



1
2
3 **STATE OF NEVADA**
4 **BEFORE THE NEVADA COMMISSION ON ETHICS**

5 **In the Matter of the Request for Opinion**
6 **Concerning the Conduct of ROBERT WHITE,**
7 **Captain, Carson City Sheriff's Office,**
8 **Carson City,**
9 **State of Nevada,**

Request for Opinion No.: 10-18C

Subject. /

10 **INVESTIGATOR'S REPORT (Tab A)**

11 **Introduction**

12 **1. Request for Opinion No. 10-18C (Ethics Complaint). (Tab B):**

13
14 On March 26, 2010, Requestor William Abbott filed an Ethics Complaint against
15 Captain Robert White, an employee of the Carson City Sheriff's Office (CCSO), alleging that he
16 violated various provisions of the Ethics in Government Law set forth in NRS 281A, including:

17 1) NRS 281A.400(2) when he used his position in government to secure unwarranted
18 privileges, preferences, exemptions or advantages by giving a campaign-related speech during
19 his work hours, using his department-issued vehicle as a transportation to the speech location
20 and using his department-issued uniform to further his interest in his campaign for election as
21 the Carson City Sheriff.

22 2) NRS 281.400(7) when he used government time, property, and equipment to further his
23 personal interest in being elected as Carson City Sheriff by delivering a campaign-related
24 speech during his work hours, using his department-issued vehicle as personal transportation
25 and wearing his department-issued uniform to conduct personal business.

26 3) NRS 281A.400(10) when he used his public office to seek employment by delivering a
27 campaign speech during work hours while wearing a department-issued uniform.

1 **2. Jurisdiction:**

2
3 As an employee of the CCSO, White is a public employee as defined in NRS 281A.150.
4 The Nevada Commission on Ethics has jurisdiction to investigate and take appropriate action in
5 matters relating to the conduct of public employees pursuant NRS 281A.280 and NRS
6 281A.440. Therefore, the Commission has jurisdiction to consider this matter.

7
8 **3. Issues:**

9
10 The issues are whether White violated:

- 11
12 **I.** NRS 281A.400(2) by using his position in government to secure unwarranted
13 privileges, preferences, exemptions or advantages by giving a campaign-related
14 speech during his work hours, using his department-issued vehicle as transportation
15 to the speech location and using his department-issued uniform to further his
16 interest in being elected as the Carson City Sheriff.
- 17 **II.** NRS 281A.400(7) by using government time, property and equipment to further his
18 personal interest in being elected Carson City Sheriff.
- 19 **III.** NRS 281A.400(10) by seeking employment through the use of his official position
20 by delivering a campaign speech during work hours while wearing a department-
21 issued uniform.

22
23 **4. Notices to Subject: (Tab C):**

24
25 A Notice to Subject of RFO 10-18C was issued to White on April 7, 2010. A postal
26 service record indicates that the Sheriff's office received the Notice on April 8, 2010. (Tab C).
27 White stated that he did not personally receive the Notice until April 12, 2010.

1 Among other requirements, the policy directs that:

2 At no time shall a Sheriff's Office member, volunteer, contractor, or City
3 employees use an agency or City vehicle for personal errands of any nature.
4 Any Agency vehicle that has been assigned to a Detective as a 'take home
5 vehicle', shall be used for Official Sheriff's Office Business only.

6 Saylo further explained that "take home vehicles" are assigned to officers with the
7 lieutenant and above ranks because they are considered to be on a "24/7 call" and must respond
8 to situations that require immediate attention. White is the commanding officer of the CCSO
9 SWAT Team and possesses a rank of captain; therefore, he was assigned a "take home vehicle."
10 The "take home vehicles" are divided into three different groups. White's vehicle is a fully
11 marked police vehicle that falls into the second category of "Emergency Specialized vehicles."
12 (Exhibit 2, p. 2). In addition to the "take home vehicles" policy and unit assignment policy,
13 rules of conduct applicable to all CCSO employees are provided in policy 130.000. (Exhibit 4).

