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FILED
December 26, 2023
State of Nevada
E.M.R.B.
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BEFORE THE STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

JOHN LEONARD,

Complainant,

Case No.: 2023-035

vs.

Panel:

WASHOE COUNTY and WASHOE
COUNTY SHERIFF'S OFFICE,

Respondents.

FIRST AMENDED COMPLAINT

COMES NOW. Complainant JOHN LEONARD by and through his undersigned attorney, hereby charges Respondent WASHOE COUNTY and Respondent WASHOE COUNTY SHERIFF'S OFFICE with practices prohibited by NRS 288.270. This complaint is filed in accordance with NRS 288.270, NRS 288.280 and NAC 288.200. Accordingly, Complainant hereby complains and alleges as follows:

I. THE PARTIES

1. Complainant John Leonard, (hereinafter "Complainant" or "Lt. Leonard"), is a sworn law enforcement officer employed by Washoe County in the Washoe County Sheriff's Office. He is a local government employee as defined in NRS 288.050.

2. Respondent Washoe County, (hereinafter "County"), is a political subdivision of the State of Nevada and a local government employer under NRS 288.060. The County's mailing address is 1001 E. Ninth Street, Reno, NV 89512.

3. Respondent Washoe County Sherriff's Office, (hereinafter "WCSO"), is a division of the County and is a local law enforcement agency. The WCSO is made up of approximately 500 sworn law enforcement officers.

II. LEGAL AUTHORITY AND JURISDICTION

4. NRS 288.270(1)(a) defines that it is a prohibited practice for a local government employer to "[i]nterfere, restrain or coerce any employee in the exercise of any right guaranteed under this chapter."

5. NRS 288.270(1)(d) provides that it is a prohibited practice for a local government employer to "[d]ischarge or otherwise discriminate against any employee because the employee has signed or filed an affidavit, petition or complaint or given any information or testimony under this chapter, or because the employee has formed, joined or chosen to be represented by any employee organization."

6. NRS 288.270(1)(f) states in part that it is a prohibited practice for a local government employer to discriminate against a local government employee because of "sex . . . or political or personal reasons or affiliations."

7. This Board has jurisdiction over this matter as Complainant's allegations arise under Nevada Revised Statute Chapter 288 - Relations between Government and Public Employees.

III. PROHIBITED PRACTICES

8. At all times relevant Lt. Leonard was employed by County at the WCSO as a law enforcement officer. Lt. Leonard is a member of the Executive Board of the Washoe County

1 Sheriff's Supervisory Deputies Association. ("Association"), and acts as a representative
2 during investigations.

3 9. In February 2022, it was reported to Lt. Leonard, through Sergeant Cameron
4 Wagner, that a deputy was alleging possible sexual harassment by another deputy.

5 10. Lt. Leonard and Sgt. Wagner met with the deputy and discussed the concerns she
6 had brought forward. The deputy who did not allege sexual harassment, was advised that she
7 could contact Human Resources. ("HR"), or a supervisor at any time if she wanted to report
8 any other concerns or issues. Sgt. Wagner sent an email detailing the conversation with the
9 deputy to Lt. Leonard, but no other action was taken at that time.

10 11. On or about January 24, 2023, approximately one year after speaking with Lt.
11 Leonard and Sgt. Wagner, the deputy informed another deputy of allegations of sexual
12 harassment that may have involved a sexual assault which was alleged to have occurred in
13 January 2022. These allegations were not provided to Lt. Leonard and Sgt. Wagner when they
14 spoke with the deputy in February 2022.

15 12. On February 1, 2023, the WCSO commenced an internal investigation into Lt.
16 Leonard to determine if he had violated policy.

17 13. During this investigation, the deputy claiming sexual harassment stated that she
18 had spoken to Sergeant John Schuette of her concerns with the deputy she was alleging was
19 sexually harassing her. The deputy asked that Sgt. Schuette ensure she no longer work with
20 the deputy she was accusing of sexual harassment. It is believed that Sgt. Schuette never
21 reported this conversation, and no further action was taken except for adjustment to work
22 assignments to prevent working with the deputy.

23 14. None of the internal investigators asked any further questions of the deputy
24 regarding her reporting to Sgt. Schuette or what steps he had taken to address the situation.
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15. It is believed that Sgt. Schuette was never disciplined for failing to report this information and no other action was taken against Sgt. Schuette.

16. Sgt. Schuette, as a member of the Office of Professional Integrity, ("OPI"), and despite his integral involvement in the case, took part in the internal investigation interview of Lt. Leonard.

17. NRS 289.060(d) mandates that, "[t]he name and rank of the officer in charge of the investigation and the officers who will conduct any interrogation or hearing." This NRS requires that any internal investigation involving law enforcement officers be conducted only by other law enforcement officers.

18. Cole McBride, a Human Resources Analyst at the County who is not a law enforcement officer, was involved in the internal investigation into Lt. Leonard, however, he took part in every investigatory interview except Lt. Leonard's interview.

19. During a break from one of the interviews involving Lt. Leonard, Mr. McBride was overheard stating that the WCSO had "failed" this deputy in its handling of her complaint.

20. On March 28, 2023, Lt. Leonard was advised by Chief Deputy Caldwell that the alleged policy violations brought against him had been sustained. The sustained allegations involved alleged policy violations regarding the reporting of claims to HR that, to our belief and knowledge, had not been previously enforced. Lt. Leonard immediately requested an appeal.

21. Lt. Leonard, who has been employed as a law enforcement officer with the WCSO since November 23, 2009, had no prior discipline or even accusations of misconduct prior to this investigation.

22. Despite the pending appeal, on April 11, 2023, Lt. Leonard was demoted to the position of sergeant and reassigned to detention sergeant.

23. Sheriff Balaam has made it known that he is attempting to increase the number of female deputies employed by the WCSO as a part of the "30 percent by 2030" program initiated by the Department of Justice.

24. On May 8, 2023, Lt. Leonard, his attorney, and his Association Representative Sergeant Sam Van Der Wall met with Sheriff Darrin Balaam. During this meeting, Sheriff Balaam stated that the "optics" of the allegations, and how these were handled by Lt. Leonard, were driving the discipline. Lt. Leonard was seemingly receiving excessive punishment as an example to other male officers regarding female officers making allegations of sexual harassment. This was discriminatory, not due to merit or fitness standards, and based solely on the fact that Lt. Leonard is male, and the complaining deputy is female.

25. On June 6, 2023, after completing his appeal, Lt. Leonard, his attorney, and his representative Sergeant Kevin Krush, met with Sheriff Balaam. In this meeting, Lt. Leonard was reinstated to the rank of lieutenant, but suspended for 160 hours. Sheriff Balaam specifically stated to the effect that this punishment was directly related to ensuring female deputies felt comfortable reporting to their supervisors, as he was trying to increase his female deputy number in accordance with the above noted "30 percent by 2030" initiative. Sheriff Balaam was seemingly punishing Lt. Leonard for political reasons and not based on merit or fitness reasons.

26. Over the next two months, Lt. Leonard intermittently served the suspension hours.

27. It is believed that Mr. McBride was involved in determining the level and amount of punishment that Lt. Leonard received. As Mr. McBride made clear in his statement during the interviews, it appears he took personal issue with Lt. Leonard's handling of the investigation.

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28. Between July 19 and July 20, 2023, Lt. Leonard and Sergeant Rena Aldrich conducted an internal investigation of deputies into allegations regarding derogatory comments toward the gay community. Mr. McBride took part in this investigation despite not being a sworn law enforcement officer.

29. Prior to the completion of the investigation, and during the interview process, Mr. McBride stated on multiple occasions that, "the Sheriff is going to make examples of these guys, they are going to get days on the beach." (suspended), for their conduct. One such time this comment was made was directly after the alleged victim's interview.

30. These comments indicate that Mr. McBride uses his personal feelings to influence discipline, as is believed he did in Lt. Leonard's case, and that the discipline is not based on merit or fitness standards. Additionally, Mr. McBride's comments demonstrate that he is directly involved in the discipline decision making process.

31. Sgt. Aldrich expressed concern over Mr. McBride's comments as they gave the impression that HR had already determined the "guilt" of the accused deputies prior to the completion of the investigation.

32. In late August or early September 2023, Lt. Leonard reported Mr. McBride's comments to Lieutenant Dennis Tittensor, the lead OPI investigator, as he believed Mr. McBride was violating policy and procedures. It is believed that Lt. Tittensor discussed Lt. Leonard's concerns with Mr. McBride.

33. On July 26, 2023, Lt. Leonard, acting as a representative of the Association, represented an Association member during an internal investigation. Mr. McBride, despite not being a sworn law enforcement officer, took part in this investigation as HR. Mr. McBride stated that he believed the focus of the investigation had committed assault, which Lt. Leonard disagreed with and expressed this disagreement to Mr. McBride. It was apparent that Mr.

1 McBride had taken personal interest in the case and that he was bothered that Lt. Leonard had
2 disagreed with his opinion. After this disagreement, there was obvious tension between Mr.
3 McBride and Lt. Leonard.

4 34. On September 7, 2023, Lt. Leonard requested the County legal department provide
5 a legal opinion regarding proposed discipline in a separate investigation. This request was
6 forwarded to Mr. McBride, who provided his opinion to Lt. Leonard. When Lt. Leonard's
7 supervisor, Captain Andrew Barret-Venn, requested clarification of Mr. McBride's opinion,
8 Mr. McBride responded with a condescending and aggressive email, further demonstrating
9 that Mr. McBride takes personal offense to being questioned on his discipline related
10 decisions.

11 35. In mid-September 2023, Lieutenant Galicia was disciplined for not having
12 followed the same reporting policy as Lt. Leonard. Despite similar issues with the Lt.
13 Galicia's reporting, she was not demoted and was only given a ten (10) hour suspension.

14 36. During the investigatory process, it is believed that Mr. McBride sought out Lt.
15 Galicia female, "off the record," and advised her that he did not believe she had violated
16 policy. To our knowledge and belief, Mr. McBride assured the Lt. Galicia that he would assist
17 her and help her receive minimal discipline. This is corroborated by the relatively minor
18 discipline compared to the discipline received by Lt. Leonard for a same and similar alleged
19 violation. The differences being that the other Lt. Galicia is female while Lt. Leonard is male,
20 and Mr. McBride involving himself personally in each of the respective disciplines. This
21 further demonstrates Lt. Leonard was discriminated against based on his sex, and for personal
22 and/or political reasons.

23 37. On September 21, 2023, Lt. Leonard attended supervisor training provided by HR
24 with approximately 100 other personnel. Mr. McBride was one of the speakers at this training.

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Despite his knowledge that investigations are confidential, Mr. McBride shared identifying investigation details with the entire group. Once such example involved the discussion of the demotion of a supervisory employee prior to the investigation being completed. Lt. Leonard, who represented this member as his Association representative, knew that this information was inaccurate as the member had not been demoted. Following this training, the member was indeed demoted, further demonstrating that Mr. McBride has personal involvement in the discipline process of WCSO members.

38. Mr. McBride then turned to the investigation involving Lt. Leonard's suspension in which he provided his opinion and perspective of the acts and investigation. Mr. McBride openly questioned Lt. Leonard's leadership, demonstrating his personal feelings toward Lt. Leonard.

39. Chief Deputy Caldwell, who was seated next to Lt. Leonard, along with several other attendees, looked at Lt. Leonard as they knew that Mr. McBride was discussing Lt. Leonard's discipline. Chief Deputy Caldwell, seeing that Lt. Leonard was extremely upset with Mr. McBride's comments, offered to allow Lt. Leonard to leave the training.

40. As a result of Mr. McBride discussing Lt. Leonard's confidential investigation in front of approximately 100 of Lt. Leonard's peers, Lt. Leonard was deeply emotionally and mentally affected.

41. Following this training, Lt. Leonard felt embarrassed and humiliated. He immediately went on sick leave and did not return to work until October 25, 2023.

42. Upon his return, Lt. Leonard learned that Mr. McBride had provided other training classes and had discussed Lt. Leonard's discipline and investigation in these classes as well

43. On November 6, 2023, Lt. Leonard filed a complaint of discrimination with the County's HR department regarding Mr. McBride's actions.

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44. On November 17, 2023, Lt. Leonard and his representative, met with Sandra Kettner, an external investigator for what was to be a voluntary interview into Lt. Leonard's complaint. Ms. Kettner refused to allow Lt. Leonard's representative to record the meeting and attempted to force Lt. Leonard to sign an admonishment ordering him to talk under the threat of discipline. Lt. Leonard and his representative advised Ms. Kettner that this type of admonishment is for internal law enforcement investigations when there are allegations of misconduct and attempted to obtain clarification as to why this was being required at a voluntary interview. Ms. Kettner stated that Lt. Leonard was required to answer her questions, which is not common practice nor policy for a complainant who brings forth a discrimination claim. Additionally, Ms. Kettner's attempt to have Lt. Leonard sign this admonishment is not the common practice at the County. Lt. Leonard chose not to participate in the interview and has been discriminated against for having brought forth his complaint.

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45. It is believed that Lt. Galicia had participated in a voluntary investigation with an external investigator only weeks before. Despite similar circumstances to those of Lt. Leonard, Lt. Galicia was not requested to, or otherwise required to, sign an admonishment prior to participating in the voluntary interview. It is believed that Lt. Galicia was not ordered to answer questions under the threat of discipline in this voluntary interview. This further demonstrates that Lt. Leonard has been discriminated against based on his sex and for personal and/or political reasons.

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46. On December 18, 2023, Sheriff Balaam provided a response to Lt. Leonard's grievance for sex discrimination and discrimination for union activities. As part of this response, Sheriff Balaam stated that the "decision to reverse [Lt. Leonard's] proposed demotion and reduce his discipline to a suspension was solely mine, as the Sheriff and head of this agency."

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47. In the same December 18, 2023, grievance decision, in which Sheriff Balaam denied the grievance and never addressed the complaints of disparate treatment by Ms. Kettner and HR, Sheriff Balaam again demonstrated that his punishment of Lt. Leonard was based on political and/or personal reasons. In this letter he stated that because Lt. Leonard had questioned his disparate treatment since the original discipline, he was "no longer taking responsibility for his misconduct," which then "demonstrates a lack of leadership and undermines the victim in this case."

48. On December 22, 2023, the undersigned counsel received a letter from Respondents' counsel threatening to retaliate against Lt. Leonard for having filed the present Complaint. The letter specifically stated that, "[i]f your client continues to pursue this Complaint, the County will take any and all action necessary to hold him accountable for filing the frivolous Complaint and will seek all remedies available for forcing the County to waste time, money, and resources to defend claims having no basis in law or fact." Moreover, this letter threatened to take action against Lt. Leonard for having included information in his December 12, 2023, Complaint by claiming he had violated NRS Chapter 289 and policies and procedures. This threat is an obvious attempt to coerce Lt. Leonard and to interfere with his use of evidence supporting his claims that was obtained lawfully and in compliance with all applicable law, policies, and procedures.

49. Lt. Leonard, as would any reasonable person, interpreted this letter, along with its threats and demands, as discriminating and an attempt to interfere with his rights under NRS Chapter 288 as well as an effort to coerce him from exercising his rights under this chapter. This letter, sent on a Friday afternoon and right before the Christmas holiday, continued by demanding that Lt. Leonard withdraw this Complaint by December 27, 2023, further evidencing its coercing, discriminating, and interfering intent.

IV. CONCLUSION

Wherefore, the actions taken against Lt. Leonard for personal and political reasons as well as for his involvement in the Association constitute prohibited practices under NRS Chapter 288.

Respondents Washoe County and Washoe County Sheriff's Office have interfered with Complainant John Leonard's rights under NRS Chapter 288 and coerced him for having exercised these rights. These actions constitute a prohibited practice under NRS 288.270(1)(a).

Respondents Washoe County and Washoe County Sheriff's Office have discriminated against Complainant John Leonard for having filed a complaint under NRS Chapter 288. These actions constitute a prohibited practice under NRS 288.270(1)(d).

Respondents Washoe County and Washoe County Sheriff's Office have discriminated against Complainant John Leonard based on political reasons in order to avoid public scrutiny and fallout. These actions constitute a prohibited practice under NRS 288.270(1)(f).

Respondents Washoe County and Washoe County Sheriff's Office have discriminated against Complainant John Leonard for personal reasons and personal dislike. These non-merit-or-fitness factors were not based in his ability or fitness to perform his duties. These actions constitute a prohibited practice under NRS 288.270(1)(f).

Respondents Washoe County and Washoe County Sheriff's Office have discriminated against Complainant John Leonard for his involvement with the Association. These actions constitute a prohibited practice under NRS 288.270(1)(d).

THEREFORE, Complainant prays for relief as follows:

- a. A finding that the conduct of Respondents as referenced herein constitutes prohibited practices under Chapter 288 of the Nevada Revised Statutes:

- b. A finding that Respondents interfered with Complainant's rights under NRS Chapter 288;
- c. A finding that Respondents coerced Complainant for exercising his rights under NRS Chapter 288;
- d. A finding that Respondents discriminated and retaliated against Complainant for exercising his rights under NRS Chapter 288;
- e. A finding that Respondents discriminated against Complainant for political reasons;
- f. A finding that Respondents discriminated against Complainant for personal reasons;
- g. A finding that Respondents discriminated against Complainant based on his Association activities;
- h. An order requiring Respondents to cease in violating NRS 288.270;
- i. An order requiring Respondents to remove any and all record of discipline from Complainant's files;
- j. An order requiring Respondents to reimburse Complainant for all time that was unpaid while on suspension and for all leave used between January 1, 2023, and November 1, 2023;
- k. An order requiring Respondents to pay the Complainant's reasonable attorney and representatives' fees and expenses in bringing this action; and
- l. Any and all other relief that the Employee Management Relations Board deems appropriate.

Dated this 26th day of December 2023.

/s/ Ronald J. Dreher

Ronald J. Dreher

NV Bar No. 15726

P.O. Box 6494

Reno, NV 89513

Telephone: (775) 846-9804

ron@dreherlaw.net

Attorney for Complainant

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CERTIFICATE OF SERVICE

Pursuant to NAC 288.070, the undersigned hereby certifies that I am the counsel for John Leonard and that on this date I served a true and correct copy of the preceding document addressed to the following:

Charles Lehman, Esq.
Deputy District Attorney
Washoe County District Attorney's Office
Mills B. Lane Justice Center
1 South Sierra Street
South Tower, 4th Floor.
Reno, NV, 89501
(775) 328-2003
clehman@da.washoecounty.gov
Attorney for Respondents

by electronic service by transmitting the copy electronically as an attachment to electronic mail in portable document format.

Dated this 26th day of December 2023.

/s/ Ronald J. Dreher
Ronald J. Dreher
NV Bar No. 15726
P.O. Box 6494
Reno, NV 89513
Telephone: (775) 846-9804
ron@dreherlaw.net
Attorney for Complainant

CERTIFICATE OF SERVICE

Pursuant to NAC 288.070, the undersigned hereby certifies that I am the counsel for the John Leonard and that on this date I served a true and correct copy of the preceding document addressed to the following:

Bruce Snyder, Esq.
Commissioner, EMRB
bsnyder@business.nv.gov
3300 W. Sahara Avenue
Suite 260
Las Vegas, NV 89102

by electronic service by transmitting the copy electronically as an attachment to electronic mail in portable document format.

Dated this 26th day of December 2023.

/s/ Ronald J. Dreher
Ronald J. Dreher
NV Bar No. 15726
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Telephone: (775) 846-9804
ron@dreherlaw.net
Attorney for Complainant

1 **BEFORE THE EMPLOYEE MANAGEMENT RELATIONS BOARD**

2 **STATE OF NEVADA**

3 ***

4 JOHN LEONARD.

5 Complainant.

Case No. 2023-035

6 v.

7 WASHOE COUNTY and WASHOE
8 COUNTY SHERIFF'S OFFICE

9 Respondent.

FILED
January 16, 2024
State of Nevada
E.M.R.B.
1:37 p.m.

10 _____ /
11 **MOTION TO DISMISS FIRST AMENDED COMPLAINT**

12 COMES NOW, the Respondents Washoe County [County], and the Washoe County
13 Sheriff's Office [WCSO][collectively referred to as Respondents], by and through their
14 undersigned legal counsel, hereby requests the Government Employee-Management Relations
15 Board [Board], to dismiss the First Amended Complaint [Amended Complaint] lodged by the
16 Lieutenant John Leonard [Complainant], based upon improper service, the lack of jurisdiction,
17 Complainant's failure to exhaust his contractual remedies, and Complainant's failure to state a
18 claim upon which relief can be granted, pursuant to pursuant to NRCP 12(b), Nevada
19 Administrative Code [NAC] Sections 288.240 and 288.375, and the parties' Collective
20 Bargaining Agreement [CBA]. Respondents' Motion to Dismiss is based upon the following
21 Memorandum of Points and Authorities, all exhibits attached, and any such evidence the Board
22 wishes to consider.

23 **I. OVERVIEW**

24 The Board lacks jurisdiction over the Respondents because the Complaint was never
25 served on the parties and the time to serve them has passed. Notwithstanding the lack of
26 jurisdiction over Respondents, the Board must dismiss this complaint on substantive reasons as

1 well. The Complainant identifies three provisions of NRS Chapter 288¹ as the basis of his
2 Complaint, but it is drafted in a manner that makes it difficult to decipher what alleged actions
3 by Respondents violate the specifically named provisions of the Chapter. Nonetheless,
4 Complainant failed to exhaust his contractual remedies, this action is duplicative of a grievance
5 he previously filed and abandoned, and Complainant has also failed to state a viable claim for
6 relief. Therefore, Respondents hereby request that this Complaint be dismissed pursuant to
7 NAC 288.375(2).

8 **II. STATEMENT OF RELEVANT FACTS**

- 9 1. At all relevant times, Complainant John Leonard, is a sworn law enforcement officer
10 employed by Washoe County in the Washoe County Sheriff's Office. He is a local
11 government employee as defined in NRS 288.050.
- 12 2. Respondent Washoe County is a political subdivision of the State of Nevada and a
13 local government employer under NRS 288.060. The primary executive Officer of
14 Washoe County is the County Manager, Eric Brown. The County's mailing address
15 is 1001 E. Ninth Street, Reno, NV 89512.
- 16 3. Respondent Washoe County Sheriff's Office is a division of the County and is a
17 local law enforcement agency. The Sheriff's Office is lead by the elected Sheriff of
18 Washoe County, Sheriff Darrin Balaam. WCSO's mailing address is 911 Parr
19 Boulevard, Reno NV, 89512.
- 20 4. Complainant is a member of the Executive Board of the Washoe County Sheriff's
21 Supervisory Deputies Association [Association], and acts as a representative during
22 investigations.
- 23 5. Washoe County and the Association entered into a collective bargaining agreement
24 effective from July 1, 2022, to June 30, 2024. The CBA includes grievance and
25

26 ¹ NRS 288.270(1)(a), NRS 288.270(1)(d), and NRS 288.270(1)(f).

1 remedy procedures, progressively up to arbitration. The CBA also provides due
2 process rights for Association members to challenge discipline, progressively up to
3 initiating an appeal through arbitration. *See* Exhibit 1, Article 30 – GRIEVANCE
4 PROCEDURE FOR ISSUES OTHER THAN PUNITIVE ACTIONS. Article 29 –
5 PROCEDURE FOR IMPOSITION OF PUNITIVE ACTION.

- 6 6. On February 1, 2023, the WCSO commenced an internal investigation into
7 Complainant to determine if he had violated County and Sheriff's Office policy.
- 8 7. On March 28, 2023, Complainant was notified that the internal investigation
9 revealed the alleged policy violations had been sustained.
- 10 8. Complainant was issued a Notice of Proposed Discipline recommending he be
11 demoted from Lieutenant to Sergeant and reassigned to detention for his misconduct.
- 12 9. Complainant appealed his demotion directly to the elected Sheriff by initiating a
13 grievance in accordance with the provisions of the CBA.
- 14 10. On May 8, 2023, Complainant, his attorney, and his Association Representative met
15 with Sheriff Balaam. Additionally, Complainant submitted a thorough written
16 statement accepting responsibility for his leadership failures and requesting leniency.
- 17 11. On June 6, 2023, Sheriff Balaam took the evidence under consideration and issued
18 an order of discipline for Complainant. The Sheriff reversed the demotion and
19 downgraded Complainant's discipline to a 30-calendar day suspension.
- 20 12. Over the next two months, Complainant intermittently served the suspension hours.
- 21 13. On September 21, 2023, Complainant attended a training session with many Washoe
22 County supervisors from various departments. Complainant alleges that a County
23 HR representative talked specifically and untruthfully about Complainant's
24 misconduct and discipline, causing several individuals in the training to look at
25 Complainant and check in on him.
- 26

1 14. Complainant alleges he felt ridiculed and used 16 days of sick leave because of this
2 incident.

