

1 JEFFRY M. DOROCAC
City Attorney
2 Nevada Bar No. 13109
By: MORGAN DAVIS
3 Senior Assistant City Attorney
Nevada Bar No. 3707
4 By: MICHELLE DI SILVESTRO ALANIS
Deputy City Attorney
5 Nevada Bar No. 10024
495 South Main Street, Sixth Floor
6 Las Vegas, NV 89101
(702) 229-6629 (office)
7 (702) 386-1749 (fax)
Email: malanis@lasvegasnevada.gov
8 Attorneys for CITY OF LAS VEGAS

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10 GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

11 STATE OF NEVADA

12 LAS VEGAS POLICE OFFICERS
ASSOCIATION,

13 Complainant,

14 vs.

15 CITY OF LAS VEGAS,

16 Respondent.

CASE NO. 2025-011

17
18 **RESPONDENT'S MOTION TO DEFER TO THE ARBITRATION DECISION**

19 Respondent, City of Las Vegas (hereinafter referred to as "CITY"), by and through its
20 attorneys of record Jeffry M. Dorocak, City Attorney, by Morgan Davis, Senior Assistant City
21 Attorney, and Michelle Di Silvestro Alanis, Deputy City Attorney, hereby files this Motion to
22 Defer to the Arbitration Decision.

23 **MEMORANDUM OF POINTS AND AUTHORITIES**

24 **I. PROCEDURAL HISTORY**

25 On September 26, 2025, this Board issued its Order staying the case until the conclusion
26 of the arbitration of the underlying grievance. As stated in that Order "the preferred method for
27 resolving disputes is through the bargained-for processes, and the Board applies NAC 288.375
28 liberally to effectuate that purpose." On June 11, 2026, this Board ordered that the stay was lifted

1 and the CITY may file a motion to defer to the arbitration decision and/or a motion to dismiss,
2 within 30 days of the entry of the order.

3 **II. RELEVANT FACTS**

4 The CITY and LVPOA are parties to a three-year Collective Bargaining Agreement
5 effective July 1, 2022 through June 30, 2025 (“CBA”)¹. The CBA governs correctional officers
6 and correctional sergeants with the CITY’s Department of Public Safety. *Id.* at Article I, Section
7 1.

8 Bargaining unit member Maurice Washington was charged with three felonies arising out
9 of a fatal D.U.I. Following, the criminal charges, the City advised LVPOA that Washington would
10 be placed on leave without pay pending his criminal charges. LVPOA disagreed with the City’s
11 position and interpretation of the relevant statutes and CBA language and filed a grievance. The
12 grievance was submitted to arbitration.

13 The grievance arbitration in the matter of City of Las Vegas v. Las Vegas Peace Officers
14 Association Re: Maurice Washington has concluded. On May 14, 2026, Arbitrator Kenneth A.
15 Perea issued his Impartial Arbitrator’s Findings and Award finding that:

16 DPS did therefore not violate NRS 289.057(2), as incorporated into the
17 parties’ Agreement, by suspending CO Washington without pay pending
18 disposition of alleged felony criminal charges. LVPOA’s grievance on CO
Washington’s behalf must accordingly be denied.

19 See Arbitrator’s Award attached as Exhibit A.

20 **III. LEGAL ARGUMENT**

21 **A. THIS BOARD SHOULD DEFER TO THE ARBITRATOR’S DECISION IN**
22 **THE MATTER OF MAURICE WASHINGTON**

23 The CITY is seeking to have this Board defer to the Arbitration Award of Arbitrator Perea.
24 The Nevada Supreme Court has stated, “[t]he party desiring the NLRB to reject an arbitration
25 award has the burden of demonstrating these principles are not met. We adopt the NLRB deferral
26 policy and conclude that the EMRB must apply these principles in determining whether to defer
27 to an arbitration.” *City of Reno v. Reno Police Protective Association*, 118 Nev. 889, at 896, 59

28 ¹ A new CBA has not been approved; therefore, the prior CBA is still effective.

1 P.3d 1212, at 1217 (2002).

2 This Board is not only bound by that Nevada Supreme Court decision according to
3 generalized legal principles like “Stare Decisis” and “Precedent” but has frequently specifically
4 and expressly incorporated it in many of its subsequent decisions, including in *Robert Ortiz v.*
5 *Service Employees International Union, Local 1107*, Case No. 2020-021, Item 879. In *Ortiz*, this
6 Board not only reaffirmed the specific principals set forth in *City of Reno* but likewise reaffirmed
7 “The limited deferral doctrine is a prudential doctrine that gives effect to noted public policy of
8 encouraging resolution of disputes under the bargained for grievance procedures.” *Id.* at 2, *quoting*
9 *Munn v. Clark County Firefighters IAFF Local 1904, et. al.*, case No. A1—46045, Item 781 (2012).
10 Further, *Ortiz* also stated “The party desiring that the Board reject the prior administrative findings
11 and proceed with the prohibited labor practice proceedings bears the burden of establishing that
12 the limited deferral doctrine elements have not been met, and thus should not apply.” *Id.* at 3 citing
13 *City of Reno*, at 896, 59 P.3d at 1217; *see also AFSCME Local 4041 v. State of Nevada,*
14 *Department of Veterans Services, Nevada State Veteran’s Home*, Case Nos. 2023-019 and 2023-
15 029, Item No. 909 (finding that the Arbitrator’s decision met the five-part test for deferral and
16 granting respondent’s motion to defer and dismiss).

17 It is generally understood that deferral must be raised by the party seeking deferral, but that
18 party must only prove there was an arbitration award issued and then the burden shifts to the party
19 resisting deferral. Should LVPOA attempt to resist deferral, the CITY expressly reserves its right
20 to file a response once LVPOA has attempted to satisfy that burden.

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28 ...

1 **IV. CONCLUSION**

2 Based on the foregoing, this Board should defer to the Arbitrator's Award issued in the
3 Washington matter.

4 DATED this 1st day of July, 2026.

5 JEFFRY M. DOROCAK
6 City Attorney

7 By: /s/ Michelle Di Silvestro Alanis
8 MORGAN DAVIS
9 Senior Assistant City Attorney
10 Nevada Bar No. 3707
11 MICHELLE DI SILVESTRO ALANIS
12 Deputy City Attorney
13 Nevada Bar No. 10024
14 495 South Main Street, Sixth Floor
15 Las Vegas, NV 89101
16 Attorneys for CITY OF LAS VEGAS

Exhibit A

Arbitrator's Award

Exhibit A

VOLUNTARY LABOR ARBITRATION TRIBUNAL

BEFORE

IMPARTIAL ARBITRATOR KENNETH A. PEREA

In the Matter of Arbitration

Between

CITY OF LAS VEGAS

And

**LAS VEGAS PEACE OFFICERS
ASSOCIATION**

Re: Maurice Washington Grievance

IMPARTIAL ARBITRATOR'S

FINDINGS

AND

AWARD

The above-entitled matter is conducted pursuant to the provisions of a Collective Bargaining Agreement ("Agreement") effective July 1, 2022, and continuing in full force and effect through June 30, 2025, between City of Las Vegas ("City") and Las Vegas Peace Officers Association ("LVPOA"). The parties agree the matters at issue are properly submitted for final and binding adjudication before Impartial Arbitrator Kenneth A. Perea.

I. THE HEARING

This dispute was heard pursuant to agreement of the parties via Zoom on January 8, 2026. Throughout the course of the hearing, both parties were afforded full opportunity to present sworn testimony, cross-examine witnesses and introduce documentary evidence. A verbatim transcript of the proceedings was thereafter prepared by Cynthia L. Gloe, RPR, Rocket Reporters. The matter was submitted upon post-hearing briefs. The grievant, Maurice Washington, who attended the entire proceedings and testified upon his own behalf, was fully and fairly represented by the LVPOA.

II. THE APPEARANCES

The grievant, Maurice Washington, and LVPOA were represented in the above-entitled matter by Adam Levin, Attorney at Law, Law Offices of Daniel Marks, 610 South Ninth Street, Las Vegas, NV 89101. City was represented by Jeffrey M. Dorocak, City Attorney, through Morgan Davis, Senior Assistant City Attorney, 495 S. Main Street, Sixth Floor, Las Vegas, NV 89101.

III. THE MATTERS AT ISSUE

The issues presented for adjudication in the instant proceedings may be stated in the following terms:

1. Did City violate Articles 1 and 25 of the Agreement which incorporates State of Nevada's Rights of Peace Officers' statutes under NRS Chapter 289, and/or any other provisions of Article 25 of the Agreement when it placed Corrections Officer Maurice Washington on indefinite unpaid suspension after Corrections Officer Maurice Washington was charged with one or more felonies?
2. If so, what is the appropriate remedy?

IV. THE FINDINGS OF FACT

In the early morning hours of Monday, May 12, 2025, City's Department of Public Safety ("DPS") received notification from Las Vegas Metropolitan Police Department ("LVMPD") that DPS Corrections Officer Maurice Washington ("CO Washington") had been arrested and was being held in custody at Clark County Detention Center pending investigation for Felony DUI resulting in the death of a pedestrian who was walking in a crosswalk.

DPS immediately prepared a Notice of Paid Leave to be served upon CO Washington following his release from custody and began gathering and reviewing information about his alleged criminal misconduct for purposes of making a determination concerning his future employment with DPS. Once LVPOA advised DPS that CO Washington had posted bail and

been released from custody, DPS obtained and reviewed documents reflecting CO Washington had been released from custody after posting bail of \$250,000 and placement under house arrest/electronic monitoring. DPS thereafter placed CO Washington on paid leave pending investigation.

DPS then obtained and reviewed LVMPD's police report concerning the May 12, 2025, arrest of CO Washington, which included his admissions, as well as physical evidence and statements documenting he had (1) been driving a vehicle at a high rate of speed, (2) earlier been drinking alcohol, (3) fatally struck a pedestrian in a crosswalk with his vehicle, (4) fled the scene of the collision with a pedestrian, and then (5) returned to the scene of the collision shortly thereafter visibly showing signs of impairment. A few days later, a criminal complaint was filed against CO Washington by Clark County's Office of the District Attorney. DPS thereafter obtained and reviewed a toxicology report concerning CO Washington indicating that blood alcohol samples taken of him reflected a significant level of intoxication due to alcohol consumption. After DPS obtained and reviewed the above information, it administratively concluded information existed to support the conclusion it was likely the felony charges pending against CO Washington were accurate.

On Thursday, May 22, 2025, Senior Assistant City Attorney Morgan Davis ("Senior Assistant City Attorney Davis") discussed the matter of CO Washington's DPS employment with representatives of LVPOA. Senior Assistant City Attorney Davis opined it appeared clear CO Washington had engaged in serious criminal activity on May 12, 2025, and that based upon what DPS had determined following its review of the before-mentioned documents, City did not intend to continue CO Washington's placement on paid leave at taxpayers' expense pending a final disposition of the criminal complaint filed against CO Washington.

By June 9, 2025, City and LVPOA were in the process of discussing a mutually agreeable date and times to conduct a pre-disciplinary, due process meeting regarding a Notice of Intent

to Place CO Washington on Leave without Pay. It was agreed a due process meeting would be scheduled for June 11, 2025, and the foregoing notice was served upon CO Washington and his LVPOA representative via email.

On June 11, 2025, a recorded pre-disciplinary, due process meeting concerning placement of CO Washington on Leave without Pay due to the events of May 12, 2025, was conducted. Following the meeting and consideration of LVPOA's contentions on CO Washington's behalf, City placed CO Washington on unpaid leave pending investigation.

On June 19, 2025, LVPOA, upon CO Washington's behalf initiated the subject grievance challenging City's determination he be placed on unpaid leave pending disposition of the criminal complaint filed against him. Pursuant to the Agreement between LVPOA and City, on June 30, 2025, a recorded grievance meeting before a representative of the City Manager's Office was conducted. At that time, LVPOA again asserted on CO Washington's behalf, "If you want the ability to suspend an officer without pay pending a criminal investigation, under the Bill of Rights, it must be negotiated. And it's not in our contract. It hasn't been negotiated."

On July 8, 2025, LVPOA's grievance on CO Washington's behalf was denied by the City Manager's Office. LVPOA thereafter timely referred the matter to arbitration before Impartial Arbitrator Kenneth A. Perea.

V. RELEVANT STATUTORY AND CONTRACTUAL PROVISIONS

RIGHTS OF PEACE OFFICERS

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NRS 289.057 Investigation of allegation of misconduct; law enforcement agency prohibited from taking certain actions during investigation; review of file by peace officer under certain circumstances; law enforcement agency prohibited from keeping or making record of investigation or punitive action; reassignment of peace officer under certain circumstances.

1. Except as otherwise provided in this subsection, an investigation of a peace officer may be conducted in response to a complaint or allegation that the peace officer has engaged in

activities which could result in punitive action. Any such investigation of a peace officer must be commenced by the law enforcement agency within a reasonable period of time after the date of the filing of the complaint or allegation with the law enforcement agency. A law enforcement agency shall not conduct an investigation pursuant to this subsection if the complaint or allegation is filed with the law enforcement agency more than 5 years after the activities of the peace officer occurred.

2. Except as otherwise provided in a collective bargaining agreement, a law enforcement agency shall not:

(a) Suspend a peace officer without pay; or

(b) Deny an increase in seniority or compensation, unless an investigation may lead to dismissal or demotion, during or pursuant to an investigation conducted pursuant to this section until all investigations relating to the matter have concluded.

...

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

The provisions of subsections 2, 3 and 4 of NRS 289.057 and NRS 289.060, 289.070 and 289.080 do not apply to any investigation which concerns alleged criminal activities.

ARTICLE I – RECOGNITION

Pursuant to the provisions of the Local Government Employee Management Relations Act, Chapter 288, Nevada Revised Statutes as amended, the City of Las Vegas (hereinafter call the "CITY") recognizes the LAS VEGAS PEACE OFFICERS ASSOCIATION (hereinafter call the "ASSOCIATION") as the exclusive representative of the eligible Department employees as hereinafter defined for the purpose of collective bargaining. The Association makes the Agreement in its capacity as the exclusive bargaining agent for the Department employees in the bargaining unit.

The City and the Association agree that, members of the Bargaining Unit who have "Peace Officer" status are covered by NRS 289 (Rights of Peace Offices). Both parties will also comply with future legislative changes to NRS 289. Those changes, if any, will supersede the rights listed below.

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ARTICLE 25 – DISCIPLINARY ACTION

Section 1. Grounds for Disciplinary Action

The City shall adhere to NRS 289, Peace Officers Bill of Rights when initiating discipline under this Article. The City will not take corrective or disciplinary action against an employee except for

just cause, as defined below. The city shall follow the disciplinary procedures set forth below in enforcing any discipline.

An employee shall be notified in writing of any possible disciplinary action within thirty (30) days of the incident-giving rise to the possible discipline, or within thirty (30) days of when the City discovers or reasonably should have discovered the facts supporting possible discipline. Except as otherwise noted in this paragraph, no disciplinary action shall be taken on incidents occurring six (6) months prior to the administration of disciplinary action.

Internal investigations will normally be completed within 60 days of complaint unless an extension is approved by the Chief or designee. Complainants will be informed of the status of the investigation at least every 30 days and/or if a case extension is granted.

The City shall make a determination of the level of disciplinary action meted out no later than thirty (30) days from the date of the first disciplinary meeting. The two thirty (30) day limitation periods and the six (6) month limitation period do not include vacation leave or any other leave taken by the employee.

An employee may appeal any written reprimand, demotion, suspension or other form of discipline through the grievance procedure of this contract, which shall be exclusive remedy for the appeal of disciplinary actions. Oral reprimands may not be grieved. Written reprimands may be grieved up to and through Step 3 - City Manager level of grievance procedure.

LVPOA representation shall be allowed at every level of discipline. Nothing in this paragraph shall be interpreted as prohibiting the application of progressive discipline as set forth in paragraph (B) based upon prior disciplinary action being taken against any employee.

Section 2. Progressive Disciplinary Action

The City and the Association recognize the principle of progressive discipline as the form of discipline to be used by the City. Discipline shall be progressive from a minor form of discipline to major disciplinary actions. Serious disciplinary offenses may result in the disciplinary procedure starting at some level other than an oral warning. Discipline steps may be skipped, depending on the severity of the offense. Nonetheless, skipping steps in the discipline process shall be the exception of the general rule requiring following progressive discipline.

Section 3. Progressive Discipline Steps - The usual progressive discipline steps are:

A. Oral Reprimand or Warning - This is the first disciplinary step taken by a supervisor which puts an employee on notice that the

employee's behavior or performance is not acceptable in specific and identifiable areas and that further unacceptable behavior or performance in the same area may result in more severe disciplinary action. The intent is for the supervisor to give the employee a clear notice that the specific behavior or performance should be corrected. Oral reprimands are to be documented in memo form with the supervisor and employee each signing and keeping a copy for their record. Copies of the memo are not to be placed in the employee's Department or Human Resources personnel file. Oral reprimands are valid for a period of up to nine (9) months.

B. Written Reprimand - This is the first level of discipline which is documented and which may be placed in the employee's personnel file. Supervisor shall document the violation and corrective action as identified in 1 above, on an Employee Interview form. The employee who is the subject of the disciplinary action will be allowed to read the Employee Interview form, may make any comments desired, and will then sign the form and may prepare a response to the allegations contained therein. That response, if prepared, shall be attached as a permanent part of the written reprimand. However, the failure of the employee to respond or deny the charges on the form shall not be interpreted as a waiver of any of the employee's rights under the agreement or as an admission that the allegations are true.

C. Suspension - Suspension may be used after a written reprimand has apparently not corrected the specific unacceptable performance or behavior or rule violations. Documentation is done on an Employee Interview form, as described in paragraph 2, above. Suspensions in excess of 40 hours must have the approval of the City Manager or designee.

D. Other Disciplinary Actions - After an employee has been suspended, if there is a continuation or reoccurrence of the problem that caused the suspension, the employee may be subject to more serious discipline. The same procedure regarding documentation and rebuttal must be followed, as in the case of a written reprimand or suspension. Examples are:

- a. **Reduction in Classification** - This involves the individual reducing in classification from the position currently held to one in a lower pay grade or one of lesser responsibility. This step should be used when the difficulties the employee is experiencing appear to stem from the level of duties and/or responsibilities of the position currently held.

- b. Reduction in Salary Step - When it can clearly be shown that a monetary punishment other than a suspension is appropriate, the employee's salary step may be reduced by one step for, a maximum of thirteen (13) pay periods, or withheld.

E. Termination - Termination is the final step of the progressive disciplinary process. Termination is used when other efforts to correct a disciplinary situation have failed or when the offense committed by the employee is a very serious nature as so to warrant immediate separation from employment.

...

Section 7. Just Cause

Just Cause exists when an employee commits an act of substance relating to the character or fitness of the employee to perform official duties that is contrary to sound public practices or acceptable work performance. The following, although not all inclusive, shall constitute just cause:

- A. Conviction of an offense which is punishable as a felony or gross misdemeanor in the State of Nevada, conviction of an offense in any place other than the State of Nevada, which offense if committed in the State of Nevada, would be punishable as a felony or gross misdemeanor, or conviction of any offense which involves moral turpitude;
- B. Knowing violation of City or Department Rules and Regulations that do not conflict with the terms of this Agreement and have been properly approved by the City Manager or Chief Officer - Public Safety and have been punishable in writing and circulated;
- C. Solicitation of the public for money, goods or services which has not been approved in accordance with established departmental procedures;
- D. Acceptance of any substantial reward, gift or other form of remuneration, in addition to regular compensation for City related duties;
- E. Repeated incompetency, repeated inefficiency, repeated carelessness, abuse of sick leave, neglect of duties, unexplained and unapproved absence from duty, excessive absenteeism or tardiness, misuse of theft of City property, continuing or life-threatening safety violations, on the job alcohol, or other drug abuse, malfeasance, misconduct in office, conduct unbecoming an employee, or insubordination;

F. Physically striking or threatening a supervisory, managerial, or other employee;

G. Striking in violation of this Agreement, or of NRS 288;

The above grounds are not deemed all inclusive, but merely descriptive.

ARTICLE 26 – GRIEVANCE PROCEDURES

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Section 3. Grievance Procedure

Any dispute concerning interpretation or application of an expressed provision of this Agreement, departmental rules and regulations that violate a provision of this agreement or are applied in an unfair or inconsistent manner or a dispute regarding a disciplinary action taken against an employee shall be subjected to this grievance 6 procedure. It is agreed that the City has a right to discipline or discharge employees for just cause. Disciplinary actions, except oral reprimands, shall be subject to the Grievance Procedure. Oral reprimand is defined as a verbal warning, which is not placed within the employee's personnel file. The City shall have just cause for any disciplinary action.

...

Section 4. Arbitration Procedures

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Decisions of the arbitrators shall be final; however, the arbitrator shall have no power to add to, subtract from, or modify the terms of this agreement and department Rules and Regulations, except to the degree when rules conflict with this Agreement; and shall make his decision within thirty (30) calendar days from conclusion of the hearing or as agreed upon by the parties.

NRS 289.057(2) Except as otherwise provided in a collective bargaining agreement, a law enforcement agency shall not suspend a peace officer without pay during or pursuant to an investigation conducted pursuant to this section until all investigations relating to the matter have concluded.

VI. THE PARTIES' CONTENTIONS

A. LVPOA's Contentions

In 2007, Nevada's Rights of Peace Officer statute ("NROPO") was amended by Assembly Bill 298 to add a new subsection (2) to NRS 289.057 which provides:

A law enforcement agency shall not suspend a peace officer without pay during or pursuant to an investigation conducted pursuant to this section until all investigations relating to the matter have concluded.

The above reference to "an investigation conducted pursuant to this section" refers to an internal investigation conducted by the agency employing the peace officer. (See NRS 289.057(1); *City of Las Vegas v. Las Vegas Police Protective Association*, 561 P.3d 1059, 1062 (2025) (an investigation pursuant to NRS Chapter 289 "is an 'internal' one").)

In the 2011 legislative session, NRS 289.057(2) was again amended by Assembly Bill 265 to add the language, "Except as otherwise provided in a collective bargaining agreement" to the beginning of the statutory language. Therefore, from 2011 through the present the statute has unambiguously stated as follows:

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

The language of the foregoing statute is clear and unambiguous. If a law enforcement agency wishes to be able to suspend a peace officer without pay prior to the completion of all investigations, the agency must negotiate such a provision into a collective bargaining agreement. In the absence of such a provisions, a law enforcement agency may not do so.

City has no provision within its Agreement with LVPOA permitting it to suspend indefinitely and without pay a peace officer who has been charged with a felony such as CO Washington. When City informed LVPOA that it was intending to convert CO Washington's paid administrative leave to an indefinite unpaid suspension as a result of felony charges

pending against him, LVPOA immediately informed City it had to negotiate to add such a right into the Agreement with LVPOA. The parties were in open contract negotiations at the time and invited City to make such a proposal. At CO Washington's initial hearing before Deputy Chief Matthew Triplett in connection with the notice of intent to impose such an indefinite suspension without pay, LVPOA reiterated that this needed to be negotiated and that City had not done so despite the open contract negotiations. The obligation to bargain such was raised yet again at the Step 3 grievance hearing before Assistant City Manager Tim Hacker. Despite the willingness of LVPOA to consider a proposal by City for the ability to suspend peace officers without pay when charged with felonies pending the outcome of the criminal charges, City never sought to do so.

Nevada's Rights of Peace Officers statutes ("NROPO") are incorporated into LVPOA's Agreement with City. Because the Agreement does not grant City the ability to suspend peace officers without pay based upon mere arrest or charges, changing CO Washington from paid administrative leave to indefinite leave without pay status violated the terms of the Agreement. The Impartial Arbitrator must therefore conclude City violated the Agreement upon placing CO Washington on unpaid leave and order he be made whole for all loss of pay and benefits.

B. City's Contentions

Suspension without pay resulting from serious criminal charges like those alleged against CO Washington do not implicate due process. City's position is that given the serious nature of the allegations, once there were positive assurances that CO Washington had engaged in alleged serious criminal activities, taxpayers should not have to provide him with paid leave while he was under house arrest awaiting disposition of criminal charges. NRS 289.057(2) clearly and expressly does not apply to situations like this involving allegations of serious criminal activities. The first and every subsequent Agreement agreed to by the parties incorporated City's Civil Service Rules which provided for non-disciplinary suspension without

pay, and no provision was ever negotiated that was in conflict with that. Given all these reasons, during its negotiations with LVPOA, City did not need to pay a ransom in the form of new quid pro quo for an existing right.

In *Gilbert v. Homar*, 520 U.S. 924, 117 S.Ct. 1807, 138 L.Ed 2d 120 (1997), the United States Supreme Court reviewed the suspension without pay of a law enforcement officer following his arrest on felony charges. That unanimous opinion contained several important points. Most significantly, the High Court held:

On the other side of the balance, the State has a significant interest in unilaterally suspending, when felony charges are filed against them, employees who occupy positions of great public trust and high public visibility, such as police officers. Respondent contends that the interest in maintaining public confidence could have been accommodated by suspending him with pay until he had a hearing. We think, however, that the government does not have to give an employee charged with a felony a paid leave at taxpayer expense. If his services to the government are no longer useful once the felony charge has been filed, the Constitution does not require the government to bear the added expense of hiring a replacement while still paying him. (*Id.* at 932, 1813.)

In holding the employee was not entitled to due process prior to the suspension without pay based on his arrest and drug-related charges, the High Court first utilized a familiar balancing test that used three distinct factors: 1) the private interest affected by the official action; 2) the risk of erroneous deprivation of such interests through the procedure used and the probative value of additional or substitute procedures; and 3) the government interest. It is the position of City that the action in this case was not a disciplinary suspension or de-facto termination case, and just cause, including due process considerations of notice and opportunity to be heard prior to a decision, are not at issue. Nonetheless, it must be noted that City made sure to provide those hallmark elements in this matter. Stated differently, although it was not required to do so, City still provided CO Washington and LVPOA meaningful notice and opportunity to be heard before it took the action in question. Of the three factors balanced, the High Court made clear to indicate the most important was the risk of erroneous deprivation and

the likely value of any additional procedures. (*Id.* at 933, 1813.) In analyzing that factor, the High Court made clear that the arrest and filing of charges are positive assurances that there were reasonable grounds to support the suspension without pay, stating, “First, as with an indictment, the arrest and formal charges imposed against the respondent ‘by an independent body demonstrat[e] that the suspension is not arbitrary.’” (Citation omitted.) Second, like an indictment, the imposition of felony charges “itself is an objective fact that will in most cases raise serious public concern.” (*Id.* at 934, 1814.) The High Court noted that an arrest and being formally charged “. . . serve to assure that the state employer’s decision to suspend the employee is not ‘baseless or unwarranted,’ in that an independent third party has determined there is probable cause to believe the employee committed a serious crime.” (*Id.* at 934, 1814.) With those factors in mind, it is important to understand and appreciate the steps DPS undertook, the information that resulted from and was reviewed from those efforts, and the extremely high level of assurances that existed that City action was not arbitrary, baseless or unwarranted.

DPS diligently obtained and reviewed information that provided positive assurances CO Washington had engaged in the criminal activities alleged before proceeding to place him on unpaid leave pending disposition of the criminal charges against him.

It is also significant to note that while DPS moved promptly, it did not rush to judgment based merely on CO Washington’s arrest. Rather, DPS diligently gathered and reviewed information, and only once it became abundantly clear that there was an extremely high level of assurances that the charges were true, and not baseless, did City act.

Before taking the action, DPS gathered and reviewed a significant amount of information. For example, once DPS was notified by LVMPD, a neighboring law enforcement agency, that CO Washington was arrested and in custody as a part of their investigation of alleged criminal activities, DPS took several affirmative steps to confirm the basic facts. A DPS representative went to Clark County Detention Center and confirmed CO Washington was in

custody. Thereafter, DPS obtained and reviewed the police report. That report reflected several witnesses reporting seeing a black Mercedes Benz strike a pedestrian and flee the scene. It noted LVMPD officers responded and found a pedestrian at the scene who was pronounced dead. It also reflected LVMPD officers located physical evidence at the scene that was determined to be from a black Mercedes Benz. Further, the police report reflected that CO Washington's cousin appeared at the scene and confirmed CO Washington drove a black Mercedes; placed CO Washington at a Hookah Lounge shortly before the accident; indicated that CO Washington had hit someone with that car; and that CO Washington told him he was going to return to the scene. Further, the police report indicated CO Washington himself appeared at the scene and showed signs of impairment; confirmed the collision occurred; and indicated he had left the scene, and where he left the car, which was then located by LVMPD. The report also reflected that CO Washington failed a field sobriety test, was transported to custody where a warrant was obtained from a judge based on probable cause, and blood alcohol samples were collected for testing. DPS later determined that CO Washington had appeared before a judge for a 72-hour hearing, who, like the judge who signed the warrant for the blood test, represented another independently made determination of "probable cause." DPS also confirmed that a significant bail amount had been set, because the State had provided the court clear and convincing evidence that no less restrictive alternative to monetary bail would satisfy its interest in ensuring the defendant's presence and community safety. DPS also independently confirmed the release order was based not only on \$250,000 bail, but Electronic Monitoring – High Level, which is house arrest with an ankle monitor. At this point, DPS still continued to closely monitor the situation and confirmed, obtained and reviewed a formal Criminal Complaint that was filed by the District Attorney's Office, charging multiple felonies. This demonstrated that a third independent authority, the District Attorney, had undergone a screening process and determined there was sufficient cause to believe the allegations would be

proved beyond a reasonable doubt. The timing of the Complaint, and the specific factors and allegations that were pled, particularly a resulting death, led DPS to conclude that the blood alcohol results had been requested and received on an expedited basis, and were positive. DPS did not rest on that logical assumption, but rather independently obtained and reviewed those results as well. The results of two separately collected samples showed significant levels of impairment approximately twice the legal limit. At this point, it was abundantly clear the charges were not only extremely serious, but there was significant evidence the charges were true.

NRS 289.057, the basis for LVPOA's grievance in this matter, was not originally part of the Nevada Police Officers Bill of Rights but was added in 2005. Significantly, as originally adopted in 2005, that section contained no reference to suspension without pay. However, at the time of its adoption, a conforming change to NRS 289.090 was also made, expressly indicating that new section, like 289.060, 289.070, and 289.080 had previously been, were not applicable to any investigation which concerns alleged criminal activities. In 2007, section 2 of NRS 289.057 was inserted stating, "a law enforcement agency shall not suspend a peace officer without pay during or pursuant to an investigation conducted pursuant to this section until all investigations related to the matter have concluded." When adopted, that section was expressly made inapplicable to investigations that include allegations of criminal activities. The current version of NRS 289.057, which recognized that Agreement provisions could allow for suspension as a result of administrative allegations, was added in 2011. It was clear that as adopted the section also never applied to situations like the one here involving criminal activities.

LVPOA's grievance on behalf of CO Washington must be denied for the reasons stated above.

VII. DISCUSSION AND CONCLUSIONS

In the above-entitled matter, LVPOA challenges DPS' decision changing CO Washington's employment status from leave with pay to leave without pay pending Justice Court, Las Vegas Township, Clark County Nevada's disposition of criminal complaint charges against him. According to LVPOA, NROPO codified at NRS Chapter 289, NRS 289.057(2) provides,

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

In its grievance upon CO Washington's behalf, LVPOA reasons that because DPS suspended CO Washington without pay prior to the Justice Court's disposition of felony criminal charges then pending against him, the above-quoted provision of NRS Chapter 289.057(2) was violated and CO Washington must accordingly be made whole by issuance of an award including backpay and all fringe benefits due him until such time as the Justice Court's disposition of the before-mentioned criminal complaint charges pending against him.

It is a well-accepted principle of statutory interpretation that "no part of a statute should be rendered nugatory, nor any language turned to mere surplusage, if such consequences can properly be avoided." (*Paramount Ins. v. Rayson & Smitley*, 86 Nev. 644, 649, 472 P.2d 530, 533 (1970) (quoting *Torreyson v. Board of Examiners*, 7 Nev. 19, 22 (1871).) "Courts must construe statutes . . . to give meaning to all of their parts and language . . . the court should read each sentence, phrase, and word to render it meaningful within the context of the purpose of the legislation." (*Bd. of County Comm'rs v. CMC of Nevada*, 99 Nev. 739, 744, 670 P.2d 102, 105 (1983).)

It is clear that NRS Chapter 289.057(2) forbids suspension of a peace officer without pay during or pursuant to an investigation until all investigations related to the matter have been

concluded. The foregoing requirement, however, was adopted contemporaneously with passage of NRS 289.090 which explicitly provides, “subsections 2, 3 and 4 of NRS 289.057 and NRS 289.060, 289.070 and 289.080 *do not apply* to any investigation which concerns alleged criminal activities.” (Emphasis added.)

Because it is clear the investigation of CO Washington at issue in this matter involved alleged criminal activities committed on May 12, 2025, due to his driving a motor vehicle while intoxicated, fatally striking a pedestrian in a crosswalk with his motor vehicle and then fleeing the scene of the accident, it is undisputed the investigation of CO Washington, due to the foregoing circumstances, concerned alleged criminal activities. As quoted above, however, NRS 289.090 clearly exempts from NRS 289.057(2)’s requirements “any investigation which concerns alleged criminal activities.” To construe the requirements of NRS 289.057(2) under the foregoing circumstances in the absence of consideration of NRS 289.090’s exemption terms would render the latter statutory provisions to be surplusage in clear contravention of accepted statutory interpretation principles.

It therefore follows that the investigation of CO Washington due to the before-mentioned events of May 12, 2025, was exempt from NRS 289.057(2)’s requirement that a law enforcement agency may not suspend a peace officer without pay during or pursuant to an investigation until all investigations relating to the matter have been concluded except as otherwise provided in a collective bargaining agreement. Following careful review, it is furthermore concluded the parties’ Agreement did not otherwise require CO Washington could only be suspended with pay pending investigation of his alleged criminal activities on May 12, 2025.

DPS did therefore not violate NRS 289.057(2), as incorporated into the parties’ Agreement, by suspending CO Washington without pay pending disposition of alleged felony criminal charges. LVPOA’s grievance on CO Washington’s behalf must accordingly be denied.

AWARD

City did not violate Articles 1 and 25 of the Agreement which incorporates State of Nevada's Rights of Peace Officers' statutes under NRS Chapter 289, and/or any other provisions of Article 25 of the Agreement when it placed Corrections Officer Maurice Washington on indefinite unpaid suspension after Corrections Officer Maurice Washington was charged with one or more felonies.

Dated: May 14, 2026
Del Mar, California

Kenneth A. Perea

**KENNETH A. PEREA
IMPARTIAL ARBITRATOR**

LVPOA (Complainant)

**Opposition to Motion to Defer to the
Arbitration Decision**

LAW OFFICE OF DANIEL MARKS
DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
office@danielmarks.net
ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
alevine@danielmarks.net
610 S. Ninth Street
Las Vegas, Nevada 89101
(702) 386-0536; FAX (702) 386-6812
*General Counsel for Las Vegas
Peace Officers Association*

STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

LAS VEGAS PEACE OFFICERS
ASSOCIATION,

Complainant,

and

CITY OF LAS VEGAS,

Respondent

CASE NO.: 2025-011

**OPPOSITION TO MOTION TO DEFER
TO THE ARBITRATION DECISION**

Las Vegas Peace Officers Association by and through undersigned counsel hereby opposes
Respondent's Motion to Defer to the Arbitration Decision as follows:

**I. THE BOARD SHOULD NOT DEFER TO THE ARBITRATOR'S DECISION
BECAUSE STATUTORY DISPUTES UNDER THE PEACE OFFICERS BILL OF
RIGHTS LACK THE "AGREEMENT TO BE BOUND" REQUIREMENT OF THE
DEFERAL DOCTRINE.**

This case arose under the provisions of NRS 289.057(2) which states "Except as otherwise
provided in a collective bargaining agreement, a law enforcement agency shall not (a) Suspend a peace
officer without pay ... during or pursuant to an investigation conducted pursuant to this section until

1 all investigations relating to the matter have concluded.” The City of Las Vegas did not negotiate any
2 such provision within its collective bargaining agreement with the Las Vegas Peace Officers
3 Association (“LVPOA”). It unilaterally converted the suspended with pay status of former Corrections
4 Officer Maurice Washington to suspended without pay following felony charges against Washington.¹
5 LVPOA informed the City that such must be negotiated per NRS 289.057(2) and that it was willing to
6 do so as the parties were an open contract negotiations at the time. The City refused leading to the
7 filing of the Complaint in this matter.

