



**STATE OF NEVADA  
BEFORE THE NEVADA COMMISSION ON ETHICS**

**In the Matter of the Request for Opinion  
Concerning the Conduct of SHARON  
JAMES, Social Services Prog. Specialist II,  
Division of Child and Family Services,  
Department of Health and Human Services,  
State of Nevada,**

**Request for Opinion No.: 12-03C**

**a Public Employee./**

**EXECUTIVE DIRECTOR'S REPORT AND RECOMMENDATION**

The Executive Director bases the following report and recommendation on the Commission on Ethics staff's investigation and consideration of a Third-Party Request for Opinion (RFO) filed regarding the conduct of **Sharon James**, a public employee.

James is employed as a Social Services Program Specialist II (Statewide Indian Child Welfare Specialist) by the Division of Child and Family Services (DCFS) in the Department of Health and Human Services, State of Nevada. In her private capacity, James serves as the current Chair of the Board of Directors of Nevada Urban Indians (NUI), a private nonprofit organization which receives some federal grant funds that are administered by the State.

The RFO alleges that James' job and her non-profit service conflict, and that James failed to commit to avoid conflicts between her private and public interests and duties, and that she used State resources to further her personal interests in NUI.

In addition to the RFO, this report and recommendation is based upon James' written response. Those documents, their related exhibits, and other relevant materials gathered in the course of the investigation are attached as exhibits to this report and recommendation. The Executive Director provides her Report and Recommendation for the consideration of the two-commissioner investigatory panel (Panel), pursuant to the requirements of NRS 281A.240.

**Facts:**

The main party is Sharon James, a State of Nevada classified employee since 2004. James has been involved with Nevada Urban Indians (NUI) since 2008.

NUI is a non-profit organization which operates with a seven-member Board of Directors. Each Director has one vote except the Chair, who does not vote unless it is necessary to break a tie. Directors receive a stipend of \$75 per meeting, and board and

staff members occasionally are awarded annual bonuses based on their number of years of service. (RFO Tab A, p. 41)

The Victims of Crime grant (VOCA grant) distributes federal funds designated to assist with family violence prevention and shelters. Although the money comes from the federal government, the program is administered by and funds are disbursed by the state Department of Health and Human Services (DHHS). Over a three-year period, NUI received approximately \$122,000 in reimbursed expenditures related to the VOCA grant program. James received none of the VOCA grant funds personally.

### **Allegations:**

The RFO alleges that James, by serving the State as an employee of DHHS and simultaneously volunteering on the Board of the NUI, violated NRS 281A.020 by failing to separate her public and private duties and used State resources, time and equipment to further her NUI activities in violation of 281A.400(7).

Among the claims are allegations that James used her position in government to influence the Child and Family Services Grants Manager, the Executive Director of the DCFS and the Fiscal Officer to award the grant to NUI, or to "help" NUI to be considered a recipient of the grant funds.

In addition, the RFO alleges that James worked on NUI-related tasks during her State work hours. (RFO, Tab A, p. 1). In essence, it alleges that James created and distributed a number of e-mails during her work hours and as such, she used government time, equipment and facility as provided in NRS 281A.400(7). (RFO, Tab A, pp. 71-112). James does not deny the fact; however, she claims that the e-mails did not interfere with her job duties, her supervisor was aware of her attention to NUI during work hours and some of her NUI e-mails related to her work duties. James' supervisor and the DCFS Acting Deputy Administrator both stated that the occasional e-mails did not interfere with James' employment.

### **Relevant Nevada Revised Statutes (NRS):**

#### **NRS 281A.020 Legislative findings and declarations.**

1. It is hereby declared to be the public policy of this State that:

(a) A public office is a public trust and shall be held for the sole benefit of the people.

(b) **A public officer or employee must commit himself or herself to avoid conflicts between the private interests of the public officer or employee and those of the general public whom the public officer or employee serves.**

#### **NRS 281A.400 General requirements; exceptions**

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;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) **The use of telephones or other means of communication if there is not a special charge for that use.**

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

1. A finding by a panel as to whether **just and sufficient cause** exists for the Commission to render an opinion on an ethics RFO **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 RFO 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.

### **Analysis, Conclusion and Recommendation:**

It is important for the panel members to keep in mind that it is James' conduct as a **public employee** that is in question - - not her conduct on the NUI Board or as its Chair. NUI applied for and received the VOCA grant - - not James or any other member of the NUI Board. The RFO's allegation that James "received a grant from the same division where [she] works" is not factually correct, as James is not part of the division of DCFS that manages the VOCA grants. There simply is no evidence that James used her position in her government employment to assist NUI as an applicant or grantee for the VOCA funds, or failed to commit to separating her personal interests from her duties as a public employee.

James' supervisor and others in her office described her as a well-respected and responsible employee. They stated that her NUI emails never affected her work quality and quantity, and that she incurred no overtime. Not only is James' involvement with NUI related to her DCFS responsibilities, but several of the communications she engaged in from her work crossed over between her NUI and work-related duties. Finally, no evidence was found that James received a benefit from her volunteer work on the NUI Board that might conflict with her employment by DCFS.

As a result, I recommend that the Panel find **insufficient credible evidence** to support a reasonable belief that the Commission should hear this matter and render an opinion regarding Sharon James' alleged violations of NRS 281A.020 and NRS 281A.400(7). I recommend that these allegations and **the entire RFO be dismissed.**

**I respectfully provide my recommendation to this honorable panel.**

  
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Caren Cafferata-Jenkins, Esq.  
Executive Director

Date: 6/11/12