3 15. On November 3, 2023, Complainant filed a grievance in accordance with the CBA
4 alleging discrimination based on sex and union activity alleging the same basic facts
5 of his instant Board Complaint. He also attempted to appeal his discipline again even
6 though he already availed himself of the appellate process in the CBA. See Exhibit
7 2.

8 16. On November 6, 2023, Complainant filed a complaint of discrimination with the
9 County's HR department regarding the HR representatives alleged actions.

10 17. On December 11, 2023, Complainant, along with his counsel and association
11 representative met with the Sheriff and undersigned counsel so he had an
12 opportunity to be heard on his grievance.

13 18. On December 12, 2023, Complainant filed his initial complaint against Respondents.
14 However, Complainant failed to properly serve either Respondent.

15 19. On December 18, 2023, Sheriff Balaam provided a Level I response to
16 Complainant's grievance.

17 20. On December 22, 2023, undersigned counsel sent a pre-litigation letter to
18 Complainant's counsel requesting withdrawal of the complaint or face requests for
19 fees and costs or a counter claim. See Exhibit 3.

20 21. On December 26, 2023, Complainant filed an amended complaint and failed to
21 properly serve either Respondent.

22 22. On January 8, 2024, Complainant abandoned his grievance without pursuing it to
23 level II or taking it arbitration failing to exhaust his contractual remedies.

24 **III. STANDARDS FOR DISMISSAL**

25 The Board must dismiss the Complaint if it determines that no probable cause exists for
26 the Complaint. NAC 288.375(1), and may do so if the parties have not exhausted their

1 contractual remedies, including any rights to arbitration, unless there is a showing of special
2 circumstances or extreme prejudice, NAC 288.375(2), or if a complainant files a spurious or
3 frivolous complaint, NAC 288.375(5).

4 Here, the Complaint lacks probable cause and therefore seeks dismissal. The standard
5 for a motion to dismiss is the same as that applied in the Courts. The Board reviews the
6 Complaint to determine whether, viewed in a light most favorable to the non-movant, the
7 Complaint states a claim upon which relief may be granted, NRCP 12(b)(5). The test for
8 determining whether the allegations of a complaint are sufficient to assert a claim for relief is
9 whether the allegations give fair notice of the nature and basis of a legally sufficient claim and
10 the relief requested. *Ravera v. City of Reno*, 100 Nev. 68, 70, 675 P.2d 407, 408 (1984); see also
11 *Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 858 P.2d 1258 (1993); *Western States*
12 *Constr. v. Michoff*, 108 Nev. 931, 840 P.2d 1220 (1992). Further, the Board is not required to
13 accept as true allegations that are merely conclusory. See *Sprewell v. Golden State Warriors*, 26
14 F.3d 979, 988 (9th Cir. 2001).

15 The Board is to look solely to the allegations of the Complaint and must convert the
16 motion to dismiss to one for summary judgment if matters outside the complaint are presented
17 and not expressly excluded by the Board, NRCP 12(b). However, the Board may refer to
18 matters outside the pleadings without converting the motion to one for summary judgment if
19 documents are attached to the Complaint, *Breliant v. Preferred Equities Corp.*, 109 Nev. 842,
20 847, 858 P.2d 1258, 1261 (1993), or the documents are incorporated by reference into the
21 Complaint and the Complaint refers to them extensively or forms the basis of the claim. *Id.*
22 (citing *Hollymatic Corp. v. Holly Sys., Inc.*, 620 F.Supp. 1366, 1367 (D.C.Ill.1985) (contract
23 attached to complaint and admissions in answer and in reply to counterclaim); *Berk v. Ascott*
24 *Inv. Corp.*, 759 F.Supp. 245, 249 (D.C.Pa.1991) (court may consider document incorporated by
25 reference into the complaint)).

26 //

1 If the motion to dismiss is converted to a motion for summary judgment, the Board must
2 dismiss the Complaint if there is no genuine issue of material fact and the moving party is
3 entitled to judgment as a matter of law. *Thomas v. Las Vegas Metro. Police Dept.*, Item No.
4 588, Case No. A1-045804 (Feb. 23, 2005) (citations omitted). Respondents must first
5 demonstrate an absence of evidence supporting one or more elements of the Associations'
6 claims. *Id.* (citations omitted). The burden then shifts to the Complainant to demonstrate the
7 existence of a genuine issue of fact for hearing. *Id.* (citations omitted).

8 IV. ARGUMENT

9 a. The Board lacks over Jurisdiction over Respondents because they have never been
10 properly served.

11 Complainant's Amended Complaint should be dismissed with prejudice for insufficient
12 service of process and the time to cure this fatal error has expired. Generally, courts or boards
13 with quasi-judicial proceedings do not have jurisdiction over a party unless the party has been
14 served properly. See *C.H.A. Venture v. G.C. Wallace Consulting Engineers, Inc.*, 106 Nev. 381,
15 384, 794 P.2d 707, 709 (1990). See also *Murphy Bros., Inc. v. Mitchell Pipe Stringing, Inc.*,
16 526 U.S. 344, 350 (1999) (stating "service of process, under longstanding tradition in our
17 system of justice, is fundamental to any procedural imposition on a named defendant").
18 Importantly, actual notice is not a substitute for service of process. *C.H.A. Venture*, 106 Nev. at
19 384. In the instant matter, the Board does not have jurisdiction over Respondents because they
20 were not properly served with a copy of the Complaint.

21 The rules for service for an action at the Board are set forth in Rule 4 of the Nevada
22 Rules of Civil Procedure, NAC 288.070, and NAC 288.080. NAC 288.080 requires that the
23 issuance and service of process of papers be in conformity with the Nevada Rules of Civil
24 Procedure (NRCP) and the rules and regulations of the Board. Pursuant to NRC P 4.2(d)(3) a
25 County and any public entity of the County must be served by delivering a copy of the

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1 summons and complaint to the presiding officer of the governing body of the political
2 subdivision. The language of the rule is clear and unambiguous.

3 The named Respondents in this case are Washoe County, a political subdivision, and the
4 Washoe County Sheriff's Office. See Compl. at 3 ¶¶ 2-3. In this case, the Complainant has
5 failed to properly serve the Washoe County and the Washoe County Sheriff's Office because a
6 copy of the Complaint was not served on a presiding officer or administrative head of the
7 County. *Id.* at 14 (Certificate of Service). Complainant has not filed proof of service for the
8 presiding officer (the County Manager) nor even the head of the Washoe County Sheriff's
9 Office, the elected Sheriff. Instead of serving County Manager Brown (or even the
10 administrative head of the of the Sheriff's Office), Complainant only served the undersigned
11 counsel, who is a deputy of the elected District Attorney and not a Respondent in this matter.
12 *Id.* Complainant failed to effectuate proper of a named party to the action: accordingly, service
13 was improper, and this Court does not have personal jurisdiction over Respondents. See NRC P
14 4. Therefore, Complainant's Complaint should be dismissed under NRC P 12(b)(2).

15 Complainant's time to cure this deficiency has run. NAC 288.080(5) states, "[a] written
16 complaint filed with the Board must be served upon the respondent, government employer or
17 labor organization or employee organization, as applicable, by the complaining party within 7
18 days after the filing." The Amended Complaint was filed on December 26, 2023, and
19 Complainant has never served Respondents as required by the NRC P Rule 4 and NAC 288.080.
20 Therefore, Complainant's lack of service is fatal to his claim, and it must be dismissed with
21 prejudice.

22 **b. Complainant failed to exhaust his contractual remedies including arbitration.**

23 Complainant's failure to exhaust contractual remedies must result in dismissal of this
24 action. Complainant filed a grievance alleging the same facts in this complaint and then
25 abandoned his grievance after receiving a response at the first level. Additionally, to the extent
26 that Complainant is attempting to salvage the appeal of his discipline, he also failed to exhaust

1 his contractual remedies.² The Board has held that “[w]hile the Board has exclusive jurisdiction
2 over unfair labor practices, the parties must first exhaust their contractual remedies, including
3 all rights to arbitration.” *Operating Engineers Local Union No. 3 v. Incline Village General*
4 *Improvement District*, Case No. 2020-012, Item No. 864-C, 2021. In *Operating Engineers*
5 *Local Union No. 3*, this Board stated as follows:

6 The Board has repeatedly emphasized that the preferred method for
7 resolving disputes is through the bargained-for processes, and the Board
8 applies NAC 288.375 liberally to effectuate that purpose. *See*
9 *also NAC 288.040; see also, e.g., Ed. Support Employees Ass'n v. Clark*
10 *County Sch. Dist.*, Case No. A1-045509, Item No. 288 (1992); *Int'l Union*
11 *of Operating Engineers, Stationary Local 39 v. City of Reno*, Case No.
12 A1-045567, Item No. 395 (1996); *Nevada Serv. Employees Union v.*
13 *Clark Cty.*, Case No. A1-045759, Item No. 540 (2003); *Carpenter vs.*
14 *Vassiliadis*, Case No. A1-045773, Item No. 562F (2005); *Las Vegas*
15 *Police Protective Ass'n Metro, Inc. v. Las Vegas Metropolitan Police*
16 *Dep't.*, Case No. A1-045783, Item No. 578 (2004); *Saavedra v. City of*
17 *Las Vegas*, Case No. A1-045911, Item No. 664 (2007); *Int'l Ass'n of*
18 *Firefighters, Local 731 v. City of Reno*, Case No. A1-045918, Item No.
19 670 (2008); *Boykin v. City of North Las Vegas*, Case No. A1-045921,
20 Item No. 674B (2008); *Las Vegas City Employees' Ass'n v. City of Las*
21 *Vegas*, Case No. A1-045940, Item No. 691 (2008); *Wilson v. North Las*
22 *Vegas Police Dep't.*, Case No. A1-045925, Item No. 677D
23 (2009); *Rosenberg v. The City of North Las Vegas*, Case No. A1-045951
24 (2009); *Storey County Firefighters Ass'n, IAAF Local 4226 v. Storey*

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26 ² Even if Complainant's challenge to his discipline was appropriate, which Respondents do not concede, it is clearly untimely under NRS 288.110(4) as his disciplinary order was issued on June 6, 2023.

1 *County*, Case No. A1-045979 (2010); *Jessie Gray Jr. v. Clark County*
2 *School Dist.*, Case No. A1-046015, Item No. 758 (2011); *Las Vegas*
3 *Metropolitan Police Dep't v. Las Vegas Police Protective Ass'n, Inc.*,
4 Case No. 2018-017 (2018); *County of Clark, Nev. v. Int'l Ass'n of Fire*
5 *Fighters, Local 1908*, Case No. 2017-033 (2018).
6 *Id.*

7 Complainant is now twice trying to re-litigate his past discipline in an untimely manner
8 and after failing to exhaust his contractual remedies. He already availed himself of the
9 disciplinary appellate process when he requested an appeal under Article 29 of the CBA in
10 April of 2023. *See Exhibit 1*. He had the ability to challenge the underlying investigation and
11 level of discipline. He was even successful in his appeal when his proposed demotion was
12 reduced to a suspension using that process. Still, if Complainant had not been satisfied with the
13 reduction of his discipline, he could have continued to appeal his discipline through the
14 grievance process through arbitration. However, he chose to accept the reduced discipline and
15 served his suspension. Now Complainant attempts to circumvent the contractual process by
16 bringing a Board complaint five plus months later.

17 Respondents anticipate that Leonard will argue he was unaware of the alleged personal,
18 and discriminatory reasons until after his time to challenge the discipline had run. However,
19 this argument fails because he would still need to address these claims through the bargained for
20 process. In fact, he did attempt to do this through the bargained for process when he filed a
21 grievance alleging the same facts in his Complaint on November 6, 2023, in accordance with
22 Article 30 of the CBA. *See Exhibit 2*. When he received a response at Level I of his grievance
23 on December 18, 2023, he chose not to further pursue his contractual remedies by elevating it to
24 level II and ultimately to arbitration.

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1 **c. Complainant's claims are barred by the doctrine against splitting causes of action.**

2 Complainant is barred from pursuing his claims in this forum because he previously
3 chose a different forum to pursue his claims. Pursuant to the "rule against splitting causes of
4 action," a single cause of action may not be split and a separate action maintained." *See Reno*
5 *Club v. Harrah*, 70 Nev. 125, 129-30, 260 P.2d 304, 306 (Nev. 1953); *Smith v. Hutchins*, 93
6 Nev. 431, 432, 566 P.2d 1136, 1137 (1977); *Weekes v. Atlantic Nat'l Ins. Co.*, 370 F.2d 264,
7 270 (9th Cir. 1966). "Policy demands that all forms of injury or damage sustained by the
8 Employee as a consequence of the defendant's wrongful act be recovered in one action rather
9 than in multiple actions." *Hutchins*, 93 Nev. at 432, 566 P.2d at 1137. In determining whether
10 an employee has improperly split a cause of action, courts assess whether the employee's
11 separate suits are based upon the same subject matter and alleged wrongful act of the defendant.
12 *Id.*; *Adams v. California Dep't Health Servs.*, 487 F.3d 684 (9th Cir. 2007). For purposes of the
13 rule, a cause of action is the same when the two suits arise out of the same nucleus of facts. See
14 *Butler v. Bayer*, 123 Nev. 450, 460 (Nev. 2007); *Williams v. State Indus. Ins. Sys.*, 672 F. Supp.
15 459, 462-63 (D. Nev. 1987). Complainant inappropriately split his cause of action when he
16 filed a formal labor grievance, a similar Human Resources Complaint, and the Amended
17 Complaint with this Board, Exhibit 2. This being so, Complainant's instant complaint should
18 be dismissed.

19 **d. Complainant fails to state a viable claim under NRS 288.270(1)(a).**

20 In his amended complaint, Complainant added a cause of action alleging a prohibited
21 practice under NRS 288.270(1)(a). Complainant fails to state a claim upon which relief can be
22 granted because there are no facts alleging his employer took actions that a reasonable person
23 could find to be coercive, interfering, or restraining. In fact, Complainant alleges not an iota of
24 an action by Respondents that would allege a cause of action under NRS 288.270(1)(a).

25 The Board has explained, pursuant to NRS 288.270(1)(a), "[t]he test is whether the
26 employer engaged in conduct, which may reasonably be said, tends to interfere with the free

1 exercise of employee rights under the Act.” *Juvenile Justice Supervisors Ass’n v. County of*
2 *Clark*, Case No. 2017-020, Item No. 834 (2018), citing *Clark Cty. Classroom Teachers Ass’n v.*
3 *Clark County Sch. Dist.*, Item 237 (1989). There are three elements to a claim of interference
4 with a protected right: “(1) the employer’s action can be reasonably viewed as tending to
5 interfere with, coerce, or deter; (2) the exercise of protected activity [by NRS Chapter 288]; and
6 (3) the employer fails to justify the action with a substantial and legitimate business reason.”
7 *Billings and Brown v. Clark County*, Item No. 751 (2012); citing *Medeco Sec. Locks, Inc. v.*
8 *NLRB*, 142 F.3d 733, 745 (4th Cir. 1988); *Reno Police Protective Ass’n v. City of Reno*, 102
9 Nev. 98, 101, 715 P.2d 1321, 1323 (1986); *AFSCME, Local 4041 v. State of Nevada*, Case No.
10 2020-001, Item No. 861-B (2021); *AFSCME, Local 4041 v. State of Nevada*, Case No. 2020-
11 002, Item No. 862-B (2021).

12 Here, the Complaint fails to allege a single fact in his Complaint where either
13 Respondent took an action that would state a claim under NRS 288.270(1)(a). The Amended
14 Complaint references a single instance for basis of his allegation under NRS 288.270(1)(a). See
15 Amended Complaint, 10 at ¶¶48-49. Inexplicably, Complainant points to a pre-litigation letter
16 from undersigned counsel to Complainant’s counsel notifying them of the frivolous nature of
17 his Board complaint, potential policy violations, and the fact he identified confidential
18 personnel matters of another Sheriff’s Deputy in a public forum. See Exhibit 3.³ This allegation
19 fails as a matter of law because the letter was not sent by Complaint’s employer; but rather was
20 a pre-litigation communication between counsel notifying them of frivolous nature of his
21 complaint and an attempt to resolve this matter without further litigation. Undersigned Counsel
22 merely requested that he withdraw the complaint and notify him that fees and costs would be
23 sought or a counter claim could be filed if he failed to do so. Rather than encouraging amicable

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26 ³ [P]re-litigation letters airing grievances and threatening litigation if they are not resolved are commonplace, sometimes with salutary results, and do not suffice to show an improper purpose if nonfrivolous litigation is eventually commenced.” *Sussman v. Bank of Israel*, 56 F.3d 450, 459 (2d Cir. 1995)

1 resolution of labor disputes. Complainant is attempting to weaponize attempts to resolve the
2 matter outside of litigation. Also, the fact that Complainant failed to cure any of the issues
3 identified in the pre-litigation letter and rather decided to amend his complaint to include the
4 letter as part of his complaint further demonstrates he was not coerced, intimidated or
5 restrained. The ludicrous allegation that a letter from undersigned counsel is an action taken by
6 Complainant's employer, would be analogous to the filing of this instant motion or the request for
7 attorney's fees and costs. Since Complainant failed to allege any action by his employer this
8 allegation fails to state a claim.

9 **c. Complainant fails to state a claim under NRS 288.270(1)(d), and NRS 288.270(1)(f).**

10 Complainant's claims fail on its face of the Amended Complaint because he does not
11 allege any facts of an adverse action carried out by Respondents. In *Apeceche v. White Pine*
12 *County*, 96 Nev. 723, 615 P.2d 975 (1980), the Nevada Supreme Court adopted the burden-
13 shifting analysis for deciding claims of discrimination that was promulgated in U.S. Supreme
14 Court's decision in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). See *Nicole*
15 *Wilson, Complainant North Las Vegas Police Department, Respondents*, 2010 WL 5647509, at
16 *3. The Board has historically applied the same *McDonnell* burden shifting analysis to
17 discrimination claims. Under this framework, a claimant may establish a prima facie case of
18 discrimination either by meeting the four-part test, or by providing direct evidence suggesting
19 that the employment decision was based on an impermissible criterion, e.g., *E.F.O.C. v. Boeing*
20 *Co.*, 577 F.3d 1044, 1049 (9th Cir. 2009). Respondent must show: 1) he is a member of a
21 protected class; 2) he performed his job satisfactorily; 3) he was subjected to an adverse
22 employment action; and 4) he was treated differently from similarly situated individuals outside
23 of his protected class. *Apeceche*, 96 Nev. at 723. Complainant has failed to allege any adverse

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GOOD CAUSE APPEARING THEREFORE, Respondents respectfully request the

Board to afford the following rulings in this matter:

1. Enter an order dismissing the Amended Complaint with prejudice for lack of personal jurisdiction since Complainant failed to serve Respondents.
2. Enter an order dismissing the Amended Complaint for lack of jurisdiction on the grounds that Complainant improperly split his action by filing his complaint in various forums.
3. Enter an order dismissing the Amended Complaint with prejudice on the grounds that that Complainant has find that failed to exhaust his contractual remedies prior to filing with the Board.
4. Enter an order dismissing the Amended Complaint with prejudice for failing to state a claim upon which relief can be granted.
5. Enter an order that Respondents be reimbursed for all their attorneys' fees and costs. incurred in responding to the improperly pursued Amended Complaint.
6. Enter an order for such other and further relief as the Board deems just.

DATED January 16, 2024.

CHRISTOHPER J. HICKS
Washoe County District Attorney

By /s/ Chaz Lehman
Chaz Lehman, Esq.
Deputy District Attorney
Brandon Price, Esq.
Deputy District Attorney
One South Sierra St.
Reno, NV 89501
ATTORNEYS FOR RESPONDENTS
WASHOE COUNTY AND WASHOE
COUNTY SHERIFF'S OFFICE

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Office of the District Attorney of Washoe County, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, a true and correct copy of the foregoing document was emailed to the following electronic mail address:

Employee Management Relations Board
emrb@business.nv.gov

Ronald J. Dreher, Esq.
ron@dreherlaw.net

Dated this 16th day of January, 2024.

/s/ S. Haldeman
S. Haldeman

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Exhibit 3	Pre-Litigation Letter	2 Pages

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EXHIBIT 1

EXHIBIT 1

AGREEMENT

BETWEEN

**THE COUNTY OF WASHOE
STATE OF NEVADA**

AND

**THE WASHOE COUNTY
SHERIFF'S SUPERVISORY DEPUTIES
ASSOCIATION**

2022 – 2024



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**AGREEMENT BETWEEN THE COUNTY OF WASHOE
AND THE WASHOE COUNTY SHERIFF'S
SUPERVISORY DEPUTIES ASSOCIATION**

ARTICLE 1 - PREAMBLE

This Agreement is entered into as of July 1, 2019, between the County of Washoe, Nevada, hereinafter referred to as the "County", and the Washoe County Sheriff's Supervisory Deputies Association, hereinafter referred to as the "Association." It is the intent and purpose of this Agreement to assure sound and mutually beneficial working and economic relationships between the parties hereto, to provide an orderly and peaceful means of resolving any misunderstandings or differences which may arise, and to set forth herein, pursuant to the provisions of NRS 288, the basic and full agreement between the parties concerning rates of pay, wages, hours of employment and other conditions of employment.

ARTICLE 2 - RECOGNITION

In accordance with the provisions of NRS 288, the County has recognized and does recognize the Association as the exclusive bargaining representative of those employees in a Supervisory/Administrative Unit, consisting of the current classifications:

Sergeant Deputy Sheriff
Lieutenant Deputy Sheriff
Captain Deputy Sheriff/Commander Deputy Sheriff

The parties recognize that other classifications may be added to the unit during the terms of this Agreement.
(Revised 7-01-05)

ARTICLE 3 - STRIKES AND LOCKOUTS

The Association will not promote, sponsor, or engage in any strike against the County, slow-down, or interruption of operation, concentrated stoppage of work, absence from work upon any pretext or excuse such as illness, which is not founded in fact, or any other intentional interruption of the operations of the County, regardless of the reason for so doing, and will use its best efforts to induce all employees covered by this Agreement to comply with this pledge.

The County will not lock out any employees during the term of this Agreement as a result of a labor dispute with the Association.

ARTICLE 4 - RIGHTS OF MANAGEMENT

The County has the right and is entitled without negotiation to:

- (a) Direct its employees;
- (b) Hire, promote, classify, transfer, assign, and retain its employees;
- (c) Suspend, demote, discharge, or take disciplinary action against any employee with just cause and pursuant to the provisions of this Agreement provided, however, that the County shall not assign or transfer an employee as a form of discipline;
- (d) Relieve any employee from duty because of lack of work or lack of funds;
- (e) Maintain the efficiency of its governmental operations;
- (f) Determine the methods, means and personnel by which its operations are to be conducted, except for considerations of personal safety;

(g) Take whatever actions may be necessary to carry out its responsibilities in situations of emergency.

(h) Contract or subcontract matters relating to County operations provided that such contracting or subcontracting shall not be entered into for the purpose of circumventing this Agreement:

(i) Determine appropriate staffing levels and work performance standards, except for safety considerations; and

(j) Determine the content of the workday, including without limitation workload factors, except for safety considerations.

Unless specifically modified by this Agreement, all rights and responsibilities of the County shall remain the functions of the County.

(Revised 7-01-19)

ARTICLE 5 - RIGHTS OF ASSOCIATION

A. The Association President shall be allowed six hundred (600) hours paid time per contract year to accomplish general Association business as defined in Paragraph (b) below. The President may delegate use of said time to other Association officers. Additional release time may be approved by the Sheriff on a case-by-case basis.

(Revised 7-1-08)

B.

1. The Association may designate five (5) local Association representatives in addition to the officers above. The Association shall notify the Sheriff's Office, in writing, of the name of the representative and his/her jurisdictional area thirty (30) calendar days prior to the effective date of any such designation.

2. The Sheriff's Office shall provide the Association representatives reasonable opportunity to utilize the above release time to serve in his/her capacity. The representative may utilize that time to participate in any of the duties arising within his/her jurisdictional area, those duties being defined as:

(a) The investigation of a bargaining unit member's grievance or potential grievance;

(b) Representation of a member/grievant at any step of the grievance procedure established herein;

(c) Consultation with duly accredited representatives of the Association on matters involving the Association's relationship with the County; and

(d) Attending County functions/meetings that have a direct impact on the Association.

