VA medical appointments at our three hospitals. In addition, this keeps them riding in style, and gives us the ability to “retire” some of our older vehicles in the fleet.

Another thing about this time of year, is that it marks that “halfway” point of the DAV year, and we need to look within our ranks (and even outside our ranks) to identify, motivate and train replacements and new volunteers for some of our positions. The sustainment and growth of our organization depends on our ability to “RTR2” (not one of the Star Wars robots), or “Recruit, Train, Recognize and Retain”. Organizationally, this is our “cycle of life” and our DAV core missions of Service, Transportation and Advocacy are 100% reliant on our ability to perform these four key tasks at all levels of our organization. Recognition includes the national and department level awards for 2019 which chapter leadership needs to start planning for now. The guidance from national has already been sent out, and the department guidance will follow in time for our January meeting, but the identification process can start now. If you have someone that you know should be recognized, let your chapter leadership know, and offer to help write their citation.

So, Happy Holidays from me to each of our members, our volunteers and the Veterans we support. Your sacrifices and contributions are what make us great, and are what will continue to sustain us. And, while you spend time with your families, friends and loved ones, ask them about joining the DAV or DAVA and being a part of our continued success!!
Thank you all for making this a prosperous year. Membership has been steadily growing but more work needs to be done. I would like to see all chapters make their goal this year. Membership is the life blood of this organization, with out you none of our current or future legislators would give veterans issues a second thought. They realize for every one of us we can influence at least a half a dozen other voters. In todays world our elected officials are most concerned with their constituents and the number of people we represent. Therefore it is critical we keep our membership strong.

Please be sure that you are turning in your LVAP and VAVS hours to the appropriate people so that your volunteer endeavors will be recorded and acknowledged.

I will continue to visit as many chapters as I can in the coming year.

I wish you all a Merry Christmas and a Happy New Year!!!!!!
From the Department Inspector

One of the surprises that I have discovered while carrying out my duties as your Inspector is our lack of knowledge and understanding of our organizational Constitution, Bylaws and Regulations. Many of us are performing our duties as members, elected and appointed officers, based on “this is the way we have always done it” principle. We are relying on the few designated “Experts” to keep us “legal”. This is dangerous Comrades as a government designated charity organization we are expected to govern ourselves under the strict guidelines of these “rules and regs” of our organization. If we aren’t holding to our obligations we could lose of our government designation. We need to conduct training at the Chapter level. The big question has always been the “How”.

Recommendations on how:

- Include copies in your new member letters.
- Voluntary short sessions on particular Articles or Regulations before regular meetings
- Roundtable discussions of particular Articles or Regulations before Executive Board meetings, put it on the agenda
- Training sessions for potential new officers
- Standard orientation training for Committees
- Monthly required reading assignments for current elected and appointed officers
- New member training
- Article or Regulation for the month

These are just a few ideas, brainstorm with your own team, make it as fun as possible.

Thanks Comrades,
Jim Ellis
White Haven to the White House

I write to you after visiting White Haven, the historic estate of our 18th President, Ulysses S. Grant. It is situated outside St. Louis on beautiful forested land, now a National Historic Site.

As my wife Gail and I today walked through the 200 year old estate's main home, the floorboards slightly creaked beneath us. Wavy leaded-glass windows streamed in the welcome warmth and light of the sun as our uniformed park guide, Nick, told his stories.

White Haven originally was the childhood home of Julia Dent. It is where Ulysses met and courted his future wife, and where they raised their young family.

While the estate is called White Haven, the exterior color of the home changed over time to a dark Paris green. The archive still holds the receipt for the paint, made out to U.S. Grant. The main house today, as before, is surrounded by a handsome white wooden fence.

Over his 63 year lifetime, Grant tried his hand at numerous things. He was unsuccessful at farming and real estate, as it turns out. Near poverty, pressed down by bad farming weather, enduring a national economic recession, Grant even sold fire logs in the street corners of St. Louis to bring in income.

But he excelled in the Army, serving in two separate periods. He rose in rank and was chosen by our 16th President, Abraham Lincoln, to serve as Commanding General of the Union Army during the War between the States.

With the ink of the Emancipation Proclamation barely dry, General Grant shared President Lincoln's vision for racial integration and equality, and took steps to lead in that direction. Grant's uniformed forces consisted of both white soldiers and freed slaves.

The war took many twists and turns, but his union forces were ultimately successful, leading to an unconditional confederate surrender by General Robert E. Lee at Appomattox.

Back at White Haven, the Dent family owned slaves, slaves who didn't want to wait for war's end to find their freedom. All thirty of them ran away.

Grant's memoirs begin, "Man proposes, but God disposes." Consider that God has a say in your life's direction.

Life takes twists and turns. So does health. Grant suffered from the unwelcome malady of malaria for much of his adult life. He ultimately contracted throat cancer, which took his life.

As far as high office goes, Grant had little political ambition. He wrote, "I did not want the Presidency ... but it could not be helped." He won the race for the White House twice, and some urged him to run for an unprecedented third term, but he had had enough. He retired.

Our tour of White Haven has led me to wonder: what will each of us propose for our lives in the coming year, and what will God dispose and ordain? What are the possible twists and turns for which each of us should be prepared. How can we be able leaders of, and advocates for, our families, our chapters, our communities, our nation and our world? How do we best prepare for 2019? How should we pray and proceed?

