

1 Nicholas G. Vaskov  
City Attorney  
2 Brian G. Anderson, Assistant City Attorney  
Nevada Bar No. 10500  
3 Kristina E. Gilmore, Assistant City Attorney  
Nevada Bar No. 11564  
4 240 Water Street, MSC 144  
Henderson, NV 89015  
5 (702) 267-1200  
(702) 267-1201 Facsimile  
6 brian.anderson@cityofhenderson.com  
kristina.gilmore@cityofhenderson.com  
7 *Attorneys for City of Henderson*

**FILED**  
**December 17, 2024**  
**State of Nevada**  
**E.M.R.B.**  
2:38 p.m.

8  
9 **STATE OF NEVADA**  
10 **GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD**

11 Henderson Police Supervisors Association,  
Inc., a Nevada Non-Profit Corporation and  
12 Local Government Employee Organization,  
and its Named and Unnamed Affected  
13 Members,

EMRB Case No.: 2024-028

**JOINT STATUS REPORT**

14 Complainants,

15 vs.

16 CITY OF HENDERSON

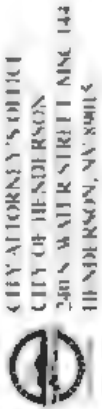
17 Respondent.

18  
19 The above-named parties, by and through their respective counsel of record, hereby  
20 submit this Joint Status Report as Ordered by the State of Nevada, Government Employee-  
21 **Management Relations Board (“Board”)**.

22 **STATUS OF ACTION**

23 **On November 8, 2024, Respondent City of Henderson’s** Motion to Dismiss or to Stay  
24 to Exhaust Contract Remedies came before the Board. On November 13, 2024, the Board  
25 issued an Order to Stay Proceedings pending the issuance of **the arbitrator’s award in an**  
26 underlying arbitration and directed the parties to submit a joint status report.

27 On December 16, 2024, the parties received the **Arbitrator’s** Award (dated December  
28 13, 2024). In sum, the Arbitrator’s Award finds **“that** the Grievant, John Bello[w] was



1 demoted for just cause and so this grievance is denied.” **A copy of the Arbitrator’s Award is**  
2 attached here to as **Exhibit A.**

3 DATED this 16th day of December 2024. DATED this 17th day of December 2024.

4 **NEVADA ASSOCIATION OF PUBLIC**  
5 **SAFETY OFFICERS**

**LAW OFFICES OF CHRISTOPHER CANNON**

6 */s/ Andrew Regenbaum*

*/s/ Christopher Cannon*

7 ANDREW REGENBAUM, J.D.  
8 145 Panama Street  
9 Henderson, Nevada 89015  
10 *Representative for Complainants*  
11 *Henderson Police Supervisors Association*

CHRISTOPHER CANNON (NV Bar No. 9777)  
2113 Forest Mist Avenue  
North Las Vegas, Nevada 89084  
*Attorneys for Complainants Henderson*  
*Police Supervisors Association*

12 DATED this 16th day of December 2024.

13 **CITY OF HENDERSON**

14 */s/ Brian Anderson*

15 BRIAN G. ANDERSON (NV Bar No. 10500)  
16 Assistant City Attorney  
17 KRISTINA E. GILMORE (NV Bar No. 11564)  
18 Assistant City Attorney  
19 240 Water Street, MSC 144  
20 Henderson, Nevada 89015  
21 *Attorneys for **Respondent** City of*  
22 *Henderson*

CITY ATTORNEY'S OFFICE  
CITY OF HENDERSON  
240 N. WATER STREET MSC 144  
HENDERSON, NV 89015



1 CERTIFICATE OF SERVICE

2 I hereby certify that on the 17th day of December 2024, the above and foregoing,  
3 **JOINT STATUS REPORT** was electronically filed with the EMRB  
4 ([emrb@business.nv.gov](mailto:emrb@business.nv.gov)) and served via email and by depositing a true and correct copy  
5 thereof in the United States mail, postage fully prepaid thereon, to the following:

6 Andrew Regenbaum  
7 Nevada Association of Public Safety Officers  
8 145 Panama Street  
9 Henderson, Nevada 89015  
10 [andrew@napso.net](mailto:andrew@napso.net)

11 Christopher Cannon, ESQ.  
12 Law Offices of Christopher Cannon  
13 2113 Forest Mist Avenue  
14 North Las Vegas, Nevada 89084  
15 [cannonlawnevada@gmail.com](mailto:cannonlawnevada@gmail.com)

16 /s/ Elizabeth Kite  
17 **Employee of the Henderson City Attorney's Office**

CITY ATTORNEY'S OFFICE  
CITY OF HENDERSON  
340 N. WALTER STREET, NMC 144  
HENDERSON, NV 89015



# **Exhibit A**

**IN THE MATTER OF ARBITRATION BETWEEN**

**HENDERSON POLICE SUPERVISORS ASSOC.)**

**and )**

**JOHN BELLOW, )**

**FMCS CASE: 241208-01830**

**GRIEVANTS )**

**and )**

**RE: JOHN BELLOW DEMOTION**

**THE CITY OF HENDERSON, NEVADA, )**

**EMPLOYER )**

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Date of Demotion:

June 19, 2023

Date of Grievance:

August 23, 2023

Dates of Hearing:

August 19-20, 2024

Date of Closing of the Record:

September 24, 2024

Date of Decision:

December 13, 2024

Appearances:

For the City/Employer:

Kristina E. Gilmore, Esq.  
Assistant City Attorney

Benjamin Gehrt, Esq., Counsel

For the Grievants:

Andrew Regenbaum, Esq.  
Executive Director of NAPS0

Arbitrator:

Thomas A. Cipolla, Esq

## **I. BACKGROUND**

The City hired Grievant as a police officer on August 31, 1998. Grievant applied and was selected for promotion to Sergeant on September 21, 2020. A little over one year after becoming a sergeant, in December of 2021, Officer M., from Grievant's Days B West Patrol Squad, filed a complaint raising serious allegations against him, including but not limited to, sexual harassment, covering up a possible DUI involving another police officer, and other policy violations. As a result of the seriousness of this complaint, Grievant was placed on paid administrative leave on December 9, 2021, while he was under investigation. As a result of three different Internal Affairs investigation findings, Grievant was demoted on June 19, 2023.

On August 23, 2023, the HPSA (Henderson Police Supervisors' Association) submitted to the City a single grievance disputing the discipline issued for all three matters. The HPSA disputed the investigators in IA, claimed there was no proof the allegations were true, criticized the officers who complained about the Grievant, claiming they all had performance issues, including Officer M., and, finally, that the Grievant was not to blame.

The Grievant did not acknowledge any of the alleged wrongdoing to the City. Also, absent from the grievance is an argument that his due process rights were violated by holding a joint pre-disciplinary hearing on all three cases and then issuing one single disciplinary action for so-called substantiated conduct in all three cases.

Per the CBA, Chief Chadwick reviewed the grievance; and, she denied it because she indicated that there were no additional facts provided that persuaded her to change the discipline. After Chief Chadwick's review, the Union submitted the grievance to the Assistant City Manager for review. The Assistant City Manager also denied the grievance.

## **ISSUE**

Did the City have just cause to demote Grievant from a sergeant to an officer; if not, what is the appropriate remedy?

## **II. RELEVANT DOCUMENTS**

Article 22, Section 4 of the CBA states that "the CITY has a right to discipline or discharge employees in accordance with the Henderson Police Department Manual (DPM) 1094 and Appendix A. Article 35 of the CBA defines "Cause" as "a factual reason cited by the CITY that is used to issue disciplinary action." The CBA, in relevant part, also states that "an HPSA Member

may be terminated or subject to disciplinary action if his performance or conduct is not satisfactory; if he proves unsuited for his work.” Furthermore, there were several published department policies or “work rules” the City alleged the Grievant violated and, as a result, held him accountable. Specifically, the Chief substantiated the following policy violations in Grievant’s three IA investigations:

1. IA-139 Substantiated Policy Violations.

- DPM 1094.4 – Misuse and/or abuse of supervisory authority – sustained (Class 4) (increased by a class level because of IA-140). JX. 28.
- City Admin Policy – Sexual Harassment – sustained (Class 5 reduced to a Class 4). JXs. 31 and 28.
- DP741 Handling Firearms in Police Facilities – Sustained (Class 3). JX. 30.
- DPM1094.4 – Code of Conduct – Failure to Maintain acceptable level of performance – Sustained (Class 5 reduced to a Class 4). JX. 28.