3. The representative shall notify his/her immediate supervisor each time he/she wishes to conduct appropriate business and may be relieved of duty unless operational demands preclude permission to leave the work location being granted. Appropriate use of representative time, as provided herein, shall not be abused by the employee, and use of said time will not be unreasonably withheld by the responsible supervisor.

C. For each separate fiscal year covered by the term of this Agreement, the Association will use leave without pay, annual leave, or bonus leave for members to attend meetings, conferences, legislative sessions and conventions or to attend to other Association business, other than that covered in Section B2 of this provision. Per diem and/or travel shall not be provided by the Office. The scheduling of time off under this provision requires the advance approval of the Sheriff or his designated representative.

D. The County agrees to provide the Association with one (1) area at Parr Boulevard and one (1) area at the Incline Substation for the Association to post one (1) bulletin board. Each bulletin board shall not exceed three (3) feet by four (4) feet in area. Materials shall be posted upon

bulletin boards specifically as designated, and not walls, doors, file cabinets or any other place. The material posted on bulletin boards shall not be obscene, defamatory, derogatory, or of a partisan political nature, nor shall it pertain to public issues which do not involve the County or its relationship with the Association. All posted material shall bear the identity of the sponsor shall be signed by a duly appointed representative of the Association, shall be neatly displayed and shall be removed as soon as no longer timely. All costs incident to preparing and posting of Association materials will be borne by the Association. The Association may use County telephones and County computers for e-mail in carrying out those duties identified in Section B2 above and any other appropriate purpose that has been specifically approved by the Sheriff. (Added 7-01-19)

E. The County recognizes its statutory obligation to negotiate any departmental rule, policy or procedure that is related to a mandatory subject of bargaining as enumerated under NRS 288.150. In the event there is a dispute over whether a rule, policy or procedure falls within the scope of mandatory bargaining, said dispute shall be submitted to the local Government Employee-Management Relations Board and shall not be subject to the grievance procedure contained in this Agreement. (Added 7-01-19)

F. The Sheriff, or his/her designee and the County Labor Relations Manager shall meet, as requested, by either party with representatives of the Association for the purpose of engaging in Labor Management meetings. The purpose of said meetings is to informally discuss matters of concern and/or interest to either party. (Added 7-01-19)

G. The parties agree the full cost of this leave for the duration of this Agreement has been paid for by the Association or offset by the value of concessions made by the Association as required by NRS 288.255. (Revised 7-01-19)

ARTICLE 6 - NON-DISCRIMINATION

A. The County will not interfere with or discriminate in respect to any term or condition of employment against any employee covered by this Agreement because of membership in or legitimate activity as required in this Agreement on behalf of the members of a negotiating unit, nor will the County encourage membership in another employee organization.

B. The Association recognizes its responsibility as the exclusive negotiating agent and agrees to represent all employees in the negotiating unit without discrimination, interference, restraint, or coercion.

C. The provisions of this Agreement shall be applied equally to all covered employees without discrimination as to age, sex, sexual orientation, marital status, race, color, creed, national origin, or political affiliation. (Revised 1-01-01)

ARTICLE 7 - WORK HOURS

A. The normal workweek of employees covered by this Agreement shall consist of forty (40) hours, excluding meal periods. The scheduling of work shifts and workweeks shall be as directed by the Sheriff.

B. Duty hours shall be devoted fully to the performance of assigned duties. Periods of absence for personal matters shall not be credited toward duty hours and must be charged to vacation leave, compensatory leave, or other approved forms of leave, as contained in this Agreement or be recorded as an unexcused absence.

C. Except during emergency situations, employees shall be permitted to take two (2) fifteen (15) minute coffee breaks or rest periods during each work day.

D. In the event that the Sheriff of Washoe County determines a ten (10) hour day forty (40) hour workweek or a nine (9) hour day eighty (80) hour work period is more beneficial to the department, such hours shall constitute a normal work day/work period. The parties hereby recognize that review of twelve-hour shifts is ongoing, and agree to incorporate by reference any subsequent Memorandum of Agreement executed between the parties during the term of the labor agreement.

E. This Article is intended to be construed only as a basis for calculating overtime and shall not be construed as a guarantee of hours of work per day or per week.
(Revised 1-01-04)

F. Employees who work ten (10) hour shifts, in addition to the two (2) fifteen (15) minute breaks referenced in C. above, shall be entitled to a one-half (1/2) hour paid break for a meal period except as provided in G. below.
(Added 7-01-19)

G. In order to facilitate coverage for employees who work ten (10) hour shifts, the Sheriff may require employees to combine the break/lunch periods to two (2) one-half (1/2) hour breaks during the ten (10) hour shift. If scheduling problems develop, the Sheriff may require employees to combine the break/lunch periods to one (1) one (1) hour break during the ten (10) hour shift. If a dispute arises regarding implementation of this section the parties shall meet and confer and attempt to resolve the dispute. The decision of the Sheriff shall be final and binding.
(Added 7-01-19)

H. Except in cases of emergency stakeouts or alternative work schedules up to and including twelve (12) hours, no unit employee shall be required to work twelve (12) or more consecutive hours without a rest period of twelve (12) hours between work shifts.
(Added 7-01-19)

ARTICLE 8 - SHIFT/DAYS OFF BIDDING AND EXCHANGE OF SHIFTS/DAYS OFF

A. Except for those provisions in subsection C. of this Article, uniformed employees shall be permitted to bid for shift/days off on the basis of seniority. Bidding shall take place every four (4) months. In the event the Sheriff and the Association mutually agree, the parties may determine that shift bidding shall take place at six (6) month intervals. Alternative bidding cycles may be mutually determined appropriate for either/or Administrative, Detention or Operations Bureaus. The shift schedule shall be posted not less than fifteen (15) days prior to the effective date. The Sheriff may for reasonable and articulable operational needs reassign employees who hold bid shifts.
(Revised 7-01-19)

B. For purposes of this Article, seniority is defined as time in grade in service from the date of last continuous employment. Continuous service is defined, for purposes of this Article, as

continued employment without a break in service of more than thirty (30) days, other than for injuries, illness, layoff, or maternity leave. Ties in seniority shall be broken by position on the County Personnel Promotional List. If there is still a tie, seniority shall be determined by the drawing of lots.

C. This provision shall not apply to employees in the following assignments:

DETENTION

Courts Sergeant
Classification Sergeant
Administrative Services Unit Sergeant
Courts/Classification Lieutenant

PATROL

Motor Sergeant (Special Events)
Incine Lieutenant

ADMINISTRATION

Administrative Sergeant assigned to Training Section
Administrative/Academy Lieutenant
Research and Development Lieutenant
OPI Lieutenant
OPI Sergeant

SPECIAL OPERATIONS DIVISION

S.O.D. Sergeants
S.O.D. Lieutenants
SAR Sergeant
K9 Sergeant
(Revised 7-01-19)

The above positions will only apply if a position is filled as a result of a competitive interview or test in which the supervisor voluntarily applied for the position. If a supervisor is administratively assigned to the position, he/she does not give up their right to bid for a shift.
(Revised 7-01-10)

D. Employees may, upon approval of the Sheriff or his designee, exchange shifts or days off. Such approval shall not be unreasonably denied.
(Revised 1-1-04)

E. The current language of Policy Manual 1004 shall govern the length of assignment for the above positions. The parties agree that no change to said length shall be made without negotiation between the parties, and in the event of impasse, the provisions of NRS 288 shall apply.
(Added 7-01-19)

ARTICLE 9 - HOLIDAYS AND HOLIDAY PAY

A. **Recognized Holidays:** The following official legal holidays will be observed by the County and its employees in accordance with NRS 236.015 and the Nevada PERS Official Policies (286.025)

1. January 1 (New Year's Day)
2. Third Monday in January (Martin Luther King, Jr.'s Birthday)
3. Third Monday in February (President's Day)
4. Last Monday in May (Memorial Day)
5. July 4 (Independence Day)
6. First Monday in September (Labor Day)
7. Last Friday in October (Nevada Day)
8. November 11 (Veterans' Day)
9. Fourth Thursday in November (Thanksgiving Day)
10. Day after Thanksgiving (Family Day)
11. December 25 (Christmas Day)

Any other day declared as a State holiday pursuant to NRS 236.015, or by the President of the United States to be a legal national holiday or day of mourning when local government offices are required to be closed.

(Revised 7-01-19)

Compensation for "holiday pay" hours (Pay Code 0005) and "holiday special" hours (Pay Code 0108) must be taken as cash only. All other "holiday worked" or "holiday overtime" hours may be taken as either cash and/or compensatory time as outlined below.

B. Weekend Holidays: If January 1, July 4, November 11, December 25 or any other day declared as a new recognized State or National holiday falls upon a Saturday, the Friday preceding must be observed as the legal holiday; if any of these same holidays fall upon a Sunday, the Monday following must be observed as the legal holiday.

C. Holiday Eligibility: In order to be eligible for holiday pay, an employee must be in a paid status both the scheduled work day before and the scheduled work day after the holiday. This provision shall not apply if the employee is forced to take unpaid time off due to disciplinary measures either preceding or following a holiday. Employees on leave without pay (LWOP) are not eligible for holiday pay benefits except for those employees called to military duty and on a military leave without pay. Employees who are off-duty on worker's compensation shall be considered on paid status and shall receive holiday pay. Employees hired on a holiday or hired on the day after a holiday are not eligible to be paid for that holiday. Employees leaving County service in a pay period that contains a holiday will not be paid for the holiday unless he/she is in a paid status both the scheduled work day before and the scheduled work day after the holiday.

D. Holiday Pay: For purposes of this Article, dependent on an employee's regularly assigned/bid work day, "holiday pay" shall be defined as an increment of pay equal to the work hours of the employee's regularly scheduled shift (i.e. eight (8), ten (10), or twelve (12) hours) at an employee's regular, straight time hourly pay rate except as provided herein:

- a. Employees on a light-duty assignment during a week which contains a holiday shall receive holiday pay in accordance to his/her light duty work schedule.
- b. Employees temporarily re-assigned for a week or longer to an assignment that is less than his/her normal regularly scheduled hours (i.e. working five (5)/eight (8) hour days vs. a normal four (4)/ten (10) hour days to attend a week long training course) during a work week containing a holiday shall only be entitled to holiday pay at the lower temporary schedule (i.e. eight (8) hours vs. ten (10) hours).

- c. Employees temporarily re-assigned on a holiday by management to cover for a special assignment (i.e. grant-funded assignment such as a DUI sting or felon sweep) shall receive holiday pay at their normal regularly scheduled hours.
- d. Under no circumstances should work schedules be arbitrarily changed during a holiday week, unless assigned and approved by management.

1. **Holiday Not Worked:** If a holiday, as defined by this article, falls on the employee's regularly scheduled work day and the employee does not report to work and instead has the day off then the employee shall receive holiday pay, taken as cash only, at their regular, straight time hourly pay rate for the amount of hours that the employee would have normally worked.

2. **Holiday Off (RDO):** If a holiday, as defined by this article, falls on the employee's regular day off (RDO), then the employee shall receive an additional payment of holiday "special" pay hours, taken as cash only, equal to the number of hours of the employees regularly scheduled shift, at their regular, straight time hourly pay rate. These holiday pay hours will not count towards the work week for overtime purposes as defined in Article 14 - Overtime.

3. **Holiday Worked:** If an employee works on a holiday, as defined by this article, he/she shall be compensated for working the holiday by receiving 1.5 times his/her regular, hourly pay rate for each hour or major fraction worked on that holiday up to a maximum of his/her regularly scheduled shift, in addition to receiving holiday pay. The decision as to whether compensation for "holiday worked" hours shall be in cash and/or compensatory time shall be made at the time it is worked and shall be solely the decision of the employee. Compensation for "holiday pay" hours (Pay Code 0005) must be taken as cash.

4. **Holiday Overtime:** If an employee works over the maximum of his/her regularly scheduled shift on a holiday, as defined by this article, he/she shall be compensated by receiving 2.5 times his/her regular, hourly pay rate for each hour or major fraction worked on that holiday, in addition to receiving holiday worked pay and holiday pay. The decision as to whether compensation for "holiday overtime" hours shall be in cash and/or compensatory time shall be made at the time it is worked and shall be solely the decision of the employee. Compensation for "holiday pay" hours (Pay Code 0005) must be taken as cash.

5. **Weekend Holiday Pay:** When an employee eligible for holiday pay, has his/her normal, regular work schedule fall on one of the "Weekend Holidays", as described in Section B. above, the employee shall be compensated a flat rate of \$250.00 in addition to his/her regular, hourly pay rate for working the weekend holiday. To be eligible for the \$250.00 weekend holiday pay, the employee must work, as part of their regular, normal work schedule, eight (8) or more regular hours on January 1st, July 4th, November 11th, or December 25th. Employees whose work schedules are temporarily changed to work on the "weekend holiday" and that day is not a normal, regularly scheduled workday are ineligible for the \$250.00 weekend holiday pay, and instead would follow Article 14 - Overtime, if applicable.

6. **Holiday During Leave:** If a holiday, as defined by this article, occurs during an employee's vacation, sick, compensatory, personal or other paid leave, it shall not be charged as leave.

7. **Holiday Reporting:** The employee's shift schedule determines when and if an employee should report holiday hours on a recognized holiday, as defined by this article. Employees must report all applicable holiday hours on the day their shift begins or in accordance to the current practice set by management.

Terminology:

- Interchangeable terms such as "Assigned Shift", "Assigned Work Day", "Normal Regularly Scheduled Hours", "Regularly Scheduled Hours", "Regularly Assigned Work Day", and "Regularly Scheduled Shift" all refer to the employee's Shift Bid Schedule
 - Management = Chain of Command
- (Revised 07-01-16)

ARTICLE 10 - VACATION LEAVE

A. **Vacation Accrual for Full-Time Employees:** For those full-time employees hired after ratification and implementation of this Agreement, each employee shall be entitled to forty-eight (48) hours vacation leave credit following the completion of six (6) months continuous County service. Thereafter, employees shall accrue vacation leave credit at the biweekly equivalent of the rates established below.

Annual Vacation Earning Rate

<u>Years of Continuous Service</u>	<u>Hours Earned</u>
Less than three (3) years	96 hours
Three (3) but less than five (5)	136 hours
Five (5) but less than ten (10) years	152 hours
Ten (10) but less than fifteen (15) years	176 hours
Fifteen (15) but less than twenty (20) years	192 hours
Twenty (20) years or more	200 hours

For the purpose of computing credit for vacation, each employee shall be considered to work not more than forty (40) hours each week.

Total County service, even though interrupted, will be counted if a person returns to County service within three (3) years of his/her date of separation and has worked three (3) continuous years subsequent to reemployment.

(Revised 07-01-13)

B. **Vacation Accrual for Part-Time Employees:** Upon completion of six (6) months continuous service and thereafter, each part-time employee in the Sheriff's Office shall be allowed vacation leave credit prorated on the basis of the rates set forth above for full-time employees

(Revised 07-01-13)

C. Vacation leave may be accumulated from year to year not to exceed two hundred forty (240) hours. Amounts in excess of two hundred forty (240) hours as of the end of the pay period encompassing December 31 shall be forfeited. Provided, if an employee, on or before October 15 requests permission to take annual leave, and the employee's request is denied, the employee is entitled to payment for any annual leave in excess of two hundred and forty (240) hours which the employee requested to take and which the employee would otherwise forfeit as a result of the denial of the employee's request. The Sheriff's obligation is only to afford the employee the ability to use their annual leave, which may not necessarily be the dates requested by the employee. *For example*, an employee on October 1 requests the use of forty (40) hours annual leave for the five (5) workdays preceding Christmas. The Sheriff may deny

said time off, and still allow the employee to use their annual leave at a different time prior to the end of the year to avoid forfeiture of annual leave.

D. An employee shall be paid at his/her regular hourly rate for each hour of vacation leave time taken. Vacation leave shall be charged on the basis of one (1) hour for each full hour or major portion of an hour of vacation leave taken.

E. Vacation leave taken during a biweekly period shall be charged before vacation leave earned during that pay period is credited.

F. Choice of vacation leave dates shall be granted whenever practical but the operating requirements of the County, as determined by the Sheriff, shall prevail. When two or more employees assigned to the same shift or two or more employees assigned to a substation/remote assignment request annual leave for the same period of time, approval shall be granted as follows: 1) in the order in which requests are received; or, 2) in the event two or more requests are received at the same time, leave requests shall be approved in order of seniority in grade, provided the remaining employees are qualified to do the work.

G. Vacation leave shall not be granted in excess of the vacation credit earned.

H. Upon separation from service for any cause, an employee shall be paid a lump sum payment for any unused or accumulated vacation leave earned through the last day worked. If this date is earlier than the last day of the pay period, the vacation credit shall be prorated for that pay period. Under no circumstances shall cash payment be made for accrued vacation while an employee is in regular employment status.

(Revised 1-01-04)

ARTICLE 11 - SICK LEAVE

A. Each employee in the service of the County for less than ten (10) years shall be credited with sick leave at the rate of one and one-fourth (1-1/4) working days for each month of full-time service, which is cumulative from year to year.

Each employee in the service of the County for ten (10) or more continuous years of service shall be credited with sick leave at the rate of one and one-half (1-1/2) working days for each month of full-time service, which is cumulative from year to year.

Total County service, even though interrupted, will be counted if a person returns to County service within three (3) years of his/her date of separation and has worked three (3) continuous years subsequent to reemployment.

B. An employee is entitled to use accrued sick leave only:

When incapacitated to perform the duties of his/her position due to sickness, injury, pregnancy or childbirth;

When quarantined;

When receiving required medical or dental service or examination;

For adoption of a child if the Welfare Division of the Department of Human Resources or any other appropriate public agency requires the employee to remain at home with the child; or

Upon illness in the employee's immediate family where such illness requires his/her attendance. For this purpose "immediate family" means the employee's spouse, parents,

(including step), children (including step), and, if living in the employee's household, includes corresponding relations by affinity to the above, foster children, foster parents, brothers or sisters.

C. In the event of a death in the employee's immediate family, he/she may use accrued sick leave not to exceed five (5) days if the death occurs within a distance of 400 miles, or seven (7) days if the death occurs at a distance of more than 400 miles, for each death. For this purpose "immediate family" means the employee's spouse, parents (including step), children (including step), brothers, sisters, grandchildren, grandparents, aunts, uncles, nieces, nephews, or corresponding relation by affinity and, if living in the employee's household, includes foster children and foster parents.

D. An employee requiring sick leave must, if required, provide the Sheriff with evidence of such need. For absences in excess of three (3) days, or cases of apparent abuse, the Sheriff may require the employee to submit substantiating evidence, including, but not limited to, a physician's certificate.

E. If any employee does not have adequate accrued sick leave time, the Sheriff may grant the use of accrued vacation time in lieu thereof. In no case, however, will sick leave be granted in lieu of vacation time.

F. Sick leave shall be charged on an hourly basis for each full hour or major portion of an hour of sick leave taken. Holidays occurring during a sick leave period shall not be counted as sick leave time. Sick leave taken during a biweekly pay period shall be charged before sick leave earned that pay period is credited.

G. An employee separated from the service shall earn sick leave only through the last working day for which he/she is entitled to pay. Upon death, retirement, permanent disability, or termination of an employee after ten (10) years of full-time employment or its equivalent if the employee has not served as a full-time employee for reasons other than discharge for just cause, an employee shall be compensated for total accrued sick leave at the rate of one (1) hour's pay at his/her regular hourly rate for every three (3) hours of sick leave accrued to a maximum payment of eight hundred (800) hours.

(Revised 7-01-05)

H. As long as an employee is in a paid status, he/she shall earn sick and vacation leave during the time he/she is on such leave. If the employee is on leave without pay, he/she shall not earn sick or vacation leave during the time he/she is on such leave.

I. Personal Leave will be earned on a semi-annual basis as described herein.

(a) Pay Period #01- #13: Personal Leave Credit – July

Employees who use between 0 – 16.00 hours of sick leave during the start of pay period #01 and as of the last day in pay period #13 in each calendar year shall receive twelve (12-hours) of Personal Leave credit at the end of the first full pay period in July of that calendar year. Employees who use between 16.01 – 20.00 hours of sick leave during the start of pay period #01 and as of the last day in pay period #13, in each calendar year, shall receive four (4-hours) of Personal Leave credit at the time specified above.

(b) Pay Period #14 - #26 or #27: Personal Leave Credit - January

Employees who use between 0 – 16.00 hours of sick leave during the start of pay period #14 and as of the last day in pay period #26 (or in the event of a 27th pay period in a calendar year, pay period #27), shall receive twelve (12-hours) of Personal Leave

credit at the end of the first full pay period in January of the next calendar year. Employees who use between 16.01 – 20.00 hours of sick leave during the start of pay period #14 and as of the last day in pay period #26 (or in the event of a 27th pay period in a calendar year, pay period #27), shall receive four (4-hours) of personal leave credit at the time specified above.

1. Personal Leave earned in July and January of each calendar year must be used by the end of pay period #26, or in the event of a 27th payroll paid in a calendar year, pay period #27, and if not used will be forfeited. Under no circumstances will there be any cash payment or cash value for Personal Leave credit that is not used. In order to receive this Personal Leave benefit, an employee must be in a pay status (either working or on paid leave) for all of the pay periods within the noted semi-annual period.
2. Permanent part-time employees shall receive a prorated amount of Personal Leave at the same ratio as their regular work hours relate to a full-time work schedule. Part-time regular work hours will be reviewed as of PP#13 or PP#26 or PP#27 using the weekly working hours encoded in an employees Planned Working Time record.
(Revised 7-1-14; Effective 12-15-14)
3. The use of sick leave, due to a death in the employee's immediate family as outlined in paragraph "C" above, shall not count towards the sick leave usage when calculating personal leave, as outlined in paragraph "I" above.
(Added 7-1-16; Effective 12-26-16)

J. Employees shall be allowed to voluntarily transfer up to a maximum of eighty (80) hours of their accumulated vacation leave or up to a maximum of eighty (80) hours accumulated compensatory time off during any calendar year to another employee who has no accumulated sick leave hours, but who is otherwise eligible to take paid sick leave. Donated vacation/compensatory leave must be converted into money at the hourly rate of salary of the donor and the money must be converted into sick leave at the hourly rate of salary of the recipient. The maximum amount of accumulated leave transferred to any employee under the terms of this article shall be four hundred and eighty (480) hours per calendar year. Once leave has been donated and transferred, such leave hours shall not be refundable to the donor making the transfer.
(Revised 7-1-09)

K. The County agrees to continue efforts with PERS to gain authorization for the County to make the payment for accrued sick leave, per the qualifications and formula contained in this agreement, vacation and compensatory leave directly to PERS to purchase retirement credit on behalf of any employee who so elects, and the parties agree to implement said policy and incorporate it into the agreement upon such approval by PERS.
(Added 7-01-05)

L. Following ratification of the July 1, 2005 labor agreement, the parties agree to form a committee of management and association representatives to study options relating to issues surrounding sick leave usage, sick leave incentive programs, paid time off, and other concepts and best practices utilized in these areas. The determination of the feasibility of implementation of such programs shall be reserved to negotiations of the successor labor agreement unless mutually accepted, ratified and approved by the respective employee associations and the Washoe County Board of County Commissioners.
(Added 7-01-05)

ARTICLE 12 - JOB CONNECTED INJURIES

A. In the event an employee is absent due to a service-connected disability which has been approved by the County's Claims Administrator, for a period not to exceed twelve (12) work weeks, (i.e., 480 hours), the employee may receive compensation as determined by the County's Claims Administrator plus that amount from the County which would cause the total amount received by the employee from both the County's Claims Administrator and the County to equal his/her salary at the time of his/her disability. During this period, the employee shall not be charged with the use of any accrued sick leave, annual leave or other forms of leave.

B. It is the intent of the County to pay the on-the-job injured employee the difference between his/her full bi-weekly base salary and that provided by the County's Claims Administrator. Therefore, the employee shall return to the County Treasurer all temporary total disability payments made by the County's Claims Administrator covering the period enumerated in Section (a) of this Article. No supplemental benefit provided for in Section (a) shall be given until after the employee has deposited his/her lost time benefit check with the Treasurer.

Upon the expiration of twelve (12) work weeks (i.e., 480 hours), if the employee is still unable to work, he or she may elect to utilize accrued sick leave during which period the employee shall receive compensation from the County as provided in Nevada Revised Statutes.

C. When accrued sick leave has expired, if the employee is still, because of disability, unable to work, he/she will be permitted to use his/her accrued vacation leave, accrued compensatory time and personal leave as sick leave. Subsequent to the expiration of both the employee's sick and vacation leave, provided the employee has so elected to use his/her sick and vacation leave, the employee shall receive compensation checks directly from the County's Claims Administrator and he/she shall be considered on a leave of absence without pay from the County.