14 **Telephone interview with Robert White on May 27, 2010.**

15 I spoke to White on May 27, 2010 and questioned him as to the use of his department
16 vehicle and the campaign speech he gave on March 22, 2010 at Grandma Hattie's. White stated
17 that he scheduled his appearance prior to March 22, 2010, and filed an Application for Leave,
18 so he could devote his full attention to his appearance at the Grandma Hattie's. The leave was
19 approved by his supervisor, Ray Saylo. (Exhibit 3).

20 White explained that on the morning on March 22, 2010, he was called in due to a
21 "situation". The situation involved the CCSO SWAT Team and, as its commander, White was
22 required to respond. White reported to the station in his department vehicle and uniform. Upon
23 arrival, White briefly spoke to Saylo who asked him why he was at work when a leave was
24 approved. White explained that he was called in. Upon learning of the situation, White
25 contacted the group to which he was supposed to deliver his campaign speech and attempted to
26 reschedule his appearance. However, he was informed that this was not possible due to a large
27 number of expected attendees.

28 At about 12 noon, White decided to take his lunch break and use it to fulfill his

1 commitment to the group and deliver his campaign speech at Grandma Hattie's. White drove to
2 Grandma Hattie's, which is approximately 2 miles from the CCSO in his department vehicle.
3 (Exhibit 5).

4 I questioned White as to the department vehicle use policy. White stated that he was
5 assigned a "take home vehicle" because of his captain rank; however, he believed there were no
6 specific policies related to the use department vehicle. Finally, White stated that he is allowed to
7 go to lunch, and he used his lunch time to attend the meeting at Grandma Hattie's. Finally,
8 White stated that the use of his lunch time is at his discretion although he can be recalled due to
9 a situation requiring immediate attention.

10
11 **Telephone interview with Chief Deputy Ray Saylo on May 27, 2010.**

12 I spoke to White's supervisor, Chief Deputy Ray Saylo, on May 27, 2010 and asked him
13 about assignments and use of department vehicles. Saylo stated that "take home vehicles" are
14 assigned to officers with the rank of lieutenant and above and added that these officers are
15 considered on "24/7" call and are required to respond to situations requiring immediate
16 attention. As to the vehicle use, Saylo stated that there are specific policies, which Saylo offered
17 immediately via e-mail. (Exhibit 4). Finally, I asked Saylo as to his knowledge of White's
18 appearance at Grandma Hattie's. Saylo stated that he is familiar with the issue since William
19 Abbott (Requester of RFO 10-18C) informed him of it shortly after it took place. Saylo stated
20 that he spoke to White and asked him not to participate in such appearances during his work
21 hours including lunch time. White agreed and assured Saylo that he will not participate on
22 similar events in the future. (Exhibit 1).

23 On May 27, 2010, I e-mailed Pete Livermore, Carson City Ward 3 supervisor who was
24 listed as a witness to the Complaint. Livermore stated that he attended the meeting at Grandma
25 Hattie's restaurant on March 22, 2010. According to Livermore, the meeting lasted
26 approximately 50 minutes and White spoke of his qualifications to become the Carson City
27 Sheriff. (Exhibit 2).

1 **1. Allegation one:** On March 22, 2010, White violated NRS 281A.400(2),
2 when he used his department vehicle to attend a meeting at Grandma
3 Hattie's restaurant in Carson City, where he delivered a campaign speech to
4 further his interest in being elected as Carson City Sheriff. The meeting
5 occurred during White's work hours and White attended the meeting in his
6 CCSO uniform.

- 7
8 ■ NRS 281A.400(2) provides, in relevant part:

9 A public officer or employee shall not use the public officer's or employee's
10 position in government to secure or grant unwarranted privileges, preferences,
11 exemptions or advantages for the public officer or employee, any business entity
12 in which the public officer or employee has a significant pecuniary interest, or
13 any person to whom the public officer or employee has a commitment in a
14 private capacity to the interests of that person. As used in this subsection:

(a) "Commitment in a private capacity to the interests of that person" has the
meaning ascribed to "commitment in a private capacity to the interests of
others" in subsection 8 of NRS 281A.420.

(b) "Unwarranted" means without justification or adequate reason.

