

CHAPTER 289 - PEACE OFFICERS

GENERAL PROVISIONS

[SECTION 289.010](#) Definitions.

RIGHTS OF PEACE OFFICERS

[SECTION 289.020](#) Punitive action: Prohibited for exercise of rights under internal procedure; opportunity for hearing; refusal to cooperate in criminal investigation punishable as insubordination.

[SECTION 289.025](#) Confidentiality of home address and photograph of peace officer in possession of law enforcement agency; exception.

[SECTION 289.030](#) Law enforcement agency prohibited from requiring peace officer to disclose financial information; exception.

[SECTION 289.040](#) Law enforcement agency prohibited from placing unfavorable comment or document in administrative file of peace officer; exception; right to respond; provision of copy of comment or document; right to review administrative file under certain circumstances.

[SECTION 289.050](#) Consequences of refusal to submit to polygraphic examination.

[SECTION 289.055](#) Establishment and availability of written procedures for investigating complaints and allegations of misconduct.

[SECTION 289.057](#) Investigation of allegation of misconduct; review of administrative or investigative file by peace officer in certain circumstances; law enforcement agency prohibited from keeping or making record of investigation or punitive action if record required to be removed from administrative file.

[SECTION 289.060](#) Notification and requirements for interrogation or hearing relating to investigation.

[SECTION 289.070](#) Use of polygraphic examination in investigation.

[SECTION 289.080](#) Right to presence and assistance of representatives at interrogation or hearing relating to investigation; confidential information; disclosure; record of interrogation or hearing; right to review and copy investigation file upon appeal.

[SECTION 289.085](#) Inadmissibility of evidence obtained unlawfully during investigation.

[SECTION 289.090](#) Investigation concerning alleged criminal activities.

[SECTION 289.100](#) Limitations on application of chapter.

PERSONS POSSESSING POWERS OF PEACE OFFICERS

[SECTION 289.150](#) Sheriffs, their deputies and correctional officers; city and town marshals, policemen and correctional officers; court bailiffs; constables and their deputies.

[SECTION 289.175](#) Criminal investigators employed by Secretary of State.

[SECTION 289.180](#) Parole and probation officers; juvenile probation officers; alternative sentencing officers of department of alternative sentencing; director of juvenile services.

[SECTION 289.270](#) Director and certain employees of Department of Public Safety; Nevada Highway Patrol; certain officers and employees of Department of Motor Vehicles; State Disaster Identification Team.

CERTIFICATION

[SECTION 289.450](#) Definitions.

[SECTION 289.460](#) "Category I peace officer" defined.

[SECTION 289.470](#) "Category II peace officer" defined.

[SECTION 289.480](#) "Category III peace officer" defined.

[SECTION 289.490](#) "Commission" defined.

[SECTION 289.550](#) Persons required to be certified by Peace Officers' Standards and Training Commission; period by which certification is required.

[SECTION 289.555](#) Person convicted of felony not qualified to serve as peace officer.

[SECTION 289.560](#)
[SECTION 289.590](#)

Application for certification as peace officer to include social security number.

Training in proper use of choke hold as condition of certification; annual training and recertification; regulations.

[SECTION 289.600](#)
[SECTION 289.601](#)
[SECTION 289.602](#)

Training in dealing with crimes of stalking and aggravated stalking as condition of certification. Persons convicted of acts which constitute domestic violence.

Certification of Ely Shoshone Tribal Police Officers.

MISCELLANEOUS PROVISIONS

[SECTION 289.810](#)

Peace officer prohibited from using choke hold; exceptions; agencies required to adopt regulations.

[SECTION 289.820](#)

Peace officer prohibited from engaging in racial profiling; retaliatory or punitive action prohibited against peace officer for disclosure of information concerning racial profiling.

GENERAL PROVISIONS

SECTION 289.010 Definitions. As used in this chapter, unless the context otherwise requires:

1. "Administrative file" means any file of a peace officer containing information, comments or documents about the peace officer. The term does not include any file relating to an investigation conducted pursuant to [SECTION 289.057](#) or a criminal investigation of a peace officer.