(Revised 7-01-94)

ARTICLE 13 - SALARIES

Every employee will be paid every other Friday with salary computed through the immediately preceding Sunday. The amount of pay shall be for the number of hours on duty or on authorized leave, or as otherwise provided for in accordance with the provisions of this contract. Salaries for each class title shall be paid in accordance with the Compensation Schedules attached hereto and thereby incorporated herein, as Exhibit A. The County shall continue to pay one hundred percent (100%) of the cost of the retirement contribution for the State of Nevada Public Employees Retirement System in accordance with NRS 286. Provided, should the contribution rate be modified and an offset to wage increases be provided pursuant to NRS 286 Exhibit A shall be adjusted accordingly.

Upon promotion into the Washoe County Sheriff's Supervisory Deputies Association bargaining unit, employees will be paid Step 1 which provides an approximate seventeen percent (17%) increase between top step Deputy base pay and bottom step Sergeant base pay.

Upon promotion within the bargaining unit, employee's shall receive the beginning step of the salary grade or that step which provides at least a seven percent (7%) increase above the employee's base salary, whichever is greater. Sergeants and Lieutenants receiving the approximate ten percent (10%) Detective Pay, at the time of promotion, will be eligible to advance to the beginning step of the salary grade or that step which provides at least a ten percent (10%) increase above the employee's base salary, whichever is greater. Upon completion of twelve (12) months in grade and annually thereafter, employees in the ranks of

Sergeant, Lieutenant and Captain shall be eligible for a one (1) step increase on his/her anniversary date upon satisfactory job performance until the employee reaches the top step in his/her rank.

(Revised 7-1-16)

ARTICLE 14 - OVERTIME, CALL-IN AND STANDBY PAY

A. Overtime shall be defined as any time worked in excess of the normal workweek or the normal work shift. Time worked shall include sick leave, vacation, CTO, holidays, etc. The only exception to the overtime provision of being beyond the normal workweek is the CALL-IN provisions provided for in paragraph F of this article.

B. It is the policy of Washoe County that overtime shall be kept to an absolute minimum consistent with the basic functions and purposes of the Sheriff's Office. This section shall not be interpreted to restrict, in any fashion, the right of the Sheriff's office to require employees to work overtime as determined appropriate by management, subject only to the payment as required by Sections C or E of this Article.

C. Except as provided in Article 7, overtime pay for law enforcement officers shall be calculated on the following rates: One and one-half (1-1/2) times the employee's regular, straight time rate for each hour or major fraction thereof worked.

D. All overtime must have the previous authorization of the Sheriff except when, due to an emergency, the Sheriff's approval cannot be obtained and it appears to the supervisor of the employee that such overtime is necessary.

E. An employee shall be compensated for overtime work in the following manner:

Cash payment computed at the rates established above or employees may choose to accrue compensatory time in lieu of receiving paid overtime. Compensatory time shall be accumulated at the same rate as overtime is paid. Employees may accumulate a maximum number of hours of compensatory time to equal four hundred eighty (480) hours.

The parties agree that an employee may make a written request to the Sheriff to be paid for accrued compensatory time to address unforeseeable financial needs incurred by the employee. The determination of whether to grant the request is at the discretion of the Sheriff following his review of the information set forth in the request and the departmental budget.

(Revised 7-1-09)

F. Call-in:

Any employee who is called in to duty during a time when the employee is not regularly scheduled to work, including court appearance, shall be paid at the rate of one and one-half (1-1/2) times for each hour so spent, on duty, but not less than two (2) hours for the period called to duty. The employee's duty time shall start when the employee actually reports for duty and ends when the employee is released from duty.

G. Standby Time:

Standby time is defined as any time other than time when the employee is actually working, which has been specifically scheduled and directed by the Sheriff or his designee, during which the employee is restricted in order to be immediately available for call to duty. Standby time does not include any time where an employee carries a pager to respond to calls when available. Employees on scheduled standby shall be compensated at the rate of one-fourth (1/4) hour pay at the regular hourly rate for each one (1) hour period of standby. Telephone Work: when a bargaining unit member is contacted at home at the direction of, or when subsequently approved by, proper management authority, said employee shall be warranted

in claiming such time spent engaged in work while on said telephone call, with a fifteen (15) minute minimum.

H. Compensatory Time Cash In:

Employees who terminate their employment shall be compensated their accrued compensatory time hours at their regular hourly rate. Effective with the ratification of the 1992 agreement the County has discontinued the practice of permitting employees to cash in compensatory time hours twice a year.

(Revised 1-01-04)

ARTICLE 15 - LONGEVITY

All employees covered hereunder who have completed a total of five (5) years or more of full-time service with Washoe County and who, for the preceding review period, have been rated standard or better pursuant to the applicable Washoe County performance evaluation program shall be entitled to longevity pay in an amount equal to one-half of one percent (1/2%) per year of service, up to a maximum of twelve and one-half percent (12 1/2%), which shall not exceed an annual maximum amount for each of the following ranks covered under this agreement:

Sergeants:	\$13,100.00
Lieutenants:	\$15,500.00
Captains:	\$18,200.00

An employee's eligibility for longevity pay shall be reviewed as of June 1 and December 1 of each year with payment to be effected in semi-annual installments payable on the first payday of June and December immediately following a determination of eligibility.

An employee who's review for purposes of eligibility was a probationary evaluation following promotion who is not rated standard or better and is therefore ineligible for the longevity payment will be paid their longevity payment retroactive to when it was due provided they successfully complete their promotional probation period

For qualifying employees retiring or resigning before the due date of any semi-annual increment, the amount of the payment shall be prorated.

(Revised 7-01-16)

ARTICLE 16 - MEDICAL PLAN

A. Health Benefit Premiums:

* The County agrees to provide a group medical plan, including dental coverage, to all members of the Association and shall pay one hundred percent (100%) of the premium attributable to employee coverage under this plan during the life of this Agreement. In the event an employee elects dependent coverage, the County shall pay fifty percent (50%) of the premium for such coverage.

(a) Employees hired or rehired on or after July 1, 2016 will be enrolled into the High Deductible Health Plan (HDHP) and required to remain in the plan for a minimum of two (2) full plan years. The County agrees to pay one hundred percent (100%) of the premium attributable to employee coverage and in the event an employee elects dependent coverage, the County shall pay fifty percent (50%) of the premium for such coverage.

(Revised 7-1-16)

B. Insurance Negotiating Committee:

1. Establishment, Purpose and Effective Date:

The Association and the County agree to the establishment of an Insurance Negotiating committee composed of representatives of the County and each recognized employee bargaining unit.

The purpose of the committee is to recommend to the Washoe County Commission any benefit changes in the County's medical, dental, vision and life insurance plans.

The Insurance Negotiating Committee does not have the authority to agree to alter the negotiated percentage(s) of the health benefit plan contribution rates that is borne by the County or the Employee regarding employee or dependent coverage.

This Committee shall become effective upon approval or ratification of the groups listed in Section 2 below.

2. Composition of Committee:

The Committee shall consist of one (1) voting member from each of the following groups:

1. Washoe County District Attorney Investigators Association – Non-Supervisory Unit
2. Washoe County District Attorney Investigators Association – Supervisory Unit
3. Washoe County Public Attorneys Association
4. Washoe County Sheriff's Supervisory Deputies Association
5. Washoe County Sheriff Deputies Association
6. Washoe County Employees Association - Supervisory-Administrative Unit
7. Washoe County Employees Association – Non-Supervisory Unit
8. Washoe County Nurses Association – Non-Supervisory Unit
9. Washoe County Nurses Association – Supervisory Unit
10. Washoe County Alternative Sentencing Officer – Supervisory Unit
11. Washoe County Alternative Sentencing Officer – Non-Supervisory Unit
12. Management
13. Any other bargaining unit that may be formed during the term of the Agreement
14. The Associations may have an expert attend the insurance committee meeting and provide input to the committee, but the expert shall not have a vote on the Committee.
15. Retiree Representative – One (1) retired employee shall serve as a non-voting member to provide input on the effects of proposed changes upon retirees. The name of a retiree may be nominated by any voting member. The retiree employee shall be selected by majority vote of the Committee and shall therefore serve at the pleasure of the said Committee.
16. The Committee Chairperson shall be appointed by the County Manager and will not have a vote on the Committee.

3. The Insurance Negotiations Committee shall have two (2) members participate on the panel of evaluators for Request For Proposals (RFPs), issued by Washoe County's Comptroller's Office, for providers of brokerage/consulting services and third-party health plan administrator. The two (2) members representing the Insurance Negotiations Committee on these panels shall be comprised as follows:

1. One (1) Committee member from the WCSSDA or WCSDA
2. One (1) Committee member from any other bargaining unit

4. Recommendations to BCC: The voting member of each bargaining unit, upon conferring with its association as necessary, shall have the authority to bind said bargaining unit to any modification in benefits agreed to by a majority vote of the Committee. Such modifications shall then be presented to the County Commission, and if so approved by the County Commission shall be binding upon each bargaining unit. If the Committee recommendation is rejected by the County Commission, the Commission shall define their objections and parameters and the Insurance Committee shall, within fifteen (15) days of being notified of the Commission's objections and parameters, meet and attempt to redefine plan modifications which meet the Commission-established parameters. If the Committee is successful, the plan modifications shall be resubmitted to the Commission for approval. If the Committee is unable to determine acceptable modifications for submission to the Commission the County and Insurance Committee agree to resolve any resulting differences by submitting the dispute to an expedited final and binding interest resolution which shall be binding upon the County and the bargaining units.

5. **Binding Interest Resolution Process:** When the Insurance Committee first convenes in any plan year, and no later than June 30, they shall notify the Chairperson of one (1) designated representative who shall represent the Insurance Committee in selecting an experienced arbitrator and scheduling a timely hearing should it be necessary. Within five (5) days of notification of the Committee's representative, said representative and the County Director of HR/Labor Relations shall meet and designate an arbitrator to hear such dispute should it become necessary. If the parties are unable to agree on the arbitrator, they shall obtain a list of five (5) experienced arbitrators with in-depth knowledge of public sector insurance systems who are not associated with Washoe County or with the Washoe County Association bargaining units. The list may be obtained from AAA Federal Mediation and Conciliation Service or any other mutually agreed upon organization. In selecting from the list, the Parties shall alternately strike from the list to select the arbitrator. The right to strike the first name from the list shall be determined by the toss of a coin.

Upon selection of the arbitrator, the Parties shall immediately contact the arbitrator and advise him/her of their selection should a hearing become necessary and the conditions for a decision which shall include: 1) the hearing shall be scheduled for two (2) consecutive days, with each party having one (1) day to present their position on the merits of the dispute; 2) the arbitrator may keep a record of the hearing and the parties will retain a court reporter to transcribe and provide a real time transcript of the hearing; 3) each party shall have five (5) days following the hearing to submit any brief they intend filing; 4) the arbitrator shall render a decision within fifteen (15) days of when the briefs are due; and 5) the arbitrator's authority shall be restricted to either selecting the plan design submitted by the Committee or the plan design submitted on behalf of the County Commission. The Insurance Committee representative(s) and the County Director of HR/Labor Relations shall also be advised of the Insurance Committee schedule and shall set a date with the arbitrator in advance of any known dispute in order to insure a timely decision in the event the resolution process is necessary. In the event the resolution process hearing is not necessary, County shall pay any cancellation fees. Each party shall be responsible for their costs of presenting their case to the arbitrator and any of his/her fees shall be split equally with the Insurance Committee (Associations) paying half and County paying half.

Mediation Process: If an impasse occurs prior to going to binding interest resolution, the parties agree to contact the selected individual from the forgoing list of arbitrators to mediate the dispute. Should mediation not resolve the dispute an expedited hearing with the selected arbitrator shall occur.

6. Release Time: Any insurance committee member shall be granted time off from their assigned duties with Washoe County to attend the hearing at the County's expense. No overtime costs shall be paid to any employee attending the hearing.

C. Washoe County Retiree Health Insurance Program

NOTE: Pursuant to NRS 287.0205, any Washoe County retiree may enroll in the Washoe County Health Insurance Program, without the County-provided health insurance premium subsidy, if eligibility and enrollment requirements under NRS 287.0205 are met. Upon enrollment, such a retiree pays the actual cost of the premium.

Eligibility for the Retiree Health Insurance Program is based on the employee's original date of hire and total years of County service.

1. Tier 1(A): For those individuals employed by the County between May 3, 1977, and January 13, 1981, the following provisions apply:

(a) The County will pay 50% of the medical insurance premium attributable to the employee for participation in the County's Retiree Health Insurance Program upon the employee's retirement and receipt of benefits from Nevada PERS, provided the employee has at least a total of ten (10) years of full-time County employment.

(b) The County will pay 75% of the medical insurance premium attributable to the employee for participation in the County's Retiree Health Insurance Program upon the employee's retirement and receipt of benefits from Nevada PERS, provided the employee has at least a total of fifteen (15) years of full-time County employment.

(c) The County will pay 100% of the medical insurance premium attributable to the employee for participation in the County's Retiree Health Insurance Program upon the employee's retirement and receipt of benefits from Nevada PERS, provided the employee has at least a total of twenty (20) years of full-time County employment.

(d) The payments specified in (a), (b), and (c), above, will be made in accordance with and are subject to all applicable laws in effect at the time of the employee's retirement, and are contingent upon the employee being medically eligible to be reinstated into the County's Retiree Health Insurance Program if there has been a break in coverage under the County's Health Plan.

2. Tier 1(B): For those employees hired on or after January 13, 1981, the provisions listed in Section C.1. above, are applicable except that in order to receive the retiree health insurance subsidy, an individual must be an employee of Washoe County immediately prior to drawing retirement benefits.

3. The parties recognize that the cost of retiree health insurance should be considered a current benefit earned and paid for during an individual's employment with the benefit simply being deferred until retirement. Based upon this, the parties recognize that the funding of the retiree health insurance program must be addressed during the period of employment of active employees in order to try and ensure the fiscal integrity of the program in the future and in order to try and ensure that the benefit upon retirement can be provided. Additionally, the parties recognize that the prefunding of the service cost of this program, which is addressed below, only represents a portion of the funding obligations of this program and that the parties will address the unfunded liability portion of this program in the future. At the point in time when the retiree health insurance program is fully prefunded,

with no unfunded liability remaining, the retiree health insurance program will be fully considered a current benefit earned and paid for during an individual's employment with the benefit simply being deferred until retirement. With those mutual recognitions and understandings, the parties herein agree to prefund the program annually at the actuarially determined service cost amount attributable to this bargaining unit beginning July 1, 1996. The amount of the service cost attributable to this bargaining unit will be a percentage of the number of employees represented by the bargaining unit compared to the number of employees covered under the County's Health Benefit Program.

4. Tier 2: For those employees hired on or after January 1, 1998 through June 30, 2010, the County will pay the portion of the medical insurance premium in the form of a subsidy as established by the County. This subsidy may only be used to offset the cost of the medical plan premium offered through the Washoe County Retiree Health Insurance Program. Upon reaching the age of Medicare eligibility, employees referenced in this section must enroll in Medicare Parts A and B, with Medicare becoming primary coverage and Washoe County becoming secondary, should they elect to remain in the County Retiree Health Insurance Plan. In order to receive the retiree health insurance benefits and individual must be an employee of Washoe County immediately prior to drawing retirement benefits.

(a) Forced Medical Retirement – In the event a Tier 2 employee with at least 10 years of continuous service has a service-related injury, accepted by the County's Workman's Compensation, or ordered by an administrative body or court of competent jurisdiction after a denial by the County's Workman's Compensation, which forces a medical/disability retirement, accepted by PERS as a medical retirement, shall receive the 20-year subsidy upon retirement and immediate enrollment in the County's retiree health insurance plan.

5. Washoe County will provide a monthly subsidy to the employees referenced in paragraph 4 at the rates provided in Exhibit E based on age and years of County service prior to retirement from the County, with a minimum of five (5) years of service and maximum of twenty (20) years of service. Effective January 1, 2020, and each year thereafter, the amounts in the schedule shall be adjusted to the nearest dollar annually to reflect any change using the CPI Medical Index. Revised 7-1-19)

(a) Retirees in this Tier, receiving a subsidy, that elect to enroll in the HDHP with HRA shall receive any overage difference between the subsidy and the Retiree Only premium in their HRA.

6. Tier 3: Employees hired after June 30, 2010 and on or before June 30, 2040 who retire with twenty (20) years of continuous service with WCSDA and/or WCSSDA, shall receive a subsidy equivalent to the 20-year subsidy provided to Tier 2 retirees.

(a) This subsidy may only be used to offset the cost of the medical plan premium offered through the Washoe County Retiree Health Insurance Program. Upon reaching the age of Medicare eligibility, employees referenced in this section must enroll in Medicare Parts A and B, with Medicare becoming primary coverage and Washoe County becoming secondary, should they elect to remain in the County Retiree Health Insurance Program. In order to receive the retiree health insurance benefits an individual must be an employee of Washoe County immediately prior to drawing retirement benefits.

(b) Employees in this Tier, receiving a subsidy, that elect to enroll in the HDHP with HRA, shall receive the difference between the subsidy and the HDHP Retiree Only premium in their HRA, if any.

(c) Forced Medical Retirement – In the event a Tier 3 employee with at least 10 years of continuous service has a service-related injury, accepted by the County's Workman's Compensation, which forces a medical retirement, accepted by PERS as a medical retirement, shall receive the 20-year subsidy upon retirement and immediate enrollment in the County's retiree health insurance plan.

)
(Added 7-1-22)

7. Tier 4: For those employees hired after June 30, 2040, there will be no retiree medical health care premium contribution by the County. Upon reaching the age of Medicare eligibility, employees in this Tier must enroll in Medicare Parts A and B with Medicare becoming primary coverage and Washoe County becoming secondary, should they elect to remain in the County's Retiree Health Insurance Program.

D. The County agrees to provide health insurance coverage and shall pay one-hundred percent (100%) of the premium for spouses and dependent children of any member of the bargaining unit who is killed in the line of duty and which member has said spouse and dependent children covered under the County's medical insurance plan at the time the member was killed. The spouse shall be covered until normal retirement age or remarriage, whichever occurs first. The dependent children shall be covered up to age twenty-six (26).

(Revised 7-01-22)

ARTICLE 17 - MEDICAL EXAMINATIONS AND PREVENTIVE HEALTH CARE

Each employee shall receive a complete physical examination annually. Additionally, whenever an employee is exposed to carcinogenic materials or communicable diseases that have been verified by the Washoe County District Health Department or other appropriate medical authority, said employee shall receive appropriate examinations, and/or treatment.

Additionally, employees shall be permitted to receive Hepatitis-B vaccinations. Any employee who elects to receive this immunization and who then fails to comply with the medical guidelines of this immunization program shall have the expense of his/her immunization deducted from his/her pay.

ARTICLE 18 - UNIFORM ALLOWANCE

A. The County of Washoe shall pay to every employee a uniform allowance at the rate of two hundred fifty dollars (\$250.00) per quarter, payable quarterly the first payday in April, July and October, and the last payday in December.

(Revised 7-01-14)

B. The County of Washoe shall furnish the required uniforms to every new employee and to any present employee when required by the Sheriff to replace uniform items, which uniforms shall remain the property of the County.

C. When replacement of any item of uniform is required due to normal wear, such replacement shall be at the County's expense. When replacement of any item of uniform is required as a result of an employee's negligence or misconduct, such replacement shall be at the employee's expense.

D. The County will reimburse an employee for the repair or replacement cost of a non-uniformed item of clothing that is damaged or destroyed in the line of duty up to an amount not to exceed the maximum cost of the equivalent uniformed item of clothing. In order that an

affected employee receive the benefit of this section, he/she must report any claims prior to the end of the shift on which the incident of damage or destruction occurred.
(Revised 7-01-98)

ARTICLE 19 - UNIFORM ITEMS AND SAFETY EQUIPMENT

A. The County of Washoe shall furnish the following items to every new employee, and to any present employee when required by the Sheriff to replace such items, which items shall remain the property of the County:

B.

<u>UNIFORM ITEM</u>	<u>QUANTITY</u>	
	<u>Patrol Officers</u>	<u>All Others</u>
Cap (service)	1	1
Cap (ball style)	1	1
Cap badge	1	1
Cap rain cover (service)	1	1
Protective helmet	1	0
Duty jacket	1	1
Raincoat	1	0
Utility uniform	1	0*
Necktie	2	2
Tie bar	1	1
Shirt (long sleeve)	3	3
Shirt (short sleeve)	3	3
Breast badge	1	1
Name plate (last name only)	2	2
Trousers without stripes	3 pair	3 pair
Belt (uniform)	1	1
Belt (duty)	1	1
Handcuff case (double)	1**	0
Handcuff case (single)	2**	1
Handcuffs with keys	2	1
Baton ring	1	1
Baton	1	1
Ammunition (rounds)	50	50
Key strap	1	1
Flashlight holder	1	1
Rechargeable flashlight	1	0***
Non-rechargeable flashlight	0	1
Belt keepers	4	4
Identification card	1	1
Level II or Level III Ballistic Vest	1****	1****
Snowsuit	1*****	0

* Jumpsuits may be issued to officers assigned to the Bomb Squad, Civil Section, Detective Division, Forensic Investigation Section, Fire Safety Unit, Fugitive Section, and the Search & Rescue Unit upon the request of the Division Commander. Distinctive jumpsuits are issued to the Detention Response Team, and water-resistant jumpsuits may be issued to the Incline Village patrol officers upon the approval of the Sheriff.

** Patrol officers have the option of receiving one (1) double handcuff case or two (2) single handcuff cases.

*** Rechargeable flashlights are issued to members of the Detective Division.

**** In lieu of the standard issue vest, the employee may receive reimbursement for the current cost of the standard issue vest to be used toward the purchase of a Level II or Level III Ballistic Vest issued in accordance to the current distribution process in effect not to exceed eleven hundred dollars (\$1,100.00) per vest. Effective date of fully executed agreement.

(Revised 7-01-16)

***** A supervisory deputy assigned to the Patrol Division will be issued a snowsuit as part of a 3-year cycle rotation not to exceed three hundred dollars (\$300.00) per snowsuit.

(Added 7-1-14)

C. The County shall pay to each new employee in the bargaining unit who begins employment after July 1, 2014, five hundred twenty-five dollars (\$525.00) toward the purchase of a weapon. Any weapon purchased must be approved by the Sheriff. The employee shall own the weapon and will be responsible to maintain and service the weapon. The employee must qualify with the purchased weapon as directed by the Washoe County Sheriff's Office.

This is a one-time payment by the County for which employees hired prior to July 1, 2014 are not eligible. Any employee who received a payment for the purchase of a weapon as a Deputy Sheriff and is promoted into a position covered by this agreement shall not receive a second payment upon promotion.

(Revised 7-01-14)

D. In recognition that a duty weapon (pistol/handgun) has a lifespan, beginning September 1, 2017, the County shall reimburse employees a one-time Duty Weapon Replacement Allowance of up to five hundred twenty-five (\$525.00) to assist in the purchase of a replacement duty weapon ten (10) years or older in accordance with the replacement process in effect by the Sheriff's Office. The employee shall own the duty weapon and will be responsible to maintain and service the duty weapon. The employee must qualify with the purchased duty weapon as directed by the Washoe County Sheriff's Office. In order to be reimbursed for the allowance, the employee must have ten (10) years of continuous County service, the duty weapon must be ten (10) years or older and the employee must furnish the County with a valid sales receipt dated September 1, 2017 or after for the new duty weapon.

(Added 7-01-16; Effective September 1, 2017)

E. In the event the Sheriff's Office begins to provide duty weapons (pistol/handgun) to new employees covered under Paragraph C and/or existing employees covered under Paragraph D above, the duty weapon reimbursement pays defined in Paragraph C and/or Paragraph D above will no longer be valid as of the date the first duty weapon or replacement weapon is issued. Employees with valid sales receipts dated prior to that date have up to 30 calendar days to request reimbursement.

(Added 7-1-16)

F. Effective July 1, 2022, the County shall pay all Deputies a safety equipment allowance of two hundred fifty dollars (\$250.00) per quarter payable the first payday in April, July and October and the last payday in December.

(Revised 7-01-22)

ARTICLE 20 - COURT APPEARANCES

A. From time to time employees shall be required to appear in judicial or administrative proceedings. When so required during an off-duty period, employees shall be compensated in accordance with the provisions of Article 14.

B. Any employee required to appear as provided above during either an off-duty or an on-duty period, and who receives a witness fee from the County for his/her appearance, shall be required to remit such fee to the County.

