

## DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

This information is supplied as an informational service only and should not be relied upon as an official record.

Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or [library@lcb.state.nv.us](mailto:library@lcb.state.nv.us).



# Peace Officers Research Association *of Nevada*

## ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE REVISES RIGHTS OF PEACE OFFICERS - AB330 POSITION PAPER- APRIL 3, 2003

Honorable Assemblyman Manendo and Members of the Assembly Government Affairs Committee  
Nevada State Assembly

Re: Revises provisions regarding rights of peace officers - AB330 - As amended by PORAN, NCOPS, Sheriffs and Chiefs Association, LVMPPA, LVMPPA civilian employees.

My name is Ron Dreher. I appear before you today as a representative of the professional peace officers of Nevada and as the president of the Peace Officers Research Association of Nevada - PORAN, to ask that you support AB330. We sincerely appreciate the sponsorship of this bill by Assemblywoman Chowning and the 20 assembly co-sponsors who have offered their support for this needed legislation.

As Assemblywoman Chowning explained in her brief on AB330, this legislation supports the objectives of the Nevada legislature in that it recognizes that the rights and protections provided in the peace officers bill of rights, are supposed to be substantial due process rights. NRS 289 in essence finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations between professional peace officers and their employers. In order to assure that stable relations are continued throughout the state and to further assure that effective, responsible and accountable services are provided to all people of the state it is necessary that this chapter be applicable to all peace officers, as defined in this chapter, wherever situated within the State of Nevada. AB330 also now extends protections to employees of law enforcement agencies.

AB330 has been amended with the approval of law enforcement employees and management based on concerns presented from legislative advocates and other concerned citizens and groups.

Summary: AB330 provides for due process for peace officers under NRS 289. This is accomplished by requiring proper notice and notification of peace officers being ordered to provide compelled statements; It allows for review and copying of internal affairs files in certain cases by peace officers; It allows for a review of any file in the possession of a law enforcement agency to be reviewed by a peace officer if that file concerns that peace officer and contains negative comments about that officer; It enhances the definition of "punitive action"; It restricts the

use of compelled statements of peace officers to be used in proceedings with several specific exceptions. It allows for non-disclosure of internal affairs files with certain exceptions; It provides for sanctions for violating any provision of NRS 289; It expands the protections provided under NRS 289, through NRS 281, to employees of a law enforcement agency; It provides for certain other matters properly relating thereto.

**Section 1:** The original provisions of Section one have been deleted. The new amendment provides extends the due process rights afforded to law enforcement personnel under NRS 289, through NRS 281, to employees of a law enforcement agency. The reason for this needed protection is procedural in nature. Most law enforcement agencies in our state extend the due process rights of law enforcement officers to their civilian employees as well.

**Section 2:** Amends NRS 289 by adding Section 3 and 4 of AB330.

**Section 3:** This would restrict the disclosure of internal affairs records after 5 years from the conclusion of the investigation with certain exceptions. Currently law enforcement agencies have varied policies as to when records are sealed and no longer used against employees. Section 3 provides for the non-use and non-disclosure of internal affairs records after 5 years provided that no same or similar incidents occur within that time period. Should same or similar actions occur then the 5 year disclosure rule would extend an additional 5 years from the date of the conclusion of the investigation of the same or similar administrative rule violation. If a civil action is brought forward during that time period for the sustained violation then the records would not be expunged until after all appeals have been concluded. Subsection 4 was deleted as it was determined not to be relevant.

**Section 4:** This restricts compelled statements of peace officer from being used in proceeding with certain exceptions. Currently, when a peace officer is involved in an internal affairs investigation or is subject to the rules of NRS 289.060 (which sets forth the procedures leading up to an investigation) the peace officer is read a warning called the "Garrity Warning". This derived from a US Supreme Court case decided in 1967 entitled Garrity v. New Jersey, 385 U.S. 493 (1967). The admonishment states that the officer is compelled to provide a truthful statement to the agency and that any statement made cannot be used against him/her in any subsequent criminal proceedings. Section 4 would extend this same admonishment

to cover civil and administrative proceedings as well with several important exceptions. Those exceptions include whether the agency brought action against the peace officer, whether the peace officer appealed his/her discipline and/or to impeach the testimony of that peace officer in a civil action where relevant.

- Section 5: This enhances the definition "punitive action" under NRS 289. It states that a transfer can be a punitive action if it is done on grounds other than merit. As can be seen by the amendment the original proposed language was unacceptable and thus was deleted.
- Section 6: This prevents the law enforcement agency from using punitive action against a peace officer if he exercises his rights under NRS 289. It prevents the agency from "transferring" a peace officer on the grounds other than merit.
- Section 7: Clarifies NRS 289 by allowing peace officers to review any files maintained by their employer that contains any unfavorable comments or documents. It requires the agency to give the peace officer a copy of those files upon his request and at his expense. It also allows the agency to restrict access to internal affairs files absent an "in-camera" review by a court.
- Section 8: Clarifies NRS 289 by defining what a reasonable time is for the interrogation or hearing held by the agency against the peace officer; It clarifies admonishments that must be given to peace officers who are noticed of an internal affairs investigation; It prohibits photographs or home addresses of peace officers from peace released to the media without the consent of the officer.
- Section 9: This section would provide notice of investigations to any peace officer that is involved in an internal affairs investigation. It also provides the peace officer the right to have access and to copy the investigative files after the investigation has been concluded if the peace officer appeals a recommendation to impose punitive action. Many agencies restrict the discovery right of the peace officer and will not allow the officer or his representative to copy the internal affairs files while affording the agency's representative copies of the files. Section 9 would provide equal discovery to the peace officer and his/her representative to have copies of the entire file.
- Section 10: This section would allow state law peace officers to disclose improper governmental action without fear of retribution by their agencies.
- Section 11: This section provides for courts, state or local review boards, arbitrators or

