

IN THE SUPREME COURT OF NEVADA

LAS VEGAS POLICE PROTECTIVE
ASSOCIATION, INC.

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT,
IN AND FOR THE COUNTY OF CLARK,
STATE OF NEVADA, DEPARTMENT
XXVII, THE HONORABLE NANCY L.
ALLF,

Respondent,

and

JORDAN TRAVERS and LAS VEGAS
METROPOLITAN POLICE DEPARTMENT,

Real Parties in Interest.

Case No.

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Elizabeth A. Brown
Clerk of Supreme Court

APPENDIX TO PETITION FOR
WRIT OF MANDAMUS

VOLUME 2

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DISTRICT COURT

CLARK COUNTY, NEVADA

JORDAN TRAVERS,

Petitioner,

v.

LAS VEGAS METROPOLITAN
POLICE DEPARTMENT

Respondent.

Case No.: A-21-832601-P

Dept. No.: 27

**APPENDIX OF EXHIBITS IN SUPPORT OF POINTS AND
AUTHORITIES RE PETITION FOR INJUNCTIVE RELIEF**

COMES NOW Petitioner Jordan Travers by and through undersigned counsel Adam Levine,
Esq. of the Law Office of Daniel Marks and hereby submits his Appendix of Exhibits in support of
Points and Authorities re Petition for Injunctive Relief as follows:

EXHIBIT

TITLE/DESCRIPTION

1. Critical Incident Review Process
2. Employee Notification of Administrative Interview
3. Affidavit of Adam Levine, Esq.

4. FOP/LDF Plan Document
5. Current list of Nevada FOP/LDF Plan attorneys
6. Email from Jamie Frost to Attorney Adam Levine dated march 4, 2021
7. Email from Attorney Adam Levine to Carlos L. McDade dated March 10, 2021

DATED this 5 day of April, 2021.

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EXHIBIT 1

EXHIBIT 1

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5/109.00 CRITICAL INCIDENT REVIEW PROCESS

5/109.02 CRITICAL INCIDENT REVIEW PROCESS

It is the policy of this Department to provide both the LVMPD and the community with a thorough review of incidents wherein deadly force was used by Department members. The Critical Incident Review Process (CIRP), includes the participation of citizen board members who reside within the LVMPD jurisdiction, who are not personally affiliated with the Department, who are not related to any of its members, and who have not had prior law enforcement experience.

The CIRP is comprised of two (2) related boards whose sole purpose is to conduct comprehensive administrative review of the tactics utilized by all involved Department members, as well as decision-making, Department policy and procedure compliance, training, supervision, and the use of deadly force in these incidents. The CIRP is closed to uninvited persons. A representative of the Officer of Labor Relations will be in attendance whenever possible.

DEFINITIONS

| | |
|---|---|
| case investigator | The primary Critical Incident Review Team (CIRT) detective assigned to investigate and lead the CIRP presentation of the case under review. The case investigator will make presentations to the Tactical Review Board (TRB) and Use of Force Review Board (UFRB) with designated Department members. |
| Critical Incident Review Process (CIRP) | A review of all critical incidents, made up of two (2) related boards (TRB and UFRB), whose sole purpose is to thoroughly investigate involved Department member tactics, decision-making, and/or the use of deadly force. |
| CIRP chairperson | The CIRP chairperson will be an assistant sheriff who is appointed by the Sheriff. The CIRP chairperson will preside over the TRB and the UFRB. The CIRP chairperson will serve as a voting member of the TRB and as a non-voting member of the UFRB. |
| CIRP member | CIRP members include all parties defined as TRB and UFRB members. |
| CIRP secretary | Sheriff's Office executive support assigned to CIRT will serve as the CIRP secretary. The CIRP secretary will serve as the official secretary for the TRB and the UFRB and will report directly to the CIRP chairperson. |
| CIRP training | Training/orientation given to citizen board members to ensure they understand their role within CIRP. This training will be given before any citizen can sit as a voting member on a UFRB. |
| CIRT conclusion | A conclusion is determined after a complete and thorough investigation of the incident. Conclusions will fall into one (1) of three (3) categories: Department policy, training protocol, or tactics/decision-making. |
| deliberations | At the conclusion of the CIRT presentation for both the TRB and UFRB, all involved Department members and their representative(s) will be given the opportunity to refute any negative implications as allowed by <u>NRS 289, Peace Officers and Other Law Enforcement Personnel</u> . Board members and designees, at the discretion of the chairperson, will enter a non-recorded, closed-door session to vote on dispositions. |
| disposition form | The "Use of Force Review Board Disposition Report" (LVMPD 181) is used by UFRB members to document their vote. The "Tactical Review Board - CIRT Conclusion" form is used by the TRB members to document their vote. |
| Force Investigative Team (FIT) | Conducts a criminal investigation to determine whether the use of deadly force was legally justified under criminal law. FIT also directs the investigation against a subject who either committed crimes which led to the use of deadly force or committed crimes against a Department member. |

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| | |
|--------------------|--|
| Garrity Warning | An admonishment given to a Department member when they are compelled to make remarks concerning their involvement in an incident under administrative review. Garrity prohibits any remarks being used against the Department member in criminal proceedings. (Ref. <i>Garrity v. New Jersey</i> [1967].) |
| TRB member | TRB members include the chairperson, all voting commissioned members of the board, and non-voting citizen observers. (See Tactical Review Board [TRB] for a complete description.) |
| TRB recommendation | Recommendations are rendered at the conclusion of the CIRT presentation. These recommendations can vary from commendations, training, counseling, discipline, or a combination thereof, as rendered upon by the commissioned members of the board. |
| UFRB disposition | <p>The UFRB may choose from one (1) of four (4) findings after hearing the presentation of facts from CIRT:</p> <ol style="list-style-type: none">1. Administrative Approval: Objectively reasonable force was used under the circumstances based on the information available to the officer at the time. This finding acknowledges that the use of force was justified and within Department policy.2. Tactics/Decision-Making: This finding considers under the circumstances, objectively reasonable force was used based on the information available to the Department member at the time. However, it acknowledges even though the use of deadly force was within policy, the actions of the Department member worked to limit alternatives that may have otherwise been available to the Department member. A different approach or overall response by a Department member may have lessened the need for the Department member to employ deadly force and potentially changed the outcome of the incident.3. Policy/Training Failure: A deadly force outcome was undesirable but did not stem from a violation of policy or failure to follow current training protocols. A Department policy and/or specific training protocol is inadequate, ineffective, or deficient; the Department member followed existing policy and/or training, or there is no existing policy and/or training protocol that addresses the action taken or performance demonstrated (e.g., global policy or training deficiencies).4. Administrative Disapproval: The UFRB has concluded through this finding that the force used was a violation of Department policy. This outcome is reserved for the most serious failures in adherence to policy, decision-making, and performance (i.e., a violation of the use of force policy). |
| UFRB member | UFRB members include the chairperson and all commissioned and citizen voting members of the board. (See Use of Force Review Board [UFRB] for a complete description.) |

Use of Force Review Board (UFRB)

The UFRB consists of both commissioned and citizen members. CIRT presents the facts related to the use of deadly force. The board issues findings regarding the actions of commissioned Department members or supervisors who actually used, directly ordered, or directly influenced the use of deadly force during the course and scope of their duties, whether or not such force resulted in death or serious injury. In instances involving animal shoots, a UFRB will not be held, but a Tactical Review Board (TRB) may be held.

The UFRB will be comprised of:

1. The CIRT chairperson as a facilitator and non-voting member.
2. The bureau commander of the involved member at the time of the CIRT as a voting member. In the event multiple members with different bureau commanders are involved, the bureau commander will only vote for the member(s) in their chain of command.
3. One (1) commissioned Department member of the rank of captain or above as a voting member.

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4. One (1) peer member of the same classification of the member under review as a voting member.
5. Four (4) citizen members residing in the jurisdiction serviced by LVMPD as voting members.

The UFRB should be convened once FIT submits their case to the Office of the District Attorney (in the event the criteria is met for a submittal).

Tactical Review Board

The TRB will hear CIRT conclusions. The TRB can validate, overturn, or modify the conclusions regarding the actions of all Department members and/or supervisors who participated or influenced the application of deadly force in any capacity during the course and scope of their duties, whether or not such force resulted in death or serious injury. Under circumstances involving an animal shoot, CIRT will conduct a preliminary investigation and make a collective determination as to whether the case remains with CIRT followed by a TRB or is reverted to the involved member's bureau commander.

Criteria to determine whether an animal shoot will be presented to a TRB may include, but is not limited to:

1. Policy violations that contributed to the outcome of the incident.
2. Whether a different approach may have reduced or eliminated the need for the officer to shoot the animal.

The TRB will be comprised of:

3. The CIRT chairperson as a facilitator and voting member.
4. The bureau commander of the involved member at the time of the CIRT as a voting member. In the event multiple members with different bureau commanders are involved, the bureau commander will only vote for the member(s) in their chain of command.
5. One (1) commissioned Department member of the rank of captain or above as a voting member.
6. One (1) peer member of the same classification of the member under review as a voting member.
7. One (1) commissioned member of any rank recognized as an expert in tactics/training who is selected by the chairperson as a voting member.
8. Four (4) non-voting citizen members/observers. Two (2) citizen members will be invited to animal shoot TRBs.

The TRB will discuss all tactical/decision-making concerns by all parties involved in a critical incident. The TRB will convene prior to the UFRB.

Selection of Voting TRB/UFRB Members

Department TRB/UFRB Members:

1. The bureau commander of the involved member at the time of the CIRT will act as a voting member. In the event multiple members with different bureau commanders are involved, the bureau commander will only vote for the member(s) in their chain of command.
2. One (1) commissioned Department member of the rank of captain or above will act as a voting member.
3. Peer group TRB and UFRB members will be randomly selected from Department commissioned/civilian volunteers, have satisfactorily completed a CIRT training program, and be in compliance with Department values. The executive support of CIRT maintains a current list of available peers that serve on a voluntary basis for a period of three (3) years. At the time the term limit is met, a one (1) year separation would be in effect with the ability to volunteer at the time the application process opens.

Citizen UFRB Members:

The chairperson will, in conjunction with the Sheriff and citizen CIRT board co-chairs, develop criteria for the identification, recruitment, selection, and training of citizens to serve as members of the UFRB. The citizens recommended to become board members will go through an interview process with the chairperson of the board and citizen co-chair as part of the selection process. This selection process will take place on an as-needed basis and will include citizen focus groups from the community.

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All citizen members of the UFRB will have satisfactorily completed a CIRP training program presented by the CIRT lieutenant, developed by the chairperson and members of the community at large, and approved by the Sheriff. Citizen UFRB members will have attended any additional training involving modification to related Department rules and regulations. Citizen UFRB members will be selected on a rotating basis from a pool of qualified citizens selected as outlined above.

Citizen members, including CIRP board co-chairs, are self-nominated to the Department's Fiscal Affairs Committee, which, in turn, appoints members for a term of two (2) years, for a period not to exceed four (4) total consecutive years. At the two (2) year anniversary, there will be a review of attendance, performance, training, and compliance with Department values. A recommendation will be made to the IOCP bureau commander to allow a rollover period, not to exceed four (4) years. At the time the term limit is met, a one (1) year separation would be in effect with the ability to self-nominate at the time the application process opens.

TRB/UFRB Proceedings

TRB/UFRB members are required to review the CIRT investigative file before the TRB/UFRB hearing.

CIRP chairperson will:

1. Preside over the hearing, ensuring that rules are adhered to and that each member has an opportunity to participate.
2. Resolve any procedural conflicts during the review process.
3. Ensure deliberation is closed to all but the chairperson, board members, peer members, and approved subject matter experts.
4. Tally all votes of the TRB/UFRB and verify documentation on the appropriate disposition form:
 - a. The TRB will vote on CIRT conclusions based on a majority vote either validating, overturning, or modifying each of the conclusions presented by CIRT.
 - b. The UFRB will vote and issue dispositions based on a majority vote pertaining to the member who actually used deadly force or who gave clear and direct orders authorizing the use of deadly force.
UFRB dispositions are:
 - 1) Administrative Approval,
 - 2) Tactics/Decision-Making,
 - 3) Policy/Training Failure, and
 - 4) Administrative Disapproval.
5. Reconvene the hearing and notify the Department member as well as all others present of the TRB/UFRB decision.
6. Receive the UFRB disposition and TRB recommendations memos from the CIRP secretary within three (3) working days after the board makes its decision.
7. Provide the case documentation and UFRB and TRB memos to the Sheriff within four (4) working days.

CIRP secretary will:

8. Determine the appropriate date and time for the board.
9. Schedule an appointment and verbally notify the involved member (within a minimum of 15 days before hearing, per LVMPD policy), UFRB members, and CIRT.
10. Notify employees via the formal written "Notice of Investigation," a minimum of 48 hours prior to the date of the UFRB. All notices will be in accordance with NRS, 289.
11. Maintain lists of volunteer peer members from each rank and select participants from each list on a rotating basis.
12. Contact citizen board members and arrange appointments for them to review case files prior to the scheduled hearing date.
13. Prepare disposition forms for all board members and distribute them at the hearing.
14. Prepare the meeting room for the hearing, including arrangement of seating; preparing of placards; and provision of case files, folders, and other materials as needed.
15. Prepare Garrity admonishment forms for the involved member and distribute them at the hearing.
16. Collect all completed forms following the UFRB hearing, check for completeness and accuracy, and include

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- them in the appropriate UFRB file.
- 17. Download digital recording of the UFRB hearing and save it with the associated case/computer file.
- 18. Assist the chairperson in preparing UFRB disposition and TRB recommendation memos to the Sheriff, as appropriate, and disseminate such documents accordingly within three (3) working days after the boards make their decisions.
- 19. File the UFRB disposition and TRB recommendation memos, and send a copy to the Office of Internal Oversight (OIO) sergeant within IOCP.
- 20. Maintain all related TRB and UFRB files.
- 21. Document the vote and appropriate comments on LVMPD 181.

CIRT will:

For TRB/UFRB:

- 22. Complete the administrative investigation.
- 23. Notify the CIRT chairperson that the case is ready to be reviewed, including any conclusions that were found during the investigation.
- 24. Ensure the physical evidence, photograph enlargements, diagrams, and other essential items are available at the UFRB meeting.
- 25. Present the case with a focus on the actions of the involved member who actually used, directly ordered, or influenced the application of force. The presentation will include a complete detail of the actions taken during the incident with a focus on all involved members (including supervisors and command personnel), their tactics, training, and decision-making. Additionally, the presentation will include a conclusion.
- 26. Prepare a recording device, and ensure a full recording of the TRB and UFRB (excluding deliberations) is completed and placed in the UFRB file.

Involved member will:

- 27. Receive a verbal meeting appointment, within a minimum of 15 calendar days, prior to the TRB/ UFRB hearing.
- 28. Receive a formal written "Notice of Investigation," listing all who will be present during the UFRB, a minimum of 48 hours prior to the actual date of the TRB/UFRB.
- 29. Be authorized to access their own individual statements, Communication audio, video, diagrams related to movement at the scene, the FIT Officers Report, and the CIRT Administrative Report prior to the hearing, upon request made to IOCP.
- 30. Attend the TRB/UFRB, and:
 - a. May select two (2) persons to accompany them. The persons may be representative(s) of the Department member's bargaining association, attorney(s), supervisor(s), or peer(s), as long as they are not directly related to the incident.
 - b. Will be admonished of Garrity in writing prior to making any remarks.
 - c. Will be provided an opportunity to add comments, following presentation of the case by the CIRT case investigator.
 - d. Will be required to answer questions posed by any voting member of the TRB/UFRB.
 - e. Will not be present during the deliberation and vote of the TRB/UFRB.

Bureau commander of the involved member will:

- 31. Attend both the TRB and the UFRB.
- 32. Document the vote and appropriate comments on LVMPD 181.
- 33. Acknowledge and ensure the commendable action is issued, when appropriate.
- 34. Initiate any additional training for the Department member if recommended by the board.
- 35. When necessary, in conjunction with the CIRT chairperson and Office of Labor Relations (OLR), decide upon the corrective action to be taken, up to and including punitive discipline.

All CIRT members will:

- 33. Advise the chairperson if there is a potential conflict that may affect their objectivity and preclude the member from serving on a particular case and, at the chairperson's discretion, will be excused from the hearing and be replaced with an alternate.
- 34. Maintain confidentiality of all facts and circumstances concerning the incident.

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35. Review reports and other information having a direct bearing on the incident.
36. Document the vote and appropriate comments on LVMPD 181.

Sheriff will:

37. Review the written summary of UFRB dispositions and recommendations.
38. Agree with, modify, or reverse the decision, and notify the CIRP chairperson.

CIRP Dispositions and Recommendations

1. UFRB dispositions and recommendations, including a brief narrative describing various aspects of the incident in sufficient detail to ensure coherency and understanding, will be prepared and made public, along with certain other Department documents related to the incident, at a time and place determined by the IOCP bureau commander.
2. After the hearings, the TRB will determine if non-punitive measures (e.g., training and/or counseling) are needed and will direct the involved member's chain of command to handle in conjunction with the OIO supervisor. Additionally, the TRB will determine if discipline is required as the result of a disposition rendered.
3. Discipline will be decided by the CIRP chairperson in conjunction with the member's bureau commander and OLR. The adjudication process will be completed by the CIRP chairperson and OLR. All timelines for the process will comply with LVMPD 5/101.26, *Complaints and Internal Investigations Involving Department Employees*.
4. Any subsequent grievance process will adhere to the bargaining agreement of the involved member who received discipline. (8/19, 4/20)■

5/109.04 CRITICAL INCIDENT REVIEW TEAM

It is the policy of this department that an examination of uses of deadly force or other high-risk police operations, as directed by the Sheriff, will be conducted by a Critical Incident Review Team (CIRT). The purpose of this review is to improve both individual and the agency's performance. This process is similar to an after-action review where the role is to dissect what was planned, what happened, why it happened, and what can be done differently to improve performance.

To accomplish this, CIRT will evaluate decision-making, tactics used, supervision, the actual use of force, and other actions or approaches that could have generated a different outcome to the critical incident. CIRT will identify any training needs (for the individual member, squad, unit, section or on a department-wide basis) and/or any necessary changes to policies and practices. CIRT has the added goal of highlighting superior performance in such incidents by validating the tactics applied and by educating the workforce on what occurred. The overall mission of CIRT is to minimize risks and maximize safety in future police operations through sharing lessons learned from the departments past experiences.

CIRT investigators are considered direct representatives of the Sheriff and are authorized to report directly to the Sheriff concerning any critical review. CIRT investigators conducting an investigation or review will receive the full cooperation of all department members whether involved, subject, or witness. Failure of a department member to cooperate will be considered insubordination and subject that member to disciplinary measures up to and including termination.

CIRT will review the following:

1. Officer-involved shootings or the use of deadly force or force involving critical bodily injury or death.
2. PIT maneuvers which fall into the use of deadly force:
 - a. PIT maneuvers resulting in critical injury, death, or major property destruction.
 - b. PIT maneuvers attempted at speeds over 40 mph, regardless of injury.
3. The intentional discharge of any firearm at anything other than a human being, including dog or animal shoots.
4. Unintentional discharge of a firearm in a police operation, such as an officer assigned to a call or self-initiated activity (e.g., the inadvertent discharge of a shotgun while deploying it in response to a high-risk call).

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5. In-custody death or death or critical bodily injury with police involvement or at the Clark County Detention Center where no clear medical issues are related to the death. CIRT will also respond to suicides, attempt suicides, arrest-related deaths, suspicious deaths, and battery on an officer resulting in critical bodily injury within detention facilities.
6. Officer killed in the line of duty or critically injured in a police operation including a traffic accident.
7. Suspect or citizen critically injured or killed in an incident including a traffic accident involving LVMPD personnel.
8. A high-risk incident, such as active shooter or large-scale civil unrest, upon the request of the Sheriff.

Following such an incident, the Force Investigation Team (FIT) or ISD detectives will maintain responsibility over any criminal investigation. The administrative review will be conducted by CIRT.

CIRT will complete its review and report on its findings at the Use of Force Review Board. In furtherance of their review, CIRT may speak with employees who have been involved in a particular critical incident; however, CIRT will not interview employees until after CIRT has received either an investigative package or a briefing by FIT. In the circumstances where an employee provides a statement to FIT, CIRT may interview the employee several weeks later. If an employee chooses not to provide a voluntary statement to FIT, then CIRT will begin their review at an earlier date. Prior to beginning any compelled interviews, CIRT will provide employees with the 48-hour Notification of Employee Administrative Investigation.

During CIRT's administrative review, the rights as stated in the Rights of Peace Officers (NRS 289.020-120) are afforded to all department employees. (2/11, 9/18)■

5/109.05 CIVILIAN FIREARMS AND AEROSOL DEFENSIVE SPRAY (Oleoresin Capsicum)

It is the policy of this department to authorize designated civilian members to carry firearms while on duty as a part of their job classification. Civilian members may also carry concealed firearms and aerosol defensive spray while on duty for personal protection. However, the latter must be in the best interests of the employee and the department, and must be authorized by the member's division commander.

Deadly force is the highest level of the Force Model. As such, civilian members carrying handguns are subject to the provisions of LVMPD 6/002.00, *Use of Force*, and LVMPD 5/109.02, *Critical Incident Review Process*.

Unless civilian members meet the authorization criteria, they are not permitted to carry a weapon on department property or while performing, in any manner, the department mission.

CLASSIFICATIONS AUTHORIZED TO BE ARMED

Civilian members in the following job classifications are authorized to carry personal department-approved firearms on duty after completion of the Civilian Use of Force and Firearm Training course:

| | |
|---|-------------------------------|
| Crime Scene Analysts | Firearm Specialists |
| Evidence Custodians | Abuse and Neglect Specialists |
| Forensic Laboratory Technologists – Firearms Detail | |

Other job classifications may be armed at the discretion of their division/office commander based on the threat environment in which the employee works and the need for self-protection.

Carrying a firearm on duty is not mandatory for civilian members. Members choosing to be armed must:

1. Be thoroughly familiar with the provisions of LVMPD 6/002.00, *Use of Force*.
2. Participate in the quarterly firearm qualification and annual Firearm Training Simulator (FATS) training.
3. Own a handgun and ammunition which meets the specifications for the optional handguns described in LVMPD 5/208.02, *Authorized Firearms and Associated Equipment*, and
4. Obtain a Nevada Concealed Firearm Permit if planning to carry the firearm concealed.

AUTHORIZATION TO CARRY A CONCEALED FIREARM

EXHIBIT 2

EXHIBIT 2

Adam Levine

Subject: Fwd: CIRT2021-008 WE Travers Interview
Location: CIRT Interview Room #1

Start: Mon 3/8/2021 11:00 AM
End: Mon 3/8/2021 12:00 PM
Show Time As: Tentative

Recurrence: (none)

Organizer: CIRT Admin

Sent from my Verizon, Samsung Galaxy smartphone
[Get Outlook for Android](#)

From: Roberto Henderson <R4556H@LVMPD.COM> on behalf of CIRT Admin <CIRTAdmin@LVMPD.COM>
Sent: Thursday, March 4, 2021 2:29:30 PM
To: Alexandria Redditt <A13556R@LVMPD.COM>; Clayborne Howell <C9634H@LVMPD.COM>; Denise MacDonald <D8076M@LVMPD.COM>; Gregory Watkins <G5471W@LVMPD.COM>; Guy Turner <g13518t@LVMPD.COM>; Jason Jennings <J6178J@LVMPD.COM>; Justin Roth <J13913R@LVMPD.COM>; Kellcy Sullivan <K15150S@LVMPD.COM>; Kurt McKenzie <K6746M@LVMPD.COM>; Matthew Eschker <M12952E@LVMPD.COM>; Roberto Henderson <R4556H@LVMPD.COM>; Scott Keiser <S6392K@LVMPD.COM>; Shawn Smaka <S6098S@LVMPD.COM>; Annette Mullin <A5485M@LVMPD.COM>; Brian Kroening <B9660K@LVMPD.COM>; Cynthia Williams <C8466W@LVMPD.COM>; Darryl McDonald <d14031m@LVMPD.COM>; Meghan Brunner <m14791b@LVMPD.COM>; Michael Springer PEAP <M6278S@LVMPD.COM>; Olga Clark <O6332C@LVMPD.COM>; William Gibbs <W7553G@LVMPD.COM>; Jordan Travers <J9349T@LVMPD.COM>; 'iab@lvppa.com' <iab@lvppa.com>
Subject: CIRT2021-008 WE Travers Interview
When: Monday, March 8, 2021 11:00 AM-12:00 PM.
Where: CIRT Interview Room #1

Officer Travers,

Per our conversation earlier, your CIRT interview has been scheduled for **Monday, March 8, 2021 at 1100 hours**. The interview will be held at the CIRT Office located at **400 S. Martin Luther King Blvd, Building B, Suite 533 Las Vegas, NV 89106**. Attached are the documents we discussed during our conversation. If you have any questions, please call me anytime at 702-533-7329.

Thank you,

Detective R. Henderson P#4556

IOCP/Critical Incident Review Team(CIRT)
Las Vegas Metropolitan Police Dept.
Cell: (702) 533-7329
Desk: (702) 828-7287

FAX: (702) 828-4372
R4556H@lvmpd.com



Employee
Obligations and ...

****CONFIDENTIALITY NOTICE****

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CIRT Policy 2020
409-410.pdf



CRIP Process 2020
404-409.pdf



NRS289
072020.pdf



Travers
Notice.pdf



image001.png

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
EMPLOYEE NOTIFICATION OF ADMINISTRATIVE INVESTIGATION

To: PO-2 Jordan Travers P# 9349 (EAC)

Date: March 4, 2021

☐ **SUBJECT**

☒ **WITNESS**

This is to inform you that an investigation is being conducted concerning

CIRT2021-008
LLV210200037350

CIRT# / Event#

Det. Roberto Henderson, P#4556 will be leading the investigation.
Primary Investigator

SUMMARY OF INVESTIGATION

You are being compelled as a **WITNESS EMPLOYEE** in an administrative investigation, to answer questions regarding your knowledge of the facts and circumstances of a critical incident that occurred on 02-09-2021 at approximately 1049 hours, under LVMPD event number LLV210200037350 at 875 East Silverado Ranch Boulevard, Las Vegas, Nevada. It is alleged you were a witness to a LVMPD officer's use of deadly force. It is unknown if the officer involved shooting was in-self-defense, accidental, reckless, or a negligent act due to poor judgment or lack of preparedness that may have caused them to react unreasonably. In order to determine if the Use of Force was within LVMPD department policy, or preventable, you will be asked questions regarding the following:

1. Information Sharing
2. Tactical Assessments
3. Preplanning
4. De-Escalation
5. Officers' Approach: Cover and Concealment
6. Principles of Contact and Cover
7. Medical Response/Intervention
8. Assessment of Equipment, Firearms, Ammunition and Qualification

You will be asked questions related to the above listed allegation, to include your actions, observations, and any related conversations in reference to the allegation.

PO-2 Travers was notified via telephone of the interview date and time on March 4, 2021 @ 1400 hours, and read this Notice, and Admonishment regarding the above incident. PO-2 Travers requested the Employee Notification of Administrative Investigation, Employee Obligations and Protection Notice and Copy of N.R.S. 289, Police Bill of Rights, be delivered via inter-Departmental e-mail.

A copy of the Employee Notification of Administrative Investigation will be provided to the PPA

The interview will begin promptly at the time listed below. If you and/or your representative wish to inspect any physical evidence, ie: audio recordings, photographs, video recordings, and/or statements made by or attributed to the peace officer, which are related to the investigation, please make arrangements to schedule the necessary time for review with your CIRT investigator prior to the interview start time.

Your interview has been scheduled for

March 8, 2021 @ 1100 hours, at 400 S. Martin Luther King

APP 201

Also Present will be

Lieutenant Kurt McKenzie, Sergeants Shawn Smaka and Patrick Hughes,
Detectives Gregg Watkins, Scott Keiser, Denise MacDonald, Clayborne Howell, Jason
Jennings, Guy Turner, Justin Roth, Matthew Eschker

His/Her Name (if applicable)

You are afforded certain rights under NRS, Department procedures, and/or your collective bargaining agreement, including representation during the interview. This representative must not be connected to this investigation. You may also obtain a copy of your interview after transcription.

You are hereby directed to not contact any employee or persons involved in this administrative investigation until those persons have been interviewed by the Critical Incident Review Team. You may not disclose any facts of the investigation with anyone except those persons with designated departmental authority until interviewed by the Critical Incident Review Team. Designated departmental authority is extended to your representative of choice as allowed by the "Rights of Peace Officers" statutes and the civilian collective bargaining agreement. Once the Critical Incident Review Team has completed their interviews, this admonishment is lifted.

If you have any questions, please call Det. Roberto Henderson at phone # (702) 533-7329

PPA
384-8692 for Correction Officers & Police Officers
PPA E-Mail address: LAB@LVPPA.com
PPA FAX: 384-7989

PPACE
382-9121 for Civilian Employees
PPACE E-Mail address:
office@ppace.org
PPACE FAX: 382-3603

PMSA
384-2924 for Sergeants & Above
PMSA E-Mail Address: office@lvpmisa.org
PMSA FAX: 384-3024

CHAPTER 289 - PEACE OFFICERS AND OTHER LAW ENFORCEMENT PERSONNEL

GENERAL PROVISIONS

NRS 289.010 Definitions.

RIGHTS OF PEACE OFFICERS

NRS 289.020 Punitive action prohibited for exercise of rights under internal procedure; opportunity for hearing; right to representation; refusal to cooperate in criminal investigation punishable as insubordination; use of compelled statements.

NRS 289.025 Confidentiality of home address and photograph of peace officer in possession of law enforcement agency; exceptions.

NRS 289.027 Law enforcement agency required to adopt policies and procedures concerning service of certain subpoenas on peace officers.

NRS 289.030 Law enforcement agency prohibited from requiring peace officer to disclose financial information; exception.

NRS 289.040 Law enforcement agency prohibited from placing unfavorable comment or document in administrative file of peace officer; exception; right to respond; provision of copy of comment or document; right to review administrative file under certain circumstances.

NRS 289.050 Consequences of refusal to submit to polygraphic examination.

NRS 289.055 Establishment and availability of written procedures for investigating complaints and allegations of misconduct.

NRS 289.057 Investigation of allegation of misconduct; suspension without pay; review of file by peace officer under certain circumstances; law enforcement agency prohibited from keeping or making record of investigation or punitive action or reopening investigation under certain circumstances; reassignment of peace officer under certain circumstances.

NRS 289.060 Notification and requirements for interview, interrogation or hearing relating to investigation; prohibition against use of certain statements or answers in subsequent criminal proceedings.

NRS 289.070 Use of polygraphic examination in investigation.

NRS 289.080 Right to presence and assistance of representatives at interview, interrogation or hearing relating to investigation; confidential information; disclosure; record of interview, interrogation or hearing; right of subject of investigation to review and copy investigation file upon appeal.

NRS 289.085 Dismissal of administrative proceeding or civil action when evidence obtained unlawfully during investigation.

NRS 289.090 Inapplicability of certain provisions to investigation concerning alleged criminal activities.

NRS 289.092 Suspension without pay pending criminal prosecution; award of back pay under certain circumstances.

NRS 289.095 Investigation of motor vehicle crashes involving peace officers.

NRS 289.100 Limitations on application of chapter.

NRS 289.110 Report concerning improper governmental action; investigation of report; reprisal by employer prohibited.

NRS 289.120 Judicial relief available for aggrieved peace officer.

PERSONS POSSESSING POWERS OF PEACE OFFICERS

NRS 289.150 Sheriffs, their deputies and correctional officers; city and town marshals, police officers and correctional officers; court bailiffs and deputy marshals of certain district courts; constables and their deputies.

NRS 289.152 Persons employed as police officers by Indian tribe.

NRS 289.155 Persons appointed and employed by Supreme Court to provide for safety and security of justices and employees of Supreme Court and carry out duties prescribed by Chief Justice.

NRS 289.160 Security officers and other persons employed or appointed by local governments under certain circumstances.

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| <u>NRS 289.170</u> | Special investigators employed by Attorney General; investigators employed by district attorney. |
| <u>NRS 289.175</u> | Criminal investigators employed by Secretary of State. |
| <u>NRS 289.180</u> | Parole and probation officers; juvenile probation officers; alternative sentencing officers of department of alternative sentencing; director of juvenile services; Chief and parole officers of Youth Parole Bureau; director of department of juvenile justice services. |
| <u>NRS 289.190</u> | School police officers; other officers and employees of school district. |
| <u>NRS 289.200</u> | Officers and employees of state facilities for detention of children. |
| <u>NRS 289.210</u> | Legislative police. |
| <u>NRS 289.220</u> | Director, officers and designated employees of Department of Corrections; certain employees of detention facilities of metropolitan police department. |
| <u>NRS 289.230</u> | California correctional officer. |
| <u>NRS 289.240</u> | Certain employees of Division of Public and Behavioral Health of Department of Health and Human Services. |
| <u>NRS 289.250</u> | Foresters and firewardens; arson investigators. |
| <u>NRS 289.260</u> | Rangers and employees of Division of State Parks of State Department of Conservation and Natural Resources. |
| <u>NRS 289.270</u> | Director and certain employees of Department of Public Safety; certain officers and employees of Department of Motor Vehicles. |
| <u>NRS 289.280</u> | Game wardens. |
| <u>NRS 289.290</u> | Field agents and inspectors for State Department of Agriculture; officer appointed by Nevada Junior Livestock Show Board. |
| <u>NRS 289.300</u> | Investigator of Private Investigator's Licensing Board; criminal investigator of State Contractors' Board. |
| <u>NRS 289.310</u> | Commissioner of Insurance and chief deputy. |
| <u>NRS 289.320</u> | Certain designated employees of Nevada Transportation Authority. |
| <u>NRS 289.330</u> | Railroad police officer. |
| <u>NRS 289.340</u> | Taxicab field investigator or airport control officer designated by Taxicab Administrator; enforcement of certain provisions governing transportation network companies. |
| <u>NRS 289.350</u> | Members of police department of Nevada System of Higher Education. |
| <u>NRS 289.355</u> | Persons designated as enforcement agents by Cannabis Compliance Board. [Effective July 1, 2020.] |
| <u>NRS 289.360</u> | Members and agents of Nevada Gaming Control Board; members of Nevada Gaming Commission. |

ADVISORY REVIEW BOARDS

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| <u>NRS 289.380</u> | Creation by governing body of city or county; number, appointment and qualifications of members. |
| <u>NRS 289.383</u> | Creation by political subdivisions upon request from metropolitan police department; number, appointment and qualifications of members. |
| <u>NRS 289.385</u> | Limitation on jurisdiction; abridgement of contractual or statutory rights of peace officer prohibited. |
| <u>NRS 289.387</u> | Panel of board: Selection of members; powers and duties; proceedings; rights of officer investigated. |
| <u>NRS 289.390</u> | Panel of board: Oaths; subpoenas. |

CERTIFICATION, TRAINING AND OPERATIONS

GENERAL PROVISIONS

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| <u>NRS 289.450</u> | Definitions. [Effective through June 30, 2020.] |
| <u>NRS 289.450</u> | Definitions. [Effective July 1, 2020.] |
| <u>NRS 289.460</u> | "Category I peace officer" defined. |
| <u>NRS 289.470</u> | "Category II peace officer" defined. [Effective through June 30, 2020.] |
| <u>NRS 289.470</u> | "Category II peace officer" defined. [Effective July 1, 2020.] |
| <u>NRS 289.480</u> | "Category III peace officer" defined. [Effective through June 30, 2020.] |
| <u>NRS 289.480</u> | "Category III peace officer" defined. [Effective July 1, 2020.] |
| <u>NRS 289.490</u> | "Commission" defined. |

ADMINISTRATION

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| <u>NRS 289.500</u> | Peace Officers' Standards and Training Commission: Creation; membership; terms and compensation of members. |
| <u>NRS 289.510</u> | Peace Officers' Standards and Training Commission: Powers and duties; regulations. [Effective through June 30, 2020.] |

- NRS 289.510 Peace Officers' Standards and Training Commission: Powers and duties; regulations. [Effective July 1, 2020.]
- NRS 289.520 Executive Director: Appointment; qualifications; classification; restrictions on other employment; removal.
- NRS 289.530 Powers of Executive Director.
- NRS 289.540 Account for the Training of Peace Officers: Creation; administration; acceptance of gifts, donations, bequests, grants, money or other financial assistance; expenditures.

