



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Opinion
Concerning the Conduct of **ROBERT WHITE**,
Captain, Carson City Sheriff's Office,
Carson City, Nevada.

**Request for
Opinion No. 10-18C**

Subject.

PANEL DETERMINATION

NRS 281A.440(5); NAC 281A.440

Facts and Jurisdiction

The Nevada Commission on Ethics received an Ethics Complaint regarding the conduct of public employee Robert "Bob" White, Captain, Carson City Sheriff's Office and candidate for Sheriff of Carson City, alleging certain violations of the Ethics in Government Law set forth in NRS 281A . Commission staff presented the Investigatory Panel with the allegations in the Complaint that White violated:

- NRS 281A.400(2) – when he used his position in government to secure unwarranted privileges, preferences, exemptions or advantages by giving a campaign-related speech during his work hours, using his department-issued vehicle as a transportation to the speech location and using his department-issued uniform to further his interest in his campaign for election as the Carson City Sheriff;
- NRS 281A.400(7) – using government resources to further a personal interest by delivering a campaign-related speech during his work hours, using his department-issued vehicle as personal transportation and wearing his department-issued uniform to conduct personal business; and
- NRS 281A.400(10) when he used his public office to seek employment by delivering a campaign speech during work hours while wearing a department-issued uniform.

At the time of the alleged conduct, White was, and still is, employed by the Carson City Sheriff's Office, a public employee as defined in NRS 281A.160. The Commission has jurisdiction over the conduct of public employees pursuant to NRS 281A.280. Therefore, the Commission has jurisdiction in this matter.

Panel Proceeding

On June 10, 2010, pursuant to NRS 281A.440(5), an Investigatory Panel consisting of Commissioners George M. Keele and Gregory Gale reviewed the following: 1) Ethics Complaint; 2) Captain White's response to the Ethics Complaint, 3) the Investigator's Report; and 4) the Executive Director's Recommendation.

The witnesses interviewed included Captain Bob White, his supervisor Chief Deputy Ray Saylo of the Carson City Sheriff's Office (CCSO), and Pete Livermore, a city supervisor who attended a luncheon at which Captain White delivered a campaign-related speech, having driven his city-issued vehicle to the event and wearing his uniform at the event. Captain White admits having worn his uniform and having driven his government vehicle to the meeting and giving the speech; however, White explained that an "incident" called him in from his pre-approved day off for the speech, and that he was entitled to wear his uniform and drive his vehicle during lunch breaks.

The following are the Panel's unanimous findings and conclusions as to each of the allegations:

1. Unwarranted Benefit NRS 281A.400(2):

Captain White had made arrangements in advance to provide the campaign speech and had obtained approval to have the day off. Had he not responded to his public duty, he would likely have driven his personal vehicle to the luncheon and worn something other than his uniform to give the speech. That morning, he had called to attempt to re-schedule the speech, but was unable to do so. He continued with his duty to his department. It was moments before noon that he found himself able to accommodate his personal business upon the conclusion of his official duty, and he believed he was entitled to rush over to the pre-arranged luncheon and deliver the speech, despite the activities of the day.

Captain White could not have known that he would be required to work on his approved day off, although his position as leader of the SWAT team requires his attention 24 hours a day and 7 days a week. As a result, White had no intention to use his position in government to travel to the speech in his cruiser or wear his uniform; instead, he intended to take the day off and focus on his campaign, but was interrupted by the call to duty.

The evidence confirms that White's supervisor had approved the time off, that White was called in to attend to an incident, and found himself able to keep his pre-arranged commitment despite the incident. Therefore, the panel finds that the credible evidence is insufficient to render a conclusion that just and sufficient cause exists to forward the allegations regarding NRS 281A.400(2) for a hearing by the Commission, as, pursuant to NAC 281A.435, the available evidence is insufficient to form a reasonable belief that the matter should proceed to hearing.

2. Use of Government Resources NRS 281A.400(7)

Captain White is among the class of management level officers in the Carson City Sheriff's Office to whom a vehicle is issued for take-home use. While the policies of the CCSO certainly apply to that use, they are of no consequence in this proceeding. The Panel's role is to determine whether credible evidence exists to support the contention that the statutory exceptions to the personal use of government resources do not apply in this circumstance.

NRS 281A.400(7). Except for State Legislators who are subject to the restrictions set forth in subsection 8, a public officer or employee shall not use governmental time, property, equipment or other facility to benefit the public officer's or employee's personal or financial interest. **This subsection does not prohibit:**

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

- (1) The public officer who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;
- (2) The use does not interfere with the performance of the public officer's or employee's public duties;
- (3) The cost or value related to the use is nominal; and
- (4) The use does not create the appearance of impropriety

Because no evidence was presented to show that the limited personal use by Captain White was not within the allowable uses provided in statute, the Panel finds that just and sufficient cause does not exist to forward this allegation to the full Commission for hearing.

3. Use of Public Office to Seek Employment NRS 281A.400(10)

Other than perhaps referring to his rank as a Captain in the Sheriff's office as a foundation for his qualifications to serve as Sheriff, no facts were presented that Captain White used his position on government to attempt to gain employment.

As a result, the panel finds that not even a minimal level of reliable and competent evidence exists to support a reasonable belief that Captain White violated this provision of the Ethics in Government Law. As a result the Panel found that just and sufficient cause does not exist to forward the allegation related to NRS 281A.400(10) for determination by the Commission in a hearing, as the evidence is insufficient to form a reasonable belief that the allegation has merit.

Based upon these findings, Request for Opinion No. 10-18C and the allegations brought therein are dismissed.

Dated: June 16, 2010



Caren Jenkins, Esq.
Executive Director

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I placed a true and correct copy of the **PANEL DETERMINATION in Request for Opinion No. 10-18C**, in an envelope and caused same to be mailed via certified mail, return receipt requested, through the State of Nevada Mailroom to the Subject, Robert White, and the Requester, Bill Abbott, via regular mail through the State of Nevada Mailroom addressed as follows:

Robert White
PO Box 21830
Carson City, NV 89721

Cert. No. 7002 2030 0005 8442 4737

Bill Abbott
PO Box 3662
Carson City, NV 89702

First Class Mail

DATED:

06/16/10

Michelle A. Ené
Michelle A. Ené, Executive Assistant