C. Any employee required to appear as provided above, whether during an on-duty period or an off-duty period, shall retain any mileage fee paid in connection with such appearance, unless the employee is provided with a county vehicle to travel to and from such proceedings.

ARTICLE 21 - NIGHT SHIFT DIFFERENTIAL PAY / EDUCATION INCENTIVE PAY

A. Shift Differential: All shift work performed between the hours of 7:00 p.m. and 7:00 a.m. shall be considered night work. Payment for night work in addition to regular compensation, shall be made at the rate of seven percent (7%) of base salary for those hours worked between 7:00 p.m. and 7:00 a.m. except as provided herein. If an employee works a shift of which at least fifty percent (50%) of the hours are between 7:00 p.m. and 7:00 a.m., the employee shall be paid the differential for the entire shift

An employee who, at the direction of management, is reassigned from a bid shift eligible for differential to a shift which is not eligible for differential shall continue to receive night shift differential for the remainder of the shift bid excluding any reassignment for purposes of any type of training. An employee who is reassigned for purposes of light duty resulting from an on-the-job injury from a bid shift eligible for the differential to a shift which is not eligible for the differential shall continue to receive night shift differential for the remainder of the shift bid. This continuation of night shift differential for the remainder of the shift bid shall not apply to any light duty shift reassignment resulting from an off-the-job injury. There shall be no carryover of night shift differential on a non-qualifying shift from one shift bid to another shift bid.

(Revised 7-01-09)

B. Education Incentive:

1. **Advanced P.O.S.T.:** Effective October 3, 2016, Supervisory Deputies who attain a Nevada Advanced P.O.S.T. certificate will qualify for a one point two five (1.25%) of base pay education incentive.

2. **Supervisory P.O.S.T.:** Effective July 1, 2022, Supervisory Deputies who attain a Nevada Supervisory P.O.S.T. certificate will qualify for one point two five (1.25%) of base pay education incentive.

3. **Management P.O.S.T.:** Effective October 3, 2016, Supervisory Deputies who attain a Nevada Management P.O.S.T. certificate will qualify for a one point two five (1.25%) of base pay education incentive.

Supervisory Deputies that attain the Nevada Advanced P.O.S.T. certificate, and either the Nevada Supervisory P.O.S.T. or Management P.O.S.T. certificate are eligible for both education incentive pays (not to exceed 2.50%), as described above

(Added 7-01-22)

4. Crisis Intervention Training:

Effective July 1, 2022, the parties agree to discontinue the Crisis Intervention Training (CIT) pay differential, as described in Article 21 of the 2019-2022 agreement, and include the 5% CIT pay differential into the base wage as shown in Exhibit A – Salary Schedules.

ARTICLE 22 - ASSIGNMENT DIFFERENTIAL PAY

For purposes of this Article, "assigned" or "assignment(s)" refers to a long-term assignment with a start and end date that ordinarily corresponds with an employee's assignment to a specific division within the Sheriff's Office. The terms "utilized", "intermittent", "case-by-case" and "per diem" refers to a short-term use of an employee's skills on an hourly, daily, or per shift basis.

Supervisory Deputies may be assigned to multiple special assignments; however, Supervisory Deputies will be restricted to receiving payment for a **maximum of two (2) Special "Assigned" Pay Differentials**, equaling no more than seventeen percent (17%). In the case of an employee assigned to multiple special assignments, only the two (2) highest percentage special assignments will be paid (combined maximum of no more than seventeen percent (17%).

SPECIAL "PER DIEM" PAY DIFFERENTIALS

As requested by the Sheriff or his designee, qualified employees may be utilized per diem in the following specialty areas, within the Sheriff's Office, on an intermittent or case-by-case basis. Such an employee shall receive, in addition to his/her step hourly rate of pay, the additional designated percentage (%) of this step hourly rate of pay as a *Special "Per Diem" Pay Differential* for the entire shift in which the special duties were performed during any part of said shift unless indicated otherwise below. *Special "Per Diem" Pay Differential* is intended to compensate the employee for special training, experience, and qualifications required to perform tasks related to these specialty areas.

A. Sergeants and Lieutenants assigned as FTO's shall receive a five percent (5%) differential of base salary while assigned duties specifically related to the formal supervisory Field Training and Evaluation Program for Sergeants and Lieutenants. A Sergeant or Lieutenant may not be assigned as an FTO unless he/she has completed an approved FTO school. Sergeants and Lieutenants that are assigned as a FTO Coordinator are not eligible to receive an additional 5% per diem pay for FTO duties, as described in this section.
(Revised 7-01-19)

SPECIAL "ASSIGNED" PAY DIFFERENTIALS

At the discretion of the Sheriff or his designee, Supervisory Deputies may be assigned to a limited number of special long-term assignment opportunities, as defined by the Sheriff and with the consultation of the County, within the Sheriff's Office that may qualify for a *Special "Assigned" Pay Differential*. *Special "Assigned" Pay Differential* is intended to compensate the employee for special training, experience, and qualifications required to perform tasks related to the special assignment(s). The special assignments described in this Article are the only assignments for which pay may be received. These special assignments shall not be considered promotions. An employee assigned to one of the following special assignments shall receive, in addition to his/her step hourly rate of pay, the additional designated percentage (%) of this step hourly rate of pay as a *Special "Assigned" Pay Differential* during the length of his/her assignment, unless noted otherwise.

A. The following assignments shall qualify for a two (2%) differential. This differential will not apply if the assignment is included in any of the job assignment differentials outlined in Paragraph B or C:

1. Special Weapons and Tactics (S.W.A.T.)

2. Detention Response Team (D.R.T)
 3. Hostage Negotiations Team
- (Revised 7-01-19)

- B. The following assignments shall qualify for a five (5%) differential:
1. Administrative Lieutenant
 2. Detention Services Lieutenant
 3. NNRIC Lieutenant
 4. SOD Lieutenant
 5. Incline Lieutenant
 6. Explosive Ordinance Disposal (EOD) Sergeant (maximum of one (1) Sergeant)
 7. K9 Sergeant (maximum of one (1) Sergeant)
 8. Background Sergeant (maximum of one (1) Sergeant)
 9. Motor Sergeant (maximum of one (1) Sergeant)
 10. MAIT Sergeant (maximum of two (2) Sergeants)
 11. FTO Coordinator (maximum of two (2) Sergeants and two (2) Lieutenants). May not combine with per diem FTO pay.

(Revised 7-01-19)

- C. The following assignments shall receive a salary increase of approximately ten (10%) during the time period assigned:

1. Detective Division Sergeants and Lieutenants
2. Office of Professional Integrity Sergeants and Lieutenants

(Added 10-03-16)

ARTICLE 23 - DUES DEDUCTION

The County agrees to deduct from the pay of all employees covered by this Agreement, who authorize such deduction from their wages in writing, such membership dues as may be uniformly assessed by the Association. Such deductions shall continue for the duration of the Agreement and shall be at no cost to the Association.

The remittance to the Association shall be forwarded to the Treasurer of the Association in not less than quarterly payments.

There shall be no restriction on the right of an employee to terminate his dues deduction.

The County Comptroller will be notified in writing of any change in the rate of membership dues thirty (30) days prior to the effective date of such change. A change in the rate of membership dues must take effect on the first day of the start of a pay period.

(Revised 7-01-19)

ARTICLE 24 - ASSOCIATION USE OF COUNTY BUILDINGS

The County recognizes the necessity of the Association to hold Association meetings. It is mutually agreed that, upon request to the party under whose control the facilities are placed, the Association shall be permitted to meet in County facilities or buildings if such facilities or buildings are available, under the following conditions:

- A. Any such meeting held in or on County property shall be without cost to the Association.
- B. No such meeting shall be allowed to interfere with normal County activities.
- C. This provision is not a guarantee to the Association that County facilities or buildings will be available to them at any specific time, and such meetings will be scheduled at the

convenience of the County, except that the County will not deny access to facilities or buildings merely for the purpose of harassment of the Association.

ARTICLE 25 - COPY OF CONTRACT

This Agreement shall be posted on the Washoe County Human Resources website within thirty (30) days of BCC approval.
(Revised 7-01-19)

ARTICLE 26 – RESIDENT/REMOTE DEPUTY PAY

Effective July 4, 2022, employees who are assigned as resident Deputies, regardless of Departmental rank, to the Incline sub-station, and who reside at Incline Village, Crystal Bay, Brockway, Kings Beach, Agate Bay, Carnelian Bay, Cedar Flats, Tahoe City or Tahoe Vista, shall be paid an assignment differential of four hundred dollars (\$400.00) biweekly, to compensate for increased cost of living. Employees who are assigned as resident Deputies, regardless of Departmental rank, to Gerlach shall be paid an assignment differential of one hundred fifteen dollars and sixty-three cents (\$115.63) biweekly, to compensate for the remote assignment. A deputy assigned to a remote location for less than two (2) weeks will receive remote assignment pay on a prorated basis.

Effective 2023, and each year thereafter, the foregoing assignment differential amounts shall be increased at the beginning of the first pay period in February equal to the annual percent increase in the Consumer Price Index – Urban Wage Earners and Clerical Workers (CPI-U) for the prior calendar year.
(Revised 7-01-22)

Effective July 4, 2022, employees who are assigned as remote Deputies to the Incline sub-station who do not reside there, use their personal vehicle for travel to and from work, and who do not have access to a County vehicle shall receive one hundred fifty dollars (\$150.00) transportation allowance per pay period.

Effective 2023, and each year thereafter, the foregoing transportation allowance amount shall be increased at the beginning of the first pay period in February equal to the annual percent increase in the Consumer Price Index-All Urban Consumers (CPI-U) for the prior calendar year.
(Revised 7-01-22)

A Supervisor who is assigned as the Lieutenant to the Incline Village Sheriff's Office Substation is entitled to an incentive differential pay of base salary pursuant to Article 22. The Lieutenant does not have to reside in Incline village in order to collect this benefit and is separate from the compensation for the increased cost of living.
(Revised 7-01-16; Effective 10-03-16)

ARTICLE 27 - COUNTY ORDINANCE PROVISIONS

In the event that the Board of Commissioners of Washoe County adopt or amend any ordinances or resolutions of Washoe County during the duration of this Agreement, which ordinance or resolution provisions confer additional or more extensive employee benefits than those provided in this Agreement, the Washoe County Sheriff's Supervisory Deputies Association may elect to receive such benefits in lieu of the provisions of this Agreement, and this Agreement shall not have the effect of denying to the members of the Association benefits provided for County employees who are not members of the Association.

The provisions of this Article shall not apply to any additional or more extensive benefits enacted by the Board of Commissioners of Washoe County as part of a management compensation plan and any such benefits shall not accrue to the Washoe County Sheriff's Supervisory Deputies Association unless both parties mutually agree to incorporate such specific benefits into this Agreement. Additionally the provisions of this Article shall not apply to any additional or more extensive benefits provided to employees of the Truckee Meadows Fire Protection District.

ARTICLE 28 - AMENDING PROCEDURE

If either party desires to modify or change this Agreement it shall, no later than February 1 of any year, give written notice to the other party of amendment, in which event the notice of amendment shall set forth the nature of the amendment or amendments desired, except that no amendments or modifications to this Agreement shall be made prior to July 1, 1995, except by mutual agreement of the parties or through the provisions of Article 41 herein. Any amendment, whether a proposed amendment or an alternative to a proposed amendment, that may be mutually agreed upon or awarded pursuant to the provisions of Chapter 288 of NRS shall become and be part of this Agreement, the effective date to be as mutually agreed. Any amendments that may be agreed upon or awarded shall become and be part of this Agreement without modifying or changing any of the other terms of this Agreement.

Any change to this Article is solely for cleanup purposes and is not intended to amend the Parties' rights.

ARTICLE 29 - PROCEDURE FOR IMPOSITION OF PUNITIVE ACTION

Statement of Purpose:

The Parties declare that a procedure for the imposition of punitive action is necessary. This Article is not intended to supplant or substitute for open and informal communications between command staff and deputies. While each situation must be handled on a case-by-case basis, informal discussions are encouraged.

The Parties declare that they intend to follow NRS Chapter 289 (Peace Officer Bill of Rights). The 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. NRS 289.100.

- A. **Punitive Action Defined:** "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. [NRS 289.010(4)]
- B. **Just Cause Standard:** The Sheriff, or designee, shall not impose punitive action upon a permanent, classified employee without just cause. The right to protest punitive action pursuant to this Article shall be limited to permanent classified employees [NRS 289.150(2)(i)&(o)]
 - 1. The Sheriff or designee shall notify the Association and employee of any appointee or probationary employee who fails to attain permanent status. [Former Article 37]
 - 2. The Sheriff or designee shall notify the Association and employee who does not satisfactorily complete the probationary period. [Former Article 37]. If a peace officer is denied a promotion on grounds other than merit a law enforcement agency shall provide the peace officer with an opportunity for a hearing. [NRS 289.020(2)]

C. **Notice of Proposed Action:** Before taking action to impose punitive action upon a permanent, classified employee, the Sheriff or designee shall serve on the Association via email and the employee, either personally or by certified mail, a Notice of Proposed Action which shall contain the following:

1. A statement of the action proposed to be taken.
2. A statement of the alleged misconduct, including the actions and/or omissions and grounds upon which the proposed action is based.
3. A copy of any rule alleged to be violated
4. A statement that the peace officer or a representative of the peace officer will have a reasonable opportunity to inspect, review and copy any evidence in the possession of the law enforcement agency including any recordings, notes, transcripts of interviews, and documents. The peace officer or representative may receive an electronic copy of the file at their request. [NRS 289.057] The peace officer and/or representative agree that copies and the content should remain confidential except as required to prepare a defense to the intended punitive action.
5. A statement that the employee has fourteen (14) calendar days to elect a response pursuant to subsection D.

D. **Response to Notice of Proposed Action by Employee/Association:** The employee/Association may elect a response to the proposed discipline:

1. **In Writing:** The employee or Association shall have fourteen (14) calendar days to respond and/or protest to the Sheriff or designee in writing, before the proposed action may be taken. Or.
2. **Meeting with Sheriff:** The employee or Association shall have fourteen (14) calendar days to request in writing a meeting with the Sheriff to make a statement concerning the proposed action and/or provide factors in mitigation; OR
3. **Pre-Disciplinary Hearing:** The employee or Association upon whom a Notice of Proposed Action has been served shall have fourteen (14) calendar days to request to the Sheriff or designee in writing the scheduling of a Pre-Disciplinary Hearing where the Employee/Association may make a statement concerning the proposed action and/or provide factors in mitigation.
4. **Extension of Time to Respond:** Upon Application and for good cause, the Sheriff, or designee may extend in writing, the period to respond. The parties shall schedule a mutually agreed upon time to conduct the meeting with the Sheriff or Pre-Disciplinary Hearing.

E. **Order Imposing Punitive Action:** In any action to impose punitive action upon an employee having permanent status in a position in the classified service, after complying with the applicable requirements above, the Sheriff or designee may impose the proposed punitive action.

1. The Order Imposing Punitive Action shall be in writing and contain the following:
 - (a) A statement of the punitive action to be taken;
 - (b) A statement of the misconduct, including the actions and/or omissions upon which the proposed action is based;
 - (c) A statement of any rule(s) violated

(d) A statement of the procedural actions to date, such as the date of the Proposed Notice and date of Association/Employee response;

(e) A statement of the effective date of such action, which shall not be less than seven (7) calendar days from the date of the Order.

2. The Order Imposing Punitive Discipline shall be served upon the Association via email the Employee via personal service or certified mail, and the Director of Human Resources
3. If the peace officer appeals the recommendation to impose punitive action, the peace officer or any representative of the peace office may review and copy the entire file concerning the internal investigation, if applicable, including, without limitation, any evidence, recordings, notes, transcripts of interviews and documents contained in the file. NRS 289.080(9).

F Appeal of Order Imposing Punitive Action:

1. Appeal of Punitive Action to Director of Human Resources
 - a. Request for Review by Human Resources Director.
 - b. Within fourteen (14) calendar days after receipt of the Order imposing Punitive Action, the Association/Employee make a request in writing to the Human Resources Director for review of the punitive action.
 - c. Review and Decision: The Human Resources Director shall review the punitive action and review any evidence, statements and/or take oral statements at their discretion. A decision shall be issued not later than thirty (30) calendar days from the request for review. The decision shall be consistent with the law and the terms of this Agreement.
 - d. An employee, who is disciplined under the Department's Drug Testing Policy, may request review by the Director of Human Resources
 - e. The Association/Employee may move directly to Arbitration by providing written notice to HR Director of that decision.
2. Appeal of Punitive Action to Arbitration.
 - a. Request for Arbitration: Within fourteen (14) calendar days after receipt of the Decision by Human Resources regarding the Order imposing Punitive Action, the Association/Employee make a request in writing for arbitration to the Human Resources Director.
 - b. Selection of an Arbitrator: The Parties may request a list of arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service or similar service. The selection of the arbitrator shall be made from the list provided by alternately striking names. The party striking first shall be determined by lot.
 - c. The selection of an arbitrator shall be made within forty-five (45) days of the date of the Order Imposing Punitive Action.

- d. **Pre-Arbitration Issues, Hearing, and Decision:** The parties shall ensure that they confer promptly with the selected arbitrator to schedule a hearing and discuss any pre-hearing issues. The parties shall request that the arbitrator issue a report not later than thirty (30) days from the final hearing day. The report shall set forth the findings of fact, reasoning, and decisions on the issues submitted. The arbitrator's decision shall be consistent with the law and the terms of this Agreement and shall be binding on the parties. The arbitrator shall not have the authority to modify, amend, alter, add to or subtract from any of the provisions of this Agreement.
- e. **Expenses:** The expenses of arbitration, including the arbitrator's fee/costs and the expenses and costs of the arbitrator's transcript, if any, shall be borne equally by the parties. All other expenses incurred by either party in the preparation or presentation of its case are to be borne solely by the party incurring such expense. If the employee has chosen to go to arbitration without the concurrence of the association, the employee shall be responsible for their share of the arbitration costs.
- f. The parties shall be considered as Washoe County and the Washoe County Sheriff Deputies Association or, if an employee is representing himself, the County and the employee(s). The parties recognize that assignment of authority to proceed to arbitration to the employee does not alter recognition of the Association as the employee's representative pursuant to NRS Chapter 288.

G. Suspension Pending Discharge:

- 1. The Sheriff or designee may immediately suspend without pay, an employee pending discharge for gross misconduct, conduct which gives rise to a clear and present danger to public health and/or safety, or conduct which is seriously and substantially disruptive of Sheriff's Office or County operations.
- 2. Notice of immediate suspension shall comply with the provisions of Paragraph C above and be served on the employee either personally or by posting by certified mail within twenty-four (24) hours of the effective time of suspension. The Association shall be served via email within twenty-four hours of the effective time of the suspension.

H. Suspension Pending Criminal Case: The Sheriff or designee, upon giving notice as provided in Paragraph C above, may immediately suspend an employee against whom there is pending a criminal charge and which charge must adversely and directly affect the County service or conflict with continued employment, or is seriously and substantially disruptive of department or County operations. Pending criminal charges exist when an employee has been named a defendant in a criminal complaint or indictment filed in any court.

- i. **Poor Performance:** If the County alleges that an employee's work performance has fallen below standard, said employee's supervisor shall inform the employee promptly and specifically of such lapses before issuing a warning letter or reprimand. In the event an employee receives a substandard evaluation, which results in the employee being denied a merit salary increase or longevity pay, said evaluation may be submitted to the Director of Human Resources pursuant to F(2) above.

- J. **Use of Prior Discipline:** No prior punitive action may be used against an employee unless the employee was notified of the disciplinary action being imposed in writing with a copy placed in the employee's personnel file. In the event that there has been such a notification at a level of a letter of reprimand that notification shall not be used against an employee in future disciplinary actions if it has been in the employee's file for a period of twelve (12) months or more, discounting periods of leaves of absence in excess of thirty (30) days, provided that there has been no notification for the same or similar conduct during that twelve (12) month period. The 12-month period shall begin to run on the day the employee acknowledged receipt of the letter of reprimand.

This twelve (12) month limitation does not apply to any disciplinary action taken against an employee arising out of a matter covered under Title VII of the Civil Rights Act of 1964. The purpose of this exception is to allow consideration of both the seriousness of the employee's proven offense and the record of the employee with the County in determining the degree of discipline administered, given the County's specific legal obligations under Title VII.

- K. An employee shall have the right to representation of up to three (3) representatives of the Association at each step of the process.
- L. No grievance settled by an employee in a classification represented by the Washoe County Sheriff Deputies Association shall be accepted by the County unless said employee has received concurrence from the Sheriff or his/her designee.
- M. Any of the time limits contained in this Article may be waived upon the mutual written agreement of both parties.

ARTICLE 30 - GRIEVANCE PROCEDURE FOR ISSUES OTHER THAN PUNITIVE ACTIONS

The purpose of the following provisions is to set forth, simply and clearly, the provisions that shall govern the conditions of a grievance appeal.

I. GENERAL PROVISIONS:

A. Definitions

1. **Grievance:** A grievance is a dispute by one or more employees or the Association concerning the interpretation or application of an expressed provision of this Agreement, other than imposition of punitive action which is governed by Article 29.
2. **Grievant:**
 - (a) A county employee who is covered by the provisions of this Agreement and who is adversely affected by the matter being grieved.
 - (b) The Association may file a grievance alleging a violation of contract terms in an attempt to avoid negative precedent. However, in no event may the Association assert a grievance appealing a disciplinary action "on behalf of" an Association member or nonmember absent the signed approval of same.
3. **Day:** For purposes of this procedure, a day is defined as a calendar day.

B. All grievances shall be in writing; shall be dated; and shall specify the collective bargaining agreement provision alleged to have been violated. The grievance shall also specify the facts, including names, dates, etc., which are alleged to constitute the violation.

C. No grievance settled by an employee in a classification represented by the Washoe County Sheriff's Supervisory Deputies Association shall be accepted by the County unless said employee has received concurrence from the Sheriff or his/her designee.

D. Any of the time limits contained in this procedure may be waived upon the mutual written agreement of both parties.

II. GRIEVANCE PROCEDURE

STEP 1 Informal Discussion:

The aggrieved employee or the Association representative shall take up the grievance with his immediate supervisor or, in the event the matter giving rise to the grievance occurs at a supervisory level above the immediate supervisor*, the grievant may file a grievance with the next level of supervision within forty-five (45) days of when the employee/Association knew or should have known of the occurrence giving rise to the grievance.

*If the matter giving rise to the grievance is initiated at the Chief Deputies level, the grievance procedure will start at that level. If the matter giving rise to the grievance is initiated at the Sheriffs level, the grievance procedure will start at that level.

The management representative at the level at which the grievance is filed shall attempt to adjust the matter at that time. If the grievance is not settled during the informal discussion, the grievant shall submit it in writing to supervisor at the acceptable level within fourteen (14) days of the informal discussion. The supervisor shall render a decision in writing to the grievant within seven (7) days after receipt of the written grievance.

(Revised 7-01-22)

STEP 2 – Sheriff or Designee

In the event the grievant is not satisfied with the Step 1 written response to the grievance, the aggrieved employee or the Association representative may refer the grievance in writing to the Sheriff or designee within fourteen (14) days after receipt of the written response if the grievance has not been filed at a higher level of supervision pursuant to Step 1.

The Sheriff or designee shall render a decision in writing within seven (7) days after receiving the grievance.

STEP 3 – County Manager or Designee

Should the grievance remain unresolved, the employee or Association representative may, within fourteen (14) calendar days of receipt of the Sheriff's decision, if applicable, submit the grievance in writing to the County Manager. The County Manager or designee shall respond to the grievance in writing within fourteen (14) calendar days after receipt of the grievance.

(Revised 7-01-22)

STEP 4 – Arbitration

- a. Request for Arbitration: Should the grievance remain unresolved, the employee or Association may, within fourteen (14) calendar days after receipt of the Sheriff's or County Manager's (or designee) response, make a request in writing for arbitration to the Human Resources Director.

