



NEVADA COMMISSION ON ETHICS

**In the Matter of the Request for Opinion
Concerning the Conduct of
RICHARD "DICK" GAMMICK,
District Attorney, Washoe County,
State of Nevada,**

Request for Opinion No.: 10-71C

Subject. /

EXECUTIVE DIRECTOR'S RECOMMENDATION AND APPROVAL OF INVESTIGATOR'S REPORT

The following is the Executive Director's recommendation based on consideration and investigation of the Ethics Complaint filed against Richard "Dick" Gammick, District Attorney of Washoe County ("Subject"), a public officer, and on Gammick's written response to the Complaint, attached to the Investigator's Report. I approve that Report and attach it for the consideration of this two-commissioner investigatory panel.

Allegations:

The issues are whether Gammick violated:

- I. NRS 281A.020 when he failed to separate his public and private interests, by using government resources to further his interest in being reelected as the Washoe County District Attorney.
- II. NRS 281A.400(2) when he used his position in government to secure unwarranted privileges, preferences, exemptions or advantages for himself by using his position to benefit his reelection campaign.
- III. NRS 281A.400(5) when he used information not generally available to the public to benefit his reelection campaign.
- IV. NRS 281A.400(7) when he used government resources to benefit his personal or financial interest.
- V. NRS 281A.400(9) when he attempted to influence his subordinates to benefit his personal or financial interest.
- VI. NRS 281A.520 when he caused governmental entity to incur an expense or make expenditure to support his candidacy.

Facts:

It appears from the investigation that four dates and activity on those dates are particularly relevant:

AUGUST 19, 2010 - Gammick sent a campaign-related email at 3:31 pm, during working hours, from his county email address.

AUGUST 30, 2010 - Gammick made a speech and PowerPoint presentation to the Republican Jewish Coalition in Reno, which he characterized as "not a campaign event." At this event, Gammick showed a PowerPoint developed by the county about the District Attorney's Office, was assisted by a county employee operating the PowerPoint on Gammick's county-owned laptop computer, and had another county employee at the event offering assistance. However, a sign promoting Gammick's reelection was plainly visible during the speech, and, at least twice during his remarks, he asked those in attendance to vote for him. He also invited those in attendance to pick up handouts and county-purchased pens bearing his name, and to take yard signs promoting his candidacy for reelection. Gammick drove his county-issued vehicle to the event.

SEPTEMBER 17, 2010 - Gammick's county-owned vehicle bearing its emergency lighting system, packed with campaign signs and literature, was parked at the University of Nevada, Reno stadium at a tailgating event. Behind it, a table surrounded by and draped with material promoting Gammick's reelection was staffed by a county employee, encouraging passersby to vote for Gammick.

SEPTEMBER 26, 2010 - John Helzer, a county employee, attended an event as a delegate from Gammick's campaign. Helzer and Gammick both claim he was a campaign volunteer. However, Helzer gave out his county business card to an individual and suggested that he could be contacted at that number regarding the campaign. No evidence was presented that Gammick had anything to do with Helzer's invitation to respond to campaign questions at his office.

Recommendation:

After reviewing the evidence and NRS 281A.020, 281A.400, and NRS 281A.520 and the related subsections, I recommend that the Panel find just and sufficient cause **EXISTS** for the Commission to render an opinion on the allegations that Gammick failed to properly separate his private and public interests at the Republican Jewish Coalition event on August 30, 2010, and at the tailgating event on September 17, 2010, and that **just and sufficient cause EXISTS** to forward the matter to the full Commission for a hearing on the facts and circumstances as they relate to NRS 281A.020, 400 (2) and (7) and NRS 281A.520.

In addition, I recommend the Investigatory Panel find that **just and sufficient cause DOES NOT EXIST** to forward allegations related to using information not generally available to the public (NRS 281A.400(5) or the influencing of a subordinate (NRS 281A.400(9)) to benefit his personal interest in reelection. All of the employees stated that they had volunteered for the campaign related work, and no public information that should not have been disclosed was actually disclosed, so far as the investigator was able to determine.

NAC 281A.435 Basis for finding by panel; unanimous finding required for determination that no just and sufficient cause exists. (NRS 281A.290)

1. A finding by a panel as to whether **just and sufficient cause** exists for the Commission to render an opinion on an ethics complaint **must be based on credible evidence.**

2. A finding by a panel that no just and sufficient cause exists for the Commission to render an opinion on an ethics complaint must be unanimous.

3. As used in this section, **"credible evidence" means the minimal level of any reliable and competent form of proof** provided by witnesses, records, documents, exhibits, concrete objects, and other such similar means, **that supports a reasonable belief by a panel that the Commission should hear the matter and render an opinion.** The term does not include a newspaper article or other media report if the article or report is offered by itself.

Conclusion:

I hereby approve the attached Investigator's Report and provide this, my recommendation, to this honorable panel.



Caren Jenkins, Esq.
Executive Director

Date: December 2, 2010