PEACE OFFICERS

- NRS 289.550 Persons required to be certified by Peace Officers' Standards and Training Commission; period by which certification is required.
- NRS 289.555 Person convicted of felony not qualified to serve as peace officer.
- NRS 289.560 Application for certification as peace officer to include social security number. [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]
- NRS 289.570 Submission of statement by applicant for certification as peace officer regarding payment of child support; grounds for denial of certification; duty of Commission. [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]
- NRS 289.580 Suspension of certification as peace officer for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of certification. [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]
- NRS 289.590 Training in proper use of choke hold as condition of certification; annual training and recertification; regulations.
- NRS 289.595 Training in effective responses to incidents involving dogs or where dogs are present; adoption of policies and regulations.
- NRS 289.600 Training in dealing with crimes of stalking and aggravated stalking as condition of certification.
- NRS 289.605 Training in identifying and interacting with persons with developmental disabilities as condition of certification.

LAW ENFORCEMENT DISPATCHERS

- NRS 289.650 Voluntary program for training; certification of instructors and law enforcement dispatchers; regulations. [Effective through June 30, 2020.]
- NRS 289.650 Voluntary program for training; certification of instructors and law enforcement dispatchers; regulations. [Effective July 1, 2020.]

BEHAVIORAL HEALTH ISSUES

- NRS 289.675 Behavioral health field response grant program. [Effective July 1, 2020.]
- NRS 289.680 Policies and procedures for interacting with persons suffering from behavioral health issues; use of behavioral health specialists. [Effective July 1, 2020.]

MISCELLANEOUS PROVISIONS

- NRS 289.800 Reimbursement for cost to repair or replace uniform, accessories or safety equipment damaged or destroyed in performance of duties.
- NRS 289.810 Peace officer prohibited from using choke hold; exceptions; agencies required to adopt regulations.
- NRS 289.820 Peace officer prohibited from engaging in racial profiling; retaliatory or punitive action prohibited against peace officer for disclosure of information concerning racial profiling.
- NRS 289.830 Certain law enforcement agencies shall require certain peace officers to wear portable event recording device while on duty; adoption of policies and procedures governing use; request for and inspection of record made by device.

GENERAL PROVISIONS

NRS 289.010 Definitions. As used in this chapter, unless the context otherwise requires:

1. "Administrative file" means any file of a peace officer containing information, comments or documents about the peace officer. The term does not include any file relating to an investigation conducted pursuant to NRS 289.057 or a criminal investigation of a peace officer.
2. "Choke hold" means the holding of a person's neck in a manner specifically intended to restrict the flow of oxygen or blood to the person's lungs or brain. The term includes the arm-bar restraint, carotid restraint and lateral vascular neck restraint.
3. "Law enforcement agency" means any agency, office, bureau, department, unit or division created by any statute, ordinance or rule which:
 - (a) Has a duty to enforce the law; and
 - (b) Employs any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.
4. "Peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.
5. "Punitive action" means any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand or transfer of a peace officer for purposes of punishment.
(Added to NRS by 1983, 2096; A 1989, 1582; 1993, 2525; 1999, 182, 2424; 2005, 621; 2019, 534, 2660)

RIGHTS OF PEACE OFFICERS

NRS 289.020 Punitive action prohibited for exercise of rights under internal procedure; opportunity for hearing; right to representation; refusal to cooperate in criminal investigation punishable as insubordination; use of compelled statements.

1. A law enforcement agency shall not use punitive action against a peace officer if the peace officer chooses to exercise the peace officer's rights under any internal administrative grievance procedure.
2. If a peace officer is denied a promotion on grounds other than merit or other punitive action is used against the peace officer, a law enforcement agency shall provide the peace officer with an opportunity for a hearing.
3. If a peace officer requests representation while being questioned by a superior officer on any matter that the peace officer reasonably believes could result in punitive action, the questioning must cease immediately and the peace officer must be allowed a reasonable opportunity to arrange for the presence and assistance of a representative before the questioning may resume.
4. If a peace officer refuses to comply with an order by a superior officer to cooperate with the peace officer's own or any other law enforcement agency in a criminal investigation, the agency may charge the peace officer with insubordination.
5. Except as otherwise provided in this subsection, any statement a peace officer is compelled to make pursuant to this chapter shall not be disclosed or used in a civil case against the peace officer without the consent of the peace officer. Such a statement may be used in an administrative hearing or civil case regarding the employment of the peace officer. In a civil case, the court may review the statement in camera to determine whether the statement is inconsistent with the testimony of the peace officer and release any inconsistent statement to the opposing party for purposes of impeachment.

(Added to NRS by 1983, 2098; A 2019, 2661)

NRS 289.025 Confidentiality of home address and photograph of peace officer in possession of law enforcement agency; exceptions.

1. Except as otherwise provided in subsections 2 and 3 and NRS 239.0115, the home address and any photograph of a peace officer in the possession of a law enforcement agency are not public information and are confidential.

2. The photograph of a peace officer may be released:

- (a) If the peace officer authorizes the release; or
- (b) If the peace officer has been arrested.

3. The home address of a peace officer may be released if a peace officer has been arrested and the home address is included in any of the following:

- (a) A report of a 911 telephone call.
- (b) A police report, investigative report or complaint which a person filed with a law enforcement agency.
- (c) A statement made by a witness.
- (d) A report prepared pursuant to NRS 432B.540 by an agency which provides child welfare services, which report details a plan for the placement of a child.

(Added to NRS by 2005, 621; A 2007, 2087, 2815)

NRS 289.027 Law enforcement agency required to adopt policies and procedures concerning service of certain subpoenas on peace officers.

1. Each law enforcement agency shall adopt policies and procedures that provide for the orderly and safe acceptance of service of certain subpoenas served on a peace officer employed by the law enforcement agency.

2. A subpoena to be served upon a peace officer that is authorized to be served upon a law enforcement agency in accordance with the policies and procedures adopted pursuant to subsection 1 may be served in the manner provided by those policies and procedures.

(Added to NRS by 2007, 2815)

NRS 289.030 Law enforcement agency prohibited from requiring peace officer to disclose financial information; exception. A law enforcement agency shall not require any peace officer to disclose the peace officer's assets, debts, sources of income or other financial information or make such a disclosure a condition precedent to a promotion, job assignment or other personnel action unless that information is necessary to:

- 1. Determine the peace officer's credentials for transfer to a specialized unit;
- 2. Prevent any conflict of interest which may result in any new assignment; or
- 3. Determine whether the peace officer is engaged in unlawful activity.

(Added to NRS by 1983, 2096)

NRS 289.040 Law enforcement agency prohibited from placing unfavorable comment or document in administrative file of peace officer; exception; right to respond; provision of copy of comment or document; right to review administrative file under certain circumstances.

1. Except as otherwise provided in subsection 3, a law enforcement agency shall not place any unfavorable comment or document in any administrative file of a peace officer maintained by the law enforcement agency unless:

- (a) The peace officer has read and initialed the comment or document; or
- (b) If the peace officer refuses to initial the comment or document, a notation to that effect is noted on or attached to the comment or document.

2. If the peace officer submits to the law enforcement agency a written response within 30 days after the peace officer is asked to initial the comment or document, the peace officer's response must be attached to and accompany the comment or document.

3. If a peace officer is the subject of an investigation of a complaint or allegation conducted pursuant to NRS 289.057, the law enforcement agency may place into any administrative file relating to the peace officer only:

(a) A copy of the disposition of the allegation of misconduct if the allegation is sustained; and

(b) A copy of the notice of or statement of adjudication of any punitive or remedial action taken against the peace officer.

4. A peace officer must be given a copy of any comment or document that is placed in an administrative file of the peace officer maintained by the law enforcement agency.

5. Upon request, a peace officer may review any administrative file of that peace officer maintained by the law enforcement agency that does not relate to a current investigation.

(Added to NRS by 1983, 2097; A 1991, 2213; 2005, 621)

NRS 289.050 Consequences of refusal to submit to polygraphic examination.

1. If a peace officer refuses to submit to a polygraphic examination:

(a) No law enforcement agency may take any disciplinary or retaliatory action against the peace officer; and

(b) No investigator may make a notation of such a refusal in the investigator's report or in any other manner maintain evidence of such a refusal.

2. Evidence of any refusal by a peace officer to submit to a polygraphic examination is not admissible at any subsequent hearing, trial or other judicial or administrative proceeding.

(Added to NRS by 1983, 2097; A 2001, 1663)

NRS 289.055 Establishment and availability of written procedures for investigating complaints and allegations of misconduct. Each agency in this State that employs peace officers shall:

1. Establish written procedures for investigating any complaint or allegation of misconduct made or filed against a peace officer employed by the agency; and

2. Make copies of the written procedures established pursuant to subsection 1 available to the public.

(Added to NRS by 1999, 948)

NRS 289.057 Investigation of allegation of misconduct; suspension without pay; review of file by peace officer under certain circumstances; law enforcement agency prohibited from keeping or making record of investigation or punitive action or reopening investigation under certain circumstances; reassignment of peace officer under certain circumstances.

1. Except as otherwise provided in this subsection, an investigation of a peace officer may be conducted in response to a complaint or allegation that the peace officer has engaged in activities which could result in punitive action. A law enforcement agency shall not conduct an investigation pursuant to this subsection if the activities of the peace officer occurred more than 1 year from the date of the filing of a complaint or allegation with the law enforcement agency unless the alleged misconduct would be a crime punishable pursuant to state or federal law.

2. Except as otherwise provided in a collective bargaining agreement, a law enforcement agency shall not suspend a peace officer without pay during or pursuant to an investigation conducted pursuant to this section until all investigations relating to the matter have concluded.

3. After the conclusion of the investigation:

(a) If the investigation causes a law enforcement agency to impose punitive action against the peace officer who was the subject of the investigation and the peace officer has received notice of the imposition

of the punitive action, the peace officer or a representative authorized by the peace officer may, except as otherwise prohibited by federal or state law, review any administrative or investigative file maintained by the law enforcement agency relating to the investigation, including any recordings, notes, transcripts of interviews and documents.

(b) If, pursuant to a policy of a law enforcement agency or a labor agreement, the record of the investigation or the imposition of punitive action is subject to being removed from any administrative file relating to the peace officer maintained by the law enforcement agency, the law enforcement agency shall not, except as otherwise required by federal or state law, keep or make a record of the investigation or the imposition of punitive action after the record is required to be removed from the administrative file.

(c) If the law enforcement agency concludes that the peace officer did not violate a statute, policy, rule or regulation, the law enforcement agency shall not reopen the investigation unless the law enforcement agency discovers new material evidence related to the matter.

4. Except as otherwise provided in subsection 5, a law enforcement agency shall not reassign a peace officer temporarily or permanently without his or her consent during or pursuant to an investigation conducted pursuant to this section or when there is a hearing relating to such an investigation that is pending.

5. A law enforcement agency may reassign a peace officer temporarily or permanently without his or her consent during or pursuant to an investigation conducted pursuant to this section or when there is a hearing relating to such an investigation that is pending if the law enforcement agency finds, based on specific facts or circumstances, that reassignment of the peace officer is necessary to maintain the efficient operation of the law enforcement agency.

(Added to NRS by 2005, 620; A 2007, 422; 2011, 1750; 2019, 2661)

NRS 289.060 Notification and requirements for interview, interrogation or hearing relating to investigation; prohibition against use of certain statements or answers in subsequent criminal proceedings.

1. Except as otherwise provided in this subsection, a law enforcement agency shall, not later than 48 hours before any interrogation or hearing is held relating to an investigation conducted pursuant to NRS 289.057, provide a written notice to the peace officer who is the subject of the investigation. If the law enforcement agency believes that any other peace officer has any knowledge of any fact relating to the complaint or allegation against the peace officer who is the subject of the investigation, the law enforcement agency shall provide a written notice to the peace officer advising the peace officer that he or she must appear and be interviewed as a witness in connection with the investigation. Any peace officer who serves as a witness during an interview must be allowed a reasonable opportunity to arrange for the presence and assistance of a representative authorized by NRS 289.080. Any peace officer specified in this subsection may waive the notice required pursuant to this section.

2. The notice provided to the peace officer who is the subject of the investigation must include:

- (a) A description of the nature of the investigation;
- (b) A summary of alleged misconduct of the peace officer;
- (c) The date, time and place of the interrogation or hearing;
- (d) The name and rank of the officer in charge of the investigation and the officers who will conduct any interrogation or hearing;
- (e) The name of any other person who will be present at any interrogation or hearing; and
- (f) A statement setting forth the provisions of subsection 1 of NRS 289.080.

3. The law enforcement agency shall:

(a) Interview or interrogate the peace officer during the peace officer's regular working hours, if reasonably practicable, or revise the peace officer's work schedule to allow any time that is required for

the interview or interrogation to be deemed a part of the peace officer's regular working hours. Any such time must be calculated based on the peace officer's regular wages for his or her regularly scheduled working hours. If the peace officer is not interviewed or interrogated during his or her regular working hours or if his or her work schedule is not revised pursuant to this paragraph and the law enforcement agency notifies the peace officer to appear at a time when he or she is off duty, the peace officer must be compensated for appearing at the interview or interrogation based on the wages and any other benefits the peace officer is entitled to receive for appearing at the time set forth in the notice.

(b) Immediately before any interrogation or hearing begins, inform the peace officer who is the subject of the investigation orally on the record that:

(1) The peace officer is required to provide a statement and answer questions related to the peace officer's alleged misconduct; and

(2) If the peace officer fails to provide such a statement or to answer any such questions, the agency may charge the peace officer with insubordination.

(c) Limit the scope of the questions during the interrogation or hearing to the alleged misconduct of the peace officer who is the subject of the investigation. If any evidence is discovered during the course of an investigation or hearing which establishes or may establish any other possible misconduct engaged in by the peace officer, the law enforcement agency shall notify the peace officer of that fact and shall not conduct any further interrogation of the peace officer concerning the possible misconduct until a subsequent notice of that evidence and possible misconduct is provided to the peace officer pursuant to this chapter.

(d) Allow the peace officer who is the subject of the investigation or who is a witness in the investigation to explain an answer or refute a negative implication which results from questioning during an interview, interrogation or hearing.

4. If a peace officer provides a statement or answers a question relating to the alleged misconduct of a peace officer who is the subject of an investigation pursuant to NRS 289.057 after the peace officer is informed that failing to provide the statement or answer may result in punitive action against him or her, the statement or answer must not be used against the peace officer who provided the statement or answer in any subsequent criminal proceeding.

(Added to NRS by 1983, 2097; A 1993, 2379; 2005, 622; 2011, 1750)

NRS 289.070 Use of polygraphic examination in investigation.

1. During an investigation conducted pursuant to NRS 289.057, the peace officer against whom the allegation is made may, but is not required to, submit to a polygraphic examination concerning such activities.

2. A person who makes an allegation against a peace officer pursuant to NRS 289.057 may not be required to submit to a polygraphic examination as a condition to the investigation of the person's allegation, but may request or agree to be given a polygraphic examination. If such a person requests or agrees to be given a polygraphic examination, such an examination must be given.

3. If a polygraphic examination is given to a peace officer pursuant to this section, a sound or video recording must be made of the polygraphic examination, the preliminary interview and the postexamination interview. Before the opinion of the polygraphic examiner regarding the peace officer's veracity may be considered in a disciplinary action, all records, documents and recordings resulting from the polygraphic examination must be made available for review by one or more polygraphic examiners licensed or qualified to be licensed in this State who are acceptable to the law enforcement agency and to the officer. If the opinion of a reviewing polygraphic examiner does not agree with the initial polygraphic examiner's opinion, the peace officer must be allowed to be reexamined by a polygraphic examiner of the peace officer's choice who is licensed or qualified to be licensed in this State.

4. The opinion of a polygraphic examiner regarding the peace officer's veracity may not be considered in a disciplinary action unless the polygraphic examination was conducted in a manner which complies with the provisions of chapter 648 of NRS. In any event, the law enforcement agency shall not use a polygraphic examiner's opinion regarding the veracity of the peace officer as the sole basis for disciplinary action against the peace officer.

(Added to NRS by 1983, 2097; A 1989, 1582; 2001, 1663; 2005, 622)

NRS 289.080 Right to presence and assistance of representatives at interview, interrogation or hearing relating to investigation; confidential information; disclosure; record of interview, interrogation or hearing; right of subject of investigation to review and copy investigation file upon appeal.

1. Except as otherwise provided in subsection 5, a peace officer who is the subject of an investigation conducted pursuant to NRS 289.057 may upon request have two representatives of the peace officer's choosing present with the peace officer during any phase of an interrogation or hearing relating to the investigation, including, without limitation, a lawyer, a representative of a labor union or another peace officer.

2. Except as otherwise provided in subsection 5, a peace officer who is a witness in an investigation conducted pursuant to NRS 289.057 may upon request have two representatives of the peace officer's choosing present with the peace officer during an interview relating to the investigation, including, without limitation, a lawyer, a representative of a labor union or another peace officer. The presence of the second representative must not create an undue delay in either the scheduling or conducting of the interview.

3. A representative of a peace officer must assist the peace officer during the interview, interrogation or hearing.

4. The law enforcement agency conducting the interview, interrogation or hearing shall allow a representative of the peace officer to:

(a) Inspect the following if related to the investigation and in the possession of the law enforcement agency:

- (1) Physical evidence;
- (2) Audio recordings, photographs and video recordings; and
- (3) Statements made by or attributed to the peace officer.

(b) Explain an answer provided by the peace officer or refute a negative implication which results from questioning of the peace officer but may require such explanation to be provided after the agency has concluded its initial questioning of the peace officer.

5. A representative must not otherwise be connected to, or the subject of, the same investigation.

6. Any information that a representative obtains from the peace officer who is a witness concerning the investigation is confidential and must not be disclosed.

7. Any information that a representative obtains from the peace officer who is the subject of the investigation is confidential and must not be disclosed except upon the:

- (a) Request of the peace officer; or
- (b) Lawful order of a court of competent jurisdiction.

↪ A law enforcement agency shall not take punitive action against a representative for the representative's failure or refusal to disclose such information.

8. The peace officer, any representative of the peace officer or the law enforcement agency may make a stenographic, digital or magnetic record of the interview, interrogation or hearing. If the agency records the proceedings, the agency shall at the peace officer's request and expense provide a copy of the:

- (a) Stenographic transcript of the proceedings; or

(b) Recording on the digital or magnetic tape.

9. After the conclusion of the investigation, the peace officer who was the subject of the investigation or any representative of the peace officer may, if the peace officer appeals a recommendation to impose punitive action, review and copy the entire file concerning the internal investigation, including, without limitation, any recordings, notes, transcripts of interviews and documents contained in the file.

(Added to NRS by 1983, 2098; A 1991, 647; 1993, 2380; 2005, 623; 2011, 1752; 2019, 2662)

NRS 289.085 Dismissal of administrative proceeding or civil action when evidence obtained unlawfully during investigation. If an arbitrator or court determines that evidence was obtained during an investigation of a peace officer concerning conduct that could result in punitive action in a manner which violates any provision of NRS 289.010 to 289.120, inclusive, the arbitrator or court shall dismiss with prejudice the administrative proceeding commenced or civil action filed against the peace officer.

(Added to NRS by 2005, 621; A 2019, 2663)

NRS 289.090 Inapplicability of certain provisions to investigation concerning alleged criminal activities. The provisions of subsections 2 to 5, inclusive, of NRS 289.057 and NRS 289.060, 289.070 and 289.080 do not apply to any investigation which concerns alleged criminal activities.

(Added to NRS by 1983, 2098; A 2005, 624; 2019, 2663)

NRS 289.092 Suspension without pay pending criminal prosecution; award of back pay under certain circumstances. If a law enforcement agency suspends a peace officer without pay pending the outcome of a criminal prosecution, the law enforcement agency shall award the peace officer back pay for the duration of the suspension if:

1. The charges against the peace officer are dismissed;
2. The peace officer is found not guilty at trial; or
3. The peace officer is not subjected to punitive action in connection with the alleged misconduct.

(Added to NRS by 2019, 2660)

NRS 289.095 Investigation of motor vehicle crashes involving peace officers.

1. In a county whose population is 100,000 or more, each law enforcement agency shall adopt policies and procedures to govern the investigation of motor vehicle crashes in which a peace officer employed by the law enforcement agency is involved. The policies and procedures must include, without limitation, a requirement that if such a motor vehicle crash results in a fatal injury to any person, the motor vehicle crash must be investigated by a law enforcement agency other than the law enforcement agency that employs the peace officer involved in the crash unless:

(a) Another law enforcement agency does not have comparable equipment and personnel to investigate the crash at least as effectively as the law enforcement agency that employs the peace officer involved in the motor vehicle crash;

(b) Another law enforcement agency is unavailable to investigate the motor vehicle crash; or

(c) Investigation of the motor vehicle crash by another law enforcement agency would delay the initiation of the investigation such that the integrity of the crash scene and preservation and collection of evidence may be jeopardized by such a delay.

2. This section does not prohibit a law enforcement agency in a county whose population is 100,000 or more from entering into agreements for cooperation with agencies in other jurisdictions for the investigation of motor vehicle crashes in which a peace officer of the law enforcement agency is involved.

(Added to NRS by 2013, 615; A 2015, 1664)

NRS 289.100 Limitations on application of chapter.

1. This chapter does not prohibit any agreements for cooperation between the law enforcement agency and agencies in other jurisdictions.

2. This chapter does not affect any procedures which have been adopted by the law enforcement agency if those procedures provide the same or greater rights than provided for in this chapter.

(Added to NRS by 1983, 2098)

NRS 289.110 Report concerning improper governmental action; investigation of report; reprisal by employer prohibited.

1. A peace officer may disclose information regarding improper governmental action by filing a report with:

(a) The district attorney of the county in which the improper governmental action occurred; or

(b) The Attorney General if the district attorney referred to in paragraph (a) is involved in the improper governmental action.

2. Upon the filing of a report pursuant to subsection 1, the district attorney or Attorney General may investigate the report and determine whether improper governmental action did occur. Upon the completion of the investigation the district attorney or Attorney General:

(a) If the district attorney or Attorney General determines that improper governmental action did occur, may prosecute the violation. The Attorney General may prosecute such a violation if the district attorney fails or refuses so to act.

(b) Shall notify the peace officer who filed the report of the results of the investigation.

3. The employer of a peace officer shall not take any reprisal or retaliatory action against a peace officer who in good faith files a report pursuant to subsection 1.

4. Nothing in this section authorizes a person to disclose information if disclosure is otherwise prohibited by law.

5. This section does not apply to a peace officer who is employed by the State.

6. As used in this section, "improper governmental action" means any action taken by an officer or employee of a law enforcement agency, while in the performance of the officer's or employee's official duties which is in violation of any state law or regulation.

(Added to NRS by 1991, 2212)

NRS 289.120 Judicial relief available for aggrieved peace officer. Any peace officer aggrieved by an action of the employer of the peace officer in violation of this chapter may, after exhausting any applicable internal grievance procedures, grievance procedures negotiated pursuant to chapter 288 of NRS and other administrative remedies, apply to the district court for judicial relief. If the court determines that the employer has violated a provision of this chapter, the court shall order appropriate injunctive or other extraordinary relief to prevent the further occurrence of the violation and the taking of any reprisal or retaliatory action by the employer against the peace officer.

(Added to NRS by 1991, 2213)

PERSONS POSSESSING POWERS OF PEACE OFFICERS

NRS 289.150 Sheriffs, their deputies and correctional officers; city and town marshals, police officers and correctional officers; court bailiffs and deputy marshals of certain district courts; constables and their deputies. The following persons have the powers of a peace officer:

1. Sheriffs of counties and of metropolitan police departments, their deputies and correctional officers.

2. Marshals, police officers and correctional officers of cities and towns.

3. The bailiff of the Supreme Court.

4. The bailiffs and deputy marshals of the district courts, justice courts and municipal courts whose duties require them to carry weapons and make arrests.

5. Subject to the provisions of NRS 258.070, constables and their deputies.

(Added to NRS by 1993, 2520; A 2007, 2191; 2015, 2521)

NRS 289.152 Persons employed as police officers by Indian tribe.

1. In accordance with the provisions of NRS 41.430 and 194.040, a person employed as a police officer by an Indian tribe may exercise the powers of a peace officer.

2. Before any officer pursuant to subsection 1 shall exercise the powers of a peace officer, he or she must be certified as a category I peace officer by the Peace Officers' Standards and Training Commission.

3. The authority of an officer pursuant to subsection 1 to exercise the powers of a peace officer is limited to the boundaries of the Indian reservation or Indian colony, unless a county sheriff and the Indian tribe, in consultation, execute a written agreement. Such an agreement must include, without limitation:

(a) The respective rights and responsibilities of the county sheriff, the Indian tribe and any law enforcement agency pursuant to subsection 4; and

(b) The authority of the officer to act within the geographic boundaries of the county.

4. The county sheriff shall have jurisdiction and authority to execute a written agreement with an Indian tribe pursuant to subsection 3 on behalf of all law enforcement agencies who have authority to act within the geographic boundaries of the county, and such an agreement shall unilaterally bind all such law enforcement agencies to the terms of the written agreement.

5. For the purpose of this section, a law enforcement agency pursuant to subsection 4:

(a) Is deemed to have consented to:

(1) The jurisdiction and authority of the county sheriff to execute a written agreement pursuant to subsection 3 on behalf of the law enforcement agency; and

(2) All of the terms of the written agreement executed pursuant to subsection 3; and

(b) Shall not independently execute a written agreement with an Indian tribe for any purpose set forth in this section.

6. Nothing in this section impairs or affects the existing status and sovereignty of an Indian tribe as established under the laws of the United States.

7. As used in this section:

(a) "Category I peace officer" has the meaning ascribed to it in NRS 289.460.

(b) "Indian tribe" means any tribe, band, nation or other organized group or community of Indians which is recognized as eligible for the special programs and services provided by the United States to native Indians because of their status as native Indians and has executed a written agreement with the Peace Officers' Standards and Training Commission.

(c) "Law enforcement agency" means a metropolitan police department or the police department of an incorporated city.

(d) "Written agreement" includes, without limitation, an interlocal agreement or memorandum of understanding executed between a county sheriff and an Indian tribe.

(Added to NRS by 2019, 533)

NRS 289.155 Persons appointed and employed by Supreme Court to provide for safety and security of justices and employees of Supreme Court and carry out duties prescribed by Chief Justice. Any person appointed and employed by the Supreme Court pursuant to NRS 2.295 has the powers of a peace officer pursuant to NRS 289.460 when the person is carrying out duties prescribed by the Chief Justice.

(Added to NRS by 2011, 79)

NRS 289.160 Security officers and other persons employed or appointed by local governments under certain circumstances.

1. A security officer employed:
 - (a) Pursuant to NRS 244.167 by a board of county commissioners; or
 - (b) Pursuant to NRS 266.323 by the governing body of a city,↪ has the powers of a peace officer when the security officer is carrying out duties prescribed by ordinance.
2. A person appointed pursuant to subsection 1 of NRS 269.235 by a town board or board of county commissioners has the powers of a peace officer.
3. Police officers and special police officers appointed pursuant to subsection 5 of NRS 269.240 have, within the limits of the unincorporated town, the powers of making arrests which are exercised by a peace officer according to the laws of this State.

(Added to NRS by 1993, 2520)

NRS 289.170 Special investigators employed by Attorney General; investigators employed by district attorney. Special investigators employed by the Attorney General and investigators employed by a district attorney have the powers of a peace officer.

(Added to NRS by 1993, 2520)

NRS 289.175 Criminal investigators employed by Secretary of State. Criminal investigators employed by the Secretary of State have the powers of a peace officer.

(Added to NRS by 1999, 182)

NRS 289.180 Parole and probation officers; juvenile probation officers; alternative sentencing officers of department of alternative sentencing; director of juvenile services; Chief and parole officers of Youth Parole Bureau; director of department of juvenile justice services.

1. The following persons have the powers of a peace officer:
 - (a) The Chief Parole and Probation Officer appointed pursuant to NRS 213.1092;
 - (b) Assistant parole and probation officers appointed pursuant to NRS 213.1095;
 - (c) The chief of a department of alternative sentencing established pursuant to NRS 211A.080; and
 - (d) Assistant alternative sentencing officers of a department of alternative sentencing.
2. A juvenile probation officer or assistant juvenile probation officer whose official duties require such officer to enforce court orders on juvenile offenders and make arrests has the same powers as a peace officer when performing duties pursuant to title 5 of NRS or chapter 432B of NRS, including the power to arrest an adult criminal offender encountered while in the performance of those duties.
3. A director of juvenile services has the powers of a peace officer in the director's judicial district when performing duties pursuant to title 5 of NRS or chapter 432B of NRS, including the power to arrest an adult criminal offender encountered while in the performance of those duties.
4. The Chief of the Youth Parole Bureau of the Division of Child and Family Services in the Department of Health and Human Services and the parole officers of the Bureau have the powers of a peace officer in carrying out the functions of the Bureau.
5. A director of a department of juvenile justice services established by ordinance pursuant to NRS 62G.210 has the powers of a peace officer in the county when carrying out duties pursuant to title 5 of NRS or chapter 432B of NRS, including the power to arrest an adult criminal offender encountered while carrying out those duties.

(Added to NRS by 1993, 2520; A 1995, 703, 873; 1997, 1480; 2003, 1133)

NRS 289.190 School police officers; other officers and employees of school district.

1. A person employed or appointed to serve as a school police officer pursuant to subsection 5 of NRS 391.281 has the powers of a peace officer. A school police officer shall perform the officer's duties in compliance with the provisions of NRS 171.1223.

2. A person appointed pursuant to NRS 393.0718 by the board of trustees of any school district has the powers of a peace officer to carry out the intents and purposes of NRS 393.071 to 393.0719, inclusive.

3. Members of every board of trustees of a school district, superintendents of schools, principals and teachers have concurrent power with peace officers for the protection of children in school and on the way to and from school, and for the enforcement of order and discipline among such children, including children who attend school within one school district but reside in an adjoining school district or adjoining state, pursuant to the provisions of chapter 392 of NRS. This subsection must not be construed so as to make it the duty of superintendents of schools, principals and teachers to supervise the conduct of children while not on the school property.

(Added to NRS by 1993, 2521; A 2001, 1870, 2484; 2003, 102; 2015, 3838; 2017, 2072, 3165)

NRS 289.200 Officers and employees of state facilities for detention of children. Officers and employees of the Nevada Youth Training Center, the Caliente Youth Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS have the powers of a peace officer so far as necessary to arrest children who have escaped from that facility.

(Added to NRS by 1993, 2521; A 2003, 1133)

NRS 289.210 Legislative police. A legislative police officer of the State of Nevada has the powers of a peace officer when carrying out duties prescribed by the Legislative Commission.

(Added to NRS by 1993, 2521; A 1995, 703, 2306)

NRS 289.220 Director, officers and designated employees of Department of Corrections; certain employees of detention facilities of metropolitan police department.

1. The Director of the Department of Corrections, the Inspector General of the Department, a person employed by the Department as a criminal investigator and any officer or employee of the Department so designated by the Director have the powers of a peace officer when performing duties prescribed by the Director. For the purposes of this subsection, the duties which may be prescribed by the Director include, but are not limited to, pursuit and return of escaped offenders, transportation and escort of offenders and the general exercise of control over offenders within or outside the confines of the institutions and facilities of the Department.

2. A person appointed pursuant to NRS 211.115 to administer detention facilities or a jail, and his or her subordinate jailers, corrections officers and other employees whose duties involve law enforcement have the powers of a peace officer.

(Added to NRS by 1993, 2521; A 2001 Special Session, 235; 2009, 637)

NRS 289.230 California correctional officer. When, pursuant to California law, a California correctional officer has in the officer's custody in Nevada a prisoner of the State of California, the correctional officer may maintain custody of the prisoner in Nevada and retake the prisoner if the prisoner should escape in Nevada, to the same extent as if the correctional officer were a peace officer appointed under Nevada law and the prisoner had been committed to the officer's custody in proceedings under Nevada law.

(Added to NRS by 1993, 2522)

NRS 289.240 Certain employees of Division of Public and Behavioral Health of Department of Health and Human Services. Forensic technicians and correctional officers employed by the Division of Public and Behavioral Health of the Department of Health and Human Services at facilities for offenders

with mental disorders have the powers of peace officers when performing duties prescribed by the Administrator of the Division.

(Added to NRS by 1993, 843; A 1999, 113)

NRS 289.250 Foresters and firewardens; arson investigators.

1. The following persons have only those powers of a peace officer necessary to enforce the provisions of the laws of this State respecting forest and watershed management or the protection of forests and other lands from fire:

(a) Paid foresters and firewardens appointed pursuant to paragraph (a) of subsection 2 of NRS 472.040.

(b) Citizen-wardens appointed pursuant to paragraph (b) of subsection 2 of NRS 472.040.

(c) Voluntary firewardens appointed pursuant to paragraph (c) of subsection 2 of NRS 472.040.

2. A paid forester or firewarden appointed as an arson investigator pursuant to paragraph (d) of subsection 2 of NRS 472.040 has the powers of a peace officer.

3. An arson investigator designated as a peace officer pursuant to:

(a) Paragraph (c) of subsection 1 of NRS 244.2961; or

(b) Subsection 3 of NRS 266.310,

↪ has the powers of a peace officer.

(Added to NRS by 1993, 2522; A 2011, 723)

NRS 289.260 Rangers and employees of Division of State Parks of State Department of Conservation and Natural Resources.

1. Rangers and employees of the Division of State Parks of the State Department of Conservation and Natural Resources have, at the discretion of the Administrator of the Division, the same power to make arrests as any other peace officer for violations of law committed inside the boundaries of state parks or real property controlled or administered by the Division.

2. An employee of the Division of State Parks of the State Department of Conservation and Natural Resources appointed or designated pursuant to paragraph (b) of subsection 1 of NRS 407.065 has the powers of a peace officer.

(Added to NRS by 1993, 2522; A 1999, 979)

NRS 289.270 Director and certain employees of Department of Public Safety; certain officers and employees of Department of Motor Vehicles.

1. The following persons have the powers of a peace officer:

(a) The Director of the Department of Public Safety.

(b) The chiefs of the divisions of the Department of Public Safety.

(c) The deputy directors of the Department of Public Safety employed pursuant to NRS 480.120.

(d) The sworn personnel of the Department of Public Safety.

2. Administrators and investigators of the Division of Compliance Enforcement of the Department of Motor Vehicles have the powers of a peace officer to enforce any law of the State of Nevada in carrying out their duties pursuant to NRS 481.048.

3. Officers and investigators of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles, appointed pursuant to NRS 481.0481, have the powers of peace officers in carrying out their duties under that section.

(Added to NRS by 1993, 2522; A 1995, 2306; 1997, 3263; 1999, 1255, 3128, 3591, 3595; 2001, 2593; 2003, 2525; 2005, 673; 2011, 724; 2015, 224; 2019, 1077)

NRS 289.280 Game wardens. A person designated as a game warden pursuant to NRS 501.349 is a peace officer for the purposes of:

1. The service of such legal process, including warrants and subpoenas, as may be required in the enforcement of title 45 of NRS and chapter 488 of NRS.

2. The enforcement of all laws of the State of Nevada while they are performing their duties pursuant to title 45 of NRS and chapter 488 of NRS.

(Added to NRS by 1993, 2523)

NRS 289.290 Field agents and inspectors for State Department of Agriculture; officer appointed by Nevada Junior Livestock Show Board.

1. A person designated by the Director of the State Department of Agriculture as a field agent or an inspector pursuant to subsection 2 of NRS 561.225 has the powers of a peace officer to make investigations and arrests and to execute warrants of search and seizure, and may temporarily stop a vehicle in the enforcement of the provisions of titles 49 and 50 of NRS and chapters 581, 582, 583, 584, 586, 587, 588 and 590 of NRS.

2. An officer appointed by the Nevada Junior Livestock Show Board pursuant to NRS 563.120 has the powers of a peace officer for the preservation of order and peace on the grounds and in the buildings and the approaches thereto of the livestock shows and exhibitions that the Board conducts.

3. In carrying out the provisions of chapter 565 of NRS, an inspector of the State Department of Agriculture has the powers of a peace officer to make investigations and arrests and to execute warrants of search and seizure.

(Added to NRS by 1993, 2523; A 1995, 703; 1999, 3621; 2001, 1728; 2003, 2166; 2005, 1104; 2013, 1800)

NRS 289.300 Investigator of Private Investigator's Licensing Board; criminal investigator of State Contractors' Board.

1. A person employed as an investigator by the Private Investigator's Licensing Board pursuant to NRS 648.025 has the powers of a peace officer.

2. A person employed as a criminal investigator by the State Contractors' Board pursuant to NRS 624.112 has the powers of a peace officer to carry out the person's duties pursuant to subsection 2 of NRS 624.115.

(Added to NRS by 1993, 2523; A 1995, 304; 1999, 2967; 2003, 1905)

NRS 289.310 Commissioner of Insurance and chief deputy. The Commissioner of Insurance and the chief deputy of the Commissioner of Insurance are peace officers for the limited purposes of obtaining and exchanging information on applicants and licensees under title 57 of NRS.