2. "Choke hold" means the holding of a person's neck in a manner specifically intended to restrict the flow of oxygen or blood to the person's lungs or brain. The term includes the arm-bar restraint, carotid restraint and lateral vascular neck restraint.

3. "Peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to [SECTION 289.150](#) to [289.360](#), inclusive.

4. "Punitive action" means any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand or transfer of a peace officer for purposes of punishment.

RIGHTS OF PEACE OFFICERS

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

1. The Tribal Police Department shall not use punitive action against a peace officer if he chooses to exercise his rights under any internal administrative grievance procedure.

2. If a peace officer is denied a promotion on grounds other than merit or other punitive action is used against him, the Tribal Police Department shall provide the peace officer with an opportunity for a hearing.

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

SECTION 289.025 Confidentiality of home address and photograph of peace officer in possession the Tribal Police Department; exception.

1. Except as otherwise provided in subsection 2, the home address and any photograph of a peace officer in the possession of a law enforcement agency are not public information and are confidential.

2. The home address and photograph of a peace officer may be released:

(a) If the peace officer authorizes the release; or

(b) If the peace officer has been arrested.

SECTION 289.030 Tribal Police Department prohibited from requiring tribal police officer to disclose financial information; exception. The Tribal Police Department shall not require any peace officer to disclose his assets, debts, sources of income or other financial information or make such a disclosure a condition precedent to a promotion, job assignment or other personnel action unless that information is necessary to:

1. Determine his credentials for transfer to a specialized unit;
2. Prevent any conflict of interest which may result in any new assignment; or
3. Determine whether he is engaged in unlawful activity.

SECTION 289.040 Tribal Police Department prohibited from placing unfavorable comment or document in administrative file of peace officer; exception; right to respond; provision of copy of comment or document; right to review administrative file under certain circumstances.

1. Except as otherwise provided in subsection 3, the Tribal Police Department shall not place any unfavorable comment or document in any administrative file of a peace officer maintained by the Tribal Police Department unless:

- (a) The peace officer has read and initialed the comment or document; or
- (b) If the peace officer refuses to initial the comment or document, a notation to that effect is noted on or attached to the comment or document.

2. If the peace officer submits to the Tribal Police Department a written response within 30 days after he is asked to initial the comment or document, his response must be attached to and accompany the comment or document.

3. If a peace officer is the subject of an investigation of a complaint or allegation conducted, the Tribal Police Department may place into any administrative file relating to the peace officer only:

- (a) A copy of the disposition of the allegation of misconduct if the allegation is sustained; and
- (b) A copy of the notice of or statement of adjudication of any punitive or remedial action taken against the peace officer.

4. A peace officer must be given a copy of any comment or document that is placed in an administrative file of the peace officer maintained by the Tribal Police Department.

5. Upon request, a peace officer may review any administrative file of that peace officer maintained by the law enforcement agency that does not relate to a current investigation.

SECTION 289.050 Consequences of refusal to submit to polygraphic examination.

1. If a peace officer refuses to submit to a polygraphic examination:
 - (a) No Tribal Police Department may take any disciplinary or retaliatory action against the peace officer; and
 - (b) No investigator may make a notation of such a refusal in his report or in any other manner maintain evidence of such a refusal.

2. Evidence of any refusal by a peace officer to submit to a polygraphic examination is not admissible at any subsequent hearing, trial or other judicial or administrative proceeding.

SECTION 289.055 Establishment and availability of written procedures for investigating complaints and allegations of misconduct. The Tribal Police Department shall:

1. Establish written procedures for investigating any complaint or allegation of misconduct made or filed against a peace officer employed by the agency; and
2. Make copies of the written procedures established pursuant to subsection 1 available to the public.

SECTION 289.057 Investigation of allegation of misconduct; review of administrative or investigative file by peace officer in certain circumstances; Tribal Police Department prohibited from keeping or making record of investigation or punitive action if record required to be removed from administrative file.