- b. **Selection of an Arbitrator:** The Parties may request a list of arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service or similar service. The selection of the arbitrator shall be made from the list provided by alternately striking names. The party striking first shall be determined by lot.
- c. The selection of an arbitrator shall be made within forty-five (45) days of the date of the request for arbitration.
- d. **Pre-Arbitration Issues, Hearing, and Decision:** The parties shall insure that they confer promptly with the selected arbitrator to schedule a hearing and discuss any pre-hearing issues. The parties shall request that the arbitrator issue a report not later than thirty (30) days from the final hearing day. The report shall set forth the findings of fact, reasoning, and decisions on the issues submitted. The arbitrator's decision shall be consistent with the law and the terms of this Agreement and shall be binding on the parties. The arbitrator shall not have the authority to modify, amend, alter, add to or subtract from any of the provisions of this Agreement.
- e. **Expenses:** The expenses of arbitration, including the arbitrator's fee/costs and the expenses and costs of the arbitrator's transcript, if any shall be borne equally by the parties. All other expenses incurred by either party in the preparation or presentation of its case are to be borne solely by the party incurring such expense. If the employee has chosen to go to arbitration without the concurrence of the Association, the employee shall be responsible for their share of the arbitration costs.
- f. The parties shall be considered as Washoe County and the Washoe County Sheriff Deputies Association, unless an employee covered under this Agreement is representing themselves, in which case they shall be identified by name.

ARTICLE 31 - SAFETY AND HEALTH ADVISORY COMMITTEE

- A. The County agrees to establish a Departmental Safety and Health Advisory Committee, comprised of not more than three (3) representatives each from the County and the Association. The County shall submit to the Association and the Association to the County the names of their respective representatives within thirty (30) days of the implementation of this contract.
- B. The Committee will meet at the call of any committee member, or as otherwise required for the purpose of inspecting, investigating, and/or reviewing the health and safety conditions concerning bargaining unit employees.
(Revised 7-01-91)
- C. The Committee or any of its representatives shall submit to the Sheriff and the Association President reports and recommendations concerning safety and health conditions of the bargaining unit employees.
- D. The Sheriff shall respond to the Committee informing it of his decision, with reasons, regarding the recommendation within thirty (30) days, or as soon thereafter as Practicable.

ARTICLE 32 - TRAVEL EXPENSE – PER DIEM

The parties agree that the County Travel Expense Policy shall apply to this bargaining unit.
(Revised 7-1-08)

ARTICLE 33 - PHYSICAL ABILITIES TEST

Effective July 1, 2013, the parties agree to discontinue the Physical Ability Test and incentive pay, as described in Article 36 of the 2011-2013 agreement, and include the 3% Physical Abilities Test and incentive pay into the base wage as shown in Exhibit A – Salary Schedules.

(Revised 7-01-13)

ARTICLE 34 - REDUCTION IN STAFF

Whenever the County finds it necessary to reduce staff in the Supervisory Unit, the County shall determine in which classification(s)/rank(s) the reduction in force shall occur. The reduction shall be made in accordance with the following rules:

A. Reduction in staff shall be by classification/rank according to reverse order of seniority within the classification or rank.

B. An Employee who is subject to such reduction may displace the least senior employee in the next lower classification/rank in which they served. (i.e., Captain to Lieutenant; Lieutenant to Sergeant; Sergeant to Deputy.)

C. The County may, in order to provide necessary staffing as a result of a reduction in staff, reassign employees. When such reassignments are necessary, the County shall first seek volunteers for such reassignments. In the event of an insufficient number of volunteers, the County shall make mandatory reassignments according to reverse order of seniority within the classification or rank required for reassignment.

D. The name of each employee reduced in rank as a result of the reduction in staff shall be entered on a permanent Reinstatement List in order of seniority. No regular promotions shall be made until the Reinstatement List has been exhausted. No employee whose name is placed on the Reinstatement List shall be required to participate in any examination process or test designed to determine qualifications or fitness for promotion or assignment, in order to be reinstated to their former classification/rank.

E. The name of each employee reassigned as a result of the reduction in staff shall be entered on a permanent Assignment Reinstatement List. Employees shall be reinstated to their former assignments with volunteers first in order of seniority, followed by employees who were mandatorily reassigned in order of seniority. No regular reassignment shall be made until the Assignment Reinstatement List has been exhausted. No employee whose name is placed on the Assignment Reinstatement List shall be required to participate in any examination process or test designed to determine qualifications or fitness for promotion or assignment, in order to be reinstated to their former assignment, except for any drug testing that may be required for the assignment in the C.N.U.

F. Employees who are reduced in classification/rank as a result of a reduction in staff shall have their seniority restored to them upon reinstatement for all time they served in the lower classification/rank as if they had not been reduced in classification/rank, except that such time shall not count toward completion of the employee's probationary period.

G. For purpose of the Article, seniority is defined as time in grade in service from the date of last continuous employment. Continuous service is defined, for purposes of this Article, as

continued employment without a break in service of more than thirty (30) days, other than for injuries, illness, layoff, or maternity leave. Ties in seniority shall be broken by position on the hire list. If there is still a tie, seniority shall be determined by the drawing of lots.
(Revised 7-1-09)

ARTICLE 35 – CONSOLIDATION REOPENER

The County agrees to notify the WCSSDA at such time as the County and the City of Reno determine to pursue the matter of consolidating their respective Law Enforcement Operations. In such an event, the parties agree to reopen the labor agreement for the purpose of negotiating over the impact such consolidation may pose for members of this Unit.
(Revised 7-1-09)

ARTICLE 36 – DISTRIBUTION OF COMPENSATION DUE TO DECEASED EMPLOYEE

If an employee dies while owed compensation by the County, the parties recognize and agree that such compensation, to include wages, payment for accrued vacation leave, payment for accrued compensatory hours, payment for sick leave cash out, payment for pro-rata longevity pay, and payment for any reimbursable expenses due the employee, shall be distributed in an expedient and legal fashion pursuant to NRS 281.155.
(Revised 1-01-09)

ARTICLE 37 – LINE OF DUTY DEATH

In recognition of the constant exposure to hazardous working conditions facing bargaining unit members and the expectation for bargaining unit members to respond to calls for aid from the public and, while so doing, often placing their own safety in jeopardy, the County of Washoe agrees to provide the following benefit for those bargaining unit members who make the ultimate sacrifice for the public they serve.

On behalf of any bargaining unit member who dies in the line of duty, the County of Washoe agrees to pay non-reimbursed costs, to a maximum expenditure of twenty thousand dollars (\$20,000.00) per death, towards memorial service, funeral service and interment related expenses of such a deceased member. This benefit is in addition to any life insurance benefit provided by the County for bargaining unit members.
(Added 7-1-09)

ARTICLE 38 – SAVINGS CLAUSE

A. This Agreement is the entire agreement of the parties, terminating all prior arrangements and concluding all negotiations during the term of this Agreement. The County shall from time to time meet with the Association to discuss its views relative to the administration of this Agreement; the Association may request discussions if it wishes.

B. Should any provision of this Agreement be found to be in contravention of any Federal or State law, or by a court of competent jurisdiction, such particular provision shall be null and void, but all other provisions of this Agreement shall remain in full force and effect until otherwise canceled or amended.

In the event that section (B) above is affected or Chapter 288 of the Nevada Revised Statutes is amended, the County and Association Negotiating Teams will meet within thirty (30) days of such decision or passage to discuss its ramification(s) on the current negotiated Agreement
(Revised 7-1-09)

ARTICLE 39 – TEMPORARY SUPERVISORY PAY

A. In the event there is a temporary assignment of duties of a higher classification set forth in Article 2, the employee shall be assigned and compensated according to the following policies and procedures:

1. Pay for work in a higher classification is a short-term remedy in those instances where temporary replacement is required for an incumbent of a position who is not available to perform the duties of the position or when there is a vacant position in a higher classification requiring the temporary assignment of duties prior to filling the position.

2. The Captain heading the division will decide which employee will be temporarily assigned and request authorization by submitting in writing to the applicable Assistant Sheriff for approval. In making the assignment, the Captain shall assign the work to the next lower classification provided there are capable employees available. This provision does not preclude assignment of such responsibilities to an available person in the same or higher classification and in such a situation, no temporary assignment pursuant to this section shall be applicable.

3. In order to receive pay for work in a higher classification, the nature of the assignment must be such that the employee in the lower classification becomes fully responsible for the duties of the higher classification for the applicable period and the assignment is for a period of at least thirty-six (36) consecutive work hours.

4. Higher pay will be applied retroactively to the first day of the assignment, provided that the conditions listed above are met, and will be for a period not to exceed six (6) months. There may be extensions of such period upon submission of a new request form.

5. The rate of pay for the assignment will be an increase of seven percent (7%) of the employee's regular pay.

6. In the Detention and Patrol Divisions - When a Sergeant assumes the additional responsibility of the "Acting Watch Commander" for the shift and there are no other higher ranking supervisors on duty within the same division, the Sergeant assigned as "Acting Watch Commander" shall receive an increase of five percent (5%) above the employee's regular pay. The "Acting Watch Commander" pay shall be paid for only those hours the Sergeant is acting as the "Watch Commander." The assignment may be made in advance by the affected shift's Lieutenant, Executive Lieutenant or higher ranking member of the affected Division. The affected shift Lieutenant, Executive Lieutenant or higher ranking member of the Detention Division shall determine which sergeant will assume the status of "Acting Watch Commander." The provisions in subsection (3) would not apply to these circumstances.

(Revised 7-1-22)

ARTICLE 40 – RETIRING DEPUTY

When a Deputy Sheriff is "honorably retired" after 15-years of continuous County service in the Sheriff's Office, the County shall provide that employee with one retired identification card and one retired badge.

(Added 7-1-22)

ARTICLE 41 - DURATION OF AGREEMENT

This Agreement shall take effect on July 1, 2022 and shall continue in force through June 30, 2024 and shall be automatically renewed from year to year thereafter unless amended in accordance with Articles 28 and 40. This renewal language shall expire upon the effective date of the succeeding agreement and shall not be automatically included in any future agreement except by express written agreement of both parties.

Washoe County has the right to reopen this collective bargaining agreement for renegotiations under the circumstances, and pursuant to the processes, described in NRS 288.150(4) and NRS 288.150(2)(w).

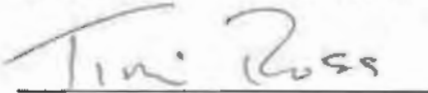
IN WITNESS WHEREOF, the County and the Association have caused this Agreement to be modified and the amendments hereto added this 21st day of June, 2022.

FOR WASHOE COUNTY:



Vaughn Hartung, Chair
Washoe County Commission

WASHOE COUNTY SHERIFF'S SUPERVISORY DEPUTIES ASSOCIATION:



Tim Ross
WCSSDA President

EXHIBIT A - SALARY SCHEDULES

**EXHIBIT A
SALARY SCHEDULE
SUPERVISORY DEPUTIES COMPENSATION SCHEDULE
* Effective: 07/01/22**

Sergeant

Salary Grade	Step	Hourly Range		Annual Range	
		Minimum	Maximum	Minimum	Maximum
B 005	1	48.26	- 48.26	100,380.80	- 100,380.80
B 005	2	50.69	- 50.69	105,435.20	- 105,435.20
B 005	3	53.25	- 53.25	110,760.00	- 110,760.00
B 005	4	55.88	- 55.88	116,230.40	- 116,230.40

Lieutenant

Salary Grade	Step	Hourly Range		Annual Range	
		Minimum	Maximum	Minimum	Maximum
B 010	1	59.81	- 59.81	124,404.80	- 124,404.80
B 010	2	62.77	- 62.77	130,561.60	- 130,561.60
B 010	3	65.92	- 65.92	137,113.60	- 137,113.60

Captain

Salary Grade	Step	Hourly Range		Annual Range	
		Minimum	Maximum	Minimum	Maximum
B 015	1	70.52	- 70.52	146,681.60	- 146,681.60
B 015	2	74.07	- 74.07	154,065.60	- 154,065.60
B 015	3	77.75	- 77.75	161,720.00	- 161,720.00

* Reflects 5% CIT Pay being rolled into Base Pay effective 07/01/22

EXHIBIT A
SALARY SCHEDULE
SUPERVISORY DEPUTIES COMPENSATION SCHEDULE
*** Effective: 07/01/22**

Sergeant

Salary Grade	Step	Hourly Range		Annual Range	
		Minimum	Maximum	Minimum	Maximum
B 005	1	50.67	50.67	105,393.60	105,393.60
B 005	2	53.22	53.22	110,697.60	110,697.60
B 005	3	55.91	55.91	116,292.80	116,292.80
B 005	4	58.67	58.67	122,033.60	122,033.60

Lieutenant

Salary Grade	Step	Hourly Range		Annual Range	
		Minimum	Maximum	Minimum	Maximum
B 010	1	62.80	62.80	130,624.00	130,624.00
B 010	2	65.91	65.91	137,092.80	137,092.80
B 010	3	69.22	69.22	143,977.60	143,977.60

Captain

Salary Grade	Step	Hourly Range		Annual Range	
		Minimum	Maximum	Minimum	Maximum
B 015	1	74.05	74.05	154,024.00	154,024.00
B 015	2	77.77	77.77	161,761.60	161,761.60
B 015	3	81.64	81.64	169,811.20	169,811.20

* Reflects a 5% COLA effective 07/01/22

**EXHIBIT A
SALARY SCHEDULE
SUPERVISORY DEPUTIES COMPENSATION SCHEDULE**

* Effective: 07/01/22

Sergeant

Salary Grade	Step	Hourly Range		Annual Range	
		Minimum	Maximum	Minimum	Maximum
B 005	1	52.00	52.00	108,160.00	108,160.00
B 005	2	54.60	54.60	113,568.00	113,568.00
B 005	3	57.33	57.33	119,246.40	119,246.40
B 005	4	60.20	60.20	125,216.00	125,216.00

Lieutenant

Salary Grade	Step	Hourly Range		Annual Range	
		Minimum	Maximum	Minimum	Maximum
B 010	1	65.02	65.02	135,241.60	135,241.60
B 010	2	68.27	68.27	142,001.60	142,001.60
B 010	3	71.68	71.68	149,094.40	149,094.40

Captain

Salary Grade	Step	Hourly Range		Annual Range	
		Minimum	Maximum	Minimum	Maximum
B 015	1	77.41	77.41	161,012.80	161,012.80
B 015	2	81.28	81.28	169,062.40	169,062.40
B 015	3	85.34	85.34	177,507.20	177,507.20

* Reflects an approx. 2.5% - 4.5% salary increase (structure adjustment) effective 07/01/22

One-time pay structure adjustment includes:

20% increase between Step 7 Deputy to Step 1 Sergeant

5% between steps

8% between classifications

LUMP SUM PAYMENT EFFECTIVE 07/04/22

In addition to the salary changes effective 07/01/22, the County agrees to a one-time only lump sum payment of \$1,800, effective July 4, 2022 (paid on July 22, 2022), for employees hired on or prior to June 30, 2022 and covered under this collective bargaining agreement in effect at the time of payment as described herein:

- * Employees hired on or after July 1, 2022 are not eligible.
- * Employees hired prior to July 1, 2022 must be on the payroll and in a paid status the entire payroll period of PP# 15/22 (07/04/22 - 07/17/22).
- * Employees must be covered under the WCSSDA collective bargaining agreement in effect at the time of payment.
- * No employee who separated employment from Washoe County prior to July 17, 2022 will be eligible for the one-time lump sum payment.

**EXHIBIT A
SALARY SCHEDULE
SUPERVISORY DEPUTIES COMPENSATION SCHEDULE
* Effective: 07/01/23**

Sergeant

Salary Grade	Step	Hourly Range		Annual Range	
		Minimum	Maximum	Minimum	Maximum
B 005	1	53.82	- 53.82	111,945.60	- 111,945.60
B 005	2	56.51	- 56.51	117,540.80	- 117,540.80
B 005	3	59.34	- 59.34	123,427.20	- 123,427.20
B 005	4	62.31	- 62.31	129,604.80	- 129,604.80

Lieutenant

Salary Grade	Step	Hourly Range		Annual Range	
		Minimum	Maximum	Minimum	Maximum
B 010	1	67.30	- 67.30	139,984.00	- 139,984.00
B 010	2	70.66	- 70.66	146,972.80	- 146,972.80
B 010	3	74.19	- 74.19	154,315.20	- 154,315.20

Captain

Salary Grade	Step	Hourly Range		Annual Range	
		Minimum	Maximum	Minimum	Maximum
B 015	1	80.12	- 80.12	166,649.60	- 166,649.60
B 015	2	84.12	- 84.12	174,969.60	- 174,969.60
B 015	3	88.33	- 88.33	183,726.40	- 183,726.40

* Reflects a 3.5% COLA effective 07/01/23

EXHIBIT B - CHAPTER 289—PEACE OFFICERS

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. "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.

4. "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)

RIGHTS OF PEACE OFFICERS

NRS 289.020 Punitive action: Prohibited for exercise of rights under internal procedure; opportunity for hearing; refusal to cooperate in criminal investigation punishable as insubordination.

1. A law enforcement agency shall not use punitive action against a peace officer if he chooses to exercise his 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 him, a law enforcement agency shall provide the peace officer with an opportunity for a hearing.

3. If a peace officer refuses to comply with a request by a superior officer to cooperate with his own or any other law enforcement agency in a criminal investigation, the agency may charge the peace officer with insubordination.

(Added to NRS by 1983, 2098)

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

1. Except as otherwise provided in subsection 2, 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 home address and 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.

(Added to NRS by 2005, 621)

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 his 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 his credentials for transfer to a specialized unit;

2. Prevent any conflict of interest which may result in any new assignment; or

3. Determine whether he 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 he is asked to initial the comment or document, his 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 his 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: review of administrative or investigative file by peace officer in certain circumstances; law enforcement agency prohibited from keeping or making record of investigation or punitive action if record required to be removed from administrative file.

1. 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.

2. 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.

(Added to NRS by 2005, 620)

NRS 289.060 Notification and requirements for interrogation or hearing relating to investigation.

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 written notice to the peace officer. A peace officer may waive the notice required pursuant to this section.

2. The notice 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;

(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) Interrogate the peace officer during his regular working hours, if reasonably practicable, or compensate him for that time based on his regular wages if no charges arise from the interrogation.

(b) Immediately before the interrogation or hearing begins, inform the peace officer orally on the record that:

(1) He is required to provide a statement and answer questions related to his alleged misconduct; and

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

(c) Limit the scope of the questions during the interrogation or hearing to the alleged misconduct of the peace officer.

(d) Allow the peace officer to explain an answer or refute a negative implication which results from questioning during an interrogation or hearing.

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

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 his 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 his 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 interrogation or hearing relating to investigation; confidential information; disclosure; record of interrogation or hearing; right to review and copy investigation file upon appeal.

1. Except as otherwise provided in subsection 3, a peace officer may upon request have two representatives of his choosing present with the peace officer during any phase of an interrogation or hearing relating to an investigation conducted pursuant to NRS 289.057, including, without limitation, a lawyer, a representative of a labor union or another peace officer.

2. A representative of a peace officer must assist the peace officer during the interrogation or hearing. The law enforcement agency conducting the interrogation or hearing shall allow a representative of the peace officer to 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.

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

4. Any information that a representative obtains from the peace officer concerning 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 his failure or refusal to disclose such information.

5. The peace officer, any representative of the peace officer or the law enforcement agency may make a stenographic, digital or magnetic record of the 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.

6. 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)

NRS 289.085 Inadmissibility of 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, and that such evidence may be prejudicial to the peace officer, such evidence is inadmissible and the arbitrator or court shall exclude such evidence during any administrative proceeding commenced or civil action filed against the peace officer.

(Added to NRS by 2005, 621)

NRS 289.090 Investigation concerning alleged criminal activities. The provisions of NRS 289.057, 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)

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 he 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 his 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 his employer 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

Under 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

EXHIBIT C - SUBSIDY SCHEDULES

**Post 97/98 (Under Age 65)
1/1/2022 – 12/31/2022**

CALENDAR PLAN YEAR 2021	
Years of Service	Subsidy
5	(\$128.00)
6	(\$168.00)
7	(\$205.00)
8	(\$242.00)
9	(\$281.00)
10	(\$318.00)
11	(\$356.00)
12	(\$393.00)
13	(\$432.00)
14	(\$471.00)
15	(\$508.00)
16	(\$546.00)
17	(\$584.00)
18	(\$621.00)
19	(\$661.00)
20	(\$698.00)

**Post 97/98 (Over Age 65)
1/1/2022 - 12/31/2022**

CALENDAR PLAN YEAR 2021	
Years of Service	Contribution
5	(\$71.00)
6	(\$85.00)
7	(\$99.00)
8	(\$113.00)
9	(\$127.00)
10	(\$141.00)
11	(\$156.00)
12	(\$171.00)
13	(\$184.00)
14	(\$198.00)
15	(\$212.00)
16	(\$227.00)
17	(\$241.00)
18	(\$256.00)
19	(\$270.00)
20	(\$284.00)

EXHIBIT 2

EXHIBIT 2

DREHER LAW

Labor Advocacy

PLEASE CONFIRM EMAIL DELIVERY

November 3, 2023

via email

Sheriff Darin Balaam
Washoe County Sheriff's Office
911 Parr Blvd
Reno, NV 89512

Re: WCSSDA Grievance – On behalf of WCSSDA member John Leonard – Violations of Article 6 and other possible articles of the current collective bargaining agreement (CBA), policies and procedures and Nevada Revised Statutes.

Dear Sheriff Balaam,

WCSSDA, on behalf of member Lieutenant John Leonard, in accordance with Article 30 of the CBA, is grieving the County's violations of Article 6 of the CBA, along with other possible articles of the CBA, policies and procedures and Nevada Revised Statutes.

Article 30(1)(A) of the CBA defines a grievance as a "dispute by one or more employees or the Association concerning the interpretation or application of an expressed provision of this Agreement."

Article 6(A) states that, "[t]he County will not interfere with or discriminate in respect to any term or condition of employment against any employee covered by this Agreement because of membership in or legitimate activity as required in this Agreement on behalf of the members of a negotiating unit." While Article 6(C) provides that, "[t]he provisions of this Agreement shall be applied equally to all covered employees without discrimination as to . . . sex."

Pursuant to Article 30(A) Step II, this grievance is being commenced at the Sheriff's level as this is where the matter giving rise to this grievance occurred.

Lieutenant Leonard is a representative of the WCSSDA and has represented several employees in discipline investigations involving Human Resources member Cole McBride. Additionally, Mr. McBride has been present and taken part in internal investigations in which Lieutenant Leonard was conducting the investigation.

As a representative of the Association, Lieutenant Leonard has actively represented the members and has had disagreements with Mr. McBride over interpretations of culpability for focuses of investigations, and discipline levels he believed would be served during the

investigation; something that has no relevance during active investigation of a case. Moreover, Mr. McBride, when assisting Lieutenant Leonard in internal investigations has made it clear through his acts and statements that Mr. McBride will make examples of men, he believes are guilty; ignoring input from other investigators that may contradict culpability or have a different interpretation of evidence to a lesser degree. Furthermore Mr. McBride, has voiced on more than one occasion, the level of discipline that would be issued by the Sheriff, prior to completion of case(s), something that was reported to the Office of Professional Integrity.

On June 6, 2023, Lieutenant Leonard, a male, was issued discipline for an alleged policy violation surrounding the reporting of a possible sexual harassment situation to Human Resources in February 2022. This discipline was originally to be a demotion from Lieutenant to Sergeant. The discipline was then "lowered" to a suspension of 160 hours, that needed to be served in two months. It is believed that Mr. McBride played an integral part in Lieutenant Leonard's discipline.

On September 21, 2023, in a training session with more than 100 hundred individuals present, to include Lieutenant Leonard, Mr. McBride talked specifically and untruthfully about Lieutenant Leonard's case and discipline, causing several individuals in the training to look at Lieutenant Leonard and ask if he was ok. It has since been reported that Mr. McBride has made specific and untruthful statements about Lieutenant Leonard and his discipline during other trainings.

On September 27, 2023, Lieutenant Amelia Galicia, a female who is not an Association representative, was involved in a similar situation as that which lead to Lieutenant Leonard's discipline. Unlike, Lieutenant Leonard, Lieutenant Galicia was not threatened with demotion and was only given a 10-hour suspension. It is believed that Mr. McBride took part in Lieutenant Galicia's discipline.

Lieutenant Leonard has been subjected to excessive discipline, ridicule and has been treated differently and discriminated against based on his sex, male, in violation of Article 6. Lieutenant Leonard has been subjected to excessive discipline and has been treated differently and discriminated against based on his Association activities, in violation of Article 6.

Remedy:

Immediately cease violating the current collective bargaining agreement and possible policies and procedures and NRS:

Immediately cease discriminating against Lieutenant Leonard based on his sex:

Immediately cease discriminating against Lieutenant Leonard based on his Association activities:

Immediately remove all information from any and all files maintained by the County related to the discipline issued to Lieutenant Leonard in June 2023:

Immediately and retroactively reinstate all used annual leave and sick time Lieutenant Leonard has been had to use as a result of the June 2023 discipline; and

DREHER LAW

Labor Advocacy

Immediately and retroactively reinstate the 160 hours of unpaid time that Lieutenant Leonard has been required to accept as a result of the June 2023 discipline. to include reporting all these hours to PERS.