(Added to NRS by 1993, 2523)

NRS 289.320 Certain designated employees of Nevada Transportation Authority. An employee of the Nevada Transportation Authority whom it designates as an inspector is a peace officer and has police power for the enforcement of the provisions of:

1. Chapters 706 and 712 of NRS and all regulations of the Nevada Transportation Authority or the Department of Motor Vehicles pertaining thereto; and

2. Chapter 482 of NRS and NRS 483.230, 483.350 and 483.530 to 483.620, inclusive, for the purposes of carrying out the provisions of chapter 706 of NRS.

(Added to NRS by 1993, 2523; A 1997, 1987; 2001, 2594; 2007, 2052)

NRS 289.330 Railroad police officer. A person commissioned and appointed to serve as a railroad police officer pursuant to subsection 1 of NRS 705.220 has the powers of a peace officer upon the premises or property owned or operated by the railroad company which employs the railroad police officer.

(Added to NRS by 1993, 2523)

NRS 289.340 Taxicab field investigator or airport control officer designated by Taxicab Administrator; enforcement of certain provisions governing transportation network companies. An employee designated by the Taxicab Administrator as:

1. A taxicab field investigator is a peace officer for the purposes of enforcing the provisions of chapter 706 of NRS. Such an investigator enforcing the provisions of subsection 1 of NRS 706A.280 pursuant to NRS 706.8818 must have probable cause that a driver is violating subsection 1 of NRS 706A.280 to initiate a traffic stop of the driver's vehicle.

2. An airport control officer is a peace officer only when on duty at the airport.

(Added to NRS by 1993, 2524; A 2017, 3839)

NRS 289.350 Members of police department of Nevada System of Higher Education.

1. A person employed and compensated as a member of the police department of the Nevada System of Higher Education, when appointed pursuant to subsection 1 of NRS 396.325 and duly sworn, is a peace officer, but may exercise the officer's power or authority only:

(a) Upon the campuses of the Nevada System of Higher Education, including that area to the center line of public streets adjacent to a campus;

(b) When in hot pursuit of a violator leaving such a campus or area;

(c) In or about other grounds or properties of the Nevada System of Higher Education; or

(d) Except as limited by subsection 2, in accordance with interlocal agreements entered into with other law enforcement agencies.

2. An interlocal agreement between the police department for the Nevada System of Higher Education and other law enforcement agencies may allow a peace officer of the police department of the Nevada System of Higher Education to exercise the officer's power or authority:

(a) On any public street that is adjacent to property owned by the Nevada System of Higher Education.

(b) On any property that is consistently used by an organization whose recognition by the Nevada System of Higher Education is a necessary condition for its continued operation.

(c) On any property that is rented or leased by the Nevada System of Higher Education for an event that is approved by the Nevada System of Higher Education.

(d) For mutual assistance specifically agreed upon with the other law enforcement agencies that are parties to the interlocal agreement.

(Added to NRS by 1993, 2524)

NRS 289.355 Persons designated as enforcement agents by Cannabis Compliance Board. [Effective July 1, 2020.] A person designated as an enforcement agent by the Cannabis Compliance Board is a peace officer for the purpose of the enforcement of the provisions of title 56 of NRS, including, without limitation, the prevention of unlicensed cannabis sales.

(Added to NRS by 2019, 3866, effective July 1, 2020)

NRS 289.360 Members and agents of Nevada Gaming Control Board; members of Nevada Gaming Commission.

1. For the purpose of the administration and enforcement of the provisions of chapter 205 of NRS involving a crime against the property of a gaming licensee, or chapter 462, 463, 463B, 464 or 465 of NRS, the members of the Nevada Gaming Control Board and the Nevada Gaming Commission and those agents of the Board whose duties include the enforcement, or the investigation of suspected violations, of statutes or regulations, have the powers of a peace officer.

2. An agent of the Nevada Gaming Control Board whose duties include the enforcement, or the investigation of suspected violations, of statutes or regulations, and who has been certified by the Peace Officers' Standards and Training Commission, also has the powers of a peace officer when, during the performance of those duties:

(a) A felony, gross misdemeanor or misdemeanor is committed or attempted in the agent's presence;
or

(b) The agent is given reasonable cause to believe that a person has committed a felony or gross misdemeanor outside of the agent's presence.

3. For the purpose of protecting members of the Nevada Gaming Control Board and of the Nevada Gaming Commission and their families and property, and providing security at meetings of the Board and of the Commission, an agent of the Board whose duties include the enforcement of statutes or regulations has the powers of a peace officer.

(Added to NRS by 1993, 2524; A 1999, 2425)

ADVISORY REVIEW BOARDS

NRS 289.380 Creation by governing body of city or county; number, appointment and qualifications of members.

1. Except as otherwise provided in NRS 289.383, the governing body of a city or county may create a review board by ordinance to advise the governing body on issues concerning peace officers, school police officers, constables and deputies of constables within the city or county.

2. A review board created pursuant to subsection 1 must consist of:

(a) In a city whose population is 220,000 or more or a county whose population is 100,000 or more, 25 members; and

(b) In a city whose population is less than 220,000 or a county whose population is less than 100,000, 12 members.

3. Such a review board must be appointed by the governing body from a list of names submitted by interested persons. If an insufficient number of names of interested persons is submitted, the governing body shall appoint the remaining members in the manner it deems appropriate.

4. A person appointed to the review board must:

(a) Be a resident of the city or county for which the review board was created, except no member of the review board may be currently employed as a peace officer, school police officer, constable or deputy of a constable.

(b) Complete training relating to law enforcement before serving as a member of the review board, including, without limitation, training in the policies and procedures of law enforcement agencies, police of school districts and offices of constables, the provisions of NRS 289.010 to 289.120, inclusive, and the employment contracts of the peace officers, school police officers, constables or deputies of constables.

(Added to NRS by 1997, 2515; A 2001, 1974; 2005, 624; 2011, 1207)

NRS 289.383 Creation by political subdivisions upon request from metropolitan police department; number, appointment and qualifications of members.

1. If a metropolitan police department has been formed pursuant to NRS 280.110, the metropolitan police committee on fiscal affairs may request the participating political subdivisions to create a review board to advise the committee on issues concerning peace officers employed by the metropolitan police department. The participating subdivisions may jointly create such a review board by mutual ordinances.

2. A review board created pursuant to subsection 1 must consist of 25 members, appointed from a list of names submitted by interested persons. The members of the metropolitan police committee on fiscal affairs who are representatives of the county shall appoint 13 members of the review board, and the members of the metropolitan police committee on fiscal affairs who are representatives of each participating city within the county shall appoint an equal number of the remaining 12 members. If an insufficient number of names of interested persons are submitted, the members of the metropolitan police committee on fiscal affairs shall appoint the remaining members in the manner they deem appropriate.

3. A person appointed to the review board must:

(a) Be a resident within the jurisdiction of the participating subdivisions for which the review board was created, except no member of the review board may be currently employed as a peace officer.

(b) Complete training relating to law enforcement before serving as a member of the review board, including, without limitation, training in the policies and procedures of law enforcement agencies, the provisions of NRS 289.010 to 289.120, inclusive, and the employment contracts of the peace officers.

(Added to NRS by 1997, 2516; A 2005, 624)

NRS 289.385 Limitation on jurisdiction; abridgement of contractual or statutory rights of peace officer prohibited. A review board created pursuant to NRS 289.380 or 289.383:

1. Does not have jurisdiction over any matter in which it is alleged that a crime has been committed.

2. Shall not abridge the rights of a peace officer, school police officer, constable or deputy of a constable that are granted pursuant to a collective bargaining agreement, a contract or any federal or state statute or regulation.

(Added to NRS by 1997, 2516)

NRS 289.387 Panel of board: Selection of members; powers and duties; proceedings; rights of officer investigated.

1. A review board that is created pursuant to paragraph (a) of subsection 2 of NRS 289.380 or pursuant to NRS 289.383 must meet in panels of five members to carry out its duties.

2. A review board that is created pursuant to paragraph (b) of subsection 2 of NRS 289.380 must meet in panels of three members to carry out its duties.

3. Members must be selected randomly to serve on a panel, and the panel shall select one of its members to serve as chair of the panel.

4. A panel of a review board created pursuant to NRS 289.380 or 289.383 may:

(a) Refer a complaint against a peace officer, school police officer, constable or deputy of a constable to the employer of the peace officer, school police officer, constable or deputy of a constable.

(b) Review an internal investigation of a peace officer, school police officer, constable or deputy of a constable within the jurisdiction of the governing body that created the review board and make recommendations regarding any disciplinary action against the peace officer, school police officer, constable or deputy of a constable that is recommended by his or her employer, including, without limitation:

(1) Increasing or decreasing the recommended level of discipline; and

(2) Exonerating the peace officer, school police officer, constable or deputy of a constable who has been the subject of the internal investigation.

5. The employer of a peace officer, school police officer, constable or deputy of a constable shall make available to a panel of the review board any personnel file or other material necessary for the panel to conduct a review.

6. When reviewing an internal investigation of a peace officer, school police officer, constable or deputy of a constable pursuant to subsection 4, the panel shall provide the peace officer, school police officer, constable or deputy of a constable with notice and an opportunity to be heard. The peace officer, school police officer, constable or deputy of a constable may represent himself or herself at the hearing before the panel or be represented by an attorney or other person of his or her own choosing. The review board, governing body and employer of the peace officer, school police officer, constable or deputy of a constable are not responsible for providing such representation.

7. The chair of a panel of a review board shall report the findings and recommendation of the panel regarding disciplinary action to the employer of the peace officer, school police officer, constable or deputy of a constable.

8. A police officer, school police officer, constable or deputy of a constable may appeal a recommendation made by a panel of the review board. The ordinance pursuant to which the review board is created must specify the manner for conducting appeals, and may provide for, if both parties agree, without limitation, mediation, conciliation or review by another panel of randomly selected members of the review board. If the appeal is heard by another panel of the review board, the determination made by the panel hearing the appeal is final and binding and is not subject to judicial review.

9. The findings and recommendation of a panel of the review board are public records unless otherwise declared confidential by state or federal law.

10. A proceeding of a panel of such a review board is closed to the public.

(Added to NRS by 1997, 2516)

NRS 289.390 Panel of board: Oaths; subpoenas.

1. A panel of a review board that is created pursuant to NRS 289.380 or 289.383 may:

(a) Administer oaths;

(b) Take testimony;

(c) Within the scope of its jurisdiction, issue subpoenas to compel the attendance of witnesses to testify before the panel;

(d) Require the production of books, papers and documents; and

(e) Issue commissions to take testimony.

2. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena, the panel may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.

(Added to NRS by 1997, 2517)

CERTIFICATION, TRAINING AND OPERATIONS

General Provisions

NRS 289.450 Definitions. [Effective through June 30, 2020.] As used in NRS 289.450 to 289.650, inclusive, unless the context otherwise requires, the words and terms defined in NRS 289.460 to 289.490, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1999, 2419; A 2003, 2697; 2017, 231; 2019, 2096)

NRS 289.450 Definitions. [Effective July 1, 2020.] As used in NRS 289.450 to 289.680, inclusive, unless the context otherwise requires, the words and terms defined in NRS 289.460 to 289.490, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1999, 2419; A 2003, 2697; 2017, 231; 2019, 2096, 4462, effective July 1, 2020)

NRS 289.460 "Category I peace officer" defined. "Category I peace officer" means a peace officer who has unrestricted duties and who is not otherwise listed as a category II or category III peace officer.

(Added to NRS by 1999, 2419)

NRS 289.470 "Category II peace officer" defined. [Effective through June 30, 2020.] "Category II peace officer" means:

1. The bailiffs of the district courts, justice courts and municipal courts whose duties require them to carry weapons and make arrests;

2. Subject to the provisions of NRS 258.070, constables and their deputies;

3. Inspectors employed by the Nevada Transportation Authority who exercise those powers of enforcement conferred by chapters 706 and 712 of NRS;

4. Special investigators who are employed full-time by the office of any district attorney or the Attorney General;
 5. Investigators of arson for fire departments who are specially designated by the appointing authority;
 6. The brand inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by chapter 565 of NRS;
 7. The field agents and inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by NRS 561.225;
 8. Investigators for the State Forester Firewarden who are specially designated by the State Forester Firewarden and whose primary duties are related to the investigation of arson;
 9. Agents of the Nevada Gaming Control Board who exercise the powers of enforcement specified in NRS 289.360, 463.140 or 463.1405, except those agents whose duties relate primarily to auditing, accounting, the collection of taxes or license fees, or the investigation of applicants for licenses;
 10. Investigators and administrators of the Division of Compliance Enforcement of the Department of Motor Vehicles who perform the duties specified in subsection 2 of NRS 481.048;
 11. Officers and investigators of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles who perform the duties specified in subsection 3 of NRS 481.0481;
 12. Legislative police officers of the State of Nevada;
 13. Parole counselors of the Division of Child and Family Services of the Department of Health and Human Services;
 14. Juvenile probation officers and deputy juvenile probation officers employed by the various judicial districts in the State of Nevada or by a department of juvenile justice services established by ordinance pursuant to NRS 62G.210 whose official duties require them to enforce court orders on juvenile offenders and make arrests;
 15. Field investigators of the Taxicab Authority;
 16. Security officers employed full-time by a city or county whose official duties require them to carry weapons and make arrests;
 17. The chief of a department of alternative sentencing created pursuant to NRS 211A.080 and the assistant alternative sentencing officers employed by that department;
 18. Criminal investigators who are employed by the Secretary of State; and
 19. The Inspector General of the Department of Corrections and any person employed by the Department as a criminal investigator.
- (Added to NRS by 1999, 2419; A 2001, 1729, 2594; 2003, 180, 1133, 2526; 2009, 637; 2011, 79, 724; 2015, 2522; 2019, 3255)

NRS 289.470 “Category II peace officer” defined. [Effective July 1, 2020.] “Category II peace officer” means:

1. The bailiffs of the district courts, justice courts and municipal courts whose duties require them to carry weapons and make arrests;
2. Subject to the provisions of NRS 258.070, constables and their deputies;
3. Inspectors employed by the Nevada Transportation Authority who exercise those powers of enforcement conferred by chapters 706 and 712 of NRS;
4. Special investigators who are employed full-time by the office of any district attorney or the Attorney General;
5. Investigators of arson for fire departments who are specially designated by the appointing authority;

6. The brand inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by chapter 565 of NRS;

7. The field agents and inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by NRS 561.225;

8. Investigators for the State Forester Firewarden who are specially designated by the State Forester Firewarden and whose primary duties are related to the investigation of arson;

9. Agents of the Nevada Gaming Control Board who exercise the powers of enforcement specified in NRS 289.360, 463.140 or 463.1405, except those agents whose duties relate primarily to auditing, accounting, the collection of taxes or license fees, or the investigation of applicants for licenses;

10. Investigators and administrators of the Division of Compliance Enforcement of the Department of Motor Vehicles who perform the duties specified in subsection 2 of NRS 481.048;

11. Officers and investigators of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles who perform the duties specified in subsection 3 of NRS 481.0481;

12. Legislative police officers of the State of Nevada;

13. Parole counselors of the Division of Child and Family Services of the Department of Health and Human Services;

14. Juvenile probation officers and deputy juvenile probation officers employed by the various judicial districts in the State of Nevada or by a department of juvenile justice services established by ordinance pursuant to NRS 62G.210 whose official duties require them to enforce court orders on juvenile offenders and make arrests;

15. Field investigators of the Taxicab Authority;

16. Security officers employed full-time by a city or county whose official duties require them to carry weapons and make arrests;

17. The chief of a department of alternative sentencing created pursuant to NRS 211A.080 and the assistant alternative sentencing officers employed by that department;

18. Agents of the Cannabis Compliance Board who exercise the powers of enforcement specified in NRS 289.355;

19. Criminal investigators who are employed by the Secretary of State; and

20. The Inspector General of the Department of Corrections and any person employed by the Department as a criminal investigator.

(Added to NRS by 1999, 2419; A 2001, 1729, 2594; 2003, 180, 1133, 2526; 2009, 637; 2011, 79, 724; 2015, 2522; 2019, 3255, 3867, effective July 1, 2020)

NRS 289.480 “Category III peace officer” defined. [Effective through June 30, 2020.] “Category III peace officer” means a peace officer whose authority is limited to correctional services, including the superintendents and correctional officers of the Department of Corrections. The term does not include a person described in subsection 19 of NRS 289.470.

(Added to NRS by 1999, 2421; A 2001 Special Session, 236; 2009, 639; 2011, 80, 725; 2019, 3256)

NRS 289.480 “Category III peace officer” defined. [Effective July 1, 2020.] “Category III peace officer” means a peace officer whose authority is limited to correctional services, including the superintendents and correctional officers of the Department of Corrections. The term does not include a person described in subsection 20 of NRS 289.470.

(Added to NRS by 1999, 2421; A 2001 Special Session, 236; 2009, 639; 2011, 80, 725; 2019, 3256, effective July 1, 2020)

NRS 289.490 “Commission” defined. “Commission” means the Peace Officers’ Standards and Training Commission.

(Added to NRS by 1999, 2421)

Administration

NRS 289.500 Peace Officers' Standards and Training Commission: Creation; membership; terms and compensation of members.

1. The Peace Officers' Standards and Training Commission, consisting of nine members appointed by the Governor, is hereby created. The Governor shall appoint:

(a) Two members from Clark County, one of whom must be from a metropolitan police department created pursuant to chapter 280 of NRS if one exists in Clark County;

(b) One member from Washoe County;

(c) Three members from counties other than Clark and Washoe Counties;

(d) One member from a state law enforcement agency that primarily employs peace officers required to receive training as category I peace officers;

(e) One member who is a category II peace officer; and

(f) One member who is a category III peace officer.

2. Members of the Commission serve terms of 2 years. Members serve without compensation, but are entitled to the per diem allowance and travel expenses provided for state officers and employees generally.

3. The Governor shall make the appointments to the Commission from recommendations submitted by Clark County, Washoe County, professional organizations of sheriffs and police chiefs of this State and employee organizations that represent only peace officers of this State who are certified by the Commission.

(Added to NRS by 1999, 2421; A 2005, 1105; 2007, 595)

NRS 289.510 Peace Officers' Standards and Training Commission: Powers and duties; regulations. [Effective through June 30, 2020.]

1. The Commission:

(a) Shall meet at the call of the Chair, who must be elected by a majority vote of the members of the Commission.

(b) Shall provide for and encourage the training and education of persons whose primary duty is law enforcement to ensure the safety of the residents of and visitors to this State.

(c) Shall adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. The regulations must establish:

(1) Requirements for basic training for category I, category II and category III peace officers and reserve peace officers;

(2) Standards for programs for the continuing education of peace officers, including minimum courses of study and requirements concerning attendance, which must require that all peace officers annually complete not less than 12 hours of continuing education in courses that address:

(I) Racial profiling;

(II) Mental health;

(III) The well being of officers;

(IV) Implicit bias recognition;

(V) De-escalation;

(VI) Human trafficking; and

(VII) Firearms.

(3) Qualifications for instructors of peace officers; and

(4) Requirements for the certification of a course of training.

(d) Shall, when necessary, present courses of training and continuing education courses for category I, category II and category III peace officers and reserve peace officers.

(e) May make necessary inquiries to determine whether the agencies of this State and of the local governments are complying with standards set forth in its regulations.

(f) Shall carry out the duties required of the Commission pursuant to NRS 432B.610 and 432B.620.

(g) May perform any other acts that may be necessary and appropriate to the functions of the Commission as set forth in NRS 289.450 to 289.650, inclusive.

(h) May enter into an interlocal agreement with an Indian tribe to provide training to and certification of persons employed as police officers by that Indian tribe.

2. Regulations adopted by the Commission:

(a) Apply to all agencies of this State and of local governments in this State that employ persons as peace officers;

(b) Must require that all peace officers receive training in the handling of cases involving abuse or neglect of children or missing children;

(c) Must require that all peace officers receive training in the handling of cases involving abuse, neglect, exploitation, isolation and abandonment of older persons or vulnerable persons; and

(d) May require that training be carried on at institutions which it approves in those regulations.

(Added to NRS by 1999, 2421; A 2001, 1730; 2009, 2449; 2015, 831; 2019, 1009, 3495)

NRS 289.510 Peace Officers' Standards and Training Commission: Powers and duties; regulations. [Effective July 1, 2020.]

1. The Commission:

(a) Shall meet at the call of the Chair, who must be elected by a majority vote of the members of the Commission.

(b) Shall provide for and encourage the training and education of persons whose primary duty is law enforcement to ensure the safety of the residents of and visitors to this State.

(c) Shall adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. The regulations must establish:

(1) Requirements for basic training for category I, category II and category III peace officers and reserve peace officers;

(2) Standards for programs for the continuing education of peace officers, including minimum courses of study and requirements concerning attendance, which must require that all peace officers annually complete not less than 12 hours of continuing education in courses that address:

(I) Racial profiling;

(II) Mental health;

(III) The well being of officers;

(IV) Implicit bias recognition;

(V) De-escalation;

(VI) Human trafficking; and

(VII) Firearms.

(3) Qualifications for instructors of peace officers; and

(4) Requirements for the certification of a course of training.

(d) Shall, when necessary, present courses of training and continuing education courses for category I, category II and category III peace officers and reserve peace officers.

(e) May make necessary inquiries to determine whether the agencies of this State and of the local governments are complying with standards set forth in its regulations.

(f) Shall carry out the duties required of the Commission pursuant to NRS 432B.610 and 432B.620.

(g) May perform any other acts that may be necessary and appropriate to the functions of the Commission as set forth in NRS 289.450 to 289.680, inclusive.

(h) May enter into an interlocal agreement with an Indian tribe to provide training to and certification of persons employed as police officers by that Indian tribe.

(i) Shall develop and approve a standard curriculum of certified training programs in crisis intervention, which may be made available in an electronic format, and which address specialized responses to persons with mental illness and train peace officers to identify the signs and symptoms of mental illness, to de-escalate situations involving persons who appear to be experiencing a behavioral health crisis and, if appropriate, to connect such persons to treatment. A peace officer who completes any program developed pursuant to this paragraph must be issued a certificate of completion.

2. Regulations adopted by the Commission:

(a) Apply to all agencies of this State and of local governments in this State that employ persons as peace officers;

(b) Must require that all peace officers receive training in the handling of cases involving abuse or neglect of children or missing children;

(c) Must require that all peace officers receive training in the handling of cases involving abuse, neglect, exploitation, isolation and abandonment of older persons or vulnerable persons; and

(d) May require that training be carried on at institutions which it approves in those regulations.

(Added to NRS by 1999, 2421; A 2001, 1730; 2009, 2449; 2015, 831; 2019, 1009, 3495, 4462, effective July 1, 2020)

NRS 289.520 Executive Director: Appointment; qualifications; classification; restrictions on other employment; removal. The Commission, by majority vote of its members, shall appoint an Executive Director of the Commission. The Executive Director:

1. Must be selected with special reference to the person's training, experience, capacity and interest in the field of administering laws and regulations relating to the training of peace officers.

2. Is in the unclassified service of the State.

3. Shall not pursue any other business or occupation, or perform any other duties of any other office of profit without the prior approval of the Commission.

4. May be removed by the Commission, by a majority vote of its members, at any time for cause.

(Added to NRS by 1999, 2422)

NRS 289.530 Powers of Executive Director. With the advice of the Commission, the Executive Director of the Commission may:

1. Appoint employees, agents, consultants and other staff of the Commission and prescribe their duties;

2. Administer and direct the daily operation of the staff and resources of the Commission;

3. Inspect academies for training peace officers, and issue and revoke certificates of approval to such academies;

4. Certify qualified instructors for approved courses of training for peace officers and issue appropriate certificates to instructors;

5. Certify peace officers who have satisfactorily completed courses of training for peace officers and issue basic, intermediate, advanced and management professional certificates to peace officers;

6. Make recommendations to the Commission concerning the issuance of executive certificates;

7. Cause annual audits to be made relating to the operation of academies for training peace officers;

8. Consult and cooperate with academies for training peace officers concerning the development of the basic and advanced training programs for peace officers;

9. Consult and cooperate with academies for training peace officers concerning the development of specialized courses of study in this State for peace officers in the areas of police science, police administration, corrections, probation, the social sciences and other related areas;

10. Consult and cooperate with other departments and agencies of this State and of local governments concerning the training of peace officers;

11. Report to the Commission at the regular meetings of the Commission and at such other times as the Commission may require, and recommend the denial, suspension or revocation of certification of a peace officer to the Commission as deemed necessary;

12. Execute contracts on behalf of the Commission; and

13. Perform any other acts necessary and appropriate to the carrying out of the duties of the Executive Director of the Commission.

(Added to NRS by 1999, 2422)

NRS 289.540 Account for the Training of Peace Officers: Creation; administration; acceptance of gifts, donations, bequests, grants, money or other financial assistance; expenditures.

1. An Account for the Training of Peace Officers is hereby created in the State General Fund. The Account must be administered by the Executive Director of the Commission. The Executive Director may apply for, accept and expend any gift, donation, bequest, grant or other source of money or other financial assistance from any person, association, corporation or other organization having an interest in the training of peace officers, and from the United States and any of its agencies or instrumentalities, for deposit in the Account. The money in the Account must be expended in accordance with the terms and conditions of the gift, donation, bequest or grant, or in accordance with subsection 2.

2. Except as otherwise provided in subsection 1, the money in the Account may be used only for the training of persons whose primary duty is law enforcement or for other purposes approved by the Commission.

(Added to NRS by 1999, 2423)

Peace Officers

NRS 289.550 Persons required to be certified by Peace Officers' Standards and Training Commission; period by which certification is required.

1. Except as otherwise provided in subsection 2 and NRS 3.310, 4.353, 258.007 and 258.060, a person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive, must be certified by the Commission within 1 year after the date on which the person commences employment as a peace officer unless the Commission, for good cause shown, grants in writing an extension of time, which must not exceed 6 months, by which the person must become certified. A person who fails to become certified within the required time shall not exercise any of the powers of a peace officer after the time for becoming certified has expired.

2. The following persons are not required to be certified by the Commission:

(a) The Chief Parole and Probation Officer;

(b) The Director of the Department of Corrections;

(c) The Director of the Department of Public Safety, the deputy directors of the Department and the chiefs of the divisions of the Department other than the Investigation Division and the Nevada Highway Patrol;

(d) The Commissioner of Insurance and the chief deputy of the Commissioner of Insurance;

(e) Railroad police officers; and

(f) California correctional officers.

(Added to NRS by 1999, 2423; A 2001, 1731, 2595; 2001 Special Session, 236; 2003, 289, 306; 2005, 674; 2007, 2192; 2011, 726; 2013, 2949; 2019, 1077)

NRS 289.555 Person convicted of felony not qualified to serve as peace officer. A person who has been convicted of a felony in this State or any other state is not qualified to serve as a category I peace officer, category II peace officer or category III peace officer regardless of whether the person has been restored to the person's civil rights.

(Added to NRS by 2003, 2697)

NRS 289.560 Application for certification as peace officer to include social security number. [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.] An application for certification as a peace officer must include the social security number of the applicant.

(Added to NRS by 1999, 2423)

NRS 289.570 Submission of statement by applicant for certification as peace officer regarding payment of child support; grounds for denial of certification; duty of Commission. [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. An applicant for certification as a peace officer shall submit to the Peace Officers' Standards and Training Commission the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commission shall include the statement required pursuant to subsection 1 in:

- (a) The application or any other forms that must be submitted for the issuance of the certification; or
- (b) A separate form prescribed by the Commission.

3. An applicant may not be certified by the Commission if the applicant for certification:

- (a) Fails to submit the statement required pursuant to subsection 1; or
- (b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commission shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

(Added to NRS by 1999, 2423)

NRS 289.580 Suspension of certification as peace officer for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of certification. [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. If the Peace Officers' Standards and Training Commission receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who has been certified as a peace officer,

the Commission shall deem the person's certification to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commission receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person who has been certified stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Peace Officers' Standards and Training Commission shall reinstate a certification as a peace officer that has been suspended by a district court pursuant to NRS 425.540 if the Commission receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certification was suspended stating that the person whose certification was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

(Added to NRS by 1999, 2424)

NRS 289.590 Training in proper use of choke hold as condition of certification; annual training and recertification; regulations.

1. As a condition of the certification of a peace officer employed by an agency that authorizes the use of a choke hold in the course of the peace officer's duties, the Peace Officers' Standards and Training Commission shall require the peace officer to be trained in the proper use of the choke hold. In addition, the Commission shall require annual training and recertification in the proper use of the choke hold if the agency employing the peace officer continues to authorize the official use of the choke hold.

2. The Commission shall adopt regulations regarding the minimum training and testing required to comply with the requirements of subsection 1 and the manner in which each such agency shall demonstrate its continuing compliance with the requirements of subsection 1.

(Added to NRS by 1999, 2424)

NRS 289.595 Training in effective responses to incidents involving dogs or where dogs are present; adoption of policies and regulations.

1. Each law enforcement agency shall adopt policies setting forth when a peace officer who is employed by the agency is required to be trained in effective responses to incidents involving dogs or where dogs are present.

2. In adopting the policies required by subsection 1, each law enforcement agency must consider the job descriptions, work environments and duties of the peace officers employed by the agency.

3. Training for a peace officer who is required pursuant to subsection 1 to be trained in effective responses to incidents involving dogs or where dogs are present must include, without limitation:

- (a) Differentiating between aggressive and nonthreatening dog behaviors;
- (b) Nonlethal methods of handling potentially dangerous dogs;
- (c) The role and capabilities of local animal control agencies; and
- (d) Any related subjects the Commission deems appropriate.

4. The Commission shall adopt regulations regarding the minimum standards for training in effective responses to incidents involving dogs or where dogs are present.

(Added to NRS by 2015, 448)

NRS 289.600 Training in dealing with crimes of stalking and aggravated stalking as condition of certification. As a condition of the certification of each peace officer, the Peace Officers' Standards and Training Commission shall require each peace officer to be trained in dealing with the crimes of stalking and aggravated stalking, including, without limitation:

1. The manner in which a report from a person who claims to be a victim of stalking or aggravated stalking should be taken;

2. The proper method of carrying out an investigation of alleged stalking or aggravated stalking; and

3. The elements of the crimes of stalking and aggravated stalking.

(Added to NRS by 1999, 1378; A 2001, 171)

NRS 289.605 Training in identifying and interacting with persons with developmental disabilities as condition of certification.

1. The Peace Officers' Standards and Training Commission shall require, as a condition of the certification of each peace officer, the completion of training concerning identifying and interacting with persons with developmental disabilities.

2. Training completed pursuant to this section also satisfies the requirement for such training prescribed by NRS 450B.160 or 450B.180, if applicable.

3. As used in this section, "developmental disability" has the meaning ascribed to it in NRS 435.007.

(Added to NRS by 2019, 2096)

Law Enforcement Dispatchers

NRS 289.650 Voluntary program for training; certification of instructors and law enforcement dispatchers; regulations. [Effective through June 30, 2020.]

1. The Commission shall:

(a) Establish by regulation the minimum standards of a voluntary program for the training of law enforcement dispatchers.

(b) Certify qualified instructors for approved courses of training for law enforcement dispatchers and issue appropriate certificates to instructors who become certified.

(c) Issue appropriate certificates to law enforcement dispatchers who have satisfactorily completed the voluntary program.

2. As used in this section, "law enforcement dispatcher" means a person who is employed by a law enforcement agency or regional telecommunication center and who promotes public safety by:

(a) Receiving calls for service related to crimes, traffic incidents, public safety and any other related calls for assistance; and

(b) Providing immediate and critical communication between the public and law enforcement agencies.

(Added to NRS by 2017, 231)

NRS 289.650 Voluntary program for training; certification of instructors and law enforcement dispatchers; regulations. [Effective July 1, 2020.]

1. The Commission shall:

(a) Establish by regulation the minimum standards of a voluntary program for the training of law enforcement dispatchers. Such standards must include training relating to behavioral health crisis intervention as described in NRS 289.510.

(b) Certify qualified instructors for approved courses of training for law enforcement dispatchers and issue appropriate certificates to instructors who become certified.

(c) Issue appropriate certificates to law enforcement dispatchers who have satisfactorily completed the voluntary program.

2. As used in this section, "law enforcement dispatcher" means a person who is employed by a law enforcement agency or regional telecommunication center and who promotes public safety by:

(a) Receiving calls for service related to crimes, traffic incidents, public safety and any other related calls for assistance; and

(b) Providing immediate and critical communication between the public and law enforcement agencies.

(Added to NRS by 2017, 231; A 2019, 4463, effective July 1, 2020)

Behavioral Health Issues

NRS 289.675 Behavioral health field response grant program. [Effective July 1, 2020.]

1. The Commission shall, subject to the availability of funds appropriated for such a purpose, develop and implement a behavioral health field response grant program for the purpose of allowing law enforcement and behavioral health professionals to safely respond to crises, including, without limitation, by telephone or video, involving persons with behavioral health issues. The Commission may use a portion of the appropriated funds to develop data management capability to support the program.
2. A local law enforcement agency may submit a grant application to the Commission that contains the agency's proposal to develop its behavioral health field response by incorporating behavioral health professionals into its behavioral health field response planning, or two or more local law enforcement agencies may submit a joint grant application that contains their joint proposal. Any proposal submitted by a law enforcement agency must provide a plan for improving behavioral health field response and diversion from incarceration through modifying or expanding law enforcement practices in partnership with behavioral health professionals. The Commission may prioritize grant applications that include total matching funds.
3. The Commission shall appoint a peer review panel to review, in consultation with behavioral health organizations and the Department of Health and Human Services the grant applications submitted by local law enforcement agencies and select the grant recipients. To the extent possible, at least one grant recipient must be from a rural county. To avoid any conflict of interest, any law enforcement agency that is included in a proposal shall recuse itself from voting on the peer review panel.
4. If the Commission certifies that the grant application of a selected recipient satisfies the proposal criteria, the Commission shall distribute grant funds to the selected recipient. The Commission shall make every effort to fund at least three grants each fiscal year. Grant recipients must be selected and receive grant funds not later than October 1 of each year the behavioral health field response grant program is funded.
5. A grant recipient must provide for at least one behavioral health professional who will perform professional services under its plan. Such a behavioral health professional may assist patrolling officers in the field or in an on-call capacity, provide preventive, follow-up training on behavioral health field response best practices or provide other services at the direction of the grant recipient. A grant recipient may coordinate with local public safety answering points to maximize the goals of its plan.
6. Using existing resources, the Commission shall:
 - (a) Consult with the staff of the Office of Analytics of the Department of Health and Human Services to establish data collection and reporting guidelines for grant recipients for the purpose of studying and evaluating whether the use of behavioral health field response programs improves the outcomes of interactions with persons experiencing behavioral health crises, including, without limitation, by reducing rates of violence, arrests and jail or emergency room usage.
 - (b) Consult with the Department of Health and Human Services to develop requirements for participating behavioral health professionals.
 - (c) Coordinate with the Department of Health and Human Services, the Division of Public and Behavioral Health of the Department of Health and Human Services and public safety answering points to develop and incorporate telephone or dispatch protocols to assist with behavioral health, law enforcement and emergency medical responses involving behavioral health situations.
7. On or before December 1 of each year the behavioral health field response grant program is funded, the Commission shall submit to the Governor, the Chair of the Senate Standing Committee on Judiciary and the Chair of the Assembly Standing Committee on Judiciary a report concerning the program which must include, without limitation:
 - (a) Information on and feedback from grant recipients; and

(b) Information on the use of grant funds and the participation of behavioral health professionals.

8. A grant recipient shall develop and provide or arrange joint training necessary for both law enforcement and behavioral health professionals to operate successfully and competently in partnership with law enforcement agencies. The training must provide such professionals with working knowledge of law enforcement procedures and tools sufficient to provide for the safety of such professionals.

9. Nothing in this section prohibits the Commission from soliciting or accepting private funds to support the behavioral health field response grant program.

(Added to NRS by 2019, 4460, effective July 1, 2020)

NRS 289.680 Policies and procedures for interacting with persons suffering from behavioral health issues; use of behavioral health specialists. [Effective July 1, 2020.]

1. Each law enforcement agency in this State shall:

(a) Establish a policy and procedure for interacting with persons who suffer from a behavioral health issue, including, without limitation, a mental illness as defined in NRS 176A.045, an acute mental health crisis, a developmental disability or an intellectual disability as those terms are defined in NRS 435.007 or a substance use disorder; and

(b) Subject to the availability of funds appropriated for such a purpose, contract with or employ a behavioral health specialist.

2. As used in this section, "behavioral health specialist" means a physician who is certified by the Board of Medical Examiners, a psychologist, a physician assistant or an advanced practice registered nurse who is certified to practice as a behavioral health specialist, or a person who is licensed as a clinical social worker, clinical professional counselor or marriage and family therapist.