May you have divine guidance for the twists and turns ahead.

Faithfully,

Chaplain Paul Soderquist
White Haven
Then and Now
Department has a limited quantity of these items available for Sale

**Convention Pins** from the 2017 Department Convention
- $3.00 Ea.
- Sold as Each or in Pkg of 50

**Hats** from the 2017 Department Convention
- $10.00 Ea.
- Sold as Each or in case of 24

**Red Friday Shirts**
- Available in Medium, Lg, XL, 1X, 2X, 3X

**Pens** with the lighted tips used at Convention
- $3.00 Ea.

To Angie, Dominic, and All the SDB Employees:

We never seem to be able to say Thank You enough to SDB. The support you have shown DAV Department of Arizona throughout these many years have helped make Department the effective force that it is in improving the lives of our Disabled Veterans.

This year was a record. Thanks to the hard work of everyone involved SDB raised $50,000 for our Veterans. These funds will buy one and a half 12 passenger vans this year. This is a huge help in updating our aging fleet.

Without your support we would not have a fleet of vans that transport thousands of patients over 10s of thousands of miles each year for life saving Medical Appointments. We would not be able to assist Homeless and Needy Veterans and Veterans who find themselves in the middle of a natural or man made disaster. Your support helps us support the NSO office in Phoenix that helps 100s of thousands of veterans with filing, updating, and fighting for the benefits they have earned with their blood and pain.

There are not enough “thank yous” we can say to convey the magnitude of the help you have provided us over the years.

So one more time THANK YOU!!!!!!!

From All of US At

DAV Department of Arizona

Have a Merry Christmas

And a Happy New Year

And thank you for the yummiest popcorn ever.
WIN A HARLEY IN OUR POKER RUN!

YOU COULD WIN A 2018 HARLEY-DAVIDSON ROAD KING!

HOOKED ON HEALING VETERANS RIDE

2.23.19

REGISTER NOW AT HEALINGVETS.ORG!

A GREAT WAY TO SPEND THE DAY!
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Benefiting PROTECTING WATERS - FLY FISHING

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Department News

Reminders
CSO Training Session will be on
January 17th and 18th
Mid Term Conference will be On
January 19th
At
Chapter 20 / Glendale AZ
Department will be closing on
December 21, and will Open on January 2
TO ALL HAVE A MERRY CHRISTMAS
AND A HAPPY AND SAFE NEW YEAR!!!!!!!!!!!!!!
From Our Chapters

If you would like to be included in our CHAPTER / UNIT NEWS SECTION Of our Newsletter, please send articles, pictures, etc. to Department by March 1, 2018 We have a space ready for All of Our Chapters and Units to Participate.

Don’t keep all of your good ideas to yourselves.

BE PROUD SAY IT LOUD!!!!!!!!!!!!!!!!!!!!!!!!!!
DAV STAR CHAPTER 24 NEWS RELEASE

(l-r) Shown are Cynthia Gordon and Ray Wilkins of the Fraternal Order of Eagles, Surprise Aerie #4534, presenting a check to DAV Star Chapter 24 Commander John Crockett.

At the regular monthly meeting, on November 27, the Order of Eagles presented the Chapter with a $300 check for our Service Fund. These monies are used to assist veterans in distress and veterans causes.

Veterans, spouses or widows, may request an appointment with a Chapter 24 Service Officer during normal business hours at AM Trust Bank, 14543 W Grand Ave., Surprise 85374. Please contact Commander Crockett at 512-771-2682 or by email AZDAV24@gmail.com.

Chapter 24 meets the 4th Tuesday monthly at AM Trust bank, in the basement. Meetings start at 1000 and all veterans are welcome.
(l-r) Shown are Post 96 Finance Officer George Van de Langeryt, Fighter Country Partnership Program Director Bill Johnson and Post 96 Fund Raising Chair Marty Schwab who is presenting the check.

Post 96 members voted to donate $250 to Fighter Country Partnership on Luke AFB. The Partnership will make donations to the Naval Reserve Center on the base to assist naval personal in financial distress. The Naval Reserve cannot accept donations from public entities.

The funds were donated by the public at the Post during the Veterans Day Weekend Fundraiser at Sam’s Club on 11/11. This is Surprise Post 96 in action supporting our Military and Veterans.

Prepared by George Van de Langeryt, Post 96 Newsletter Editor
Questions?? Please call 623-547-6668
AMERICAN LEGION POST 96 NEWS RELEASE

(l-r) Shown are Post 96 Fund Raising Chair Marty Schwab, MSgt Johnbrian Robles and Post 96 Finance Officer George Van de Langeryt.

Post 96 members voted to donate 20 $25 Fry’s Gift cards to the Luke AFB Airman & Family Readiness Center to support military families in distress because of deployment, the fires or change of station. The funds were donated by the public at the Post during the Veterans Day Weekend Fundraiser at Sam’s Club on 11/11. Marty Schwab presented the gift cards the Center at Luke AFB. This is Surprise Post 96 in action supporting our Military and Veterans.

Prepared by George Van de Langeryt, Post 96 Newsletter Editor

Questions?? Please call 623-547-6668