8 Nevada has adopted a Peace Officers Bill of Rights (hereafter “POBR”). By statute LVPOA
9 had to first present the matter to an arbitrator on behalf of Washington. NRS 289.120 entitled “Judicial
10 relief available for aggrieved peace officer” states:

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

16 Thus, Washington and LVPOA could not immediately proceed to district court to address the City’s
17 violation. The City knows that LVPOA planned on pursuing judicial action and was informed of such
18 shortly after the arbitrator issued his decision in connection with the grievance of Maurice Washington.
19 (Exhibit “1”). That judicial action is being finalized for filing this week.

20 The deferral doctrine was adopted by the Nevada Supreme Court in *City of Reno v. Reno Police*
21 *Protective Ass’n*, 118 Nev. 889, 59 P.3d 1212 (2002). However, a key component of that doctrine is

22
23
24 ¹ Washington has since retired following his conviction of a felony as that conviction prevents him from holding
the status of a peace officer.

1 the requirement "that the parties agreed to be bound" by the arbitrator's decision. In rejecting
2 application of the deferral doctrine the Supreme Court in *City of Reno v. Reno Police Protective Ass'n*
3 specifically stated:

4 First, the parties did not agree to be bound by the arbitrator's decision regarding
5 mandatory subjects of bargaining. In fact, the contract specifically stated that
6 disputes concerning mandatory bargaining were to be submitted to the EMRB.
7 Further, under the contract, an arbitrator's decision as to negotiable subjects is not
8 final, or binding. When the NLRB has deferred to arbitration awards, the parties
9 had specifically agreed to be bound, under their collective bargaining agreement,
10 to the arbitrator's decision on that particular matter.

11 118 Nev. at 896, 59 P.3d at 1217.

12 As a matter of statute there can be no agreement to be bound on disputes under NRS Chapter
13 289. LVPOA and Washington were simply required to exhaust the arbitration remedy before seeking
14 ultimate resolution on a purely statutory issue before the district court.

15 It is well established that a court is not bound by an arbitrator's decision on purely statutory
16 matters. As explained by the United States Supreme Court in *McDonald v. West Branch*, 466 U.S. 284
17 (1984):

18 Because § 1983 creates a cause of action, there is, of course, no question that
19 Congress intended it to be judicially enforceable. Indeed, as we explained in
20 *Mitchum v. Foster*, 407 U.S. 225, 242 (1972), "[the] very purpose of § 1983 was
21 to interpose the federal courts between the States and the people, as guardians of
22 the people's federal rights -- to protect the people from unconstitutional action
23 under color of state law." See also *Patsy v. Florida Board of Regents*, 457 U.S.
24 496, 503 (1982). And, although arbitration is well suited to resolving contractual
disputes, our decisions in *Barrentine* and *Gardner-Denver* compel the conclusion
that it cannot provide an adequate substitute for a judicial proceeding in protecting
the federal statutory and constitutional rights that § 1983 is designed to safeguard.
As a result, according preclusive effect to an arbitration award in a subsequent §
1983 action would undermine that statute's efficacy in protecting federal rights.
We need only briefly reiterate the considerations that support this conclusion.

First, an arbitrator's expertise "pertains primarily to the law of the shop, not the
law of the land." [citation omitted] An arbitrator may not, therefore, have the
expertise required to resolve the complex legal questions that arise in § 1983
actions.

1 Second, because an arbitrator's authority derives solely from the contract,
2 *Barrentine*, supra, at 744, an arbitrator may not have the authority to enforce §
3 1983. As we explained in *Gardner-Denver*: "The arbitrator . . . has no general
4 authority to invoke public laws that conflict with the bargain between the parties.
5 . . . If an arbitral decision is based 'solely upon the arbitrator's view of the
6 requirements of enacted legislation,' rather than on an interpretation of the
7 collective-bargaining agreement, the arbitrator has 'exceeded the scope of the
8 submission,' and the award will not be enforced." ____

9 466 U.S. at 290-291.

10 There would be no reason for the Legislature to require peace officers to exhaust their arbitration
11 procedures under a collective bargaining agreement under NRS 289.120 if the arbitrator's award were
12 to be immune from judicial challenge for a violation of POBR. The Nevada Legislature has created a
13 cause of action for extraordinary and injunctive relief under NRS 289.120, and giving "preclusive
14 effect to an arbitrator's award" would undermine POBR's "efficacy in protecting" peace officer rights.
15 Nevada's POBR is to be construed in a manner consistent with its enforceability. *Ruiz v. City of North
16 Las Vegas*, 127 Nev. 254, 264 n.9, 255 P.3d 216, 223 n.9 (2011).

17 In *Ruiz* the Supreme Court specifically recognized that an arbitrator's ruling under the statute
18 is not final and binding holding:

19 Assuming that Ruiz "exhausted" any applicable internal or CBA-negotiated
20 grievance procedures, *NRS 289.120's plain language grants Ruiz the right to
21 challenge the arbitration decision in district court.*

22 127 Nev. at 263, 255 P.3d at 222 (*emphasis added*). The Supreme Court has further repeatedly recognized
23 "the Peace Officer Bill of Rights represents the Nevada Legislature's recognition that peace officers,
24 because of the important role they play in maintaining public safety, deserve additional protections that

1 are unavailable to other public employees". *Las Vegas Police Protective Ass'n v. Eighth Judicial Dist.*
2 *Court*, 138 Nev. 632, 515 P.3d 842, 848 (2022) citing *Ruiz*, *supra*.²

3 No better illustration of this principle can be found than the recent dispute between the Las
4 Vegas Police Managers and Supervisors Association ("PMSA") and Danny Cordero with Las Vegas
5 Metropolitan Police Department ("LVMPD") (hereafter collectively "*Cordero*"). In *Cordero*,
6 LVMPD demoted Sergeant Danny Cordero. In doing so it violated Sgt. Cordero's rights under NRS
7 289.010 and 289.080. PMSA filed a grievance on behalf of Sergeant Cordero which resulted in
8 arbitration. Arbitrator Hutt refused to remedy the violation and upheld the demotion. (Exhibit "2").
9 Cordero thereafter challenged his demotion under NRS 289.120 by filing a Petition for Extraordinary
10 and Injunctive Relief in district court case number A-24-900488-P. The district court found that
11 Sergeant Cordero's rights had been violated and ordered him reinstated to the rank of Sergeant with
12 backpay. (Exhibit "3").³

13 Arbitrator Kenneth Perea denied the grievance brought by LVPOA on behalf of Washington
14 based upon the arbitrator's view that NRS 289.057(2) does not apply to criminal matters. It is the
15 position of LVPOA and Washington that his construction of the statute results in an absurdity because
16 the statute plainly states "Except as otherwise provided in a collective bargaining agreement", and
17 criminal matters are not a matter of mandatory collective bargaining under NRS 288.150(2). The
18 provisions of NRS 289.090 simply mean that a law enforcement agency does not have to complete a
19 criminal investigation prior to suspending a peace officer; however, all internal investigations must
20 still be completed before suspending a peace officer without pay unless a bargaining agreement

21
22
23 ² Undersigned represented both Officer Lazario Ruiz, and the real party in interest Jordan Travers in *Las Vegas*
Police Protective Ass'n v. Eighth Judicial Dist. Court.

24 ³ Undersigned also represented PMSA and Sergeant Cordero in that matter.

1 provides for the contrary. In *Ruiz*, supra, the Nevada Supreme Court deviated from the plain language
2 of NRS 289.120 because it concluded POBR must be construed in a manner "to avoid unreasonable
3 or absurd results". 127 Nev. 254, 262-264, 255 P.3d 216, 222-223. Of course, that dispute is not before
4 this Board which has long held that it does not have jurisdiction over NRS Chapter 289 matters. See
5 *Laurie Bisch vs. The Las Vegas Metropolitan Police Department and Las Vegas Police Protective*
6 *Association*, Case No. A1-045955 Item No. 705B (2010).⁴

7 **II. THE BOARD SHOULD CONTINUE THE STAY OF THIS MATTER PENDING THE**
8 **OUTCOME OF THE PETITION FOR EXTRAORDINARY AND INJUNCTIVE**
9 **RELIEF BY LVPOA AND OFFICER WASHINGTON.**

10 While, as set forth above, this Board does not have jurisdiction over POBR disputes, it does
11 have exclusive jurisdiction over claims that a local government employer has engaged in a unilateral
12 change in connection with a subject of mandatory bargaining. That is exactly what LVPOA has
13 alleged.

14 While the lack of agreement to be bound in connection with POBR issues should be dispositive,
15 the decision of the arbitrator is also "clearly repugnant" to the purposes and policies of Chapter 288.
16 A unilateral change to a subject of mandatory bargaining is "repugnant to the Employee-Management
17 Relations Act". *City of Reno v. Reno Police Protective Ass'n*, supra.

18 Whether the City violated the act through a unilateral change will ultimately depend upon the
19 court's statutory interpretation of POBR. If the courts agree with the arbitrator that law enforcement
20 agencies may suspend officers charged with felonies without any obligation to bargain, then there will
21 be no prohibited practice by the City and the Board will be free to dismiss the matter at that time.
22 However, should LVPOA/Washington prevail in the judicial challenge the City committed a unilateral
23 change. If the Board dismisses this matter before that legal challenge is decided, and
24

⁴ Again, undersigned's case.

1 LVPOA/Washington ultimately prevail, there will be no opportunity to obtain any remedy from this
2 Board for the City's prohibited practice.

3 This matter was stayed after filing awaiting the outcome of the arbitration. That stay should be
4 continued pending the outcome of the judicial challenge. To do otherwise will deprive
5 LVPOA/Washington of any opportunity for a remedy from this Board in the event that they ultimately
6 prevail on the statutory issue under POBR.

7 DATED this ____ day of July 2026.

8 LAW OFFICE OF DANIEL MARKS

9 /s/Adam Levine, Esq.

10 DANIEL MARKS, ESQ.

Nevada State Bar No. 002003

office@danielmarks.net

11 ADAM LEVINE, ESQ.

Nevada State Bar No. 004673

12 alevine@danielmarks.net

610 S. Ninth Street

13 Las Vegas, Nevada 89101

(702) 386-0536; FAX (702) 386-6812

14 *General Counsel for Las Vegas Peace*
15 *Officers Association*
16
17
18
19
20
21
22
23
24

1 **CERTIFICATE OF SERVICE BY ELECTRONIC MEANS**

2 I hereby certify that I am an employee of the Law Office of Daniel Marks and that on the ____
3 day of July 2026, pursuant to NRCP 5(b) and Administrative Order 14-2, I electronically transmitted
4 a true and correct copy of the above and foregoing OPPOSITION TO MOTION TO
5 ALTERNATIVELY DEFER THE COMPLAINT by way of Notice of Electronic Filing provided by
6 the court mandated E-file & Serve system, to the e-mail address on file for:

7 JEFFRY M. DOROCAK
 City Attorney
8 MORGAN DAVIS
 Senior Assistant City Attorney
9 MICHELLE DI SILVESTRO ALANIS
 Deputy City Attorney
10 495 South Main Street, Sixth FL
 Las Vegas, NV 89101
11 (702) 229-6629 (office)
 (702) 386-1749 (fax)
12 Email: malanis@lasvegasnevada.gov
 Attorneys for CITY OF LAS VEGAS

13
14
15 /s/Joi E. Harper
16 An employee of the
 LAW OFFICE OF DANIEL MARKS
17
18
19
20
21
22
23
24

EXHIBIT 1

EXHIBIT 1

Adam Levine

From: Adam Levine
Sent: Monday, June 8, 2026 11:08 AM
To: Michelle Alanis
Cc: Joi Harper; Ryann Milton; TODD CHAFEE; Ryan Eliason
Subject: RE: Las Vegas Peace Officers Association v. City of Las Vegas, EMRB Case No. 2025-011

Good morning Michelle:

The LVPOA will be pursuing a judicial challenge in the Washington matter. We will not be pursuing any future action in the Santos matter.

Because a judicial challenge is being prepared in connection with Washington, we would request that we continue to stay the EMRB case number above.

Adam Levine
Law Office of Daniel Marks
610 S. 9th St. Las Vegas, NV 89101
(702) 386-0536
alevine@danielmarks.net
General Counsel for the
Las Vegas Peace Officers Association

From: Michelle Alanis <malanis@LasVegasNevada.GOV>
Sent: Thursday, June 4, 2026 2:54 PM
To: Adam Levine <ALevine@danielmarks.net>
Cc: Joi Harper <JHarper@danielmarks.net>; Ryann Milton <rmilton@lasvegasnevada.gov>
Subject: RE: Las Vegas Peace Officers Association v. City of Las Vegas, EMRB Case No. 2025-011

Adam,

Circling back on this. Have you had a chance to meet with the Union on how they plan to proceed?

Michelle Di Silvestro Alanis
Deputy City Attorney
Phone: 702.229.6629

From: Adam Levine <ALevine@danielmarks.net>
Sent: Tuesday, May 26, 2026 9:25 AM
To: Michelle Alanis <malanis@LasVegasNevada.GOV>
Cc: Joi Harper <JHarper@danielmarks.net>; Ryann Milton <rmilton@lasvegasnevada.gov>
Subject: RE: Las Vegas Peace Officers Association v. City of Las Vegas, EMRB Case No. 2025-011

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Lets send in a joint status report stating the Union is still looking at the issue.

I haven't had time to meet with the Union about the issue because I have 2 arbitrations in 3 days.

Adam Levine
Law Office of Daniel Marks
610 S. 9th St.
Las Vegas, NV 89101
(702) 386-0536
alevine@danielmarks.net

From: Michelle Alanis <malanis@LasVegasNevada.GOV>
Sent: Tuesday, May 26, 2026 9:17 AM
To: Adam Levine <ALevine@danielmarks.net>
Cc: Joi Harper <JHarper@danielmarks.net>; Ryann Milton <rmilton@lasvegasnevada.gov>
Subject: RE: Las Vegas Peace Officers Association v. City of Las Vegas, EMRB Case No. 2025-011

Good morning,

Just following up on this. Our joint status report is due today. Do you plan to move forward with the EMRB case?

Michelle Di Silvestro Alanis
Deputy City Attorney
Phone: 702.229.6629

From: Michelle Alanis
Sent: Thursday, May 21, 2026 1:24 PM
To: Adam Levine <alevine@danielmarks.net>
Cc: Joi Harper <jharper@danielmarks.net>; Ryann Milton <rmilton@lasvegasnevada.gov>
Subject: RE: Las Vegas Peace Officers Association v. City of Las Vegas, EMRB Case No. 2025-011

I misspoke. The joint status report is due Tuesday, May 26th. Please let me know if you plan to move forward. Thank you so much.

Michelle Di Silvestro Alanis
Deputy City Attorney
Phone: 702.229.6629

From: Michelle Alanis
Sent: Thursday, May 21, 2026 10:19 AM
To: Adam Levine <alevine@danielmarks.net>

Cc: Joi Harper <jharper@danielmarks.net>; Ryann Milton <rmilton@lasvegasnevada.gov>
Subject: Las Vegas Peace Officers Association v. City of Las Vegas, EMRB Case No. 2025-011

Adam,

As a follow up to the message I left with Joi this morning, I am reaching out to find out how you want to proceed in the EMRB case related to Maurice Washington's unpaid suspension. Based on Commissioner Abellar's last email, the next joint status report is due on or before July 28, 2026, or if an arbitration decision is received, within 10 days of receipt of the arbitration decision. The Arbitration Decision came out last Thursday, so our next status report is due no later than May 28th.

Are you going forward with the EMRB case or do you plan to dismiss? Please advise. Thank you.

CONFIDENTIAL
LEGALLY PRIVILEGED COMMUNICATION

Michelle Di Silvestro Alanis
Deputy City Attorney
Office of the City Attorney | Civil Division
Phone: 702.229.6629
495 S. Main St., 6th Fl. | Las Vegas, NV 89101



lasvegasnevada.gov



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EXHIBIT 2

EXHIBIT 2

OPINION and AWARD

IN ARBITRATION PROCEEDINGS
PURSUANT TO THE AGREEMENT BETWEEN THE PARTIES

In the Matter of Appeal:

Las Vegas Police Managers & Supervisors Association,
Association,

And

Las Vegas Metropolitan Police Department,
Employer.

(D. Cordero Demotion)

Arbitrator Nancy Huff

APPEARANCES

Union:

Adam Levine, Esq.
Law Office of Daniel Marks
610 S. Ninth Street
Las Vegas, NV 89101

Employer:

Nick D. Crosby, Esq.
Marquis Aurbach
10001 Park Run Drive
Las Vegas, Nevada 89145

Date: May 28, 2024

INTRODUCTION

Appellant Danny Cordero ("Appellant" or "Cordero") appeals his demotion from the position of Sergeant with Las Vegas Metropolitan Police Department ("LVMPD" or "Department"), alleging that the Department issued him major discipline (demotion) without just cause. A 6-day hearing on the matter was held before Arbitrator Nancy Hutt on November 20 and 21, 2023; December 7, 2023; and January 3, 4, and 5, 2024.

All witnesses were sworn under oath. The parties had the opportunity to examine and cross-examine witnesses, introduce relevant exhibits, and argue the issues in dispute. A court reporter attended the hearing and subsequently prepared a verbatim transcript. Both parties submitted the matter with post-hearing briefs. The decision of the Arbitrator is hereby issued.

BACKGROUND

On August 30, 2023, an Adjudication of Complaint ("AOC") was issued, demoting Danny Cordero from the rank of Sergeant to Police Officer II. The discipline was issued following an Internal Affairs Bureau ("IAB") investigation into a call for service on September 14, 2022, during which a citizen was fatally stabbed. A Statement of Complaint ("SOC") alleging misconduct by Cordero during the call for service was opened on September 22, 2022. The IAB investigation determined that Cordero violated two Department policies during the call: LVMPD Policy 8.147 Neglect of Duty and LVMPD 7.136 Body Worn Camera.¹

The AOC sustained the IAB determination that Cordero was neglectful of his duties for three (3) reasons:

- (1) IAB determined, based on the factors above, that the threshold for exigency to make entry for life safety had been met, and that it was not necessary for PP to actually articulate that she needed help or was being stabbed. As such, IAB determined by clear and convincing evidence that you violated **LVMPD Policy 8.147 Neglect of Duty** when you failed as a patrol supervisor to recognize the threat to PP of imminent death or substantial bodily harm in accordance with your training and LVMPD Policy 3.510 Hostage Plan and LVMPD 3.505 Barricade Subject Plan.

¹ The Parties stipulated that the determination of violation of LVMPD Policy 7.136 Body Worn Camera was not a basis for the discipline.

- (2) IAB determined that it is reasonable to believe that the screams were indicative of a violent act occurring or about to occur if not instantly confronted based on the facts known to you at the time as articulated above. Therefore, you had the duty and responsibility to make a forcible entry to confront the "imminent threat" posed by PB. As such, IAB determined by clear and convincing evidence that you violated **LVMPD Policy 8.147 Neglect of Duty** when you failed to identify exigent circumstances which would have allowed entry into the apartment under Implied Consent or the Emergency Aid Exception [LVMPD Policy 5.100 Search and Seizure].
- (3) Given the fact that your focus was on the suspect, PB, and not on the victim, PP, and her safety, IAB determined by clear and convincing evidence that you violated **LVMPD Policy 8.147 Neglect of Duty** when you failed to establish life safety as your primary objective [LVMPD Policy 3.500 Major Incident and All Hazard Plan].

The AOC also sustained the IAB determination that Cordero violated the Department's Body Worn Camera policy for the following reason(s):

Throughout IAB's investigation it was also determined that you failed to keep your Body Worn Camera (BWC) activated for the duration of the event. Specifically, you deactivated your BWC a total of six times and never once verbalized a reason for your deactivation, as required by policy. During your interview with IAB, you admitted that you failed to state a reason for the deactivation. As such, IAB determined by clear and convincing evidence that you violated **LVMPD Policy 7.136 Body Worn Cameras**.

As of September 14, 2022, Cordero had been employed by the Department for approximately 13 years and had completed one year as a probationary Sergeant five months prior. As such, Cordero, at the time, was a member of the Police Managers & Supervisors Association ("PMSA"), representing sergeants, lieutenants, and captains employed by the Department.

Cordero graduated at the top of his academy class, and following field training, he worked several assignments in patrol, Problem Solving Unit (detective), Community Oriented Policing, Office of Public Information, and as a Detective in patrol investigations. Cordero also served as a hostage negotiator for the Crisis Negotiation Team for six years. He instructed officers, detectives, sergeants, lieutenants, and captains from LVMPD and other agencies. He responded to over 250 calls as a negotiator, and he received a Life Saving Award for saving the life of a suicidal individual and preventing both his own and his partner's demise. In April 2021, Cordero was assigned to Southeast Area Command

("SEAC") as a supervisor. He completed his probation in April 2022. As a Sergeant, Cordero received satisfactory to excellent scores on his performance evaluations. For the two years prior to becoming a Sergeant, Cordero received the top score in every category on his evaluations. His second quarterly evaluation as a Sergeant commends Cordero for his leadership and for his handling of multiple critical incidents. Prior to September 14, 2022, Cordero had no record of discipline.

September 14, 2022 – Relevant Facts

At approximately 11:10am, September 14, 2022,² Cordero heard a call broadcast on the radio as a domestic disturbance in which a stepfather with two knives was threatening a mother. The call was broadcast as a "STAR Protocol," meaning Supervisor Tactic for Armed Subject Response De-escalation Protocol. This protocol mandates that a supervisor is present for certain armed calls, in order to ensure that LVMPD's de-escalation protocols are implemented. Cordero acknowledged the call and dispatched to the scene; he requested a tactical vehicle, K-9 unit, and Air unit; and issued en route instructions to on-scene officers to separate anyone in the residence from the suspect. This would be Cordero's first hostage call as a Sergeant.

While en route, dispatch relayed additional information from the person reporting ("PR"), Raul, including that his mother's name was Paula, and that the male was about to stab Paula when Raul ran out of the apartment to call 911 from a neighbor's residence. Dispatch also announced no known weapons in the residence, other than the knives. Less than a minute later, dispatch announced that the male subject was known to drink alcohol and been drinking the previous night. It was unknown whether he was under the influence of narcotics at the time. Cordero additionally received information that the PR, Raul, was previously determined to be "mentally ill" (421A) and had previously made unfounded 911 calls.

At approximately 11:22am, Officers Ashley Barney and Carols Morales arrived on scene and situated themselves in the breezeway of the adjacent building. Morales was

² All times are approximate and are expressed in Pacific Time. Testimony at arbitration established inaccuracies in certain CAD-recorded timestamps, as well as inconsistencies between CAD- and BWC-recorded timestamps.

armed with a less-lethal shotgun. Around the same time, Cordero arrived at the four-unit apartment complex and was briefed by Officer Tyler Hauger, who advised that the mother was still inside the apartment, which Cordero did not know. Cordero directed Hauger to get a ram and then asked Dispatch to confirm the mother was still inside. An officer on scene confirmed that Paula was indeed inside the apartment with the male subject.

Cordero twice asked why the mother did not exit the residence, and the PR responded that she was scared his brother was going to stab her. Cordero then said, "we need to get her out." Officer Vince Segura, interviewing Raul, learned that the reported stepfather was actually Raul's brother, Pablo. An officer asked Raul if the door was open, to which Raul responded, "yeah, yeah."

Around that time, another individual approached, yelling, and calling into the apartment for Pablo to come out and fight. Cordero believed initially he may have been the suspect. The individual was restrained by Officer Andrew Loos, who had just retrieved the ram, and the individual was later determined to be a third brother, Rafael. Rafael confirmed that the individuals inside were his mother and brother. Raul told Rafael that Pablo had two knives and was trying to stab their mother.

As the call progressed, Cordero and the officers present discussed tools needed to breach the apartment and force entry. An officer confirmed that a ram was present. Cordero said that he did not want to hit the door. When another officer requested a Halligan tool to pry the door, an officer said the interior door was open and that they just needed to ram it. Barney and Morales testified at arbitration that he observed the metal security screen door was ajar, with a "regular" door behind it. Cordero later broadcast that information.

At that point, Cordero, following LVMPD's Hostage Plan and Barricaded Subject policies prioritizing de-escalation, assembled an action team of four officers (lethal, less-lethal, communication and hands-on, hands-on assistance). Throughout the call, Cordero made tactical adjustments as necessary, assigning some officers to a neighboring upstairs apartment landing to provide additional coverage, re-positioning officers, and re-assigning roles as needed.

In addition to calling Pablo's phone, Cordero used the public address system of the tactical vehicle to reach Pablo and order him to exit the apartment. Cordero positioned

the vehicle facing the target apartment, sending commands to Pablo every few minutes, first in English, then in Spanish, as suggested by another officer. Cordero then announced a plan for the action team in the event that Pablo exited the residence. While Cordero stepped away to answer his phone, the team of officers continued to discuss tactics for breaching the apartment. Throughout the call, officers made tactical suggestions to Cordero, many of which he implemented.

At some point, sounds identified varyingly by officers on scene as screaming, yelling, and/or moaning, were heard emanating from the target apartment, and, in two instances, from other sources. In the first instance, while Hauger and Loos were positioned at the top of the stairway across from the target apartment, Loos knocked on the door to advise the residents inside of the situation. Yelling was then heard from an apartment that was not the target apartment. Approximately one to two minutes later – the second instance – Loos announced there was yelling from another apartment.

At approximately 11:42am, Cordero requested updated information from the PR regarding the threats that were made to the mother, Paula. Another officer responded, "I'm told that he wasn't actually threatening mom specifically today with a knife, but he did say that if she was to leave the residence, if she was to leave, he would stab her." Cordero interpreted these statements as a "conditional threat," rather than an "imminent threat."

Around the same time, Sergeant Freddy Quintero arrived on scene. Cordero explained the situation and asked Quintero to take rear containment. Quintero responded that he would serve as Incident Commander ("IC") and set up a command post outside Cordero's (inner) perimeter. Quintero took two officers with him for that purpose.

Cordero requested a work-up of the subject; in response, information was broadcast that Pablo had a prior firearms-related conviction (413). Barney relayed the information to Cordero, who had not heard the broadcast. Further queries revealed that Pablo was previously convicted of possession of a short-barreled shotgun and other weapons and violent offenses. Acting on the information regarding the prior conviction, Cordero moved the vehicle back from the apartment, and ordered the action team to reposition and seek cover. Cordero broadcast that the prior 413 charges changed the dynamic on scene. No officer objected to that statement, and one responded, "yep." Cordero was particularly concerned about the number and nature of Pablo's prior

convictions, including information that Pablo had used weapons in the past during domestic events and during a robbery.

Shortly thereafter, Cordero broadcast that the subject appeared barricaded with someone inside, that officers received information that he will fulfill the threats, that officers "don't hear any screaming from inside," and that the subject has 413 priors. Very shortly after that, a neighbor living directly next to the subject apartment emerged and informed officers that she could hear the mother and son arguing, which Cordero also broadcast and requested that the time be logged as time of life. At that point, with confirmation of two individuals in the apartment, Cordero made the determination that this was a confirmed hostage situation. Shortly after, the neighbor spoke with Quintero and another officer, who discussed the possibility of placing an officer in her apartment to better hear the activity in the target apartment. Cordero was not informed of that conversation, and he did not himself consider asking the neighbor to enter her apartment.

At approximately 11:45am – the third instance – a loud moaning was heard from the target apartment. Hauger yelled "hold on," and Cordero looked in his direction. Hauger knocked on the nearby apartment door to inquire if kids were inside screaming. A woman responded "yeah" and "probably." Hauger asked her to keep the kids quiet, but then realized the screams may be coming from the target apartment. He did not communicate to Cordero the possibility of the kids as the source of the screams.

Around 11:50am, Cordero informed Quintero that he was going to "call" a hostage barricade. Quintero told Cordero to make contact with the SWAT Commander prior to calling the barricade. SWAT Commander Lt. John Liles was en route to another scene with a SWAT team when he received a call from dispatch notifying him of the hostage barricade and informing him that Cordero needed to speak with him. Cordero was connected to Liles and briefed him. Liles responded that he had another call and would attempt to get to Cordero's scene.

Around the same time, at approximately 11:51am – the fourth instance – additional screams were heard, but they were neither heard by nor communicated to Cordero, as he was on the phone. Thereafter – the fifth instance – another loud scream was heard from the target residence. Barney, who heard the scream, advised Cordero that there was yelling from the target apartment. Hauger overheard and confirmed there was a

female screaming; so did a third officer. Cordero then broadcast that they heard screaming from inside the target apartment. Hauger called down to the action team and Cordero, saying, "that was like a three-second scream, right?" An officer on the action team responded, "yeah." Hauger testified that that the screams he heard sounded female and were "blood curdling" signs of distress coming from the target apartment.

Cordero then asked whether the neighbor could hear anything. He was advised by the neighbor that she could hear Paula was screaming in back (her apartment was directly behind Paula's). Cordero then broadcast that the neighbor heard screaming. At that point, Hauger stated to Cordero, "we gotta hurry this up." Cordero responded, "yeah, I got SWAT rolling." At that point, Cordero did not believe that an imminent situation existed requiring immediate action, nor did he consider asking Hauger why Hauger believed they needed to hurry up.

Cordero next announced to the action team that with the 413 information, they needed to hold. He stated, "if it were different, we would've forced entry. The possibility he might be armed at this point. We gotta hold." At approximately 11:59am, Cordero broadcast a report requested by Lt. Liles, to inform the SWAT team of the situation. Cordero included that Pablo's "been making threats to mom all morning," that "family has exited the residence," that the neighbor reports hearing "the female inside screaming." He also advised of the "priors for 413," and stated that it was a hostage barricade. Lt. Liles advised that he would "try to start heading" to Cordero's scene.

Between 12:01pm and 12:02pm, Cordero broadcast that officers heard screaming and moaning coming from inside the target apartment. He first broadcast that it sounded like the male was screaming – the sixth instance. He then updated that his officer could hear the female screaming and moaning inside – the seventh instance. Barney described the sound at arbitration as "moaning as if she were dying." She additionally stated that the screaming did not sound like arguing or yelling, but rather as though she were being hurt or screaming for her life. Cordero was then advised of two more instances of screams (eighth and ninth), which Cordero also broadcast. Officer Ben Meyers, who was positioned for rear containment about 75 feet from the apartment door, testified at arbitration that he heard "[l]oud, loud screams . . . it was a lot of screaming. It was for a prolonged period of time," and he opined the screams were loud enough that everyone

on the inner perimeter could hear them. Morales testified that the yelling he heard was screaming, distinct from, for instance, a parent yelling at a child.

Cordero testified at arbitration that he was not "concerned" when an officer advised him that she could hear screaming and moaning inside the target apartment. That information did not translate to an imminent threat of death or substantial bodily harm for Cordero. Instead, it was information that told Cordero that the female was inside the apartment "with a moaning and screaming." It did not occur to Cordero that Paula was being hurt or could be hurt. Cordero did not recall hearing a moan, nor did he think it was a moan of pain, but instead "like, she's upset with him, or she's angry with him or she's like, 'ugh.'" He thought the moans signified an argument, displeasure, or potentially a number of other things, but affirmatively did not think that the moans signified imminent death or substantial bodily harm.

Around the same time, at approximately 12:01pm, Cordero radioed to advise Lt. Liles that the door was a "secured door partially opened with the metal security gate." Cordero confirmed at hearing that he was referring to the metal security screen door.

At approximately 12:03pm, Lt. Liles advised that he was diverting his team from the other call and that SWAT assets were rolling to Cordero's scene. At the same time, Quintero texted Cordero, "are you making entry?" Cordero wrote, "he may be armed with a 413 [firearm]." Quintero did not respond. One minute later, at 12:04pm, Cordero broadcast, "SWAT assets rolling this way on the hostage. . . . We are not going to force entry as the subject may be armed with a 413." At the same time, Quintero asked, "are we ready to start evacuations?" Cordero responded, "affirm, I am unable to get the ones above me, I could use two guys for the ones behind me if I can." Quintero responded that he would send two officers from the outer perimeter / command post area.

Quintero testified at arbitration that he texted Cordero about making entry both as a question and as a prompt, based on details he heard broadcast, including multiple instances of the female screaming. When Cordero responded that the subject may be armed, Quintero stated that changed "what I knew or what I thought I knew. . . . If he said armed with 413, I believe he would have had a good reason." Quintero did not know how intelligence was received that Pablo was armed with a firearm and was reliant on the information conveyed by Cordero. While the IC, by policy, has overall management of the

scene, Quintero testified that he did not countermand Cordero's orders and order a forced entry because he did not have the ability even to observe the scene from his location approximately 100-200 yards away.

Sergeant Adam Stubbs, a training sergeant for the Department, described the outer perimeter as a secure area to bring in resources and establish a command post. Officers on the outer perimeter control ingress, egress, public safety, media response, and similar logistics. He described the IC as handling the overall logistics of the call having responsibility for providing the inner perimeter supervisor with the tools and resources needed.

Around that time, Cordero was also communicating with SEAC Bureau Commander, Captain Kristine Buist, who asked, "confirming the apartment has fortifications on door?" Cordero responded, "metal gate in front. Fortifications on balcony." Buist responded, "copy-so no easy entry." Cordero responded, "we are here and he might be armed Capt." Buist later responded, "not second-guessing you. You're doing amazing." At 12:04pm, Cordero stated into his phone, "we are hearing he might be armed."

At 12:06pm, Lt. Liles requested photographs of the front of the residence and any tactical knowledge Cordero had. Cordero took photos from different angles and forwarded them to Liles by text message. At 12:10pm, Cordero relayed the requested tactical information, identifying the downstairs unit and points of entry – windows and doors. Around the same time, Cordero and Hauger were discussing evacuation of the upper unit, as the tenant preferred to shelter in place, but Cordero wanted her to evacuate. Hauger had told her, "It's going to get loud in a second." Similar activity was taking place in the other two non-target apartments. At 12:12pm, Cordero updated that there was "no more screaming or distress inside." At 12:14pm, a final scream – the tenth instance – was heard, and an officer confirmed it was not from the target apartment. Although Cordero knew the scream was not from the target apartment, he felt that the extraneous noises being heard were confusing the situation. Notwithstanding, he did not ask officers for clarification or more information.

About two to three minutes later, Pablo exited the apartment. He was holding two blood-covered knives, a small dog, and a stuffed animal. He fell to the ground and was

taken into custody by the action team without incident. Officers then entered the apartment. They found Paula lying deceased in a pool of blood, having been fatally stabbed 68 times in the chest, stomach, neck, and arms.

BWC footage from various officers, along with those officers' testimony at arbitration, indicated that several non-supervisory officers on scene believed that Paula was in immediate need of protection from Pablo and that the action team needed to breach the apartment and make an emergency entry. According to Cordero's and other officers' testimony at arbitration, however, the statements made by officers – including Hauger, Morales, and Barney were not communicated directly to Cordero. Cordero testified that had officers made such statements, he would have engaged in dialogue about what they were hearing or observing that he was not, and, if necessary, he would have forced entry.

Cordero quite credibly testified that he, as would be expected, is not happy with the outcome of this call, but also that he believes that he made the best decisions he could with the resources he had on September 14, based on his experience and training.

Cordero Decision-Making

Cordero further testified regarding his decision-making that day. He stated that the scene on September 14 was unusual and chaotic and difficult to control, given that the suspect was barricaded inside an apartment complex. He had difficulty hearing throughout the incident because of the radio, the sound from the running engine of the tactical vehicle, and the frequent bull horning to Pablo. He did not consider taking action to reduce noise in the area, as he was not trained to do so.

Cordero testified that during the 20 to 25 hostage calls he worked as a hostage negotiator, screaming was a not uncommon event, and, to him, screams alone do not constitute intelligence that an individual is being stabbed or murdered. He further testified that Departmental training teaches that audio and/or visual confirmation of an emergency is required before entry may be forced. According to Cordero, in his experience and pursuant to his training, there is always either audio or visual confirmation – always "something else besides screaming."

Cordero testified that he believed that he had legal authority to force entry to the apartment that day, pursuant to the LVMPD Search and Seizure policy and the provision for exigent circumstances. Cordero's belief was that Paula being held against her will, with or without the presence of knives, constituted kidnapping, which provided the legal authority to force entry. He could not recall whether he considered the EAE during the call on September 14, but he testified that the EAE did not apply to the circumstances that day.

When asked to explain at arbitration what circumstances he needed in order to make an emergency entry, Cordero first explained that if he knew "absolutely" that there was an "imminent" threat to Paula at that time of "death or substantial bodily harm," he would have forced entry. Cordero several times referenced the Department's Barricaded Subject Plan policy and Hostage Plan policy, both of which state: "Nothing in this plan shall preclude the use of necessary force by officers in protecting themselves and others from death and substantial bodily harm (see LVMPD 3.110, *Use of Force*)."

Cordero explained several times that he was concerned about compliance with the Use of Force policy, and that forcing entry meant closing the distance on Pablo, who was armed with two knives. Cordero's training did not teach him to close distance on a subject armed with knives and he believed that doing so would force preclusion and result in an officer-involved shooting, an action Cordero believed contrary to the Departmental policy and training prioritizing de-escalation.