2. IA-140 Substantiated Policy Violations.

- DPM 1094.4 – Failure to investigate and report actual or alleged incidents of misconduct – Sustained (Class 3). JX. 28.
- DPM 1094.4 – Misuse and/or abuse of supervisory authority – sustained (Class 3). JX. 28.
- DPM 1094.4 – Violations not listed elsewhere (DPM 445.5 Failure to activate MVICS per NRS 289.830. Sustained (Class 3). JXs. 29 and 28.
- DPM 1094.4 – Failure to perform required supervisory responsibilities - Sustained (Class 2). JX. 28.
- DPM 1094.4 – Using profane or insulting language directed at a subordinate – Sustained (Class 2). JX. 28.
- DPM 1094.4 – Conduct unbecoming which has the potential to bring discredit to the department – Sustained (Class 2), JX. 28.
- 1094.4 – Failure to ensure employees perform required duties – Sustained (Class 1). JX. 28.

3. IA-142 Substantiated Policy Violations.

- DPM 1094.4 – Violations not listed elsewhere (DPM 445.3.1 Failure to record all contacts with citizens in several occurrences (substantiated as a Class 2, but could have been a Class 3). JXs. 29 and 28.

HPD disciplines officers pursuant to a class designation matrix set forth in Appendix A of the CBA. The City and the Union bargained for the class designation matrix. The matrix designates the range of discipline that may be issued for a violation of a department policy, procedure, rule, regulation, and/or the adopted laws of the local, State, or Federal Government. The discipline imposed depends on the class designation of the violation. Presumably, the Chief has the authority to lower a class violation when he or she feels that there are mitigating circumstances. There are five levels of discipline:

<b>Class</b>	<b>Type Of Discipline That Can Be Issued</b>	<b>Subsequent Similar Violation</b>
1	Written Reprimand	24 months (2 years) after the date on the written reprimand. Subsequent similar violations add up to 12 months.  Each subsequent sustained similar violation will increase the Class Level by one level.
2	Minor Unpaid Suspension (ranging from 1-40 hours)  Removal from Promotion Lists	36 months (3 years) after the date on the notice of suspension. Subsequent similar violations add up to 24 months.  Each subsequent sustained similar violation will increase the Class Level by one level.
3	Disciplinary Transfer  Major Unpaid Suspension (ranging from 41-80 hours)	36 months (3 years) after the date on the notice of suspension. Subsequent similar violations add up to 24 months.  Each subsequent sustained similar violation will increase the Class Level by one level.
4	Reduction in Grade/Pay  Demotion	60 months (5 years) after the date on the notice of suspension. Subsequent similar violations add up to 24 months.  Each subsequent sustained similar violation will increase the Class Level by one level.
5	Termination	Not applicable

### **III. SUMMARY POSITIONS OF THE PARTIES**

#### **A. CITY OF HENDERSON**

1. In this matter, the evidence shows that former Sergeant Bellow (the “Grievant”) lacked the professional judgment required of a supervisor; specifically, the evidence presented in this case,



and largely undisputed by the Union, establishes that the Grievant engaged in extremely disturbing conduct, especially for a supervisor, such as, but not limited to discussing his sex life with more than one of his subordinates.