Conclusion:

This grievance is being submitted in accordance with the provisions of Article 30 of the CBA. Violations of Article 6 as well as other possible articles of the current CBA and policies and procedures have been committed by representatives of the County. We are happy to provide any other information you may deem necessary and to meet with you to discuss this further.

Sincerely,



Ronald J. Dreher
Attorney at Law

EXHIBIT 3

EXHIBIT 3



One South Sierra Street
Reno, Nevada 89501

Christopher J. Hicks
District Attorney

775.328.3200
washoecounty.us/da

December 22, 2023

Sent via E-Mail & U.S. Mail

Ronald Dreher
Dreher Law
P.O. Box 6494
Reno, NV 89513

Re: EMRB Complaint Submittal

Mr. Dreher,

On December 13, 2023, I received an EMRB complaint that you submitted on behalf of Lt. Leonard. First, I was surprised to not have received a professional courtesy of your intention to file an Unfair Labor Practice against the County as I have from almost every other party in the past. In my experience, labor relations are most productive when there is open communication between the parties. Second, I was surprised to see that the Complaint was sent on the very same day we met with you to discuss the grievance.

In reviewing your client's Complaint, it is duplicative of Lt. Leonard's pending grievance, it resurrects issues that were part of his discipline and appeal, it has no legal and factual basis, it fails to identify any facts of an adverse employment action by the Sheriff's Office and raises issues that are outside the EMRB's jurisdiction. If your client continues to pursue this Complaint, the County will take any and all action necessary to hold him accountable for filing the frivolous Complaint and will seek all remedies available for forcing the County to waste time, money, and resources to defend claims having no basis in law or fact.

Importantly, I found several troubling allegations in the complaint that constitute a direct violation of the Peace Officer's Bill of Rights by your client. In Sections 34 and 35 of your client's Complaint, he specifically names another law enforcement officer of the Sheriff's Office and identifies that officer's discipline in violation of NRS 289.080. Your client's action has revealed a fellow law enforcement officer's discipline/confidential personnel information and made it public by inserting it into a public forum. As a member of the supervisory deputy's executive board, a union representative, Lieutenant of the Washoe County Sheriff's Office and a person who was formerly assigned to the Office of Professional Integrity within the Sheriff's Office, Lt. Leonard knows that this is improper and violates the Peace Officer's Bill of Rights.

Lt. Leonard's blatant violation of a fellow law enforcement officer's confidentiality is egregious and hypocritical especially because a key allegation of Lt. Leonard's own Complaint is that an HR representative made comments about his discipline (albeit without identifying him by name or rank) in a public setting. Nonetheless, your client directly identifies another Lieutenant's discipline and even identifies her by name in his EMRB Complaint. Your client's willingness to air out another Law Enforcement Officer's discipline and use their name not only undermines your client's argument but also violates NRS 289.080, the County's Personnel Handbook, and

Ronald Dreher
December 22, 2023
Page 2 of 2

the County's Code of Conduct. Considering your client's reaction to being allegedly "outed" for past discipline this is especially troubling.

The Washoe County Sheriff's Office has grounds to file a counter-claim for an Unfair Labor Practice against your client for violations of provisions of NRS Chapter 288, NRS Chapter 289 and terms of the Collective Bargaining Agreement. However, I am sending this correspondence as a professional courtesy to avoid further litigation.

Your client has until the close of business on Wednesday, December, 27, 2023, to withdraw his frivolous EMRB Complaint that also blatantly violates the Peace Officer's Bill of Rights. If your client fails to withdraw Complaint, the County will take any and all action necessary to address his frivolous Complaint, which may include filing a counter-claim and/or seeking attorneys' fees and costs incurred in defending the action.

Sincerely,

CHRISTOPHER J. HICKS
District Attorney

By: Charles Lehman
CHARLES LEHMAN
Deputy District Attorney

CL/cat

1 Ronald J. Dreher
2 NV Bar No. 15726
3 P.O. Box 6494
4 Reno, NV 89513
5 Telephone: (775) 846-9804
6 ron@dreherlaw.net
7 *Attorney for Complainant*

FILED
January 29, 2024
State of Nevada
E.M.R.B
4:30 p.m.

8 **BEFORE THE STATE OF NEVADA**

9 **GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD**

10 JOHN LEONARD.

11 Complainant.

Case No.: 2023-035

12 vs.

Panel:

13 WASHOE COUNTY and WASHOE
14 COUNTY SHERIFF'S OFFICE.

15 Respondents.

16 **REPLY IN OPPOSITION TO MOTION TO DISMISS FIRST**
17 **AMENDED COMPLAINT**

18 **COMES NOW.** Complainant JOHN LEONARD. ("Lt. Leonard"), by and through his
19 undersigned counsel, hereby files his Reply in Opposition to Motion to Dismiss First
20 Amended Complaint filed by Respondent WASHOE COUNTY. ("County") and Respondent
21 WASHOE COUNTY SHERIFF'S OFFICE. ("WCSO"), on January 16, 2024, and moves the
22 Board to deny the Motion in its entirety and order the parties to file Prehearing Statements
23 within twenty-one days of the order pursuant to NAC 288.250.
24

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27 ///

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTS

On November 3, 2023, several weeks after becoming aware of what he believes are violations of the collective bargaining agreement. ("CBA"), related to discrimination based on a protected class, sex, and for discrimination based on activities in his association, Lt. Leonard filed a grievance with the WCSO. This grievance necessarily recited the June 6, 2023, discipline that Lt. Leonard had received as this was the basis and catalyst, or but for issue, for the claims he was bringing in the grievance. The grievance was commenced at Level II of the grievance process, not at Level I as the Motion claims. (Motion Ex. 2.) On December 11, 2023, the parties held a required grievance hearing in accordance with the provisions of the CBA. At this meeting, the tone and actions of Sheriff Balaam, represented by County counsel Chaz Lehman, clearly indicated that the grievance would be denied in its entirety. On December 18, 2023, the County did indeed deny the grievance in its entirety and this grievance response included that the issues related to the June 6, 2023, discipline were contractually barred, which was again claimed in the Motion. (Ex. 1; Motion p. 8 n.1, p. 13 n.4.)¹ Having exhausted his contractual remedies, Lt. Leonard filed the present Complaint.

¹ The Nevada Supreme Court has interpreted "NRS Chapter 288 limitations period to start running when the alleged victim receives unequivocal notice of a final adverse decision." *City of N. Las Vegas v. EMRB*, 261 P.3d 1071, 1077 (Nev. 2011). Given the facts in this case, the six-month limitation set forth in NRS 288.110(4) did not commence until December 2023, when Lt. Leonard received unequivocal notice from Sheriff Balaam that he would not remove the discipline from June 2023. Lt. Leonard filed his Complaint on the day after his grievance hearing as it was evident in this hearing that his claims would be denied. Furthermore, equitable tolling would apply to all claims as Lt. Leonard did not become aware of a claim with the EMRB until October 2023 when he was made aware of the inequitable discipline and treatment given to a female lieutenant accused of the same policy violations as Lt. Leonard. Equitable tolling "focuses on whether there was excusable delay by the plaintiff. If a reasonable plaintiff would not have known of the existence of a possible claim within the limitations period, then equitable tolling will serve to extend the statute of limitations for filing suit until the plaintiff can gather what information he needs." *Id.* Lt. Leonard then took action to investigate and gather information related to his claims, sought out legal advice and diligently pursued his claims by filing a Complaint with the Board less than two months later on December 12, 2023. This Board has held that a complainant who learns of a claim that would otherwise be barred due to the six-month time restriction, may still pursue a claim if they do so diligently

II. ARGUMENT

a. Legal Authority

NAC 288.375 states in part that a matter may be dismissed, “if the Board determines that no probable cause exists for the complaint.” The Board, in determining whether to dismiss a complaint, looks to whether the complaint fails to allege a violation of NRS 288 and therefore fails to state a claim. *Clark Cty. Classroom Teachers Ass’n v. Clark County School District*, EMRB Item 210, Case No. AI-045428 (1988).

NAC 288.070(1) sets for the filing procedures with the Board and states that “[e]xcept as otherwise provided in this chapter, if any written document or other written matter is filed with the Board” it will be filed according to this NAC. Then in NAC 288.200(2), the service of a complaint is given separate procedures, and this NAC unambiguously defines that a “complainant shall file a complaint with the Board in the form of a pleading and shall serve a copy by certified mail on all parties in interest at their last known addresses.” Moreover, NAC 288.080(5), prescribes that a “written complaint filed with the Board must be served upon the respondent, government employer or labor organization or employee organization, as applicable, by the complaining party within 7 days after the filing.”

NRS 288.270(1)(a) defines that it is a prohibited practice for a local government employer to “[i]nterfere, restrain or coerce any employee in the exercise of any right guaranteed under this chapter.”

NRS 288.270(1)(d) holds in part that it is a prohibited practice for a local government employer to “[d]ischarge or otherwise discriminate against any employee because the employee has signed or filed an affidavit, petition or complaint or given any information or

once learning of a cause of action. *Id.*: *Woodard v Sparks Police Protective Association*, EMRB Item No. 853, Case 2018-026 (2018).

1 testimony under this chapter, or because the employee has formed, joined or chosen to be
2 represented by any employee organization.” Further, NRS 288.270(1)(i) states in part that it is
3 a prohibited practice for a local government employer to discriminate against a local
4 government employee because of “political or personal reasons or affiliations.”

5 A claim of discrimination under NRS 288.270(1)(a), NRS 288.270(1)(d) or under NRS
6 288.270(1)(f) is examined under the burden shifting framework set forth in *Reno Police*
7 *Protective Ass'n v. City of Reno*, 102 Nev. 98, 715 P.2d 1321 (1986). This burden shifting
8 framework was later modified in *Bisch v. Las Vegas Metro Police Dep't*, 129 Nev. Adv. Op.
9 36,302 P.3d 1108 (2013) and reiterated in *Bonner v. City of N. Las Vegas*, EMRB Item 820,
10 Case No. 2015-027 (2017). An employee making a claim under these statutes must make “a
11 *prima facie* showing sufficient to support the inference case that the protected conduct was a
12 motivating factor in the employer's decision.” *Bisch*, 302 P.3d at 1116. Once the employee
13 has established this showing, the “burden then shifts to the employer to demonstrate by a
14 preponderance of the evidence that the same action would have taken place even in the
15 absence of the protected conduct.” *Id.* The employee making the claims “may then offer
16 evidence that the employer's proffered legitimate explanation is merely pretextual and thus
17 conclusively restore the inference of unlawful motivation.” *Id.* As noted, this same framework
18 applies to claims brought under NRS 288.270(1)(d), which includes claims of discrimination
19 for having chosen to be represented by an employee organization.²

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Claims under NRS 288.270(1)(D) are not limited strictly to actions taken under NRS 288 but also include discrimination against an employee for choosing to be represented by an employee organization. *See, D'Ambrasio v. Las Vegas Metropolitan Police Department*, EMRB Item 808, Case Nos. A1-046119 & A1-046121 (2015) (defining that NRS 288.270(1)(d) prohibits an employer from retaliating against an employee that has filed a complaint, or otherwise participated in proceedings before this Board or participated in an employee organization. (Emphasis added.))

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b. The Complaint raises justiciable issues under the Board's jurisdiction.

The County first argues that this matter should be dismissed as it lacks probable cause. As noted above, the Board, in determining whether to dismiss a complaint, looks to whether the complaint fails to allege a violation of NRS 288 and therefore fails to state a claim. *Clark Cty. Classroom Teachers Ass'n*, EMRB Item 210. The Complaint is based solely on alleged violation of NRS Chapter 288, and specifically alleges violations of NRS 288.270. (Compl. at pp. 2-12.) Contained in the Complaint are specific and detailed instances of alleged discriminatory treatment based on a protected class, protected activities, and non-merit or fitness standards. (Compl. at ¶¶ 13-15, 19, 22-25, 27, 30-42, 44-49.) Thus, the Complaint does not lack probable cause as it establishes and alleges facts that constitute a practice sufficient to raise judiciable controversy under NRS Chapter 288, as required by NAC 288.200.

c. The Board has jurisdiction over this matter.

As detailed above, the Complaint clearly alleges violations of NRS Chapter 288 over which the Board has jurisdiction, N.R.S. 288.110(2); Compl. at ¶¶ 13-15, 19, 22-25, 27, 30-42, 44-49. Additionally, the procedures for the service of a complaint are unambiguously defined and outlined in NAC 288.200(2). This service procedure is specific to this Board and these administrative proceedings and requires only that the complaint be served by "certified mail on all parties at their last known address." As detailed in Section I, *supra*, Mr. Lehman was the counsel and representative for Sheriff Balaam and is clearly the counsel of record for both the County and the WCSO. On December 12, 2023, the original Complaint was served by certified mail to Mr. Lehman at his last known address. There is no question that Mr. Lehman received the Complaint as he stated as much in his December 22, 2023, letter, in which he never raised any concern of service or issues with how the Complaint was filed.

1 Furthermore, the undersigned counsel, and most every counsel representing other
2 parties bringing complaints before this Board, have followed the NAC service requirements
3 regarding complaints. These complaints are always considered to be served when the certified
4 mailing return receipt is received and signed by the opposing party or the opposing party's
5 counsel. In this case, on December 13, 2023. The argument by the District that this service is
6 somehow improper is simply outlandish as the complaint service was completed as required
7 by the applicable regulations and a dismissal cannot be granted on these grounds.

8
9 **d. Complainant exhausted all required contractual remedies.**

10 It is well established that the "Board is permitted to hear and to determine any
11 complaint arising out of the interpretation of, or performance under, the provisions of Chapter
12 288." *I.A.F.F. Local 731 v. City of Reno*, EMRB Item No. 257, Case No. A1-045466 (1991).

13 The allegations in this case are that Respondents discriminated against Lt. Leonard for
14 personal and/or political reasons, based on his protected class and based on protected
15 activities. These allegations are directly related to Respondents' violations of NRS Chapter
16 288 and are ones in which the Board is clearly permitted to hear and determine. *Id.*

17 The Washoe County Sheriff's Supervisory Deputies Association ("WCSSDA"),
18 agreement with the County defines the grievance process in Articles 29 and 30. (Motion Ex. 1
19 at pp. 26-32.) Article 29 is specifically limited to disciplinary procedures while Article 30
20 addresses all other articles of the CBA. Article 29 only permits 14 days to file an appeal, yet
21 Lt. Leonard was not aware of the grievable issue until almost five months later, leaving him
22 no remedy under the CBA. *Id.* Regarding his claims of discrimination due his protected class
23 and activities, Lt. Leonard followed all mandatory steps in the CBA, exhausting his remedy to
24 those claims that could possibly be addressed through this process. Specifically, Article 30
25 only mandates that a dispute be brought informally to the supervisor, then if no resolution is
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reached, the grievant must file a writing complaint. *Id.* Lt. Leonard did just that and followed all prescribed and required contractual procedures. Once, the grievance was denied at level II, the CBA no longer requires Lt. Leonard to take any action through this process as it is permissive. *Id.* Based on the grievance denial that effectively barred Lt. Leonard's claims, and no apparent relief for his claims, the Complaint was filed with the Board. Lt. Leonard has no contractual remedies, to include arbitration for his claims. There is no provision in the CBA to grieve his claims of personal and/or political discrimination, and the basis for his other discrimination claims under the CBA are effectively procedurally barred by the time limits imposed in the CBA. Something to which Respondents agree.

The "limited deferral doctrine" is appropriate in cases where the grievance process in the collective bargaining agreement permits the parties to obtain relief and settle disputes that arise under labor agreements. *I.A.F.F. Local 731*, EMRB Item No. 257. It is not appropriate here as there are no outstanding grievances or arbitration proceedings. The Respondents' position is that Lt. Leonard's claims are procedurally barred by the grievance articles in the CBA, and he cannot bring these claims through grievance process. (Motion at p. 8, n.2.) Despite this, Lt. Leonard still attempted to bring his claims through the grievance process and filed a grievance on November 3, 2023, at level II of the process. He then attended the required grievance hearing and presented his case, only to have his claims denied for being untimely. (Ex. 1.) This effectively exhausted Lt. Leonard's contractual remedies.

As noted above, this case is one in which the Board has exclusive jurisdiction as it is a complaint for prohibited practices based on NRS 288.270. *See City of Reno*, 118 Nev. at 895. Complainant in this case is not asking the Board to decide a contractual issue which was at dispute in the *I.A.F.F.* Rather, the above-captioned case is a prohibited practice complaint and

1 not one in which the Board will be deciding whether a provision of the collective bargaining
2 agreement has been violated.

3 Regarding Lt. Leonard's filing of a complaint with Respondents' HR department, this
4 is an attempt by Respondents to confuse and cloud the issue. Lt. Leonard was denied access to
5 this process and unable to pursue this claim and has no remedy under this process. As detailed
6 in the Complaint, Lt. Leonard attempted to bring his claims of discriminatory employment
7 practices to Respondents through the internal complaint process and was only met with more
8 discriminatory practices. (Compl. at ¶¶ 44-45.) Based on Respondents' actions, Lt. Leonard
9 was denied relief, and he is not contractually bound to pursue this process further.
10

11 Even it were to be found that arbitration was available for all Lt. Leonard's claims,
12 which it is not, the Board has held that "allegations of an unfair labor practice . . . are not
13 within the arbitrator's domain, as this Board has sole jurisdiction to determine NRS Chapter
14 288 claims." *Nevada Service Employees Union, Service Employees International Union, Local*
15 *1107, AFL-CIO vs. Clark County*, EMRB Item No. 540A, Case No. A1-045759 (2003). Given
16 that the allegations in this case are of unfair labor practices committed by County
17 representatives, it is appropriate and within its purview for the Board to take jurisdiction and
18 decide this matter.
19

20 There are clear special circumstances in this case as Lt. Leonard did not become aware
21 of the facts necessary to further pursue his contractual remedies for the discipline he suffered
22 until after the prescribed time frames had expired. Respondents agree that Lt. Leonard's CBA
23 remedies for his discipline are procedurally barred. Further, as noted in exhibit 1, the
24 discipline handed down to Lt. Leonard in June 2023, is the catalyst for all other alleged
25 adverse actions he has suffered since. Given that this discipline is barred by the CBA, Lt.
26 Leonard is unable to pursue his claims under the arbitration process, creating a special
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circumstance. Moreover, it would be extremely prejudicial to Lt. Leonard for the Board to dismiss his Complaint as he would be left with no remedy for the actions he did not discover until his CBA remedies were barred, and for which he has diligently pursued relief. Thus, dismissal under NAC 288.375, would be improper in this case and the Board has the discretion to hear and rule on this matter. *See Operating Engineers Local Union No. 3 v. Incline Village General Improvement District*, EMRB Item No. 864-C, Case 2020-012 (2020).

As there is no contractual remedy to exhaust and these claims are in the Board's exclusive jurisdiction, granting Respondents' motion to dismiss would not be appropriate here as it would effectively eliminate Lt. Leonard's ability to obtain relief.

c. Claim preclusion does not apply to this matter

"For claim preclusion to apply the following factors must be met: (1) the same parties or their privies are involved in both cases, (2) a valid final judgment has been entered, and (3) the subsequent action is based on the same claims or any part of them that were or could have been brought in the first case." *Five Star Capital Corp v. Ruby*, 124 Nev. 1048, 1056-1057, 194 P.3d 709, 714 (2008).

The County first argues that Lt. Leonard must exhaust his contractual remedies before coming to this Board, then argues that if he does just that, he will be precluded from coming to the Board due to having previously filed a contract grievance and other administrative complaints. As the Motion points out, this Board has consistently held that if a grievance is pending, that procedure must be completed prior to bringing the claim to this Board, something Lt. Leonard has done. (Motion at p. 8; Motion Ex. 2.) Lt. Leonard also attempted to address parts of his claims through the administrative process only to be met with further discrimination. (Compl. at ¶¶ 44-45.)

Now, having done what was required for parts of his claims, both administratively and under the CBA, the County is claiming that Lt. Leonard is precluded from bringing any claim to this Board regardless of the fact that the Complaint is based on violations of NRS Chapter 288, which is specifically under the jurisdiction of this Board. This would lead to a ridiculous result where a complainant, having completed the required CBA procedures as the Board requires, would then be precluded from bringing claims that were not addressed in the CBA procedures, or could not be addressed in the CBA procedures, to this Board because they are based on the same set of facts as those involved in the grievance. As is common knowledge, the CBA will not allow for an employee to bring all possible claims related to NRS Chapter 288 as the CBA language will most likely not contain provisions for all claims related to what is grieved, and the only remedy available is by bringing a claim to this Board. That is exactly what occurred in this matter. Lt. Leonard, who only learned of the violations of the CBA regarding his discipline several months after he was issued discipline, was contractually barred from bringing forth a grievance under the CBA. If the County's argument were to be upheld, Lt. Leonard would be left with no remedy despite the clear violations of NRS Chapter 288, and the previous Board decisions that address exactly this type of situation. *See City of N. Las Vegas*, 127 Nev. at 640, 261 P.3d at 1077; *Woodard*, EMRB Item No. 853.

Furthermore, it is apparent that the parties are the same in these proceedings, thus prong one has been met. However, under prong two of the claim preclusion elements, there must have been a final judgement entered on the same claims as those being alleged here. This has never occurred. Moreover, under prong three, Lt. Leonard has not brought any claims under NRS 288, nor could he have at the time he filed his original grievance appeal in May 2023, or in November 2023, as he was not aware of the claims. He was not aware of the claim or his ability to bring them to this Board at the time the May grievance was filed, and he did

not receive unequivocal notice of the final adverse action until his grievance hearing and denial in December 2023. As such, the County's argument of claim preclusion, presented as the splitting of causes, must be denied and is not a basis for granting its Motion.

f. Claim under NRS 270.288(1)(a).

An employer's actions can be said to violate NRS 288.270(1)(a) if its conduct can be reasonably said to interfere with the "free exercise of employee rights under the Act." *Juvenile Justice Supervisors Ass'n v. County of Clark*, Case No. 2017-020, Item No. 834 (2018) (citing *Clark Cty. Classroom Teachers Ass'n v. Clark County Sch. Dist.*, EMRB Item No. 237, Case No. A1-04543 (1989)). To determine if there is a valid claim, a three-part test is used that asks if "(1) the employer's action can be reasonably viewed as tending to interfere with, coerce, or deter; (2) the exercise of protected activity [by NRS Chapter 288]; and (3) the employer fails to justify the action with a substantial and legitimate business reason." *Billings and Brown v. Clark County*, EMRB Item No. 751, Case No. A1-046002 (2012) (citing *Medeco Sec. Locks, Inc. v. NLRB*, 142 F.3d 733, 745 (4th Cir. 1988)). An employer's acts need not be coercive in actual fact, but rather if the act or acts had a reasonable tendency, when looking at the overall circumstances, to intimidate. *Id.*

In the present matter, Lt. Leonard filed his Complaint on December 12, 2023, and within 10 days his counsel received a letter from the County's counsel threatening that if Lt. Leonard continued "to pursue this Complaint, the County will take any and all action necessary to hold him accountable for filing the frivolous Complaint." (Motion Ex. 3.) While to date the County has not taken any further action against Lt. Leonard for maintaining his Complaint, when looking at the timing, circumstances complained about by Lt. Leonard, and the close proximity to his filing of the claim, it is obvious that these threats were meant to intimidate Lt. Leonard and would have a reasonable tendency to be coercive. Especially when

1 looking at the amount of sick time Lt. Leonard has been required to use due to the mental
2 anguish he has suffered related to the alleged violations. While the County attempts to justify
3 its letter by claiming it is "pre-litigation" correspondence meant only to warn of possible
4 violations and to move toward a settlement, it was obviously sent with the intent to intimidate
5 Lt. Leonard and to coerce him into withdrawing his Complaint and cease pursuing his claims
6 against Respondents. (Motion at p. 11:12-23.)

7
8 Thus, there is no doubt this letter had an intimidating and coercive intent to keep Lt.
9 Leonard from exercising his protected activity of filing a claim under NRS Chapter 288, and
10 the Respondents' have failed to provide a legitimate business reason for this action.

11
12 Using the *RPPA/Bisch* burden shifting framework, Lt. Leonard has demonstrated that
13 he participated in a protected activity, that of filing a complaint for prohibited practices. The
14 County's letter threatening disciplinary action if Lt. Leonard refused to withdraw this
15 complaint was motivated by animus, that being to coerce and intimidate Lt. Leonard from
16 exercising his rights under NRS Chapter 288. The County's only defense is that this letter was
17 an attempt to avoid litigation, with no apparent business need or that this action would have
18 occurred had Lt. Leonard had not filed his Complaint. In response, Lt. Leonard has shown that
19 the County's explanation is pretextual, given the temporal proximity to the complaint, the
20 nature of Lt. Leonard's claims, and the blatant threat of retaliation contained in the letter. Lt.
21 Leonard has met his burden under the *RPPA Bisch* burden shifting standard.