Cordero's testimony varied about what threshold needed to be met to justify making an emergency entry. Rather than an absolute belief, Cordero later testified that a "reasonable belief" of imminent death or substantial bodily harm provides justification to force emergency entry. Cordero defined reasonable belief by referring to Departmental training, in which training scenarios for making entry pursuant to the EAE were presented that included audio and/or visual confirmation of impending acts. He testified that hearing Paula articulate something to the effect of "don't stab me" would "bring [him] to the level where [he] would feel an exigent circumstances there. And if we don't take action right now, this person is going to be killed." But, Cordero also testified that, because he did not hear all of the screams being reported, he was without knowledge whether Paula was screaming words that would have provided the audio confirmation, such as "help."

Cordero's testimony varied a third time, as he then confirmed that he knew from his training that the requisite reasonable belief threshold does not equate to or require "confirmation" of imminent acts.

Cordero confirmed that no Departmental policy requires utterance of a statement to establish reasonable belief, but again referenced the training he received about the EAE that included audio and/or visual confirmation that allowed him to know, without a doubt, that he should force entry. Cordero emphasized this point: "If the department wanted me to order a breach on a scream, then they should train me so I can train my people to order a breach on a scream."

Internal Investigation

Following the call for service on September 14, Buist was instructed by then-Deputy Chief Yasenla Yatomu to open a Statement of Complaint ("SOC") alleging misconduct by Cordero during the call. Buist disagreed with the need for IAB investigation, believing the matter was best handled by refresher tactical supervision training for Cordero, and refresher entry training for the squad or area command, and by referral to the Critical Incident Review Team ("CIRT"), which reviews critical incidents and makes recommendations as to training, policy and procedure, or other changes needed in light of the incident. Because she was directed to open the SOC for Cordero, Buist also opened a complaint for Lt. Michael Welch, who failed to respond to the scene until after Pablo emerged from the apartment. Lt. Welch was ultimately sustained for violation of LVMPD Policy 8.147 Neglect of Duty, for failing to respond until the conclusion of the incident while he was managing a medical emergency at home. Welch received a contact report (not discipline). Welch was promoted to Captain during the same period of time.

Buist also testified regarding her involvement on September 14. She was listening to the radio traffic, and while monitoring, she heard at least once that officers were hearing screams. She texted Cordero to inquire whether they had means to make entry to the apartment. She confirmed that the IC, the Area Lieutenant (Welch), and she, as the Bureau Commander had the authority to intervene to order Cordero to order a breach. Following the events that day, Cordero briefed Buist. Based on the information available to her, she believed that Cordero had valid reasons for his decision not to breach, in that

she did not perceive that there was ever a moment of “imminent jeopardy.” Buist admitted that, due to her retirement, she had limited information from the investigation available to her, and that she did not see the final investigative report. Buist confirmed that there were several “chain briefings” from IAB to the Executive Staff during the course of the internal investigation, and that the investigation was returned to IAB for additional inquiry more than once. Quintero was not interviewed until after the matter was returned to IAB.

Following the opening of the complaint, and after continuing to work as Sergeant for approximately one month, Cordero was noticed for an IAB interview on October 17, 2022. Two days later, October 19, 2022, he was placed on modified duty. He continued to fulfill the functions of his role as Sergeant, but he was restricted from working in the field. On the same day he was placed on modified duty, Cordero received a text message from Deputy Chief Reggie Rader encouraging Cordero to hang in there and telling him he is a good leader and a good man. Rader had recently left his position as Captain at SEAC and felt an ongoing responsibility and desire to support officers there. At the time he sent the message, Rader had no involvement in the investigation. Months later, in January 2023, Rader requested Cordero to serve as a rater for sergeant promotions for the school district police. Rader testified that he did so because Cordero was restricted from the field, so assigning him to the promotional panel would have lesser impact on the operations of the Department.³

Cordero was noticed for a second IAB interview regarding the truthfulness of statements in his initial interview (he was not sustained for any truthfulness allegations). The final IAB investigative report was issued on April 18, 2023, and the disposition was issued on June 21, 2023. On July 24, 2023, Cordero received a call from Rader informing him that he would be receiving notice for a pre-disciplinary meeting that would state that he was being demoted, but that Rader intended to reduce the demotion to a 40-hour suspension during the meeting. According to Cordero, Rader instructed him not to inform his PMSA representatives about the conversation.

On August 1, 2023, Cordero attended the pre-disciplinary meeting with representatives Troyce Krumme and Dan Coe. Cordero asserts that he began to speak

³ Approximately two months later, in March 2023, Cordero was informed that he would not receive a step increase, which is the subject of another arbitration.

when Rader stopped him and informed him that he would receive a 40-hour suspension with the right to grieve. Coe affirmed that Rader stopped the meeting to announce the 40-hour suspension, at which point Coe said that he wanted Cordero put back to work. Rader testified that he did hear from Cordero and the PMSA representatives, who repeated arguments they had made to him previously. Prior to the conclusion of the meeting, Rader attempted to ask prepared questions of Cordero, to which his representatives objected. Jamie Frost, Labor Relations Counsel, testified that Labor Relations prepared a form in response to questions from captains and chiefs about what type of information they should be obtaining during a pre-disciplinary meeting, such as what the employee is seeking, and whether they disagree with IAB findings, or only with the level of discipline. Following the meeting, Rader accompanied Cordero to make logistical arrangements for Cordero's return to full duty as a Sergeant the following day, August 2, 2023.

On August 2, however, Cordero was re-contacted by Rader who advised that Jamie Frost did not agree to the 40-hour suspension and that Cordero would be demoted. Rader stated that he would work to achieve a different outcome, but he called Cordero again the following day to advise that Cordero would in fact be demoted, as "new information" had come to light. To Rader, the "new information" was his own re-examination of the matter. Cordero was not scheduled for another pre-disciplinary meeting and he was returned to modified duty on August 6, 2023. On September 2, 2023, Cordero returned to duty as a Police Officer II.

Rader testified that the discrepancy in the discipline issued was a product of his inexperience in his new role as Deputy Chief as it pertained to disciplinary decision-making. Rader was initially under the impression that he was the final decisionmaker. Over the course of the previous year, Rader had conversations both with Cordero directly and with PMSA representatives regarding Cordero's issues and standpoints on the matter. Rader attributed his initial perspective on the appropriate level of discipline to his fondness for Cordero and his lack of familiarity with the discipline process. Following the pre-disciplinary meeting, Rader began receiving communications that Cordero's potential return to full duty as a Sergeant would have consequences for officer morale, in that a number of officers disagreed with Cordero's decision on September 14 and subsequently

were not keen to work for him. While officers may not choose their supervisors, the potential impact on morale caused Rader to re-examine his opinion on the matter.

Rader sought counsel from Sheriff Kevin McMahon, who encouraged Rader to tune out extraneous considerations and focus on the facts. McMahon questioned Rader as to what decision he would have made and what his expectation is for his officers. Rader reconsidered the matter and determined that exigency existed pursuant to the EAE, which requires officers to render aid. Rader also expressed concern about Cordero's over-emphasis on the prior firearms convictions, particularly since there was no intelligence that a firearm was present that day, as well as Cordero's position that entry would be justified only with confirmation of impending acts, such as hearing, "help me, I'm being stabbed." From that perspective, Rader believed that a demotion, rather than 40-hour suspension was the appropriate level of discipline.

Rader's decision was additionally influenced by the fact that he did not perceive Cordero to take ownership or responsibility as a supervisor for his judgment call, which prevented Rader from having confidence that Cordero would not repeat such conduct, namely, failing to recognize exigency and failing to recognize that the presence of a firearm was not part of the equation that day. For Rader, those considerations satisfied the factor related to "[t]he effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon the supervisor's confidence and the employee's ability to perform assigned duties." Rader stated that he lost confidence in Cordero: "If he can't discern a firearm prior from ten years ago to an actual gun that's in the residence; if he doesn't understand exigency, I have lost confidence."

Sheriff Kevin McMahon made the final determination as to Cordero's discipline. McMahon, like Rader, had multiple conversations with PMSA representatives during the investigation. His initial opinion was that termination was the likely outcome. McMahon acknowledged that the IAB investigation was not "perfect," but that the material facts did not change because of any imperfections. Again, like Rader and Frost, McMahon was concerned that Cordero was unable to acknowledge any mistake on his part. The absence of such acknowledgment made McMahon uncomfortable that Cordero could perform as a supervisor. McMahon was particularly concerned with Cordero's lack of understanding of the EAE and lack of understanding of the significance of the screaming

coming from the apartment, based on what was known of Pablo's intent. McMahon's concern also derived from what he described as Cordero's team telling him "we got to go." McMahon identified Hauger's statement to Cordero to that effect, and he identified Barney's statement to the same effect – McMahon admitted at hearing that he was unaware that Cordero asserted that he did not hear statements telling him to "go."

Kelly Sweeny, former LVMPD Director of Labor Relations testified that the language in the bargained-for disciplinary matrix that was used to impose major discipline on Cordero – which references acts or omissions "of such an egregious nature that the employee is rendered ineffective in his position" – is intended to encompass only acts or omissions that are "almost criminal." Sweeny also admitted, however, that the relevant language also references acts or omission that "would tend to bring the Department into public discredit," which need not be "almost criminal" in nature.

Buist testified at arbitration that she asked more than once to be removed from the chain of review of the IAB investigation, in order to be interviewed as a witness. Buist was never interviewed. She further testified that she believes the process for rendering the disciplinary decision in this matter was not followed, as she feels that her feedback and that of Deputy Chief Rader's were not solicited, as required, and that, in working with Labor Relations, executive staff were limited in the disciplinary options available.

Lt. John Liles, SWAT Commander on September 14, also offered to submit to an IAB interview and produce text messages that he received. He was not contacted to do so until after he retired from the Department, at which point, he agreed to voluntarily be interviewed. When Liles informed IAB that he would bring Association representatives, IAB declined to interview him, but requested the messages, which Liles declined to produce without the opportunity to provide context for them. Liles was never interviewed.

Based on his two years as a sergeant in IAB, Liles was asked to opine about various aspects of the IAB investigation. He confirmed that any photographs provided by Cordero should have been logged and included in the IAB file, which they were not. When asked, he agreed that he would expect the following to have been interviewed as witnesses, if possible: himself, Buist, Sgt. Chris Day (riding with Quintero), Officer Cody Gault (spoke with neighbor), Lt. Dan Alvarado (Watch Commander), Officers Matthew Taylor and Richard Jordan (rear containment), Officer Raymond Highstand (interviewed

Rafael), Officer Carlos Morales (action team), Officer Jacob Boudin (riding with Richard Jordan), and Officer Sager (outer perimeter). Liles would also have noticed the dispatcher on duty and Sgt. Quintero as subjects.

Liles first opined that the dispatcher and Quintero would appear to have been in violation of Departmental policy, in that the dispatcher failed to make the initial notification to SWAT of a confirmed hostage situation in a timely manner, as required by the Hostage Plan policy. Liles asserts that the call details provided sufficient information for the initial notification to be made, though testimony did not clearly elucidate the trigger for dispatch to know that a hostage situation is "confirmed." Quintero similarly appeared to violate policy by failing to make the SWAT notification when dispatch did not, failing to relay information to Cordero (particularly concerning the discussion of placing an officer in the neighboring apartment), and failing to take "action" on scene, as he was the IC, with overall responsibility for the scene, which inherently makes him responsible for tactics as well. Liles also testified, however, to his opinion that – with the exception of Cordero deactivating his BWC without announcement – no one did anything wrong on scene, but the situation could have been handled better.

Finally, Cordero testified that he did not receive from IAB all BWC footage from every officer on scene that day, and some of the videos appeared incomplete.

Policies and Training

Anthony Bandiero serves as LVMPD's resident expert for Fourth and Fifth Amendment training. He reviewed the BWC footage and CAD entries provided by IAB, and based on the totality of the circumstances, formed the opinion that "there was clearly an emergency going on and exigent circumstances going on and that law enforcement had the lawful authority to force entry if needed into that home" on September 14. Bandiero identified the following relevant factors: (1) Raul provided consent for entry through his 911 call; (2) Raul's call identified an emergency; (3) a neighbor also reported hearing screams; (4) officers on scene heard screams; and (5) Rafael's excited appearance was a further indication of an emergency. Bandiero further opined that, even in the absence of the screams, exigency for entry existed. He also affirmed that the

existence of legal authority to enter does not mean that forcing entry is the correct tactical decision.

Regarding the influence of the information about Pablo's prior convictions, Bandiero opined that such information added to the exigency of the circumstances, rather than lessening it. While the presence of a firearm will inform tactics, it does not lessen exigency. And, at the same time, Bandiero also affirmed Cordero's safety concerns for the mother, the suspect, bystanders, and his officers.

Dan Coe, General Counsel, PMSA, explained the origins of the Department's de-escalation policy. Following a history of a high number of officer-involved shootings, the Department collaborated with the ACLU to reform Departmental policies and procedures. The intent of the reforms was to reduce the number of shootings, reduce the number of individuals killed as a result of officer-involved shootings, enhance officer safety, and transform LVMPD's organization and culture.

Sergeant Stubbs supervises LVMPD's RBT Section. Patrol sergeants and officers annually receive four hours of mandatory RBT training consisting of classroom- and scenario-based training focusing on use of force, de-escalation, and updates to tactics and policy. The scenario-based training puts officers through realistic scenarios intended to induce stress while they work through the scenarios. Stubbs also reviewed the BWC footage and CAD entries provided by IAB. Stubbs explained that the Department's STAR De-escalation Protocol emphasizes use of tactics and tools to slow momentum on a scene to provide time and options to avoid using deadly force or a higher level of force, if possible. Once the elements of deadly force are present, however, then use of deadly force is required.

Stubbs explained that the Department teaches its officers to arrive, try to slow momentum, get containment, then assess the situation. Stubbs described officers as constantly assessing, discussing plans for contact, and listening and waiting for intelligence through direct observation, through third parties, or from information relayed by dispatch. Stubbs testified that presence on the inner perimeter is key allowing to observe and assess stimuli.

Stubbs described the scenario-based door kick training provided by his section. During the RBT, a scenario is presented to officers – a trouble call reported by a next-

door neighbor hearing commotion from the apartment next door. The scenario encountered by trainees would be a victim on the floor and a suspect leaning over them using a simulated knife in a stabbing motion. The suspect would improvise statements such as, "why did you do this?" Or, "I'm going to get you." The victim would scream and make statements such as, "this hurts" or "I'm being stabbed." Importantly, Stubbs testified that the scenario would first "throw out" screaming, "and then if our officers were not making entry immediately, we would start getting creative, like, 'that really hurts that you're stabbing me.'"

Stubbs testified that the expectation is for officers in the scenario is to make entry pursuant to the EAE and take action to save the victim's life, which, in the scenario, is use of deadly force. In the RBT scenario, the door is cracked open three inches, which provides a limited view of the interior scene, the purpose of which is to allow a limited view of the simulated stabbing, in order to prompt officers to make entry in the training environment. Stubbs acknowledged that on September 14, Cordero and his officers did not have the same visual intelligence about what was happening to the victim, and he emphasized that training scenarios have very basic objectives and that scenarios must be clear in order to facilitate the training objectives. As such, he confirmed that neither specific audio or visual confirmation of imminent acts is required to meet the threshold for entry.

Based on his review of the BWC footage and CAD entries provided by IAB, Stubbs testified that he believed that Raul provided good intelligence to the officers on scene regarding what was happening in the apartment, although he admitted he was unaware of Raul's previous interactions with the Department. Coupled with the auditory stimuli of the female screaming, which he interpreted as indicating pain, Stubbs' expectation as a training sergeant is that officers would make entry in that situation to save someone's life. Stubbs offered his impression of the screaming that he heard during review of the BWC footage. He described the screaming as guttural, loud, and like someone having a physiological reaction to pain. He specifically distinguished the screaming from yelling associated with an argument. Stubbs admitted that he was not aware that two of the instances of screaming were from sources other than the target apartment.

Similar to Bandiero, Stubbs testified that intelligence of the physical presence of a firearm would impact tactical decision-making. In a scenario in which a gunshot is actually heard, Stubbs explained that a gunshot “might very well” require consideration of “risk versus reward in terms of making entry.” In a scenario involving prior instances of firearms possession, Stubbs stated that such information would be considered in developing contingencies.

Stubbs’ review of the September 14 call led him to form the opinion that, while Cordero was concerned with de-escalation and slowing momentum, considering the totality of the circumstances, the officers on-scene did not in fact de-escalate. While they initially slowed momentum and de-escalated, Stubbs opined that once the stimuli of the female screaming was observed, officers failed to de-escalate, in that they failed to make entry to save Paula’s life. Stubbs testified that de-escalation would have been making entry to disrupt the suspect’s ability, “which is proximity to the victim and action taken on the victim, which would have been the use of deadly force to stop the suspect’s opportunity.” According to Stubbs, making entry at that point would not conflict with the Department’s emphasis on slowing momentum and de-escalation; he noted that the Department’s barricade and hostage policies specifically state that nothing in those policies precludes the use of necessary force.

Lt. Liles, SWAT Commander on September 14, described a barricade situation as one in which a person is in a position of advantage refusing to surrender. He described a hostage barricade as including someone being held against their will. He testified that a SWAT response is sometimes needed, but that patrol may also resolve the situation at times by getting the suspect to surrender or getting the suspect into custody. If a determination is made that forced entry is required, entry by SWAT is preferred, if SWAT can get to the scene, but patrol is trained to make entry with basic breaching tools. The SWAT teams operators have additional specialized training and tactics and additional breaching and other tools available to them to facilitate a forced entry, including tools to surveil a barricaded subject or methods of distraction, like flash bangs.

Liles confirmed that Department policy requires dispatch to contact SWAT, and if dispatch fails to do so, it should be done by the IC, the Area Lieutenant, or the Watch Commander (in this case, Quintero, Welch, or Lt. Dan Alvarado). In fact, Liles assumed

that Cordero was serving as the IC, since he was contacting SWAT. Liles testified that as the inner perimeter supervisor, he would expect Cordero to be focused on the immediate scene, not making contact with SWAT. He also testified that he wished that either dispatch or the IC would have contacted him earlier and he opined that both Cordero and Quintero should have taken responsibility to more deliberately define their individual roles on scene.

Liles opined on the significance of the "conditional threat" made by Pablo. The threat was conditional, in that it was predicated on Paula taking action (leaving the apartment). Liles affirmed that a conditional threat can become an imminent threat instantly, and that making the determination of when a conditional threat becomes imminent is difficult, but is part of what police officers do, like listening, observing, and looking for changing conditions.

With respect to the significance of the screams heard, Liles stated that he was informed there was arguing and screaming on scene. Liles explained that information on scene must be vetted, meaning confirming that the person screaming is the hostage, rather than a neighbor or other person. Based on what was communicated to him, Liles held the opinion that the screams described to him did not rise to the threshold level to justify an emergency breach, and he affirmed that a premature breach could risk the safety of the hostage, bystanders, and officers: "So you have to provide some type of weight to that scream. And depending on how you weigh it is, I hate to say, it's kind of a judgment call based on your training, your experience, your overall common sense."

RELEVANT POLICIES

LVMPD Policy 3.500 Major Incident and All Hazard Plan:

* * *

3.500.3 Establishing Command

* * *

Regardless of size or type of incident, the top three (3) priorities for establishing incident objectives are:

1. Life safety
2. Incident stabilization
3. Property preservation

* * *

LVMPD Policy 3.505 Barricaded Subject Plan:

* * *

In barricaded subject situations, it is the policy of this department to consider the safety of civilians and officers, and to enhance the prospect of peacefully resolving the incident through de-escalation tactics.

* * *

3.505.1 Definitions

barricaded subject/incident	A subject who is believed to have been involved in a criminal act or is a significant threat to themselves or safety of others; refuses to submit to arrest and may be armed; is in a position of advantage, affording cover and concealment; or is contained in an open area, and the presence or approach of police officers could precipitate an adverse reaction by the subject.
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* * *

3.505.2 General

Nothing in this plan shall preclude the use of necessary force by officers in protecting themselves and others from death and substantial bodily harm (see LVMPD 3.110, *Use of Force*).

The area patrol supervisor will be in command of police operations in a barricade situation. Upon deployment of SWAT, the SWAT commander or SWAT tactical commander (SWAT lieutenant) will assume command and control of the inner perimeter. Tactics will be directed by the commander or tactical commander until the situation is rendered stable and the inner perimeter is transferred to a patrol supervisor or Investigative Services

Division (ISD) personnel. The patrol supervisor will also retain command of the ICP, staging area, secondary perimeter, and other police operations.

* * *

3.505.3 Procedure

Communications will:

* * *

4. When requested by a patrol supervisor, notify the following (and advise supervisor via radio when notification has been made; update the event accurately):
 - a. SWAT tactical commander
 - b. Other agencies as applicable

* * *

Patrol supervisor will:

10. Upon arrival, assess the situation and take command by prioritizing and communicating objectives.
11. Reinforce the inner perimeter and establish a secondary perimeter based on the nature of the incident.
12. Direct units to stop inbound foot travel or vehicle travel.
13. Assign officers as an immediate-action team (designating roles such as verbal communication, low lethality options, hands on, etc.) to control the subject should they exit the structure.
14. Gather intelligence, make a determination for the need of SWAT and negotiators to respond, and make requests via Communications (when possible, the patrol supervisor should also communicate telephonically with the SWAT tactical commander).

* * *

16. Designate an officer with strong verbal skills to make contact with the subject to determine the subject's intent. If contact is made with the subject, ensure officers remain in a tactically sound position, using

effective cover and concealment. Efforts should be made to persuade the suspect to voluntarily surrender.

* * *

LVMPD Policy 3.510 Hostage Plan:

* * *

In hostage situations, it is the policy of this department to prioritize life safety through de-escalation tactics or alternative approaches and to make every reasonable effort to affect the safe release of the hostages should communications fail.

3.510.1 Definitions

hostage incident An incident in which a hostage take has taken hostages.

hostage taker A person who seizes unwilling persons to affect an escape, commit crime, or further a cause, and poses a clear and present danger to the hostages and to the public at large.

* * *

3.510.2 General

In the case of a hostage situation, the department will, through the deployment of resources and use of tactics, attempt the safe rescue of hostages and apprehension of the hostage taker. Nothing in this plan will preclude the use of necessary force by officers in protecting themselves and others from death and substantial bodily harm (see LVMPD 3.110, Use of Force).

In a confirmed hostage situation, the SWAT commander or designee will be immediately notified by Communications. Once the SWAT commanders and team arrive at the scene, the SWAT commander (captain) or the SWAT tactical commander (SWAT lieutenant) will assume command of all tactical operations, inner perimeter control, and will coordinate all contact with the hostage taker through the Crisis Negotiation Team (CNT). The patrol supervisor will also retain command of the incident command post (ICP), staging area, secondary perimeter, and other police operations. The mere presence of senior officers will not imply the assumption of command.

* * *

3.510.3 Procedure

Communications will:

* * *

4. Notify the following for a confirmed hostage incident and advise the field supervisor when notifications have been made:
 - a. SWAT tactical commander
 - b. Other agencies, as applicable.

* * *

6. Make additional notifications as requested by field supervisors.

* * *

Patrol supervisor will:

11. Upon arrival, assess the situation and take command by prioritizing and communicating objectives.
12. Reinforce the inner perimeter and establish a secondary perimeter based on the nature of the incident.
13. Direct units to stop any inbound foot or vehicle traffic.
14. Assign officers as an immediate-action team (designating roles such as verbal communication, low lethality options, hands on, etc.) to control the subject should the subject surrender, release the hostage, or exit the structure.

* * *

LVMPD Policy 5.100 Search and Seizure:

* * *

5.100.2 Definitions

community caretaking doctrine	An exception to the Fourth Amendment's warrant requirement based on the public's expectation that law
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enforcement may take action to save life or render aid.

* * *

consensual entry

Entry by invitation by a person with standing.

* * *

emergency aid exception

A warrantless entry into a home when an emergency exists and there is a need to render aid or to protect an individual from immediate harm from themselves or others.

* * *

5.100.4 Non-Criminal Investigations

Community Caretaking Doctrine

Warrantless entries into a residence are not permitted under the Community Caretaking Doctrine. Instead, officers need to articulate the need for an emergency aid exception (see the Emergency Aid Exception section below).

* * *

Emergency Aid Exception

The emergency aid exception is a recognized exception to a warrant requirement and allows officers to make a warrantless entry in order to summon emergency medical assistance or to protect an occupant from imminent bodily harm.

Officers must consider the totality of circumstances and be able to articulate an objectively reasonable basis for believing there is an immediate need for medical assistance or for protection from imminent bodily harm. The scope and manner of entry must be reasonably adapted to meet those needs.

* * *

LVMPD Policy 8.147 Neglect of Duty:

Any employee who fails to comply, by act or omission, with any law, or with any order, procedure, rule or regulation of the department, or who fails to perform his official duties may be considered in neglect of duty.

ISSUE STATEMENT

Did the Department have just cause to demote Sergeant Danny Cordero, and, if not, what is the appropriate remedy?⁴

UNION REQUEST

The Association requests that the Arbitrator sustain the grievance, order reinstatement of Danny Cordero to the rank of Sergeant with full back pay and benefits, and additionally order removal of all negative documentation related to the September 14, 2022, incident from his personnel file.

POSITIONS OF THE PARTIES

LVMPD Position

LVMPD's position is that clear and convincing evidence establishes just cause for Cordero's demotion. Specifically, LVMPD asserts that Cordero misunderstood at the time, and continues to misunderstand, LVMPD's Emergency Aid Exception ("EAE"), and that his failure to make emergency entry into the residence during the September 14 call does not comport with LVMPD's policies and training and with controlling case law. As such, the Department asserts that Cordero is not fit to serve as a patrol supervisor and that LVMPD has established just cause for the major discipline imposed, demotion.

First, LVMPD argues that Cordero was neglectful of his duties, in violation of LVMPD Policy 8.147, Neglect of Duty, in that Cordero had an objectively reasonable basis pursuant to the EAE to believe that the victim, Paula, was in immediate need of protection from imminent bodily harm from the subject, Pablo, and Cordero made the decision not to have the action team make entry into the residence. No relevant Departmental policy

⁴ The Parties stipulated (1) by longstanding past practice, the "just cause" standard set forth in the Civil Service Rules is treated as though it were incorporated into the Parties' collective bargaining agreement; and (2) the Department must meet the higher standard of clear and convincing evidence in order to prove its case.

precludes officers from using necessary force to protect others from substantial bodily harm. Cordero had sufficient information regarding the subject's intent based on the initial call details; the on-scene interview(s) with the person reporting ("PR"), Raul; the statements and actions of Raul's brother, Rafael; as well as the information about Pablo's motive and intent. Further, the instances of screaming, yelling, and moaning of which Cordero was aware provided a further objectively reasonable basis to believe that Paula was in immediate need of protection. Additionally, Cordero had no information or intelligence indicating that Pablo was armed with a firearm, despite Cordero's awareness of a prior firearms-related conviction.

Second, LVMPD's position is that Cordero demonstrated on the day of the incident, during his IAB interview, and at arbitration that he has a misunderstanding of the Emergency Aid Exception, in that Cordero believes that entry into a residence pursuant to EAE requires actionable intelligence, such as an articulated plea for help or a statement that an individual is being harmed. The screaming, yelling, and moaning heard during this call did not rise to an actionable level for Cordero, despite the EAE requiring only an objectively reasonable basis to believe an individual requires immediate protection.

Third, Cordero's reliance on the Use of Force policy in his decision-making was misplaced. Cordero overemphasized two aspects of the policy upon which he based his decision not to make entry: de-escalation and the imminent threat of death or substantial bodily injury. Cordero's focus on de-escalation caused him not to adjust tactics to ensure the primary goal of preservation of life. His focus on the potential use of force supplanted identification of the need to make entry and to do so timely.

Fourth, while not a basis for the discipline, Cordero's violation of the Body Worn Camera policy – deactivating the camera several times without announcing the reason for doing so – resulted in a loss of evidence in a homicide case.

Finally, LVMPD argues that the decision to demote Cordero is supported by clear and convincing evidence, and that the discipline was not arbitrary, capricious, clearly unreasonable, or imposed in a discriminatory fashion. The Department evaluated the factors agreed upon by the parties in their contract when making the decision to demote Cordero. The Department identified several aggravating factors and two mitigating factors: lack of prior discipline and satisfactory performance evaluations as a sergeant.

The Department could have imposed discipline for the violation ranging from major discipline (40-hour suspension or demotion) to termination; the Department did not elect to impose the highest level of discipline, termination.

PMSA Position

PMSA's position is that Cordero did not violate LVMPD Policy 8.147, Neglect of Duty, in that Cordero followed LVMPD policy and his training when responding to the September 14 call. Overall, Cordero worked to de-escalate a volatile situation, as the Department and its policies emphasize. Cordero made tactical decisions and adjustments as necessary; he gathered intelligence; he established a perimeter; and he assembled an action team with both lethal and less lethal coverage. Cordero attempted to establish communication with the subject, Pablo, and he was in contact with the SWAT Commander, Lt. John Liles.

The IAB investigation's focus on exigency was misplaced. Legal authority to make warrantless entry does not mean that making such entry is a correct tactical decision, given other necessary considerations, including the safety of the hostage and bystanders and the risk of creating a situation requiring use of lethal force.

Department supervisors agreed with Cordero's decision not to enter, including Incident Commander ("IC") Quintero, Lt. Michael Welch, SWAT Commander Liles, and Captain Kristine Buist. Sheriff Kevin McMahon, the final decisionmaker, based his decision on significant errors in the IAB investigative report, including the false belief that officers were telling Cordero that they needed to make an emergency entry. Screaming, yelling, and moaning, during a hostage barricade, without more, is insufficient to inform officers that an emergency entry must be made and that they cannot wait for a SWAT team to arrive and assume control.

LVMPD did not meet its burden to establish that Cordero had actionable intelligence sufficient to put him on notice that Pablo was going to kill his mother if Cordero did not order an emergency breach; and, despite such evidence, Cordero failed to breach. If there were such evidence, it is reasonable to suspect that other supervisors (e.g., Quintero, Welch, Liles, or Buist) would have ordered a breach if Cordero did not.

Second, PMSA asserts that the exigent circumstances exception to the Fourth Amendment's warrant requirement was not at issue on September 14. Cordero did not decide not to make entry because of a warrant requirement. Exigent circumstances existed once it was determined that there was a hostage in the residence. Instead, Cordero managed the situation based on departmental policy and training of slowing momentum and de-escalation to avoid use of lethal force. Cordero's decision-making was also based on LVMPD's Hostage Plan policy, which references the Use of Force policy, which itself, *inter alia*, requires consideration of several factors regarding application of lethal force, one of which is "preclusion." To satisfy the force analysis requires a showing that "lesser alternatives have been reasonably considered and exhausted before the use of deadly force, to include disengagement." Premature entry risked "forcing" preclusion and potentially the use of lethal force, in violation of the Use of Force policy.

Third, the IAB investigation and the AOC are fatally flawed. The investigatory report inaccurately states facts about information that was not within Cordero's awareness. IAB failed to interview all necessary witnesses and jumped to conclusions. IAB incorrectly relied on the primacy of "life safety" in the Major Incident and All Hazard Plan policy. Cordero was not provided a full opportunity to present his case at a pre-disciplinary hearing; the AOC further misstates facts regarding a non-existent offer by Cordero to accept major discipline of a 40-hour suspension.

Fourth, PMSA asserts that the discipline violates due process and terms of the parties' Agreement. Cordero was denied a meaningful pre-disciplinary meeting. The Department relied inappropriately on a section of the bargained-for disciplinary matrix.

Fifth, and finally, PMSA asserts that the discipline was arbitrary and capricious. Lt. Welch was also sustained for neglect of duty and was promoted, not disciplined. Just cause requires consistency in enforcement of rules and penalties; where employees are treated differently for the same offense, just cause may not be present.

DISCUSSION

The Employer, LVMPD, bears the burden of establishing by clear and convincing evidence that just cause exists for Cordero's demotion. The applicable burden of proof is the higher standard of "clear and convincing evidence" in reviewing the Department's

actions. This higher burden of proof applies both to the Department's burden to prove these allegations and to prove the propriety of the discipline meted out. To meet this standard, the Department must produce evidence that is highly and substantially more probable to be true than not and the Arbitrator must have a firm belief or conviction in it.

The demonstration of just cause requires proof of the claims against the employee, and if the claims are proven, an assessment must be rendered as to whether mitigating factors make the penalty imposed unreasonable. That is, just cause is a measure of whether the Employer's reason for discipline was adequate and its procedures were fair.

First, a determination is made as to whether there is sufficient proof that Cordero did engage in the conduct for which he was disciplined. Factors relevant to this issue include the requirement that an employee knows or is reasonably expected to know ahead of time that engaging in a particular type of behavior will likely result in discipline or termination. The second area of proof concerns the issue of whether the penalty assessed by the Employer should be upheld, mitigated, or otherwise modified. Factors relevant to this issue include the seriousness of the employee's conduct, the existence of a reasonable relationship between an employee's conduct and performance and the penalty imposed, the employee's work history, and the potential for rehabilitation.

LVMPD has satisfied the burden to prove that Cordero engaged in the conduct for which he was disciplined and that the reasons for the discipline imposed were adequate and the procedures fair.

Cordero was sustained for three violations: (1) failing to recognize the threat of imminent death or substantial bodily harm; (2) failing to identify exigent circumstances which would have allowed entry into the apartment; and (3) failing to establish life safety as the primary objective.

To begin, the parties to this matter competently presented a plethora of evidence in support of their positions. Much of the evidence and testimony elicited goes to three critical elements: (1) what information Cordero possessed in real time as the events unfolded and how he assessed that information; (2) Cordero's understanding and implementation of LVMPD policies with respect to barricades, hostage situations, and rendering emergency aid; and (3) Cordero's assessment of risks to the safety of the victim, the suspect, bystanders, and officers. A not insubstantial portion of the parties'

presentations addressed issues of how other supervisory and non-supervisory officers, both on-scene and not present, assessed the stimuli presented, whether they felt or believed that entry should have been forced by patrol, or whether they agreed or disagreed with Cordero's decision not to force entry and to wait for SWAT to arrive and assume command. While some such evidence certainly speaks to whether Cordero's beliefs about imminence were objectively reasonable, fairness dictates that Cordero's actions be evaluated not in retrospect, but instead based on what factors in fact informed his thoughts and actions as he was executing decisions in real time.

Determinations 1 - 4

With respect to the first determination: prior to the events of September 14, Cordero received classroom and scenario-based training about making entry to render emergency aid pursuant to the Department's policy for the Emergency Aid Exception. Cordero articulated his understanding of the threshold for making entry into a residence pursuant to the policy: an officer must have an "objectively reasonable basis" to believe there is "an immediate need for medical assistance or for protection from imminent bodily harm." Cordero clearly understands that the threshold set forth in the policy is "objectively reasonable basis." Cordero, however, repeatedly stated throughout this matter that he interpreted the scenario-based training he received as requiring a higher threshold. He insistently articulated that threshold as requiring "absolute" knowledge, "actionable intelligence," or "confirmation" of an immediate need. Cordero over and over pointed to the scenario-based training for the EAE as the basis for his belief that a higher threshold is required to make entry. That training presented circumstances allowing officers a limited sight line into a residence of simulated stabbing motions, accompanied with screams, and with verbal narration of imminent acts (i.e., "Help, I am being stabbed.").

Cordero appears to assert that his understanding of Departmental training regarding the EAE is, at its core, limited to the training scenario, and specifically to the fact pattern presented in the scenario, which, in his words, offered visual and/or audio confirmation of an immediate need. Cordero believes that it is not reasonable that he, as a supervisory law enforcement officer, be expected to understand that the Department cannot and does not incorporate every possible fact pattern into its scenario-based

training, and that the expectation is that officers and supervisors in the field must extrapolate from their training based on common sense. Cordero asserts that the circumstances presented in the scenario-based training are the only circumstances under which he believes the threshold for establishing immediate need can be satisfied. As such, he asserts that his training has taught him that absent visual confirmation (physically observing the need for aid or protection) and/or audio confirmation (hearing a clearly articulated statement of need), there can exist no "objectively reasonable basis" to believe that an immediate need exists.

Given Cordero's understanding of what the actual language of the EAE requires, given the totality of the training provided by the Department, given Cordero's 13 years of experience at Metro, and given the reasonably common sense understanding that the Department cannot and does not simulate every fact pattern that an officer or supervisor will encounter in the field, Cordero's misunderstanding of the threshold required pursuant to the EAE is unreasonable, and it precluded him from recognizing the threat to the victim, based simply on the absence of an articulated plea for help.