2. Using hours of work time to share with his subordinate his relationship problems with his former wife.
3. Discussing his preference for Latino women to a Latino female subordinate.
4. Sharing with his subordinate his preference for watching particular exercise videos that showed sweat dripping down the female instructor's back.
5. Soliciting a lunch with his subordinate when he was off-work either at a restaurant or at the station as long as it was behind closed doors; and additionally, making it known that his wife and children were not home.
6. Speaking poorly about officers to other officers on his team in an attempt to create a divide.
7. Using his position of authority to threaten and intimidate his subordinates with IA investigations if they disagreed with him.
8. Accused an officer of having a mental problem after she stood up to him and disagreed with him.
9. Telling his squad that he would murder anyone who messed with his family making many of his subordinates uncomfortable.
10. Ordering his squad to conduct an unsafe firearms training inside a police station with loaded weapons and then complained when the officers requested to unload their weapons before beginning the training.
11. Failing to properly supervise the scene of a possible DUI car accident involving an off-duty HPD officer, causing reports on the incident to be incomplete.
12. Insinuating that officers needed to take care of other officers no matter the cost- or their careers would be over.
13. Failing to use his body camera on two separate incidents.
14. While the Chief could have terminated Grievant under the CBA's Disciplinary Matrix based on his conduct, she considered all the mitigating factors, and graciously offered him leniency because she felt the investigations took too long.
15. The Chief demoted the Grievant, thereby giving him the opportunity to correct his behavior and continue earning a living as an HPD police officer.

16. Grievant's stunning lack of ownership for his misconduct, let alone even the slightest indication of remorse, makes him unfit to serve as a supervisor, and the grievance must be denied.

**A. GRIEVANT/ASSOCIATION**

1. It is respectfully submitted that the answer to the grievance issue is "NO".
2. The appropriate remedy for this grievance is that the Grievant should be reinstated to his position as a sergeant and he should receive the appropriate discipline for the various Class 1, 2 and 3 level policy violations which were acknowledged.
3. This discipline could/should also include multiple suspensions without pay, re-training and written reprimands; however, demotion was not an appropriate form of discipline for the Grievant.
4. There was no just cause for a demotion and as a result, in addition to the Grievant receiving less severe punishment for his actions, he should be awarded backpay, restoration of benefits (i.e. made whole) and seniority with his reinstatement to the sergeant position.
5. The Association has acknowledged that it was appropriate to discipline the Grievant for violations of policy sustained in IA-140 and IA-142; however, not one of these violations are demotion level offenses, pursuant to Henderson Police Department policy (Joint Exhibit 28, pg. COH000343).
6. The basis for this grievance is the lack of just cause for Chief Chadwick's final discipline decision which resulted in the imposition of a demotion rather than suspension, reprimand and re-training despite policy requiring the lesser discipline. (Joint Exhibit 23).
7. Simply, this is a case about the abuse of the disciplinary process wherein the Chief of Police created three (3) Class 4 violations in IA-139 in order to justify her desire (and the desire of others she listened to) to demote Sergeant Bellow instead of suspending him.
8. Only a Class 4 violation can justify a demotion and none of the three (3) Class 4 violations sustained by the Chief were valid.
9. Once it was determined that the Class 4 violations were not valid, the basis for the Grievant's demotion was also lost.
10. The City understands this, and it was for this reason that the City tried to stack the Grievant's charges and exaggerate this arbitration so as to try to justify a punishment that lacked just cause as it was too severe.
11. As such, it is respectfully submitted that the Grievant's rank should be restored and he should be punished appropriately but with full benefits restored from the time of his demotion.

## **V. DISCUSSION AND DECISION**

(Some of the evidence and some of the argument may not be discussed where it is not necessary for the disposition of the case.)

The record indicates that the Grievant, John Bellow was hired by the City of Henderson as a police officer on or about August 31, 1998. On or about September 21, 2020, the Grievant was promoted to the rank of sergeant. Around first part of December of 2021, a female officer under the Grievant's supervision provided a written statement to the department complaining about the behavior of the Grievant since he took over the shift on which she worked in August of 2021. She also requested time off to deal with the stress and this was ultimately granted.