(Added to NRS by 2019, 4462, effective July 1, 2020)

MISCELLANEOUS PROVISIONS

NRS 289.800 Reimbursement for cost to repair or replace uniform, accessories or safety equipment damaged or destroyed in performance of duties. In addition to the compensation required by NRS 281.121, a state agency that employs a person:

1. Upon whom some or all of the powers of a peace officer are conferred pursuant to:

(a) Subsection 1 of NRS 289.180 or subsection 1 of NRS 289.220; or

(b) Paragraph (d) of subsection 1 of NRS 289.270 and who is employed by the Nevada Highway Patrol; and

2. Who is required to purchase and wear a uniform or other clothing, accessories or safety equipment while performing the person's duties for the State as a peace officer,
→ may, after first obtaining the written approval of the Director of the Office of Finance, reimburse that person for the cost to repair or replace the person's required uniform or other clothing, accessories or safety equipment if it is damaged or destroyed, by means other than ordinary wear and tear, while the person is performing the person's duties for the State as a peace officer.

(Added to NRS by 1995, 2744; A 1997, 3263; 2005, 674; 2011, 726; 2019, 1078)

NRS 289.810 Peace officer prohibited from using choke hold; exceptions; agencies required to adopt regulations.

1. A peace officer shall not use a choke hold on any other person unless:

(a) The agency employing the peace officer authorizes the use of the choke hold by its peace officers in the course of their duties; and

(b) The peace officer has successfully completed training in the proper use of the choke hold and holds current certification for its use by the agency which employs the peace officer.

2. If a law enforcement agency finds that a peace officer has violated the provisions of subsection 1, the peace officer is subject to such disciplinary action as is provided for such an offense by the agency.

3. Each agency in this state which employs a peace officer shall adopt regulations which govern whether the use of a choke hold by its officers during the course of their duties is authorized. If an agency authorizes such a use of a choke hold, the agency shall also adopt regulations which specifically address:

(a) The manner in which a peace officer, certified for use of a choke hold, is authorized to use the hold in the course of the peace officer's duties;

(b) The manner in which records of training, certification and recertification will be maintained to ensure compliance with any applicable statutory or other related requirements; and

(c) The consequences of unauthorized or uncertified use of a choke hold.

(Added to NRS by 1991, 982; A 1993, 2525; 1997, 508; 1999, 2425)

NRS 289.820 Peace officer prohibited from engaging in racial profiling; retaliatory or punitive action prohibited against peace officer for disclosure of information concerning racial profiling.

1. A peace officer shall not engage in racial profiling.

2. No retaliatory or punitive action may be taken against a peace officer who discloses information concerning racial profiling.

3. For purposes of this section, "racial profiling" means reliance by a peace officer upon the race, ethnicity or national origin of a person as a factor in initiating action when the race, ethnicity or national origin of the person is not part of an identifying description of a specific suspect for a specific crime.

(Added to NRS by 2001, 2852)

NRS 289.830 Certain law enforcement agencies shall require certain peace officers to wear portable event recording device while on duty; adoption of policies and procedures governing use; request for and inspection of record made by device.

1. A law enforcement agency shall require uniformed peace officers that it employs and who routinely interact with the public to wear a portable event recording device while on duty. Each law enforcement agency shall adopt policies and procedures governing the use of portable event recording devices, which must include, without limitation:

(a) Except as otherwise provided in paragraph (d), requiring activation of a portable event recording device whenever a peace officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a uniformed peace officer and a member of the public;

(b) Except as otherwise provided in paragraph (d), prohibiting deactivation of a portable event recording device until the conclusion of a law enforcement or investigative encounter;

(c) Prohibiting the recording of general activity;

(d) Protecting the privacy of persons:

(1) In a private residence;

(2) Seeking to report a crime or provide information regarding a crime or ongoing investigation anonymously; or

(3) Claiming to be a victim of a crime;

(e) Requiring that any video recorded by a portable event recording device must be retained by the law enforcement agency for not less than 15 days; and

(f) Establishing disciplinary rules for peace officers who:

(1) Fail to operate a portable event recording device in accordance with any departmental policies;

(2) Intentionally manipulate a video recorded by a portable event recording device; or

(3) Prematurely erase a video recorded by a portable event recording device.

2. Any record made by a portable event recording device pursuant to this section is a public record which may be:

(a) Requested only on a per incident basis; and

(b) Available for inspection only at the location where the record is held if the record contains confidential information that may not otherwise be redacted.

3. As used in this section:

(a) "Law enforcement agency" means:

- (1) The sheriff's office of a county;
- (2) A metropolitan police department;
- (3) A police department of an incorporated city;
- (4) A department, division or municipal court of a city or town that employs marshals;
- (5) The Nevada Highway Patrol; or
- (6) A board of trustees of any county school district that employs or appoints school police officers.

(b) "Portable event recording device" means a device issued to a peace officer by a law enforcement agency to be worn on his or her body and which records both audio and visual events occurring during an encounter with a member of the public while performing his or her duties as a peace officer.

(Added to NRS by 2015, 572; A 2017, 588; 2019, 3257)

NRS 289.840 Notification of Handle with Care Program when certain children are exposed to certain traumatic events. [Effective January 1, 2020.]

1. Any officer or employee of a law enforcement agency who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that a child who may attend a public school has been exposed to a traumatic event shall notify the Handle with Care Program established pursuant to NRS 388.14538 any time the traumatic event involves:

- (a) Domestic violence in the presence of the child;
- (b) Death of a member of the family or household of the child;
- (c) Arrest of a parent or guardian of the child in the presence of the child; or
- (d) Child abuse or neglect.

2. In addition to providing the notification required by subsection 1, any officer or employee of a law enforcement agency may notify the Handle with Care Program established pursuant to NRS 388.14538 if the officer or employee of a law enforcement agency reasonably believes a child who attends a public school has been exposed to any other event that may affect his or her ability to succeed at school.

3. Nothing in this section shall be construed to require an officer or employee of a law enforcement agency to provide notification pursuant to this section if the disclosure of information may compromise an ongoing investigation.

(Added to NRS by 2019, 3972, effective January 1, 2020)

EXHIBIT 3

EXHIBIT 3

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1 7. I am familiar with the Critical Incident Review Process at Las Vegas Metropolitan
2 Police Department ("LVMPD") through representing other FOP covered officers in that process, as
3 well as through legal work I do for the Police Managers and Supervisors Association.

4 8. Attached to the Ps & As as Exhibit "1" is a copy of LVMPD Regulation 5/109.00
5 governing the Critical Incident Review Process.

6 9. Because the Critical Incident Review Process may result in punitive action, the
7 interviews and hearings conducted pursuant to that Process fall under NRS 289.057 and have been
8 long recognized by LVMPD as such.

9 10. LVMPD Officer Jordan Travers was alleged to have knowledge in connection with an
10 officer involved shooting which occurred on February 9, 2021. Attached to the Ps & As as Exhibit "2"
11 is the Employee Notification of Administrative Investigation served on Officer Travers along with a
12 copy of Nevada's Peace Officers Bill of Rights which accompanied the Notice.

13 11. Officer Travers carried Full Coverage under the FOP/LDF Plan and requested through
14 Sedgwick that I represent him in connection with his Critical Incident Review Team ("CIRT")
15 interview. I was assigned to the case by Sedgwick.

16 12. Travers informed Las Vegas Metropolitan Police Department that I would be
17 representing him.

18 13. On March 4, 2021 I received a telephone call from LVMPD Labor Relations Counsel
19 Jamie Frost who informed me that I would not be permitted to represent Officer Travers at his CIRT
20 interview due to the fact that I was appearing through the FOP/LDF Plan. I explained to Ms. Frost that
21 as a Plan Attorney, I represent the individual officer, do not represent any FOP Lodge or any other
22 employee organization, and that I am paid by Sedgwick Insurance. Ms. Frost indicated that she
23 understood this, but I would nevertheless not be allowed to represent Officer Travers.
24

1 14. I asked Ms. Frost for confirmation in writing. Later that day I received the e-mail
2 attached to the Ps & As as Exhibit "6".

3 15. Attached to the Ps & As as Exhibit "7" is a copy of the EMRB's decision which was
4 referenced in Ms. Frost's e-mail.

5 16. In addition to being an FOP/LDF Plan Attorney, I am the General Counsel for several
6 exclusively bargaining representatives. Even though NRS 289.080 give its all officers the right to
7 choose their own representatives in connection with investigations pursuant to NRS 289.057, this does
8 not mean that the exclusive representative is excluded. In any grievance hearing the exclusive
9 representative may be present to ensure that the contract is protected. Attached is Exhibit "8" to the Ps
10 & As is the e-mail I directed to then Clark County School District General Counsel Carlos McDade in
11 my capacity as the General Counsel for the Police Officers Association of the Clark County School
12 District on this subject.

13 FURTHER YOUR AFFIANT SAYETH NAUGHT.

14
15 
ADAM LEVINE, ESQ.

16 SUBSCRIBED and SWORN to before
17 me this 8th day of April, 2021.

18 
19 NOTARY PUBLIC in and for said
COUNTY and STATE



EXHIBIT 4

EXHIBIT 4

The Fraternal Order of Police
EIN 31-1439914

LEGAL DEFENSE PLAN
PLAN DESCRIPTION
(Full Coverage Options)

(As amended through September 2, 2020)

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PLAN DESCRIPTION

(Full Coverage Options)

The Plan is sponsored by the FOP Grand Lodge and operated by Legal Plan, Inc. for the purpose of paying Legal Defense Costs for covered claims, on the terms and conditions specified in the Plan Description (Full Coverage Options). The Plan coverage includes claims for Legal Defense Costs which a Participant incurs to defend litigation arising in connection with the authorized carrying of a weapon pursuant to and in full accordance with the Law Enforcement Officers Safety Act of 2004 (H.R. 218, as amended) ("LEOSA"). Legal Plan, Inc. also offers coverage limited to LEOSA claims only under a separate plan description.

Section 1. DEFINITIONS. As used in this Plan Description:

- A. "FOP" means the national Fraternal Order of Police;
- B. "Legal Plan, Inc." means the Fraternal Order of Police-Legal Plan, Inc.;
- C. "Board" means the Board of Trustees of Legal Plan, Inc., as that Board is constituted from time to time;
- D. "Plan" means the full coverage options benefit plan sponsored by the FOP Grand Lodge as set forth in this Plan Description and any attachments, as amended from time to time;
- E. "Participant" means an active or associate member of the FOP as provided in this Plan Description, who has been accepted for participation and who has paid to the Plan or on whose behalf a group has paid to the Plan all applicable participation fees due under the Plan. If a group certificate of participation replaces a previous certificate, "Participant" includes any member covered under the previous certificate who reappplies not later than thirty (30) days after the inception date of the replacement certificate;
- F. "Legal Defense Costs" means expenses a Participant has incurred for Legal Services and Reimbursable Costs, not to exceed the applicable limits of the Plan's liability;
- G. "Legal Services" includes advice, consultation and representation rendered by a licensed attorney to a Participant, including usual fees and office charges for paralegal assistance, telephone, mailing, copying, telefaxing, travel and similar office expenses, as well as all other necessary and appropriate costs and expenses, but excluding Reimbursable Costs;
- H. "Reimbursable Costs" means witness fees and expenses, expert fees and expenses including consultation, investigator fees and expenses, filing fees, court costs and transcript costs;
- I. "Plan Attorney" means an attorney with whom the Plan has contracted to perform legal services for Participants, whose name appears on the list of such attorneys;

- J. "Non-Plan Attorney" means an attorney, other than a Plan attorney, selected by a Participant to provide Legal Services under the Plan, who meets applicable minimum qualifications set forth in this Plan Description and whose name has been recorded by the Benefit Administrator for payment, not to exceed the Plan's limits of liability applicable to such representation;
- K. "Employment" means employment by or service with a federal, state or local government law enforcement agency, whether with or without compensation, or employment by a law enforcement entity operated by a private college/university, private railroad or Native American tribal government;
- L. "in the scope of employment" means all activities of a Participant while on duty in connection with Employment, and all law enforcement activities authorized or required by the Participant's Employment, whether on duty or technically off duty;
- M. "Notice" means reporting information as required by this Plan Description. Notice to an Administrator shall be effective on the date the Administrator actually receives it. Any notice of claim to the Benefit Administrator must be confirmed in writing on the prescribed claim form;
- N. "Retroactive Date" means the starting date after which a Participant's legal defense coverage has remained in continuous, uninterrupted effect, including renewals, as provided in Section 9; and
- O. "Extended Reporting Period" means an additional period, if any, for reporting claims after Plan participation ends, as provided in this Plan Description.

Section 2. PLAN SPONSOR AND ADMINISTRATION. The FOP, a not-for-profit corporation incorporated under the laws of Pennsylvania, acting through its Grand Lodge, is the Plan Sponsor. The Plan is managed and administered by Legal Plan, Inc. through its Board and the Board's designated Administrators and representatives.

Legal Plan, Inc. shall employ or contract with an Enrollment Administrator and a Benefit Administrator (collectively hereinafter referred to as the "Administrators") whose duties on behalf of the Plan in accordance with the Plan Description shall be as follows:

- A. Enrollment Administrator. The Enrollment Administrator shall:
 - 1. publicize and promote the Plan;
 - 2. determine eligibility, enroll eligible persons, and provide and distribute enrollment cards and copies of the Summary Plan Description;
 - 3. bill, collect and disburse participation fees as the Board directs;

4. report and account for receipts and disbursements as the Board directs; and
5. respond to Participants' and prospective Participants' questions concerning eligibility and enrollment. Questions should be directed to the Enrollment Administrator as follows until further notice:

Hylant Group, Inc.
P.O. Box 1687
Toledo, Ohio 43603-1687
Telephone: 1-800-341-6038
Fax: 1-419-255-7557
E-mail: maureen.jagos@fop.net

B. Benefit Administrator. The Benefit Administrator shall:

1. approve and contract with attorneys, paralegals and other necessary persons to provide Legal Services as Plan Attorneys;
2. approve Non-Plan Attorneys as meeting the applicable minimum requirements specified in this Plan Description; the Benefit Administrator shall give written notice to Participants who elect to use Non-Plan Attorneys stating the applicable benefit limits, deductible and lack of malpractice insurance requirements, and shall require the Participant to return a signed copy of the notice acknowledging the same before any benefits are paid;
3. review, approve or disapprove claims for benefits;
4. administer and pay claims;
5. report and account for receipts and disbursements as the Board directs; and
6. respond to Participants' questions, notices and claims relating to benefits. Questions should be directed to the Benefit Administrator as follows until further notice:

Sedgwick
P.O. Box 94950
Cleveland, Ohio 44101-4950
Telephone: 1-866-857-3276
Fax: 1-501-747-5668
E-mail: foplegal@sedgwick.com

Section 3. FINANCIAL. The Plan provides for the payment of Legal Defense Costs as provided in this Plan Description. Participation fees payable by each Participant shall be determined by the Board from time to time. Participation fees shall be based on the amounts projected to be needed to pay benefits, administrative costs and premiums for excess insurance, and to establish a fund for overhead

and contingencies. Participation fees shall be held in trust for the exclusive benefit of Legal Plan, Inc. and its Participants, deposited in a fund or funds held in trust and invested by the Board until used to pay benefits, administrative costs, premiums, and overhead and contingencies. All benefits shall be paid from and are limited to assets of the Plan and any collectible insurance.

Section 4. CHANGES TO PLAN. The Board may modify, amend or terminate the Plan at any time. Any change shall become effective for all participation fees due, benefits accruing and claims made to Participants or reported to the Plan on or after the effective date of the change.

Section 5. ELIGIBILITY. All active and associate FOP members in good standing who are in Employment with federal, state or local government law enforcement agencies are eligible to participate in the Plan and receive benefits. The Administrators shall make reasonable efforts to ensure that all Participants are active or associate FOP members in good standing and otherwise eligible before enrolling them or paying benefits.

FOP members in good standing who are in Employment with a law enforcement entity operated by a private college/university, private railroad or Native American tribal government, and who are certified or commissioned to carry firearms by an appropriate state or federal authority, including but not limited to CPOST or POST certification, to carry firearms and make arrests in a law enforcement capacity, may be eligible in the Board's discretion to purchase administrative and criminal coverage under the Plan. The rate for such administrative and criminal coverage shall be the same as the rate for full coverage; the rate for such criminal coverage only shall be the same as the rate for civil and criminal coverage.

Section 6. PREREQUISITES FOR PARTICIPATION. Participation in, and the right to benefits under the Plan, arises only upon approval by the Enrollment Administrator of an application to participate and payment to the Enrollment Administrator of applicable participation fees.

Section 7. METHOD OF APPLICATION – INDIVIDUALS AND GROUPS.

A. Application for participation in the Plan may be made on one of two bases:

1. Individual application for participation by any active or associate member of the FOP; or
2. Group application for participation by active and associate members of state or local lodge, bargaining unit or state labor councils (a "group"). A group:
 - a. shall consist of at least fifty (50) FOP active members of a state or local lodge, bargaining unit or state labor council; or
 - b. shall consist of such lesser number of FOP active members of any such entity equal to at least fifty percent (50%) of the number of members; and
 - c. under either subparagraph (a) or (b), may also include as Participants FOP associate members who are not eligible to be active members and who are in

Employment with federal, state or local government law enforcement agencies, in the Board's discretion.

- B. Applications for participation shall be submitted to the Enrollment Administrator on forms provided by the Plan. A group may apply for coverage by subgroups having different coverages; provided that, all Participants in a group or subgroup shall have the same coverage. Groups applying for coverage which includes optional prior-acts coverage authorized pursuant to subsection C of Section 14 shall not be eligible for coverage by subgroups at inception of coverage; all Participants in such a group shall have the same coverage at inception. Applications not fully and accurately completed may result in ineligibility for, and non-payment of, benefits.
- C. By Participating on a group basis and receiving the reduced premium for group participation, the group agrees that it is responsible for and has a fiduciary duty under ERISA to distribute identification cards, Summary Plan Descriptions, revised Summary Plan Descriptions, annual summaries of material modifications and summary annual financial reports to each group Participant in accordance with ERISA standards whenever such items are received from the Plan.

Section 8. EFFECTIVE DATE OF COVERAGE. The effective date of Plan coverage for any Participant shall be the first (1st) day after the day on which the Enrollment Administrator approves the application for participation and receives applicable participation fees for individual applicants or satisfactory payment arrangements for group applicants, as applicable.

Section 9. RETROACTIVE DATE.

- A. A Participant's Retroactive Date is the date the Participant's coverage under the Plan shall be deemed to have started. No benefits shall be paid for Legal Defense Costs incurred before the Retroactive Date.
- B. A Participant's Retroactive Date applicable to a claim for coverage of a particular risk is the earliest of the following:
 - 1. the effective date of the Participant's coverage for that risk under the Plan; all coverages may not have the same effective date, including but not limited to administrative off-duty coverage; or
 - 2. the effective date of the Participant's coverage for that risk under legal defense insurance sponsored by the FOP Grand Lodge immediately preceding the creation of the Plan, if such coverage was continuous with coverage under the Plan.
- C. Coverage under the Plan shall be deemed "continuous" with previous coverage for a risk only if the effective date of Plan coverage is not more than thirty (30) days after the date of termination of previous coverage for that risk.

- D. If a Participant's coverage for a risk under the Plan terminates effective on a certain date and is subsequently reinstated at a later date, the Participant's Retroactive Date following reinstatement shall be the effective date of reinstatement.

Section 10. CERTIFICATE OF PARTICIPATION.

- A. Upon approval of any group or individual application for participation, the Enrollment Administrator shall provide to the group or individual the following:
1. A certificate of participation showing:
 - a. the identity and address of the enrolling group or individual;
 - b. any applicable deductibles;
 - c. the name of each Participant;
 - d. the Retroactive Date, applicable to each Participant;
 - e. the amount of the annual participation fee applicable to each Participant;
 - f. the dates on which participation takes effect and is scheduled to terminate for each Participant; and
 2. A copy of the current Summary Plan Description for each Participant.
- B. Each Participant shall be issued a participation identification card, which shall contain such information as Legal Plan, Inc. shall determine from time to time. The Enrollment Administrator shall issue the identification card no later than thirty (30) days after the Participant's effective date of coverage and shall distribute it to the individual Participant or, in the case of a group, to the group for distribution to each Participant.

Section 11. PLAN COVERAGES – COVERAGE OPTIONS.

- A. The Plan shall be offered with the following coverage options:
- Full Coverage – Coverages A, B, and C
- Two Coverages – Coverages B and C
- B. Rates for groups may vary from rates for individual Participants, as established by the Board from time to time.

Section 12. PARTICIPATION FEES – TERMINATION FOR NON-PAYMENT – DEDUCTIBLES.

- A. Applicable participation fees must be timely paid in order for a Participant to be entitled to benefits under the Plan. Participation fees shall be as set forth in the attached Participation Fees Schedule, as supplemented, modified or amended from time to time by the Board.
- B. Participation fees shall be payable on an annual basis and such additional bases as the Board shall prescribe from time to time. The initial participation fee payment shall be due at the time of, and for individual coverage shall be submitted with, the application. Thereafter participation fees shall be paid on or before any scheduled due date in the amounts billed by the Enrollment Administrator. Bills shall be mailed at least thirty (30) and not more than sixty (60) days prior to the applicable due date.
- C. If any payment is not timely made as required in subsection B of this section, the payment shall be delinquent and participation in the Plan shall cease effective as of 12:01 a.m. on the applicable due date. If all delinquent amounts are received by the Enrollment Administrator within thirty (30) days following the due date, participation shall be reinstated automatically, retroactive to the due date; provided, however, that coverage of claims arising during the thirty (30) day reinstatement period of any delinquent payment may be denied following automatic reinstatement, in the Board's discretion. If any payment is delinquent thirty-one (31) days or more, participation shall be deemed to have terminated effective as of 12:01 a.m. on the applicable due date, and reapplication shall be required.
- D. Groups may request and the Board may provide for deductibles with respect to any coverage. A participation fee reduction may be adopted in each such instance in an amount determined by the Board. Any such deductibles shall be in addition to any deductible applicable to the use of a Non-Plan Attorney.

Section 13. TERMINATION OF PARTICIPATION AND OF ENTITLEMENT TO BENEFITS.

- A. Except as provided otherwise in subsection B of this section, a Participant's participation in and entitlement to benefits under the Plan shall automatically terminate upon:
 - 1. non-payment of participation fees when due;
 - 2. voluntary withdrawal from participation;
 - 3. termination of the Participant's law enforcement Employment, either voluntary, involuntary or by retirement pursuant to the retirement rules of the Participant's employer;
or
 - 4. termination of the Participant's membership in the FOP while the Participant remains employed as a law enforcement officer.

- B. Termination shall not affect any right to benefits which has accrued prior to the date of termination or during any applicable Extended Reporting Period.

Section 14. COVERAGES.

- A. Subject to the exclusions in Section 16, any applicable limits of liability specified in this Plan Description, and any coverage limitations or deductibles stated in this Plan Description or the certificate of participation, the Plan shall reimburse and pay on behalf of a Participant reasonable and necessary Legal Defense Costs which the Participant is legally obligated to pay under the following coverages:

1. Coverage A: Legal defense or, subject to the absolute discretion of the Benefit Administrator and the Board, other appropriate legal challenge to adverse administrative discipline or sanction based on the Participant's individual conduct or misconduct in the scope of employment:
 - a. involving salary, dismissal, change of assignment, demotion, leave of absence, resignation or other professional rights, duties or responsibilities as determined by the Board, where such discipline or sanction arises directly out of the Participant's activities in the scope of employment; or
 - b. involving the issuance, suspension, cancellation or revocation of any credential, certification or license issued by federal, state or local authorities, which credential the Participant is required to have in the scope of employment;
2. Coverage B: Legal defense of a civil action or proceeding brought against a Participant, arising directly out of the Participant's activities in the scope of employment; provided, coverage does not extend to counterclaims or cross claims in actions brought by a Participant, unless the Board approves otherwise; and
3. Coverage C: Legal defense of a criminal action or proceeding brought against a Participant, arising directly out of the Participant's activities in the scope of employment, including grand jury proceedings.

The Plan is excess. However, if an employer defends the Participant in a lawsuit arising in the scope of employment, the Plan will provide an additional lawyer to monitor the claim if the Participant is exposed to the likelihood of personal liability for money damages. If an employer refuses to defend the Participant, the Plan will pay to defend the Participant.

- B. Coverage A shall extend to off-duty occurrences which give rise to administrative discipline or sanction. No additional fee shall be charged for this extension of coverage. Such off-duty supplement to Coverage A is subject to all terms and conditions of that coverage. As used in this subsection, "off-duty" means conduct not "in the scope of employment" as defined in this Plan Description.

- C. The Board in its absolute discretion may offer prior-acts coverage to qualifying groups at the time a group initially joins the Plan in accordance with the following:
1. Prior-acts coverage, if offered, shall cover claims arising from occurrences, acts or events commencing prior to the initial effective date of the group's coverage under the Plan/Participant's Retroactive Date, subject to any applicable prior-acts date for Coverage E.
 2. Prior-acts coverages shall consist of:
 - a. Coverage E: coverage for claims whose existence is unknown to the claimant and of which no notice has been given, which would have been covered by the group's previous plan or insurance had that plan or insurance not been replaced by coverage under this Plan and which have not been reported to the previous plan or insurance. The Board shall adopt a prior-acts date as provided in paragraph 6 of this subsection; and
 - b. Coverage F: coverage for claims whose existence is known or should have been known to the claimant and which were or would have been reported to and covered by the group's previous plan or insurance. To qualify for coverage under Coverage F, each such existing claim must be fully disclosed in the group's application as provided in paragraph 7 of this subsection.
 3. Benefits for prior-acts Coverage E and Coverage F extend only to Legal Defense Costs incurred on and after the group's initial effective date of coverage/claimant's Retroactive Date.
 4. To qualify for prior-acts coverage, a group shall meet the following criteria:
 - a. the group, including all Participants in the group, carried comparable coverage for equivalent risks (administrative, civil and criminal) under the group's previous plan or insurance, and coverage under such previous plan or insurance is "continuous" with Plan coverage, as defined in subsection C of Section 9;
 - b. the group, including all Participants in the group, reported all claims of which the Participants knew or should have known to the group's previous plan or insurance; and
 - c. the group's previous plan or insurance terminated all benefits to Participants in the group, including benefits for existing claims, upon termination of its coverage.
 5. Prior-acts coverage may be extended only to Participants who are members of the group on the initial effective date of the group's Plan coverage and whose Retroactive Date is the same as the group's initial effective date of coverage under the Plan. Group members joining the Plan as Participants subsequent to that date are not eligible for prior-acts coverage.

6. In exercising its discretion to offer Coverage E, the Board shall adopt a prior-acts date preceding the group's initial effective date of coverage, and shall limit the group's Coverage E to claims arising from occurrences, acts or events commencing on and after that date. The Board shall adopt and implement additional charges at rates determined to be actuarially sound and sufficient to fully compensate for expected losses and expense for such coverage.

7. In exercising its discretion to offer Coverage F, the Board shall require groups to fully disclose all relevant information on existing claims. The Board shall underwrite this coverage for each group individually at rates for that group determined by an experienced claims professional to be sufficient to fully compensate for expected losses and expense for such coverage. Existing claims which are not fully disclosed or for which information disclosed is misleading are not eligible for coverage and will not be covered.

8. Subsection B of Section 13 notwithstanding, Plan benefits for prior-acts coverages afforded pursuant to this subsection shall cease upon termination of the Participant's and/or group's coverage under the Plan.

Section 15. CLAIMS-MADE COVERAGE – DATES – EXTENDED REPORTING PERIOD.

- A. Except as provided otherwise in subsection B of this section for claims reported during the Extended Reporting Period and subsection D of this section for prior-acts coverage of existing claims, this Plan applies only to claims that are first made to the Participant and reported to the Plan on or after the Participant's Retroactive Date applicable to that claim, and on or before the date of termination of the applicable coverage with respect to that Participant. In addition, except as provided otherwise in subsection D of this section for prior-acts coverage, the claim must arise out of an occurrence, acts or events commencing between the same dates.

For purposes of determining the respective dates on which a claim is made and reported:

1. a claim shall be deemed made to the Participant when the Participant is first notified by any person of information suggesting the possibility of a claim;
2. a claim shall be deemed reported to the Plan when Notice of such claim is first received by the Benefit Administrator; and
3. all claims by a Participant arising out of the same occurrence, acts or events shall be deemed made and reported on the respective dates the first claim is made to the Participant and reported to the Plan.

- B. Claims under Coverages A (administrative), B (civil) and C (criminal) which are first reported to the Plan following termination of one or more of said coverages are subject to an Extended Reporting Period only as described in this subsection:

1. An Extended Reporting Period applies to claims under Coverages A, B and C only if:
 - a. a Participant's coverage is canceled or terminates other than because the Participant's membership in the FOP is terminated or suspended; or
 - b. the plan renews or replaces the applicable certificate of participation with a new plan that:
 1. has a retroactive date later than the Participant's Retroactive Date under this Plan; or
 2. does not apply on a claims-made basis.
 2. The Extended Reporting Period commences on the date a Participant's applicable coverage terminates, and extends indefinitely.
 3. The Extended Reporting Period applies only to claims for occurrences, acts or events that commence after the Participant's Retroactive Date, and on or before the date of termination of the applicable coverage with respect to that Participant.
 4. If the Extended Reporting Period applies, covered claims which are first reported during the Extended Reporting Period shall be deemed made on the last day before the applicable date of termination.
 5. The Extended Reporting Period does not reinstate or increase the limits of liability applicable to any claim.
- C. Subsection B of this section does not apply to prior-acts Coverage E and Coverage F. There is no Extended Reporting Period for claims under Coverage E and Coverage F.
- D. Prior-acts Coverage E and Coverage F cover claims without regard to the fact that the claims arose from occurrences, acts or events which commenced before the effective date of the group's initial coverage/Participant's applicable Retroactive Date; provided that, Plan benefits extend only to Legal Defense Costs incurred on or after that date; and further provided that, for purposes of Coverage E, the occurrences, acts or events commenced after any applicable prior-acts date adopted by the Board.

Section 16. EXCLUSIONS – PLAN IS EXCESS.

- A. The coverages and benefits provided under the Plan do not apply to:
1. claims for occurrences involving activities not in the scope of employment except as provided in subsection B of Section 14;
 2. claims relating to a collective bargaining agreement (other than grievances arising from disciplinary action against a particular individual Participant), workers' compensation, occupational health and safety, unemployment compensation, disability benefits, or similar laws or programs;
 3. payment or indemnification for any loss incurred, including but not limited to loss incurred as a result of any proceeding, action, judgment, award, settlement, fine or penalty of any kind;
 4. claims or matters for which legal defense is available under a motor vehicle insurance policy or any other plan or insurance, as provided in subsection B of this section;
 5. lawsuits which do not arise directly from alleged acts or omissions of the Participant in the scope of employment;
 6. attempts to obtain, protest, preserve or set aside pension or retirement benefits or benefit determinations, including disability retirement benefits, or decisions relating to any of these, under any federal, state, local government or private employer system;
 7. the cost of bail bonds, appeal bonds or other bonds; and
 8. as otherwise excluded or limited by this Plan Description.
- B. If other valid and collectible plan or insurance is obligated to cover and/or is available to the Participant for claims otherwise covered under this Plan, then the coverage provided under such other plan or insurance shall be primary coverage. Coverage under this Plan shall apply only in excess of every other plan or insurance, and shall not be considered as "additional insurance" or contribute with such other plan or insurance in any way except to provide excess coverage after the available limits of all such other plans or insurance have been exhausted.

There may be situations in which an attorney is being provided through another plan or insurance, but the obligation to provide services and coverage is limited in scope. Under those circumstances only, this Plan affords monitoring coverage as provided in the Board's Standards for Attorney Monitoring, as amended from time to time.

As used in this section, the term "other plan or insurance" includes but is not limited to insurance or self-insurance coverage or benefits provided by or through a Participant's

employer, other groups or associations; insurance coverage or benefits covering and/or provided by a Participant; coverage or benefits provided by self-insurance, trusts, pools, risk retention groups or captive insurance companies; any other insurance or self-insurance plan or agreement of risk assumption; and any obligation to defend, pay or indemnify under any statute, ordinance, regulation or agreement.

Prior to seeking benefits under the Plan, the Participant agrees to:

1. submit any and all claims otherwise covered by the Plan to all such other plans or insurance and, if requested by Legal Plan, Inc., to undertake and pursue such coverage claims. The Participant's obligation under this paragraph shall exist regardless of whether the claim against the Participant is brought in the Participant's official capacity, individually or is a claim for punitive damages;
2. execute and deliver instruments and other documents and do whatever else is necessary to pursue such coverage claims; and
3. do nothing to prejudice the rights of Legal Plan, Inc. to recover money or benefits due the Participant in connection with such coverage claims. Legal Plan, Inc. shall pay all expense for the pursuit of such coverage claims, and reserves the right to assume the legal representation of the Participant for that purpose.

Section 17. BENEFITS – SALARY REIMBURSEMENT OPTION – DEDUCTIBLES – TEMPORARY AND PROBATIONARY EMPLOYEES.

- A. Plan Attorney Benefits. Subject to subsections C, D, E, and F, Legal Services are covered in full when a Participant uses a Plan Attorney, including off-duty administrative coverage pursuant to subsection B of Section 14.

Reimbursable Costs are also covered in full; provided that expenses for expert witnesses, investigators and transcripts must be approved in advance by the Benefit Administrator.

- B. Non-Plan Attorney Benefits. Subject to subsections C, D, E and F, Legal Services are covered up to the following limits and subject to the stated deductible per claim when using a Non-Plan Attorney:

| | | |
|-------------|---------------------------------|----------|
| Coverage A: | All services including off-duty | \$10,000 |
| Coverage B: | All services except trial | \$10,000 |
| | Trial | \$10,000 |

| | | |
|-------------|--|----------|
| Coverage C: | All services except trial and grand jury | \$10,000 |
| | Trial | \$10,000 |
| | Advice and consultation for grand jury hearing | \$2,500 |
| | Deductible | \$250 |

Reimbursable Costs are covered up to a maximum limit per claim of \$1,000 when using a Non-Plan Attorney.

The Plan reserves the right to refuse to make direct benefit payments to a Non-Plan Attorney who has, in dealings with the Plan, refused or neglected to provide reports and billings in accordance with Plan requirements and/or has tendered bills for hours in excess of the usual and customary amount for similar representation in the geographic area. If the Plan refuses to make direct payment, the Plan shall reimburse the Participant in the usual and customary amount applicable to the representation. Such payment shall relieve the Plan of any obligation to the Non-Plan Attorney and the Participant for that representation.

- C. Deductibles. If a deductible applies, the Plan's obligation to pay benefits applies only to Legal Defense Costs in excess of any applicable deductible(s) unless deductibles are paid to the Plan as provided in this subsection. Deductibles apply to all Legal Defense Costs sustained as the result of any one claim. The Benefit Administrator may require proof of payment or require payment to the Plan of deductibles before the Plan pays benefits.
- D. Salary Reimbursement Option. In lieu of Legal Defense Costs, Participants whose claims involve suspension or other discipline resulting in actual salary loss may elect to receive reimbursement of up to three (3) days' actual salary loss. The salary loss must result directly from the matters at issue in the claim, as determined by the Benefit Administrator. Salary loss shall be calculated at the Participant's regular basic salary rate excluding the value of overtime, perquisites (such as use of a vehicle or other equipment, etc.) and employment benefits, as determined by the Benefit Administrator. The election may not be rescinded or reversed with respect to the claim or other related claims after the reimbursement benefit is paid. This option is not subject to any deductible which would otherwise apply. This option may not be elected nor may benefits be paid for more than one occurrence taking place in any one (1)-year period of time, except as the Board in its discretion may approve otherwise. The Participant has the duty to provide satisfactory proof of salary and actual salary loss. The right to elect this option expires 180 days after the first (1st) day suspension begins.
- E. Benefit Limit for Termination of Temporary and Probationary Employees. Notwithstanding any other provision of this Plan Description, temporary or probationary employees serving at will who are terminated without any right of appeal during or at the end of the temporary employment or probationary period, for any reason or for no stated reason, shall be entitled only to Legal Defense Costs for one informal *Loudermill* or similar non-adversarial meeting or hearing.

- F. Change of Attorney. The Plan covers Legal Defense Costs of one attorney from commencement to termination of a claim. If the Participant desires to change to a different attorney or to use more than one attorney, the Plan will cover the charges of any such different or additional attorney only if the Benefit Administrator, in its absolute discretion, has determined that there is good cause for doing so and the claimant has agreed to pay the costs, as determined by the Benefit Administrator, of any duplication of services.

Section 18. MISCELLANEOUS TERMS AND CONDITIONS.