The Department has established by clear and convincing evidence that Cordero was neglectful of his duties in failing to recognize the threat to the victim. Cordero argues that his decision-making was impacted by other officer's failures of communication. While the evidence supports that several officers likely should have shared or relayed certain additional information to Cordero or directly communicated their conclusions that immediate action was required, Cordero's misunderstanding of the requisite threshold obviated much of the failure of communication. Cordero was admittedly waiting to see or hear confirmation that Paula was in immediate need of protection. Indeed, he had no intent to breach, once he learned of Pablo's prior firearm conviction, and he failed to develop contingencies for the action team to force entry if necessary.

With respect to the second determination: Cordero's misunderstanding of the threshold for the EAE is substantial and material. It impeded his ability to form an objectively reasonable belief that the screams emanating from the target apartment were indicative of a violent act from which the victim required protection. Much testimony at arbitration centered on the screaming, its nature, and whether screaming, historically and experientially, equates with "stabbing" or "murder," or whether "a scream alone" mandates

entry. Much of this focus misses the forest for the trees. In this case, the officers present heard sounds that they described as loud, prolonged, blood-curdling, sounds of distress, sounds of pain, and sounds of an individual screaming for their life. Not one officer who testified as much as implied that any of those sounds registered to them as benign, as arguing, as displeasure, or as the victim being mad at her son. Cordero's inability to assign objectively reasonable meaning to the screaming, yelling, and moaning is simply not reasonable. It is objectively difficult to understand Cordero, in fact, assigned no meaning whatsoever to these sounds.

When he was informed of the screams by the female, Cordero admitted that he ascertained nothing more than two facts: there was a female present inside the target apartment; there was screaming and moaning. Cordero was informed four times by officers of screaming, yelling, or moaning; he was informed directly by the neighbor that she could hear Paula screaming; and he heard what he described as a Tarzan-like yell from the male. Considering the initial call details and the overall consistency of the additional information received on-scene from Raul and Rafael regarding Pablo and his intent, it is both unreasonable for Cordero to have assigned the sounds no meaning and to have failed further to recognize the sounds as an objectively reasonable basis for believing the victim had an immediate need for protection.

As such, the Department has established by clear and convincing evidence that Cordero's failure to act evidenced his failure to recognize exigent circumstance that allowed entry. Cordero argues that if his failure to make entry based on extant evidence of which he was aware was in error, others would or should have countermanded his decision to hold and themselves ordered a breach. Indeed, Department witnesses testified that the IC (Quintero), the Area Lieutenant (Welch), or the Bureau Commander (Buist) had authority to do so. Having authority to issue an order and having sufficient intelligence on the ground to inform that order, however, are distinct issues.

Quintero reasonably and credibly testified that he was 100-200 yards away, did not have a line of sight to the apartment, and believed that Cordero was working with superior intelligence – specifically that Pablo was armed with a firearm. His decision not to countermand Cordero is a reasonable one. Welch, who was apparently monitoring radio traffic, but was occupied with a medical emergency at home for the duration of the

call, was not in possession of the same information as Cordero and was not in a position to countermand Cordero. Similarly, Buist, who was monitoring radio traffic and had limited communication with Cordero, was being told by him that the front security door was closed (when he had said it was not), impeding entry, and that the suspect may have been armed. Again, the information she possessed was distinct from that of Cordero's and the lack of a countermand from Buist is similarly reasonable.

With respect to the third determination: When Cordero arrived on scene, he followed aspects of the STAR de-escalation protocol, Hostage Plan policy and Barricaded Subject policy, and took steps to slow the momentum of the call and de-escalate the situation. He took measures to contain the situation, to prepare less-lethal alternatives, to attempt communication with Pablo, and to develop contingencies with his action team. Once Cordero learned of Pablo's prior firearms and other convictions, he modified his tactics. He re-positioned the tactical vehicle and instructed the action team to secure cover. He assessed that information and made adjustments as necessary.

At some point, however, Cordero's awareness of the prior convictions appears to have loomed large and materially impacted both the information he was reporting, as well as his own decision-making. Cordero went from advising that Pablo had prior convictions, to speculating that he "might" or "may" be armed, to stating that they were receiving information that Pablo was armed. The consequences of the progression of Cordero's characterization of the likelihood that Pablo was armed with a firearm is difficult to overstate. A reasonable listener could not be blamed for assuming that Cordero had received actionable intelligence that Pablo either might be or was in fact armed.

Cordero's concentrated focus on the fact that Pablo was armed with two knives, and the possibility that he was armed with a firearm, impeded Cordero's decision-making with respect to protecting Paula's life. Throughout this matter, Cordero pointed to the Department's hostage and barricade policies, giving little credence to the caveat in both in policies that "[n]othing in this plan will preclude the use of necessary force by officers in protecting themselves and others from death and substantial bodily harm," and giving significant consideration to the subsequent incorporation by reference of the Department's Use of Force policy.

Throughout this matter, Cordero consistently articulated that he did not force entry because of the firearm priors. His logic prevented him from acting: Pablo was armed with knives and potentially a firearm. Closing distance on Pablo by forcing entry would therefore likely force preclusion, require use of deadly force, and result in an officer-involved shooting, or, if Pablo were in fact armed with a firearm, entry would risk the safety of the officers on scene. In either scenario, Cordero perceived the potential need for use of lethal force to be in direct conflict with the Department's de-escalation policy.

As Stubbs explained, however, the policies do not conflict; use of lethal force may in itself be a de-escalation tactic; and, once de-escalation is no longer an option and the requirements are present for deadly force, deadly force must be used. Indeed, the entire objective of the scenario-based training on which Cordero predicated his actions on September 14 was to force entry and protect the victim through use of deadly force.

Cordero's concern about Pablo's safety and the safety of bystanders and officers was not, of course, misplaced. But his increasingly narrow focus on the potential presence of a firearm was, as he readily admitted, the primary, if not the only, reason that he failed to make entry. Inherently, Cordero's logic placed primacy on the safety of Pablo, his officers, and perhaps bystanders, and, therefore, to a lesser degree, Paula. Every reason that Cordero articulated for not forcing entry reduces to his concern about the consequences of the potential presence of the firearm.

Given Cordero's admission that he would have forced entry, but for the prior convictions, the Department has established by clear and convincing evidence that Cordero failed to establish the life safety of the victim as the primary objective. The Association makes several arguments with respect to this allegation, which are unavailing. PMSA argues that the intent of the Major Incident and All Hazard Plan is to ensure that officers, who inherently prioritize the life safety of victims, also do so for suspects and others. Evidence suggests that the policy was drafted with that purpose. However, the policy cannot reasonably be read to suggest that victim's life safety should not be prioritized, or that the life safety of suspects should receive heightened priority. The policy simply says "life safety." Cordero's narrow focus on de-escalation and the potential presence of the firearm unquestionably had the likely unintended effect of

prioritizing the life safety the suspect, bystanders, and officers to a greater degree than the victim's.

With respect to the fourth determination: the Department has established by clear and convincing evidence that Cordero violated LVMPD's Body Worn Camera policy by deactivating his BWC four times without announcing the reason for doing so. Cordero admitted that he was in violation of the policy.

Discipline and Due Process

The second area of proof concerns the issue of whether the penalty assessed by LVMPD should be upheld, mitigated, or otherwise modified. Factors relevant to this second issue include the seriousness of the employee's conduct, the existence of a reasonable relationship between an employee's conduct and performance and the penalty imposed, the employee's work history, and the potential for rehabilitation. That is, the Employer must demonstrate that the penalty imposed was reasonably related to the nature of the offenses and the employee's past record.

In cases of extremely serious offenses, arbitrators are willing to enforce a penalty in proportion to the seriousness of the offense. In less serious cases, arbitrators prefer to apply progressive discipline, exercise leniency, and modify disciplinary penalties when dictated by sufficient mitigating circumstances. The purpose of a progressive discipline policy is to correct misconduct, not to punish. Therefore, discipline beyond what is necessary to correct undesirable behavior is excessive.

At the same time, the Arbitrator is bound to adhere to the generally accepted principle that an arbitrator is not to substitute their own judgment for that of management. The role of the labor arbitrator is not to second guess management but rather to determine whether the decision of management violated a binding agreement.

In this case, LVMPD has established that just cause exists for the discipline imposed on Cordero, that is, demotion. Deputy Chief Rader and Sheriff McMahon testified credibly to their decision-making process and the reasons they believed that demotion (rather than a 40-hour suspension or termination) was the appropriate level of discipline. There can be no reasonable doubt that Cordero's decision-making on September 14 was problematic in several respects and that his failures were serious. As both men

articulated, Cordero has demonstrated that he does not understand how to identify exigency under the Emergency Aid Exception and that his lack of discernment creating a near single-mindedness about the prior firearm convictions prevented him from rendering aid to Paula.

Both men articulated that they cannot have confidence in a patrol supervisor with a flawed understanding of policy and demonstrated failure of discernment, and that neither observed any indication that Cordero would not behave in precisely the same manner in the future. Indeed, Cordero is unable to acknowledge any failure or mistake on his part, but if he did make a mistake, he is desirous of further learning opportunities. While the Association argues that Rader and McMahon impermissibly considered factors not agreed upon by the parties, both clearly explained that Cordero's inability to acknowledge the failures of decision-making go directly to the issue of their confidence in him to be a patrol supervisor in the future.

Cordero's prior positive work history and lack of disciplinary record were considered in mitigation. However, the perceived likelihood that Cordero would take the same very same actions if presented with the same scenario in the future is high. The Association argues that the Department cannot establish that he is incapable of rehabilitation, as he was not re-trained on the EAE following this incident. As Jamie Frost noted, Cordero has received regular trainings on Fourth and Fifth Amendment issues and forcing entry. The events of September 14 confirm that Cordero's training was not effective in achieving its objectives, and Cordero's lack of acknowledgement of errors in his decision-making is evidence that he would not change his behavior in the future.

Finally, Cordero raises several objections to the fairness of the Department's investigation and disciplinary procedures as applied in this matter. Cordero asserts the IAB investigation and the AOC are fatally flawed. As Sheriff McMahon testified, however, while the investigation was not perfect, the material facts remain the same. The Arbitrator acknowledges certain inconsistencies chronicled in the record but does not find sufficient evidence that the investigation and adjudication were flawed to the extent that Cordero's was denied process due.

Cordero points to the investigative report's asserted error in setting forth nine instances of screams (in reality, it was 10), as he was only aware of four emanating from

the target apartment. The evidence establishes he was made aware of screaming four times by officers and an additional time by the neighbor. The AOC accurately states that Cordero was aware of five instances and that he broadcast four of them. Similarly, Cordero asserts recitation of the initial call details and follow-up interviews with the PR is inaccurate and glosses over inconsistencies in the information being received by Cordero. The referenced inconsistencies in these recitations did not materially impact the outcome of the investigation. Cordero's own misunderstanding and misapplication of policy resulted in the failures of judgment underlying the three sustained allegations.

The Association further asserts that IAB failed to interview all necessary witnesses and jumped to conclusions as a result of the order of the witnesses interviewed (Cordero was the first IAB interviewee). While the investigation was lengthy and was returned to IAB more than once for additional work, the evidence does not establish that cursory conclusions were reached that materially affected the outcome. Cordero asserts that he was not provided a full opportunity to present his case at a pre-disciplinary hearing; Rader, however, testified that he heard Cordero and his representatives during the meeting, and that they presented the same arguments that they had presented in prior discussions. And Cordero had made his case prior to Rader modifying the discipline.

Cordero argues that the Department relied inappropriately on a portion of the bargained-for disciplinary matrix referencing acts or omissions "of such an egregious nature that the employee is rendered ineffective in his position and/or the act or omission would tend to bring the Department into public discredit." Cordero contends that "egregious" in this context is intended to identify conduct that is "almost criminal," and that it has been interpreted by one arbitrator to mean the dictionary definition: "staggeringly bad, or obviously wrong beyond any reasonable degree." Cordero argues the decision-making on September 14 was a difficult judgment call that, by nature, cannot be considered egregious. To the contrary, the Association's witness also testified that this portion of the matrix also reaches conduct that is not-almost criminal. Further, while Cordero did make judgment calls on September 14, the unreasonableness of the material decisions cannot be disputed. Again, it is Cordero's misunderstanding of policy that underlies the decisions he made to act, or not.

Finally, the Association asserts that the discipline was arbitrary and capricious because Lt. Welch was also sustained for neglect of duty but he received only a contact report, which is not discipline. Moreover, Welch was promoted to the rank of Captain during the same time period. While these assertions are factually accurate, the record evidence does not support that Welch and Cordero were similarly situated such that comparison of their conduct and discipline is relevant or obviates due process.

AWARD

Based on a thorough review of the record, the grievance is denied.

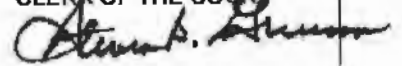
Nancy Hutt

Nancy Hutt, Arbitrator

May 28, 2024
San Francisco, CA

EXHIBIT 3

EXHIBIT 3



1 NEFF
2 LAW OFFICE OF DANIEL MARKS
3 DANIEL MARKS, ESQ.
4 Nevada State Bar No. 002003
5 office@danielmarks.net
6 ADAM LEVINE, ESQ.
7 Nevada State Bar No. 004673
8 alevine@danielmarks.net
9 610 South Ninth Street
10 Las Vegas, Nevada 89101
11 (702) 386-0536; FAX (702) 386-6812
12 *Attorneys for Plaintiff*

9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

11 DANIEL CORDERO
12
13 Petitioner,

13 v.

14 LAS VEGAS METROPOLITAN POLICE
15 DEMPARTMENT,
16
17 Respondent.

Case No.: A-24-900488-P
Dept. No.: VI

**NOTICE OF ENTRY OF FINDINGS OF
FACT AND CONCLUSION OF LAW AND
ORDER GRANTING PETITION FOR
EXTRAORDINARY AND INJUNCTIVE
RELIEF PURSUANT TO NRS 289.120**

20 TO: LAS VEGAS METROPOLITAN POLICE DEPARTMENT, Respondent; and
21 TO: NICHOLAS D. CROSBY, ESQ. of MARQUIS AURBACH, Attorney for Respondent
22
23
24

1 **NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSION OF LAW AND ORDER**
2 **GRANTING PETITION FOR EXTRAORDINARY AND INJUNCTIVE RELIEF PURSUANT**
3 **TO NRS 289.120**

4 PLEASE TAKE NOTICE that the Notice of Entry of Findings of Fact and Conclusion of Law
5 and Order Granting Petition for Extraordinary and Injunctive Relief Pursuant to NRS 289 was entered
6 in the above-entitled action on the 21st day of August 2025, a copy of which is attached hereto.

7 DATED this 21st day of August 2025.

8 LAW OFFICE OF DANIEL MARKS

9 /s/Adam Levine, Esq.
10 DANIEL MARKS, ESQ.
11 Nevada State Bar No. 002003
12 office@danielmarks.net
13 ADAM LEVINE, ESQ.
14 Nevada State Bar No. 004673
15 alevine@danielmarks.net
16 610 South Ninth Street
17 Las Vegas, Nevada 89101
18 (702) 386-0536; FAX (702) 386-6812
19 *Attorneys for Petitioner*
20
21
22
23
24

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MARQUIS AURBACH
Nicholas D. Crosby, Esq.
Nevada Bar No. 8996,
10001 Park Run Drive
Las Vegas, Nevada 89145
ncrosby@maclaw.com
Attorneys for Respondent LVMPD

3

1 ORDR
2 LAW OFFICE OF DANIEL MARKS
3 DANIEL MARKS, ESQ.
4 Nevada State Bar No. 002003
5 office@danielmarks.net
6 ADAM LEVINE, ESQ.
7 Nevada State Bar No. 004673
8 alevine@danielmarks.net
9 610 South Ninth Street
10 Las Vegas, Nevada 89101
11 (702) 386-0536; FAX (702) 386-6812
12 *Attorneys for Plaintiff*

8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

10 DANNY CORDERO

11 Petitioner,

12 v.

13 LAS VEGAS METROPOLITAN POLICE
14 DEPARTMENT,

15 Respondent.

Case No.: A-24-900488-P
Dept. No.: VI

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER GRANTING
PETITION FOR EXTRAORDINARY AND
INJUNCTIVE RELIEF PURSUANT TO
NRS 289.120**

17 Petitioner's Petition for Extraordinary and Injunctive Relief Pursuant to NRS 289.120 having
18 come before this Court for oral argument on June 12, 2025 before the Court, and the Court having
19 reviewed the excerpts of the record provided by the parties, and having heard the arguments of counsel,
20 finds as follows:

21 **FINDINGS OF FACT**

22 1. Following an investigation by Las Vegas Metropolitan Police Department's ("LVMPD")
23 Internal Affairs Bureau on July 24, 2023 LVMPD Police Sgt. Danny Cordero received a memorandum
24 from Deputy Chief Reggie Rader that Cordero was recommended for a demotion. The memorandum

1 informed Sgt. Cordero that prior to any final decision being made, Cordero would have an opportunity
2 to inspect any part of the file and meet with Deputy Chief Rader in his office on August 1, 2023.

3 2. NRS 289.080(9) adopted in 2020 states in pertinent part:

4 After the conclusion of the investigation, if a law enforcement agency intends to
5 recommend that punitive action be imposed against the peace officer who was the
6 subject of the investigation, the law enforcement agency must notify the peace
7 officer of such fact and give the peace officer or any representative of the peace
8 officer a reasonable opportunity to inspect any evidence in the possession of the
9 law enforcement agency and submit a response. The law enforcement agency must
10 consider any such response before making a recommendation to impose punitive
11 action.

12 3. NRS 289.020(2) states "If a peace officer is denied a promotion on grounds other than
13 merit or other punitive action is used against the peace officer, a law enforcement agency shall provide
14 the peace officer with an opportunity for a hearing." NRS 289.010(6) defines "Punitive action" to
15 include a demotion.

16 4. On or about that same day, Sgt. Cordero received a telephone call from Deputy Chief
17 Rader informing him that it was important that he attend the meeting so that Rader could reduce the
18 proposed demotion to a 40-hour suspension.

19 5. Sgt. Cordero arrived for the meeting on August 1, 2023 with Deputy Chief Rader
20 accompanied by his two statutory representatives from the Las Vegas Police Managers and Supervisors
21 Association ("PMSA") – Sgt. Troyce Crumme and PMSA General Counsel Dan Coe.

22 6. During the meeting when Sgt. Cordero and his representatives began to provide the
23 statutory response to the allegations under NRS 289.080(9) Deputy Chief Rader stopped the presentation
24 informing Sgt. Cordero and his representatives that Cordero was going to receive a 40-hour suspension
which he would have the right to grieve, and that he had expended a lot of "political capital" to achieve
this result. Thereafter, Deputy Chief Rader assisted Cordero in signing up for the training to get him
back to work as a Sergeant.

1 7. On August 2, 2023 Deputy Chief Rader called Sgt. Cordero and informed him that his
2 return to duty as a Sergeant was on hold.

3 8. On August 3, 2023 Deputy Chief Rader called Sgt. Cordero again and informed him that
4 he was being demoted because "new information had come to light". When Sgt. Cordero inquired of
5 Deputy Chief Rader what this new information was, Rader would not tell him.

6 9. Following the phone call on August 3, 2023 LVMPD did not provide Sgt. Cordero with
7 this new information, nor allow him an opportunity to complete his statutory response under NRS
8 289.080(9) and/or address this new information. Instead, LVMPD demoted Cordero from Sergeant to
9 Police Officer effective August 30, 2023.

10 10. NRS 289.120 entitled "Judicial relief available for aggrieved peace officer" states

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

19 11. LVMPD conceded in its Response to Cordero's Petition for Extraordinary and Injunctive
20 Relief that Cordero is a "peace officer" and that he exhausted the grievance procedures negotiated by
21 the PMSA pursuant to Chapter 288 of NRS and/or any administrative remedies.

22 12. During the grievance process, Clark County Sheriff Kevin McMahill testified that it was
23 he, and not Deputy Chief Rader, who made the decision to demote Sgt. Cordero.

24 13. If any of these Findings of Fact are properly deemed as Conclusions of Law, they shall
be so considered.

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1 18. While LVMPD referenced Deputy Chief Rader's testimony "Those things were brought
2 up and I believe they were brought it up in that meeting" to assert that the right to provide a response
3 under NRS 289.080(9) was complied with on August 1, 2023, this testimony contradicts Deputy Chief
4 Rader's own earlier testimony that he was referencing prior conversations with the union. While a party
5 is not permitted to create genuine issues of material fact by contradicting themselves, *Nutton v. Sunset*
6 *Station, Inc.*, 131 Nev. 279, 357 P.3d 966 (App., 2015), no evidentiary hearing on this issue is necessary
7 as the subsequent decision to demote Cordero based upon new information which was not disclosed and
8 for which no new hearing was provided is sufficient of itself to constitute a violation of NRS 289.080(9)
9 and 289.020(2) so as to grant relief under NRS 289.120.

10 19. In light of this conclusion, it is not necessary for the Court to address Cordero's claim
11 that his August 1, 2023 hearing was a sham because the decision maker was Sheriff McMahon before
12 whom Cordero never had an opportunity to present any response.

13 20. The statutory provisions of NRS 289.020(2) and NRS 289.080(9) are intended to provide
14 due process to peace officers facing potential punitive action. The right to a hearing wherein the peace
15 officer may present his response which must be considered by the law enforcement agency must be
16 "meaningful". *Barry v. Barchi*, 443 U.S. 55, 99 S. Ct. 2642 (1979) (Due process requires "the
17 opportunity to be heard at a meaningful time and in a meaningful manner").

18 21. The actions of LVMPD in violation of NRS 289.020(2) and NRS 289.080(9) completely
19 deprived Sergeant Cordero of any meaningful opportunity to invoke the discretion of LVMPD not to
20 take disciplinary action against him.

21 22. Where, as here, a court finds a violation of any portion of Nevada's Rights of Peace
22 Officers statutes, NRS 289.120 states that the "court shall order appropriate injunctive or other
23 extraordinary relief to prevent the further occurrence of the violation". This language requiring
24 injunctive or other extraordinary relief to "prevent the further occurrence of the violation" has been held

1 to further include retroactive remedies. *Ruiz v. City of North Las Vegas*, 127 Nev. 254, 255 P.3d 216
2 (2011).

3 23. California courts interpreting the near identical language of California's Peace Officers
4 Bill of Procedural Rights Act ("POBRA") have construed such language to grant courts "broad
5 discretion" to fashion equitable remedies to redress violations of the statutes, and "the task of
6 formulating a remedy [is] best left to the courts on a case-by-case basis". *Davis v. County of Fresno*, 22
7 Cal. App. 5th 1122, 1139, 232 Cal. Rptr. 3d 324, 336 (2018) citing *Williams v. City of Los Angeles*
8 (1988) 47 Cal.3d 195, 203, 252 Cal. Rptr. 817, 763 P.2d 480.

9 24. The statutory term "extraordinary relief" has likewise been interpreted by the California
10 courts under POBRA to refer to extraordinary writs such as mandamus, quo warranto, habeas corpus,
11 and other similar actions. *Gales v. Superior Court*, 47 Cal. App. 4th 1596, 1602, 55 Cal. Rptr. 2d 460,
12 464 (1996); *Henneberque v. City of Culver City*, 172 Cal.App.3d 837, 218 Cal.Rptr. 704 (1985); *Garcia*
13 *v. Office of Protective Servs. Porterville State Developmental Ctr. Dep't of Developmental Servs.*, 2021
14 Cal. Super. LEXIS 108628 (April 7, 2021).

15 25. The Court concludes that the most appropriate way to remedy the harm suffered by
16 Sergeant Cordero for the violation of his rights under NRS Chapter 289, and to further prevent LVMPD
17 from ever again disregarding the requirements of the Rights of Peace Officer statutes, is to place Danny
18 Cordero in the position he would have been but for the violation which is to reinstate Cordero to the
19 rank of Police Sergeant with retroactive backpay and benefits less a forty (40) hour suspension. This is
20 in addition to an injunction prohibiting LVMPD from ever repeating the due process and/or statutory
21 violations which occurred in this case.

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24 ///

1 26. The language of NRS 289.120 further requires the court to enjoin LVMPD from taking
2 any reprisal retaliatory action against Sergeant Danny Cordero.

3 27. If any of these Conclusions of Law are properly deemed as Findings of Fact, they shall
4 be so considered.

5 ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Petitioner's
6 Petition for Extraordinary and Injunctive Relief Pursuant to NRS 289.120 is GRANTED.

7 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Order shall constitute a
8 Writ of Mandamus requiring LVMPD to restore Danny Cordero to the rank of Police Sergeant with
9 retroactive backpay and benefits less a forty (40) hour suspension;

10 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that LVMPD is permanently
11 enjoined from cutting off or preventing a peace officer that LVMPD intends to recommend disciplinary
12 action for, or their statutory representatives, from fully and completely presenting their response(s) to
13 any disciplinary allegations under NRS 289.080(9);

14 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that LVMPD is permanently
15 enjoined in future cases where new information comes to light to promptly disclose such new
16 information, and to provide the subject officer with a new and/or continued hearing to address such
17 information; and

18 ///

19 ///

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1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that LVMPD is permanently
2 enjoined pursuant to NRS 289.120 from taking any reprisal or retaliatory actions against Sergeant Danny
3 Cordero.

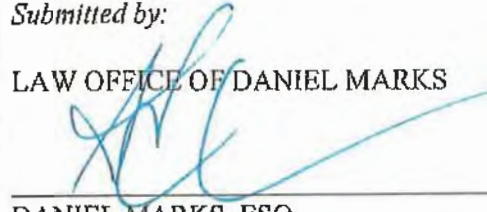
4 IT IS SO ORDERED.

5
6
7 Dated this 21st day of August, 2025

8 
9

10 B5E E56 5226 6947
11 Jacqueline M. Bluth
12 District Court Judge

13 Submitted by:

14 LAW OFFICE OF DANIEL MARKS
15 

16 DANIEL MARKS, ESQ.
17 Nevada State Bar No. 002003
18 ADAM LEVINE, ESQ.
19 Nevada State Bar No. 004673
20 office@danielmarks.net
21 610 South Ninth Street
22 Las Vegas, Nevada 89101
23 Attorneys for Petitioner Daniel Cordero
24

1 **CSERV**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 In the Matter of the Petition of CASE NO: A-24-900488-P
7 Danny Cordero DEPT. NO. Department 6
8

9 **AUTOMATED CERTIFICATE OF SERVICE**

10 This automated certificate of service was generated by the Eighth Judicial District
11 Court. The foregoing Order was served via the court's electronic eFile system to all
12 recipients registered for e-Service on the above entitled case as listed below:

13 Service Date: 8/21/2025

14 Nicholas Crosby	ncrosby@maclaw.com
15 Daniel Marks	Office@danielmarks.net
16 Sherri Mong	smong@maclaw.com
17 Joi Harper	Jharper@danielmarks.net

City of Las Vegas (Respondent)

**Reply in Support of Motion to
Defer to the Arbitration Decision**

1 JEFFRY M. DOROCAC
City Attorney
2 Nevada Bar No. 13109
By: MORGAN DAVIS
3 Senior Assistant City Attorney
Nevada Bar No. 3707
4 By: MICHELLE DI SILVESTRO ALANIS
Deputy City Attorney
5 Nevada Bar No. 10024
495 South Main Street, Sixth Floor
6 Las Vegas, NV 89101
(702) 229-6629 (office)
7 (702) 386-1749 (fax)
Email: malanis@lasvegasnevada.gov
8 Attorneys for CITY OF LAS VEGAS

FILED
August 11, 2026
State of Nevada
E.M.R.B.
7:28 p.m.

10 GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

11 STATE OF NEVADA

12 LAS VEGAS POLICE OFFICERS
ASSOCIATION,

13 Complainant,

14 vs.

15 CITY OF LAS VEGAS,

16 Respondent.

CASE NO. 2025-011

17
18 **RESPONDENT'S REPLY IN SUPPORT OF MOTION TO DEFER TO THE**
19 **ARBITRATION DECISION**
20

21 Respondent, City of Las Vegas (hereinafter referred to as "City"), by and through its
22 attorneys of record Jeffry M. Dorocak, City Attorney, by Morgan Davis, Senior Assistant City
23 Attorney, and Michelle Di Silvestro Alanis, Deputy City Attorney, hereby files this Reply in
24 Support of its Motion to Defer to the Arbitration Decision.

25 **MEMORANDUM OF POINTS AND AUTHORITIES**

26 **I. INTRODUCTION**

27 The Board should defer to Arbitrator Kenneth A. Perea's final and binding grievance
28 arbitration award under the Board's established deferral doctrine. LVPOA's opposition misstates

1 the doctrine's "agreement to be bound" element and asks the Board to withhold deferral based on
2 a separate, contemplated district court challenge under NRS 289.120, which is not before this
3 Board and does not negate EMRB deferral. The arbitration here squarely decided the
4 contract/statutory issue LVPOA raised about unpaid suspension pending felony charges and meets
5 the Board's five-factor test. The Opposition supplies no basis to depart from deferral or to prolong
6 the stay. Therefore, deferral to Arbitrator Perea's Award is appropriate.

7 **II. PROCEDURAL HISTORY**

8 On September 26, 2025, the Board stayed this case under the Limited Deferral Doctrine
9 "pending the conclusion of the arbitration of the underlying grievance filed by Complainant." This
10 Board recognized that the preferred method for resolving disputes is through bargained-for
11 processes and that the Board applies NAC 288.375 liberally to effectuate that purpose. The stay
12 was understood to be a temporary delay while the arbitration was pending. The arbitration of the
13 underlying grievance was concluded on May 14, 2026, when Arbitrator Perea issued his decision
14 denying the grievance.

15 On June 11, 2026, the Board lifted the stay and authorized the City to move within 30 days
16 to defer to the arbitration decision and/or to dismiss. Thereafter, the City moved for this Board to
17 defer to and accept Arbitrator Perea's Arbitration Award. LVPOA filed an Opposition asking the
18 Board to deny deferral and to continue the stay pending LVPOA's district court petition pursuant
19 to NRS 289.120.

20 Unlike the limited deferral doctrine which results in a temporary stay, deferral to the
21 arbitration award, as relevant in this context, relates to whether to accept or adopt the Arbitrator's
22 decision and dismiss the case pending before this Board. Under deferral standards identified in
23 *City of Reno v. Reno Police Protective Ass'n*, LVPOA has the burden of demonstrating the five
24 principles are not met.

25 In this case, LVPOA only cited to one of the factors – parties' agreement to be bound –
26 and as a result has failed to meet the burden as to the other four. The only factor relied on by
27 LVPOA is that the parties did not agree to be bound by the arbitration award. However, as will be
28 shown below, the CBA and the arbitration award relied on by LVPOA and relevant case law

1 support the City's position that this Board must defer to Arbitrator's Perea's award.

2 **III. RELEVANT FACTS**

3 The City and LVPOA are parties to a CBA effective July 1, 2022 through June 30, 2025,
4 governing correctional officers and sergeants in the Department of Public Safety. *See* Exhibit A,
5 Collective Bargaining Agreement between City of Las Vegas and Las Vegas Peace Officers
6 Association. The CBA between the City and LVPOA states,

7 The City and the Association agree that, members of the Bargaining Unit
8 who have 'Peace Officer' status are covered by NRS 289 (Rights of Peace
9 Offices[sic]). Both parties will also comply with future legislative changes
to NRS 289. Those changes, if any, will supersede the rights listed below.

10 Exhibit A, page 1, Article I-Recognition. The CBA further states, "The City shall adhere to NRS
11 289, Peace Officers Bill of Rights when initiating discipline under this Article." *Id.* at page 42,
12 Article 25-Disciplinary Action. The CBA further states that the Award will be final and binding
13 on the association and its members, the employee and the City. *Id.* at page 49, Section 4.
14 Arbitration Procedure.

15 LVPOA grieved the City's decision to place Maurice Washington on leave without pay
16 pending disposition of felony criminal charges, and the grievance proceeded to arbitration before
17 Impartial Arbitrator Kenneth A. Perea. LVPOA also filed the instant Complaint with the EMRB
18 asserting that the City decision to suspend without pay constituted a unilateral change to a subject
19 of mandatory bargaining.

20 On May 14, 2026, Arbitrator Perea issued Findings and Award denying the grievance and
21 concluding the City did not violate Articles 1 and 25 of the CBA, as NRS 289.057(2) (as
22 incorporated) does not apply to investigations concerning alleged criminal activities per NRS
23 289.090, and the CBA otherwise did not require paid status. *See* Exhibit B, Impartial Arbitrator's
24 Findings And Award in the matter of arbitration between City of Las Vegas and Las Vegas Peace
25 Officers Association re: Maurice Washington Grievance ("Award").

26 The Award clearly states, "[t]he parties *agree* the matters at issue are properly submitted
27 for *final and binding* adjudication before Impartial Arbitrator Kenneth A. Perea." Exhibit B,
28 Award at Page 1, Introductory paragraph (emphasis added). The Award further states that the

1 dispute was heard pursuant to the *agreement* of the parties. *Id.* at 1, section I (emphasis added).

2 The issues presented to the Arbitrator were as follows:

- 3 1. Did City violate Articles 1 and 25 of the Agreement *which*
4 *incorporates State of Nevada's Rights of Peace Officers' statutes*
5 *under NRS Chapter 289*, and/or any other provisions of Article 25
6 of the Agreement when it placed Corrections Officer Maurice
7 Washington on indefinite unpaid suspension after Corrections
8 Officer Maurice Washington was charged with one or more
9 felonies?

- 10 2. If so, what is the appropriate remedy?

11 *Id.* at 2.

12 Based on the issues presented, the Arbitrator considered NRS 289 in his determination
13 because NRS Chapter 289 and the Peace Officer Bill of Rights are incorporated into the CBA. The
14 Award goes on to provide the relevant statutory and contractual provisions including the Rights of
15 Peace Officers. *Id.* at 4-5. The Award then cites to NRS 289.057 and NRS 289.090:

16 NRS 289.057 Investigation of allegation of misconduct; law enforcement
17 agency prohibited from taking certain actions during investigation; review
18 of file by peace officer under certain circumstances; law enforcement
19 agency prohibited from keeping or making record of investigation or
20 punitive action; reassignment of peace officer under certain circumstances.

- 21 1. Except as otherwise provided in this subsection, an investigation of
22 a peace officer may be conducted in response to a complaint or
23 allegation that the peace officer has engaged in 5 activities which
24 could result in punitive action. Any such investigation of a peace
25 officer must be commenced by the law enforcement agency within
26 a reasonable period of time after the date of the filing of the
27 complaint or allegation with the law enforcement agency. A law
28 enforcement agency shall not conduct an investigation pursuant to
this subsection if the complaint or allegation is filed with the law
enforcement agency more than 5 years after the activities of the
peace officer occurred.

2. Except as otherwise provided in a collective bargaining agreement,
a law enforcement agency shall not:

- (a) Suspend a peace officer without pay; or
(b) Deny an increase in seniority or compensation, unless an investigation
may lead to dismissal or demotion, during or pursuant to an investigation
conducted pursuant to this section until all investigations relating to the
matter have concluded.

...

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

1 The provisions of subsections 2, 3 and 4 of NRS 289.057 and NRS 289.060,
2 289.070 and 289.080 do not apply to any investigation which concerns
3 alleged criminal activities.

4 *Id.* at 4-5. The Award also cites to the CBA Articles I and 25. *Id.* at 5.

5 The Award goes on to explain each party's contentions which include arguments relating
6 to NRS 289.057. and NRS 289.090. In reaching his decision to deny the grievance, the Arbitrator
7 concluded:

8 It therefore follows that the investigation of CO Washington due to
9 the before-mentioned events of May 12, 2025, was exempt from NRS
10 289.057(2)'s requirement that a law enforcement agency may not suspend
11 a peace officer without pay during or pursuant to an investigation until all
12 investigations relating to the matter have been concluded except as
13 otherwise provided in a collective bargaining agreement. Following careful
14 review, it is furthermore concluded the parties' Agreement did not
15 otherwise require CO Washington could only be suspended with pay
16 pending investigation of his alleged criminal activities on May 12, 2025.

17 ***DPS did therefore not violate NRS 289.057(2), as incorporated***
18 ***into the parties' Agreement,*** by suspending CO Washington without pay
19 pending disposition of alleged felony criminal charges. LVPOA's grievance
20 on CO Washington's behalf must accordingly be denied.

21 *Id.* at 17 (emphasis added).

22 Both the CBA and the Award include references to the party's agreement to be bound by
23 NRS 289.

24 **IV. LEGAL ARGUMENT**

25 **A. This Board Should Defer to the Arbitrator's Decision in the Matter of Maurice Washington.**

26 "This Board has repeatedly emphasized that the preferred method for resolving disputes is
27 through the bargained for processes, and the Board applies NAC 288.375(2) liberally to effectuate
28 that purpose." *Int'l Ass'n of Fire Fighters, Local 4068 v. Town of Pahrump*, Case No. 2017-009,
Item 833 (2018) at pg. 4; see also NAC 288.040.