Based upon this officer's statement several investigations began, albeit not all at the same time. It appears that the Grievant was relieved of duty (with full pay) on or about December 9, 2021 pending the investigation of the first case, IA 2021-139. This case was completed on or about March 14, 2022 and a report of the findings were issued. Initially, a decision was written by a Captain reviewing the investigation determined allegations regarding sexual harassment could not be sustained (Class 3 offense), nor could those conversations about the squad between the Grievant and the complaining female officer be considered ridicule of those officers (Class 5 offense).

The Captain did sustain the misuse of the Grievant's supervisory authority (Class 3 offense) when he ordered his subordinates to mishandle their firearms in the briefing room and had inappropriate conversations with and said inappropriate things to the female officer. He also sustained (at Class 1) the Grievant's use of profane language to his subordinates. Finally, he sustained (at Class 3) the mishandling of guns at a police station when he directed his subordinates to handle their firearms in a manner prohibited by policy.

On or about May 18, 2022 a Deputy Chief overturned the Captain's decisions and decided that the Grievant should be sustained for both harassment allegations at Class 5 level as well as sustained the two Class 3 violations and raised the Class 1 violation to a Class 3 violation. The Deputy Chief did not send his recommended discipline to the Chief of Police but "held" the matter while the Grievant's other IA investigations were conducted.

In the meantime, the Grievant remained on administrative leave, with pay, for almost a year without any further communication. On or about May 8, 2023, a new Deputy Chief reviewed the matter and recommended sustaining the two (2) Class 3 violations and one (1) Class 4 violation

for sexual harassment. No other charges were mentioned in his report and he recommended demotion

The current chief, Hollie Chadwick did not take over as chief until later in May of 2023. She inherited several IA cases which were either unfinished, unresolved or had hearings pending, including those involving the Grievant. On or about May 16, 2023, she reviewed this IA File (IA-139) and two other separate IA cases (IA-140 and IA-142) involving the Grievant. Chief Chadwick sustained the sexual harassment as a Class 5 violation and reduced it to Class 4 violation, sustained a supervisory authority allegation at a Class 4 violation, and sustained the handling firearm allegations as a Class 3 violation. She also added and sustained a new charge of failing to maintain acceptable levels of performance as a Class 4 violation

I have reviewed the record and the arguments made. I am struck by the sheer number of incidents (violations) attributed to the Grievant from August of 2021 through the beginning of December 2021. These include several incidents of sexual harassment, the violation of handling of firearms in a police facility, the admission by the Grievant during this time that before he came to this shift, he had helped an off-duty officer sidestep a possible DUI charge, his derision of certain officers in his group to other officers and his failure (two occurrences) to electronically record contacts with citizens in those situations that all Henderson police officers are required to do. This is an incredible amount of misfeasance, nonfeasance and possibly malfeasance in a very, very short period of time.

There does not appear to be any substantive contention that the Grievant did commit the sustained violations found in IA2021-140 and IA2021-142. On the other hand, none of the charges individually sustained in those IA cases are higher than a Class 3 violation (three Class 3 violations; three Class 2 violations; and, one Class 1 violation.

As for IA2021-139, there was a sustained charge of misuse and/or abuse of supervisory authority as a Class 4 violation; a sustained charge of sexual harassment as Class 4 violation reduced from a Class 5 violation; a sustained charge of a Class 3 violation regarding the handling of firearms; and, a sustained charge of failure to maintain acceptable level of performance as a Class 4 violation reduced from a Class 5 violation.

The Association has made several arguments on behalf of the Grievant. One is the chronologically of these violations. It contends that the City has jumped to the conclusion that it is permissible to escalate punishment when numerous violations occur without regard to when they

occurred. On the other hand, the information concerning most of the Grievant's violations all came at once, starting with Officer M. in December of 2021. The subsequent investigations support the veracity of those allegations

It appears to me that among several of the goals of the disciplinary matrix is to identify the seriousness of various violations and to apply the principle of "progressive discipline". However, in the instant case, the principle of progressive discipline is not easy to apply and may be, in fact, be impossible to apply. The scenario must assume each violation can be pinpointed as to the time it occurred and that discipline could have meted out for each sustained violation following a progressive disciplinary scheme. It also assumes that any increase in the severity of the discipline' if applied chronologically, would have or should have been a deterrent for further misconduct. However, the facts do not support such a determination since the knowledge of the all these violations, both serious and not-so-serious came to light almost simultaneously.