- A. Notice of Occurrence. When an occurrence takes place which may result in a claim for benefits, the Participant shall give written or verbal Notice to the Benefit Administrator as soon as practicable. Such Notice shall specify particulars sufficient to identify the Participant, and all reasonably obtainable information respecting the time, place and circumstances of the occurrence. When verbal Notice is given, the Participant shall confirm Notice in writing on the claim form prescribed by the Benefit Administrator.
- B. Assistance and Cooperation of the Participant. The Participant shall assist and cooperate with the Plan toward the resolution of any claim, including assisting with discovery and appearing for depositions, hearings and trial.
- C. Subrogation. In the event of any payment under the Plan, the Plan shall be subrogated, to the extent of the Plan's payment of benefits, to the Participant's right to recover attorney's fees against any person, agency, organization, political subdivision or any other entity. The Participant shall execute and deliver instruments and other documents, cooperate with the Plan in every way, appear for depositions and hearings, and do whatever else is necessary to secure and pursue such rights. The Participant shall do nothing to prejudice such rights.

In the event that subrogation is not permitted or is unavailable for any reason, and the Participant is entitled to receive or receives payment as the result in part of any such right to recover attorney's fees, Legal Plan, Inc. shall have a right of reimbursement for all amounts paid by the Plan on behalf of the Participant, up to the amount of the Participant's Plan benefits.

- D. Changes and Amendments to Plan Only by Written Amendment. Notice to or knowledge possessed by any agent or other person shall not effect a waiver or change in any part of this Plan Description, its attachments or any certificate of participation or estop the Plan from asserting any right under the terms of same. The terms of this Plan Description, its attachments or any certificate of participation shall not be waived or changed, except by written amendment or endorsement approved by the Board and issued to form a part of same.

E. Cancellation.

1. A certificate of participation may be canceled by a group, or the participation of an individual Participant may be canceled by the Participant, for any reason by:
 - a. surrendering the certificate to the Plan or the Enrollment Administrator; or
 - b. mailing written notice to the Enrollment Administrator stating the date thereafter on which cancellation shall be effective.
2. Except as provided in subsection F, a certificate of participation, or the participation of an individual Participant, may be canceled by the Plan only for non-payment of participation fees, discontinuation of the Plan or the Participant's ineligibility. Notice shall be given by mailing written Notice to a canceled group or group Participant, or to a canceled individual Participant, at the last-known address, stating the effective date and time of cancellation. The mailing of Notice shall be sufficient proof of notice. The effective date and time of cancellation stated in the Notice shall be the date and time of termination.
3. In-person delivery, telefaxing to the last-known telefax number or e-mailing to the last-known e-mail address of such written Notice of cancellation by a group, the Participant or the Plan shall be equivalent to mailing.
4. If a group cancels a certificate of participation, or an individual Participant cancels participation for any reason other than death, permanent disability or a judgment of incompetency, participation fees shall be deemed earned through the last day of the month in which cancellation is effective. Any prepaid, unearned participation fees in excess of such earned fees shall constitute the refund due the group or individual; provided, if cancellation is effective in any month other than the month of the membership anniversary, an additional amount equal to annual administrative fees incurred by the Plan shall be deducted from the refund. Refunds may be made either on the date cancellation is effective or as soon as practicable.
5. Other than as provided in paragraph 4 of this subsection, any other participation fee adjustment or refund shall be computed pro rata as of the effective date of cancellation.

F. Nonrenewal. If the Plan declines to renew a group's certificate of participation or coverage of a group Participant, the Plan shall mail or deliver to the group or group Participant at the address shown in the declarations written Notice of the nonrenewal not less than sixty (60) days before the expiration date of the certificate. If the Plan declines to renew coverage of an individual Participant, the Plan shall mail or deliver to the Participant at the Participant's last-known address or email address written Notice of the nonrenewal not less than sixty (60) days before the expiration of the Participant's coverage. The mailing of Notice shall be sufficient proof of Notice.

G. Non-Assignment. The interest of any Participant in the Plan and its benefits is not assignable.

- H. Death, Disability or Incompetency. If a Participant dies, is permanently disabled or is adjudged incompetent, the Plan shall terminate on the date of death, disability or incompetency as to that Participant. The Plan shall pay benefits to or on behalf of the Participant or Participant's legal representative with respect to covered claims incurred prior to the date of death, disability or incompetency.
- I. Conformity to Statute. Terms of a certificate of participation which are in conflict with applicable statutes are hereby amended to conform to such statutes.

Section 19. PLAN TERRITORY. The benefits afforded by this Plan apply only to Legal Defense Costs for suits, proceedings or criminal actions brought within the United States of America.

Section 20. CHOICE OF COUNSEL. A Participant shall have the right to employ an attorney of his or her choice, subject to the Plan's terms, conditions and applicable coverage limits. The Plan shall have no obligation to designate or recommend attorneys and shall not be a guarantor in any manner of the skill of any attorney, even if the attorney is a Plan Attorney.

Section 21. PLAN'S LIMITED AUTHORITY OVER COUNSEL. Legal Plan, Inc. acting through the Benefit Administrator shall have sole authority to approve, contract with and list Plan Attorneys, and to approve Non-Plan Attorneys as meeting minimum applicable Plan qualifications, to render Legal Services to Participants.

Participants are free to select counsel other than Plan Attorneys. However, the Plan is not obligated to pay for such representation except on the terms and conditions provided in this Plan Description.

Section 22. MINIMUM ATTORNEY QUALIFICATIONS.

- A. No attorney, including a Non-Plan Attorney, shall be engaged by the Plan or compensated by the Plan for services rendered to a Participant unless such attorney has attested in writing to the Plan that the attorney:
1. is properly authorized to practice law in the applicable jurisdiction;
 2. accepts the Plan's hourly fee, expense reimbursement and other compensation arrangements; and
 3. accepts the Plan's required periodic reporting and billing procedures.
- B. No Plan Attorney shall be compensated by the Plan for Legal Services rendered to a Participant unless the attorney has provided current proof of coverage under a professional legal malpractice liability insurance policy providing coverage limits of at least \$100,000 per claim/\$300,000 aggregate, or such higher limits as the Benefit Administrator may deem necessary with respect to a particular representation.

- C. Each Plan Attorney shall disclose in writing the following information:
1. all attorney disciplinary proceedings to which the attorney or the attorney's firm are currently subject, or state that there are none;
 2. all legal actions alleging legal malpractice to which the attorney or the attorney's firm are currently subject, or state that there are none;
 3. all rulings by attorney disciplinary authorities or courts during the preceding five years which resulted in sanctions, including formal and informal reprimands, against the attorney or any firm with which the attorney was associated at the time sanctions were imposed, or state that there are none; and
 4. all legal actions during the preceding five (5) years in which the attorney or any firm with which the attorney was associated was adjudged guilty of or liable for legal malpractice, or state that there are none.
- D. Each Plan Attorney shall agree to give written notice to the Benefit Administrator within ten (10) days following the initiation of any attorney disciplinary proceedings or legal actions alleging legal malpractice, which proceedings or actions involve the attorney or the attorney's firm.
- E. Each Plan Attorney shall agree to abide by the Plan's detailed attorney guidelines.
- F. No attorney shall be approved or included on the list of Plan Attorneys until such attorney has complied with subsections A, B, C, D and E of this section. No attorney shall be approved or included on the list of Plan Attorneys if the Board disapproves the attorney's inclusion on the list.
- G. The Board may remove Plan Attorneys from their status as Plan Attorneys at any time with or without cause. Removal shall apply to all claims reported to and accepted by the Plan on and after the effective date of removal.

Section 23. ATTORNEYS NOT PLAN EMPLOYEES OR AGENTS. Attorneys performing Legal Services for Participants under the terms of this Plan are not agents or employees of the Plan. Any attorney rendering Legal Services to Participants under the Plan shall maintain the attorney-client relationship with the Participant and is solely responsible to the Participant for all Legal Services provided. The Plan shall not interfere with or have the right to control performance of the attorney's duties. Information which the attorney receives from the Participant incidental to the attorney-client relationship shall be confidential and, except for use incidental to the administration of the Plan, shall not be disclosed without the Participant's consent.

Section 24. INTERPRETATION OF THE PLAN. The construction and interpretation of Plan provisions are vested with the Board in its absolute discretion, including but not limited to the determination of facts, coverage, benefits, eligibility and all other Plan provisions. The Board and the Plan shall endeavor to act, whether by general rules or by particular decisions, so as to treat all persons in similar circumstances without discrimination with respect to race, color, religion, creed, national origin or sex. The Board's constructions, interpretations, determinations and decisions shall be final, conclusive and binding upon all persons having an interest in the Plan.

Section 25. CLAIMS REPORTING AND APPEALS PROCEDURES.

A. A Participant shall promptly notify the Benefit Administrator of:

1. any occurrence the Participant has reason to believe may result in a claim for benefits;
2. any communication the Participant receives concerning a pending or threatened claim, action or proceeding which may result in a claim for benefits; and
3. any claim for benefits.

Notice must be confirmed in writing on a prescribed claim form provided by the Benefit Administrator.

B. The Benefit Administrator shall make a decision on any claim for benefits promptly, and not later than ninety (90) days after the Benefit Administrator's receipt of the claim, unless the Benefit Administrator determines special circumstances require an extension of the time for processing. In that case the Benefit Administrator shall notify the claimant in writing or electronically of an extension, not to exceed ninety (90) days, stating the special circumstances and the date by which a decision will be made. If the Benefit Administrator denies a claim, in whole or in part, the Benefit Administrator shall send the Participant a written or electronic notice, prepared in a manner calculated to be understood by the Participant, setting forth:

1. the specific reasons for the denial;
2. specific reference to pertinent Plan provisions on which the denial is based;
3. if applicable, a description of any additional material or information necessary for the Participant to perfect the claim and an explanation of why such material or information is necessary; and
4. an explanation of the Plan's review and appeal procedure, the time limits applicable to such procedure, and a statement that the claimant has a right to bring a civil action under Section 502(a) of the federal Employment Retirement Income Security Act ("ERISA") following an adverse benefits decision upon appeal and review.

- C. Within sixty (60) days of the date upon which a Participant is first notified of any decision by the Benefit Administrator to deny the Participant's claim in whole or in part, the Participant may appeal the Benefit Administrator's decision by submitting a written appeal to the Board. As part of the appeal procedure:

1. Participants shall have the opportunity to submit written comments, documents, records and other information relating to their claims;
2. Participants shall be provided upon request and free of charge reasonable access to and copies of all documents, records and other information relevant to their claims; and
3. All comments, documents, records and other information which the claimant submits shall be taken account of in the claim review, regardless of whether such information was submitted or considered in the initial benefit determination.

The Board shall notify the Participant through the Benefit Administrator of its decision in writing or electronically within sixty (60) days of its receipt of the appeal, unless the Benefit Administrator determines special circumstances require an extension. In that case the Benefit Administrator shall notify the claimant in writing or electronically of an extension, not to exceed sixty (60) days, stating the special circumstances and the date by which a decision will be made. The Board's decision shall state specific reasons for the decision with references to pertinent Plan provisions and shall state the claimant has the right to be provided upon request and free of charge reasonable access to and copies of all documents, records and other information relevant to the claim and has the right to bring a civil action as specified in paragraph B(4) of this section. The decision of the Board on appeal shall be final, and shall not be subject to further administrative appeal and review.

Section 26. SEVERABILITY. If any provision of this Plan Description or attachments is found to be invalid, unlawful or unenforceable, all other provisions shall remain in full force and effect.

Section 27. ERISA RIGHTS.

- A. This Plan Description constitutes the Summary Plan Description for purposes of the federal Employment Retirement Income Security Act ("ERISA"). Each Participant shall be entitled to a copy of this Summary Plan Description.
- B. Participants in the Plan are entitled to certain rights and protections under ERISA. ERISA provides that all Participants are entitled to:
 1. receive information about the Plan and benefits;
 2. examine, without charge, at the Board's office or the Enrollment Administrator's office, all Plan documents, including insurance contracts, and a copy of the latest annual report (Form 5500) filed with the U.S. Department of Labor, which is also available at the Public Disclosure Room of the Employment Benefits Security Administration;

3. obtain copies upon written request to the Board or Enrollment Administrator of all documents governing the operation of the Plan, including insurance contracts, and copies of the latest Summary Plan Description and annual report (Form 5500). The Board and the Enrollment Administrator may make a reasonable charge for the copies; and
 4. receive from the Board a summary of Legal Plan, Inc.'s annual financial report. The Board is required by law to furnish each Participant with a copy of the summary annual report.
- C. In addition to creating rights for Participants, ERISA imposes duties upon the people who are responsible for operation of the Plan. The people who operate the Plan, called "fiduciaries" of the Plan, have a duty to do so prudently and in the interest of you and other Participants and beneficiaries. No one may fire you or otherwise discriminate against you in any way for purposes of preventing you from obtaining a benefit or exercising your rights under ERISA.

If you make a claim for benefits which is denied or ignored in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

There are steps you can take to enforce your rights under ERISA. For instance, if you request a copy of Plan documents or the latest annual report from the Plan and do not receive them within thirty (30) days, you may file suit in Federal court. In such a case, unless the materials were not sent because of reasons beyond the Plan's control, the court may require the Board or other Plan Administrator to provide the materials and pay you up to \$110 a day until you receive the materials.

If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or Federal court.

If Plan fiduciaries misuse Legal Plan, Inc.'s money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor or file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose (for example, if the court finds that the claim is frivolous), the court may order you to pay these costs and fees.

If you have any questions about the Plan, you should contact the Board or the Administrators.

If you have any questions about this statement or your rights under ERISA or need assistance in obtaining documents from the Board or Plan Administrators, you should contact the nearest Office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your local telephone directory, or:

Division of Technical Assistance and Inquiries
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Ave. N.W.
Washington, D.C. 20210

You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.

Section 28. GENERAL INFORMATION.

| | |
|--|--|
| Plan Sponsor: | The Fraternal Order of Police Grand Lodge 701 Marriott Dr. Nashville, TN 37214 |
| Administrator and Agent for Service of Process: | The Fraternal Order of Police Legal Plan, Inc. 701 Marriott Dr. Nashville, TN 37214 |

Legal Process may also be served on the Board

Plan Trustees: Board of Trustees of the Fraternal Order of Police-Legal Plan, Inc.

Stephen E. James, President
2865 Temple Ave.
Long Beach, CA 90755

Jerry W. Wright, Trustee
1970 Cresswind Blvd.
Myrtle Beach, SC 29577

Peter J. Fogarty, Vice-President
7844 Leavenworth Road
Kansas City, KS 66109

Tony Harrison, Trustee
300 Kansas City St. #100
Rapid City, SD 57701

Robert A. Martin, Treasurer
182 Debbie Drive
Meriden, CT 06451

Bill Albertson, Trustee
3115 Coachlight Place
St. Joseph, MO 64503

David Mutchler, Secretary
6204 Price Lane Road
Louisville, KY 40229

Employer Identification

Number of Plan Sponsor: 31-1439914

Plan Number: 501

Plan Year Ends: April 30th of each year

Plan Records/Basis kept: Fiscal Year (May 1 - April 30)

PARTICIPATION FEES SCHEDULE

Groups:

| | |
|---|----------|
| Full Coverage (including administrative off-duty) | \$300.00 |
| Two Coverages – civil and criminal | \$64.00 |

Individuals:

| | |
|---|----------|
| Full Coverage (including administrative off-duty) | \$310.00 |
| Two Coverages – civil and criminal | \$68.00 |

Note: These fees may be modified in the event optional deductibles are approved, as provided in the Plan Description, and are subject to change in the Board's discretion. Additional fees will be charged for group prior-acts Coverage E and Coverage F.

Coverage for private university/college, private railway or Native American tribal law enforcement personnel does not include coverage for civil lawsuits.

EXHIBIT 5

EXHIBIT 5

FOP Attorney Search Results

[Return to Search Criteria](#)

| Warr e | Company | City | State | Phone | After Hours | |
|-------------------|---------------------------------|-----------|-------|--------------|----------------------------------|---|
| Adam Levine | Law Office of Daniel Marks | Las Vegas | NV | 702-386-0536 | 702-386-0536 (ANSWERING SERVICE) |  |
| Brent D. Huntley* | Huntley Law LLC | Las Vegas | NV | 702-849-2598 | 208-861-6055 |  |
| Carrie Hurtik* | Hurtik Law & Associates | Las Vegas | NV | 702-966-5200 | 702-461-0317 |  |
| Charles T. Wright | Piet & Wright | Las Vegas | NV | 702-566-1212 | |  |
| Daniel Marks | Law Office of Daniel Marks | Las Vegas | NV | 702-386-0536 | 702-386-0536 (ANSWERING SERVICE) |  |
| Garrett T. Ogata* | Law Offices of Garrett T. Ogata | Las Vegas | NV | 702-366-0891 | |  |
| Michael C. Van* | Shumway Van & Hansen | Las Vegas | NV | 702-478-7770 | |  |
| Peter M. Angulo* | Mountain Vista Law Group | Las Vegas | NV | 702-384-8000 | 702-525-0087 |  |
| Thomas Pitaro* | Pitaro & Fumo, Chartered | Las Vegas | NV | 702-382-9221 | 702-493-5149 |  |
| Devon Reese | Hutchison & Stefen PLLC | Reno | NV | 775-353-0746 | |  |
| Joey Gilbert* | Joey Gilbert Law | Reno | NV | 775-284-7700 | 775-741-1000 |  |

EXHIBIT 6

EXHIBIT 6

Adam Levine

From: Jamie Frost <J15279F@LVMPD.COM>
Sent: Thursday, March 04, 2021 3:34 PM
To: Adam Levine
Subject: Travers

Adam –

As we discussed, given the fact that your representation of Officer Travers is due to his membership with the FOP, the Department will not be allowing you to represent Officer Travers at his CIRT interview on Monday. The recent EMRB decision prohibits any representative from a rival organization.

Please let me know if you have any questions.

Thank you,

Jamie Frost

Labor Relations Counsel

Las Vegas Metropolitan Police Department
400 S. Martin Luther King Blvd., Las Vegas, NV 89106

☎ 702.828.3993 office | ☎ 702.274.2912 mobile | ✉ J15279F@lvmpd.com



ATTORNEY/CLIENT PRIVILEGE

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited.

EXHIBIT 7

EXHIBIT 7

Adam Levine

From: Adam Levine
Sent: Friday, March 10, 2017 1:40 PM
To: Carlos L. McDade
Subject: FW: Request for copies of non-member grievances

Carlos:

After being apprised of a personnel order assigning Christopher Klemp as an officer at a school, I began to wonder whether Officer Klemp filed a grievance which the Association was unaware of. I contacted America Lomeli in Employee Management Relations and explained that while non-members like Klemp have a right to file their own grievances, the POA remains the exclusive bargaining representative. I requested a copy of Klemp's grievance and any disposition(s) because as the exclusive bargaining representative the POA keeps records of grievances for all members of the bargaining unit. American indicated that she would provide me with the grievance and the disposition.

When I did not receive that which she had previously indicated she would send, I sent her the e-mail below reminding her that we were entitled to the information, and that in future cases when a grievance hearings for a non-POA member of the bargaining unit is scheduled, we must be notified and provided an opportunity to attend. The EMRB in Lyon County Education Association v. Lyon County School District, Case No. 2016-011 Item No. 817 (October 20, 2016) lays out the rules for members of bargaining units who do not join the employee organization who act for themselves in connection with grievances. That decision reiterates long-standing precedent that:

"In any matter involving a non-member or employee, NRS 288.140(2) provides that any action taken on a request or in adjustment of the grievance shall be consistent with the terms of an applicable negotiated agreement, if any. Accordingly, in any such case, the Board has ruled that the recognized bargaining agent is also entitled to be present "to monitor... Compliance with the applicable[negotiated agreement] and the provisions of NRS chapter 288. "

Accordingly, please provide us with the requested information relating to any grievances filed by Klemp. Do not make me take this matter before the EMRB as the law is so well established that I suspect the EMRB will award fees.

Adam Levine
Law Office of Daniel Marks

610 S. Ninth Street
Las Vegas, NV 89101
(702) 386-0536: Office
(702) 386-6812: Fax

From: America Lomeli [<mailto:alomeli1@interact.ccsd.net>]
Sent: Friday, March 10, 2017 1:23 PM
To: Adam Levine
Subject: Re: Request for copies of non-member grievances

Hello Adam,

Please address your concerns to our General Counsel, Carlos McDade.

Thank you,

Adam Levine <ALevine@danielmarks.net> writes:
America:

This e-mail is a follow-up to our discussion yesterday where I requested that you send me any grievances filed by non-POA member Christopher Klemp, and any dispositions of such grievances. The Police Officers Association is the exclusive bargaining representative for all police officers and sergeants even if they don't join the union. As such our grievance committee maintains records relating to grievances even if they are filed by the individual officers and do not use the union. The EMRB has held that when non-members pursue a grievance utilizing their own representatives, the exclusive bargaining representative has a right to be present and participate.

Adam Levine

Law Office of Daniel Marks

610 S. Ninth Street

Las Vegas, NV 89101

(702) 386-0536: Office

(702) 386-6812: Fax

America Lomeli
Personnel Analyst
Employee-Management Relations
SECTA Satellite Office
5708 Mountain Vista Street
Las Vegas, Nevada 89120
Phone: (702) 799-0210
Fax: (702) 799-5337

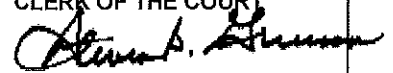
Adam Levine

From: Adam Levine
Sent: Thursday, March 09, 2017 3:26 PM
To: alomeli1@interact.ccsd.net
Subject: Request for copies of non-member grievances

America:

This e-mail is a follow-up to our discussion yesterday where I requested that you send me any grievances filed by non-POA member Christopher Klemp, and any dispositions of such grievances. The Police Officers Association is the exclusive bargaining representative for all police officers and sergeants even if they don't join the union. As such our grievance committee maintains records relating to grievances even if they are filed by the individual officers and do not use the union. The EMRB has held that when non-members pursue a grievance utilizing their own representatives, the exclusive bargaining representative has a right to be present and participate.

Adam Levine
Law Office of Daniel Marks
610 S. Ninth Street
Las Vegas, NV 89101
(702) 386-0536: Office
(702) 386-6812: Fax



1 **Marquis Aurbach Coffing**
2 Nick D. Crosby, Esq.
3 Nevada Bar No. 8996
4 10001 Park Run Drive
5 Las Vegas, Nevada 89145
6 Telephone: (702) 382-0711
7 Facsimile: (702) 382-5816
8 ncrosby@maclaw.com
9 Attorneys for Respondent, LVMPD

6 **DISTRICT COURT**

7 **CLARK COUNTY, NEVADA**

8 JORDAN TRAVERS,

9 Petitioner,

Case No.: A-21-832601-P
Dept. No.: 27

10 vs.

11 LAS VEGAS METROPOLITAN POLICE
12 DEPARTMENT,

13 Respondent.

14 **RESPONDENT LVMPD'S RESPONSE TO PETITION FOR INJUNCTIVE RELIEF**
15 **PURSUANT TO NRS 289.120**

16 Respondent, the Las Vegas Metropolitan Police Department (hereinafter "Department" or
17 "LVMPD"), by and through its attorney of record, Nick D. Crosby, Esq., with the law firm of
18 Marquis Aurbach Coffing, hereby files its response to Petitioner's Petition for Injunctive Relief.
19 This Response is made and based upon the attached memorandum of points and authorities, all
20 papers and pleadings on file herein, and any oral argument permitted by the Court during a
21 hearing on this matter.

22 Dated this 5 day of May, 2021.

23 **MARQUIS AURBACH COFFING**

24 By: 

25 Nick D. Crosby, Esq.
26 Nevada Bar No. 8996
27 10001 Park Run Drive
28 Las Vegas, Nevada 89145
Attorneys for Respondent, LVMPD

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The Department is bound by decisions issued from the Employee-Management Relations Board and the instant matter represents one of a handful of other cases filed and/or currently pending regarding the interpretation and/or application of a decision relating to the concept of exclusive representation. The Department does not take a position on the issue – one way or the other – and will abide by decisions issued from this Court or any other governing authority which has jurisdiction over the Department.

II. STATEMENT OF RELEVANT FACTSA. PETITIONER'S REPRESENTATION.

Petitioner Jordan Travers ("Petitioner") filed his Petition for Injunctive Relief on April 8, 2021 pursuant to Nevada Revised Statute 289.120. In the Petition, Petitioner alleges that he was denied a representative of his choosing during an interview/interrogation recognized under Nevada's Peace Officers Bill of Rights, Nevada Revised Statute chapter 289. Specifically, Petitioner alleges that he was provided a mandatory notice of interview pursuant to Nevada Revised Statute 289.060 on March 9, 2021 for an interview with the Department's Critical Incident Review Team ("CIRT"). (Pet., ¶ 6). Petitioner is not a member of the Las Vegas Police Protective Association, Inc. ("PPA"), which is the recognized, exclusive bargaining agent for rank-and-file police and corrections officers employed by the Department. (See id. at ¶ 8).

Petitioner alleges that he secured coverage from the Fraternal Order of Police Legal Defense Plan (the "Plan") which, according to the Petition, is a "self-funded benefits plan which provides an attorney to covered officers in connection with Civil, Criminal or Administrative proceedings...." (Id. at ¶ 9). Petitioner alleges the Plan is not an employee organization or union. (Id. at ¶ 11). Prior to his interview with CIRT, Petitioner was approved for Plan-covered counsel for his interview and he selected Adam Levine as his counsel. (Id. at ¶ 13).

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1 The Department was notified that Petitioner would be represented by Plan counsel and,
2 on March 4, 2020, LVMPD Labor Counsel Jamie Frost ("Frost") advised Mr. Levine of the
3 following:

4 As we discussed, given the fact that your representation of Officer Travers is due
5 to his membership with the [Fraternal Order of Police], the Department will not
6 be allowing you to represent Officer Travers at his CIRT interview on Monday.
The recent EMRB decision prohibits any representative from a rival organization.

7 (Pet., Exh. 6).

8 **B. THE EMRB'S DECISIONS.**

9 On June 17, 2020, the Employee-Management Relations Board ("Board" or "EMRB")
10 issued an *en banc* Declaratory Order in Nevada Highway Patrol Association v. State of Nevada
11 Department of Public Safety, et al., Case No. 2020-011, Item No. 865 (the "Declaratory Order").
12 (Exhibit A). As the Board noted in NHPA, the dispute there "essentially surround[ed] the
13 ability of other organizations not recognized as the exclusive representative to represent
14 bargaining unit members in matters not involving collective bargaining, such as grievances, OPR
15 investigations, and critical incidents." (Exh. A, p. 2:1-3). In NHPA, the Board concluded the
16 "exclusive representative" provisions of the Employee Management Relations Act, Nevada
17 Revised Statute chapter 288, and the representative rights under the Peace Officers Bill of
18 Rights, Nevada Revised Statute chapter 289, could be read together to "render a harmonious
19 result." (Id. at p. 3:22-24). In reconciling these two statutes, the Board cited with approval a
20 District Court decision in Washoe Ed. Support Professionals v. State of Nev., Local Gov.
21 Employee-Management Relations Bd., Case No. 09 OC 00086 1B (2010), which stated, in part,
22 that "[w]here...an employee organization has been recognized as the bargaining agent for a
23 bargaining unit, the bargaining agent's representative status is *exclusive* and no rival employee
24 organization may purport to 'represent' any employee in the unit in any grievance
25 proceeding...." (Id. at p. 5:7-9). The Board went on to hold, "While NRS 288.140 recognizes
26 the right of an employee not to become a member of the recognized employee organization and
27 to 'act for himself or herself' in connection with a grievance, nothing in that provision, or any
28

1 other provision of the EMRA, permits such an employee to be 'represented' by an agent or
2 employee of a rival employee organization serving in such a capacity." (Id. at p. 7:11-13).

3 Following the decision in NHPA, the National Latino Peace Officers Association
4 ("NLPOA") filed a petition for declaratory relief with the EMRB, challenging the Department's
5 interpretation of the NHPA decision. (**Exhibit B**). Essentially, NLPOA petitioned the Board to
6 declare that the NLPOA is not a "rival organization" to the PPA and, therefore, entitled to send
7 fellow peace officers to act as representatives in proceedings arising under Nevada Revised
8 Statute chapter 289. (See gen. id.). In response to the NLPOA's petition, the Department argued
9 the issue is one for the NLPOA and the PPA, as the Department did not and does not take a
10 position on the issue and would abide by any order issued by the Board. (**Exhibit C**, p. 3:6-11).

11 On February 25, 2021, the Board issued its decision on NLPOA's petition. (**Exhibit D**,
12 Item No. 870, Case No. 2020-033). In the NLPOA Decision, the Board reaffirmed its holding in
13 NHPA as it related to the harmonizing of chapters 288 and 289 of the Nevada Revised Statutes.
14 (Id. at p. 4:19-21). Without reaching the issue of whether the NLPOA was a "rival organization"
15 or not, the Board held that "based on not only the Legislative history and plain language of the
16 EMRA, but also the purposes and policies of the EMRA, NLPOA may not represent employees
17 of the bargaining unit in grievance proceedings." (Id. at p. 8:8-10).

18 **III. LEGAL ARGUMENT**

19 As the Department stated in its response to the NLPOA's petition, the Department does
20 not take a position on the issue – one way or the other. The Department is bound to comply with
21 orders issued by the Board and, based upon the NHPA decision, the Department has not
22 permitted representatives who are agents of other employee organizations, such as National
23 Association of Public Safety Officers ("NAPSO") or FOP, to appear in grievance proceedings or
24 interviews since the issuance of the NHPA decision. However, the Department does not take a
25 position on the issue, as it recognizes the rights outlined in Nevada Revised Statute chapter 289
26 and is bound by the decisions issued by the Board. The Department has, and will continue to,
27 abide by any order issued by the District Court or the Board. Given the fact that more than one
28 employee association, to include NAPSO and NLPOA, have filed various proceedings regarding

1 the effect and implementation of the NHPA decision, it is clear confusion exists with the
2 holding, such that an order issued from the Court on this issue which provides clarity to the
3 issues presented will be helpful.

4 **IV. CONCLUSION**

5 As stated above, the Department does not take a position on the issue of what
6 representative may appear on behalf of an employee, but is bound to comply with the exclusive
7 representation laws of Nevada and decisions of the Board.

8 Dated this 3 day of May, 2021.

MARQUIS AURBACH COFFING

By: 

Nick D. Crosby, Esq.
Nevada Bar No. 8996
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Respondent, LVMPD

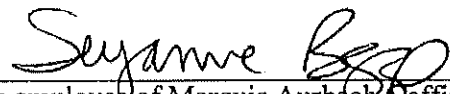
CERTIFICATE OF SERVICE

I hereby certify that the foregoing **RESPONDENT LVMPD'S RESPONSE TO PETITIONER'S PETITION FOR INJUNCTIVE RELIEF PURSUANT TO NRS 289.120** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 3rd day of May, 2021. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:¹

Daniel Marks, Esq.
Adam Levine, Esq.
Law Office of Daniel Marks
610 So. Ninth Street
Las Vegas, NV 89101
office@danielmarks.net
alevine@danielmarks.net
Attorneys for Petitioner,
Jordan Travers

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

N/A


An employee of Marquis Aurbach Coffing

¹ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

EXHIBIT “A”

FILED

JUN 17 2020

STATE OF NEVADA
E.M.R.B.

STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

NEVADA HIGHWAY PATROL ASSOCIATION,

Petitioner,

v.

STATE OF NEVADA DEPARTMENT OF PUBLIC
SAFETY; STEVE SISOLAK, in his capacity as
Governor of the State of Nevada; NEVADA STATE
LAW ENFORCEMENT OFFICERS
ASSOCIATION, and NEVADA ASSOCIATION OF
PUBLIC SAFETY OFFICERS,

Respondents.

Case No. 2020-011

NOTICE OF ENTRY OF ORDER

ITEM NO. 865

- TO: Petitioner and its attorneys, Devon T. Reese, Esq., Jason D. Guinasso, Esq., and Alex R. Velto, Esq., of Hutchison & Steffen;
- TO: Respondent State of Nevada, by and through Laura Freed, Director, Department of Administration; Peter Long, Administrator of the Division of Human Resource Management, and Frank Richardson, Deputy Administrator of Labor Relations, for the State of Nevada;
- TO: Respondents Nevada State Law Enforcement Officers Association and Nevada Association of Public Safety Officers and their attorneys and representatives, Nicholas M. Wiczorek, Esq., of Clark Hill PLLC and Richard P. McCann, J.D.;
- TO: The Fraternal Order of Police, by and through their attorneys and representatives, Timothy P. Mullaney, Sr., J.D. and Michael E. Coviello, J.D.;
- TO: AFSCME, by and through their representative, Fernando R. Colon;
- TO: Peace Officers Research Association of Nevada (PORAN), by and through their attorney, Michael Langton, Esq.

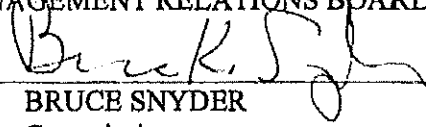
1 PLEASE TAKE NOTICE that the **DECLARATORY ORDER** was entered in the above-
2 entitled matter on June 17, 2020.

3 A copy of said order is attached hereto.

4 DATED this 17th day of June 2020.

5 GOVERNMENT EMPLOYEE-
6 MANAGEMENT RELATIONS BOARD

7 BY


8 BRUCE SNYDER
9 Commissioner

CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Government Employee-Management Relations Board, and that on the 17th day of June 2020, I served a copy of the foregoing **NOTICE OF ENTRY OF ORDER** by mailing a copy thereof, postage prepaid to:

Devon T. Reese, Esq.
Jason D. Guinasso, Esq.
Alex R. Velto, Esq.
HUTCHISON & STEFFEN, PLLC
500 Damonte Ranch Parkway, Suite 980
Reno, NV 89521

Richard P. McCann, J.D.
Nevada Association of Public Safety Officers
145 Panama Street
Henderson, Nevada 89015

Nicholas M. Wieczorek
CLARK HILL PLLC
3800 Howard Hughes Parkway, Suite 500
Las Vegas, NV 89169

Timothy P. Mullaney, Sr., J.D.
Grand Lodge Fraternal Order of Police
701 Marriott Drive
Nashville, Tennessee 37214

Michael E. Coviello, J.D.
Grand Lodge Fraternal Order of Police
701 Marriott Drive
Nashville, Tennessee 37214

Fernando R. Colon, Representative
AFSCME Local 4041
1107 17th Street, N.W., Suite 900
Washington, DC 20036

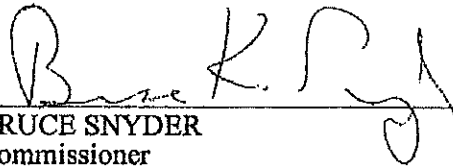
Michael E. Langton, Esq.
801 Riverside Drive
Reno, NV 89503

Laura Freed
Director, Department of Administration
State of Nevada
515 East Musser St.
Carson City, Nevada 89701

1 Peter Long
2 Division Administrator, Human Resources Management
3 State of Nevada
4 209 East Musser St.
5 Carson City, Nevada 89701

6 Frank Richardson
7 Deputy Administrator of Labor Relations
8 State of Nevada
9 100 N. Stewart Street
10 Carson City, Nevada 89701

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BRUCE SNYDER
Commissioner

1
2
3 **STATE OF NEVADA**
4 **GOVERNMENT EMPLOYEE-MANAGEMENT**
5 **RELATIONS BOARD**
6

7 NEVADA HIGHWAY PATROL ASSOCIATION,

8 Petitioner,

9 v.

10 STATE OF NEVADA DEPARTMENT OF PUBLIC
11 SAFETY; STEVE SISOLAK, in his capacity as
12 Governor of the State of Nevada; NEVADA STATE
13 LAW ENFORCEMENT OFFICERS
14 ASSOCIATION, and NEVADA ASSOCIATION
15 OF PUBLIC SAFETY OFFICERS,

16 Respondents.

Case No. 2020-011

DECLARATORY ORDER

EN BANC

ITEM NO. 865

17 On May 27, 2020, this matter came before the State of Nevada, Government Employee-
18 Management Relations Board ("Board") for consideration and decision pursuant to the provisions of the
19 Employee-Management Relations Act and NAC Chapter 288. At issue was Petitioner's, Nevada
20 Highway Patrol Association, Petition for Declaratory Order.

21 Petitioner requests this board to issue a declaratory order stating that Petitioner, as the officially
22 recognized entity, is the exclusive bargaining agent for Category 1, Unit G state employees and, as
23 such, no rival employee organization may purport to "represent" any employee in Category 1, Unit G,
24 including any issue covered under NRS Chapters 288 and 289. The Board requested *amicus* briefs to
25 be filed in this matter and reviewed them in full prior to coming to a decision.