The Employee Management Relations Board defers to a prior arbitration if:

(1) the arbitration proceedings were fair and regular; (2) the parties agreed
to be bound; (3) the decision was not "clearly repugnant to the purposes
and policies of the [National Labor Relations Act (NLRA)];" (4) the
contractual issue was factually parallel to the unfair labor practice issue;
and (5) the arbitrator was presented generally with the facts relevant to

resolving the [unfair labor practice].

City of Reno v. Reno Police Protective Ass'n, 118 Nev. 889, 896, 59 P.3d 1212, 1217 (2002).

“The party desiring the [EMRB] to reject an arbitration award has the burden of demonstrating these principles are not met.” *Id.* The Nevada Supreme Court adopted the NLRB deferral policy and concluded that the EMRB must apply these principles in determining whether to defer to an arbitration.” *Id.*

This Board has repeatedly reaffirmed application of that doctrine, including recognizing its prudential purpose to give effect to the bargained-for grievance procedure, and that the party resisting deferral bears the burden to show the elements are not met.

Here, LVPOA has only cited one of the factors, and as a result has failed to meet the burden of the other four. Furthermore, here, the grievance was fully and fairly arbitrated. Both parties were present and represented by counsel, presented sworn testimony and exhibits, cross-examined witnesses, and submitted post-hearing briefs, and the Arbitrator issued a reasoned final award within his contractual authority. LVPOA identifies no procedural defect, jurisdictional overreach, or denial of a fair hearing. Its substantive disagreement with the arbitrator’s interpretation of NRS 289.057(2)/289.090 as incorporated through the CBA is not a ground to refuse deferral.

B. LVPOA’s “No agreement to be bound” argument misreads deferral and the record.

The *sole* argument made by LVPOA is whether the parties agreed to be bound. LVPOA argues that as a matter of statute there can be no “agreement to be bound” on disputes under NRS Chapter 289. Opps. At 3:9-11. Yet, it is clear from the plain language of the statute that is simply not true. Further, the CBA and the Award clearly show the parties agreed to be bound.

The parties’ CBA provides for final and binding arbitration of discipline and contract disputes and was the vehicle LVPOA invoked to challenge Washington’s unpaid leave. The Arbitrator expressly acted within the submission and issued a final award denying the grievance.

NRS 289.120 states: that

Any peace officer aggrieved by an action of the employer of the peace officer in violation of this chapter **may**, after exhausting any applicable internal grievance procedures, grievance procedures negotiated pursuant to chapter 288 of NRS and

1 other administrative remedies, **apply to the district court for judicial relief.** If the
2 court determines that the employer has violated a provision of this chapter, the court
3 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.

4 The availability of a separate, subsequent district court remedy under NRS 289.120 does
5 not negate that the parties *agreed* to arbitrate and be bound within the grievance forum for the
6 labor dispute. Deferral turns on whether the arbitral forum was fair, the issues were presented, the
7 contract (incorporating the statutory provisions at issue) was interpreted, and the award is not
8 clearly repugnant to Chapter 288 policy—not on whether some other statute allows later judicial
9 review.

10 Here, the CBA references final and binding but does not exclude other issues. This inquiry
11 involves looking at what the parties agreed to arbitrate and what they did not. The CBA
12 incorporated reference to Chapter 289 and the obligation to comply with Chapter 289 and the
13 Peace Officer Bill of Rights. The grievance alleged violation of NRS 289 and that issue was
14 submitted to and considered by arbitrator.

15 LVPOA are attempting to suggest that there was no agreement to be bound because they
16 have the option of seeking judicial review of that decision under NRS 289.120. However, as
17 previously stated the availability of an action and remedy under NRS 289 does not negate the
18 agreement to be bound.

19 LVPOA's cited authorities such as *McDonald v. City of West Branch, Mich.*, 466 U.S. 284
20 (1984) which deals with federal civil rights action under 42 U.S.C. § 1983 and unrelated Las Vegas
21 Police Managers and Supervisors Association ("PMSA") and *Cordero* matter do not alter EMRB
22 deferral and, in any event, are not EMRB precedent governing deferral here.

23 LVPOA further cited *Ruiz v. City of North Las Vegas*; however, the *Ruiz* case is not relevant
24 to the instant case or the EMRB's analysis of whether there was an agreement to be bound.
25 LVPOA's citation to *Ruiz* is taken completely out of context. In *Ruiz*, a police officer was
26 terminated and pursuant to the applicable collective bargaining agreement the union filed a
27 grievance on the officer's behalf. *Ruiz v. City of N. Las Vegas*, 127 Nev. 254, 255 P.3d 216 (2011).
28 The grievance was based largely on alleged violations of the Peace Officer Bill of Rights under

1 NRS 289.010. *Id.* at 256-257, 218. The matter was submitted to arbitration and the arbitrator
2 concluded the city had just cause to terminate. *Id.* at 258, 219. The union then assigned Ruiz its
3 right to challenge the arbitration decision and Ruiz individually petitioned the district court to
4 vacate the arbitration decision. *Id.* The City argued Ruiz lacked standing because he was a nonparty
5 to the arbitration. *Id.* The district Court granted the City's motion concluding that the right to
6 challenge the arbitration decision was not assignable and Ruiz had not met the prerequisites to sue
7 under the Peace Officer Bill of Rights. *Id.*

8 Therefore, the *Ruiz* Court only addressed a standing issue and not a deferral issue. The
9 court ruled that Ruiz was not a party to the arbitration pursuant to NRS Chapter 38 in order to
10 challenge the arbitration decision. *Id.* at 260, 220. The Court further ruled that the union could
11 not assign its rights to Ruiz because it was not permitted by the CBA. *Id.* at 262, 221. However,
12 the Nevada Supreme Court did rule that individual officers including Ruiz had standing to seek
13 judicial action pursuant to NRS 289.120 for alleged violations of the Peace Officer Bill of Rights
14 assuming they exhausted their CBA negotiated grievance procedures. *Id.* at 263, 222. In reaching
15 its ruling the Court noted Ruiz had exhausted NRS 289.120's requirement to exhaust applicable
16 grievance procedures because a grievance that alleges an employee's wrongful termination could
17 also encompass issues related to the Peace Officer Bill of Rights and it had. *Id.*

18 *Ruiz* does not address EMRB issues or the deferral doctrine at all. It does not support
19 LVPOA's position that the parties did not agree to be bound or that the EMRB should stay the
20 EMRB case pending the resolution of a petition pursuant to NRS 289.120.

21 LVPOA's opposition stated "there would be no reason for the Legislature to require peace
22 officers to exhaust their arbitration procedures under a collective bargaining agreement under NRS
23 289.120 if the arbitrator's award were to be immune from judicial challenge for a violation of
24 POBR." Opps. at 4:7-9.

25 Yet, the ability to seek judicial review is not the same as not agreeing to be bound by the
26 decision. In fact, it is well understood that NRS Chapter 38 likewise provides alternative sources
27 of judicial review of the arbitrator's award. *See* NRS 38.241. Under LVPOA's argument no
28 arbitration would ever meet the agreement to be bound standard because the ability to seek judicial

1 review will always exist under Chapter 38. Thus, LVPOA has failed to meet this factor and the
2 EMRB should defer to the Award.

3 **C. The Award is not “clearly repugnant” to the policies of the Act because it**
4 **applies the CBA and the incorporated statutes to undisputed criminal activity.**

5 While LVPOA’s main argument is that the parties lack the agreement to be bound, LVPOA
6 also suggests in passing that the Award was clearly repugnant to the purposes and policies of
7 Chapter 288. *See Opps.* at 6:13-16. However, LVPOA fails to meet its burden with respect to this
8 factor.

9 The National Labor Relations Board has explained that a decision is not “clearly
10 repugnant” unless the decision is “palpably wrong.” *Verizon New England Inc. v. NLRB*, 423 U.S.
11 App. D.C. 316, 322, 826 F.3d 480, 486 (2016). *Id.* at pg. 4. This Board has held that arbitration
12 is preferred for the simple reason that it is understood to be “a part of the continuous collective
13 bargaining process” that lies at the heart of the NLRB. *AFSME Local 4041, v. State of Nevada,*
14 *Department of Veterans Services, Nevada State Veteran’s Home*, Case Nos. 2023-019 and 2023-
15 029, Item No. 909 *citing to United Steelworkers v. Warrior & Gulf Navigation Co*, 363 U.S. 574,
16 581, 80 S. Ct. 1347, 1352, 4 L.Ed.2d 1409 (1960).

17 Here, the Arbitrator’s Award was consistent with Nevada law and there was nothing legally
18 deficient or inconsistent with the Arbitrator’s holdings. The Arbitrator considered the relevant
19 statutes, specifically NRS 289.057 and NRS 289.090 in reaching his decision. Arbitrator Perea
20 concluded that because the investigation concerned alleged criminal activities, NRS 289.090
21 exempted the matter from NRS 289.057(2)’s unpaid-suspension restriction. Arbitrator Perea
22 further concluded the CBA did not otherwise require paid status pending criminal disposition. He
23 therefore denied the grievance.

24 That reasoned application of the incorporated statutory text and CBA language to the
25 charged felony circumstances is at least “plausibly grounded” in the contract/statute and cannot be
26 labeled “clearly repugnant” to Chapter 288 policy encouraging resolution through negotiated
27 grievance arbitration. LVPOA’s contrary statutory construction—reserved for its district court
28 challenge—is not for this Board to decide on a prohibited-practice complaint, and certainly not a

1 basis to discard the award. Thus, the Board must find that the decision of the Arbitrator was not
2 repugnant or palpably wrong.

3 **D. The Board Should Not Continue or Reinstate the Stay and LVPOA's district**
4 **court filing is not a bar to deferral.**

5 LVPOA acknowledged it intends to file a judicial challenge in the district court for Maurice
6 Washington under NRS 289.120 and requested to continue the EMRB stay on that basis. *See*
7 *Opps.* at 2: 16-19; 6:21-7:6.¹

8 Thus, LVPOA is not really seeking to avoid a deferral under the applicable standards but
9 rather it's merely attempting to have this Board issue a second stay, this time to allow it to proceed
10 with a judicial review under NRS 289. EMRB deferral exists precisely to avoid duplicative
11 litigation and to give effect to the bargained-for arbitration process already concluded. A pending
12 court action under a different statute does not divest the Board of its authority to defer now.
13 Maintaining an indefinite stay would frustrate NAC 288.375's liberal application favoring
14 grievance resolution.

15 Furthermore, and as conceded by LVPOA, this Board has **no jurisdiction** over Peace
16 Officer Bill of Rights disputes. Thus, in no way would this Board's ruling to defer to the
17 Arbitrators Award immunize the district court from reviewing an action under NRS 289.120. Now
18 that the judicial action has been filed, the City will vigorously oppose it. Therefore, LVPOA's
19 reasons to continue a stay are without merit and this Board should deny LVPOA's request to
20 continue the stay.

21 **V. CONCLUSION**

22 The burden of proof is on LVPOA. Arbitration is entitled to great deference. While it is
23 true that deference has its limits, LVPOA has failed to meet its burden in opposing deferral. None
24 of the findings or decisions set forth in Arbitrator Perea's Award were repugnant to the Act. The
25 parties did agree to be bound because the CBA provides for final and binding arbitration of
26 discipline and contract disputes. The decision was based on the CBA and incorporated statutory
27 provisions at issue. More importantly, as LVPOA concedes, the Board does not have jurisdiction

28

1 Since the filing of its Opposition, LVPOA filed a Petition in district court, Case A-26-952108-W.

1 over Peace Office Bill of Rights petitions and it is irrelevant to this Board if LVPOA pursues such
2 action in the district court as NRS 289.120 provides for its own remedies. For these reasons, the
3 Board should grant the City's Motion and defer to Arbitrator Perea's Findings and Award, and
4 deny LVPOA's request to continue the stay.

5 DATED this 11th day of August, 2026.

6 JEFFRY M. DOROCAK
7 City Attorney

8 By: /s/ Michelle Di Silvestro Alanis
9 MORGAN DAVIS
10 Senior Assistant City Attorney
11 Nevada Bar No. 3707
12 MICHELLE DI SILVESTRO ALANIS
13 Deputy City Attorney
14 Nevada Bar No. 10024
15 495 South Main Street, Sixth Floor
16 Las Vegas, NV 89101
17 Attorneys for CITY OF LAS VEGAS
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CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2026, I served a true and correct copy of the foregoing
RESPONDENT'S MOTION TO DEFER TO THE ARBITRATION DECISION via electronic
mail (or, if necessary, by United States Mail at Las Vegas, Nevada, postage fully prepaid) upon
the following:

Adam Levine, Esq.
Law Office of Daniel Marks
610 S. Ninth Street
Las Vegas, NV 89101
alevine@danielmarks.net
*Attorneys for the Las Vegas Peace
Officer's Association*

/s/ Michelle Di Silvestro Alanis
AN EMPLOYEE OF THE CITY OF LAS VEGAS

EXHIBIT A

EXHIBIT A

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

THE CITY OF LAS VEGAS

&

LAS VEGAS PEACE OFFICERS
ASSOCIATION

Department of Public Safety
Correction Officers
Commissioned Officers Unit

July 1, 2022 – June 30, 2025

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PREAMBLE

WHEREAS, the City is engaged in furnishing essential public services vital to the health, safety and welfare of the population of the City; and

WHEREAS, both the City and its employees have a high degree of responsibility to the public in so serving the public without interruption of essential services; and

WHEREAS, both parties recognize this mutual responsibility, they have entered into this Agreement as an instrument and means of maintaining the existing harmonious relationship between the City and its employees, and with the intention and desire to foster and promote the responsibility of a sound, stable and peaceful labor relations between the City and its employees; and

WHEREAS, the parties recognize that this Agreement is not intended to modify any of the discretionary authority vested in the City by the statutes of the State of Nevada; except as modified in this Agreement; and

WHEREAS, the parties have reached an understanding concerning, wages, hours and conditions of employment and have caused the understanding to be set out in this Agreement.

NOW, THEREFORE, the parties do agree as follows:

ARTICLE I - RECOGNITION

Pursuant to the provisions of the Local Government Employee Management Relations Act, Chapter 288, Nevada Revised Statutes as amended, the City of Las Vegas (hereinafter call the "CITY") recognizes the LAS VEGAS PEACE OFFICERS ASSOCIATION (hereinafter call the "ASSOCIATION") as the exclusive representative of the eligible Department employees as hereinafter defined for the purpose of collective bargaining. The Association makes the Agreement in its capacity as the exclusive bargaining agent for the Department employees in the bargaining unit.

The City and the Association agree that, members of the Bargaining Unit who have "Peace Officer" status are covered by NRS 289 (Rights of Peace Offices). Both parties will also comply with future legislative changes to NRS 289. Those changes, if any, will supersede the rights listed below.

Section 1. Classifications

The City and the Association agree that the following classifications are represented by the Association:

Corrections Officer
Corrections Sergeant

Section 2. Community of Interest

It is agreed that the Association shall represent any employees within classifications created by the City that are within the Association's community of interest.

(A) New Classifications Bargaining Unit Determination

The following method shall be used to determine eligibility of including new classifications in the bargaining unit.

When a new classification is created to be in the Department of Detention and Enforcement, the Human Resources Department will make an initial determination if the classification is to be included or excluded from the Association's bargaining unit. The Human Resources Department will notify the Association of the decision, in writing, and the Association will have fifteen (15) working days from receipt of the notice to raise an objection. If there is an objection, the Association will proceed as outlined below.

Disputes regarding inclusion or exclusion of a position or classification in the bargaining unit shall be resolved as follows:

The Association shall notify the City, in writing, of any disagreement regarding a classification the Association believes belongs to the bargaining unit. The City and the Association shall meet and confer and attempt to resolve this disagreement. This discussion shall take place prior to the filing of any complaint with the Local Government Employee-Management Relations Board, and shall not, in any way, infringe on any right guaranteed to either party in front of that Board subsequent to such discussion with regard to the filing of any complaint or request for action or shall it be construed to be an admission of any type by either party for use in front of that body or any other body. If disagreement still exists after thirty (30) calendar days, the Association may then appeal the classification decision or proposal of the City to the Local Government Employee-Management Relations Board as provided in NRS 288.170.

(B) New Classifications - Specifications

When the specifications of a new classification which is to be covered by this Agreement are proposed, the Human Resources department will notify and discuss with representatives of the Association the proposed new classification and provide a copy of the recommended specifications at least seventy-two (72) hours prior to the Civil Service Board meeting agenda being posted.

(C) New Classifications - Conditions of Employment

The conditions of employment, other than wages, for any new classifications created within the Association's community of interest, shall be governed by the terms of this Agreement. Wage scales for such new classifications shall be determined as follows:

Should it be determined that a new classification is within the Association's community of interest, and the wage analysis performed by the HR Compensation activity is unacceptable to the Association, the parties shall immediately enter into collective negotiations to arrive at an agreement on the subject of wages for such new classification. If within thirty (30) calendar days after the start of wage discussions, the parties have not reached mutual agreement, they shall proceed to the Grievance and Arbitration Procedure.

Section 3. Changes in the Classification's Specifications

When there are changes in classification specifications covered by this Agreement, the Human Resources Department will notify and discuss with representatives of the Association the recommended changes seventy-two (72) hours prior to the Civil Service Board meeting agenda being posted.

ARTICLE 2 - CHECK OFF

The City agrees to deduct from the paycheck of each employee within the bargaining unit who has signed an authorized payroll deduction card such amount as has been designated by the Association dues and is so certified by the Treasurer of the Association. The City will be notified of any change in the rate of membership dues at least thirty (30) days prior to the effective date of such change.

The City shall remit such funds to the Association within one (1) month after such deductions. The employee's authorization for such deductions is irrevocable except that authorization may be withdrawn during the months of April or October by the employee giving written notice to the City and the Association, or upon termination of employment.

ARTICLE 3 - NO STRIKES

The Association agrees that there shall be no strikes under any circumstances. Employees shall continue to furnish efficient service within all areas of assigned responsibility.

For the purpose of this Agreement the meaning of the word "strike" shall include but not be limited to any concerted stoppage of work; slowdown; interruption of work or operations by employees; absence from work upon any pretext or excuse, such as illness, which is not founded in fact; or interruption of the operations of the City by the Association and/or its members.

ARTICLE 4 – DEFINITIONS

This Agreement is made pursuant to and in conjunction with the Local Government Employee-Management Relations Act of the state of Nevada, and all terms herein are terms used in the Local Government Employee-Management Relations Act shall have definitions ascribed to them by said Act.

The City and the Association agree that the Civil Service Rules of the City shall be the general rules by which the City administers its duties and rights with respect to the conditions of employment of Association members except as hereinafter provided.

It is the continuing policy of the City and the Association that the provisions of this Agreement shall be applied to employees without regard to sex, race, color, religion, age, national origin, political affiliation, sexual orientation, or disability.

Most of the following definitions or terms used in this Agreement are derived from the City of Las Vegas Personnel Policies Manual, the City of Las Vegas Civil Service Rules, the Nevada Local Government Employee-Management Relations Act, the Nevada Industrial Insurance Act, or the Nevada Occupational Safety and Health Act. Where any conflict is found between the following defined terms and the terms as described in the Nevada Revised Statutes and Amendments thereto, the definitions as set forth in the Nevada Revised Statutes and Amendments thereto shall control.

The following are definitions of terms used in this agreement.

Abuse of Sick Leave: The use of sick leave for purposes other than the legitimate uses of sick leave listed in Article 14 - Sick Leave of this contract.

Administrative Employee: Any employee whose primary duties consist of work directly related to management policies, who customarily exercises discretion and independent judgment and regularly assists an executive. In addition, it includes the chief administrative officer, deputies, immediate assistants, department heads, their deputies and immediate assistants, attorneys, appointed officials and others who are primarily responsible for formulating and administering management policy and programs.

Arbitrator: An impartial third party chosen in accordance with the provisions of this Agreement.

Assignment Differential Pay (ADP): Temporary monetary compensation paid to commissioned personnel who are working in the applicable assignment categories.

Base Salary: Remuneration received by the employee in accordance with the rates specified on the appropriate salary schedule or other compensation plan in effect for any one employee or group of employees.

Bereavement Leave: Leave granted to an employee to attend the funeral and/or for bereavement purposes for a member of the employee's immediate family.

Call-Back: When an employee is called back to work during off-duty hours after the employee has left the normal duty location.

Classification: A group of positions, which have essentially similar duties and responsibilities, is allocated to the same salary range, and is designated by the same general title.

Classifications Specifications: A written description of the work required of positions in the classification that includes the classification title, definition, authority, examples of duties and responsibilities, and minimum or desirable qualifications. Classification specifications are descriptive and explanatory of the general work required in positions in that classification and are not necessarily inclusive of all duties to be performed in a particular position.

Counseling: Counseling is a form of supervisor and employee communication that is often appropriate and is done outside the disciplinary process. The purpose of counseling is to discuss the proper procedures to be followed in a given situation. It is primarily instructional and is not, nor should it be confused with, an oral reprimand. Counseling is also a method of notifying an employee of good or exceptional work.

Demotion: Movement of an employee from one classification to a different classification, that is on a lower salary grade than the original classification.

Domestic Partner: Defined by meeting the following criteria:

- A. Share the same permanent residence, AND
- B. Have a close personal relationship, AND
- C. Are jointly responsible for basic living expenses, AND
- D. Are single or divorced, AND
- E. Are eighteen (18) years of age or older, AND
- F. Are not related by blood, AND
- G. Are each other's sole domestic partner and are responsible for each other's common welfare.

Emergency: A riot, facility death, serious bodily injury, escape or natural disaster but does not include a shortage in minimum staffing requirements.

Emergency Leave: Leave that may be granted after a request for immediate leave that, by the nature of the condition prompting the request, could not have been predicted in advance of need and been scheduled in accordance with normal departmental policy. Emergency leave may not be used in lieu of an employee's accrued sick leave.

Extended Sick Leave: Extended sick leave is when an employee is off work for maternity/paternity/adoption leave, continuing special treatment, recovery from disabling illness or injury or other recognized use of sick leave for more than five (5) working days.

Family Leave: Leave taken under the auspices of the Family Medical Leave Act of 1993, amended in 2009.

Freeze: When employees are required (mandated) to work beyond their scheduled shift. The employee must work a minimum of 15 minutes beyond their regularly scheduled work shift, to be considered "frozen".

Grade: A term used to designate salary range to which one or more classifications may be allocated.

Grievance: A complaint regarding wages, benefits, departmental rules and regulations that violate a provision of this agreement or are applied in an unfair or inconsistent manner or interpretation and application of this Agreement.

Holiday: A day set aside for the special observance of a memorable event or occasion as referenced in NRS 236.

Hourly Employee: Persons not subject to the City of Las Vegas Civil Service Rules, who serves at the pleasure of their appointing authority, and whose base hourly pay constitutes their entire compensation.

Immediate Family: Current spouse or domestic partner, parent, brother, sister, children, (including step, adopted and foster relationships), grandchild, grandparent, current mother/father-in-law, current sister/brother-in-law, current son/daughter-in-law.

Job-Related Disability: Incapacity resulting from an accident or occupational disease arising out of and/or in the course of employment as defined in NRS 616 & 617.

Just Cause: A factual reason cited by the City that is used to issue disciplinary action. Just cause is defined in the discipline article of this contract.

Negotiations: The process of collective bargaining between the City and the Association that determines the contract between the City and the Association.

New Employee: For purposes of compensation, "New Employee" is defined as those hired after June 26, 2011.

Normal Work Period: An employee's normal paid, bi-weekly work period shall be eighty (80) hours.

Overfill: Temporarily filling a position that has been budgeted at one level with an employee who is in a higher classification than that for which the position was budgeted.

Overtime: Time that an employee works in addition to the employee's normal bi-weekly or daily work schedule.

Parent Bonding Leave: Leave, with or without pay, granted to employees for the purposes of caring for newly born and/or newly adopted children.

Probationary Employee (Initial Hire): An employee who has not completed the probationary period of employment and whose permanent appointment has not been confirmed. The probationary period for a new employee shall be twelve (12) months from the date of hire.

Promotion: A change of an employee from a position in one classification to a position in a higher classification, when such change is other than a result of reclassification of the employee or reallocation of the position.

Qualifying Period: Any person transferred, or promoted to a non-temporary classified position in the City of Las Vegas is required to serve a probationary qualifying period of not less than twelve (12) months prior to confirmation of the transfer or promotion.

Reassignment: The movement of an employee or a position from one work unit to another with the same department, with no change of classification.

Reclassification: The movement of an employee from one classification to another classification on the same salary grade within the same bargaining unit.

Redaction: The process by which City Management removes material, specifically including that of a detrimental nature relating to a specific incident regarding an employee, from all City files.

Regular Employee: One who has successfully completed his/her initial probationary period and whose appointment has been confirmed in a permanent position.

Salary Range: The minimum and maximum base salaries that may be to an employee working in a classification in accordance with the salary grade to which the classification is allocated.

Salary Step: An increment within a salary grade that designates a specific pay rate as on the appropriate salary schedule.

Service Date (Anniversary Date): Usually the actual date of hire, an employee's service date is that date which reflects the length of active non-hourly employment with the City of Las Vegas. For purposes of determining seniority, longevity, or other matters associated with length of active employment, the service date shall be adjusted to reflect any periods of leave without pay in excess of thirty (30) consecutive calendar days.

Shift: The hours that an employee is normally scheduled to work on any normal workday.

Step Increase: A salary increase from one step within a salary grade to a higher step within the salary grade. (also known as within-grade increase)

Suspension: A temporary removal from work status, with or without pay, resulting from, or pending, disciplinary action.

Temporary Employee: "At-will" employees hired for a term not to exceed two thousand eighty (2,080) hours in any twenty-four (24) month period. Temporary employees may be appointive or classified employees and may be hired on a full time or part-time basis.

Termination: The separation of an employee from employment with the City of Las Vegas.

TILO (Time in Lieu of): The accrual of paid time off at time and one-half, due an employee in exchange for time worked in excess of the employee's normal workweek.

Trainee: An employee hired in an entry-level position who is assigned the task of learning the specific requirements of a position and/or classification. Trainees hold probationary status and may not remain in the trainee position for longer than twelve (12) months.

Transfer: The formal movement of an employee or a position from one department to another department without any change to the classification of the position.

Underfill: Temporarily filling a position that has been budgeted at one level with an employee who is in a lower classification than that for which the position is budgeted.

Within-Grade Increase: A salary increase from one step within a salary grade to a higher step within the salary grade awarded on the basis of merit.

Worksite: The areas under the jurisdiction of the Detention Center.

ARTICLE 5 - MANAGEMENT RIGHTS

The City and the Association agree that management officials of the City possess the sole right to operate the City and that all management rights remain with these officials.

Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the City without negotiations include:

- (1) The right to hire, direct, assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.
- (2) The right to reduce in force or lay off any employee because of lack of work or lack of funds, subject to Paragraph (V) of Subsection 2 of NRS 288.150 and to Article 21 "Reductions in Force" of this contract.
- (3) The right to determine:
 - (a) Appropriate staffing levels and work performance standards except for safety considerations.
 - (b) The content of the workday, including, without limitation, workload factors, except for safety considerations.
 - (c) The quality and quantity of services to be offered to the public.
 - (d) The means and methods of offering those services.
- (4) Safety of the Public

Notwithstanding this Agreement, the City is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of emergency as defined in this paragraph as riot, military action, disaster, civil disorder, or matters of similar magnitude. Such actions may include the suspension of any collective bargaining agreement for the duration of the emergency. Any action taken under the provisions of this Subsection shall not be construed as a failure to negotiate in good faith.

The City shall have the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, taxpayers and employees.

ARTICLE 6 - ASSOCIATION / MANAGEMENT COOPERATION

Section 1. Non-Discrimination

Neither the City nor the Association shall discriminate against any employee covered by this Agreement in a manner that would violate any state or federal laws.

Section 2. Employee and Association Rights

(A) The City and the Association agree that employees eligible for membership in the Association shall have the right to freely, and without fear of penalty or reprisal, to form, join, not join, resign from, and/or assist the Association. The freedom of such employees to assist the Association shall be recognized as extending to participation in the management of the Association in the capacity of an Association officer or representative. The presentation of the Association's position to the officials of the City shall not be grounds for any punitive action unless such presentation is done in an illegal or reprehensible manner. The City and the Association shall not interfere, restrain, or discriminate against any employee exercising his/her rights under this provision and/or any City, State, or Federal statute.

(B) The Association will designate employees to serve as Association representatives and stewards. The Association shall notify the City, in writing, of these representatives. Each representative shall be allowed to serve in his/her capacity as a representative. Those duties being defined as:

- 1) The investigation of a bargaining unit member's grievance;
- 2) Representation of a member/grievant at any step of the grievance procedure; and,
- 3) Consultation with duly accredited representatives of the Association who are not employees of the City.

(C) The conduct of Association representative business shall be such as not to unduly interfere with other employees' duties. Association representatives must check with a Lieutenant or designee before contacting the employee in order to identify himself/herself and to make arrangements to communicate with a particular employee.

(D) Whenever practical, all representatives shall notify their Shift Lieutenant or designee a minimum of 48 hours prior to the time they wish to conduct appropriate business. Representatives shall be relieved of duty with pay for the time requested unless operational demands preclude permission to leave the work location being granted or if they do not provide sufficient advance notice. The employee, as provided herein, shall not abuse use of representative time off with pay; and the supervisor or designee will not unreasonably withhold use of said time.

(E) The City shall have available, in an open and easily accessible place, copies of or computer access to all Civil Service Rules, Personnel Policies Manual, Department rules,

regulations and policies that affect employees' employment with the City. At least seven (7) calendar days prior to the implementation, copies of proposed new or revised rules, regulations and policies shall be delivered to the Association. In the event of an emergency, new or revised rules, regulations or policies may be implemented immediately.

(F) All the rights guaranteed under the Constitution and laws of the United States of America, the Constitution of the State of Nevada and the Nevada Revised Statutes, are applicable to the employees covered by this Agreement.

Section 3. Information Lists

The City shall provide the Association, on a monthly basis, the following information:

- New Hires within the Department by name, classification, and division.
- Alphabetical listing of Department employees by name, which will also show classification, and division of employee.
- Promotion, Separation, Transfer Lists - all employees by name, classification, and division. The list shall show the "from and to" classification in the case of promotions and the "from and to" department/division in the case of separations and transfers.
- A copy of the Underfill/Overfill report for current department employees that includes at least the employee's name, position title, and division.
- Open and Promotional Eligibility Lists for represented classifications.

All information furnished on the above outlined lists is for the exclusive use of the Association and shall not be used for any other purpose or be given to any other person or organization without the expressed written approval of the City.

In addition, the City shall provide the President of the Association complete annotated Civil Service Board agendas at the same time and in the same manner as it is provided to the Civil Service Board members.

Section 4. Rules and Regulations vs. Contract

The City and the Association agree that a number of documents govern the administration and compensation of City employees. In order of authority, they are:

1. The Nevada Revised Statutes;
2. The Charter of the City of Las Vegas;
3. The Collective Bargaining Agreements between City and its recognized bargaining units;
4. The City of Las Vegas Civil Service Rules;
5. The City of Las Vegas Personnel Policies Manual.

The City and the Association agree that in the event any inconsistencies arise between departmental rules and regulations and this Agreement, the Agreement controls.

The City and the Association further recognize that the matters covered by departmental rules and regulations include matters that are and are not subject to mandatory

bargaining under the provisions of Nevada Revised Statutes, Chapter 288. The City and the Association also recognize that these rules and regulations are subject to change by the Department Head(s), provided that any changes shall not affect subjects of mandatory bargaining without prior negotiations.

ARTICLE 7 - BULLETIN BOARDS & MEETING SPACE

Section 1. Bulletin Boards

It is the right of the Association to use the provided space on the bulletin boards for the posting of notices concerning Association business. The City will provide the Association with at least one bulletin board in a common area on the work site or work sites as agreed to by the parties.

The Association may also post notices onto the designated City computer site. Items that may be posted include meeting notices, election results, etc., but exclude any campaign related information/materials. The City agrees to maintain an e-mail group so that only members of the Association will receive notices, so as to not unduly disrupt the day to day operations of the City. The Association's access and use of the City of Las Vegas computer site will be performed in accordance with City policies.

Section 2. Meeting Space

The space for meetings that has been provided for the Association prior to this Agreement shall continue to be provided, when reasonable, during the length of this Agreement.

ARTICLE 8 – ASSOCIATION BUSINESS

Section 1. Association Membership

Membership shall be at the sole discretion of the employee. Non-members will be billed for, handling of grievances, arbitration and other legal matters incurred during the performance of their duties as a peace officer on duty. Non-members will also be responsible for reimbursement for litigation costs and attorneys fees directly incurred on their behalf. The Association will indemnify and hold the City harmless for any disputes or litigation arising out of this section of the Collective Bargaining Agreement.

Section 2. Association Officers

Any changes to the current officers or stewards representing employees under this Agreement shall be evidenced to the City in writing within ten (10) working days of the change.

Section 3. Association Leave Hours

For the purposes of representation of members within the bargaining unit, the Association shall be entitled to a reasonable and adequate number of Association officers and representatives. They shall restrict their activities to dealing with grievances and other legitimate Association business and shall be allowed up to one thousand eight hundred (1,800) collective hours of administrative leave for this purpose. However, the City is under no obligation to pay Association officers for time

spent conducting union business when they are not scheduled to work. Every effort shall be made to schedule grievance meetings and hearing during regular work hours.

This administrative leave may be used by Association officers or stewards for official union business as defined by the LVPOA, unless operational demands preclude granting permission (e.g., in some cases all board members may not be approved to attend training at the same time). Any employee approved for the use of administrative leave by the LVPOA must follow all the Standard Operating Procedures and Policies for properly requesting and executing all payroll and time and attendance records related to the use of administrative leave.

Section 4. Permission to Conduct Association Business

Association Officers must notify their supervisors of the need to leave their jobs to conduct Association business. Such time off will not be unreasonably withheld.

Section 5. Receiving Grievances

Association Officers may receive and discuss, but not solicit, complaints and grievances of employees on the premises and time of the City. Such time spent shall not interfere with the work and duties for the City of either the Association officers or the employees. Association officers and the employee or employees involved in a grievance, hearing or investigation may be granted time off for meetings with the approval of the department Chief or designee. Such meetings shall be set at a time mutually agreeable with the City and the Association.

Section 6. Negotiating Committee

Members of the Association Negotiating Committee shall be granted leave from duty, when reasonable, for all meetings between the City and the Association for the purpose of renegotiating the terms of this Agreement, when such meetings take place at a time during which such members are scheduled to be on duty. Association team members shall be relieved of duty assignments, when reasonable, for the period of each negotiation session. With the employees' agreement, employees may be assigned to different shifts because of participation in the negotiations.

Section 7. Access to Briefings

The Association is entitled to address members of the bargaining unit at briefing sessions on issues relating to the administration and interpretation of this collective bargaining agreement, legislative and insurance issues. Access to briefing sessions will be by mutual agreement of the Association President and the Department Chief or designee.

ARTICLE 9 - COMPENSATION

Section 1. Wages

The City and the Association agree that the wages paid eligible employees shall be shown in the City of Las Vegas Peace Officers Association Salary Schedules. The parties have also agreed to the following increases:

- Effective July 01, 2022, the salary schedules for Tier 1 employees will be adjusted by the annual percentage increase to CPI-U all items in West-Size Class B/C, All Urban Consumers, not seasonally adjusted (Series ID CUURN400SA0) for the calendar year ending December 2021. The CPI is based on U.S. Bureau of Labor Statistics data (<https://data.bls.gov/timeseries/CUURN400SA0>). The adjusted percentage increase in salary schedules shall be a minimum of 2.0% and a maximum of 3.0%, plus an additional 1.5%. As such, the July 1, 2022 salary schedule adjustment for Tier 1 will be 4.5%.
- Effective July 01, 2022, the salary schedules for Tier 1 Corrections Officers will be adjusted to reflect 4.0% steps, resulting in 12 total steps. Additionally, a new step 13 (1.0%) will be added, as referenced in the salary schedules in Attachment A.
- Effective July 01, 2022, a new step 10 (1.0%) will be added to the salary schedule for Corrections Sergeants.
- Effective July 01, 2022, Tier 2 Corrections Officers will be moved to the newly adjusted Tier 1 salary schedule, as referenced in Attachment A, and be placed on the same step number that was in effect on June 30, 2022. For example, if an employee was on Tier 2, Step 2, they will move to the new Tier 1, Step 2.
- Effective July 02, 2022, the Tier 2 Corrections Officer salary schedule will be eliminated.
- Effective July 01, 2023, the salary schedules for all employees covered by this agreement will be adjusted by the annual percentage increase to CPI-U all items in West-Size Class B/C, All Urban Consumers, not seasonally adjusted (Series ID CUURN400SA0) for the calendar year ending December 2022. The CPI is based on U.S. Bureau of Labor Statistics data (<https://data.bls.gov/timeseries/CUURN400SA0>). The adjusted percentage increase in salary schedules shall be a minimum of 2.0% and a maximum of 3.0%, plus an additional 1.5%. Based on the year to date CPI (January through June 2022), the parties believe that the annual CPI as of December 2022 will likely exceed 3.0%. In order to reach finality and to avoid uncertainty, the parties agree that the July 01, 2023 salary schedule adjustment will be 4.5%.
- Effective July 01, 2024 and for each successive year thereafter, the salary schedules for all employees covered by this Agreement will be adjusted by the Annual Consumer Price Index that is published by the Bureau of Labor Statistics for: All Urban Consumers, 12-month Percent Change, Not Seasonally Adjusted, All

Items in West, Size Class B/C (Series ID CUURN400SA0), from the immediately preceding completed full calendar year. The adjusted percentage increase in salary scheduled shall be a minimum of 2.00% and a maximum of 3.00%.