internal agency review boards to sanction law enforcement agencies or employees, agents or representatives of that agency by excluding evidence or information obtained as a result of the violation of the rights of the peace officer in an internal investigation. NRS 289, in its current form is viewed by management personnel to be advisory only. As such, even if a violation of NRS 289 occurs no penalty or sanction exists and therefore no safeguards exist to sanction violations. Section 11, while greatly diminished from the original draft of AB330, provides sanctions against the violator(s) by excluding evidence against the officer for the violations.

- Section 12: This section would be deleted
- Section 13: This section would be deleted.
- Section 14: This section would be deleted
- Section 15: This section would be deleted.
- Section 16: This section would be deleted.
- Section 17: This section would be deleted.

Our objective and goal with AB330 is to enhance language under NRS 289 that explains the procedural due process rights of peace officers that currently is ambiguous. Your support of this legislation is requested and highly appreciated.

Respectfully submitted,



Ronald P. Dreher  
President - PORAN



# RENO POLICE PROTECTIVE ASSOCIATION

P.O. Box 359  
Reno, Nevada 89504  
(775) 323-2283

---

27 March 2003

Nevada State Legislature  
Committee on Government Affairs  
Chairman Manendo and Honorable Members of the Legislature

I am the current President of the Reno Police Protective Association. I have fulfilled the position for the last 3 years as the elected representative of our group of working Police Officers.

Since being elected to speak on the behalf of the Officers and their concerns I have been subjected to a number of acts from our Management.

I have been sent to Internal Affairs on Administratively Directed Investigations more in the first year of that term then in all of my 26 years of prior service with the City of Reno. The allegations ranged from being less then a minute late to work to that of felony fraud. The only issue that they had a foundation for and could substantiate was that yes I was late for briefing. I was and still am the *Only* Reno Police Officer to ever be sent to Internal Affairs for being late. I am however, not the only Reno Police Officer ever to be less then a minute late to work.

I have been denied assignments (Total of four applications) during that three year period as well. In the past I have consistently achieved the assignments for which I had applied. I have a Deputy Chief who put in writing to a Lieutenant that, "Cleveland will go no where as long as he is on the board".

I have had two Sergeants tell me that they had been directed to write me up for anything and everything that they possibly could. One of these Sergeants was threatened with being transferred to graveyard for not following that unlawful directive. That Sergeant was the Senior Sergeant on the department at the time.

I am held accountable for everything that I do, on and off duty. If I make a mistake, I can be held personally responsible. If I am malicious in that act, I am outside of my scope of authority and outside of the coverage and protection. I have been and am still constantly put to review. I accept that as part of my profession. As Professional Police Officers we subject ourselves to this review and additional scrutiny. But as Professional Police Officers, do we give up our rights and become second class citizens?

Currently there are some people who feel that they are untouchable. That what ever they do, with or without malice, that they will be represented and covered by the taxpayers. That is inappropriate, individuals should be held accountable for their intentional wrongs. Malicious mistreatment of Public Employees and Police Officers should not be tolerated. Especially when it comes from our own management. We all enter public service for a reason. Many of us are in a high risk occupation. Risk of health, injury and our financial assets in order to protect these rights for everyone else.

If there are no wrongs committed, then there are no penalties awarded, but if there are no penalties available, then there is little hope for justice and change. Please support AB 330 and give some of us our rights and remedies back. Thank you for your consideration and support.

Sincerely,

Michael Cleveland  
Pres., RPPA

K. 546



WASHOE COUNTY DISTRICT ATTORNEY  
INVESTIGATORS' ASSOCIATION  
P.O. Box 3372 - Reno, Nevada 89505

---

April 2, 2003

Assembly Government Affairs Committee  
72<sup>nd</sup> Session  
Nevada State Legislature  
401 S. Carson St.  
Carson City, NV 89701-4747  
Via e-mail

Re: Assembly Bill 330

Dear Chairman Manendo and Ladies and Gentlemen of the Committee,

As president of the Washoe County District Attorney Investigators' Association (WCDAIA), I also serve as a director of the Peace Officers Research Association of Nevada (PORAN). In that capacity I represent professional peace officers throughout our great state. I am asking on behalf of these dedicated officers that the Committee pass this much-needed legislation.

I will not dwell on the merits of AB 330, as PORAN president Ron Dreher will be testifying before the Committee in considerable detail about the issues that this bill addresses. I would only point out that there has been a great deal of work done to tailor this legislation to fit the needs of various and often-competing interests. It is my belief that the compromises that have been made have served to remove any controversy that may have been perceived from its original form. Mr. Dreher's testimony will bear out this belief.

I urge the committee to pass AB 330. Thank you for your consideration of our point of view in this matter.

Sincerely,

Michael B. Neville,  
President

K. 6036.