1. An investigation of a peace officer may be conducted in response to a complaint or allegation that the peace officer has engaged in activities which could result in punitive action.

2. After the conclusion of the investigation:
 - (a) If the investigation causes a law enforcement agency to impose punitive action against the peace officer who was the subject of the investigation and the peace officer has received notice of the imposition of the punitive action, the peace officer or a representative authorized by the peace officer may, except as otherwise prohibited by federal or state law, review any administrative or investigative file maintained by the law enforcement agency relating to the investigation, including any recordings, notes, transcripts of interviews and documents.
 - (b) If, pursuant to a policy of a law enforcement agency or a labor agreement, the record of the investigation or the imposition of punitive action is subject to being removed from any administrative file relating to the peace

officer maintained by the law enforcement agency, the Tribal Police Department shall not, except as otherwise required by federal or state law, keep or make a record of the investigation or the imposition of punitive action after the record is required to be removed from the administrative file.

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

1. Except as otherwise provided in this subsection, a law enforcement agency shall, not later than 48 hours before any interrogation or hearing is held relating to an investigation conducted pursuant to [SECTION 289.057](#), provide written notice to the peace officer. A peace officer may waive the notice required pursuant to this section.

2. The notice must include:

(a) A description of the nature of the investigation;

(b) A summary of alleged misconduct of the peace officer;

(c) The date, time and place of the interrogation or hearing;

(d) The name and rank of the officer in charge of the investigation and the officers who will conduct any interrogation;

(e) The name of any other person who will be present at any interrogation or hearing; and

(f) A statement setting forth the provisions of subsection 1 of [SECTION 289.080](#).

3. The law enforcement agency shall:

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

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

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

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

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

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

SECTION 289.070 Use of polygraphic examination in investigation.

1. During an investigation conducted pursuant to [SECTION 289.057](#), the peace officer against whom the allegation is made may, but is not required to, submit to a polygraphic examination concerning such activities.

2. A person who makes an allegation against a peace officer pursuant to [SECTION 289.057](#) may not be required to submit to a polygraphic examination as a condition to the investigation of his allegation, but may request or agree to be given a polygraphic examination. If such a person requests or agrees to be given a polygraphic examination, such an examination must be given.

3. If a polygraphic examination is given to a peace officer pursuant to this section, a sound or video recording must be made of the polygraphic examination, the preliminary interview and the postexamination interview. Before the opinion of the polygraphic examiner regarding the peace officer's veracity may be considered in a disciplinary action, all records, documents and recordings resulting from the polygraphic examination must be made available for review by one or more polygraphic examiners licensed or qualified to be licensed in this State who are acceptable to the law enforcement agency and to the officer. If the opinion of a reviewing polygraphic examiner does not agree with the initial polygraphic examiner's opinion, the peace officer must be allowed to be reexamined by a polygraphic examiner of his choice who is licensed or qualified to be licensed in this State.

4. The opinion of a polygraphic examiner regarding the peace officer's veracity may not be considered in a disciplinary action unless the polygraphic examination was conducted in a manner which complies with the provisions of [chapter 648](#) of SECTION. In any event, the law enforcement agency shall not use a polygraphic examiner's opinion regarding the veracity of the peace officer as the sole basis for disciplinary action against the peace officer.

SECTION 289.080 Right to presence and assistance of representatives at interrogation or hearing relating to investigation; confidential information; disclosure; record of interrogation or hearing; right to review and copy investigation file upon appeal.

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

2. A representative of a peace officer must assist the peace officer during the interrogation or hearing. The law enforcement agency conducting the interrogation or hearing shall allow a representative of the peace officer to explain an answer provided by the peace officer or refute a negative implication which results from questioning of the peace officer but may require such explanation to be provided after the agency has concluded its initial questioning of the peace officer.

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

4. Any information that a representative obtains from the peace officer concerning the investigation is confidential and must not be disclosed except upon the:

- (a) Request of the peace officer; or
- (b) Lawful order of a court of competent jurisdiction.