- Effective July 01, 2024, the top step of all salary schedules will increase by 1.0%.

Section 2. Step Increases

(A) Effective July 01, 2022, annual salary step increases for all eligible employees on the Corrections Officers salary schedule shall be 4.0% unless the top step is less than 4.0%. Annual salary step increases for all eligible employees on the Corrections Sergeant salary scheduled shall remain at 5.5%, unless the top step is less than 5.5%.

Section 3. Longevity Pay

(A) The longevity pay for employees shall be paid on the following basis: upon completion of six (6) consecutive years of employment, covered employees shall receive an additional three percent (3%) of their bi-weekly base salary. For each year of continuous service thereafter, each employee shall receive an additional one-half of one percent (1/2 of 1%) increase of the base salary until a maximum of ten percent (10%) has been reached for twenty (20) years of continuous employment with the City of Las Vegas. Longevity pay shall become effective on the hiring anniversary date of employees. Overtime or any other incentive payments shall not be considered in the calculation of the percentages of longevity pay.

(B) Employees hired or rehired after January 1, 2004, shall receive a longevity payment equal to three percent (3%) of their base salary on the completion of ten (10) years of continuous service with the City. For each year of continuous service thereafter, each employee will receive an additional one-half of one percent (1/2 of 1%) until a maximum of ten percent (10%) has been reached. Longevity is not part of an employee's base salary but rather a separate pay category, paid bi-weekly.

(C) All employees hired on or after Jun 26, 2011 are not eligible for the longevity benefit.

Section 4. Acting Pay

Employees who are required to assume temporarily the full responsibilities of a position of a higher salary grade shall be paid at a rate equal to five percent (5%) higher than the employee's current base salary or the minimum rate of the salary grade for the classification in which the employee is acting, whichever is greater for the duration of the assignment. Acting pay for periods in excess of thirty (30) continuous calendar days requires the written approval of the Director of Human Resources.

Section 5. Shift Differential Pay

Shift Differential is defined as the amount of compensation authorized to be paid to an employee in addition to a regular straight time hourly rate for working a complete regularly scheduled shift other than a day shift. A day shift is defined as any regularly scheduled work shift that begins no earlier than 0500 hours or ends no later than 1900 hours. A regularly scheduled shift that exceeds these limits by twenty-five percent (25%) or more is entitled to shift differential pay computed at five percent (5%) of base pay

plus longevity on a 12 hour shift configuration. An employee must be assigned to work a complete shift other than a day shift to be eligible for shift differential.

Should the department implement a 3-shift configuration; the shift differential pay will be as follows:

Days = 0%

Swing = 4%

Grave = 6%

Section 6. Field Training Officer Pay

All Field Training Officers and Field Training Managers as assigned by the department and performing FTO duties will receive 8% premium pay for the performance of these duties. Selection and assignment to the FTO position will be based upon established departmental procedures.

Section 7. Stand-By Time

Stand-by time is defined as time that an employee is assigned, in writing and in advance, to be ready to work outside their normal work hours. Stand-by time shall be paid at a rate of thirty-five dollars (\$35) per day on a normal work day worked and fifty dollars (\$50) per day on a normal day off. Stand-by time shall not be included in the computation of overtime. During this time, the employee must be ready and able to report to work within forty-five (45) minutes if so notified by telephone, pager, or other electronic device provided by the City. No employee will receive stand-by pay while on annual leave, sick leave, or TILO.

ARTICLE 10 - CLOTHING AND EQUIPMENT ALLOWANCE

Section 1. Issued Equipment

Upon successful completion of the Academy, the City shall issue to all employees the following basic uniform issue of:

- four (4) summer shirts (Short Sleeve)
- four (4) winter shirts (Long Sleeve)
- four (4) pairs of pants (Cargo Style)
- one (1) winter jacket
- one (1) tie
- one (1) pair of footwear
- required nylon gear
- one stab resistant vest (if requested by employee at conclusion of field training)

The City will also provide chemical agents and other weapons when required. There will be a reserve of chemical agents made available for which employees may exchange empty canisters for full canisters upon request. This reserve of chemical agent canisters will be stored in a method which allows it to be accessed and issued by any Sergeant on shift.

Section 2. Protective Vests

Each officer assigned to a weapons carrier assignment will be provided with a ballistic protective vest and weapon for the shift. Custom-fitted vests will be issued to officers in a weapons carrier position as determined by their profile in Telestaff immediately

upon assignment. Non-issued carrier vests (currently stored in the property room) will be sent out for professional cleaning monthly paid for by the department. The department will replace expiring vests no later than 30 days before the current vest expires.

Section 3. Uniform Clothing Allowance

The City shall provide annual uniform and footwear maintenance and replacement allowance to all uniformed personnel as shown on the following chart. Employees shall be paid quarterly for the purposes of maintaining and replacing uniforms. Payments of \$425.00 will be made on the second pay date of each quarter. Any uniform item damaged in the performance of work duties will be replaced by the City. Any uniform not damaged will be inspected no less than every three years to determine whether it should be replaced. New hires shall be paid the first quarter following their hire date.

Uniforms and equipment must be maintained in good condition and shall only be worn or used on official City business or as authorized by the City.

ARTICLE 11 - HOURS OF WORK AND OVERTIME

Section 1. Normal Work Period

The City and the Association agree that the normal paid bi-weekly working hours shall be eighty (80) hours including meal breaks.

Section 2. Meal Breaks

The City will provide a meal period of thirty (30) minutes for an 8 hour work shift; forty-five (45) minutes for a 10 hour work shift; and sixty (60) minutes for a 12 hour work shift.

Section 3. Shift Arrangement

The City reserves the right to alter or temporarily change the workweek, shift and/or hours of an employee to accommodate an employee's attendance at:

- (1) Initial Orientations
- (2) POST Academy
- (3) In-House training
- (4) Training provided out of the City or State

Whenever deviations from regular shift hours are necessary, the supervisor shall provide employees with sufficient notification prior to such deviation. Sufficient notification is deemed to be a minimum of fourteen (14) calendar days, unless the employee agrees to a shift deviation with a shorter notification period. If the new schedule needs to be changed or readjusted for any reason, it will require the employee to be notified a minimum of fourteen (14) calendar days in advance, unless the employee agrees to a shift deviation with a shorter notification period.

Section 4. Mutual Swaps

(A) Employees may be permitted to exchange hours of work with other employees in the same classification or level, performing the same type of duties in the same work area, provided:

- (1) The employees give written notice to their supervisor(s), at least seven (7) calendar days in advance
- (2) The supervisor(s) approves the exchange in writing; and
- (3) The employees exchanging hours of work shall not be entitled to any additional compensation (e.g., overtime, shift differential), which they would not have otherwise received.

(B) Once approved, shift changes shall not be subjected to further review, except for operational needs.

(C) Each employee shall be responsible for the coverage of the work assignment he/she accepts. If the employee who agrees to work for another employee fails to show for the swap because of illness or injury, he/she shall be required to provide a physician's return to duty statement.

(D) All swaps must be paid back within one hundred twenty (120) calendar days, not to be extended past the same bid year.

(E) Probationary employees shall be allowed to exchange hours of work with other employees.

Section 5. Work Schedule Changes

If a change in work schedule is requested or required, the Association and the Chief shall meet to discuss the proposed change prior to implementation.

The City may discontinue a work schedule, if, in good faith, and after discussions with the Association, it is determined that the current schedule is not in the best interest of the City or the department. Any change to a work schedule requires an advance notice of a period of sixty (60) calendar days.

Under any work schedule, payment for overtime and paid holidays shall be in accordance with the provisions of this Agreement.

Section 6. TILO

(A) Because the workload of some functions fluctuates both within and beyond the payroll periods, employees may work Time in Lieu of (TILO) rather than paid overtime. The purpose of TILO is to allow the employee to accumulate and to take TILO time in conjunction with workload lows, rather than be paid at the overtime rates during workload peaks.

(B) To accumulate TILO time, employees may volunteer to accept time rather than overtime pay. This TILO time will be accumulated at a time and one-half (1 ½) rate for

payment purposes. No employee can be required to accumulate TILO rather than be paid at the overtime rate.

(C) To use TILO time, employees must schedule their absence from work with their supervisor in advance of the absence.

(D) TILO accumulation and usage will be reported to the payroll department by appropriate coding on the bi-weekly time cards. TILO time balances will be reported to the employees in the same manner as vacation and sick leave hours are reported.

(E) No employees may have an accumulated balance of TILO time exceeding three hundred (300) hours at the end of any pay period. Sixty (60) hours of TILO may be sold back annually in accordance with the Annual Sellback Provisions identified in annual leave article of this agreement.

(F) Whenever an employee separates from City employment, any unused TILO will be paid at a straight time rate including longevity.

Section 7. Overtime

(A) Regular Overtime-Regular overtime pay is defined as additional compensation earned by an employee who is held over on a regularly scheduled shift. Supervisors may require that employees work overtime. Employees who work longer than their normal daily hours shall be paid overtime on a time and one-half (1 ½) hourly rate basis based on their hourly rate of pay at their normal weekly working hours, including longevity, if applicable, for all overtime work.

(B) Scheduled Overtime-If an employee is required by a supervisor, to return to duty after completing a normal shift or reports to work on a day in which a normal shift is not scheduled, the employee shall be compensated for a minimum of four (4) hours or the actual time worked, whichever is greater at time and one-half (1 ½), and not subject to FLSA provisions in Section A. at time and one-half (1 ½) hourly rate basis, plus longevity, if applicable, for all overtime hours or any fraction thereof worked.

(C) Holiday Overtime-Holiday overtime is paid the same as scheduled overtime (one and one half times the employee's regular rate of pay. However, should an employee be frozen and held over beyond the normal scheduled shift hours on a designated holiday, that employee shall be paid at the rate of two and one half (2.5) times the employee's regular rate of pay for all hours they are frozen and required to work in excess of normal shift.

(D) When a vacancy exists in a Sergeant position, a Sergeant will be given priority to fill the vacancy in an overtime capacity over a Corrections Officer working in an Acting Sergeant role. Acting Sergeants will be utilized when there are not Sergeants volunteering to fill these vacancies.

Section 8. Overtime Procedures

(A) Voluntary Overtime - In an effort to reduce mandatory overtime and in an attempt to provide equal opportunity for voluntary overtime, the City and the Association agree to use the following procedure:

- 1) Pre-scheduling should be accomplished whenever possible
- 2) Supervisors should canvas on-duty staff, whenever they become aware that overtime will be necessary for the on-coming shift
- 3) A system for voluntary overtime shall be established and utilized prior to implementing mandatory overtime.
- 4) An employee who is unable to report for scheduled overtime must notify the department at least one (1) hour prior to the start of their scheduled overtime shift.

(B) Involuntary (Mandated) Overtime ("Freezing") - Involuntary overtime will be assigned on a rotating basis as stated in departmental policy. The frozen employee may coordinate with another employee to work the balance of their freeze after they have met the minimum time (15 minutes) to be credited with the freeze.

(C) Each shift will maintain a list of officers by seniority. Within the first two (2) hours of the shift, the next 5 officers up for "freezing" will be notified. When overtime is required and there are no volunteers, "freezing" will be implemented.

(D) Officers in special assignments may be included on the "Freeze" lists.

(E) No person will be required to work mandatory overtime the day prior to scheduled leave or in conjunction with RDOs.

(F) If an employee is required (mandated) to work beyond their scheduled shift for 15 minutes or more, they will be considered "frozen."

The department will make reasonable efforts to canvas on-duty employee volunteers prior to the implementation of this section of the Agreement.

Section 9. Call Back Pay

When required, the Department Head or designee may call back one or more members of the Department. For purposes of this paragraph, Call Back Pay is defined as compensation earned for returning to duty after an employee has completed his/her regular work shift, is off duty for any period of time, and then returns to duty with less than 12 hours' notice. When an employee is called back to work, the employee shall be paid overtime on a time and one-half (1½) rate basis. In addition, the employee will be paid no less than four (4) hours or the time actually worked if over the four (4) hour minimum. However, in the event the period of call back runs into an employee's normal work shift, said employee shall be paid time and one-half (1½) for only those hours worked outside of his/her normal work shift.

An employee who works less than four (4) hours on the initial call back and is then called back a second time during the initial call back period shall not be entitled to any additional overtime pay unless the aggregate time worked for both occurrences shall exceed four (4) hours, in which case he/she shall be paid for the aggregate time worked. In the event an employee is called back for a second time after the expiration of four (4) hours from the first call-back, he/she shall be paid for a minimum of four (4) hours for each call back except as provided in the previous paragraph.

ARTICLE 12 - HOLIDAYS

The City and the Association agree that the holidays shall be:

New Year's Eve	Labor Day
New Year's Day	Nevada Day
Martin Luther King Holiday	Veteran's Day
President's Day	Thanksgiving Day
Memorial Day	Family Day (Day after Thanksgiving)
Juneteenth (beginning in 2022)	Christmas Day
Independence Day	

Any day that may be declared a national holiday by the President of the United States, or any day that may be declared a holiday by the Governor of the State of Nevada or the Mayor of the City of Las Vegas, unless the City is exempted from closings its operations to observe the holiday under State law.

All holidays shall be observed as dictated in NRS 236.015.

Employees wishing to have a holiday off who are normally scheduled to work, may request time off by submitting a leave request. This procedure includes special assignments. A special assignment post does not guarantee the day off.

Employees who are scheduled to work on a holiday and who are relieved of duty after reporting for duty on the holiday shall continue to receive holiday pay for the balance of their shift. No employee will be forced not to work the holiday to avoid overtime payment, excluding special assignments.

Section 1. Holiday Pay

All full-time employees shall receive holiday pay, and such time shall be computed as regular workday. In addition to straight time pay, any such employee shall be compensated at one and one-half the regular rate of pay for all hours worked on the holiday, except as provided in Article 11, Section 7(C).

In order to receive holiday pay, the employee must be in paid status for the entire work shift preceding and following the holiday.

Holidays that fall on an employee's regular day off, annual vacation or sick day, shall receive holiday compensation in cash for the holiday(s) straight time. Employees may

convert their regular Holiday straight-time pay to annual leave. Employees may volunteer to accumulate TILO equivalent to the paid overtime rather than be paid for the holidays.

PERS will be paid for all hours worked when a state recognized holiday falls on a normal workday. If an employee works on a holiday that is not their regular workday, PERS is not paid (per NRS).

ARTICLE 13 - ANNUAL LEAVE

Section 1. Purpose

The City and the Association agree that annual leave is provided to employee for the purposes of rest and relaxation from their duties and for attending to personal business. Absences not specifically covered by the provisions herewith shall be chargeable to annual leave to the extent it has been accrued or advanced.

Section 2. Accrual

Employees shall be eligible to take annual leave after completion of six (6) months of continuous full-time service. Annual leave shall accrue from the date of duty to all employees, except those employed on a temporary appointment basis, in an amount equal to:

- (A) Three and eight hundredths (3.08) hours bi-weekly for first 12 months.
- (B) Four and sixty-two hundredths (4.62) hours bi-weekly for 13 months to 120 months.
- (C) Six and ninety-two hundredths (6.92) hours bi-weekly for months 121 to 180.
- (D) Seven and seven tenths (7.70) hours bi-weekly for months 181 and higher.

Section 3. Accumulation

Annual leave may be accumulated up to a maximum of two (2) times their annual accrual for those who have attained Peace Officer status prior to July 1, 2013. Those employees hired on or after July 1, 2013, or who attained Peace Officer status on or after July 1, 2013 will accrue a maximum of 250 hours. During the calendar year, any annual leave that exceeds the allowed maximum shall be forfeited at the end of the last pay period of the calendar year, unless the employee was not allowed to take or complete a vacation as scheduled or rescheduled during the last sixty (60) days of the year. Employees who were so affected shall be paid at their full salary plus longevity for all vacation hours they are required to forfeit at the end of the calendar year.

Section 4. Payout

Employees with more than six (6) months service who are separated from the City's employment are entitled to payment for unused annual leave not previously forfeited.

In the case of death of an employee during his tenure with the City, 100% of the employee's unused annual leave shall be paid to the employee's designated beneficiaries as specified in their personnel records, or if no designated beneficiary, to the employee's estate.

Section 5. Applications for Leave

Application for annual leave must be approved in advance of taking leave and shall be scheduled annually on a seniority basis. For the procedures on applying for Annual leave, refer to Article 18 Seniority; Section 2. Use of Seniority. The Departmental vacation scheduling procedures and unresolved conflicts shall be referred to the Labor/Management Committee. Employee vacations, which have been scheduled for a calendar week or more, shall not be canceled unless an emergency situation exists.

Section 6. Advanced Leave

Upon approval by the City Manager via Department chain of command, an employee may be advanced annual leave.

An employee who has taken advance annual leave beyond that accrued at the time of termination shall make restitution for such leave; either by deduction from any amount owed him by the City or by cash refund.

Section 7. Annual Sellback

Employees who have been employed in the classified service for a minimum of eighteen (18) months may elect to exchange up to eighty (80) hours of annual leave for up to eighty (80) hours pay, subject to the following conditions:

1. Exchange of annual leave shall only be done at the first payday of each December unless otherwise authorized by the City Manager.
2. Exchange privileges apply only to accrued annual leave.
3. Employees must have been in the classified service for a minimum of eighteen (18) months.

In the event of death or medical retirement under the PERS system of an employee during their tenure with the city, the employee's unused sick leave shall be computed based upon the above provisions and paid to the employee or the employee's designated beneficiaries as specified in their Human Resources records, or if no designated beneficiary, to the employee's estate. Employees may donate up to 80 (eighty) annual leave hours as entered into the city payroll system no later than 21 calendar days after the date of death.

ARTICLE 14 - SICK LEAVE

Section 1. Earning & Use of Sick Leave

All full-time employees shall accrue four (4.00) hours of sick leave bi-weekly. Employees who are in a non-pay status for a part of a pay period shall have their sick leave accumulation reduced on a prorated basis. Employees shall be paid their current hourly rate plus longevity, if applicable, for each hour of sick leave used.

Sick leave with pay may be used by employees who are:

(A) Illness or Injury. Incapacitated by illness or injury from the performance of their duties, or whose attendance is prevented by public health requirements; or

(B) Immediate Family Care. Required to absent themselves from work to personally care for a member of their immediate family as defined in Article 4, in those medical emergencies, which require the employee's prompt attention. Immediate Family Care leave shall be taken as sick leave; such cases require approval of the Department Head. Such leave, typically, is limited to a maximum of five (5) work shifts per year.

(C) Doctor Appointment: Required to take time off from work for the purpose of keeping a personal medical appointment. Such leave shall be limited to a maximum of 4 hours for any one appointment. The initial request and any subsequent request for additional time must be submitted to and approved within 72 hours of the appointment. Such leave shall not be the sole factor in determining patterns of excessive use or abuse of sick leave for disciplinary purposes. Employees should make every effort to schedule appointments before or after work hours.

(D) FMLA-Any leave covered by the Family Medical and Leave Act as referred to in Article 15, Section 4 of this agreement.

An employee incapacitated beyond the period covered by sick leave may be granted accrued annual leave, TILO, or leave without pay by the Department Head. On the approval of the City Manager, an advance of additional sick leave with full or partial pay may be granted. In this case of sick leave depletion, annual leave or TILO shall be used in place of sick leave.

Section 2. Reporting Requirements

(A) Employees who become ill prior to the start of the workday shall call in 2 hours before the beginning of their shift when using sick leave, unless incapacitated.

(B) Employees covered by this Agreement shall be subject to the following reporting requirements for payment of sick leave:

(1) Sick Leave Request: Employees are required to file and sign a sick leave request as evidence that the reason for the employee's absence was a use of sick leave as outlined above and in the timecard policy.

(2) Certificate of Recovery and Fitness: If an employee is requested to do so by the Department Head, or his designee, a Certificate of Recovery and fitness shall be submitted by the employee upon return to work from any illness that required the use of sick leave for four (4) or more consecutive scheduled working days. Such certification shall be signed by a health care provider as defined under the Family and Medical Leave Act, 29 USC Sec. 2611(6) and 29 CFR Sec. 825.118 and shall state that the employee is capable of returning to work. The Department Head or his designee may require that an employee submit a Certificate of Recovery and Fitness because of excessive use of sick leave, not covered by FMLA. The employee will be notified in writing in advance when a Certificate of Recovery will be required. No such certificate of Recovery and Fitness shall be required contrary to the provisions and regulations of the Family and Medical Leave Act (FMLA) as amended 2009 and Health Insurance Portability and Accountability Act of 1996, as amended (HIPAA), 29 USC Sec. 1181 et seq.

(C) While on sick leave, an employee will normally be at a residence for the purpose of recuperating, at a medical facility, or a facility purchasing medications. Employees on extended sick leave are responsible for notifying the Department Head of their primary location and of their expected date of return to work. Extended sick leave is when an employee is off work for maternity/paternity/adoption leave, continuing special treatment, recovery from disabling illness or injury or other recognized use of sick leave for more than five (5) working days.

Representatives of the department will not conduct residence checks of any kind, unless an employee is a no-call, no-show or the Department has probable cause to believe that an abuse of sick leave as defined in this agreement is occurring, in which event the Department shall provide to the investigated employee and the Association a written statement setting forth the facts providing reasonable, probable cause for the residence check. This statement shall be provided to the employee and the Association within twenty-four hours of the residence check. This residence check shall be conducted only by the Department Director or their designee within the Department.

Employees shall report to work if recovery of illness is made during the normal work hours. Any gainful employment, pursuit of personal business, recreation, travel for recreation or non-sick leave may be considered evidence of abuse of sick leave and is subject to discipline up to and including termination. Supervisors may not discipline an employee in the absence of evidence that the employee is abusing sick leave. The use of sick leave shall not be a basis for downgrading an employee's performance evaluation in the absence of an actual determination that the employee's use of sick leave has, in fact, been abusive.

(D) To allow the parties the flexibility to apply progressive discipline to employees who are using sick leave in a manner that has a negative impact on other employees and operations, the parties agreed that, as a general rule, any person who uses more sick leave days per year than what he/she accrues is excessive. It is understood that the leave accrual usage comparison is not a specific standard, but merely a guideline for supervisors when assessing circumstances surrounding the absences of employees. Supervisors will be required to look at historical attendance and patterns of use in their performance counseling of the individuals. As a standard concession, the use of sick leave for funeral attendance, a scheduled medical appointment or the care of immediate family members (as described in Article 14, Section 1(b)) shall not be included in the Supervisors counseling as a negative impact, unless abuse can be proven. For the purpose of an extended illness or injury, the FMLA standard will apply. Discipline will not be applied for legitimate absences substantiated by a Physician's Certificate from a health care provider as defined under the Family and Medical Leave Act, 29 USC Sec. 2611(6) and 29 CFR Sec. 825.118 for extended illnesses or injuries.

Section 3. Payoff of Sick Leave

(A) Any employee hired prior to July 1, 1991 with less than twenty years continuous service, upon separation for any reason, sick leave hours shall be computed, based on the employee's hourly rate and longevity, if applicable, and shall be paid at the rate of

fifty percent (50%) of the accrued sick leave hours. Any employee hired prior to July 1, 1991 with twenty years of continuous service, upon separation for any reason, sick leave and hours shall be computed, based on the employee's hourly rate and longevity, if applicable, and shall be paid at the rate of one hundred percent (100%) of the accrued sick leave hours up to a maximum accrual of 1,000 hours.

(B) For the purpose of calculating payment of sick leave hours, employees hired on or after July 1, 1991, through June 26, 2011, will have a cap of 840 hours. Employees shall receive payment for one-half the amount of unused sick leave accrued, up to a maximum payment for 420 hours, upon separation, after five (5) years of continuous full-time service. Said payment shall be computed as follows: one-half (1/2) of the employee's accumulated sick leave hours, up to a maximum accrual of 840 hours, and paid at the employee's hourly rate including longevity and shift differential (if applicable) at the time of separation. Employees hired after June 26, 2011 shall have a maximum accrual of 600 hours. However, employees shall receive payment for one-half the amount of unused sick leave accrued, up to maximum payment for 210 hours, upon separation, after ten (10) years of continuous full-time service. Employees will be paid at the employee's hourly rate including shift differential (if applicable) at the time of separation.

(C) On the first payday of December of each year, the City shall "buy back" one-half (1/2) of all sick leave hours accrued above the 840 hour maximum payoff limit, during that calendar year by said employees. The one-half (1/2) sick leave accrual for any calendar year that was not bought back by the City shall become a sick leave "bank" and part of the total sick leave accrual of the employee, but shall not be eligible for pay-off at any time, including separation. Sick leave "bank" hours shall be used only upon exhaustion of all other sick leave hours. Employees hired after June 26, 2011 shall have no annual "buy back".

(D) Employees hired on or after July 1, 1991 shall receive payment for 100% of the accrued sick leave up to maximum of 840 hours upon separation after 20 years of continuous employment with the City. Employees hired after June 26, 2011 shall receive payment for 100% of accrued sick leave up to maximum of 420 hours upon separation after 20 years of continuous employment with the City.

(E) In the case of death or medical retirement under the PERS system of an employee during his tenure with the City, the employees unused sick leave shall be computed based upon the above provisions and paid to the employee or the employee's designated beneficiaries as specified in their personnel records or, if no designated beneficiary, to the employee's estate.

Section 4. Sick Leave Bonus

Employees will be awarded a sick leave bonus of \$1,250.00 paid for perfect attendance from July to December - payment in January; and \$1,250.00 for perfect attendance from January to June - payment in July. Effective the beginning of the fiscal year, and upon the deactivation of the Emergency Disease Control Policy, this payment schedule will be adjusted to quarterly payments of \$625.00 paid on the first pay date of

November, February, May and August. The only exception that does not count against perfect attendance is approved bereavement and approved worker's compensation. FMLA will be a disqualifier for attendance bonus contest purposes.

Section 5. Bereavement Leave

(A) The department shall authorize any accrued leave for bereavement purposes due to the death of an employee's parent/step-parent, current spouse, child, grandchild, grandparent, brother/sister, current mother/father-in-law, foster parent, guardian, current daughter/son-in-law, current sister/brother-in-law, stepchild, adopted child or current significant other. "Significant other" means a person the employee presently lives with that he/she considers a mate.

(B) Such absence for bereavement leave with pay shall be limited to not more than five (5) workdays per occurrence. In the event the employee requires additional time, they must receive approval in advance from their Director or designee. Employee may use sick leave, vacation or TILO.

ARTICLE 15 - OTHER LEAVE

Section 1. Application and Examination Leave

An employee may be permitted reasonable time off with pay during his/her shift to make an application and/or take an examination for promotional transfer opportunities with the City, when it is not possible or practical to do so during non-working time. All such absences shall be scheduled with the employee's supervisor. In no case shall an employee become eligible for overtime as a result of leave for promotional or transfer opportunity.

Section 2. Blood Donors Leave

Employees may be granted reasonable time off during their work shift for the purpose of donating blood when participating in a City authorized and/or sponsored blood donation drive special need. In no event shall an employee be eligible for overtime as a result of donating blood.

Section 3. Catastrophic Leave

(A) When an eligible employee suffers a catastrophic illness or injury, and the eligible employee has exhausted all accrued leave as a result of the illness/injury, the eligible employee may file a request for donations of leave with the Association.

(B) Catastrophic Leave requests must be accompanied by a medical statement from the attending physician explaining the nature of the illness/injury, and an estimated amount of time the employee will be unable to work.

(C) A committee appointed by the Association Board will review the request to verify the employee's eligibility to receive donations.

(D) The Association will conduct the solicitation of donations and will be limited to an

information-only solicitation, with no personal lobbying by employees. Solicitations will be conducted for 14 calendar days per request and all donations will be submitted to the Association on a form provided by the Association.

(E) Donations can be made from the donor's compensable sick leave, TILO time, and annual leave.

(F) The minimum donation is four (4) hours; the maximum donation is forty (40) hours. Employees must have a cumulative leave balance of at least forty (40) hours after the donation.

(G) The Association will forward donations to the City Payroll office, where the donated time will be converted to dollars at the hourly rate of the donor. The dollars will then be converted to sick leave at the hourly rate of the recipient.

(H) Bank hours, if any, may be approved by the committee on a matching basis, if needed, (i.e., a solicitation for an approved employee nets 100 hours - after 100 hours are used, the committee may approve up to another 100 hours from the bank, if hours are available).

(I) Eligible employees:

- a. The Catastrophic Leave Program is available to all Association bargaining unit members.
- b. Employees must meet the following definition of catastrophic illness/injury: "Catastrophic illness/injury is an illness or accident that keeps an employee from performing duties of his/her job, (i.e., hospitalized or home bound). The illness or accident cannot be a result of an illegal act, nor can it be self-inflicted."
- c. Employees who are receiving worker's compensation benefits are not eligible for the Catastrophic Leave Program.
- d. Personnel who have been released to a light duty status by a medical physician and refuse a light duty assignment will not be eligible for Catastrophic Leave.

Section 4. Family and Medical Leave Act

Employees who have worked for at least 12 months, and for at least 1,250 hours during the previous 12 months, are eligible for 12 work weeks of paid or unpaid leave during a 12 month period for the purpose of caring for oneself or a family member inflicted with a serious health condition, lasting longer than three (3) days, which requires either in-patient care or continuing treatment by a health care provider. An eligible employee can take up to twelve (12) weeks of leave under this policy in a twelve month period starting on the first day of leave is used. Employees are required to give thirty (30) days advance notice for such leave if the need for leave is foreseeable based on planned medical treatment. All legal requirements of Family & Medical Leave Act, as amended in 2009 apply to this Article.

Section 5. Jury Duty or Court Witness

Employees called to serve on jury duty or subpoenaed to appear as a witness in a court proceeding during regular working hours shall receive their regular City pay, less any jury or witness pay. Employees who are subpoenaed to appear as a witness to testify other than during normal work hours shall be entitled to call-back pay as specified under Article 11, Section 9. Employees who are called but not selected to serve on a jury, or who complete the day's jury duty prior to the end of their normal shift shall report back to work. Employees who work a swing or graveyard shift shall be excused for the day(s) that they are required to report for jury duty or subpoena. Those persons who re-called as witnesses shall report back to work when excused by the court or tribunal. This section shall not apply to persons whose appearance in court is the result of their status as defendants in a criminal proceeding or to persons called or appearing as a party in a civil proceeding unrelated to City business.

Section 6. Leave of Absence or Leave without Pay

Leave without pay may be granted to employees for purposes normally covered by sick or annual leave only when such paid leave has been exhausted, or for other justifiable reasons approved by the Chief (or designee.)

Except for military leave and leave without pay resulting from job-related illness or injury, periods of leave without pay in excess of thirty (30) days shall not be credited for purposes of completion of probation, merit increases, seniority, or longevity, annual leave, or sick leave. The employee's service date shall be adjusted to reflect the actual time the employee was actively working for the City of Las Vegas.

Continuous leave without pay for periods in excess of thirty (30) days which are necessitated by job-related illness or injury shall be credited for purposes of completion of probation and/or salary increases.

Section 7. Childbearing/Employee Bonding Leave

Employees shall be entitled to leave without pay for up to a maximum of six (6) months for purposes of childbearing and/or for caring for newly born or newly adopted children. This leave runs concurrently with any available FMLA leave the employee may have. Employees are eligible for this leave for a period up to 12 months after the birth or placement of a child. Employees are required to give thirty (30) days advance notice, if possible, for such leave. Additional maternity/paternity or adoption leave may be awarded only upon written authorization of the City Manager. Employees may use any accrued leave for maternity/paternity or adoption purposes. Use of sick leave for these purposes shall be excluded from disciplinary action.

An employee, upon becoming aware of her pregnancy, shall obtain a statement from her physician confirming the pregnancy. After the initial statement has been presented to the employee's supervisor, the Department will allow the employee to continue working and assign the employee to a modified duty position that will not be injurious to her health or the health of the expected child. Commencing with the sixth month of pregnancy the employee shall present a statement monthly from the physician stating

the employee may be permitted to continue working. Employees complying with these provisions shall be entitled to work as long as they continue to present such monthly statements within five days of the due date. If the employee fails to present any required monthly statement within five days of the date due, the Department Chief may place her on maternity leave.

Section 8. Military Leave

An employee having a reserve status in any of the regular branches of the Armed Forces of the United States or the Nevada National Guard, upon request to serve on active duty or inactive duty for training as outlined in the provision of NRS 281.145, shall be granted a maximum of thirty (30) shifts of leave and pay, or in accordance NRS 281.145, whichever is greater.

Any employee who is called to active duty by the President of the United States to serve in a national or international deployment of the United States Armed Forces shall be granted leave and pay as prescribed by Federal Law.

At the beginning of each calendar year or after a change in shift or status, the employee will provide their immediate supervisor with documentation establishing reserve status and unit assignment. Such documentation shall include the name and phone number of the reservist's commanding officer or designee as a contact point. The employee will provide an annual training schedule, or orders in case of activity duty, by the first scheduled work day after such documentation becomes available to the employee. These documents are to be maintained in the employee's department file.

The employee will provide an Application for Leave form, to their immediate supervisor two weeks prior to their scheduled military leave, when possible. The approved leave slip will serve as full documentation for Payroll purposes.

When an employee is ordered to report for a pre-induction physical, time spent up to three (3) days shall be considered an emergency military leave and shall be granted with pay upon presentation of such orders to the employee's immediate supervisor.

The employees shall be entitled to retain any Armed Services pay earned during the training duty.

If an employee has an approved scheduled vacation leave, that leave will not be canceled because another employee has been granted military leave.

Employees may utilize vacation or TILO leave in lieu of leave without pay for military leave. Use of these leaves for this purpose shall not be controlled by other policies, procedures or rules that affect leaves.

If an employee submits a request for Annual Leave of one (1) day or more, that leave will not be denied solely because another employee has been granted military leave.

ARTICLE 16 - MEDICAL BENEFITS AND LIFE INSURANCE

Section 1. Life

The City shall provide twenty thousand dollars (\$20,000.00) life insurance protection with double indemnity for the accidental death of a member of the bargaining unit.

Section 2. Medical Benefits

(A) It is recognized, that employees covered by this agreement will continue to be covered for hospitalization, health, medical, dental and vision as set forth in the "Teamsters Security Fund for Southern Nevada, Local 14" established by an agreement and Declaration of Trust dated October 1, 2014. (TRUST") Additional benefits include Employee Assistance (EAP) and Life Insurance. The City and the Union agree that the City will pay the amount set forth below, per covered employee per month:

July 1, 2022 through June 30, 2025: \$1090.00

(B) Employees will be responsible for the costs of Teamster coverage to the extent the amount per employee exceed the maximum contribution specified in Section 2(A) to be paid by the City. The City agrees to offer said deductions on a pre-tax basis per the provisions of Section 125 of the Internal Revenue Service Code, and the Association agrees to provide the City with adequate notice (minimum 45 calendar days) of those employees who will be subject said deduction.

(C) In addition to the excess cost reference in Section B above, employees will also be responsible for monthly contributions. The employee's contribution to the Trust shall be made by automatically deducting the specified amount from the paycheck of eligible employees prior to any taxes being withheld. The amount of the payroll deduction shall be determined by the Association and the Trust.

Employee contributions will begin in the second full month after ratification of this Agreement.

(D) Employees will be responsible for the monthly Affiliation Fee per employee charged by the Teamsters from their proposal. Upon enrollment into the Teamster's plan and on the first of each and every month thereafter, every employee within the bargaining unit shall have deducted from his/her paycheck the amount to cover the monthly Affiliation Fee plus such additional amounts, if any to cover the employee's contribution of the Teamster plan should costs of the plan exceed the maximum required to be paid by the City.

(E) If the City establishes an employees' retirement health savings plan for any City employee, the City and the Association shall meet and confer to discuss participation of employees in this bargaining unit in the plan.

