Item No. 104

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

In the Matter of the North Las Vegas Police Officers Association, Local 41; and Linda Guthrey, Anne Hamilton and Karen George, Employees of the North Las Vegas Police Department, Complainants, vs W. L. Tharp, Chief of Police, City of North Las Vegas, a Municipality; Raymond Schweitzer, in his capacity as City Manager of the City of North Las Vegas; Raymond Daines, in his capacity as Mayor of the City of North Las Vegas; and James Seastrand, Mary Kincaid, Brenda Price and Theron Goynes, in their official capacity as City Council for the City of North Las Vegas, Respondents	Case No. A1-045333

DECISION

On Monday, August 25, 1980, the Local Government Employee-Management Relations Board held a hearing in the above matter; the hearing was properly noticed and posted pursuant to Nevada's Open Meeting Law.

This written Decision is prepared in conformity with NRS 233.B.125 which requires that the final Decision contain Findings of Fact and Conclusions of Law separately stated.

Historically, the City of North Las Vegas (hereafter City) recognized Linda Guthrey, Anne Hamilton and Karen George, complainants (and employees of the City of North Las Vegas Police Department), as members of the bargaining unit of the

North Las Vegas Police Officers Association (hereafter Association).

The Association represents all commissioned law enforcement officers. Indeed a police officer, sheriff, deputy sheriff or other law enforcement officer may be a member of an employee organization only if such employee organization is composed exclusively of law enforcement officers. NRS 288.140 (3).

In their complaint the complainants assert that they have been, and still are, commissioned police officers, employed with the City of North Las Vegas and assigned as follows: Linda Guthrey, Radio Operator II; Anne Hamilton, Chief Records Clerk; and Karen George, Records Supervisor. As police officers functioning in those capacities, they believe that they have been, and are, properly members of the police bargaining unit and entitled to representation by the Association.

However, during the 1980 contract negotiations between the City and the Association, the City maintained that the aforementioned individuals could not be members of the bargaining unit. The crux of the City's position was that although the complainants were hired by the City and apparently given commissions as "police officers" they were never officially classified or assigned to the job duties of a police officer or patrolman. Instead they have been performing the function of radio dispatchers and/or records clerks.

Unable to reach agreement on this issue, and in attempt to consummate a contract, the parties agreed to submit the issue of whether or not the individual complainants, aforementioned, are a part of the bargaining unit represented by the Association.

The testimony and documentary evidence overwhelmingly supports the position taken by the complainants.

The Association has represented the individual complainants in the police bargaining unit since the enactment of Nevada's Public Sector Bargaining Statute in 1969.

At the time that each of the complainants was hired: each was sworn in as a police officer; each was issued a police commission; each received a police identification card and each received a police badge. Throughout the course of their employment each has been called upon to search and book members of the prison population. Ms. Guthrey and Ms. Hamilton have been required to transport prisoners while Ms. George has conducted investigations and interviewed crime victims. In addition, Ms. George has attended numerous police academies, received training in all areas of law enforcement, and has undertaken examinations for the position of detective on the police force. She is also a member of the police shooting team.

As recently as July, 1980, Ms. Guthrey was required to use her service revolver to cover the front door of a residence while two fellow police officers went to the rear in pursuit of a suspected felon.

In addition to indicating that the complainants in fact perform police duties, Ms. Sue Eide testified that she was originally commissioned as a NLV Police Officer, quit, and was subsequently rehired as a non-commissioned officer. Presently, if required to book prisoners, she is paid (as a non-commissioned officer) by additional pay or comp time. In fact in April of 1979 the City instituted a new policy regarding the booking of prisoners. The policy provides that the booking of female prisoners will be handled by the female corrections officers, and that in the event that no female corrections officer is available, the commissioned female personnel (complainants herein) shall book the prisoners. In the event that neither

female corrections officers nor commissioned female personnel are available, then non-commissioned female personnel shall book the prisoners if they are willing, and, in the event they are so willing, they will be compensated for the time in booking and searching female prisoners by either additional pay or comp time. Such additional or comp time pay is not available to the complainants.

Clark Davison, a former Assistant Chief and Chief of Police in North Las Vegas during the 1950's, 60's and 70's, testified that the three complainants were hired as policewomen and were police officers because they had the full powers of arrest of any police officer due to their commissions. The former Chief indicated that he would not hesitate to use them in the capacity of a police officer if they were needed.