↳ A law enforcement agency shall not take punitive action against a representative for his failure or refusal to disclose such information.

5. The peace officer, any representative of the peace officer or the law enforcement agency may make a stenographic, digital or magnetic record of the interrogation or hearing. If the agency records the proceedings, the agency shall at the peace officer's request and expense provide a copy of the:

- (a) Stenographic transcript of the proceedings; or
- (b) Recording on the digital or magnetic tape.

6. After the conclusion of the investigation, the peace officer who was the subject of the investigation or any representative of the peace officer may, if the peace officer appeals a recommendation to impose punitive action, review and copy the entire file concerning the internal investigation, including, without limitation, any recordings, notes, transcripts of interviews and documents contained in the file.

SECTION 289.085 Inadmissibility of evidence obtained unlawfully during investigation. If an arbitrator or court determines that evidence was obtained during an investigation of a peace officer concerning conduct that could result in punitive action in a manner which violates any provision of [SECTION 289.010](#) to [289.120](#), inclusive, and that such evidence may be prejudicial to the peace officer, such evidence is inadmissible and the arbitrator or court shall exclude such evidence during any administrative proceeding commenced or civil action filed against the peace officer.

SECTION 289.090 Investigation concerning alleged criminal activities. The provisions of [SECTION 289.057](#), [289.060](#), [289.070](#) and [289.080](#) do not apply to any investigation which concerns alleged criminal activities.

SECTION 289.100 Limitations on application of chapter.

1. This chapter does not prohibit any agreements for cooperation between the law enforcement agency and agencies in other jurisdictions.

2. This chapter does not affect any procedures which have been adopted by the law enforcement agency if those procedures provide the same or greater rights than provided for in this chapter.

PERSONS POSSESSING POWERS OF PEACE OFFICERS

SECTION 289.150 Ely Shoshone Tribal Police officers, cross commissioned officers, sheriffs and their deputies, city and town marshals, policemen and correctional officers; court bailiffs, constables and their deputies:. The above named officers have powers of police officers within the boundaries of the Ely Shoshone Tribe.

SECTION 289.175 Criminal investigators employed by Secretary of State. Criminal investigators employed by the Secretary of State have the powers of a peace officer.

SECTION 289.180 Parole and probation officers; juvenile probation officers.

1. The following persons have the powers of a peace officer:
 - (a) State Parole and Probation Officer;
 - (b) Tribal Parole and Probation Officers;
2. Tribal juvenile probation officer, county juvenile probation officer, state juvenile probation officer can enforce court orders on juvenile offenders and make arrests has the same powers as a peace officer when performing duties pursuant to title 5 of SECTION or [chapter 432B](#) of the Nevada Revised Statutes, including the power to arrest an adult criminal offender encountered while in the performance of those duties.

SECTION 289.270 Certain employees of Department of Public Safety; Nevada Highway Patrol; certain officers and employees of Department of Motor Vehicles; State Disaster Identification Team.

1. The following persons have the powers of a peace officer:
 - (a) The investigators and agents of the Investigation Division of the Department of Public Safety and any other officer or employee of that Division whose principal duty is to enforce one or more laws of this State of Nevada.
 - (b) The personnel of the Capitol Police Division of the Department of Public Safety appointed pursuant to subsection 2 of Section 331.140 of the Nevada Revised Statutes.
 - (f) The personnel of the Nevada Highway Patrol whose principal duty is to enforce one or more laws of this State, and any person promoted from such a duty to a supervisory position related to such a duty.
2. Administrators and investigators of the Division of Compliance Enforcement of the Department of Motor Vehicles have the powers of a peace officer to enforce any law of the State of Nevada in carrying out their duties pursuant to [SECTION 481.048](#).
3. Officers and investigators of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles, appointed pursuant to [SECTION 481.0481](#), have the powers of peace officers in carrying out their duties under that section.
4. Members of the State Disaster Identification Team of the Division of Emergency Management of the Department of Public Safety who are, pursuant to [SECTION 414.270](#) of the Nevada Revised Statutes, activated by the Chief of the Division to perform the duties of the State Disaster Identification Team have the powers of peace officers in carrying out those duties.