ARTICLE 17 – DISABILITY

Section 1. Covered Employees

The City and the Association agree that all eligible members shall be covered by provisions of an appropriate Workers' Compensation Insurance Program, that may be self-insured or State Insured.

Section 2. Accidents or Injury

Should an employee suffer a service-incurred disabling accident or illness and the benefits paid to such employee under the provisions of the Workers' Compensation Program shall not equal the employee's present gross salary, then and in that event, the employer shall pay to the employee an amount equal to the difference between the compensation received under the Worker's Compensation Program and the employee's then present gross salary excluding overtime, for a period of two hundred forty (240) hours from the first day of absence due to illness or injury. In the event there exists a reason to believe an employee is abusing his/her rights under this provision, the employer may disallow the "equal payment" benefit. The City Manager must review all requests for continuance of maintenance of income beyond two hundred forty (240) hours and approve or disapprove in writing.

Section 3. Procedures

Before the City grants these benefits, the employee shall comply with reasonable administrative procedures established by the City. The City may also request, at its option and expense, that the employee be examined by a physician appointed by the City. The examining physician shall provide to the City and the employee a copy of his medical findings and his opinion as to whether or not the employee is able to perform his normal work duties and/or whatever, if any, work duties the employee is able to perform or unable to perform. The City may further require that such injured employee make himself available for light duty work as soon as possible after release by a qualified physician, which may be either City or employee appointed.

An employee whose full salary is being maintained under the provisions of this Article shall not be charged with the use of sick leave for the period of full income maintenance.

Section 4. Long Term Disability Insurance

The City agrees to provide to all employees covered by this agreement long term disability insurance benefits for the off the job injury equivalent to benefits under Social Security Disability Income or the present or any replacement disability insurance policy issued to cover employees of the City of Las Vegas to the full extent of benefits currently provided whichever offers the greater benefits.

ARTICLE 18 - SENIORITY

Section 1. Seniority List

(A) City seniority shall be defined as an employee's length of active continuous service with the City. Classification seniority for Sergeants means the length of service in a classification. Classification seniority for Corrections Officers shall be based upon service date. Employees in classifications that have been re-titled or reclassified shall

retain all seniority through any such changes. Employees who are promoted from one classification to a higher classification(s), within the bargaining unit and subsequently return to the former classification shall be credited with all time spent in the higher classification(s) for their classification seniority. Employees who return to classified service as a result of a reduction in force will be credited 100% toward classification seniority of the time spent in the appointive rank.

For movement from Lieutenant to a Sergeant and/or an Officer rank for any reason other than a reduction in force:

- Employees who return to the Sergeant rank within the first twenty-four (24) months will be credited 100% toward classification seniority of the time spent in the higher level rank.
- Employees who return to the Sergeant rank after twenty-four (24) months will be credited 50% toward classification seniority of the time spent in the higher level rank.

Seniority shall not be broken by annual leave, sick leave, suspension, maternity leave, military leave, or any leave(s) without pay of less than a thirty-day (30) day duration. Except for military leave, FMLA and leave without pay resulting from job-related illness or injury, periods of leave without pay in excess of thirty (30) consecutive calendar days shall not be credited for purposes of seniority.

(B) By the first week in August, the City shall provide the Association with a current seniority list for each classification, showing the service date and date of last promotion to present classification of the employees covered by this contract. The seniority lists shall be posted on the Association bulletin board for each division by the Association.

C) For purposes of promotion, seniority shall be determined by:

- a. Length of time in classification; if tie, then
- b. Department service date; if tie, then
- c. City hire date; if tie, then
- d. Human Resources time stamp
- e. Any further ties or disputes will be determined by a one-time lottery

If no one protests the seniority shown on their behalf within 30 days of such posting, each classification seniority list shall stand as conclusive evidence of each person's seniority until the posting of the next annual seniority listing.

Section 2. Use of Seniority

(A) In scheduling annual leave, Regular Days Off and shift preference, the Corrections Officers shall be treated as one classification with seniority determined based upon department service date, subject to availability as determined by the Department Chief. Sergeants will bid for annual leave, regular days off and shift preference based on classification seniority.

(B) Beginning the second week of September, all employees will bid for shift assignments and regular days off. All bidding will be accomplished by the end of the second week of October. Transfers will take place after the first full pay period in January.

As vacancies occur throughout the year, notice will be given to all employees within 30 days after the vacancy has been created, allowing persons to bid for the vacancy. The position will be posted for review for 14 days. After the review period the position(s) will be open for bidding for a period of 14 days. The senior person submitting a bid shall be approved to fill the vacancy. The secondary vacancy created by the switch will not be subject to the bid process and will be filled by the new hire.

Officers may only secure one change of shift per bid year.

C) By the first week of November, officers will be allowed to make their "first pick" for annual leave. Employees must submit annual leave requests to secure their seniority rights. A maximum of four (4) weeks will be allowed.

The first picks will be completed no later than 14 days prior to the annual shift change. Any subsequent requests for annual leave must be submitted within the next 45 days, which is known as the "45 Day Rule."

One second pick will be allowed beyond the 45 day rule after everyone has made his or her "first pick" selection. A maximum of four (4) weeks will be allowed. The second pick can be submitted any time throughout the year, after all first picks are complete. All applications for annual leave will be responded to within ninety-six (96) hours of submission.

Seniority will prevail when another employee has requested leave for the same period of time on the same request date.

ARTICLE 19 - SPECIAL ASSIGNMENTS

Section 1. Definition

Under current operating conditions, the following assignments are deemed "special assignments":

- a. Classification (Sergeant);
- b. Classification Officers;
- c. Fire Safety Officer;
- d. Gang Investigator;
- e. Operations Sergeant;
- f. Property Officer;
- g. Training Sergeant;
- h. Training Officers*;
- i. Professional Standards Officer;
- j. Internal Affairs Investigator/Sergeant (non-rotational) and;
- k. Correction Program Officer
- l. Other assignments as discussed and agreed upon by the parties.*

*If parties cannot agree, disputes arising from such disagreements will be referred to the City Manager's Office designee for resolution. The decision of the City Manager's

Office designee will be binding and not subject to the grievance and arbitration procedure except for safety considerations. With the exception of the Internal Affairs Investigator/Sergeant, special assignments are rotated for 3 years.

***g and h (above) cannot be on the same rotation plan*

Section 2. Duration-Special Assignments

All rotational special assignments shall be posted for application by August 1st of each year and all assignments are to be made within thirty (30) days of posting. All rotational special assignments shall be posted and applied for annually. Any officer selected for a rotational special assignment must commit to a minimum of one (1) year in the assignment. The length of rotational assignment shall not exceed three (3) or five (5) years, unless no other officer meeting the minimum qualifications for the assignment applies for the assignment after the incumbent's third year, or as specified above. Upon completion of the special assignment, twelve months will elapse between another special assignment except non-rotational positions, and in the event of special circumstances as discussed and agreed upon by the parties. An officer may apply for a different special assignment upon completion of current rotation. Minimum qualifications to apply for a special assignment shall include serving as a Corrections Officer in the Department for no less than three (3) years except a special assignment requiring the rank of Sergeant shall include, as a minimum qualification, the applicant has passed his/her probationary period and has been confirmed as a Sergeant prior to applying. Selection criteria shall also include departmental standards as set forth in departmental policy. Upon initial placement into special assignment, the selected employee will be provided two (2) shirts and two (2) pants.

Section 3. Temporary Assignments

Any assignment that lasts longer than 48 (forty-eight) months shall be subject to reclassification to a Special Assignment. When a temporary position is classified as a Special Assignment, it will be subject to all the provisions of Section 2 above at the beginning of the pay period following the reclassification as a Special Assignment. When a temporary position is reclassified as a Special Assignment, the parties will meet and confer regarding replacement staffing.

In the event the temporary assignment becomes a special assignment under this section, the parties shall meet to negotiate the length of the special assignment. After the length of assignment is agreed upon, the Chief may appoint the incumbent to said special assignment for a period not to exceed the agreed upon length of assignment.

ARTICLE 20 – RETIREMENT

(A)The City and the Association agree that all employees shall participate in the Public Employees Retirement System of the state of Nevada in accordance with the rules of that system.

(B) Any increase to the Public Employees Retirement System contribution rate above the current rate will be shared by the City and the employee, each paying 50% of the increase; employee paying through salary reduction and the City paying the other half.

ARTICLE 21 - REDUCTION IN FORCE

Section 1. Notice to Association

(A) Whenever it is determined that a lay-off of employees may occur because of lack of work or funds, the City shall give written notice of the layoff, including the reason(s) such action is necessary and the estimated length of the layoff period to the Association President at least sixty (60) calendar days prior to the effective date of notification to employees.

(B) Whenever it is determined that a lay-off of employees shall occur, the City agrees to supply current time in classification seniority lists to the Association for the jobs being affected.

Section 2. Provisions

(A) The City and the Association agree that reduction in personnel as it pertains to employees covered under the provisions of this contract shall be as hereinafter prescribed. When City funded positions of indefinite duration, and which are presently filled, are abolished, reductions shall be accomplished in accordance with the following provisions after all part-time temporary and probationary employees within the classification have been separated from City service.

- (1) Competition for retention shall be by classification within the department.
- (2) Further, priority for retention shall be based upon seniority of service within the classification within the given department.
- (3) The order of reduction in force within a classification shall be
 - (a) Temporary
 - (b) Probationary Employees
 - (c) Part-Time Employees
 - (d) Regular employees in the reverse order of their seniority. In the case of a tie within classification seniority, the employee with the least city employment seniority shall be released first.
- (4) All personnel who are affected by reduction in force shall have the right to elect a reduction in classification to a lower classification in the same department that they are qualified to fill through previous service in that classification.
- (5) An employee shall not be separated before the employee has been made a reasonable offer of reassignment, if such offer is possible in the determination of the City.
- (6) As a result of the application of this reduction in force procedure, the City may cause the reassignment, transfer, reduction in classification, or any combination thereof, or the separation of an employee.
- (7) Any employee reduced in classification or terminated under this Article shall have his name placed on the city's reduction-in-force list for a period of twelve (12) months.

Employees accepting reassignment or a reduction in classification and shall remain on the reduction -in-force list for their previous classification and shall be reinstated in accordance with their seniority. Previous employees shall be notified once by first class mail and by certified mail, return receipt requested, at their last known address, and must respond within ten (10) calendar days of receipt by certified mail or in person that they are accepting the offer of re-employment on date specified in the offer, or they shall be deemed to have refused the offer of re-employment and shall forfeit all seniority and/or rehire rights and privileges. In the event that the notice of delivery is not returned within ten (10) calendar days of mailing, the City may proceed to fill the position.

(8) Separation under this rule shall require at least sixty (60) days' notice to the employee, or payment in lieu of notice, of an equivalent amount of salary by the City. Employees reduced out of the workforce through "outsourcing" shall receive sixty (60) days' notice and three (3) months' severance pay.

(B) The City may consider offering an early retirement incentive to all employees prior to implementing any reduction in force.

(C) Temporary employees appointed to the classification covered under this Agreement on a temporary basis in a City funded position of limited duration may be terminated prior to the stated expiration date of the position or upon completion of the assigned work or in the best interests of the City.

(D) Employees who are rehired after an involuntary layoff shall be reinstated with all benefits for which they were not paid at the time of their separation and their service date will be adjusted in compliance with Civil Service Rules. Therefore, for the purposes of longevity, sick leave, annual leave and other service time related benefits; rehired employees will start securing these benefits at the same rate as when they left City employment.

(E) The City and the Association agree that there shall be no employee furloughs until the City has discussed with the Association the furlough procedures to be implemented.

(F) Employees rehired under the provision of this article will be required to submit to and pass a background investigation and entrance physical examination.

ARTICLE 22 - RE-EMPLOYMENT

Employees who resign in good standing from employment may request in writing, within two (2) years after such resignation, that their name be placed upon a rehire list of the classification held upon resignation.

1. Requests shall be submitted to the Human Resources Director, and the Department Head before the individual making the request can be placed upon the rehire list for that classification. The individual making the request shall be notified in writing upon approval or denial of request. All decisions of the Human Resources Director will be final.

2. The rehire list will be utilized in the same manner as an open competitive list and the hiring authority will have the opportunity to conduct selection interviews with the

individuals from both lists.

3. Individuals placed on the rehire list will remain on that list for a maximum for one (1) year.

4. Upon rehire, employees will have their salary set at the closest salary grade and step as existed at the time of separation. Department seniority shall be reinstated to same level as of the time of prior separation. No credit will be given to time not employed by the department. The employee shall serve a probationary period of a minimum of six (6) months and up to a maximum of twelve (12) months. Rehired employees may request removal from probationary status after six (6) months of successful performance. The request must be in writing and directed to the Chief. Removal from probationary status prior to the twelve month period will be at the discretion of the Chief.

5. Individuals rehired will be subject to the same background procedures currently being utilized for new hires and may be subject to additional testing as deemed necessary by the Human Resource Department.

ARTICLE 23 - OUTSIDE EMPLOYMENT

(A) Employees will notify the City of an "outside" employment on an appropriate and reasonable City form. All legal employment shall be approved unless the City can show just and reasonable cause for the denial of the employment (e.g. conflict of interest). The response shall not be delayed for more than thirty (30) calendar days from date of receipt.

(B) Any "outside" employment shall not exceed an average of twenty-four (24) hours per week over any three (3) month period.

(C) Outside employment shall not create a conflict of interest with City or Departmental business and will be considered secondary employment in all instances.

ARTICLE 24 - LABOR MANAGEMENT MEETINGS

(A) A joint Labor-Management Committee shall meet at set times which are to be determined between the President of the Association and the Chief (or designee) at the beginning of each fiscal year in order to supplement the collective bargaining process. These times can be changed upon mutual agreement between the parties.

The purpose of such meetings may be to:

- Discuss the administration of the Agreement;
- Notify the Association of changes made or contemplated by the Department which may affect the working conditions of employees represented by the Association; including but not limited to changes in posts;
- Disseminate general information of interest to the parties; and

- Give the Association representatives the opportunity to share the views of their members and/or make suggestions on subjects of interests to their members.

(B) An agenda of issues shall be prepared by the City and Association jointly or separately which shall be approached through meeting of the Labor-Management committee which shall be composed of not more than five (5) representatives of the City and five (5) representatives of the Association. The process shall serve to study issues of mutual interest, including, but not limited to safety and health of employees. Performance evaluations and staffing issues to be discussed in good faith on a prompt basis. Issues may fall within or without the instant contract, but it shall be understood that the City and the Association must mutually agree to any modification of this Agreement reached through this procedure in writing.

(C) The Association shall designate a representative to serve as liaison with the Chief or designee, for the purpose of selecting agenda items and organizing meetings. Each party agrees to a reasonable notice to the other party to cancel a meeting. The Association's representative will prepare the Agenda(s) for each meeting and the City's representative.

(D) Minutes of the Labor-Management Committee meetings shall be prepared by the Department Director, or designee, and shall be reviewed and approved by the Association's representative by both parties' signatures. The minutes shall expressly state each issue or topic discussed during the meeting, the positions of the City and the Association with respect to each issue and the decision reached. Copies of approved minutes will be available for the Association to pick up and are distributed within two weeks of each meeting.

(E) By virtue of agreeing to the provisions of this Article, neither party shall waive any rights under the Nevada Revised Statutes.

ARTICLE 25 - DISCIPLINARY ACTION

Section 1. Grounds for Disciplinary Action

The City shall adhere to NRS 289, Peace Officers Bill of Rights when initiating discipline under this Article. The City will not take corrective or disciplinary action against an employee except for just cause, as defined below. The city shall follow the disciplinary procedures set forth below in enforcing any discipline.

An employee shall be notified in writing of any possible disciplinary action within thirty (30) days of the incident-giving rise to the possible discipline, or within thirty (30) days of when the City discovers or reasonably should have discovered the facts supporting possible discipline. Except as otherwise noted in this paragraph, no disciplinary action shall be taken on incidents occurring six (6) months prior to the administration of disciplinary action.

Internal investigations will normally be completed within 60 days of complaint unless an extension is approved by the Chief or designee. Complainants will be informed of the status of the investigation at least every 30 days and/or if a case extension is granted.

The City shall make a determination of the level of disciplinary action meted out no later than thirty (30) days from the date of the first disciplinary meeting. The two thirty (30) day limitation periods and the six (6) month limitation period do not include vacation leave or any other leave taken by the employee.

An employee may appeal any written reprimand, demotion, suspension or other form of discipline through the grievance procedure of this contract, which shall be exclusive remedy for the appeal of disciplinary actions. Oral reprimands may not be grieved. Written reprimands may be grieved up to and through Step 3 - City Manager level of grievance procedure.

LVPOA representation shall be allowed at every level of discipline. Nothing in this paragraph shall be interpreted as prohibiting the application of progressive discipline as set forth in paragraph (B) based upon prior disciplinary action being taken against any employee.

Section 2. Progressive Disciplinary Action

The City and the Association recognize the principle of progressive discipline as the form of discipline to be used by the City. Discipline shall be progressive from a minor form of discipline to major disciplinary actions. Serious disciplinary offenses may result in the disciplinary procedure starting at some level other than an oral warning. Discipline steps may be skipped, depending on the severity of the offense. Nonetheless, skipping steps in the discipline process shall be the exception of the general rule requiring following progressive discipline.

Section 3. Progressive Discipline Steps - The usual progressive discipline steps are:

A. Oral Reprimand or Warning - This is the first disciplinary step taken by a supervisor which puts an employee on notice that the employee's behavior or performance is not acceptable in specific and identifiable areas and that further unacceptable behavior or performance in the same area may result in more severe disciplinary action. The intent is for the supervisor to give the employee a clear notice that the specific behavior or performance should be corrected. Oral reprimands are to be documented in memo form with the supervisor and employee each signing and keeping a copy for their record. Copies of the memo are not to be placed in the employee's Department or Human Resources personnel file. Oral reprimands are valid for a period of up to nine (9) months.

B. Written Reprimand - This is the first level of discipline which is documented and which may be placed in the employee's personnel file. Supervisor shall document the violation and corrective action as identified in 1 above, on an Employee Interview form. The employee who is the subject of the disciplinary action will be allowed to read the Employee Interview form, may make any comments desired, and will then sign the form and may prepare a response to the allegations contained therein. That response, if prepared, shall be attached as a permanent part of the written reprimand. However,

the failure of the employee to respond or deny the charges on the form shall not be interpreted as a waiver of any of the employee's rights under the agreement or as an admission that the allegations are true.

C. Suspension - Suspension may be used after a written reprimand has apparently not corrected the specific unacceptable performance or behavior or rule violations. Documentation is done on an Employee Interview form, as described in paragraph 2, above. Suspensions in excess of 40 hours must have the approval of the City Manager or designee.

D. Other Disciplinary Actions - After an employee has been suspended, if there is a continuation or reoccurrence of the problem that caused the suspension, the employee may be subject to more serious discipline. The same procedure regarding documentation and rebuttal must be followed, as in the case of a written reprimand or suspension. Examples are:

- a. Reduction in Classification - This involves the individual reducing in classification from the position currently held to one in a lower pay grade or one of lesser responsibility. This step should be used when the difficulties the employee is experiencing appear to stem from the level of duties and/or responsibilities of the position currently held.
- b. Reduction in Salary Step - When it can clearly be shown that a monetary punishment other than a suspension is appropriate, the employee's salary step may be reduced by one step for, a maximum of thirteen (13) pay periods, or withheld.

E. Termination - Termination is the final step of the progressive disciplinary process. Termination is used when other efforts to correct a disciplinary situation have failed or when the offense committed by the employee is a very serious nature as so to warrant immediate separation from employment.

Section 4. Records

Investigations of allegations, which do not result in a corrective or disciplinary action, shall not become part of the employee's personnel file or department file under any circumstances. Employees shall be entitled to the retraction of any document that is proven to be in error or was placed in the employee's personnel files without the employee receiving a copy of the document.

Employee's permanent personnel files are private and confidential and must not be reviewed or otherwise seen by any person other than an authorized employee of the Department of Human Resources, the City Manager or designee, the City Attorney or designee assigned to work on personnel matters, and/or the employee's current Department Director or designee without the prior approval of the employee.

Section 5. Disciplinary Meetings

Disciplinary Meetings shall be conducted during an employee's regular work hours or the employee shall be compensated in accordance with this agreement. An employee shall be given written notice at least forty-eight (48) hours prior to the beginning of any

meeting called for disciplinary purposes with that employee that the meeting could lead to a written reprimand or more serious disciplinary action. The employee shall be provided in writing with the name of the person conducting the meeting, the date, time, location and topic of the meeting. If the employee is not notified, or if the employee comes to reasonably believe that a meeting or interview might lead to disciplinary action against him/her, the employee shall be given an opportunity to request, and adequate time to secure, the presence of a representative at such meeting, inquiry or investigation.

Section 6. Purging Files and Records

A. The record of any disciplinary action resulting in a written reprimand shall be removed from an employee's personnel file after a period of eighteen (18) months has elapsed. Any subsequent disciplinary action of similar nature shall extend the period of retention of the original offense for twelve (12) months. Similar nature is defined as a disciplinary action in the same general area of discipline, such as performance, attendance, or rule violations.

B. Records of disciplinary actions resulting in a suspension of 40 hours or less, or an equivalent loss of pay, will be removed from an employee's personnel file after a period of twenty-four (24) months has elapsed. Any subsequent offense of a similar nature shall extend the period of retention of the original disciplinary action for eighteen (18) months.

C. Provided that the above conditions are met, an employee may submit a written request to the Director of Human Resources to have an action removed from his/her personnel file. Human Resources staff will review the employee's personnel file, contact the employee's department to verify the record, and notify the employee of the results of the request. Additionally, the director will notify the employee's supervisor to destroy such disciplinary action records. If disciplinary documents exist at the department level alone, those documents shall be returned to the employee for disposal.

D. These guidelines regarding the purging of records shall not apply in case of termination or resignation of the employee.

E. The City shall allow every employee the opportunity to review their own official employee personnel file and/or department file shall remain under the control of the Department of Human Resources.

F. If an employee, upon examining their employee personnel file, has reason to believe there are inaccuracies in the documents in the personnel file, the employees may write a memorandum to the Director of Human Resources explaining the alleged inaccuracy and ask that the documents be corrected. Continuous absences in excess of thirty (30) calendar days, other than vacation or sick leave, shall not be credited towards the time necessary to purge records.

G. Purging time limits identified above begin on the date of the employee interview when the employee is formally notified of the disciplinary action.

Section 7. Just Cause

Just Cause exists when an employee commits an act of substance relating to the character or fitness of the employee to perform official duties that is contrary to sound public practices or acceptable work performance. The following, although not all inclusive, shall constitute just cause:

- A. Conviction of an offense which is punishable as a felony or gross misdemeanor in the State of Nevada, conviction of an offense in any place other than the State of Nevada, which offense if committed in the State of Nevada, would be punishable as a felony or gross misdemeanor, or conviction of any offense which involves moral turpitude;
- B. Knowing violation of City or Department Rules and Regulations that do not conflict with the terms of this Agreement and have been properly approved by the City Manager or Chief Officer - Public Safety and have been punishable in writing and circulated;
- C. Solicitation of the public for money, goods or services which has not been approved in accordance with established departmental procedures;
- D. Acceptance of any substantial reward, gift or other form of remuneration, in addition to regular compensation for City related duties;
- E. Repeated incompetency, repeated inefficiency, repeated carelessness, abuse of sick leave, neglect of duties, unexplained and unapproved absence from duty, excessive absenteeism or tardiness, misuse of theft of City property, continuing or life threatening safety violations, on the job alcohol, or other drug abuse, malfeasance, misconduct in office, conduct unbecoming an employee, or insubordination;
- F. Physically striking or threatening a supervisory, managerial, or other employee;
- G. Striking in violation of this Agreement, or of NRS 288;

The above grounds are not deemed all inclusive, but merely descriptive.

ARTICLE 26 - GRIEVANCE PROCEDURES

Section 1. General

The purpose of the Grievance Procedure shall be to settle all grievances between the City and the employees of the Bargaining Unit as quickly as possible to insure efficiency and promote employee morale. Should any employee or group of employees feel aggrieved, including the claim of unjust discrimination or any matter or condition affecting health and safety which may be a violation of federal or state law, including occupational Safety and Health Act, 29 U.S.C. Sec. 651-78, Nevada Occupational Safety and Health Act, NRS 618.005 et seq. NRS Chapter 288 and/or may be considered subjects of mandatory collective bargaining, NRS 288.150(2)(m), adjustment may be sought.

The enforcement and establishment of Civil Service Rules promulgated by the Civil Service Board are expressly excluded from consideration as a grievance. Whenever Civil Service rules are contrary to the terms of this Agreement, they shall have no force or effect on the employees covered by this Agreement. Civil Service rules will apply in circumstances where the Agreement is silent. Alleged violations of Civil Service rules, which are not covered by the terms of this Agreement, may only be appealable through the Civil Service Rules. Violations of Federal and State statutory provisions and the enforcement thereof except as referred to in this section are not subject to the grievance procedure hereinafter set forth. Nothing in this paragraph shall be interpreted as prohibiting an employee or the Association from aggrieving an action or conduct which may violate or be in conflict with any federal or state law to the extent the grievance claims or alleges such action or conduct constitutes a violation of this contract or department rules or regulations. No employee shall be deemed to have waived or forfeited any rights, including the right to a jury trial under any applicable federal or state law, by virtue of filing a grievance or requesting arbitration of any dispute within the scope of this Article.

The Association recognizes its responsibility as bargaining agent and agrees to fairly represent all employees in the bargaining unit. The City recognizes the right of the Association to charge non-members of the bargaining unit a reasonable service fee for representation in grievance hearings and appeals.

The parties agree that employees must successfully complete an initial probationary period. Prior to the successful completion of an initial probationary period, the City has the right to discipline or discharge an employee at any time, so long as the action is consistent with applicable state and federal law and the terms of this Agreement. The parties further agree that after a finding of fact, an employee shall have an informal meeting with the Department Director prior to a non-confirmation of appointment.

Section 2. Informal Procedure

Prior to submitting a written grievance, nothing herein shall preclude any employee from discussing his/her grievance with the immediate supervisor up to and including the Chief or his/her designee and an Association Representative for informal adjustment. If the problem cannot be resolved informally, as set forth in this section, the employee may proceed to Section 3.

If, after the employee receives their findings, the employee and/or the Association believes that facts of the case were not properly considered; then the parties will meet with the Chief or designee to discuss the facts of the case.

Section 3. Grievance Procedure

Any dispute concerning interpretation or application of an expressed provision of this Agreement, departmental rules and regulations that violate a provision of this agreement or are applied in an unfair or inconsistent manner or a dispute regarding a disciplinary action taken against an employee shall be subjected to this grievance procedure.

(1) It is agreed that the City has a right to discipline or discharge employees for just cause. Disciplinary actions, except oral reprimands, shall be subject to the Grievance Procedure. Oral reprimand is defined as a verbal warning, which is not placed within the employee's personnel file. The City shall have just cause for any disciplinary action.

(2) No regular employee shall be discharged except for just cause defined in Article 25, Section G, which shall be subject to the Grievance Procedure. It is understood by and between the parties that this section does not affect the City's right to eliminate positions because of layoffs or reduction of force in good faith.

All non-disciplinary grievances must be filed in writing, with the Chief or designee, within thirty (30) calendar days after the matter in dispute/disagreement is alleged to have occurred or thirty (30) days from the time the employee had reason to know the circumstances giving rise to the grievance.

The time limits stated above shall not commence so long as the grievant/Association and the Chief or designee are engaged in informal discussions in an attempt to resolve the issue without filing a formal grievance. However, the grievant/Association may file a written grievance at any time during the informal discussion period in order to move the dispute to the formal process.

Disciplinary appeals must be filed with the Chief or designee, within fourteen calendar (14) days from the date of issuance. A grievant/appellant may have up to two (2) representatives of his/her choice at any or all steps of the grievance process. Written reprimands may only be appealed through Step 3 of the procedure and are not subject to arbitration.

The Association, upon receiving a written and signed request, shall determine if a grievance exists. If, in their opinion, no grievance exists, the Association may take no further action. Nothing stated herein shall prohibit an employee from proceeding on his/her own behalf in filing and processing a grievance and the City shall recognize the individual employee's rights to file a grievance and proceed through the grievance process, including arbitration as "the grievant".

STEP 1: The Association (or the employee in any case) shall present a signed written grievance to the grievant's supervisor and a Lieutenant outside of the grievant's chain of command. The Lieutenant shall, within 14 calendar days of the filing of the grievance, meet with the grievant and discuss the issue. The Lieutenant shall respond in writing to the grievance within seven (7) calendar days of the meeting with the grievant. The decision of the Lieutenant outside the grievant's chain of command is not subject to reversal by anyone in the grievant's chain of command, including the Chief unless the grievant or the Association proceeds to Step Two under this Article.

STEP 2: In the event the grievant is not satisfied with the written response to Step One of the grievance, he/she may refer the grievance to Step Two of the grievance procedure by forwarding the grievance in writing, along with the response to Step One, to the Chief. This action must be taken no later than fourteen (14) calendar days after receipt of the written response to Step One. The Chief or designee along with a representative from Human Resources shall meet with the grievant no later than fourteen (14) calendar days after receipt of the grievance for the purposes of attempting to resolve this dispute. The Chief will have fourteen (14) calendar days from the date of the meeting to answer the grievance in writing. The Chief or designee shall respond in writing.

STEP 3: In the event the grievant is not satisfied with the written response to Step Two of the grievance procedure, he/she may refer the grievance in writing and written

responses to Steps One and Two to Step Three, to the Director of Human Resources within fourteen (14) calendar days of the written response to Step Two. The Director of Human Resources will forward the grievance to the City Manager, or designee, who shall respond to the grievance in writing, within twenty-one (21) calendar days of receipt of the grievance in an effort to resolve this dispute. The grievant may request a meeting with the City Manager or designee prior to a written response.

STEP 4: If a mutually satisfactory settlement cannot be reached between the City Manager or designee and the Association, the matter may be submitted to Arbitration by the Association or the grievant by serving the City's Director of Human Resources a Notice of Arbitration. This must be done within thirty (30) days of when the answer was due. The parties shall meet within fourteen (14) calendar days from the date the request for arbitration was received for the purpose of selecting an impartial arbitrator.

Section 4. Arbitration Procedures

Following Notice of Arbitration, the City and the Association or the employee's representative, shall agree upon a source for a list of seven (7) arbitrators. The lists shall either be a Federal Mediation and Conciliation Service (FMCS) or an American Arbitration Association (AAA) list.

To select an arbitrator from the panel, the parties may either mutually agree to one or shall alternatively strike one name each, with the Association striking first. The last remaining name shall become arbitrator. The arbitrator shall be notified of his selection by a joint letter from the City and the Association requesting that he set a time and place, subject to availability of the City and the Association. Any dispute, claim or grievance submitted to the final and binding arbitration under the provisions in the Article shall be done under the voluntary Labor Arbitration Rules of the American Arbitration Association (AAA) and/or the Federal Mediation and Conciliation Service (FMCS).

Decisions of the arbitrators shall be final; however, the arbitrator shall have no power to add to, subtract from, or modify the terms of the this agreement and department Rules and Regulations, except to the degree when rules conflict with this Agreement; and shall make his decision within thirty (30) calendar days from conclusion of the hearing or as agreed upon by the parties. The arbitrator shall not hear or decide more than one grievance without the mutual consent of the City and the Association. The arbitrator shall be without power to make decisions contrary to or inconsistent with or modifying or varying applicable laws or rules of law and any ruling by the Arbitrator as a question of law may be reviewed by a court of law de novo.

Section 5. Awards

The arbitrator's award will be final and binding on the Association and its members, the employee or employees involved, and the City to the extent of the Arbitrator's authority provided herein. All fees charged by the AAA or FMCS and the arbitrator's fees and costs and any costs of transcription of the record shall be shared equally 50% by the Association or grievant and 50% by the City.

Section 6. Time Limits

In computing any period of time described or allowed in this procedure, the day of the act, event, or default from which designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a holiday.

Section 7. Grievance Resolution

A copy of all written decisions or resolutions will be forwarded to the Association.

- (A) Reduction in Discipline - If the decision is to reduce the discipline, then the originating supervisor who meted out the discipline shall be directed to correct the disciplinary record in any files maintained for the grievant and specifically any file maintained with Human Resources.
- (B) Exoneration of Discipline - If the discipline is reversed in the favor of the employee, all files including the Human Resource personnel file and the employee's department file will be purged of all references to the discipline. Additionally, the Internal Investigations file will be modified to show the findings.

ARTICLE 27- SAFETY AND HEALTH

Section 1. General

(A) The City and the Association agree that all work shall be performed in compliance with all federal, state and local laws and policies.

(B) Except in the case of an emergency, the City shall discuss through the Labor-Management meeting all new or proposed changes to policies, practices and posts that affect the safety of the employees prior to the proposed implementation of the policy. The Association may submit to the Chief written comments within thirty (30) days of the labor management meeting during which the matter was discussed.

It will never be the intent of the City to establish a policy that adversely affects the safety of the employees. If there is a policy that may adversely affect the safety of the employees, the City will first discuss the proposed policy with the Association before implementing the policy.

Section 2. Report of Injury

(A) At times, supervisors of all employees must complete the appropriate "Report of Injury" form within 24 hours of being notified that a work-related accident has resulted in physical injury to an employee with a copy of the completed Report of Injury form.

(B) Any injury suffered by an employee not witnessed by his/her supervisor, shall be reported in writing by the employee to his/her supervisor in accordance with N.R.S.; or if prohibited by serious injury, then as soon as conditions permit.

It is the intent of this provision to ensure that staff injuries are reported on a timely basis.

Section 3. Safety Coordinator

The Department Head shall appoint a Safety Coordinator who shall represent the Department Head. The appointed Safety Coordinator shall be responsible for duties as defined in Post Orders, City policy, department work rules and any applicable regulations.

Section 4. Safety Committee

Safety Committee members who shall be no less than four in number, shall be appointed from members of the labor/management committee. Safety Committee members shall be allowed to attend committee meetings while on duty jointly with management. A committee member may be allowed to attend any inspection of or safety or health problems in the Department. The Safety Coordinator shall be required to notify the Department Head of all recommendations of the Safety Committee. The Chief will respond in writing to the Safety Committee as to the appropriate action to be taken.

The Safety Committee may recommend rules and procedures for the promotion of health and safety of department employees, for making periodic inspections of the department, and for making recommendations for the corrections of unsafe equipment and procedures. When appropriate, recommendations may include a target date for abatement of hazardous conditions or procedures. The primary goal is to rectify all safety issues with action. The Safety Committee shall keep a summary of all committee meetings and preparation of a written report for review by an employee. The Safety Coordinator and the Safety Committee shall participate in the development of proposed policies relating to prevention and control of communicable diseases and present the proposed rules to the Chief for approval.

Section 5. Staffing

The Department agrees to begin the process of filling approved vacancies in an expeditious and timely manner in accordance with City Policy. Only those vacancies recommended by the Department and approved by the City Manager are included in this Section. If the Association has reason to believe that the Department has failed to request that a vacancy is filled, the Association may meet with the Department Director to discuss the matter. If the Association is still not satisfied with the Director's response, the Association may request a meeting with the City Manager. The Decision of the City Manager shall be final. Neither the City nor the Association by virtue of Section 5 of this Article waives any rights under NRS 288.150.

ARTICLE 28 - SAVINGS CLAUSE/WAIVER

(A) If any provision of this Agreement is subsequently declared by legislative or judicial authority to be unlawful, unenforceable, or not in accordance with applicable statutes, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement, and the parties shall meet as soon as possible to agree on

a substitute provision. However, if the parties are unable to agree within a reasonable time the matter shall be submitted to Arbitration.

(B) The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the areas of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the employer and the Association, for the life of this Agreement, each voluntarily and unqualifiedly waives the right and agrees that the other shall not be obliged to bargain collectively with respect to any subject or matter referred to or covered in this Agreement.

(C) Any subject or matter not specifically referred to or covered in this Agreement, even though such subject and/or matter may not have been within the knowledge or contemplation of either or both parties at the time that they negotiated or signed this Agreement, is not subject to negotiation but may be the topic of discussions between the parties.

ARTICLE 29 – PERFORMANCE EVALUATIONS

Employee performance evaluations for Correction Officers will be completed prior to the annual change of shift rather than on the officer's anniversary date. Aligning the evaluations with the shift change will decrease the possibility of an employee having performance evaluations from different supervisors during the evaluation period.

If during the term of this agreement either party has concerns regarding the administration of this article, the parties agree to meet and confer and will make every reasonable effort to resolve the identified concern or issue.