22
23 Therefore, Lt. Leonard has raised a justiciable claim under NRS 288.270(1)(a) and the
24 Complaint must survive this Motion to dismiss, *Billings and Brown* EMRB Item No. 751.

25
26 **g. Claims under NRS 288.270(1)(d) and 288.20(1)(f).**

27
28 Applying the *RPPA Bisch* burden shifting framework to the claims brought forth by Lt.
Leonard under these statutes, it is obvious he has met his burdens while the County has not

provided it would have taken the same action outside of the protected conduct. In fact, this is exactly the basis of the Complaint in that Lt. Leonard is claiming discrimination based on disparate treatment based on his sex, male, his association activities and for personal and/or political reasons.

Lt. Leonard has established a *prima facie* case by alleging conduct that is discriminatory based on his protected class, activities and personal and/or political reasons. (Compl. at ¶¶ 13-15, 19, 22-25, 27, 30-42, 44-49.) Respondents' Motion failed to address these claims, and instead rely on a general statements with no explanation for the disparate treatment. The adverse action suffered by Lt. Leonard is obvious as it involves excessive discipline resulting in reassignment, suspension, unequal treatment in the terms and conditions of his employment and retaliation.

The Complaint clearly provides that the discipline suffered by Lt. Leonard was motivated by personal and political reasons, based on non-merit or fitness factors, based on his sex, and the retaliatory practices by Respondents' representatives following this discipline were motivated by retaliation for his reporting of prohibited practices and his association activities. *Id.*

Having established a *prima facie* case, the burden now shifts to Respondents to show they would have taken the same actions despite the protected class and activities. *Bisch*, 302 P.3d at 1116. Respondents fail to even address the claims and have provided no proof that its actions would have been taken against Lt. Leoanrd despite his protected class, protected activities, and/or for personal and political reasons. (Motion at pp. 12-13.) Respondents chose to simply ignore the specific allegations and allege only that no adverse action was taken, despite the detailed allegations of such adverse action in the Complaint. (Compl. at ¶¶ 13-15, 19, 22-25, 27, 30-42, 44-49.) In fact, the claims in the Complaint allege that the actions taken

1 by Respondents were taken because of his protected class/activities and for personal and
2 political reasons. *Id.* Given that Respondents have failed to establish they would have taken
3 action despite these protected claims and activities, they have not met their burden under the
4 *RPPA/Bisch* standard.

5 Even if they were to offer some argument in support that this action would have been
6 taken despite Lt. Leonard's protected class and activities, Lt. Leonard has still provided
7 evidence that any proffered reason would be pretextual and he has met his burden under the
8 *RPPA/Bisch* burden shifting standard.

9 Therefore, Lt. Leonard has raised justiciable claims under NRS 288.270(1)(d) and
10 NRS 288.170(1)(f) and his Complaint must survive this Motion to dismiss. *Billings and*
11 *Brown*, EMRB Item No. 751.

12 **III. CONCLUSION**

13 The Complaint was made under NRS Chapter 288, alleging violation of this Chapter,
14 the Board is the only available remedy for these claims, and claim preclusion is not applicable
15 to this matter. There are special circumstances, that of Lt. Leonard not discovering the
16 information necessary for a successful arbitration until after the time period prescribed in the
17 CBA had run, and if the Board were to dismiss his Complaint, he would be left with no
18 remedy for the NRS Chapter 288 alleged violations. These special circumstances and extreme
19 prejudice clearly weigh against granting the Motion to Dismiss under NAC 288.375. Lt.
20 Leonard has met his burden under the *RPPA/Bisch* standard and has demonstrated why the
21 Respondents' reasons for its decisions were pretextual, discriminatory, and motivated by non-
22 merit or fitness factors.

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Based on the foregoing, Complainant John Leonard hereby respectfully requests entry of an order denying the Respondents' Motion to Dismiss, allowing recovery on his Complaint, and order the parties file Prehearing Statements in accordance with NAC 288.250.

Dated this 29th day of January 2024.

/s/ Ronald J. Dreher

Ronald J. Dreher

NV Bar No. 15726

P.O. Box 6494

Reno, NV 89513

Telephone: (775) 846-9804

ron@dreberlaw.net

Attorney for Complainant

CERTIFICATE OF SERVICE

Pursuant to NAC 288.070, the undersigned hereby certifies that I am the counsel for John Leonard and that on this date I served a true and correct copy of the preceding document addressed to the following:

Charles Lehman, Esq.
Deputy District Attorney
Washoe County District Attorney's Office
Mills B. Lane Justice Center
1 South Sierra Street
South Tower, 4th Floor.
Reno, NV, 89501
(775) 328-2003
clehman@da.washoecounty.gov
Attorney for Respondents

by electronic service by transmitting the copy electronically as an attachment to electronic mail in portable document format.

Dated this 29th day of January 2024.

/s/ Ronald J. Dreher
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ron@dreherlaw.net
Attorney for Complainant

CERTIFICATE OF SERVICE

Pursuant to NAC 288.070, the undersigned hereby certifies that I am the counsel for the John Leonard and that on this date I served a true and correct copy of the preceding document addressed to the following:

Bruce Snyder, Esq.
Commissioner, EMRB
bsnyder@business.nv.gov
3300 W. Sahara Avenue
Suite 260
Las Vegas, NV 89102

by electronic service by transmitting the copy electronically as an attachment to electronic mail in portable document format.

Dated this 29th day of January 2024.

/s/ Ronald J. Dreher
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Attorney for Complainant

1 **BEFORE THE EMPLOYEE MANAGEMENT RELATIONS BOARD**

2 **STATE OF NEVADA**

3 ***

4 JOHN LEONARD,

5 Complainant.

Case No. 2023-035

6 v.

7 WASHOE COUNTY and WASHOE
8 COUNTY SHERIFF'S OFFICE

9 Respondent.

FILED
February 9, 2024
State of Nevada
E.M.R.B.
2:37 p.m.

10
11 **REPLY IN SUPPORT OF MOTION TO DISMISS FIRST AMENDED COMPLAINT**

12 COMES NOW, the Respondents Washoe County [County], and the Washoe County
13 Sheriff's Office [WCSO] collectively referred to as Respondents], by and through their
14 undersigned legal counsel, hereby files their reply brief in support of the Motion to Dismiss
15 [Motion] the First Amended Complaint [Amended Complaint] filed by Lieutenant John
16 Leonard [Leonard]. This reply is based upon the following Memorandum of Points and
17 Authorities, all pleadings and papers on file with the Board, and all attached exhibits.

18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 Respondents moved to dismiss the Amended Complaint since the Board lacks
20 jurisdiction over Respondents as they were not properly served. Notwithstanding, the Board
21 should likewise dismiss the Amended Complaint on the merits. The Board must dismiss the
22 Amended Complaint if it determines that no probable cause exists for the Amended Complaint,
23 NAC 288.375(1), and may do so if the parties have not exhausted their contractual remedies,
24 including any rights to arbitration, unless there is a showing of special circumstances or extreme
25 prejudice, NAC 288.375(2), or if a complainant files a spurious or frivolous complaint, NAC
26 288.375(5).

1 **1. Argument**

2 **a. The Board lacks jurisdiction over Respondents because they have never been**
3 **properly served.**

4 The Board does not have jurisdiction over Respondents because they were not properly
5 served with a copy of the Amended Complaint. Leonard does not dispute that he failed to serve
6 the Respondents, instead he argues that the Board has jurisdiction over the matter at issue and
7 that he served the undersigned counsel. However, in the Motion to Dismiss, Respondents do not
8 argue lack of subject-matter jurisdiction, rather that the Board lacks personal jurisdiction over
9 the parties for lack of proper service. Importantly, actual notice is not a substitute for proper
10 service of process. *See C.I.A. Venture v. G.C. Wallace Consulting Engineers, Inc.*, 106 Nev.
11 381, 384, 794 P.2d 707, 709 (1990). Personal service or a legally provided substitute must still
12 occur in order to obtain jurisdiction over a party. *Id.* at 384; *citing In re Abrams*, 108
13 Cal.App.3d 685, 166 Cal. Rptr. 749 (1980). The failure to properly serve Respondents is a
14 requirement of jurisdiction and the time to cure this error has passed. *See* NAC 288.080(5).
15 Further, there is no evidence that Respondents waived proper service of process; therefore,
16 Leonard's lack of service is fatal to his claim, and it must be dismissed with prejudice.

17 Leonard's position that serving undersigned counsel is sufficient service of process is
18 contrary to law. The rules for serving a political subdivision are clearly outlined in NRC
19 4.2(d)(3). Undersigned counsel, a deputy district attorney, and the Office of the District
20 Attorney are not *parties* to this matter, nor does serving them they meet the service
21 requirements outlined by statute, NAC 288.200(2), NRC 4.2(d)(3). As a matter of practice,
22 the Office of the District Attorney does not accept service on behalf of political subdivision
23 clients. Leonard fails to provide contrary legal authority or raise cognizant arguments that
24 would justify failing to serve the alleged parties in this case; therefore, the Board lacks personal
25 jurisdiction over Respondents and the Amended Complaint must be dismissed.

1 **b. Leonard conceded he failed to exhaust his contractual remedies.**

2 Leonard's failure to exhaust contractual remedies must result in dismissal of this action.
3 In his opposition, Leonard does not dispute that he abandoned his grievance(s). Yet, Leonard
4 paradoxically claims he did exhaust his remedies under the contract because taking a grievance
5 beyond Step 2 is merely "permissive." See Opposition at 7. To some extent Respondents agree
6 that grievances are permissive; however, exhausting the bargained for contractual remedies are
7 mandatory prior to bringing the instant action. Under Article 30 of the CBA, nothing forces a
8 grievant to move beyond Step 2 through Step 3 (County Manager) to Step 4 (arbitration).
9 However, abandoning a grievance and failing to take it arbitration does not constitute
10 exhaustion of an employee's contractual remedies. See Exhibit 1 of Respondent's Motion to
11 Dismiss, Article 30. Leonard failed to progress through the bargained for process to Step 3
12 (County Manager or Designee) and then Step 4 (Arbitration). While Leonard is absolutely
13 "permitted" to abandon or withdraw his grievance, he utterly failed in exhausting his contractual
14 remedies as outlined in the CBA; and therefore, he is precluded from initiating the same
15 complaint in this forum.

16 In his opposition, Leonard states that his claims, at least in part, were effectively barred
17 and there was no apparent relief under the contract. See Opposition at 7. This situation was
18 contemplated by this Board in *Operating Engineers Local Union No. 3 v. Incline Village*
19 *General Improvement District*, Case No. 2020-012, Item No. 864-C, 2021. The Board held that
20 "[i]t is of no defense to argue that Complainant's own failure to timely comply [with the
21 provisions of the CBA] should allow Complainant to circumvent the bargained for processes.
22 The logical end to this argument would be to permit the perverse incentive to ignore bargained
23 for processes to skip straight to Board review." *Id.* at 2. It appears Leonard believes that by
24 alleging the same facts and circumstances from his previous grievances and repackaging them
25 as unfair labor practices allows him to circumvent the bargained for process agreed to by
26 Respondents and the Washoe County Sheriff's Supervisory Deputies Association. Yet, he does

1 this at the same time he acknowledges he abandoned his grievances under the bargained for
2 process. This Board should not condone Leonard's attempts to circumvent the bargained for
3 processes and entertain his improper complaint. Leonard's failure to exhaust his contractual
4 remedies and has abandoned his previous grievances, therefore his Amended Complaints should
5 be dismissed.

6 **c. Respondents did not argue Leonard's claims were barred by claim preclusion**
7 **they are barred by rule against splitting causes of action.**

8 Leonard does not dispute Respondent's position that he is barred from by the doctrine of
9 splitting causes of action. Inexplicably, Leonard asserts his claims are not barred under claim
10 preclusion. Respondents did not argue claim preclusion and it is not at issue in the Motion;
11 therefore, Leonard's position is flawed. While claim preclusion and the "rule against splitting
12 causes of action" both strive to prevent relitigating the same claim, they differ in their scope and
13 application. Claim preclusion is applicable when a valid final judgment has been entered. *Five*
14 *Star Cap. Corp. v. Ruby*, 124 Nev. 1048, 1052, 194 P.3d 709, 711 (2008), holding modified on
15 other grounds by *Weddell v. Sharp*, 131 Nev. 233, 350 P.3d 80 (2015).

16 The rule against splitting causes of action applies before and during litigation for
17 different claims arising from the same underlying facts, even if the prior action did not address
18 all potential claims. In determining whether an employee has improperly split a cause of action,
19 courts assess whether the employee's separate suits are based upon the same subject matter and
20 alleged wrongful act of the defendant. *Smith v. Hutchins*, 93 Nev. 431, 432, 566 P.2d 1136,
21 1137 (1977); *Adams v. California Dep't Health Servs.*, 487 F.3d 684 (9th Cir. 2007). For
22 purposes of the rule, a cause of action is the same when the two suits arise out of the same
23 nucleus of facts. See *Butler v. Bayer*, 123 Nev. 450, 460 (Nev. 2007); *Williams v. State Indus.*
24 *Ins. Sys.*, 672 F. Supp. 459, 462-63 (D. Nev. 1987). Leonard inappropriately splits his cause of
25 action because his grievance and this cause of action are based on the same nucleus of facts and

26 //

1 alleged wrongdoing by the Respondents: therefore, this Amended Complaint is barred. This
2 being so, Leonard's Amended Complaint must be dismissed.

3 **d. A letter from undersigned counsel to Leonard's attorney is not an action by**
4 **Leonard's employer.**

5 In his opposition, Leonard submits nothing that would allege his "employer" took an
6 action tending to interfere with, coerce, or deter the exercise of protected activity that would
7 state a claim under NRS 288.270(1)(a). Leonard's mistaken belief that a letter from the
8 opposing party's attorney to his attorney is an act by his employer demonstrates his fundamental
9 misunderstanding of the role of Respondent's counsel. As outlined above, Leonard improperly
10 served undersigned counsel (with the belief that serving a deputy DA is the same as properly
11 serving a political subdivision in accordance with the law) and now Leonard improperly
12 believes undersigned counsel is also somehow his employer. *See* NRS 252.070.¹ The fact that
13 this needs to be spelled out to this distinguished Board is somewhat perplexing. Leonard is an
14 employee of the Washoe County Sheriff's Office, Counsel who is employed by the District
15 Attorney's Office, is obviously not Leonard's employer, and has no ability to take employment
16 actions against him.²

17 There is no need to engage in the burden shifting analysis since Leonard fails to plead
18 any "Employer action" under the first prong of *Billings and Brown v. Clark County*. Leonard is
19 desperately trying to conflate steps in litigation by an attorney with actions taken by his

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24 ¹ NRS 252.070 – Defines the role of a deputy district attorney as it relates to the elected District Attorney of a
25 County. Deputies are appointed by the District Attorney and authorized to transact all official business relating to
those duties.

26 ² This confusion parallels the facts alleged in his Amended Complaint where he speculates that an employee of
Washoe County Human Resources can take actions adverse employment against him.

1 employer. There are simply no allegations in the Amended Complaint that his employer took
2 any action against him as it relates to this letter.³ This claim is frivolous.

3 Furthermore, the pre-litigation letter complies with the requirements in NRCF Rule
4 11(c) by giving Leonard's counsel notice and a reasonable opportunity to respond to the issues
5 raised.⁴ This notice is required by counsel to attempt to resolve matters prior to moving for
6 sanctions, such as attorney's fees. *Id.* The letter explicitly identified issues in Leonard's initial
7 Complaint that needed to be cured. *See* Motion, Exhibit 3. Instead of addressing the concerns,
8 Leonard (through counsel) dug in further into his spurious positions.⁵ Rather than addressing
9 issues identified, Leonard decided to amend his Complaint and included an additional frivolous
10 cause of action because of the pre-litigation letter: blatantly, undermining the purpose of Rule
11 11's notice requirements. Tactics like these waste the Board's resources and cannot be
12 condoned. His failure to address the identified issues required Respondents to file their initial
13 Motion and now this Reply and justify the Board in granting Respondent's attorney's fees. The
14 Board has the authority under NAC 288.373 to impose sanctions such as attorney's fees. NAC
15 288.373 does not have the same strict notice requirement as Rule 11; however, to avoid
16 unnecessary litigation undersigned counsel, as a courtesy, provided the letter to Leonard's
17 counsel. The Board should condemn attempts like this which are clearly intended to weaponize
18 the notification required by the rules of civil procedure.

19
20 ³ Despite the fact there is no allegation alleged of actions by his Employer, Leonard makes the conclusory assertion
21 that "obviously sent with the intent to intimidate I.T. Leonard and to coerce him into withdrawing his Amended
22 Complaint and cease pursuing his claims against Respondents." *See* Opposition at 12. This is the type of vague
allegation and conclusory statement riddled throughout his Amended Complaint, see *infra*, discussion on pleading
standards in Section (e).

23 ⁴ Rule 11(c) **Sanctions.**

24 (1) **In General.** If, after notice and a reasonable opportunity to respond, the court determines that Rule
25 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law firm, or party that
26 violated the rule or is responsible for the violation. Absent exceptional circumstances, a law firm must be held
jointly responsible for a violation committed by its partner, associate, or employee. (emphasis added).

⁵ The irony that Leonard claims his discipline was improperly aired out in a training (albeit without his name) while
simultaneously identifying discipline of another employee (by name) in his Amended Complaint should not be lost
on this Board.

1 As undersigned counsel is a Deputy to the elected District Attorney (not a party to this
2 case) who sent a pre-litigation letter to opposing counsel in accordance with Rule 11.

3 Undersigned counsel is not Leonard's employer, nor did his employer take any action against
4 him in connection with this letter. This claim is frivolous and must be dismissed pursuant to
5 NAC 288.375(5).

6 e. Leonard fails to state a claim under NRS 288.270(1)(d), and NRS 288.270(1)(f)
7 because he did not allege sufficient facts establishing his protected class, or
8 political or personal beliefs were the motivating factor in his discipline.

9 In his opposition, Leonard finally concedes that he is challenging his discipline at the
10 Board and does not identify any other adverse employment action. Notwithstanding the fact that
11 he has attempted to grieve this discipline twice and failed to exhaust his contractual remedies,
12 Leonard has failed to state a cognizant claim because he failed to allege the causal relationship
13 between the alleged adverse actions and his protected class or his political or personal views.

14 NAC 288.200 requires a clear and concise statement of the facts constituting the alleged
15 practice sufficient to raise a justiciable controversy under chapter 288 of NRS. See NAC
16 288.200(c). And, while factual allegations of a complaint are generally accepted as true and
17 must be construed in the light most favorable to the plaintiff/petitioner for purposes of deciding
18 a motion to dismiss, legal conclusions cast in the form of factual allegations in the complaint are
19 not entitled to an assumption of truth. *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754 (9th
20 Cir. 1994). When considering a motion to dismiss, a plaintiff cannot rely on mere labels and
21 conclusions in pleading his or her claims for relief. *Bell Atlantic Corp. v. Twombly*, 550 U.S.
22 544, 555 (2007). In *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), the Supreme Court stated,
23 "[t]o survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as
24 true, to 'state a claim to relief that is plausible on its face.'" (quoting *Twombly*, 550 U.S. at 570).
25 The Court further recognized "a claim has facial plausibility when the plaintiff pleads factual
26 content that allows the court to draw the reasonable inference that the defendant is liable for the
misconduct alleged." *Iqbal*, 556 U.S. at 678. Where a complaint pleads facts merely consistent

1 with a defendant's liability, it stops short of demonstrating a claim is plausible. *Id.*
2 "Threadbare recitals of the elements of a cause of action, supported by mere conclusory
3 statements do not suffice." *Id.* Here, the confusing manner the Amended Complaint is drafted
4 coupled with Leonard's conclusory statements and speculation cannot survive a Motion to
5 Dismiss.

6 Retaliatory conduct (either pursuant to discriminatory conduct as specified NRS
7 288.270(1)(d) or (f)) is generally analyzed under the framework set forth in *Reno Police*
8 *Protective Ass'n v. City of Reno*, 102 Nev. 98, 715 P.2d 1321 (1986) and later modified in *Bisch*
9 *v. Las Vegas Metro Police Dep't*, 129 Nev. Adv. Op. 36, 302 P.3d 1108 (2013). An aggrieved
10 employee must allege *prima facie* showing sufficient to support the inference that the protected
11 conduct was a motivating factor in the employer's decision. *Nye County Law Enforcement*
12 *Association, Complainant v. Nye County, Respondent*, Item No. 872, Case No. 2020-025, 2021
13 WL 5493960, at *22 (2021) (emphasis added). Under the revised framework, "it is not enough
14 for the employee to simply put forth evidence that is capable of being believed; rather, this
15 evidence must actually be believed" *Bisch*, 302 P.3d at 1116 (emphasis added). Leonard does
16 not state a plausible claim for retaliation because there are no facts alleged which raise the
17 inference that protected activity was the likely reason for the alleged adverse actions. *See e.g.*
18 *Cohen v. Fred Meyer, Inc.*, 686 F.2d 793, 796 (9th Cir. 1982).

19 There are simply no facts alleged that would show that Leonard's protected class or
20 political/ personal reasons were the motivating factor for his discipline. *See* Amended
21 Complaint. Leonard's speculation that an HR representative was controlling his discipline and
22 not an individual who actually has authority to take employment actions over him demonstrates
23 his inability to plead that causal connection required to establish a *prima facie* retaliation claim.
24 A statement by the Sheriff that "he is attempting to increase the number of female deputies
25 employed by the WCSO as a part of the "30 percent by 2030" program initiated by the
26 Department of Justice." on its own, does not sufficiently allege a claim that Leonard's views or

1 protected class were the motivating factor for his discipline. See Amended Complaint at 5.
2 Unless it was alleged that the Sheriff knew that Leonard was politically and personally against
3 such an initiative and then took adverse action based on that, Leonard has failed to plead a
4 cognizant retaliation claim. Importantly, the bulk of the facts allegedly occurred after the
5 discipline was issued and served. See Amended Complaint at 5 ¶26 through 9 ¶44. The
6 opposition argues that this shows the pre-textual nature for Leonard's discipline and disparate
7 treatment. Logically, events that allegedly occurred after his discipline cannot be the
8 motivating factor of his discipline. See *Timmons v. United Parcel Serv., Inc.*, 310 F. App'x 973,
9 975 (9th Cir. 2009) (stating discrimination and retaliation claims are properly dismissed due to
10 lack of causation when the alleged adverse actions take place before the alleged protected
11 activity). However, with all those pages of facts there is nothing to allege a causality how
12 Leonard's protected class or personal/political views were motivating factor for the discipline
13 he received. There is simply nothing there. Leonard relies on vague conclusory allegations that
14 do not plead a cognizable claim and his Amended Complaint must be dismissed for failure to
15 state claim.

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2. Conclusion

Leonard failed to properly serve his Amended Complaint. he has failed to exhaust his contractual remedies, and he failed to state a claim upon which relieve can be granted. NAC 288.375(2) allows the Board to dismiss such an action, and the Board's prior decisions support dismissal in this case. Therefore, it is requested that the Amended Complaint be dismissed. provide the relief requested in the Motion, and enter an order that Respondents be reimbursed for all their attorneys' fees and costs, incurred in responding to the improperly pursued Amended Complaint.

DATED February 9, 2024

CHRISTOHPER J. HICKS
Washoe County District Attorney

By /s/ Chaz Lehman
Chaz Lehman, Esq.
Deputy District Attorney
Brandon Price, Esq.
Deputy District Attorney
One South Sierra St.
Reno, NV 89501
ATTORNEYS FOR RESPONDENTS
WASHOE COUNTY AND WASHOE
COUNTY SHERIFF'S OFFICE

1 CERTIFICATE OF SERVICE

2 Pursuant to NRC 5(b), I certify that I am an employee of the Office of the District
3 Attorney of Washoe County, over the age of 21 years and not a party to nor interested in the
4 within action. I certify that on this date, a true and correct copy of the foregoing document was
5 emailed to the following electronic mail address:

6 Employee Management Relations Board
emrb@business.nv.gov

7 Ronald J. Dreher, Esq.
8 ron@dreherlaw.net

9 Dated this day 9th of February, 2024.

10 /s/ S. Haldeman
11 S. Haldeman