CERTIFICATION

SECTION 289.450 Definitions. As used in [SECTION 289.450](#) to [289.600](#), inclusive, unless the context otherwise requires, the words and terms defined in [SECTION 289.460](#) to [289.490](#), inclusive, have the meanings ascribed to them in those sections.

SECTION 289.460 “Category I peace officer” defined. “Category I peace officer” means a peace officer who has unrestricted duties and who is not otherwise listed as a category II or category III peace officer.

SECTION 289.470 “Category II peace officer” defined. “Category II peace officer” means:

1. The Bailiff of the Supreme Court;
2. The bailiffs of the district courts, Justice Courts and municipal courts whose duties require them to carry weapons and make arrests;
3. Constables and their deputies whose official duties require them to carry weapons and make arrests;
4. Inspectors employed by the Transportation Services Authority who exercise those powers of enforcement conferred by [chapters 706](#) and [712](#) of the Nevada Revised Statutes;
5. Parole and probation officers;
6. Special investigators who are employed fulltime by the office of any district attorney or the Attorney General;
7. Investigators of arson for fire departments who are specially designated by the appointing authority;
8. The assistant and deputies of the State Fire Marshal;
9. The brand inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by [chapter 565](#) of the Nevada Revised Statutes;
10. The field agents and inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by [SECTION 561.225](#) of the Nevada Revised Statutes;

11. Investigators for the State Forester Firewarden who are specially designated by him and whose primary duties are related to the investigation of arson;
12. School police officers employed by the board of trustees of any county school district;
13. Agents of the State Gaming Control Board who exercise the powers of enforcement specified in [SECTION 289.360](#), and/or [463.140](#) or [463.1405](#) of the Nevada Revised Statutes, except those agents whose duties relate primarily to auditing, accounting, the collection of taxes or license fees, or the investigation of applicants for licenses;
14. Investigators and administrators of the Division of Compliance Enforcement of the Department of Motor Vehicles who perform the duties specified in subsection 2 of [SECTION 481.048](#);
15. Officers and investigators of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles who perform the duties specified in subsection 3 of [SECTION 481.0481](#) of the Nevada Revised Statutes;
16. Legislative police officers of the State of Nevada;
17. The personnel of the Capitol Police Division of the Department of Public Safety appointed pursuant to subsection 2 of [SECTION 331.140](#) of the Nevada Revised Statutes;
18. Parole counselors of the Division of Child and Family Services of the Department of Health and Human Services;
19. Juvenile probation officers and deputy juvenile probation officers employed by the various judicial districts in the State of Nevada or by a department of juvenile justice services established by ordinance pursuant to [SECTION 62G.210](#) whose official duties require them to enforce court orders on juvenile offenders and make arrests;
20. Field investigators of the Taxicab Authority;
21. Security officers employed fulltime by a city or county whose official duties require them to carry weapons and make arrests;
22. The chief of a department of alternative sentencing created pursuant to [SECTION 211A.080](#) of the Nevada Revised Statutes and the assistant alternative sentencing officers employed by that department; and
23. Criminal investigators who are employed by the Secretary of State.

SECTION 289.480 “Category III peace officer” defined. “Category III peace officer” means a peace officer whose authority is limited to correctional services, including the superintendents and correctional officers of the Department of Corrections.

SECTION 289.490 “Commission” defined. “Commission” means the Peace Officers’ Standards and Training Commission.

SECTION 289.550 Persons required to be certified by Peace Officers’ Standards and Training Commission; period by which certification is required.