26 In January 2020, the Board designated Petitioner as the exclusive representative of the
27 bargaining unit comprised of all non-supervisory, Unit G, Category 1 Peace Officers employed by the
28 State of Nevada pursuant to Senate Bill 135. Petitioner asserted that at least two other organizations
attempted to infringe on this Board's recognition of Petitioner as the exclusive representative. These
organizations competed for the right to represent this unit; however, they failed to obtain sufficient
signatures to obtain an election.

1 The dispute essentially surrounds the ability of other organizations not recognized as the
2 exclusive representative to represent bargaining unit members in matters not involving collective
3 bargaining, such as grievances, OPR investigations, and critical incidents. As NPHA further explained:
4 “The heart of this dispute is the scope of ‘representation’ under NRS 288.136, and whether a union that
5 failed to gain recognition can represent the members this Board already determined to be recognized by
6 NHPA.”

7 The general factual premise does not appear to be in dispute in regards to the instant Petition.¹
8 Instead, the Petition generally presents a question of the Board’s statutory interpretation of the EMRA,
9 the statute the Board is charged with enforcing. *Clark County School Dist. v. Local Govt. Employee-*
10 *Mgmt. Rel. Bd.*, 90 Nev. 442, 446, 530 P.2d 114, 117 (1974); *Follo v. Briggs*, 99 Nev. 30, 33, 656 P.2d
11 842 (1983); *Truckee Meadows Fire Prot. Dist. v. Int’l Ass’n of Fire Fighters, Local 2487*, 109 Nev. 367,
12 369, 849 P.2d 343, 345 (1993); *City of Reno v. Reno Police Protective Ass’n*, 118 Nev. 889, 900, 59
13 P.3d 1212, 1219–20 (2002); *City of Henderson v. Kilgore*, 121 Nev. 331, 337 n. 11, 131 P.3d 11, 15
14 (2006); *City of N. Las Vegas v. State Local Gov’t Employee-Mgmt. Relations Bd.*, 127 Nev. Adv. Op.
15 57, 261 P.3d 1071, 1076 (2011); *Bisch v. Las Vegas Metropolitan Police Dep’t.*, 129 Nev. Adv. Op. 36,
16 302 P.3d 1108, 1112 (2013); *Clark Cty. Deputy Marshals Ass’n v. Clark Cty.*, 425 P.3d 381, Docket
17 No. 68660, filed September 7, 2018, unpublished deposition (Nev. 2018). However, answers to more
18 specific questions could relate to the Board’s view of the facts. *Fathers & Sons & A Daughter Too v.*
19 *Transp. Services Auth. of Nevada*, 124 Nev. 254, 259, 182 P.3d 100, 104 (2008).

20 Preliminarily, Peace Officers Research Association of Nevada asserted a jurisdictional challenge
21 in ruling on the instant Petition. They assert specifically that the Legislature has limited the Board’s
22 authority to interpret a peace officers’ rights under NRS Chapter 289. The Board agrees. NAC
23 288.380 provides that any recognized employee organization “may petition the Board for a declaratory
24 order regarding the applicability or interpretation of any statutory provision or of any regulation or
25

26 ¹ On May 22, 2020, Petitioner filed a Request for Hearing. NAC 288.400 provides for the ability to
27 request a hearing if certain conditions are satisfied. The Request was not timely and did not comply
28 with the other requirements of NAC 288.400(1). As such, the Board denies the request. *See also* NAC
288.410(2) (giving the discretion to the Board on whether to hold a hearing – *i.e.*, “or”). Indeed, the
Request for Hearing appears in actuality to be a request for oral argument. The Board finds oral
argument unnecessary in this case given its ruling herein.

1 decision of the Board.” “The purpose of a declaratory statement is to address the applicability of a
2 statutory provision or order or rule of the agency in particular circumstances.” *City of Reno v. Reno*
3 *Firefighters Local 731, Int’l Ass’n of Firefighters*, Item 777A, Case No. A1-046049 (2012).

4 The Board’s authority is limited to matters arising out of the interpretation of, or performance
5 under, the provisions of the EMRA. NRS 288.110(2). The Board does not have the jurisdiction to find
6 a violation of NRS Chapter 289 or to rule that no rival employee organization may purport to represent
7 any employee surrounding issues covered under NRS Chapter 289. This is expressly beyond the
8 Board’s jurisdiction, which is well established. *See* NRS 288.110(2); *City of Reno v. Reno Police*
9 *Protective Ass’n*, 98 Nev. 472, 474–75, 653 P.2d 156, 158 (1982) (“the EMRB merely deferred to NRS
10 ch. 288, the statute under which it operates. While the EMRB did discuss the Reno City Charter in its
11 decision, our review of that decision reveals that the board only did so because the City placed its
12 Charter in issue by relying on it as justification for its refusal to bargain with the RPPA. The EMRB did
13 not interpret the Charter.”); *UMC Physicians Bargaining Unit v. Nevada Serv. Employees Union*, 124
14 Nev. 84, 89-90, 178 P.3d 709, 713 (2008); *City of Henderson v. Kilgore*, 122 Nev. 331, 333, 131 P.3d
15 11, 12 (2006); *Int’l Ass’n of Fire Fighters, Local 1908 v. County of Clark*, Case No. A1-046120, Item
16 No. 811 (2015) (“IAFF argues that the merit personnel system itself should have opened this
17 appointment... However, it is not within our purview to determine whether or not the appointment...
18 complied with the County’s merit personnel system. This Board authority is limited to matters arising
19 under interpretation of, or performance under, the Act”); *Simo v. City of Henderson*, Case No. A1-
20 04611, Item No. 796 (2014); *see e.g., Flores v. Clark Cty.*, Case No. A1-045990, Item No. 737 (2010);
21 *Bonner v. City of N. Las Vegas*, Case No. 2015-027 (2017); *Kerns v. LVMPD*, Case No. 2017-010
22 (2018); *Yu v. LVMPD*, Case No. 2017-025, Item No. 829 (2018). The Board simply notes that, as
23 further detailed below, NRS Chapter 289 does not appear in conflict with Chapter 288 and can be read
24 to render a harmonious result.

25 “Exclusive representative” is defined under the EMRA as follows:

26 ‘Exclusive representative’ means a labor organization that, as a result of its designation
27 by the Board, has the exclusive right to represent all the employees within a
28 bargaining unit *and* to engage in collective bargaining with the Executive Department
pursuant to NRS 288.400 to 288.630, inclusive, concerning wages, hours and other terms
and conditions of employment for those employees.

1 NRS 288.430 (*emphasis added*). See also NRS 288.133 (defining “Bargaining agent” as an employee
2 organization recognized “as the exclusive representative of all local government employees in the
3 bargaining unit for the purposes of collective bargaining.”); see also NRS 288.032 (defining “Collective
4 bargaining” as “a method of determining conditions of employment by negotiation between
5 representatives of ... an employee organization or labor organization, entailing a mutual obligation ...
6 [of] the representative of the state or local government employees to meet at reasonable times and
7 bargain in good faith with respect to: Wages, hours and other terms and conditions of employment;
8 [t]he negotiation of an agreement; [t]he resolution of any question arising under a negotiated agreement
9 [e.g., a grievance]; or [t]he execution of a written contract....”² Both NRS 288.133 and NRS 288.430
10 provide for the “exclusive representative”.³ The EMRA is plain in unambiguous in this regard. See
11 also NRS 288.160(2) (stating that an employee organization “shall be the exclusive bargaining agent of
12 the local government employees in that bargaining unit.”); NRS 288.136 (defining “Recognition”).⁴

13 In the First Judicial District Court decision of *Washoe Ed. Support Professionals v. State of*
14 *Nevada, Local Government Employee-Management Relations Board*, Case No. 09 OC 00086 1B (2010)
15 (District Court Decision), Judge James Russell addressed, in pertinent part, “the scope of a ‘non-
16

17 ² See also *infra* note 6.

18 ³ “Exclusive” is defined as “Shutting out; debarring from interference or participation; vested in one
19 person alone. An exclusive right is one which only the grantee thereof can exercise, and from which all
20 others are prohibited or shut out.” Black’s Law Dictionary (11th ed. 2019). “Excluding or having
21 power to exclude; limiting or limited to possession, control, or use by a single individual or group.”
Merriam-Webster On-Line Dictionary; see also SB 135, Minutes of the Senate Committee on
Government Affairs (April 4, 2019) (“The words ‘exclusive representative’ means the only one” ...
“We have exclusive representation to provide for labor peace and stability.”)

22 ⁴ *Allstate Ins. Co. v. Fackett*, 125 Nev. 132, 138, 206 P.3d 572, 576 (2009) (“We read statutes within a
23 statutory scheme harmoniously with one another to avoid an unreasonable or absurd result.”). *Williams*
24 *v. Clark Cty. Dist. Attorney*, 118 Nev. 473, 484-85, 50 P.3d 536, 543 (2002) (“In determining the
25 legislature’s intent, we should consider what reason and public policy indicate was intended, and we
26 should avoid reaching absurd results. We are obliged to construe statutory provisions so that they are
27 compatible, provided that in doing so, we do not violate the legislature’s intent.”); *Berkson v. LePome*,
126 Nev. 492, 497, 245 P.3d 560, 563–64 (2010) (“a statute will be construed in order to give meaning
28 to its entirety, and this court ‘will read each sentence, phrase, and word to render it meaningful within
the context of the purpose of the legislation.’”); *Zahavi v. State*, 131 Nev. Adv. Op. 7, 343 P.3d 595,
600 (2015) (“When construing various statutory provisions, which are part of a ‘scheme,’ this court
must interpret them ‘harmoniously’ and ‘in accordance with [their] general purpose.’”).

1 member' employee's right under NRS 288.140(2)⁵ to be represented by another person in a grievance
2 proceeding [the term grievance being broadly defined], and specifically whether such an employee may
3 be represented by an agent or employee of an employee organization *other than* the recognized
4 bargaining agent (a 'rival employee organization')." District Court Decision, at 2 (*emphasis in*
5 *original*).

6 The District Court Order concluded:

7 Where, as here, an employee organization has been recognized as the bargaining agent
8 for a bargaining unit, the bargaining agent's representative status is *exclusive* and no rival
9 employee organization may purport to 'represent' any employee in the unit in any
10 grievance proceeding or in any other aspect of collective bargaining. Any
11 'representation' of this nature is fundamentally inconsistent with the status and function
12 of the recognized bargaining agent. *See, e.g., UMC Physicians' Bargaining Unit v.*
13 *Nevada Serv. Employees Union*, 124 Nev. [84, 178 P.3d 709, 715 (2008)] ("the interests
14 of employees whose bargaining units are exclusively represented by one employee
organization cannot be simultaneously represented by another employee organization");
Operating Engineers Local Union No. 3 v. City of Reno, Item No. 7 (1972) (rejecting
contention that Chapter 288 'permits an employer to 'recognize' a minority employees
organization ..., not negotiation per se, but for purposes other than negotiation such as
grievance processing....);).

15 A local government employer who knowingly allows 'representation' of this kind or
16 knowingly participates in a grievance proceeding with an agent or employee of a rival
17 employee organization, *acting as such*, thereby fails to bargain in good faith with the
18 recognized bargaining agent and commits a prohibited practice within the meaning of
NRS 288.270(1)(e). *Federal Tel. and Radio Co.*, 107 NLRB 649 (1953) (applying
corresponding provisions of the National Labor Relations Act); *Hughes Tool Co.*, 56
NLRB 981 (1944) (same).

19 In the challenged order and in at least one prior decision, the Board has ruled that if an
20 employee in a bargaining unit is a *member* of the employee organization serving as
21 recognized bargaining agent, the employee may *only* be represented in a grievance
22 proceeding by an agent or employee of that organization. *Washoe Ed. Support*
Professionals v. Washoe County Sch. Dist., Item No. 681A, Case No. A1-045930 (EMRB
2009), Finding of Fact No. 4; *United We Stand Classified Employees/AFT v. Washoe*
County Sch. Dist., Item No. 641B, Case No. A1-045888 (EMRB 2007). This ruling has
23 not been challenged. Nor does WESP dispute the right of such employee to retain the
24 services of an attorney of the employee's choice, so long as the expense of this
representation is borne by the employee.

25
26 ⁵ NRS 288.140 states, in pertinent part: "(1) It is the right of every local government employee ... to
27 refrain from joining any employee organization (2) The recognition of an employee organization ...
28 does not preclude any local government employee who is not a member of that employee organization
from acting for himself or herself with respect to any condition of his or her employment, but any
action taken on a request or in adjustment of a grievance shall be consistent with the terms of an
applicable negotiated agreement, if any."

1 *Id.* at 2-4 (*emphasis* in original). The District Court Order further opined:

2 Where, however, a unit employee is *not a member* of the employee organization serving
3 as recognized bargaining agent, NRS 288.140(2) provides that the employee may 'act for
4 himself' in any grievance proceeding – *i.e.*, on his own behalf and without a
5 representative. *Cone v. Nevada Serv. Employees Union*, 116 Nev. 473, 998 P.2d 1178
(2000) (noting that statute 'authorized a nonunion member to act on his own behalf [and]
6 forgo union representation').

7 In addition, the Board has ruled that such an employee may be represented by 'counsel',
8 a term that the Board apparently interprets to include a friend, relative or co-worker, or an
9 attorney retained by the employee. *Washoe Ed. Support Professionals v. Washoe County*
10 *Sch. Dist.*, Item No. 681A, Conclusion of Law No. 15. With the exception noted below,
11 WESP likewise has not challenged this aspect of the Board's ruling.

12 In any matter involving a non-member employee, NRS 288.140(2) provides that 'any
13 action taken on a request or in adjustment of a grievance shall be consistent with the
14 terms of an applicable negotiated agreement, if any.' Accordingly, in any such case, the
15 Board has ruled that the recognized bargaining agent is also entitled to be present '[t]o
16 monitor ... compliance with the applicable [negotiated agreement] and the provisions of
17 NRS chapter 288'. *Washoe Ed. Support Professionals v. Washoe County Sch. Dist.*, Item
18 No. 681A, Conclusion of Law No. 15. Again, this aspect of the Board's ruling has not
19 been challenged.

20 *Id.* at 4-5 (*emphasis* in original) (internal citations omitted).

21 Judge Russell further noted: "Where the representative of a non-member employee is also an
22 employee or agent of a rival employee organization, the parties have opposing views on the result that
23 should follow." *Id.* at 5. Moreover, "[b]oth parties agree, in any case, that an *attorney* who is retained
24 by the employee to act as his representative in such proceeding should be allowed to represent the
25 employee, even if the attorney also represents a rival employee organization. To the extent that the
26 Board has so held, its order is affirmed." *Id.* at 6, note 5 (*emphasis* in original). The District Court
27 further found:

28 If, as WESP agrees, a non-member employee may lawfully be represented by a friend,
relative or co-worked, the fact that the representative also happens to be an agent or
employee of a rival employee organization should not disqualify him from serving as
representative if in fact he is functionally independently of his role as an agent of the
union. On the other hand, if the representative in fact is overtly or covertly attempting to
function on behalf of both the employee and the rival employee organization (or solely on
behalf of the union), the representative's participation effectively undercuts the status of
the recognized bargaining agent and cannot knowingly be permitted by the employer.

Accordingly, in any grievance proceeding involving an employee representative who is
also an agent or employee of a rival employee organization, the representative cannot
function as such – and hence cannot participate in the proceeding Where, however,

1 the employer knows or reasonably believes that the representative is serving *entirely*
2 *independently* of the rival organization as (for example) a friend, relative or co-worker of
the employee, the representative's participation is permissible.

3 *Id.* at 6 (*emphasis* in original). The District Court denied the petition for judicial review, as requested
4 by WESP, "to hold that an agent or employee of a rival employee organization is, solely by virtue of
5 that status, precluded from representing an employee in any grievance proceeding..." *Id.* at 7.

6 In *Lyon County Ed. Ass'n v. Lyon County Sch. Dist.*, Case No. 2016-011 (2016), the Board found
7 the decision in *Washoe Ed. Support Professionals* as persuasive precedent. The District Court's order
8 was based on ample authority.⁶ As such, the Board reaffirms *Lyon County Ed. Ass'n* in finding Judge
9 Russell's decision as persuasive precedent.

10 While NRS 288.140 recognizes the right of an employee not to become a member of the
11 recognized employee organization and to "act for himself or herself" in connection with a grievance,
12 nothing in that provision, or any other provision of the EMRA, permits such an employee to be
13 "represented" by an agent or employee of a rival employee organization serving in such capacity.
14 Allowing this kind of representation would impair the efficiency and utility of the grievance and
15 collective bargaining process, undermine the position of the recognized bargaining agent, and

16
17 ⁶ Citing to then NRS 288.027 (replaced by NRS 288.133), 288.028 (replaced by NRS 288.134), 288.067
18 (replaced by NRS 288.136), NRS 288.033(3) (noting that the scope of the bargaining agent's
19 representation includes not only the negotiation of a CBA *but also* resolution of grievance and
20 participation in "investigatory interviews" involving employees in the unit), also *citing Ed. Support*
21 *Employees Ass'n v. Clark County Sch. Dist.*, Item No. 568B, Case No. A1-045782 (2005), 288.140,
22 288.150(1) and 288.160(2) as well as the Nevada Supreme Court and federal precedent cited above.
23 *See also N. Las Vegas Police Officers Ass'n v. The City of N. Las Vegas*, Item No. 717A, Case No. A1-
24 0459645 (2011); *Heitzinger v. Las Vegas-Clark County Library Dist.*, Item No. 728C, Case No. A1-
25 045977 (2012); *D'Ambrosio v. LVMPD*, Item No. 808 (2015). For example, the Nevada Supreme
26 Court in *Cone v. Nevada Serv. Employees Union/SEIU Local 1107*, 116 Nev. 473, 477, 998 P.2d 1178,
27 1181 (2000) disagreed that "the union, as the 'bargaining agent' of UMC employees, is obligated by the
28 plain language of NRS 288.027 to 'exclusively' represent all UMC employees, including nonunion
members, in all grievance matters without charging a fee", *only to the extent of not being able to*
charge a fee. The Nevada Supreme Court made clear that NRS 288.140(2) "provides an individual
with a right to forgo union representation" and thus a nonmember employee may either act of his or her
own behalf thereby electing to "forgo union representation" or use the services of the recognized agent
paying any "service fee" charged by the union for its services. *See id.* at 478. Nothing in *Cone*
suggests such an employee may be "represented" by an agent or employee of a rival employee
organization serving in such capacity with the exception noted above. *See* Judge Russell's Decision at
6, note 5. Indeed, for more than 60 years, the NLRB has held its similar provision (Section 9(a), 29
U.S.C. § 159(a)) does not allow a rival union to represent an employee in the adjustment of grievances.
See, e.g., Fed. Tel. & Radio Co., 107 NLRB 649, 652 (1953).

1 effectively destabilize employee-management relations in the public sector. This is consistent with the
2 exceptions noted above. The exclusivity of representation is a key element in ensuring labor stability in
3 the workplace (one of the important reasons for the adoption of NRS Chapter 288 in 1969) and in
4 allowing a properly recognized union to do its job. *See, e.g., In the Matter of American Federation of*
5 *Teachers, Local 1800 v. Clark County Sch. Dist.*, Item No. 2 (1970) (“the employer has an obligation to
6 treat with this representative exclusively and has a negative duty to treat with no other”), *citing NLRB*
7 *v. Jones & Laughlin Steel Corp.*, 201 US 1, 44 (1937) (where the United State Supreme Court
8 recognized that the obligation of the employer to treat with the recognized representative was exclusive
9 and hence imposed a negative duty to treat with no other); *see also supra* note 3 and *infra* note 7; *see,*
10 *e.g., Fed. Tel. & Radio Co.*, 107 NLRB 649, 652-53 (1953). Designating one union as the exclusive
11 representation of all employees allows them to speak with one voice, pooling economic strength, ensure
12 their rights are not watered down by divisiveness, respond with institutional knowledge when
13 employer’s disparately treat them, and allowing this carve out would tend to dilute that strength
14 contrary to the purposes and policies of the EMRA. *See also supra* notes 4 and 6.⁷

15 If the Legislature wishes to provide that an agent or employee of a rival labor organization
16 serving in that capacity, may purport to represent any employee in a bargaining unit with a recognized
17 representation, then that is their legislative prerogative. It is not for the Board to make the law, that is
18 for the Legislature, and the Board is required to follow the law regardless of the result. *See, e.g., Local*
19 *Gov’t Employee-Mgmt. Relations Bd. v. Educ. Support Employees Ass’n*, 134 Nev. 716, 429 P.3d 658
20 (2018).

21 As a further example, in 2018 the Board rendered its decision in *City of Elko v. Elko Police*
22 *Officers Protective Ass’n*, Case No. 2017-026, Item No. 831 (2019). In that case, the Board applied the
23 provisions of NRS 288.170 to conclude that sergeants employed by the City of Elko could not be part
24 of the same bargaining unit as the officers they supervise based on the plain language of the EMRA. In

25 ⁷ The EMRA had its genesis in Senate Bill 87 in 1969 sponsored by Senator Carl Dodge. SB initially
26 provided specifically for the recognition of more than one employee organization for any given
27 “negotiating unit”. *See* Sections 10, 11, 13. After it was passed in the Senate, objections were made
28 that the bill’s provisions for multiple bargaining agents was unworkable and would result in chaos.
Accordingly, when the bill was heard in the Assembly, such language was removed from the bill. The
amended language has not been materially changed since that time.

1 response to that case, the Legislature enacted SB 158 to exempt only (1) police officers defined in NRS
2 288.215, (2) firefighters defined in NRS 288.215, and (3) certain addition persons having the powers of
3 a peace officer pursuant to NRS 289.150, 289.170, 289.180 or 289.190. The Legislature choose to
4 leave the prohibitions of joint bargaining unit for others in place and thus only made a specific carve.
5 As such, the Legislature approved of the Board's order in certain respects and choose to amend the
6 EMRA for specific and defined purposes in other respects. This is a further showing of the legislative
7 prerogative in this case – perhaps the Legislature would create a carve out for rival union representation
8 in all manners or perhaps just in specific and defined areas for certain individuals. It is not for this
9 Board to guess what the Legislature might do on behalf of the citizens of this great state.

10 In *Clark County Teachers Assn' v. Clark County Sch. Dist.*, 91 Nev. 143, 532 P.2d 1032 (1975),
11 the Nevada Supreme Court opined that the “exclusive use” provisions of CBAs were not
12 unconstitutional, insofar as they denied the respondent (American Association of Teachers) an equal
13 opportunity for membership solicitations and to dispenses information. *Id.* at 145. Citing to the
14 Board's decision *In the Matter of American Federation of Teachers, Local 1800*, the Court “found
15 compelling Nevada's interest in allowing ... the ‘exclusive uses’ here challenged ... [and] labor peace
16 and stability in an area as vital as public education are indisputably a necessity to the attainment of that
17 goal. Inter-union strife within the school must be minimized.” *Id.*; see also *Mentele v. Inslee*, 916 F.3d
18 783, 788 (2019); *Nevada Serv. Employees Union, Service Employees Int'l Union, Local 1107 v. Clark*
19 *County*, Case No. A1-045759, Item No. 540-B (2005) (“Moreover, through NRS 288.270(1), an
20 employee organization is protected from actions which would undercut its ability to fulfill its statutory
21 role as exclusive bargaining agent and defender of the collective bargaining agreements.”).

22 Both sides reference the Nevada Supreme Court decision in *Bisch v. Las Vegas Metropolitan*
23 *Police Dep't.*, 129 Nev. 328, 302 P.3d 1108, 1112 (2013). In this matter, the employee filed a
24 complaint with this Board alleging its union had breached its duty of fair representation when it refused
25 to represent her at her internal affairs interview. The Nevada Supreme Court noted the right contained
26 289.080 to have two representatives of her choosing at the interview (her choice being private counsel
27 and a representative from the union). *Bisch*, 129 Nev. at 335, 302 P.3d at 1113. The Court held “that
28 the protection provided by NRS 289.080 is only in regard to Bisch's employer. Because nothing in NRS

1 289.080 or the rest of the Peace Officer Bill of Rights governs a PPA's responsibility toward its
2 members, the EMRB correctly concluded that NRS 289.080 did not impose an additional duty of fair
3 representation on the PPA." *Id.* at 337. The Court simply held that NRS 289 "necessarily prevent[s] the
4 employer from barring the employee from having two representatives." *Id.* at 336. The Court did not
5 discuss whether having an agent or employee representative of a rival union serving as such capacity
6 would be permissible under the EMRA or permit a rival union to offer representation. The Court also
7 indicated *Weingarten* rights were not at issue as they make "no mention of the union's duties to the
8 employee/member in such a situation." *Id.* at note 3.

9 NRS 289.080 provides that a peace officer "may upon request have two representatives of the
10 peace officer's choosing present with the peace officer during any phase of an interrogation or hearing
11 relating to the investigation, including, without limitation, a lawyer, a representative of a labor union or
12 another peace officer." It is asserted by Respondents as well as some *amicus* briefs that this provision
13 conflicts with the EMRA's exclusive representation or provides for a carve out for certain proceedings.
14 Again, while the Board has no jurisdiction over NRS 289, these statutes can be read harmoniously.
15 *Szydel v. Markman*, 121 Nev. 453, 457, 117 P.3d 200, 202-03 (2005) ("When two statutes are clear and
16 unambiguous but conflict with each other when applied to a specific factual situation, an ambiguity is
17 created and we will attempt to reconcile the statutes. In doing so, we will attempt to read the statutory
18 provisions in harmony, provided that this interpretation does not violate legislative intent."), *citing*
19 *Bowyer v. Taack*, 107 Nev. 625, 627, 817 P.2d 1176, 1177 (1991).

20 "It is presumed that in enacting a statute the legislature acts with full knowledge of existing
21 statutes relating to the same subject." *City of Boulder City v. Gen'l Sales Drivers and Helpers, Intern.*
22 *Broth. of Teamsters, Local 14*, 101 Nev. 117, 119, 694 P.2d 498, 500 (1985). In *State Dep't of Health*
23 *& Human Servs., Div. of Pub. & Behavioral Health Med. Marijuana Establishment Program v.*
24 *Samantha Inc.*, 133 Nev. 809, 815, 407 P.3d 327, 331 (2017), the Nevada Supreme Court held: "The
25 Legislature created NRS Chapter 453A long after the APA. Because this court 'assumes that, when
26 enacting a statute, the Legislature is aware of related statutes,' and NRS Chapter 453A references
27 review under the APA, *see* NRS 453A.210, the Legislature's exclusion of judicial review for a
28 registration certificate in NRS Chapter 453A appears deliberate."

1 In the same vein, NRS 288.133, 288.134, 288.136, and 288.033 were originally added in 1975
2 via AB 572 long before NRS 289.080. The language "or other representative of his choosing" was not
3 added until 1991 via AB 583⁸ and NRS Chapter 289 specifically references exhaustion of
4 administrative remedies under NRS Chapter 288 as a prerequisite to judicial relief. NRS 289.120. As
5 such, when the Legislature used this general language ("or other representative of his choosing"), a
6 harmonious and reasonable reading reconciling the statutes indicates the Legislature did not intend to
7 infringe upon the exclusive representation contained in NRS 288. Nothing in the Legislative history
8 indicates otherwise. Judge Russell even affirmed the Board's Order holding that "an attorney who is
9 retained by the employee to act as his representative in such a proceeding should be allowed to
10 represent the employee, even if the attorney also represents a rival employee organization." District
11 Court Decision, at 6, note 5. As NHPA explained: "It's quite clear a peace officer is free to choose
12 whichever representative he or she would like under NRS Chapter 289. However, this right stops at an
13 officer's personal representation. It does not permit an officer to choose the representative of the
14 Union." Further, "[a] member can't override this Board's recognition merely because they would like
15 to have a different person represent the entity on his or her behalf." Therefore, a harmonious and
16 reasonable reading can be achieved.


17 Dated this 17th day of June 2020.

18 GOVERNMENT EMPLOYEE-
19 MANAGEMENT RELATIONS BOARD

20 By: 
21 BRENT ECKERSLEY, ESQ., Chair

22 By: 
23 SANDRA MASTERS, Vice-Chair

24 By: 
25 GARY COTTINO, Board Member

26 By: 
27 BRETT HARRIS, ESQ., Board Member

28 ⁸ It was not until 2005, via AB 259, when NRS 289.080 was amended to state "two representatives of his choosing".

EXHIBIT “B”

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FILED
December 15, 2020
State of Nevada
E.M.R.B.
12:04 p.m.

7 **STATE OF NEVADA**

8 **GOVERNMENT EMPLOYEE-MANAGEMENT**

9 **RELATIONS BOARD**

10 NATIONAL LATINO PEACE OFFICERS
ASSOCIATION, Las Vegas Chapter, a domestic
11 non-profit organization,

12 Petitioner,

13 v.

14 LAS VEGAS POLICE PROTECTIVE
ASSOCIATION METRO, INC., a domestic non-
15 profit organization; LAS VEGAS
METROPOLITAN POLICE DEPARTMENT, a
16 local government employer; DOE
INDIVIDUALS, 1 through 20, inclusive; ROE
17 ENTITIES, 1 through 20, inclusive

18 Respondents.

Case No.: 2020-033

PETITION FOR DECLARATORY RELIEF

19
20 Petitioner, National Latino Peace Officers' Association, Las Vegas Chapter ("Petitioner" or
21 "NLPOA"), hereby files this Petition for Declaratory Relief pursuant to NRS 233B.120 and NAC
22 288.380-420. Petitioner does not request a hearing.

23 **I. INTRODUCTION**

24 Petitioner files this Petition for a Declaratory Order pursuant to NRS 233B.120 and NAC
25 288.380 seeking a declaration 1) that Petitioner is a non-rival organization in relation to the Las
26 Vegas Police Protective Association Metro, Inc. ("PPA"); and 2) that Petitioner, as a non-rival
27 organization, may act, upon request from its' members, as a representative of officers involved in
28 Chapter 289 proceedings.

PETITION FOR DECLARATORY RELIEF

1 **II. PARTIES, JURISDICTION, AND VENUE**

2 At all times mentioned herein, Petitioner, National Latino Peace Officers' Association-Las
3 Vegas Chapter, is and was a domestic non-profit organization operating in Clark County, Nevada.
4 Petitioner's membership is, in part, made up of law enforcement officers. Petitioner is a community-
5 based organization with the stated purpose of "honoring family, education & community through
6 service & mentorship." One ancillary role of Petitioner is that it acts as a counselor, representative,
7 and friend of its peace officer members who are involved in NRS 289 proceedings. Petitioner is a
8 non-rival organization of Respondent, Las Vegas Police Protective Association Metro, Inc.

9 At all times mentioned herein, upon information and belief, Respondent, Las Vegas Police
10 Protective Association Metro, Inc., is and was a domestic non-profit organization, and recognized as
11 the "exclusive bargaining agent," as defined by NRS 288.133, for peace officers employed by the Las
12 Vegas Metropolitan Police Department.

13 At all times mentioned herein, Respondent, Las Vegas Metropolitan Police Department, is
14 and was a local government employer, as defined by NRS 288.060.

15 At all times herein mentioned, DOE INDIVIDUALS 1 through 20 and ROE ENTITIES 1
16 through 20 were headquartered or residing in the State of Nevada, or licensed to do business or
17 actually doing business therein, including the County of Clark.

18 The true names and/or capacities, whether individual, corporate, associate, or otherwise, of
19 respondents named herein as DOE INDIVIDUALS 1 through 20, and ROE ENTITIES 1 through 20,
20 inclusive, are unknown to Petitioner at this time, who therefore names said respondents by such
21 fictitious names. Petitioner is informed and believes, and based thereon alleges, that each of the
22 respondents designated herein by fictitious name is in some manner responsible for the events and
23 happenings herein referred to, or their rights, privileges, or entitlements are implicated, by this
24 Petition, as hereinafter alleged. Petitioner asks leave to amend this Petition when the true names and
25 capacities of said respondents have been ascertained.

26 Whenever it is alleged in this Petition that a respondent or a party did any act or thing, it is
27 meant that its officers, agents, employees, or representatives did such act or thing and at the time such
28 act or thing was done, it was done with full authorization or ratification of such respondent or party or

1 was done in the normal and routine course and scope of business, or with the actual, apparent and/or
2 implied authority of such respondent's or party's officers, agents, servants, employees, or
3 representatives. Specifically, the respondents or parties are liable for the actions of their officers,
4 agents, servants, employees, and representatives.

5 The exercise of jurisdiction over the Parties, this Petition, and the contents thereof, by the
6 State of Nevada, Government Employee-Management Relations Board ("EMRB"), is proper
7 pursuant to NRS 233B.120 and NAC 288.380-420. The EMRB has the authority to decide an
8 exclusive bargaining agent's scope of representation under NRS 288 in various proceedings. Decl.
9 Ord., Case Number 2020-011, Item 865, 7:10-13 (EMRB, Jun. 17, 2020). Further, the district courts
10 generally do not have discretion to make initial consideration of matters involving administrative
11 discretion, or the application of decisions of state agencies to the facts of a particular case. *See,*
12 *Phelps v. Second Judicial Dist. Ct.*, 106 Nev. 917, 920-22, 803 P.3d 1101, 1103 (1990); *Public Serv.*
13 *Comm'n v. Eighth Judicial Dist. Ct.*, 107 Nev. 680, 818 P.2d 396, 399 (1991). Therefore, jurisdiction
14 with the EMRB is proper.

15 **III. STATEMENT OF FACTS**

16 Petitioner is a local chapter of a national organization dedicated to "honoring family,
17 education & community through service & mentorship." Petitioner's mission is broadly sympathetic
18 with the aims of the State of Nevada, as set forth in NRS 288.270, and the Las Vegas Metropolitan
19 Police Department, to provide a well-trained, character-driven police force. Petitioner provides
20 career training, education and career advancement, and mentorship to its members. Petitioner
21 organizes volunteer and community service opportunities to improve relations between the police
22 force and the Las Vegas community. Petitioner is an organization dedicated to community service,
23 not an employee's union.

24 On June 17, 2020, the State of Nevada Government Employee-Management Relations Board
25 ("EMRB") issued that Declaratory Order under Case Number 2020-011, Item 865, declaring the
26 Nevada Highway Patrol Association "is the exclusive bargaining agent for Category 1, Unit G state
27 employees and, as such, no rival employee organization may purport to 'represent' any employee in
28 Category 1 Unit G, including any issue covered under NRS Chapters 288 and 289." Decl. Ord., 1:19-

21 (EMRB, Jun. 17, 2020). The Order made plain that an “exclusive representative” is the sole bargaining agent of the local government employees of that bargaining unit. Decl. Ord., 4:10-12. The Order stated a “rival employee organization” may not represent any employee in any “grievance proceeding or in any other aspect of collective bargaining.” Decl. Ord., 5:7-9 (*citing with approval, Washoe Ed. Support Professionals v. State of Nevada, Local Government Employee-Management Relations Board*, Case No. 09 OC 0086 1B (1st Jud. Dist. Ct. NV 2010)). The Order confirmed that an employee that is not a member of the recognized employee organization (“exclusive representative”) has a right under NRS 288.140 to represent themselves, and to have an attorney, friend, relative, or co-worker represent them in NRS 289 proceedings. Decl. Ord., 6:6-8 (*citing with approval, Washoe Ed. Support Professionals v. State of Nevada, Local Government Employee-Management Relations Board*, Case No. 09 OC 0086 1B (1st Jud. Dist. Ct. NV 2010)). The June 17, 2020 Declaratory Order is silent on whether a non-rival employee organization may represent a member employee in a grievance proceeding as a friend, co-worker, or fellow peace officer. The June 17, 2020 Declaratory Order is silent on whether an exclusive representative may prohibit a non-rival employee organization from representing a member employee in a grievance proceeding as a friend, co-worker, or fellow peace officer.

Prior to June 17, 2020, Petitioner appointed its members, as fellow peace officers, to represent NLPOA members involved in NRS Chapter 289 proceedings. After the June 17, 2020 Declaratory Order, PPA objected to the Las Vegas Metropolitan Police Department (“Metro”) that Petitioner was not allowed to send its members to act as representatives, in their capacity as friends, co-workers, or fellow officers, for other members involved in NRS Chapter 289 hearings. Metro then refused to allow Petitioner to attend at least one NRS 289 hearing as a representative for one of its members. Upon information and belief, PPA issued a video to all peace officers employed by Metro that stated that if officers belonged to other member organizations, it would reserve the right to not send representatives to NRS Chapter 289 hearings.