15 As to the allegation that White used his position in government to unwarranted
16 privileges, preferences, exemptions or advantages, the evidence is as follows:

17 On March 22, 2010, White attended a meeting at Grandma Hattie's restaurant and
18 delivered a speech to further his interest in becoming elected as Carson City Sheriff. As
19 transportation to the meeting, White used his department-assigned vehicle. Instead of merely
20 eating lunch, White used his lunch break to fulfill his commitment to the group, and delivered
21 his campaign speech. At the time of his speech, White was still on a duty, wearing a CCSO
22 uniform. (Exhibit 1). Among other requirements, the CCSO policy 130.006 provides that:

23 Sworn members of the Sheriff's Office **shall be permitted to suspend patrol and**
24 **other assigned activity**, subject to immediate recall, **for the purpose of having meals**
25 during their tour of duty... (Emphasis added).

26 In addition, CCSO policy 440.006 provides that:

27 **At no time shall a Sheriff's Office member**, volunteer, contractor, or City employees
28 **use an agency or City vehicle for personal errands of any nature.** Any Agency
vehicle that has been assigned to a Detective as a 'take home vehicle', shall be used for
Official Sheriff's Office Business only. (Emphasis added).

1 **2. Allegation two:** On March 22, 2010, White violated NRS 281A.400(7)
2 when he used his department vehicle to travel to Grandma Hattie's
3 restaurant in Carson City to attend a meeting, and used government time
4 when he delivered a campaign speech during his lunch break, which should
5 be used for having a meal.

- 6
7 ▪ NRS 281A.400(7) provides, in relevant part:

8 A public officer or employee, other than a member of the Legislature, shall not
9 use governmental time, property, equipment or other facility to benefit his
10 personal or financial interest. This subsection does not prohibit:

11 (a) A limited use of governmental property, equipment or other facility for
12 personal purposes if:

13 (1) The public officer who is responsible for and has authority to authorize the
14 use of such property, equipment or other facility has established a policy
15 allowing the use or the use is necessary as a result of emergency circumstances;

16 (2) The use does not interfere with the performance of his public duties;

17 (3) The cost or value related to the use is nominal; and

18 (4) The use does not create the appearance of impropriety;

19 As to the allegation that White used government time, property, and equipment to
20 further his personal interest in being elected as Carson City Sheriff, the evidence is as follows:

21 On March 22, 2010, White attended a meeting at Grandma Hattie's restaurant and
22 delivered a speech to further his interest in becoming elected as CCSO Sheriff. As
23 transportation to the meeting, White used his department-assigned vehicle. Instead of having
24 lunch, White used his lunch break to fulfill his commitment to the group, and delivered his
25 campaign speech. At the time of his speech, White was still on duty, wearing a CCSO uniform.
26 (Exhibit 1). Among other requirements, the CCSO policy 130.006 provides that:

27 Sworn members of the Sheriff's Office **shall be permitted to suspend patrol and**
28 **other assigned activity**, subject to immediate recall, **for the purpose of having meals**
 during their tour of duty... (Emphasis added).

 In addition, CCSO policy 440.006 provides that:

At no time shall a Sheriff's Office member, volunteer, contractor, or City employees
 use an agency or City vehicle for personal errands of any nature. Any Agency
 vehicle that has been assigned to a Detective as a 'take home vehicle', shall be used for
 Official Sheriff's Office Business only. (Emphasis added).

1 **3. Allegation three:** On March 22, 2010, White violated NRS 281A.400(10)
2 by seeking employment through the use of his official position.

3
4 NRS 281A.400(10) provides, in relevant part:

5 A public officer or employee shall not seek other employment or contracts
6 through the use of the public officer's or employee's official position.

7 As to the allegation that White used his official position to seek other employment, the
8 evidence is as follows:

9 On March 22, 2010, White attended a meeting at Grandma Hattie's and delivered a
10 speech to further his interest in being elected Carson City Sheriff. White appeared in CCSO-
11 issued uniform, which may possibly portray him as qualified. However, I note that both of his
12 opponents are employees of CCSO.

13
14 Dated this 2 day of June 2010.

15 NEVADA COMMISSION ON ETHICS

16
17 
18
19

20 Mike Vavra, MPA, Investigator