ARTICLE 30 – PROMOTIONS

Section 1. Promotion Selection Process

The following procedures will be followed when developing eligible lists and selecting applicants from those lists. These procedures will affect promotional recruitment only. The promotional eligible lists will be arranged by score, from the highest to the lowest eligible score. Employees will be notified of their final score and their placement on the list.

The top five (5) or twenty-five percent (25%) (whichever is greater) scoring candidates on an eligible list will be available to the department to fill vacation positions. The twenty-five percent (25%) calculation will be rounded down rather than up (25% of 15 would be rounded down to 3).

The promotional lists will be arranged by score, from highest to lowest eligible score. Scores will be taken out to two decimal places, or to the nearest hundredth (ex. 89.512 = 89.51; 79,346 = 79.35). Scores will not be rounded to the nearest whole number;

therefore, any score beneath 70.0 will be considered a failing score. Employees will be notified of their final score and their placement on the list.

After a name has been removed from the list as a result of a promotion or other reason, the next highest scoring applicant will become eligible for selection.

In the case of tie scores, all names with the tie scores will be considered as one.

The City will provide 45 days notice of the testing date for the promotional recruitment. The 45 day notice will be given to the Union President for dissemination to the current Corrections Officers.

A list of study materials will be given to the applicants by Human Resources staff at the time of application or upon request to Human Resources.

A representative of the Association will be allowed to observe the initial training provided to oral board and assessment center members, exclusive of any actual test materials discussions. No Detention and Enforcement employees shall serve as assessors or on the oral board.

If during the term of this agreement either party has concerns regarding the administration of this article, the parties agree to meet and confer and will make every reasonable effort to resolve the identified concern or issue.

Section 2. Promotional Increase

Effective July 1, 2013, those promoted internally from Corrections Officer to Corrections Sergeant will receive a 5% increase in pay plus one additional step in the pay range.

ARTICLE 31 – DURATION

This Agreement shall become effective July 01, 2022, and continue in full force and effect through June 30, 2025. However, if the parties hereto do not arrive at a new agreement before June 30, 2025, the non-economic provisions of this agreement shall remain in effect until the parties execute a new agreement.

Upon ratification of this contract by the City Council, all agreements shall be retroactive to the effective date of this agreement, unless otherwise specified in the contract.

DATE _____

CITY OF LAS VEGAS

**LAS VEGAS PEACE OFFICERS
ASSOCIATION, INC.**

BY _____
Jorge Cervantes, City Manager

BY _____
Scott A. Edwards, President

Approved:

Carolyn Goodman, Mayor

Attest:

LuAnn Holmes, City Clerk

Approved as to Form:

Morgan D. Davis, Assistant City Attorney

FROM	DATE/TIME	VERSION	ARTICLE	SECTION(s)
	08/04/2021	1	31	

ARTICLE 31 – DURATION

This Agreement shall become effective July 01, 2022, and continue in full force and effect through June 30, 2025. However, if the parties hereto do not arrive at a new agreement before June 30, 2025, the non-economic provisions of this agreement shall remain in effect until the parties execute a new agreement.

Upon ratification of this contract by the City Council, all agreements shall be retroactive to the effective date of this agreement, unless otherwise specified in the contract.

DATE 9/29/2022

CITY OF LAS VEGAS

**LAS VEGAS PEACE OFFICERS
ASSOCIATION, INC.**

BY Jorge Cervantes
Jorge Cervantes, City Manager

BY Scott A. Edwards
Scott A. Edwards, President

Approved: Carolyn Goodman
Carolyn Goodman, Mayor

Attest: LuAnn Holmes 9/29/22
for LuAnn Holmes, City Clerk

Approved as to Form: Morgan D. Davis
Morgan D. Davis, Assistant City Attorney

TA'd: GE LVPOA
TA'd: CLV CLV
DATE: 09 AUG 2022

ATTACHMENT A

City of Las Vegas
Human Resources

Salaries for Grades with Steps
for POA Classified EEs
Effective Date 01-JUL-2022

Date Created: 10-AUG-2022
Page: 1 of 2

New PO 6 (Corrections Officer)

	Hourly	Biweekly	Monthly	Annually
Step 1	\$28.93	\$2,314.40	\$5,014.54	\$60,174.49
Step 2	\$30.09	\$2,406.98	\$5,215.12	\$62,581.47
Step 3	\$31.29	\$2,503.26	\$5,423.73	\$65,084.72
Step 4	\$32.54	\$2,603.39	\$5,640.68	\$67,688.11
Step 5	\$33.84	\$2,707.52	\$5,866.30	\$70,395.64
Step 6	\$35.20	\$2,815.83	\$6,100.96	\$73,211.46
Step 7	\$36.61	\$2,928.46	\$6,344.99	\$76,139.92
Step 8	\$38.07	\$3,045.60	\$6,598.79	\$79,185.52
Step 9	\$39.59	\$3,167.42	\$6,862.74	\$82,352.94
Step 10	\$41.18	\$3,294.12	\$7,137.25	\$85,647.06
Step 11	\$42.82	\$3,425.88	\$7,422.74	\$89,072.94
Step 12	\$44.54	\$3,562.92	\$7,719.65	\$92,635.86
Step 13	\$44.98	\$3,598.55	\$7,796.85	\$93,562.21

PO 15 (Corrections Sergeant)

	Hourly	Biweekly	Monthly	Annually
Step 1	\$36.13	\$2,890.46	\$6,262.66	\$75,151.95
Step 2	\$38.12	\$3,049.40	\$6,607.04	\$79,284.51
Step 3	\$40.21	\$3,217.16	\$6,970.51	\$83,646.11
Step 4	\$42.43	\$3,394.11	\$7,353.90	\$88,246.80
Step 5	\$44.76	\$3,580.78	\$7,758.35	\$93,100.18
Step 6	\$47.22	\$3,777.75	\$8,185.12	\$98,221.45
Step 7	\$49.82	\$3,985.49	\$8,635.24	\$103,622.85
Step 8	\$52.56	\$4,204.71	\$9,110.21	\$109,322.57
Step 9	\$55.45	\$4,435.97	\$9,611.27	\$115,335.29
Step 10	\$56.00	\$4,480.33	\$9,707.39	\$116,488.64

ATTACHMENT A

City of Las Vegas
Human Resources

Salaries for Grades with Steps
for POA Classified EEs
Effective Date 01-JUL-2023

Date Created: 10-AUG-2022
Page: 2 of 2

New PO 6 (Corrections Officer)

	Hourly	Biweekly	Monthly	Annually
Step 1	\$30.23	\$2,418.55	\$5,240.19	\$62,882.34
Step 2	\$31.44	\$2,515.29	\$5,449.80	\$65,397.63
Step 3	\$32.70	\$2,615.91	\$5,667.79	\$68,013.54
Step 4	\$34.01	\$2,720.54	\$5,894.51	\$70,734.08
Step 5	\$35.37	\$2,829.36	\$6,130.29	\$73,563.44
Step 6	\$36.78	\$2,942.54	\$6,375.50	\$76,505.98
Step 7	\$38.25	\$3,060.24	\$6,630.52	\$79,566.22
Step 8	\$39.78	\$3,182.65	\$6,895.74	\$82,748.87
Step 9	\$41.37	\$3,309.95	\$7,171.57	\$86,058.82
Step 10	\$43.03	\$3,442.35	\$7,458.43	\$89,501.17
Step 11	\$44.75	\$3,580.05	\$7,756.77	\$93,081.22
Step 12	\$46.54	\$3,723.25	\$8,067.04	\$96,804.47
Step 13	\$47.01	\$3,760.48	\$8,147.71	\$97,772.51

PO 15 (Corrections Sergeant)

	Hourly	Biweekly	Monthly	Annually
Step 1	\$37.76	\$3,020.53	\$6,544.48	\$78,533.79
Step 2	\$39.83	\$3,186.63	\$6,904.36	\$82,852.31
Step 3	\$42.02	\$3,361.93	\$7,284.18	\$87,410.18
Step 4	\$44.34	\$3,546.84	\$7,684.83	\$92,217.91
Step 5	\$46.77	\$3,741.91	\$8,107.47	\$97,289.69
Step 6	\$49.35	\$3,947.75	\$8,553.45	\$102,641.42
Step 7	\$52.06	\$4,164.84	\$9,023.82	\$108,285.88
Step 8	\$54.92	\$4,393.93	\$9,520.17	\$114,242.09
Step 9	\$57.94	\$4,635.59	\$10,043.78	\$120,525.38
Step 10	\$58.52	\$4,681.95	\$10,144.22	\$121,730.63

*FY24 salary schedules are subject to change based on changes to PERS contribution rates

EXHIBIT B

EXHIBIT B

VOLUNTARY LABOR ARBITRATION TRIBUNAL

BEFORE

IMPARTIAL ARBITRATOR KENNETH A. PEREA

In the Matter of Arbitration	)	
	)	
Between	)	
	)	
CITY OF LAS VEGAS	)	IMPARTIAL ARBITRATOR'S
	)	
And	)	FINDINGS
	)	
LAS VEGAS PEACE OFFICERS	)	AND
ASSOCIATION	)	
	)	AWARD
	)	
Re: Maurice Washington Grievance	)	
	)	

The above-entitled matter is conducted pursuant to the provisions of a Collective Bargaining Agreement ("Agreement") effective July 1, 2022, and continuing in full force and effect through June 30, 2025, between City of Las Vegas ("City") and Las Vegas Peace Officers Association ("LVPOA"). The parties agree the matters at issue are properly submitted for final and binding adjudication before Impartial Arbitrator Kenneth A. Perea.

I. THE HEARING

This dispute was heard pursuant to agreement of the parties via Zoom on January 8, 2026. Throughout the course of the hearing, both parties were afforded full opportunity to present sworn testimony, cross-examine witnesses and introduce documentary evidence. A verbatim transcript of the proceedings was thereafter prepared by Cynthia L. Gloe, RPR, Rocket Reporters. The matter was submitted upon post-hearing briefs. The grievant, Maurice Washington, who attended the entire proceedings and testified upon his own behalf, was fully and fairly represented by the LVPOA.

II. THE APPEARANCES

The grievant, Maurice Washington, and LVPOA were represented in the above-entitled matter by Adam Levin, Attorney at Law, Law Offices of Daniel Marks, 610 South Ninth Street, Las Vegas, NV 89101. City was represented by Jeffry M. Dorocak, City Attorney, through Morgan Davis, Senior Assistant City Attorney, 495 S. Main Street, Sixth Floor, Las Vegas, NV 89101.

III. THE MATTERS AT ISSUE

The issues presented for adjudication in the instant proceedings may be stated in the following terms:

1. Did City violate Articles 1 and 25 of the Agreement which incorporates State of Nevada's Rights of Peace Officers' statutes under NRS Chapter 289, and/or any other provisions of Article 25 of the Agreement when it placed Corrections Officer Maurice Washington on indefinite unpaid suspension after Corrections Officer Maurice Washington was charged with one or more felonies?
2. If so, what is the appropriate remedy?

IV. THE FINDINGS OF FACT

In the early morning hours of Monday, May 12, 2025, City's Department of Public Safety ("DPS") received notification from Las Vegas Metropolitan Police Department ("LVMPD") that DPS Corrections Officer Maurice Washington ("CO Washington") had been arrested and was being held in custody at Clark County Detention Center pending investigation for Felony DUI resulting in the death of a pedestrian who was walking in a crosswalk.

DPS immediately prepared a Notice of Paid Leave to be served upon CO Washington following his release from custody and began gathering and reviewing information about his alleged criminal misconduct for purposes of making a determination concerning his future employment with DPS. Once LVPOA advised DPS that CO Washington had posted bail and

been released from custody, DPS obtained and reviewed documents reflecting CO Washington had been released from custody after posting bail of \$250,000 and placement under house arrest/electronic monitoring. DPS thereafter placed CO Washington on paid leave pending investigation.

DPS then obtained and reviewed LVMPD's police report concerning the May 12, 2025, arrest of CO Washington, which included his admissions, as well as physical evidence and statements documenting he had (1) been driving a vehicle at a high rate of speed, (2) earlier been drinking alcohol, (3) fatally struck a pedestrian in a crosswalk with his vehicle, (4) fled the scene of the collision with a pedestrian, and then (5) returned to the scene of the collision shortly thereafter visibly showing signs of impairment. A few days later, a criminal complaint was filed against CO Washington by Clark County's Office of the District Attorney. DPS thereafter obtained and reviewed a toxicology report concerning CO Washington indicating that blood alcohol samples taken of him reflected a significant level of intoxication due to alcohol consumption. After DPS obtained and reviewed the above information, it administratively concluded information existed to support the conclusion it was likely the felony charges pending against CO Washington were accurate.

On Thursday, May 22, 2025, Senior Assistant City Attorney Morgan Davis ("Senior Assistant City Attorney Davis") discussed the matter of CO Washington's DPS employment with representatives of LVPOA. Senior Assistant City Attorney Davis opinioned it appeared clear CO Washington had engaged in serious criminal activity on May 12, 2025, and that based upon what DPS had determined following its review of the before-mentioned documents, City did not intend to continue CO Washington's placement on paid leave at taxpayers' expense pending a final disposition of the criminal complaint filed against CO Washington.

By June 9, 2025, City and LVPOA were in the process of discussing a mutually agreeable date and times to conduct a pre-disciplinary, due process meeting regarding a Notice of Intent

to Place CO Washington on Leave without Pay. It was agreed a due process meeting would be scheduled for June 11, 2025, and the foregoing notice was served upon CO Washington and his LVPOA representative via email.

On June 11, 2025, a recorded pre-disciplinary, due process meeting concerning placement of CO Washington on Leave without Pay due to the events of May 12, 2025, was conducted. Following the meeting and consideration of LVPOA's contentions on CO Washington's behalf, City placed CO Washington on unpaid leave pending investigation.

On June 19, 2025, LVPOA, upon CO Washington's behalf initiated the subject grievance challenging City's determination he be placed on unpaid leave pending disposition of the criminal complaint filed against him. Pursuant to the Agreement between LVPOA and City, on June 30, 2025, a recorded grievance meeting before a representative of the City Manager's Office was conducted. At that time, LVPOA again asserted on CO Washington's behalf, "If you want the ability to suspend an officer without pay pending a criminal investigation, under the Bill of Rights, it must be negotiated. And it's not in our contract. It hasn't been negotiated."

On July 8, 2025, LVPOA's grievance on CO Washington's behalf was denied by the City Manager's Office. LVPOA thereafter timely referred the matter to arbitration before Impartial Arbitrator Kenneth A. Perea.

V. RELEVANT STATUTORY AND CONTRACTUAL PROVISIONS

RIGHTS OF PEACE OFFICERS

...

NRS 289.057 Investigation of allegation of misconduct; law enforcement agency prohibited from taking certain actions during investigation; review of file by peace officer under certain circumstances; law enforcement agency prohibited from keeping or making record of investigation or punitive action; reassignment of peace officer under certain circumstances.

1. Except as otherwise provided in this subsection, an investigation of a peace officer may be conducted in response to a complaint or allegation that the peace officer has engaged in

activities which could result in punitive action. Any such investigation of a peace officer must be commenced by the law enforcement agency within a reasonable period of time after the date of the filing of the complaint or allegation with the law enforcement agency. A law enforcement agency shall not conduct an investigation pursuant to this subsection if the complaint or allegation is filed with the law enforcement agency more than 5 years after the activities of the peace officer occurred.

2. Except as otherwise provided in a collective bargaining agreement, a law enforcement agency shall not:

(a) Suspend a peace officer without pay; or

(b) Deny an increase in seniority or compensation, unless an investigation may lead to dismissal or demotion, during or pursuant to an investigation conducted pursuant to this section until all investigations relating to the matter have concluded.

...

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

The provisions of subsections 2, 3 and 4 of NRS 289.057 and NRS 289.060, 289.070 and 289.080 do not apply to any investigation which concerns alleged criminal activities.

ARTICLE I – RECOGNITION

Pursuant to the provisions of the Local Government Employee Management Relations Act, Chapter 288, Nevada Revised Statutes as amended, the City of Las Vegas (hereinafter call the “CITY”) recognizes the LAS VEGAS PEACE OFFICERS ASSOCIATION (hereinafter call the “ASSOCIATION”) as the exclusive representative of the eligible Department employees as hereinafter defined for the purpose of collective bargaining. The Association makes the Agreement in its capacity as the exclusive bargaining agent for the Department employees in the bargaining unit.

The City and the Association agree that, members of the Bargaining Unit who have “Peace Officer” status are covered by NRS 289 (Rights of Peace Offices). Both parties will also comply with future legislative changes to NRS 289. Those changes, if any, will supersede the rights listed below.

...

ARTICLE 25 – DISCIPLINARY ACTION

Section 1. Grounds for Disciplinary Action

The City shall adhere to NRS 289, Peace Officers Bill of Rights when initiating discipline under this Article. The City will not take corrective or disciplinary action against an employee except for

just cause, as defined below. The city shall follow the disciplinary procedures set forth below in enforcing any discipline.

An employee shall be notified in writing of any possible disciplinary action within thirty (30) days of the incident-giving rise to the possible discipline, or within thirty (30) days of when the City discovers or reasonably should have discovered the facts supporting possible discipline. Except as otherwise noted in this paragraph, no disciplinary action shall be taken on incidents occurring six (6) months prior to the administration of disciplinary action.

Internal investigations will normally be completed within 60 days of complaint unless an extension is approved by the Chief or designee. Complainants will be informed of the status of the investigation at least every 30 days and/or if a case extension is granted.

The City shall make a determination of the level of disciplinary action meted out no later than thirty (30) days from the date of the first disciplinary meeting. The two thirty (30) day limitation periods and the six (6) month limitation period do not include vacation leave or any other leave taken by the employee.

An employee may appeal any written reprimand, demotion, suspension or other form of discipline through the grievance procedure of this contract, which shall be exclusive remedy for the appeal of disciplinary actions. Oral reprimands may not be grieved. Written reprimands may be grieved up to and through Step 3 - City Manager level of grievance procedure.

LVPOA representation shall be allowed at every level of discipline. Nothing in this paragraph shall be interpreted as prohibiting the application of progressive discipline as set forth in paragraph (B) based upon prior disciplinary action being taken against any employee.

Section 2. Progressive Disciplinary Action

The City and the Association recognize the principle of progressive discipline as the form of discipline to be used by the City. Discipline shall be progressive from a minor form of discipline to major disciplinary actions. Serious disciplinary offenses may result in the disciplinary procedure starting at some level other than an oral warning. Discipline steps may be skipped, depending on the severity of the offense. Nonetheless, skipping steps in the discipline process shall be the exception of the general rule requiring following progressive discipline.

Section 3. Progressive Discipline Steps - The usual progressive discipline steps are:

A. Oral Reprimand or Warning - This is the first disciplinary step taken by a supervisor which puts an employee on notice that the

employee's behavior or performance is not acceptable in specific and identifiable areas and that further unacceptable behavior or performance in the same area may result in more severe disciplinary action. The intent is for the supervisor to give the employee a clear notice that the specific behavior or performance should be corrected. Oral reprimands are to be documented in memo form with the supervisor and employee each signing and keeping a copy for their record. Copies of the memo are not to be placed in the employee's Department or Human Resources personnel file. Oral reprimands are valid for a period of up to nine (9) months.

B. Written Reprimand - This is the first level of discipline which is documented and which may be placed in the employee's personnel file. Supervisor shall document the violation and corrective action as identified in 1 above, on an Employee Interview form. The employee who is the subject of the disciplinary action will be allowed to read the Employee Interview form, may make any comments desired, and will then sign the form and may prepare a response to the allegations contained therein. That response, if prepared, shall be attached as a permanent part of the written reprimand. However, the failure of the employee to respond or deny the charges on the form shall not be interpreted as a waiver of any of the employee's rights under the agreement or as an admission that the allegations are true.

C. Suspension - Suspension may be used after a written reprimand has apparently not corrected the specific unacceptable performance or behavior or rule violations. Documentation is done on an Employee Interview form, as described in paragraph 2, above. Suspensions in excess of 40 hours must have the approval of the City Manager or designee.

D. Other Disciplinary Actions - After an employee has been suspended, if there is a continuation or reoccurrence of the problem that caused the suspension, the employee may be subject to more serious discipline. The same procedure regarding documentation and rebuttal must be followed, as in the case of a written reprimand or suspension. Examples are:

- a. Reduction in Classification - This involves the individual reducing in classification from the position currently held to one in a lower pay grade or one of lesser responsibility. This step should be used when the difficulties the employee is experiencing appear to stem from the level of duties and/or responsibilities of the position currently held.

- b. Reduction in Salary Step - When it can clearly be shown that a monetary punishment other than a suspension is appropriate, the employee's salary step may be reduced by one step for, a maximum of thirteen (13) pay periods, or withheld.

E. Termination - Termination is the final step of the progressive disciplinary process. Termination is used when other efforts to correct a disciplinary situation have failed or when the offense committed by the employee is a very serious nature as so to warrant immediate separation from employment.

...

Section 7. Just Cause

Just Cause exists when an employee commits an act of substance relating to the character or fitness of the employee to perform official duties that is contrary to sound public practices or acceptable work performance. The following, although not all inclusive, shall constitute just cause:

- A. Conviction of an offense which is punishable as a felony or gross misdemeanor in the State of Nevada, conviction of an offense in any place other than the State of Nevada, which offense if committed in the State of Nevada, would be punishable as a felony or gross misdemeanor, or conviction of any offense which involves moral turpitude;
- B. Knowing violation of City or Department Rules and Regulations that do not conflict with the terms of this Agreement and have been properly approved by the City Manager or Chief Officer - Public Safety and have been punishable in writing and circulated;
- C. Solicitation of the public for money, goods or services which has not been approved in accordance with established departmental procedures;
- D. Acceptance of any substantial reward, gift or other form of remuneration, in addition to regular compensation for City related duties;
- E. Repeated incompetency, repeated inefficiency, repeated carelessness, abuse of sick leave, neglect of duties, unexplained and unapproved absence from duty, excessive absenteeism or tardiness, misuse of theft of City property, continuing or life-threatening safety violations, on the job alcohol, or other drug abuse, malfeasance, misconduct in office, conduct unbecoming an employee, or insubordination;

F. Physically striking or threatening a supervisory, managerial, or other employee;

G. Striking in violation of this Agreement, or of NRS 288;

The above grounds are not deemed all inclusive, but merely descriptive.

ARTICLE 26 – GRIEVANCE PROCEDURES

...

Section 3. Grievance Procedure

Any dispute concerning interpretation or application of an expressed provision of this Agreement, departmental rules and regulations that violate a provision of this agreement or are applied in an unfair or inconsistent manner or a dispute regarding a disciplinary action taken against an employee shall be subjected to this grievance 6 procedure. It is agreed that the City has a right to discipline or discharge employees for just cause. Disciplinary actions, except oral reprimands, shall be subject to the Grievance Procedure. Oral reprimand is defined as a verbal warning, which is not placed within the employee's personnel file. The City shall have just cause for any disciplinary action.

...

Section 4. Arbitration Procedures

...

Decisions of the arbitrators shall be final; however, the arbitrator shall have no power to add to, subtract from, or modify the terms of this agreement and department Rules and Regulations, except to the degree when rules conflict with this Agreement; and shall make his decision within thirty (30) calendar days from conclusion of the hearing or as agreed upon by the parties.

NRS 289.057(2) Except as otherwise provided in a collective bargaining agreement, a law enforcement agency shall not suspend a peace officer without pay during or pursuant to an investigation conducted pursuant to this section until all investigations relating to the matter have concluded.

VI. THE PARTIES' CONTENTIONS

A. LVPOA's Contentions

In 2007, Nevada's Rights of Peace Officer statute ("NROPO") was amended by Assembly Bill 298 to add a new subsection (2) to NRS 289.057 which provides:

A law enforcement agency shall not suspend a peace officer without pay during or pursuant to an investigation conducted pursuant to this section until all investigations relating to the matter have concluded.

The above reference to "an investigation conducted pursuant to this section" refers to an internal investigation conducted by the agency employing the peace officer. (See NRS 289.057(1); *City of Las Vegas v. Las Vegas Police Protective Association*, 561 P.3d 1059, 1062 (2025) (an investigation pursuant to NRS Chapter 289 "is an 'internal' one").)

In the 2011 legislative session, NRS 289.057(2) was again amended by Assembly Bill 265 to add the language, "Except as otherwise provided in a collective bargaining agreement" to the beginning of the statutory language. Therefore, from 2011 through the present the statute has unambiguously stated as follows:

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

The language of the foregoing statute is clear and unambiguous. If a law enforcement agency wishes to be able to suspend a peace officer without pay prior to the completion of all investigations, the agency must negotiate such a provision into a collective bargaining agreement. In the absence of such a provisions, a law enforcement agency may not do so.

City has no provision within its Agreement with LVPOA permitting it to suspend indefinitely and without pay a peace officer who has been charged with a felony such as CO Washington. When City informed LVPOA that it was intending to convert CO Washington's paid administrative leave to an indefinite unpaid suspension as a result of felony charges

pending against him, LVPOA immediately informed City it had to negotiate to add such a right into the Agreement with LVPOA. The parties were in open contract negotiations at the time and invited City to make such a proposal. At CO Washington's initial hearing before Deputy Chief Matthew Triplett in connection with the notice of intent to impose such an indefinite suspension without pay, LVPOA reiterated that this needed to be negotiated and that City had not done so despite the open contract negotiations. The obligation to bargain such was raised yet again at the Step 3 grievance hearing before Assistant City Manager Tim Hacker. Despite the willingness of LVPOA to consider a proposal by City for the ability to suspend peace officers without pay when charged with felonies pending the outcome of the criminal charges, City never sought to do so.

Nevada's Rights of Peace Officers statutes ("NROPO") are incorporated into LVPOA's Agreement with City. Because the Agreement does not grant City the ability to suspend peace officers without pay based upon mere arrest or charges, changing CO Washington from paid administrative leave to indefinite leave without pay status violated the terms of the Agreement. The Impartial Arbitrator must therefore conclude City violated the Agreement upon placing CO Washington on unpaid leave and order he be made whole for all loss of pay and benefits.

B. City's Contentions

Suspension without pay resulting from serious criminal charges like those alleged against CO Washington do not implicate due process. City's position is that given the serious nature of the allegations, once there were positive assurances that CO Washington had engaged in alleged serious criminal activities, taxpayers should not have to provide him with paid leave while he was under house arrest awaiting disposition of criminal charges. NRS 289.057(2) clearly and expressly does not apply to situations like this involving allegations of serious criminal activities. The first and every subsequent Agreement agreed to by the parties incorporated City's Civil Service Rules which provided for non-disciplinary suspension without

pay, and no provision was ever negotiated that was in conflict with that. Given all these reasons, during its negotiations with LVPOA, City did not need to pay a ransom in the form of new quid pro quo for an existing right.

In *Gilbert v. Homar*, 520 U.S. 924, 117 S.Ct. 1807, 138 L.Ed 2d 120 (1997), the United States Supreme Court reviewed the suspension without pay of a law enforcement officer following his arrest on felony charges. That unanimous opinion contained several important points. Most significantly, the High Court held:

On the other side of the balance, the State has a significant interest in unilaterally suspending, when felony charges are filed against them, employees who occupy positions of great public trust and high public visibility, such as police officers. Respondent contends that the interest in maintaining public confidence could have been accommodated by suspending him with pay until he had a hearing. We think, however, that the government does not have to give an employee charged with a felony a paid leave at taxpayer expense. If his services to the government are no longer useful once the felony charge has been filed, the Constitution does not require the government to bear the added expense of hiring a replacement while still paying him. (*Id.* at 932, 1813.)

In holding the employee was not entitled to due process prior to the suspension without pay based on his arrest and drug-related charges, the High Court first utilized a familiar balancing test that used three distinct factors: 1) the private interest affected by the official action; 2) the risk of erroneous deprivation of such interests through the procedure used and the probative value of additional or substitute procedures; and 3) the government interest. It is the position of City that the action in this case was not a disciplinary suspension or de-facto termination case, and just cause, including due process considerations of notice and opportunity to be heard prior to a decision, are not at issue. Nonetheless, it must be noted that City made sure to provide those hallmark elements in this matter. Stated differently, although it was not required to do so, City still provided CO Washington and LVPOA meaningful notice and opportunity to be heard before it took the action in question. Of the three factors balanced, the High Court made clear to indicate the most important was the risk of erroneous deprivation and

the likely value of any additional procedures. (*Id.* at 933, 1813.) In analyzing that factor, the High Court made clear that the arrest and filing of charges are positive assurances that there were reasonable grounds to support the suspension without pay, stating, “First, as with an indictment, the arrest and formal charges imposed against the respondent ‘by an independent body demonstrat[e] that the suspension is not arbitrary.’” (Citation omitted.) Second, like an indictment, the imposition of felony charges “itself is an objective fact that will in most cases raise serious public concern.” (*Id.* at 934, 1814.) The High Court noted that an arrest and being formally charged “. . . serve to assure that the state employer’s decision to suspend the employee is not ‘baseless or unwarranted,’ in that an independent third party has determined there is probable cause to believe the employee committed a serious crime.” (*Id.* at 934, 1814.) With those factors in mind, it is important to understand and appreciate the steps DPS undertook, the information that resulted from and was reviewed from those efforts, and the extremely high level of assurances that existed that City action was not arbitrary, baseless or unwarranted.

DPS diligently obtained and reviewed information that provided positive assurances CO Washington had engaged in the criminal activities alleged before proceeding to place him on unpaid leave pending disposition of the criminal charges against him.

It is also significant to note that while DPS moved promptly, it did not rush to judgment based merely on CO Washington’s arrest. Rather, DPS diligently gathered and reviewed information, and only once it became abundantly clear that there was an extremely high level of assurances that the charges were true, and not baseless, did City act.

Before taking the action, DPS gathered and reviewed a significant amount of information. For example, once DPS was notified by LVMPD, a neighboring law enforcement agency, that CO Washington was arrested and in custody as a part of their investigation of alleged criminal activities, DPS took several affirmative steps to confirm the basic facts. A DPS representative went to Clark County Detention Center and confirmed CO Washington was in

custody. Thereafter, DPS obtained and reviewed the police report. That report reflected several witnesses reporting seeing a black Mercedes Benz strike a pedestrian and flee the scene. It noted LVMPD officers responded and found a pedestrian at the scene who was pronounced dead. It also reflected LVMPD officers located physical evidence at the scene that was determined to be from a black Mercedes Benz. Further, the police report reflected that CO Washington's cousin appeared at the scene and confirmed CO Washington drove a black Mercedes; placed CO Washington at a Hookah Lounge shortly before the accident; indicated that CO Washington had hit someone with that car; and that CO Washington told him he was going to return to the scene. Further, the police report indicated CO Washington himself appeared at the scene and showed signs of impairment; confirmed the collision occurred; and indicated he had left the scene, and where he left the car, which was then located by LVMPD. The report also reflected that CO Washington failed a field sobriety test, was transported to custody where a warrant was obtained from a judge based on probable cause, and blood alcohol samples were collected for testing. DPS later determined that CO Washington had appeared before a judge for a 72-hour hearing, who, like the judge who signed the warrant for the blood test, represented another independently made determination of "probable cause." DPS also confirmed that a significant bail amount had been set, because the State had provided the court clear and convincing evidence that no less restrictive alternative to monetary bail would satisfy its interest in ensuring the defendant's presence and community safety. DPS also independently confirmed the release order was based not only on \$250,000 bail, but Electronic Monitoring - High Level, which is house arrest with an ankle monitor. At this point, DPS still continued to closely monitor the situation and confirmed, obtained and reviewed a formal Criminal Complaint that was filed by the District Attorney's Office, charging multiple felonies. This demonstrated that a third independent authority, the District Attorney, had undergone a screening process and determined there was sufficient cause to believe the allegations would be

proved beyond a reasonable doubt. The timing of the Complaint, and the specific factors and allegations that were pled, particularly a resulting death, led DPS to conclude that the blood alcohol results had been requested and received on an expedited basis, and were positive. DPS did not rest on that logical assumption, but rather independently obtained and reviewed those results as well. The results of two separately collected samples showed significant levels of impairment approximately twice the legal limit. At this point, it was abundantly clear the charges were not only extremely serious, but there was significant evidence the charges were true.

NRS 289.057, the basis for LVPOA's grievance in this matter, was not originally part of the Nevada Police Officers Bill of Rights but was added in 2005. Significantly, as originally adopted in 2005, that section contained no reference to suspension without pay. However, at the time of its adoption, a conforming change to NRS 289.090 was also made, expressly indicating that new section, like 289.060, 289.070, and 289.080 had previously been, were not applicable to any investigation which concerns alleged criminal activities. In 2007, section 2 of NRS 289.057 was inserted stating, "a law enforcement agency shall not suspend a peace officer without pay during or pursuant to an investigation conducted pursuant to this section until all investigations related to the matter have concluded." When adopted, that section was expressly made inapplicable to investigations that include allegations of criminal activities. The current version of NRS 289.057, which recognized that Agreement provisions could allow for suspension as a result of administrative allegations, was added in 2011. It was clear that as adopted the section also never applied to situations like the one here involving criminal activities.

LVPOA's grievance on behalf of CO Washington must be denied for the reasons stated above.

VII. DISCUSSION AND CONCLUSIONS

In the above-entitled matter, LVPOA challenges DPS' decision changing CO Washington's employment status from leave with pay to leave without pay pending Justice Court, Las Vegas Township, Clark County Nevada's disposition of criminal complaint charges against him. According to LVPOA, NROPO codified at NRS Chapter 289, NRS 289.057(2) provides,

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

In its grievance upon CO Washington's behalf, LVPOA reasons that because DPS suspended CO Washington without pay prior to the Justice Court's disposition of felony criminal charges then pending against him, the above-quoted provision of NRS Chapter 289.057(2) was violated and CO Washington must accordingly be made whole by issuance of an award including backpay and all fringe benefits due him until such time as the Justice Court's disposition of the before-mentioned criminal complaint charges pending against him.

It is a well-accepted principle of statutory interpretation that "no part of a statute should be rendered nugatory, nor any language turned to mere surplusage, if such consequences can properly be avoided." (*Paramount Ins. v. Rayson & Smitley*, 86 Nev. 644, 649, 472 P.2d 530, 533 (1970) (quoting *Torreyson v. Board of Examiners*, 7 Nev. 19, 22 (1871).) "Courts must construe statutes . . . to give meaning to all of their parts and language . . . the court should read each sentence, phrase, and word to render it meaningful within the context of the purpose of the legislation." (*Bd. of County Comm'rs v. CMC of Nevada*, 99 Nev. 739, 744, 670 P.2d 102, 105 (1983).)

It is clear that NRS Chapter 289.057(2) forbids suspension of a peace officer without pay during or pursuant to an investigation until all investigations related to the matter have been

concluded. The foregoing requirement, however, was adopted contemporaneously with passage of NRS 289.090 which explicitly provides, “subsections 2, 3 and 4 of NRS 289.057 and NRS 289.060, 289.070 and 289.080 *do not apply* to any investigation which concerns alleged criminal activities.” (Emphasis added.)

Because it is clear the investigation of CO Washington at issue in this matter involved alleged criminal activities committed on May 12, 2025, due to his driving a motor vehicle while intoxicated, fatally striking a pedestrian in a crosswalk with his motor vehicle and then fleeing the scene of the accident, it is undisputed the investigation of CO Washington, due to the foregoing circumstances, concerned alleged criminal activities. As quoted above, however, NRS 289.090 clearly exempts from NRS 289.057(2)’s requirements “any investigation which concerns alleged criminal activities.” To construe the requirements of NRS 289.057(2) under the foregoing circumstances in the absence of consideration of NRS 289.090’s exemption terms would render the latter statutory provisions to be surplusage in clear contravention of accepted statutory interpretation principles.

It therefore follows that the investigation of CO Washington due to the before-mentioned events of May 12, 2025, was exempt from NRS 289.057(2)’s requirement that a law enforcement agency may not suspend a peace officer without pay during or pursuant to an investigation until all investigations relating to the matter have been concluded except as otherwise provided in a collective bargaining agreement. Following careful review, it is furthermore concluded the parties’ Agreement did not otherwise require CO Washington could only be suspended with pay pending investigation of his alleged criminal activities on May 12, 2025.

DPS did therefore not violate NRS 289.057(2), as incorporated into the parties’ Agreement, by suspending CO Washington without pay pending disposition of alleged felony criminal charges. LVPOA’s grievance on CO Washington’s behalf must accordingly be denied.

AWARD

City did not violate Articles 1 and 25 of the Agreement which incorporates State of Nevada's Rights of Peace Officers' statutes under NRS Chapter 289, and/or any other provisions of Article 25 of the Agreement when it placed Corrections Officer Manrice Washington on indefinite unpaid suspension after Corrections Officer Maurice Washington was charged with one or more felonies.

Dated: May 14, 2026
Del Mar, California

Kenneth A. Perea

**KENNETH A. PEREA
IMPARTIAL ARBITRATOR**