I have considered the matter at length. It appears to me that at least one charge justifies a demotion and that is the Grievant's ongoing harassment of Officer M. by engaging in extremely disturbing conduct for one in a supervisory role, such as discussing his sex life with his subordinate in great detail and doing so on many occasions; using hours of work time to share with his subordinate his relationship problems with his former wife; discussing his preference for Latino women to a Latino female subordinate; sharing with his subordinate his preference for watching particular exercise videos that showed sweat dripping down the female instructor's back; and, soliciting a lunch with a subordinate when he was off-work either at a restaurant or at the station as long as it was behind closed doors; and, additionally, making it known that his wife and children were not home. I find that this behavior constitutes sexual harassment.

I note that at some point this was not considered sexual harassment. At another point it was seen as sexual harassment and a Class 5 violation for which the discipline could have been termination. It wound up being a Class 4 violation which appears to me as mitigation from a Class 5 violation, as the Chief did recognize the extraordinary length of the IA investigations and the Grievant's tenure with the Department as mitigating factors.

However, I can find no other mitigating factors. In fact, the many other sustained violations noted herein, such as the use of loaded firearms for an exercise in-house, the favorable treatment of an officer in a possible DWI incident, the failure to utilize electronic recording on more than

one occasion and, the derogatory remarks made about other officers are aggravating factors which weigh against a lesser discipline being applied and I so find.

furthermore, I do not see a “due process” issue where a preliminary hearing involving all the IA investigations of the Grievant were on the table to be discussed. The Association never raised it at the time of this hearing; and, I find that the Grievant had the opportunity to raise said issue and did not do so. Finally, the Grievant and his Association had the opportunity to address the alleged violations of all three IA investigations at this meeting

As for a definition of “just cause”, I find that the “seven tests” of Arbitrator Carroll Daugherty are not always used these days as the decisive definition of “just cause.” Arbitrator (and Law Professor) John E. Dunsford took issue with those tests of just cause in his address to the National Academy of Arbitrators in 1989 (*Proceedings of the 42<sup>nd</sup> Annual Meeting of the National Academy of Arbitrators*, p. 23 *et al.* Prior to that Arbitrators Roger Abrams and Dennis Nolan came up with another definition:

“Just cause... embodies the idea that an employee is entitled to continued employment, provided he attends work regularly, obeys work rules, performs at some reasonable level of quality and quantity, and refrains from interfering with his employer’s business by his activities on or off the job.” *Toward a Theory of “Just Cause” in Employee Discipline Cases*, 1985, Duke Law Journal 594 at 601.

I prefer this definition as it crystallizes what employers and employees/employee representatives have come to expect in situations involving the discipline of an employee who has either a contractual or statutory/regulatory right to his or her job. The definition encompasses the principle that an employer cannot arbitrarily or capriciously discipline any employee. It also recognizes that the employee is not absolutely “guaranteed” a job or position once the employee secures seniority or permanent status, but rather that the employee may lose his or her job or position when the employee’s conduct becomes so faulty or indefensible that the employer has no option left but to remove the employee for such conduct.

That is the case here. The Grievant spent over twenty (20) years as a police officer. He was promoted to sergeant and in a little over a year was placed on administrative leave, pending the investigation of several alleged violations, many which were serious. The investigation found behavior that was at least faulty and, in some cases, indefensible. The Grievant was not terminated or suspended but rather demoted from sergeant back to police officer.

**VI. AWARD**

Upon these facts and for these reasons, I find that the Grievant, John Bellow was demoted for just cause and so this grievance is denied.

Based upon Article 29, Section 1, Step 8 the non-prevailing party will pay the arbitrator's fees and related expenses. This will be forwarded to counsel for the Grievant and the Association.

December 13, 2024

  
Thomas A. Cipolla, Arbitrator