1. Except as otherwise provided in subsection 2, a person upon whom some or all of the powers of a peace officer are conferred pursuant to [SECTION 289.150](#) to [289.360](#), inclusive, must be certified by the Commission within 1 year after the date on which the person commences employment as a peace officer unless the Commission, for good cause shown, grants in writing an extension of time, which must not exceed 6 months, by which the person must become certified. A person who fails to become certified within the required time shall not exercise any of the powers of a peace officer after the time for becoming certified has expired.

SECTION 289.555 Person convicted of felony/Category A offense not qualified to serve as peace officer. A person who has been convicted of a felony in this State or any other state is not qualified to serve as a category I peace officer, category II peace officer or category III peace officer regardless of whether he has been restored to his civil rights.

SECTION 289.560 Application for certification as peace officer to include social security number. An application for certification as a peace officer must include the social security number of the applicant.

SECTION 289.590 Training in proper use of choke hold as condition of certification; annual training and recertification; regulations.

1. As a condition of the certification of a peace officer employed by an agency that authorizes the use of a choke hold in the course of his duties, the Peace Officers' Standards and Training Commission shall require the peace officer to be trained in the proper use of the choke hold. In addition, the Commission shall require annual training and recertification in the proper use of the choke hold if the agency employing the peace officer continues to authorize the official use of the choke hold.

2. The Commission shall adopt regulations regarding the minimum training and testing required to comply with the requirements of subsection 1 and the manner in which each such agency shall demonstrate its continuing compliance with the requirements of subsection 1.

SECTION 289.600 Training in dealing with crimes of stalking and aggravated stalking as condition of certification. As a condition of the certification of each peace officer, the Peace Officers' Standards and Training Commission shall require each peace officer to be trained in dealing with the crimes of stalking and aggravated stalking, including, without limitation:

1. The manner in which a report from a person who claims to be a victim of stalking or aggravated stalking should be taken;

2. The proper method of carrying out an investigation of alleged stalking or aggravated stalking; and

3. The elements of the crimes of stalking and aggravated stalking.

SECTION 289.601 Persons convicted of acts which constitute domestic violence. A person who has been convicted of any act which constitutes domestic violence in this state or any other state is not qualified to serve as a category I, II, or III peace officer regardless of whether he has been restored to his civil rights.

SECTION 289.602 Certification of Ely Shoshone Tribal Police Officers. Ely Shoshone Tribal Police Officers have to be currently certified at the **Category I** level and have to maintain this level throughout their Tribal law enforcement career.

MISCELLANEOUS PROVISIONS

SECTION 289.810 Peace officer prohibited from using choke hold; exceptions; agencies required to adopt regulations.

1. A peace officer shall not use a choke hold on any other person unless:

(a) The agency employing the peace officer authorizes the use of the choke hold by its peace officers in the course of their duties; and

(b) The peace officer has successfully completed training in the proper use of the choke hold and holds current certification for its use by the agency which employs him.

2. If a law enforcement agency finds that a peace officer has violated the provisions of subsection 1, the peace officer is subject to such disciplinary action as is provided for such an offense by the agency.

3. Each agency in this state which employs a peace officer shall adopt regulations which govern whether the use of a choke hold by its officers during the course of their duties is authorized. If an agency authorizes such a use of a choke hold, the agency shall also adopt regulations which specifically address:

(a) The manner in which a peace officer, certified for use of a choke hold, is authorized to use the hold in the course of his duties;

(b) The manner in which records of training, certification and recertification will be maintained to ensure compliance with any applicable statutory or other related requirements; and

(c) The consequences of unauthorized or uncertified use of a choke hold.

SECTION 289.820 Peace officer prohibited from engaging in racial profiling; retaliatory or punitive action prohibited against peace officer for disclosure of information concerning racial profiling.

1. A peace officer shall not engage in racial profiling.

2. No retaliatory or punitive action may be taken against a peace officer who discloses information concerning racial profiling.

3. For purposes of this section, “racial profiling” means reliance by a peace officer upon the race, ethnicity or national origin of a person as a factor in initiating action when the race, ethnicity or national origin of the person is not part of an identifying description of a specific suspect for a specific crime.