

1 On September 8, 1999, Complainant requested a hearing.

2 On January 11, 2000, a hearing was held before the Local Government Employee-
3 Management Relations Board (hereafter "Board"), noticed in accordance with Nevada's Open
4 Meeting Law, at which time the Board heard oral arguments from counsel, received evidence, and
5 heard testimony from three (3) witnesses, namely, Ron Dreher, Jim Weston, and Richard Gonzalez.
6 The Board's findings as to the Union's Complaint are set for in its Discussion, Findings of Fact and
7 Conclusions of Law, which follow.

8 **DISCUSSION**

9 Testimony at the hearing established the existence of a past practice now referred to as the
10 "Robertson criteria." Under the criteria, certain conditions were defined under which off-duty police
11 officers can be disciplined. The criteria included (a) identifying oneself as a police officer, thus
12 placing himself/herself on duty, (b) the use of any tools of the police officer trade, such as handcuffs,
13 gun, badge, identification, etc., and (c) did a third person know the individual as a police officer or
14 identified the individual as a police officer. The practice was alleged to have existed under Police
15 Chiefs Robert Bradshaw, Richard Kirkland, and Jim Weston.

16 Testimony was offered that the collective bargaining agreement does not contain reference
17 to off-duty conduct and resulting discipline. Incidents involving an off-duty officer involved in a
18 DUI and another charged with disturbing the peace, who were not disciplined for their off-duty
19 conduct, were testified to. Further testimony was presented that such incidents occurred after the
20 "Caesar's Tahoe Incident" and the "Bohach incident." Correspondence from Police Chief Jim
21 Weston, dated February 7, 1997 was offered as Exhibit 3, which not only listed the above three
22 criteria but included a fourth, namely, whether the conduct impaired the reputation or operations of
23 the police department. This fourth criteria was objected to by the Union as not being part of the
24 original Robertson criteria.

25 On behalf of the Department and the City, Police Chief Weston testified that certain off-duty
26 officers were indeed disciplined without the criteria being utilized and further testified that he may
27 not have been familiar with the term "Robertson Criteria" although he was familiar with the criteria.

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1 3. The Department is a police department organized by the City of Reno, State of Nevada,
2 whose principal duties are to enforce the law.

3 4. The Union is an employee organization as defined by NRS 288.040.

4 5. The parties to this matter entered into a collective bargaining agreement for the term
5 October, 1994 through June, 1997, which agreement is silent as to the subject of police officer
6 discipline for certain conduct while off-duty.

7 6. That there existed simultaneously with the collective bargaining agreement the practice
8 known as the Robertson Criteria for determining whether discipline should be administered to police
9 officers for certain off-duty conduct; and this practice was known to and accepted by all parties
10 involved in this matter.

11 7. That the City and Department failed to utilize this criteria in determining whether discipline
12 was appropriate for the officers involved in the Bohach incident and the Caesar's Tahoe incident.

13 8. That by failing to utilize the criteria, the City and the Department have unilaterally changed
14 terms and conditions of employment, which are mandatory subjects for bargaining pursuant to NRS
15 288.150, without first negotiating with the Union for such a change.

16 9. That such unilateral change is unlawful.

17 **DECISION AND ORDER**

18 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Union's prohibited
19 practice complaint is well-grounded and the Union is entitled to the relief sought in its complaint,
20 namely:

21 a. That the City and Department are hereby ORDERED to immediately cease
22 violating the rights of the Union and its members as set forth in NRS Chapter 288.

23 b. That the City and Department are hereby ORDERED to rescind any and all actions
24 taken against the Union and its members involved in the two incidents described herein.

25 c. That the City and Department are hereby ORDERED to negotiate with the Union
26 concerning any revisions to their collective bargaining agreement pertaining to disciplining officers
27 for certain off-duty conduct.

28 d. That reasonable fees and costs should be awarded to the Union and that the Union

1 is hereby ORDERED to submit its documents and records in support its request for fees and costs
2 and documenting the amount due within ten (10) days from the date of this order.

3 e. That it is FURTHER ORDERED that the City and Department have ten (10) days
4 after service of the documents and records in support of the Union's request for fees and costs within
5 which to respond to the Union's request.

6 DATED this 29th day of February 2000.

7 LOCAL GOVERNMENT EMPLOYEE-
8 MANAGEMENT RELATIONS BOARD

9 By *David Goldwater*
10 DAVID GOLDWATER, Chairman

11 By *Karen L. McKay*
12 KAREN L. MCKAY, Vice-Chairman

13 By *James E. Wilkerson*
14 JAMES E. WILKERSON, SR., Member