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1 **IV. MEMORANDUM OF POINTS AND AUTHORITIES**

2 The review of and administrative decision by an appeals court is limited to whether the
3 decision is legally sound and based on substantial evidence. *City of Reno v. Reno Police Protective*
4 *Ass'n*, 118 Nev. 889, 894 (2002). Questions of law are reviewed *de novo* to determine whether clear
5 error exists. *Id.* Questions of fact are affirmed where substantial evidence supports the
6 determination. *Id.* Substantial evidence is that sufficient to allow a reasonable person to support a
7 conclusion. *Bisch v. Las Vegas Metro. Police Dep't*, 129 Nev. 328, 334 (2013). Appellate courts give
8 the Employee Management Relations Board considerable deference upon review as agencies are
9 generally considered to be best positioned to apply the statutes and regulations used to fulfill their
10 administrative duties. *See, Id.*

11 As discussed more fully below, Petitioner seek a Declaratory Order that it is not a rival
12 organization of PPA, and is legally entitled to send fellow peace officers, upon the request of its
13 members, to act as representatives in NRS Chapter 289 proceedings. Petitioner seeks this relief
14 because PPA and Metro have taken the position that Petitioner is not entitled to send representatives
15 to assist its members at NRS Chapter 289 hearings. Upon information and belief, this claim is based
16 on the June 17, 2020 State of Nevada Government Employee-Management Relations Board
17 ("EMRB") Declaratory Order, Case Number 2020-011, Item 865, that states a "rival employee
18 organization" may not represent any employee in any "grievance proceeding or in any other aspect of
19 collective bargaining." Decl. Ord., 5:7-9. Petitioner qualifies for declaratory relief because
20 Petitioner's circumstances reveal that there is a justiciable controversy between persons whose
21 interests are adverse, that Petitioner has standing to assert its claim, and that the matter is ripe for
22 determination. Petitioner is not a rival organization because it is not a collective bargaining unit, it is
23 a community service organization with the stated aim of maintaining and improving the character and
24 personal integrity of its members. Petitioner is lawfully entitled to send fellow peace officers, upon
25 requests from its members, to act as representatives at NRS Chapter 289 hearings because there rights
26 are guaranteed to officers under NRS Chapter 288 and 289, because it is unlawful for PPA to prohibit
27 such representation, and because it serves the best interests of peace officers, PPA, and the Las Vegas
28 Metropolitan Police Department to allow such representation.

1 **A. PETITION FOR DECLARATORY RELIEF**

2 Petitioner's circumstances satisfy the elements required for issuance of a Declaratory Order.

3 A petition for declaratory relief will generally require the petitioner to show: 1) a justiciable
4 controversy, 2) between persons whose interests are adverse, 3) the person seeking relief must have a
5 legal interest in the controversy, and 4) the issue must be ripe for judicial determination. *Kress v.*
6 *Corey*, 65 Nev. 1, 26, 189 P.2d 352, 364 (1948). Further, NAC 288.410 requires petitioner to show a
7 real-world controversy that involves existing facts or facts that can reasonably be expected to exist in
8 the near future, as well as legal standing to maintain the action.

9 **1) JUSTICIABLE CONTROVERSY**

10 There is a "justiciable controversy" between the Petitioner and Respondents.

11 A "justiciable controversy" exists if petitioner asserts a claim of right and respondents have an
12 interest in contesting it. *Id.* NAC 288.410 requires all questions of declaratory relief to be a non-
13 speculative conflict that involves existing facts or facts that can reasonably be expected to occur in
14 the near future.

15 Here, Petitioner asserts that it has the right to attend Chapter 289 hearings as a "fellow
16 officer" on behalf of its members because in doing so it is not seeking to advance its own interests
17 and because it is not a rival organization. Respondent PPA has contested that claim of right and has
18 asserted that Petitioner may not attend Chapter 289 hearings as representative of its members. Metro
19 has contested Petitioner's claim of right because it directed Petitioner that it could not send fellow
20 NLPOA members and officers to attend Chapter 289 hearings.

21 Therefore, a justiciable controversy exists because Petitioner asserts a claim of right to attend
22 Chapter 289 hearings as a representative of its members and Respondents have contested that right.

23 **2) ADVERSE INTERESTS**

24 The interests of the Parties are adverse in this justiciable controversy.

25 The parties' interests are adverse if there is an actual controversy between competing
26 interests. *See, Planned Parenthood Ass'n v. Fitzpatrick*, 401 F.Supp. 554 (D. Penn 1975).

27 Petitioner asserts that PPA does not have authority to treat NLPOA as a rival organization,
28 nor to prohibit NLPOA from providing representation to its members in NRS Chapter 289 hearings.

1 Petitioner asserts this prohibition upon PPA exists whether the peace officer involved in the NRS
2 Chapter 289 hearing is a member of PPA or a non-member. Petitioner further asserts that Metro was
3 forced by the objection of PPA to make a decision about whether to allow NLPOA to send
4 representatives on behalf of its members in Chapter 289 hearings, and made a decision to not allow
5 Petitioner to provide representation. This decision to not allow Petitioner to send a representative for
6 its member made it adverse to the interests of Petitioner, and created an actual controversy between
7 the Parties.

8 Thus, the interests of Petitioner and Respondents are adverse because there is an actual
9 controversy between competing interests.

10 3) STANDING

11 Petitioner has a legal interest in the controversy.

12 A party has a legally protected interest in the controversy if the rights have vested and are not
13 future or contingent. *Kress*, 65 Nev. at 27. NAC 288.410 require the petitioner to have an interest of
14 the type which would give it standing to maintain an action for judicial relief.

15 Here, Petitioner has a vested, present, legally protected interest to recruit members to its
16 organization, and to provide services to its members, upon member request, without interference,
17 including mentorship and education services, as well as representation in Chapter 289 hearings.
18 These legally protected rights exist pursuant to NRS 288.140 and NRS 289.080.

19 Therefore, Petitioner has standing to assert its claim.

20 4) RIPENESS

21 The issue is ripe for determination.

22 An issue is ripe for determination if harm has already occurred to one of the parties, or is
23 likely to occur again sometime in the near future. *Herbst Gaming v. Heller*, 122 Nev. 877, 141 P.3d
24 1224, 1230-31 (2006); *see, Resnick v. Nevada Gaming Comm'n*, 104 Nev. 60, 752 P.2d 229, 231
25 (1988). NAC 288.410 requires all questions of declaratory relief to involve existing facts or facts that
26 can reasonably be expected to occur in the near future.

27 Here, Petitioner has already been once denied the right to represent one of its members in a
28 Chapter 289 hearing. Petitioner is likely to again be denied the right to act as representative for one

1 of its members in a Chapter 289 hearing because there appears to be a conflicting position between
2 Petitioner and Respondents over Petitioner's status as a non-rival organization, and over petitioner's
3 right to send fellow officers to act as representatives of NLPOA members involved in Chapter 289
4 hearings.

5 Therefore, the issue before the EMRB is ripe for determination.

6 **B. PETITIONER IS NOT A RIVAL ORGANIZATION OF PPA**

7 Petitioner seeks a Declaratory Order that it is not a "rival organization" of PPA because
8 Petitioner is a community service organization and is not engaged in collective bargaining on behalf
9 of its members.

10 NRS 288.134 defines "bargaining unit" as "a group of local government employees
11 recognized by the local government employer as having sufficient community of interest appropriate
12 for representation by an employee organization for the purpose of collective bargaining." "Exclusive
13 representative" is defined by NRS 288.430 as "a labor organization that, as a result of its designation
14 by the Board, has the exclusive right to represent all the employees within a *bargaining unit* and to
15 engage in collective bargaining with the Executive Department pursuant to NRS 288.400 to 288.630,
16 inclusive, concerning wages, hours and other terms and conditions of employment for those
17 employees." (*emphasis added*). NRS 288.133 defines "bargaining agent" as "an employee
18 organization *recognized* by the local government employer as the exclusive representative of all local
19 government employees in the bargaining unit for purposes of collective bargaining." (*emphasis*
20 *added*). "Recognition" with respect to collective bargaining is defined by NRS 288.136 as "the
21 formal acknowledgment by the local government employer that a particular employee organization
22 has the right to represent the local government employees within a particular bargaining unit." In the
23 context of collective bargaining, the term "rival organization" is generally synonymous with the term
24 "rival union." *Price v. Carpenters' Dist. Council of Greater St. Louis & Vicinity*, 2010 U.S. Dist.
25 LEXIS 107735 *17 (S.D. Ill., Oct. 8, 2010) (rival organization is defined as rival union); *Lumbar &*
26 *Sawmill Workers Union v. Int'l Woodworkers of Am.*, 197 Wash. 491, 499, 85 P.2d 1099, 1102
27 (1938) (rival organization is another union which members joined); *Catlett v. Local 7370 of United*
28 *Paper Workers Int'l Union*, 69 F.3d 254, 256 (8th Cir. 1995) (rival organization formed to seek

1 certification as the collective bargaining unit with the NLRB); *Anderson v. Los Angeles County*
2 *Employee Relations Committee*, 229 Cal. App. 3d 817, 826, 280 Cal. Rptr. 415, 420 (Cal. COA 2nd
3 Dist., Apr. 26, 1991); *Calabrese v. Policemen's Benevolent Association Local No. 76, Inc. of*
4 *Springfield Township*, 157 N.J. Super. 139, 384 A.2d 579, 587 (N.J. Supr. Ct. Law Div. 1978);
5 *Philadelphia Fraternal Order of Correctional Officers v. Rendell*, 701 A.2d 600, 611
6 (Commonwealth Ct. PA. Oct. 3, 1997).

7 PPA is the recognized bargaining unit, bargaining agent, and the "exclusive representative"
8 for peace officers employed by the Las Vegas Metropolitan Police Department. This fact is well
9 established. Petitioner is neither a bargaining agent with respect to local government employees of
10 Metro, nor is it a bargaining unit. Rather, Petitioner is a community service organization. Petitioner
11 has not received "recognition" as a bargaining unit with respect to Metro employees. Petitioner does
12 not seek to engage in collective bargaining on behalf of peace officers employed by Metro. Petitioner
13 could not act as a bargaining unit for peace officers because its membership included non-peace
14 officers. Petitioner seeks to educate its members who are employed by Metro as peace officers to
15 uphold high policing standards and to help ensure positive relations with the community.

16 Petitioner is not a "rival organization" of the PPA. To be a "rival organization," Petitioner
17 would have to be organized by the local government employer for the primary purpose of collective
18 bargaining. NRS 288.134. This is not the stated purpose of the National Latino Peace Officers'
19 Association-Las Vegas Chapter, which is to "[honor] family, education & community through service
20 & mentorship." The purpose of providing education, mentorship and opportunity for community
21 service to members is distinctly different from the purpose of a collective bargaining unit, which is to
22 negotiate wages, hours, and other terms and conditions of employment. The two purposes are not the
23 same because one seeks to improve the character of its members and the other seeks to improve the
24 economic condition of its members. Indeed, Petitioner is not a "bargaining unit" because it has never
25 been recognized by the local government employer, Metro, as an organization that has sufficient
26 community of interest to engage in collective bargaining. Further, Petitioner could not be a
27 bargaining unit because its membership includes non-peace officers. By definition, Petitioner cannot
28 be a rival organization of PPA because it cannot be a bargaining unit, and its stated purpose is other

1 than collective bargaining.

2 Petitioner therefore seeks a Declaratory Order that it is not a “rival organization” of PPA
3 because it is not a collective bargaining unit or a bargaining agent, it is a community service
4 organization.

5 **C. IT IS LAWFUL FOR PETITIONER TO REPRESENT ITS MEMBERS IN NRS**
6 **CHAPTER 289 PROCEEDINGS**

7 Petitioner seeks a Declaratory Order that it may, upon member request, send representative
8 fellow peace officers to assist those members during NRS Chapter 289 proceedings. Petitioner does
9 not seek to send representatives to the exclusion of those sent by PPA, but rather seeks to send
10 representatives in addition to those sent by PPA, pursuant to NRS Chapter 289.

11 Under NRS 289.057, a law enforcement agency may investigate and discipline a peace officer
12 for violation of a statute, policy, rule or regulation. NRS Chapter 289 grants certain procedural
13 protections to peace officers when adverse employment actions are taken against them by their
14 employer. *Knickmeyer v. State ex rel. Eighth Judicial Dist. Ct.*, 133 Nev. Adv. Rp. 84, 408 P.3d 161,
15 165 (2017). An employee that is the member of a recognized employee organization (“exclusive
16 representative”) is to be exclusively represented by the recognized employee organization during
17 investigative or disciplinary proceedings under NRS Chapter 289. *Washoe Education Support*
18 *Professionals v. Washoe County School Dist.*, Case No. A1-045930, Item 681A, Finding of Fact 4
19 (EMRB Feb. 10, 2009); *In the Matter of the Operating Engineers Local Union No. 3 of the*
20 *International Union of Operating Engineers, AFL-CIO v. The City of Reno*, Item No. 7 (EMRB May
21 17, 1972), (NRS 288.140 prohibited a minority union [a “rival employee organization”] from
22 representing employees in grievance proceedings). Exclusive representation applies only to rival
23 organizations, not to attorneys, counselors, friends, family members, or co-workers. *Washoe*
24 *Education Support Professionals v. Washoe County School Dist.*, Case No. A1-045930, Item 681A,
25 Conclusion of Law No. 15 (EMRB Feb. 10, 2009), and *Bisch v. Las Vegas Metropolitan Police*
26 *Dep’t*, 129 Nev. 328, 302 P.3d 1108, 1112 (2013). NRS 289.080 states that “a peace officer who is
27 the subject of an investigation conducted pursuant to NRS 289.057 may upon request have two
28 representatives of the peace officer’s choosing present with the peace officer during any phase of an

1 interrogation or hearing relating to the investigation, including, without limitation, a lawyer, a
2 representative of a labor union or another peace officer." A representative from a rival employee
3 organization may participate as counsel for a non-member employee as long as the representative
4 does not attempt to promote the rival organization's interests. *Washoe Education Support*
5 *Professionals v. Washoe County School Dist.*, Case No. A1-045930, Item 681A, Conclusion of Law
6 No. 17 (EMRB Feb. 10, 2009). NRS 288.140(1) states that it "is the right of every local government
7 employee, subject to the limitations provided in subsections 3 and 4, to join any employee
8 organization of the employee's choice or to refrain from joining any employee organization."
9 "Employee organization" is defined by NRS 288.040 as "an organization of any kind having as one
10 of its purposes improvement of the terms and conditions of employment of local government
11 employees." NRS 289.080 does not mandate a police union to send a representative with its
12 members to NRS 289 hearings. *Bisch v. Las Vegas Metro. Police Dep't*, 129 Nev. 328, 336, 302
13 P.3d 1108, 1114 (2013).

14 The EMRB should grant Petitioner an Order declaring that it may represent its members in
15 NRS Chapter 289 proceedings when those members request such representation.

16 First, it is lawful for Petitioner to represent its members at NRS 289 hearings. Because
17 Petitioner is not a rival organization, Petitioner may send its representatives in a formal capacity to
18 act as a friend, counselor, or co-worker of its members involved in NRS Chapter 289 proceedings.
19 The prohibition against rival organizations promoting their interests during Chapter 289 proceedings
20 does not apply to Petitioner because Petitioner's stated interest is to assist its members with character
21 improvement and community service, not to collectively bargain on their behalf. Indeed, by
22 definition, Petitioner, as it is currently composed, cannot collectively bargain on behalf of peace
23 officers.

24 Second, PPA may not legally object to Petitioner sending members to represent peace officers
25 involved in Chapter 289 proceedings. PPA's policy of objecting to Petitioner's representation of its
26 members at NRS 289 hearings exceeds the scope of authority for an "exclusive representative"
27 because it affects the right of every peace officer to "join any employee organization of the
28 employee's choice or to refrain from joining any employee organization." NRS 288.140(1). The

1 definition of "employee organization" is not limited to collective bargaining units and includes any
2 employee organization that seeks to improve the conditions of local government employees. This
3 includes community organizations, like Petitioner, with diverse membership, who seek to improve
4 the character and community commitment of its member peace officers. Allowing PPA to object to
5 Petitioner sending representatives to Chapter 289 hearings interferes with each peace officer's right
6 under NRS 288.140(1) to join an employee organization because it disincentivizes that officer from
7 joining community-based employee organizations. Further, the threat of not receiving PPA support
8 at hearings because of membership in other employee organizations, if carried out, is an even greater
9 disincentive for peace officers to join employee organizations, and therefore amounts to an even
10 greater interference with peace officer rights to join employee organizations guaranteed by NRS
11 288.140(1).

12 Third, Metro's policy of sustaining PPA's objections to Petitioner's representation of its
13 members at NRS 289 hearings violates peace officers' right to "have two representatives of the peace
14 officer's choosing present with the peace officer during any phase of an interrogation or hearing
15 relating to the investigation, including, without limitation, a lawyer, a representative of a labor union
16 or another peace officer." NRS 289.080. This is unlawful because it also allows PPA and Metro to
17 interfere with critical rights that peace officers enjoy by legislative decree. The Nevada Legislature
18 granted peace officers certain additional rights and protections for good reason. Peace officers have a
19 dangerous job. They are tasked with ensuring public safety. In the course of risking their lives for
20 that public safety they are sometimes scrutinized for actions they are forced to take while on duty.
21 Peace officers are most certainly entitled to extra representation during such stressful proceedings, in
22 the form of support from friends, family, counselor's and co-workers. It is not the place of Metro and
23 PPA to deprive officers of these important, wise, and well-deserved rights, it is for the legislature of
24 the State of Nevada to make such decisions.

25 Fourth, it is in the interest of the individual members of the National Latino Peace Officers'
26 Association-Las Vegas Chapter to allow them to choose NLPOA to send representatives to represent
27 them in NRS Chapter 289 hearings. *Bisch* allows PPA to refuse to send a member representative to a
28 NRS Chapter 289 hearing. Where PPA refuses to provide a representative for peace officers

1 involved in NRS Chapter 289 hearings, as a practical matter, unless the peace officer hires an
2 attorney, the peace officer may not be well equipped to assert his or her rights during the proceedings.
3 This is because a fellow officer, family member, or friend may not be familiar with the proceedings.
4 However, Petitioner has representatives familiar with Chapter 289 and is equipped to represent its
5 members in those proceedings. If PPA refuses to send a representative to a NRS 289 hearing, as a
6 practical matter, the peace officers only real option is to hire a private attorney – which imposes an
7 undue burden on the peace officer that may prevent that officer from asserting protections that officer
8 is entitled to by statute.

9 Finally, not only are Petitioner's interests not adverse to PPA's, those interests are aligned.
10 Petitioner seeks to provide education and mentorship to its members and to assist in bridging the gap
11 between minority communities and the peace officers that police those communities. This is in
12 alignment with PPA's interest to negotiate the best hours, wages, and terms and conditions of
13 employment for the peace officers PPA serves. Peace officers who engage in character improvement
14 make better officers, improve community relations, ease the task of policing, reduce administrative
15 burden for Metro, and thereby give PPA increased negotiating leverage on behalf of its members.
16 Tax payor funds saved in administration and labor costs may be directly employed to increase wages
17 and benefits for peace officers. While Petitioner's contribution to PPA's stated goals are indirect,
18 they are tangible. The heightened morale, safety, and efficiency of peace officers dedicated to the
19 highest standards of professionalism and community service directly translate into increased benefits
20 for all peace officers employed by Metro.

21 Therefore, Petitioner seeks a Declaration from this Board that Petitioner, upon request from
22 its members, may send fellow peace officers to act as representatives at NRS 289 hearings. To be
23 clear, Petitioner does not seek the right to be the exclusive representative at such hearings, but rather
24 seeks the right to send additional representatives to such hearings, if its members so choose.

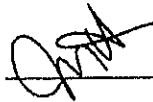
25 **V. CONCLUSION**

26 Petitioner respectfully asks the Board for a Declaratory Order stating that 1) National Latino
27 Peace Officers' Association-Las Vegas Chapter is not a "rival organization" of Las Vegas Police
28 Protective Association; and 2) that National Latino Peace Officers' Association-Las Vegas Chapter is

1 lawfully authorized to send fellow peace officers, upon request of its members, to act as
2 representatives in NRS 289 proceedings. This declaration is sought to clarify that the June 17, 2020
3 Declaratory Order (under Case Number 2020-011, Item 865) does not prohibit Petitioner from
4 sending fellow officers to NRS Chapter 289 proceedings to provide representation in addition to that
5 already provided by PPA. Petitioner also petitions the Board for such other and further relief as the
6 Board deems just and proper.

7
8 Dated: 14th Dec., 2020

**NATIONAL LATINO PEACE OFFICERS ASSOCIATION
LAS VEGAS CHAPTER**

9
10 

11 By: Jose Hernandez

12 Its: National Latino Peace Officers Association
13 Las Vegas Chapter
14 P.O. Box 271477
15 Las Vegas, NV 89127

16 Dated: 14th Dec., 2020

HUTCHINGS LAW GROUP, LLC

17 /s/ Mark H. Hutchings

18 By: _____

19 Mark H. Hutchings, Esq.
20 552 E. Charleston Blvd.
21 Las Vegas, NV 89104
22 Telephone: (702) 660-7700
23 Attorney for National Latino Peace Officers Association, Las
24 Vegas Chapter
25
26
27
28

CERTIFICATE OF SERVICE

I am employed in the County of Clark, State of Nevada. I am over the age of 18 and not a party to the within action. My business address is 552 E. Charleston Blvd., Las Vegas, NV 89104.

On the date set forth below, I served the document(s) described as:

PETITION FOR DECLARATORY RELIEF

on the person(s) listed below:

LAS VEGAS POLICE PROTECTIVE ASSOCIATION METRO, INC.
c/o David Roger, Esq.
9330 W. Lake Mead Blvd., Suite 200
Las Vegas, NV 89134

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
400 S. Martin Luther King Blvd.
Las Vegas, NV 89106

X (BY ELECTRONIC SERVICE) Pursuant to Eighth Judicial District Court Administrative Order 14-2 and N.E.F.C.R. 9, I caused the document(s) described above to be transmitted electronically to the addressee(s) as set forth above.

X (STATE) I declare under penalty of perjury under the laws of the State of Nevada that the above is true and correct.

Dated: December 14, 2020

/s/ Helen Buenrostro
An employee of HUTCHINGS LAW GROUP

EXHIBIT “C”

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10 Nye County

FILED
JAN 04 2021
STATE OF NEVADA
E.M.S.

GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

STATE OF NEVADA

NATIONAL LATINO PEACE OFFICERS
ASSOCIATION, Las Vegas Chapter, a domestic
non-profit organization,

Case No.: 2020-033

Petitioner,

vs.

LAS VEGAS POLICE PROTECTIVE
ASSOCIATION METRO, INC., a domestic non-
profit organization; LAS VEGAS
METROPOLITAN POLICE DEPARTMENT, a
local government employer; DOE
INDIVIDUALS 1 through 20, inclusive; ROE
ENTITIES, 1 through 20, inclusive,

Respondents.

LVMPD'S RESPONSE TO PETITION FOR DECLARATORY RELIEF

Respondent Las Vegas Metropolitan Police Department, (hereinafter "Department" or
"LVMPD"), by and through its attorneys of record, Nick D. Crosby, Esq., of the law firm of
Marquis Aurbach Coffing, hereby Responds to Petitioner's Petition for Declaratory Relief.

I. INTRODUCTION

The Petitioner requests the Board declare it is not a rival organization to the Police
Protective Association and declare Petitioner is entitled to send fellow peace officers, upon the
request of its members, to act as representatives in proceedings arising under Nevada Revised
Statute chapter 289. The Department does not take a position on this issue, one way or the other,
and will abide by any decision issued by the Board.

1 **II. STATEMENT OF RELEVANT FACTS**

2 **A. THE BOARD'S DECLARATORY ORDER IN CASE NO. 2020-011.**

3 On June 17, 2020, the Board issued an *en banc* Declaratory Order in Nevada Highway
4 Patrol Association v. State of Nevada Department of Public Safety, et al., Case No. 2020-011,
5 Item No. 865 (the "Declaratory Order"). As the Board noted NHPA, the dispute there
6 "essentially surround[ed] the ability of other organizations not recognized as the exclusive
7 representative to represent bargaining unit members in matters not involving collective
8 bargaining, such as grievances, OPR investigations, and critical incidents." (Dec. Order, p. 2:1-
9 3). In NHPA, the Board concluded the "exclusive representative" provisions of the EMRA and
10 the representative rights under the Peace Officers Bill of Rights, Nevada Revised Statute chapter
11 289, could be read together to "render a harmonious result." (Id. at p. 3:22-24). In reconciling
12 these two statutes, the Board cited with approval a District Court decision in Washoe Ed.
13 Support Professionals v. State of Nev., Local Gov. Employee-Management Relations Bd., Case
14 No. 09 OC 00086 1B (2010), which stated, in part, that "[w]here...an employee organization has
15 been recognized as the bargaining agent for a bargaining unit, the bargaining agent's
16 representative status is *exclusive* and no rival employee organization may purport to 'represent'
17 any employee in the unit in any grievance proceeding...." (Id. at p. 5:7-9). The Board went on
18 to hold, "While NRS 288.140 recognizes the right of an employee not to become a member of
19 the recognized employee organization and to 'act for himself or herself' in connection with a
20 grievance, nothing in that provision, or any other provision of the EMRA, permits such an
21 employee to be 'represented' by an agent or employee of a rival employee organization serving
22 in such a capacity." (Id. at p. 7:11-13).

23 **B. THE PETITION.**

24 In the Petition, Petitioner recognizes that the Declaratory Order "is silent on whether a
25 non-rival employee organization may represent a member employee in a grievance proceeding as
26 a friend, co-worker, or fellow peace officer." (Pet., p. 4:11-13). Furthermore, Petitioner also
27 recognizes the Declaratory Order "is silent on whether an exclusive representative may prohibit a
28 non-rival employee organization from representing a member employee in a grievance

1 proceeding as a friend, co-worker, or fellow peace officer." (Id. at p. 4:13-16). Petitioner seeks
2 a declaratory order from the Board declaring that it is not a rival organization of the Las Vegas
3 Police Protective Association ("PPA") and is "legally entitled to send fellow peace officers, upon
4 the request of its members, to act as representatives in NRS 289 proceedings." (Id. at p. 5:11-
5 13).

6 **III. THE DEPARTMENT'S POSITION**

7 The issue presented in the Petition is really an issue between Petitioner and PPA. The
8 Department does not take a position on the issue – one way or the other – and will abide by any
9 decision issued by the Board in this case. It is evident from the Petition that the Declaratory
10 Order created some confusion among bargaining agents/unions and the Department, such that an
11 order issued from the Board which provides clarity to the issues presented will be helpful.

12 **IV. CONCLUSION**

13 As stated above, the Department remains neutral in this dispute and will abide by any
14 decision issued by the Board in this matter.

15 Dated this 4th day of January, 2021.

16 MARQUIS AURBACH COFFING
17 

18 By: _____

19 Nick D. Crosby, Esq.
20 Nevada Bar No. 8996
21 10001 Park Run Drive
22 Las Vegas, Nevada 89145
23 Attorneys for Respondent
24
25
26
27
28

MARQUIS AURBACH COFFING

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Las Vegas, Nevada 89145
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CERTIFICATE OF MAILING

I hereby certify that on the 4th day of January, 2021, I served a copy of the foregoing
LVMPD'S RESPONSE TO PETITION FOR DECLARATORY RELIEF upon each of the
parties by depositing a copy of the same in a sealed envelope in the United States Mail, Las
Vegas, Nevada, First-Class Postage fully prepaid, and addressed to:

Mark H. Hutchings, Esq.
Stacy Norris, Esq.
Hutchings Law Group, LLC
552 E. Charleston Blvd.
Las Vegas, NV 89104
Attorneys for Petitioner

David Roger, Esq.
Las Vegas Police Protective Association Metro, Inc.
9330 W. Lake Mead Blvd., Ste. 200
Las Vegas, Nevada 89134
Attorneys for PPA

and that there is a regular communication by mail between the place of mailing and the place(s)
so addressed.


An employee of Marquis Aurbach Coffing

EXHIBIT “D”

FILED

FEB 25 2021

STATE OF NEVADA

STATE OF NEVADA
E.M.R.B.

GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

NATIONAL LATINO PEACE OFFICERS
ASSOCIATION,

Case No. 2020-033

NOTICE OF ENTRY OF ORDER

Petitioner,

v.

LAS VEGAS POLICE PROTECTIVE
ASSOCIATION METRO, INC., LAS VEGAS
METROPOLITAN POLICE DEPARTMENT,

ITEM NO. 870

Respondents.

TO: Complainants and their attorneys of record Mark H. Hutchings, Esq. and Stacy Norris, Esq., and
Hutchings Law Group LLC;

TO: Respondent Las Vegas Police Protective Association Metro, Inc. and their attorney of record
David Roger, Esq.;

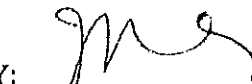
TO: Respondent Las Vegas Metropolitan Police Department and their attorneys of record Nick
Crosby, Esq. and Marquis Aurbach Coffing.

PLEASE TAKE NOTICE that the **DECLARATORY ORDER** was entered on the 25th day of
February 2021, a copy of which is attached hereto.

DATED this 25th day of February 2021.

GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY:



MARISU ROMUALDEZ ABELLAR
Executive Assistant

CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Government Employee-Management Relations Board, and that on the 25th day of February 2021, I served a copy of the foregoing NOTICE OF ENTRY OF ORDER by mailing a copy thereof, postage prepaid to:

Mark H. Hutchings, Esq.
Stacy Norris, Esq.
Hutchings Law Group LLC
552 E. Charleston Blvd.
Las Vegas, NV 89104

David Roger, Esq.
Las Vegas Police Protective Association
9330 W. Lake Mead Blvd., Suite 200
Las Vegas, NV 89134

Nick D. Crosby, Esq.
MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, NV 89145



MARISU ROMUALDEZ ABELLAR
Executive Assistant

FILED

FEB 25 2021

STATE OF NEVADA
E.M.R.B.

STATE OF NEVADA

GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

NATIONAL LATINO PEACE OFFICERS
ASSOCIATION,

Petitioner,

v.

LAS VEGAS POLICE PROTECTIVE
ASSOCIATION METRO, INC., LAS VEGAS
METROPOLITAN POLICE DEPARTMENT,

Respondents.

Case No. 2020-033

DECLARATORY ORDER

EN BANC

ITEM NO. 870

On February 18, 2021, this matter came before the State of Nevada, Government Employee-Management Relations Board ("Board") for consideration and decision pursuant to the provisions of the Employee-Management Relations Act (EMRA, Chapter NRS 288) and NAC Chapter 288. At issue was Petitioner's, National Latino Peace Officers' Association, Petition for Declaratory Order.

Petitioner seeks a declaration that Petitioner, as a purported "non-rival organization" in relation to Las Vegas Police Protective Association (LVPPA), may act as a representative of the bargaining unit that has chosen LVPPA as its exclusive representative. Petitioner did not request a hearing.

In June 2020, this Board issued a declaratory order in *Nevada Highway Patrol Ass'n v. State of Nevada*, Case No. 2020-011, Item No. 865 (2020). This order is incorporated by reference as the Board reaffirms applicable portions of that order herein. The Board preliminarily noted that its jurisdiction is limited to matters arising out of the interpretation of, or performance under, the provisions of the EMRA. NRS 288.110(2). However, the Board additionally noted that while the Board does not have jurisdiction over NRS Chapter 289, since the argument was raised that there was a potential conflict between NRS Chapters 288 (EMRA) and 289, the Board was required by statutory rules of construction to examine if there was conflict. The Board concluded that NRS Chapter 289 did not appear to conflict with NRS Chapter 288 and can be read to render a harmonious result.

1 The order was based in part on Judge James Russell's decision in *Washoe Ed. Support*
2 *Professionals v. State of Nevada, Local Government Employee-Management Relations Board*, Case No.
3 09 OC 00086 1B (2010) (District Court Decision).

4 The District Court Order concluded:

5 Where, as here, an employee organization has been recognized as the bargaining agent
6 for a bargaining unit, the bargaining agent's representative status is *exclusive* and no rival
7 employee organization may purport to 'represent' any employee in the unit in any
8 grievance proceeding or in any other aspect of collective bargaining. Any
9 'representation' of this nature is fundamentally inconsistent with the status and function
10 of the recognized bargaining agent. *See, e.g., UMC Physicians' Bargaining Unit v.*
11 *Nevada Serv. Employees Union*, 124 Nev. [84, 178 P.3d 709, 715 (2008)] ("the interests
12 of employees whose bargaining units are exclusively represented by one employee
organization cannot be simultaneously represented by another employee organization");
13 *Operating Engineers Local Union No. 3 v. City of Reno*, Item No. 7 (1972) (rejecting
14 contention that Chapter 288 'permits an employer to 'recognize' a minority employees
15 organization ..., not negotiation per se, but for purposes other than negotiation such as
16 grievance processing....);).

17 A local government employer who knowingly allows 'representation' of this kind or
18 knowingly participates in a grievance proceeding with an agent or employee of a rival
19 employee organization, *acting as such*, thereby fails to bargain in good faith with the
20 recognized bargaining agent and commits a prohibit practice within the meaning of NRS
21 288.270(1)(e). *Federal Tel. and Radio Co.*, 107 NLRB 649 (1953) (applying
22 corresponding provisions of the National Labor Relations Act); *Hughes Tool Co.*, 56
23 NLRB 981 (1944) (same).

24 In the challenged order and in at least one prior decision, the Board has ruled that if an
25 employee in a bargaining unit is a *member* of the employee organization serving as
26 recognized bargaining agent, the employee may *only* be represented in a grievance
27 proceeding by an agent or employee of that organization. *Washoe Ed. Support*
28 *Professionals v. Washoe County Sch. Dist.*, Item No. 681A, Case No. A1-045930 (EMRB
2009), Finding of Fact No. 4; *United We Stand Classified Employees/AFT v. Washoe*
County Sch. Dist., Item No. 641B, Case No. A1-045888 (EMRB 2007). This ruling has
not been challenged. Nor does WESP dispute the right of such employee to retain the
services of an attorney of the employee's choice, so long as the expense of this
representation is borne by the employee.

24 *Id.* at 2-4 (*emphasis* in original). The District Court Order further opined:

25 Where, however, a unit employee is *not a member* of the employee organization serving
26 as recognized bargaining agent, NRS 288.140(2) provides that the employee may 'act for
27 himself' in any grievance proceeding -- *i.e.*, on his own behalf and without a
28 representative. *Cone v. Nevada Serv. Employees Union*, 116 Nev. 473, 998 P.2d 1178
(2000) (noting that statute 'authorized a nonunion member to act on his own behalf [and]
forgo union representation').

1 In addition, the Board has ruled that such an employee may be represented by 'counsel',
2 a term that the Board apparently interprets to include a friend, relative or co-worker, or an
3 attorney retained by the employee. *Washoe Ed. Support Professionals v. Washoe County*
Sch. Dist., Item No. 681A, Conclusion of Law No. 15. With the exception noted below,
WESP likewise has not challenged this aspect of the Board's ruling.

4 In any matter involving a non-member employee, NRS 288.140(2) provides that 'any
5 action taken on a request or in adjustment of a grievance shall be consistent with the
6 terms of an applicable negotiated agreement, if any.' Accordingly, in any such case, the
7 Board has ruled that the recognized bargaining agent is also entitled to be present '[t]o
8 monitor ... compliance with the applicable [negotiated agreement] and the provisions of
NRS chapter 288'. *Washoe Ed. Support Professionals v. Washoe County Sch. Dist.*, Item
No. 681A, Conclusion of Law No. 15. Again, this aspect of the Board's ruling has not
been challenged.

9 *Id.* at 4-5 (*emphasis in original*) (internal citations omitted).

10 Judge Russell additionally noted: "Where the representative of a non-member employee is also
11 an employee or agent of a rival employee organization, the parties have opposing views on the result
12 that should follow." *Id.* at 5. Moreover, "[b]oth parties agree, in any case, that an *attorney* who is
13 retained by the employee to act as his representative in such proceeding should be allowed to represent
14 the employee, even if the attorney also represents a rival employee organization. To the extent that the
15 Board has so held, its order is affirmed." *Id.* at 6, note 5 (*emphasis in original*). The District Court
16 further found:

17 If, as WESP agrees, a non-member employee may lawfully be represented by a friend,
18 relative or co-worked, the fact that the representative also happens to be an agent or
19 employee of a rival employee organization should not disqualify him from serving as
20 representative if in fact he is functionally independently of his role as an agent of the
21 union. On the other hand, if the representative in fact is overtly or covertly attempting to
function on behalf of both the employee and the rival employee organization (or solely on
behalf of the union), the representative's participation effectively undercuts the status of
the recognized bargaining agent and cannot knowingly be permitted by the employer.