From the foregoing, it is abundantly clear that the complainants named herein are commissioned police officers, and have performed and continue to perform police functions. The requisite community of interest which enables them to be represented by the Association flows therefrom. Just as a commissioned police officer, who has been issued a commission and a badge, but nevertheless has been assigned as a supply officer (who is not required to perform police functions other than to issue uniforms and supplies) remains a commissioned police officer, so remain the complainants herein, commissioned police officers assigned to radio and records positions.

FINDINGS OF FACT

1. That the complainant, North Las Vegas Police Officers Association, is a local government employee organization.

2. That the complainants, Linda Guthrey, Ann Hamilton and Karen George, are local government employees, specifically of the North Las Vegas Police Department.

3. That the Respondent City of North Las Vegas, through its representatives, Chief of Police W. L. Tharp, City Manager Raymond Schweitzer, Mayor Raymond Daines, and City Council James Seastrand, Mary Kincaid, Brenda Price and Theron Goynes, acting for and on behalf of the City of North Las Vegas in their official capacities, constitute the local government employer.

4. That historically the City of North Las Vegas has recognized the individual complainants as members of the bargaining unit represented by the North Las Vegas Police Officers Association.

5. That the complainants are commissioned North Las Vegas Police Officers assigned to Radio and Records positions.

6. That during the 1980 contract negotiations between the City and the Association, a dispute arose as to whether or not the individual complainants were a part of the bargaining unit represented by the Associations.

7. That in order to consummate a contract the parties agreed to submit the above referenced dispute to the EMRB, whose decision would be final and binding upon the parties.

8. That the Association has represented the individual complainants in the police bargaining unit since the enactment of Nevada's Public Sector Bargaining Statute in 1969.

9. That at their respective times of hire each complainant was sworn in as a police officer, issued a police commission, received a police identification card and a police badge.

10. That throughout their police careers each complainant has been called upon to search and book members of the prison population.

11. That Ms. Guthrey and Ms. Hamilton have been required to transport prisoners and Ms. George has conducted investigations and interviewed crime victims.

12. That Ms. George has attended numerous police academies,

received training in all areas of law enforcement and has undertaken examinations for the position of police detective.

13. That as recently as July 1980, Ms. Guthrey was required to use her service revolver to cover the front door of a residence while two fellow police officers went to the rear in pursuit of a suspected felon.

14. That the individual complainants in fact perform police duties.

15. That for booking prisoners, non-commissioned police officers receive additional pay or comp time, which is not payable to the complainants herein.

16. That in April of 1979, the City instituted a new policy regarding the booking of prisoners which clearly distinguishes between commissioned female personnel (complainants herein) and non-commissioned personnel.

17. That the complainants were hired as police officers and have full powers of arrest because of their commissions.

18. That the requisite community of interest which enables the complainants to be represented by the Association is present by virtue of the fact that they are police officers.

CONCLUSIONS OF LAW

1. That pursuant to the provisions of the Nevada Revised Statutes Chapter 288, the Local Government Employee-Management Relations Board possesses original jurisdiction over the parties and subject matter of this complaint.

2. That the complainant, North Las Vegas Police Officers Association, is a local government employee organization within the term as defined in NRS 288.040.

3. That the Complainants Linda Guthrey, Anne Hamilton, and Karen George are local government employees within the term as defined in NRS 288.050.

4. That the Respondent City of North Las Vegas, through its representatives Chief of Police W. L. Tharp, City Manager

Raymond Schweitzer, Mayor Raymond Daines and City Council James Seastrand, Mary Kincaid, Brenda Price and Theron Goynes, acting for and on behalf of the City of North Las Vegas in their official capacities, constitute the local government employer within the term as defined in NRS 288.060.

5. That in order to consummate a contract the parties agreed to submit the issue of whether or not the individual complainants were a part of the bargaining unit represented by the Association to the EMRB. The parties agreed that the EMRB decision would be final and binding. NRS 288.170 (1) and (2).

6. That the individual complainants are police officers, perform police duties and therefore have the requisite community of interest which enables them to be represented by the Association, NRS 288.170 (1).

7. That as police officers the complainants may be members of an employee organization only if such employee organization is composed exclusively of law enforcement officers. NRS 288.140 (3).

8. That under presently existing North Las Vegas employee organizations and bargaining unit configurations the complainants must be represented, if at all, by the North Las Vegas Police Officers Association. NRS 288.140 (3), NRS 288.170.

The requested relief is granted. The Board rules that the three individual complainants, to-wit: Linda Guthrey, Anne Hamilton and Karen George, be included in the bargaining unit represented by the North Las Vegas Police Officers Association. Each party shall bear its own costs and attorney's fees.

Dated this 21st day of November 1980.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

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Carole Vilardo

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