22 Accordingly, in any grievance proceeding involving an employee representative who is
23 also an agent or employee of a rival employee organization, the representative cannot
24 function as such -- and hence cannot participate in the proceeding Where, however,
25 the employer knows or reasonably believes that the representative is serving *entirely*
independently of the rival organization as (for example) a friend, relative or co-worker of
the employee, the representative's participation is permissible.

26 ///

27 ///

28 ///

1 *Id.* at 6 (*emphasis* in original). The District Court denied the petition for judicial review, as requested
2 by WESP, "to hold that an agent or employee of a rival employee organization is, solely by virtue of
3 that status, precluded from representing an employee in any grievance proceeding...." *Id.* at 7.

4 In addition, the Board explained: "Allowing this kind of representation would impair the
5 efficiency and utility of the grievance and collective bargaining process, undermine the position of the
6 recognized bargaining agent, and effectively destabilize employee-management relations in the public
7 sector. This is consistent with the exceptions noted above. The exclusivity of representation is a key
8 element in ensuring labor stability in the workplace (one of the important reasons for the adoption of
9 NRS Chapter 288 in 1969) and in allowing a properly recognized union to do its job." Board's
10 Declaratory Order, at 7 (citations omitted). We explained: "Designating one union as the exclusive
11 representation of all employees allows them to speak with one voice, pooling economic strength, ensure
12 their rights are not watered down by divisiveness, respond with institutional knowledge when
13 employers disparately treat them, and allowing this carve out would tend to dilute that strength contrary
14 to the purposes and policies of the EMRA." *Id.* at 8 (citations omitted). Furthermore, "[i]f the
15 Legislature wishes to provide that an agent or employee of a rival labor organization serving in that
16 capacity, may purport to represent any employee in a bargaining unit with a recognized representation,
17 then that is their legislative prerogative. It is not for the Board to make the law, that is for the
18 Legislature, and the Board is required to follow the law regardless of the result." *Id.* (citations omitted).

19 Based on the above as well as additional mandates of statutory construction, the Board held that
20 a harmonious and reasonable reading could be achieved between NRS Chapters 288 and 289. *Id.* at 8-
21 11.

22 Petitioner claims that the purpose of the instant Petition was as follows: "The June 17, 2020
23 Declaratory Order is silent on whether a non-rival employee organization may represent a member
24 employee in a grievance proceeding as a friend, co-worker, or fellow peace officer. The June 17, 2020
25 Declaratory Order is silent on whether an exclusive representative may prohibit a non-rival employee
26 organization from representing a member employee in a grievance proceeding as a friend, co-worker, or
27 fellow peace officer."

28 ///

1 The Board reaffirms applicable portions of our prior declaratory order including the distinctions
2 explained therein. The Board notes that Petitioner did not request a hearing to have an opportunity to
3 present evidence (nor did Petitioner file a reply in support of their Petition in order to contest LVPPA's
4 assertions). Thus, the Board can neither resolve issues as to whether the distinctions are applicable¹,
5 nor can the Board resolve all issues and fully explore the dispute. For example, LVPPA asserted that
6 Petitioner was in fact averse.

7 LVPPA states that "rival association" was simply a term of art used by Judge Russell to
8 distinguish an exclusive representative from others (in other words, minority unions lacking majority
9 support). Further, NRS 288.133 does not provide for multiple bargaining agents. NRS Chapter 289
10 additionally provides for "a representative of a labor union," and if the Legislature intended to include a
11 minority union, it would have said so.

12 As the Board cited to in our prior declaratory order, the NLRB supports these assertions as
13 related to the EMRA (in addition to the plain language and purposes and policies of the EMRA). For
14 example, in *Federal Telephone and Radio Co.*, 107 NLRB 649, 651 (1953), "[t]he question of law here
15 is whether or not under Section 9(a) an employee may present an individual grievance to his employer
16 through a rival union of his choice when there exists a certified bargaining representative for the unit in
17 which he is included."² The NLRB explained: "The legislative history of the original 1935 Act shows
18 clearly that the earlier proviso was not intended to permit the defeated or minority union any rights to
19 represent employees. Thus, the proposed bills in both House and Senate originally contained, at the end
20 of the proviso, the words, 'through representatives of their own choosing.' These words were
21

22 ¹ For example, the conclusion, noted above, "Where, however, the employer knows or reasonably believes that the
23 representative is serving *entirely independently* of the rival organization as (for example) a friend, relative or co-worker of
the employee, the representative's participation is permissible."

24 ² The EMRA was modeled after the NLRA, and it is the intent of the EMRA to apply the governing principles of the NLRA
in implementing the EMRA. This is well established. *Truckee Meadows Fire Prot. Dist. v. Int'l Ass'n of Fire Fighters*,
25 *Local 2487*, 109 Nev. 367, 374, 849 P.2d 343, 348 (1993); *City of N. Las Vegas v. State Local Gov't Employee-Mgmt. Rel.*
Bd., 127 Nev. 631, 639, 261 P.3d 1071, 1076 (2011). NRS 288.140, NRS 288.133, and 288.160 were modeled in part after
26 Sec. 9 (§ 159), and as they are substantially similar, a presumption arises that the Legislature intended to adopt the
construction by the NLRB. *State, Dep't of Bus. & Indus., Office of Labor Com'r v. Granite Const. Co.*, 118 Nev. 83, 88, 40
27 P.3d 423, 426 (2002) ("When a federal statute is adopted in a statute of this state, a presumption arises that the legislature
knew and intended to adopt the construction placed on the federal statute by federal courts. This rule of [statutory]
28 construction is applicable, however, only if the state and federal acts are substantially similar and the state statute does not
reflect a contrary legislative intent."). Petitioner failed to provide any authority that there was a contrary intent.

1 eliminated in order to avoid the implication that the 'individual' or 'group might select any
2 representative it wished." *Id.*³

3 The NLRB noted: "The U.S. Court of Appeals for the Fifth Circuit, enforcing in part the Board's
4 order ... commented: It was not thought good to allow grievance hearings to become clashes between
5 rival unions. We think an inexperienced or ignorant griever can ask a more experienced friend to assist
6 him but he cannot present his grievance through any union except the [majority] representative." *Id.* at
7 652. Further, "Senator Taft stated: ... The revised language would make it clear that the employees
8 right to present grievances exists independently of the rights of the bargaining representative, if the
9 bargaining representative has been given an opportunity to be present at the adjustment, unless the
10 adjustment is contrary to the terms of the collective bargaining agreement then in effect." *Id.* "It is thus
11 clear that these changes were directed only toward assuring the individual griever the right to confer
12 with his employer without participation of the certified bargaining agent. This conclusion is also borne
13 out by the fact that the *North American Aviation* case, cited by Senator Taft as apparently inconsistent
14 with the *Hughes* case, does not involve the **minority union** problem in issue here. Furthermore, the
15 House Conference Report, like the Senate Report, discusses only limitation of the bargaining
16 representative's role. Equally significant is the fact that the 1947 legislative history in no way refers to
17 the intent which unequivocally emerged from the 1935 legislative history. It is clear, then, that the 80th
18 Congress, with knowledge of the Board's construction of the old proviso in *Hughes Tool* and the Fifth
19 Circuit's support of that construction, gave no indication of rejecting that construction or of a different
20 intent." *Id.* at 653 (**emphasis added**). "However, as the General Counsel correctly argues, these
21 provisos could not have been intended to confer rights upon the **minority union**. Indeed, to read such a
22 broad meaning into the provisos would effectively disrupt the peaceful application of the majority rule
23 inherent in the Board's certification and would lead to instability in industrial relations not consonant
24 with the spirit and objectives of the 1947 amendments." *Id.* at 653 (**emphasis added**).

25 _____
26 ³ As is apparent, these decisions were made well before the EMRA was originally enacted. Moreover, in the same vein, we
27 previously noted: "The EMRA had its genesis in Senate Bill 87 in 1969 sponsored by Senator Carl Dodge. SB 87 initially
28 provided specifically for the recognition of more than one employee organization for any given 'negotiating unit'. See
Sections 10, 11, 13. After it was passed in the Senate, objections were made that the bill's provisions for multiple
bargaining agents was unworkable and would result in chaos. Accordingly, when the bill was heard in the Assembly, such
language was removed from the bill. The amended language has not been materially changed since that time." Board's
Declaratory Order, 8, n. 7 (citations omitted).

1 The NLRB held: "For the foregoing reasons, and on the record as a whole, we find, contrary to
2 the Trial Examiner, that the Ernst grievance was presented to the Respondent by the IUE, and that the
3 Respondent violated Section 8(a)(5) and (1) of the Act by accepting and considering a grievance
4 presented and processed in behalf of an individual employee by a union other than the certified
5 bargaining agent for the unit in which the grievor was included." *Id.*

6 Thus, the NLRB made it clear that a minority union (regardless of being a self-purported "rival
7 union" or not) may not represent an employee in a grievance proceeding (though again the Board notes
8 that LVPPA contends that NLPOA is averse). This conclusion has received ample support throughout
9 the years. *See, e.g., U.S. Postal Serv.*, 208 NLRB 145, 149 (1974) ("Yet the NLRA does not accord a
10 minority union the right to represent employees on grievances when another union enjoys exclusive
11 recognition as the representative of such employees."); *Nat'l Labor Rel. Bd. v. Kearney & Trecker*
12 *Corp.*, 237 F.2d 416, 420 (7th Cir. 1956) ("Under the statute ... a grievance under Sec. 9(a) is not
13 necessarily limited to minor matters, but may entail problems arising under a collective bargaining
14 agreement, provided the collective bargaining representative be given an opportunity to be present. This
15 is in conformity with the thought expressed in *N.L.R.B. v. North American Aviation Co.*, 9 Cir., 136 F.2d
16 898. Thus for the purposes of understanding the application of Sec. 9(a) in conjunction with Sec. 7 in
17 relation to the problem before us, we need not be concerned with the distinction between a 'grievance'
18 and a matter of 'collective bargaining.'")⁴; *Leather Goods Workers (Afl-Cio) Local 346 (Baronet of*
19 *Puerto Rico, Inc.)*, 133 NLRB 1617, 1630 (1961) ("Any other conclusion would be equivalent to
20 recognizing an uncertified union's right to adjust grievances in derogation of the certified union's
21 exclusive representative status and would run counter to the Board's interpretation of Section 9(a)
22 which defines the rights of a majority representative and the rights of employees to submit
23 grievances."); *Youngstown Cartage Co. (Local 377, Teamsters)*, 146 NLRB 305, 307 (1964) ("The
24 Board has held that the Act imposes no obligation upon, and generally precludes, an employer from

25
26 ⁴ It is easy (as it was for the NLRB) to envision scenarios in which a union could undermine the majority union's exclusive
27 representation in grievance proceedings. For example, a minority union could argue to members of the bargaining unit that
28 they have had greater success than the incumbent (and thus garner further support or undermine the incumbent). Or, in
settling grievances, agree to terms that the recognized exclusive representative would not otherwise agree to as those terms
may impair the collective bargaining process. *See also supra* note 1. Further, assuming *arguendo*, NLPOA is currently not
averse to LVPPA, there are no assurance that they will not become so in the future.

1 entertaining a grievance on behalf of an individual employed in a bargaining unit other than that
2 represented by the grieving union."); ¶ 2210.391 ANNOTATIONS TO PROCESSING OF
3 GRIEVANCES NO. 3, Labor & Empl. L. P 2210.391 (2020) ("Individual employee has no right to
4 have his grievance presented and processed by minority union."); *Operating Engineers Local Union*
5 *No. 3 v. City of Reno*, Item No. 7 (1972) (rejecting contention that Chapter 288 'permits an employer to
6 'recognize' a minority employees organization ..., not negotiation per se, but for purposes other than
7 negotiation such as grievance processing....).

8 As such, based on not only the Legislative history and plain language of the EMRA, but also the
9 purposes and policies of the EMRA, NLPOA may not represent employees of the bargaining unit in
10 grievance proceedings.⁵

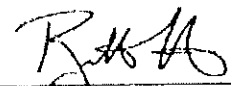
11 Dated this 25th day of February 2021.

12 GOVERNMENT EMPLOYEE-
13 MANAGEMENT RELATIONS BOARD

14 By: 
15 BRENT ECKERSLEY, ESQ., Chair

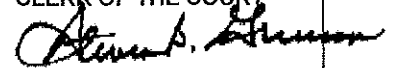
16 By: 
17 SANDRA MASTERS, Vice-Chair

18 By: 
19 GARY COTTINO, Board Member

20 By: 
21 BRETT HARRIS, ESQ., Board Member

22 By: 
23 MICHAEL J. SMITH, Board Member
24
25
26
27

28 ⁵ Again, due to the posture of this case, the Board could not analyze distinctions noted above. If NLPOA believes they have
been improperly denied the ability to represent members, the Board encourages NLPOA to file a complaint with the Board.



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6 (702) 386-0536; FAX (702) 386-6812
Attorneys for Petitioner

8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

10 JORDAN TRAVERS,
11
12 Petitioner,

Case No.: A-21-832601-P
Dept. No.: 27

13 v.

14 LAS VEGAS METROPOLITAN
POLICE DEPARTMENT

15 Respondent.

**REPLY TO LVMPD'S NON-OPPOSITION
TO PETITION FOR INJUNCTIVE RELIEF
PURSUANT TO NRS 289.120**

17 Comes now Petitioner Jordan Travers by and through undersigned counsel and hereby Replies
18 to the Non-Opposition filed by Las Vegas Metropolitan Police Department ("LVMPD") to Travers'
19 Petition for Injunctive Relief Pursuant To NRS 289.120 as follows.

20 LVMPD's Response filed May 3, 2021 is a non-Opposition. LVMPD does not dispute any of
21 the facts set forth in Travers' Petition including the fact that Travers' interview with CIRT fell under
22 NRS 289.057, or that it denied Travers' representative of choice, Adam Levine, because Levine is a
23 Fraternal Order of Police Legal Defense Fund Plan attorney. LVMPD does not dispute that the Plan is
24

1 not an "employee organization, or that Plan attorneys represent the individual officers and not any
2 employee organizations, whether "rival" or otherwise.

3 LVMPD does not dispute that if there is a conflict between the representation provisions of
4 NRS 289.080, and the exclusive representation principles of NRS Chapter 288, that the rights of
5 representation set forth in NRS 289.080 must prevail based upon statutory construction principles of
6 both specificity and recency. LVMPD does not reject or contest the requested remedy of a permanent
7 injunction pursuant to NRS 289.120 to prohibit LVMPD from denying a representative of a peace
8 officer's own choosing in cases subject to NRS 289.057 (i.e. which may lead to punitive action).

9 The EMRB correctly noted in its *Nevada Highway Patrol Association v. State of Nevada*
10 *Department of Public Safety et al.*, Case No. 2020-011 Item No. 865 "that the Legislature has limited
11 the Board's authority to interpret a peace officer's rights under NRS Chapter 289". (LVMPD's Exhibit
12 "A" at p. 2). In contrast, the Legislature has vested exclusive jurisdiction over NRS Chapter 289 with
13 the district court. See NRS 289.120.

14 Likewise the Board in both *Nevada Highway Patrol Association*, supra and *National Latino*
15 *Peace Officers Association v. Las Vegas Police Protective Association Metro, Inc.*, Case No. 2020-033
16 correctly recognized that the representation provisions of NRS 289.080 and Chapter 288 may be read
17 "harmoniously". That harmonious reading is as follows:

- 18 1. In any interview, interrogation or hearing subject to NRS 289.057 a peace officer may
19 be represented by two (2) representatives of the peace officer's own choosing
20 "including, without limitation, a lawyer, a representative of a labor union or another
21 peace officer";
 - 22 2. For all other matters:
- 23
24

1 (a) If the peace officer has joined the employee organization which is recognized as
2 the exclusive representative by the employer, he/she must be represented by the
3 exclusive representative; or

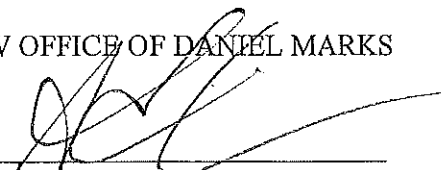
4 (b) If the peace officer has not joined the employee organization which is
5 recognized as the exclusive representative per NRS 288.140 (1) and (2) may be
6 represented by any person so long as that person is not an agent or employee of a
7 rival employee organization, or by an attorney even if the attorney also
8 represents a rival employee organization.

9 See *Nevada Highway Patrol Association*, supra at pp. 5-7.

10 EDCR 2.20(e) required LVMPD to state "facts showing why the motion... should be denied."
11 Failure to serve such an opposition "may be construed as an admission that the motion... is meritorious
12 and a consent to granting the same". Because LVMPD has not set forth any facts or arguments to
13 denying the requested injunctive relief, it should be granted forth with.

14 DATED this 12th day of May, 2021.

15 LAW OFFICE OF DANIEL MARKS

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Q. E. Harper
An employee of the
LAW OFFICE OF DANIEL MARKS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filings (Petition)

COURT MINUTES

May 20, 2021

A-21-832601-P In the Matter of the Petition of
Jordan Travers

May 20, 2021 10:00 AM Petition

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

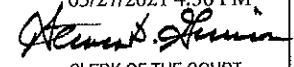
PARTIES

PRESENT: Crosby, Nick D Attorney
Levine, Adam Attorney

JOURNAL ENTRIES

- All appearances made via the BlueJeans Videoconferencing Application

Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Petition for Injunctive Relief Pursuant to NRS 289.120 GRANTED. Mr. Levine to prepare the order and submit it to opposing counsel for review as to form.


CLERK OF THE COURT

1 FFCO
LAW OFFICE OF DANIEL MARKS
2 DANIEL MARKS, ESQ.
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3 office@danielmarks.net
ADAM LEVINE, ESQ.
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alevine@danielmarks.net
5 610 South Ninth Street
Las Vegas, Nevada 89101
6 (702) 386-0536; FAX (702) 386-6812
Attorneys for Petitioner

8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

10 JORDAN TRAVERS,
11
Petitioner,

Case No.: A-21-832601-P
Dept. No.: 27

12 v.

13 LAS VEGAS METROPOLITAN
14 POLICE DEPARTMENT

15 Respondent.

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER GRANTING
PERMANENT INJUNCTION PURSUANT
TO NRS 289.120

18
19 Petitioner Jordan Travers' Petition for Injunctive Relief Pursuant to NRS 289.120 having come
20 before the Court for a hearing on May 20, 2021 at 10:00 AM, and the Petitioner being represented by
21 Adam Levine, Esq. of the Law Office of Daniel Marks, and the Respondent being represented by
22 Nicholas D. Crosby, Esq., of Marquis Auerbach Coffing, makes the following Findings of Fact and
23 Conclusions of Law:
24

1 **FINDINGS OF FACT**

2 The following facts are undisputed by the parties:

- 3 1. Jordan Travers is employed as a police officer with the Las Vegas Metropolitan Police
4 Department ("LVMPD").
- 5 2. On March 4, 2021 Travers was served with an Employee Notification of Administrative
6 Interview by the LVMPD's Critical Incident Review Team ("CIRT").
- 7 3. The Critical Incident Review Process at LVMPD is an investigation which may lead to
8 punitive action within the meaning of NRS 289.057.
- 9 4. Travers did not join the Police Protective Association, which is the exclusive recognized
10 employee organization for purposes of collective bargaining for police officers
11 employed by LVMPD.
- 12 5. Travers had procured Fraternal Order of Police Legal Defense Fund Plan ("the Plan")
13 Administrative coverage. The Plan is a self-funded benefits plan which provides
14 coverage based upon the annual premiums paid by Plan participants.
- 15 6. Plan coverage permitted Travers to select either a Plan attorney or a non-Plan attorney to
16 represent him in connection with the CIRT investigation. If a non-Plan attorney is
17 selected there are deductibles and a cap on benefits.
- 18 7. Travers selected Plan attorney Adam Levine.
- 19 8. Plan attorneys represent the individual officer and do not represent either the Plan or any
20 employee organization.
- 21 9. On March 4, 2021 LVMPD informed Levine, both by telephone conversation and by
22 confirming e-mail, that he would not be permitted to represent Travers due to Traver's
23 affiliation with the Fraternal Order of Police based upon recent decisions of the State of
24 Nevada Employee Management Relations Board ("EMRB").

10. LVMPD based its decision upon the EMRB's decisions in *Nevada Highway Patrol Association v. State of Nevada Department of Public Safety et al.*, Case No. 2020-011 Item No. 865 (2020) and *National Latino Peace Officers Association v. Las Vegas Police Protective Association Metro, Inc.*, Case No. 2020-033 Item No. 870 (2021) (collectively "the EMRB Decisions").
11. The EMRB Decisions note that the EMRB lacks jurisdiction to interpret the provisions of Nevada's Peace Officers Bill of Rights NRS 289.010 through 289.120, inclusive ("POBR"), and opine that the exclusive representation principles recognized under Nevada's Employee Management Relations Act, NRS Chapter 288, may be read in harmony with the provisions of Nevada's POBR.
12. Following denial of his chosen representation, Travers filed a Petition for Injunctive Relief pursuant to NRS 289.120 to permanently enjoin LVMPD from denying peace officers the ability to be represented during any phase of an interrogation, interview, or hearing subject to NRS 289.057 by two representatives of the peace officer's own choosing including, without limitation, a lawyer, a representative of a labor union or another peace officer connection with investigations under NRS 289.057.
13. If any of these Findings of Fact are properly considered as Conclusions of Law, they shall be so construed.

CONCLUSIONS OF LAW

14. NRS 289.080 (1) and (2) provide that in connection with any investigation conducted pursuant to NRS 289.057, both subject and witness peace officers may "have two representatives of the peace officer's choosing present with the peace officer during any phase of an interrogation or hearing relating to the investigation, including, without limitation, a lawyer, a representative of a labor union or another peace officer."

1 15. In the EMRB's National Latino Peace Officers Association Decision, the Board looked
2 to the history of the National Labor Relations Act ("NLRA") and noted that the words
3 "representatives of their own choosing" were included in the original draft of the
4 legislation introduced into both the House of Representatives and Senate, but that this
5 language was later removed.

6 16. In contrast, when the Nevada Legislature enacted NRS 289.080 in its current form it
7 expressly included the language "representatives of their own choosing".

8 17. When construing a statute courts are to "give effect to each of its words and phrases".
9 *Arguello v. Sunset Station, Inc.*, 127 Nev. 365, 370, 252 P.3d 206, 209 (2011).

10 18. In footnote 9 to *Ruiz v. City of North Las Vegas*, 127 Nev. 254, 255 P.3d 216 (2011) the
11 Nevada Supreme Court stated that Nevada's POBR is to be construed "in a manner
12 consistent with the enforceability of those rights".

13 19. LVMPD violated Travers's rights under NRS 289.080 to select representatives of his
14 own choosing when it denied him the right to be represented by Adam Levine due to
15 Travers' Fraternal Order of Police affiliation.

16 20. NRS 289.120 authorizes the district court to issue appropriate injunctive relief to
17 "prevent the further occurrence of the violation and the taking of any reprisal or
18 retaliatory action by the employer against the peace officer." Accordingly,

19 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Traver's Petition for
20 Injunctive Relief is GRANTED. The Las Vegas Metropolitan Police Department is hereby permanently
21 enjoined from denying any peace officer in its employ during any phase of any interview, interrogation,
22 or hearing the right to be represented by two representatives of the peace officer's own choosing
23 including, without limitation, a lawyer, a representative of a labor union or another peace officer. The
24 Court places great deference on a party's selection of counsel and LVMPD cannot deny a peace

1 officer's choice of counsel because the chosen counsel has or does provide representation for other
2 employee organizations. The scope of this permanent injunction is limited to investigations within the
3 meaning of NRS 289.057. For all other representation matters falling outside the scope of NRS
4 289.057, the Decisions of the EMRB shall continue to govern.

5 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that LVMPD is further enjoined
6 from taking any reprisal or retaliatory action against Officer Jordan Travers for the filing of his Petition
7 in this matter. However, nothing within the scope of this injunction shall be construed to prevent
8 LVMPD from investigating or disciplining Travers for matters unrelated to the filing of his Petition.

9 May 27, 2021

Dated this 27th day of May, 2021

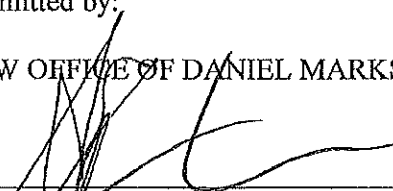
10 Nancy L Alf
11 DISTRICT COURT JUDGE

NB

12 Submitted by:

13 LAW OFFICE OF DANIEL MARKS

00A 0B5 348F 0D80
Nancy Alf
District Court Judge

14 
15 ADAM LEVINE, ESQ.
16 Nevada State Bar No. 004673
17 alevine@danielmarks.net
18 610 South Ninth Street
19 Las Vegas, Nevada 89101
20 Counsel for Plaintiff

21 Approved as to form and content:

22 MARQUIS AURBACH COFFING

23 /s/Nick D. Crosby, Esq.

24 Nick D. Crosby, Esq.
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10001 Park Run Drive
Las Vegas, Nevada 89145
Email: ncrosby@maclaw.com
Attorneys for Respondent, LVMPD

Joi Harper

From: Nick Crosby <NCrosby@maclaw.com>
Sent: Wednesday, May 26, 2021 3:21 PM
To: Adam Levine
Cc: Joi Harper; Suzanne Boggs
Subject: Re: [External] Travers - Revised Order [IWOV-iManage.FID1140373]

Yes

Nick D. Crosby, Esq.
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
Office: 702-942-2158

Sent from my iPhone, so please excuse any errors.

On May 26, 2021, at 2:17 PM, Adam Levine <ALevine@danielmarks.net> wrote:

It works. If Joi makes the changes you have requested do I have permission to submit with your electronic signature?

Adam Levine, Esq.
Law Office of Daniel Marks
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(702) 386-6812: Fax
alevine@danielmarks.net

From: Nick Crosby [mailto:NCrosby@maclaw.com]
Sent: Wednesday, May 26, 2021 12:33 PM
To: Adam Levine
Cc: Joi Harper; Suzanne Boggs
Subject: Travers - Revised Order [IWOV-iManage.FID1140373]

Let me know if this works.

<image001.jpg>

Nicholas D. Crosby, Esq.

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1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 In the Matter of the Petition of CASE NO: A-21-832601-P
7 Jordan Travers DEPT. NO. Department 27
8

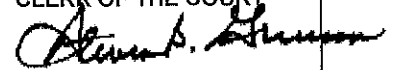
9 **AUTOMATED CERTIFICATE OF SERVICE**

10 This automated certificate of service was generated by the Eighth Judicial District
11 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
12 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

13 Service Date: 5/27/2021

| | |
|--------------------|-------------------------|
| 14 Suzanne Boggs | sboggs@maclaw.com |
| 15 Nicholas Crosby | ncrosby@maclaw.com |
| 16 Daniel Marks | Office@danielmarks.net |
| 17 Joi Harper | Jharper@danielmarks.net |

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6 ADAM LEVINE, ESQ.
7 Nevada State Bar No. 004673
8 alevine@danielmarks.net
9 610 South Ninth Street
10 Las Vegas, Nevada 89101
11 (702) 386-0536; FAX (702) 386-6812
12 *Attorneys for Petitioner*

8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

10 JORDAN TRAVERS,
11
12 Petitioner,

Case No.: A-21-832601-P
Dept. No.: 27

13 v.

14 LAS VEGAS METROPOLITAN
15 POLICE DEPARTMENT

16 Respondent.

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW AND
ORDER GRANTING PERMANENT
INJUNCTION PURSUANT TO NRS 289.120**

18
19
20 TO: LAS VEGAS METROPOLITAN POLICE DEPARTMENT; and

21 TO: Nick D. Crosby, Esq. of MARQUIS AURBACH COFFING

22
23 ///

24 ///

1 **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**
2 **GRANTING PERMANENT INJUNCTION PURSUANT TO NRS 289.120**

3 PLEASE TAKE NOTICE that the Findings of Fact, Conclusions of Law and Order Granting
4 Permanent Injunction Pursuant to NRS 289.120 was entered in the above-entitled action on the 27th day
5 of May 2021, a copy of which is attached hereto.

6 DATED this 28th day of May 2021.

7 LAW OFFICE OF DANIEL MARKS

8 /s/Adam Levine, Esq.
9 DANIEL MARKS, ESQ.
10 Nevada State Bar No. 002003
11 office@danielmarks.net
12 ADAM LEVINE, ESQ.
13 Nevada State Bar No. 004673
14 alevine@danielmarks.net
15 610 South Ninth Street
16 Las Vegas, Nevada 89101
17 (702) 386-0536; FAX (702) 386-6812
18 *Attorneys for Petitioner, JORDAN TRAVERS*

Adam B. Levine
CLERK OF THE COURT

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alevine@danielmarks.net
610 South Ninth Street
Las Vegas, Nevada 89101
(702) 386-0536; FAX (702) 386-6812
Attorneys for Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

JORDAN TRAVERS,

Petitioner,

v.

LAS VEGAS METROPOLITAN
POLICE DEPARTMENT

Respondent.

Case No.: A-21-832601-P
Dept. No.: 27

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER GRANTING
PERMANENT INJUNCTION PURSUANT
TO NRS 289.120**

Petitioner Jordan Travers' Petition for Injunctive Relief Pursuant to NRS 289.120 having come before the Court for a hearing on May 20, 2021 at 10:00 AM, and the Petitioner being represented by Adam Levine, Esq. of the Law Office of Daniel Marks, and the Respondent being represented by Nicholas D. Crosby, Esq., of Marquis Auerbach Coffing, makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

The following facts are undisputed by the parties:

1. Jordan Travers is employed as a police officer with the Las Vegas Metropolitan Police Department ("LVMPD").
2. On March 4, 2021 Travers was served with an Employee Notification of Administrative Interview by the LVMPD's Critical Incident Review Team ("CIRT").
3. The Critical Incident Review Process at LVMPD is an investigation which may lead to punitive action within the meaning of NRS 289.057.
4. Travers did not join the Police Protective Association, which is the exclusive recognized employee organization for purposes of collective bargaining for police officers employed by LVMPD.
5. Travers had procured Fraternal Order of Police Legal Defense Fund Plan ("the Plan") Administrative coverage. The Plan is a self-funded benefits plan which provides coverage based upon the annual premiums paid by Plan participants.
6. Plan coverage permitted Travers to select either a Plan attorney or a non-Plan attorney to represent him in connection with the CIRT investigation. If a non-Plan attorney is selected there are deductibles and a cap on benefits.
7. Travers selected Plan attorney Adam Levine.
8. Plan attorneys represent the individual officer and do not represent either the Plan or any employee organization.
9. On March 4, 2021 LVMPD informed Levine, both by telephone conversation and by confirming e-mail, that he would not be permitted to represent Travers due to Traver's affiliation with the Fraternal Order of Police based upon recent decisions of the State of Nevada Employee Management Relations Board ("EMRB").

- 1 10. LVMPD based its decision upon the EMRB's decisions in *Nevada Highway Patrol*
2 *Association v. State of Nevada Department of Public Safety et al.*, Case No. 2020-011
3 Item No. 865 (2020) and *National Latino Peace Officers Association v. Las Vegas*
4 *Police Protective Association Metro, Inc.*, Case No. 2020-033 Item No. 870 (2021)
5 (collectively "the EMRB Decisions").
- 6 11. The EMRB Decisions note that the EMRB lacks jurisdiction to interpret the provisions
7 of Nevada's Peace Officers Bill of Rights NRS 289.010 through 289.120, inclusive
8 ("POBR"), and opine that the exclusive representation principles recognized under
9 Nevada's Employee Management Relations Act, NRS Chapter 288, may be read in
10 harmony with the provisions of Nevada's POBR.
- 11 12. Following denial of his chosen representation, Travers filed a Petition for Injunctive
12 Relief pursuant to NRS 289.120 to permanently enjoin LVMPD from denying peace
13 officers the ability to be represented during any phase of an interrogation, interview, or
14 hearing subject to NRS 289.057 by two representatives of the peace officer's own
15 choosing including, without limitation, a lawyer, a representative of a labor union or
16 another peace officer connection with investigations under NRS 289.057.
- 17 13. If any of these Findings of Fact are properly considered as Conclusions of Law, they
18 shall be so construed.

19 **CONCLUSIONS OF LAW**

- 20 14. NRS 289.080 (1) and (2) provide that in connection with any investigation conducted
21 pursuant to NRS 289.057, both subject and witness peace officers may "have two
22 representatives of the peace officer's choosing present with the peace officer during any
23 phase of an interrogation or hearing relating to the investigation, including, without
24 limitation, a lawyer, a representative of a labor union or another peace officer."

- 1 15. In the EMRB's National Latino Peace Officers' Association Decision, the Board looked
2 to the history of the National Labor Relations Act ("NLRA") and noted that the words
3 "representatives of their own choosing" were included in the original draft of the
4 legislation introduced into both the House of Representatives and Senate, but that this
5 language was later removed.
- 6 16. In contrast, when the Nevada Legislature enacted NRS 289.080 in its current form it
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- 8 17. When construing a statute courts are to "give effect to each of its words and phrases".
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- 10 18. In footnote 9 to *Ruiz v. City of North Las Vegas*, 127 Nev. 254, 255 P.3d 216 (2011) the
11 Nevada Supreme Court stated that Nevada's POBR is to be construed "in a manner
12 consistent with the enforceability of those rights".
- 13 19. LVMPD violated Travers's rights under NRS 289.080 to select representatives of his
14 own choosing when it denied him the right to be represented by Adam Levine due to
15 Travers's Fraternal Order of Police affiliation.
- 16 20. NRS 289.120 authorizes the district court to issue appropriate injunctive relief to
17 "prevent the further occurrence of the violation and the taking of any reprisal or
18 retaliatory action by the employer against the peace officer." Accordingly,
- 19 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Traver's Petition for
20 Injunctive Relief is GRANTED. The Las Vegas Metropolitan Police Department is hereby permanently
21 enjoined from denying any peace officer in its employ during any phase of any interview, interrogation,
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23 including, without limitation, a lawyer, a representative of a labor union or another peace officer. The
24 Court places great deference on a party's selection of counsel and LVMPD cannot deny a peace

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6 from taking any reprisal or retaliatory action against Officer Jordan Travers for the filing of his Petition
7 in this matter. However, nothing within the scope of this injunction shall be construed to prevent
8 LVMPD from investigating or disciplining Travers for matters unrelated to the filing of his Petition.

9 May 27, 2021

Dated this 27th day of May, 2021

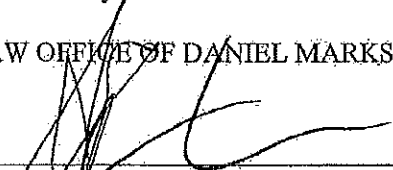
10 Nancy L Ailf
11 DISTRICT COURT JUDGE

NB

12 Submitted by:

13 LAW OFFICE OF DANIEL MARKS

00A 0B5 348F 0D80
Nancy Ailf
District Court Judge

14 
15 ADAM LEVINE, ESQ.
16 Nevada State Bar No. 004673
17 alevine@danielmarks.net
18 610 South Ninth Street
19 Las Vegas, Nevada 89101
20 Counsel for Plaintiff

21 Approved as to form and content:

22 MARQUIS AURBACH COFFING

23 /s/Nick D. Crosby, Esq.
24 Nick D. Crosby, Esq.
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10001 Park Run Drive
Las Vegas, Nevada 89145
Email: ncrosby@maclaw.com
Attorneys for Respondent, LVMPD

Joi Harper

From: Nick Crosby <NCrosby@maclaw.com>
Sent: Wednesday, May 26, 2021 3:21 PM
To: Adam Levine
Cc: Joi Harper; Suzanne Boggs
Subject: Re: [External] Travers - Revised Order [IWOV-iManage.FID1140373]

Yes

Nick D. Crosby, Esq.
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
Office: 702-942-2158

Sent from my iPhone, so please excuse any errors.

On May 26, 2021, at 2:17 PM, Adam Levine <ALevine@danielmarks.net> wrote:

It works. If Joi makes the changes you have requested do I have permission to submit with your electronic signature?

Adam Levine, Esq.
Law Office of Daniel Marks
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From: Nick Crosby [mailto:NCrosby@maclaw.com]
Sent: Wednesday, May 26, 2021 12:33 PM
To: Adam Levine
Cc: Joi Harper; Suzanne Boggs
Subject: Travers - Revised Order [IWOV-iManage.FID1140373]

Let me know if this works.

<image001.jpg>

Nicholas D. Crosby, Esq.

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1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 In the Matter of the Petition of CASE NO: A-21-832601-P
7 Jordan Travers DEPT. NO. Department 27
8

9 **AUTOMATED CERTIFICATE OF SERVICE**

10 This automated certificate of service was generated by the Eighth Judicial District
11 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
12 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

13 Service Date: 5/27/2021

| | |
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| 17 Joi Harper | Jharper@danielmarks.net |

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