



**STATE OF NEVADA**  
**COMMISSION ON ETHICS**  
<http://ethics.nv.gov>

**MINUTES**  
**of the meeting of the**  
**NEVADA COMMISSION ON ETHICS'**  
**SUBCOMMITTEE TO CONSIDER RESTRUCTURING THE NCOE STAFF**

**May 21, 2012**

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. Verbatim transcripts of the open sessions are available for public inspection at the Commission's office in Carson City.

The Commission on Ethics held a public meeting on Wednesday, May 21, 2012 at 9:00 a.m. This meeting was held telephonically. Members of the public were invited to attend at the following location:

**Nevada Commission on Ethics**  
**704 W. Nye Lane, Ste. 204**  
**Carson City, NV 89703**

1. Call to Order, Roll Call and Pledge of Allegiance to the Flag.

Chairman Beyer called the meeting to order and introduced the Subcommittee members at 9:06 a.m. on Wednesday, May 21, 2012. Because of the telephonic meeting, the members dispensed with the Pledge of Allegiance.

Present telephonically were Subcommittee Chairman Erik Beyer, Commissioners Tim Cory, Esq., Paul H. Lamboley, Esq. and John C. Carpenter. Also present at the meeting location in Carson City and also appearing telephonically were Executive Director Caren Cafferata-Jenkins and Commission Counsel Yvonne Nevarez-Goodson, Esq.

2. Open Session for Public Comment.

No public comment.

3. Open Session for Subcommittee Work Session

Executive Director, Caren Cafferata-Jenkins gave an overview of the history of the NCOE and its staff structure, as well as the history of the numbers of Requests for Opinions (RFOs) received. She reported that there has been a significant increase in the number of RFOs due to public awareness. Because of the increase in the numbers of RFOs received, the Executive Director believes it is necessary to review options for increasing staff and reducing the workload of the current staff.

A discussion ensued regarding the status and statistics of past RFOs.

Commission Counsel, Yvonne-Nevarez-Goodson, presented some of the issues with the recent Opinion backlog and possible solutions to the same. She discussed the streamlining process and the amount of time she spent on her pre-hearing memos versus the draft opinions she is now preparing for first party RFOs. She also discussed litigation that the Commission has become active in, and how these cases affect the work load of staff.

Also discussed was the Third-Party RFOs and the work load they place on the staff, i.e. coordinating subpoenas, witnesses, documentary evidence, discussions with witnesses, subjects having lawyers presenting motions which have to be dealt with, sometimes needing an additional meetings to address motions and other third party issues. Cases are becoming more legally complex and proceedings are more sophisticated due to public awareness, publicity of Carrigan, due process, and the presence of legal counsel.

Commission Counsel explained a potential problem/conflict with her role as Commission Counsel advising the Commission regarding the suggested analysis and outcome of a third-party request and then also presenting evidence to the Commission. At some point there may be a bias, or appearance of a bias within the agency. There are potential problems with this; however, Commission Counsel believes the Commission complies with the minimum due process required for administrative hearings; however it could become a problem in the future.

A discussion ensued regarding adding a contract attorney position versus a full time employee to the current NCOE staff and the efficiency of each.

Executive Director Cafferata-Jenkins then discussed in detail each of four scenarios for restructuring of the NCOE Staff. Her handout presented to the Subcommittee outlining each idea is attached hereto. A discussion ensued regarding the four proposed concepts and the reasoning behind each, as well as the effect each would have on the budget.

A discussion ensued regarding contacting the Attorney General's office to request additional information on the possibilities of getting a fulltime DAG or having a by-the-hour paid AG. The Subcommittee asked the Executive Director to research this option further and report at the next Subcommittee meeting. A discussion ensued regarding the pros and cons of involving the AGs office. The Executive Director will also prepare a summary of the legislative history regarding the staff structure.

#### 4. Open Session for Public Comment.

No public comment.

5. Adjournment

The meeting adjourned at 11:08 a.m.

Minutes prepared by:

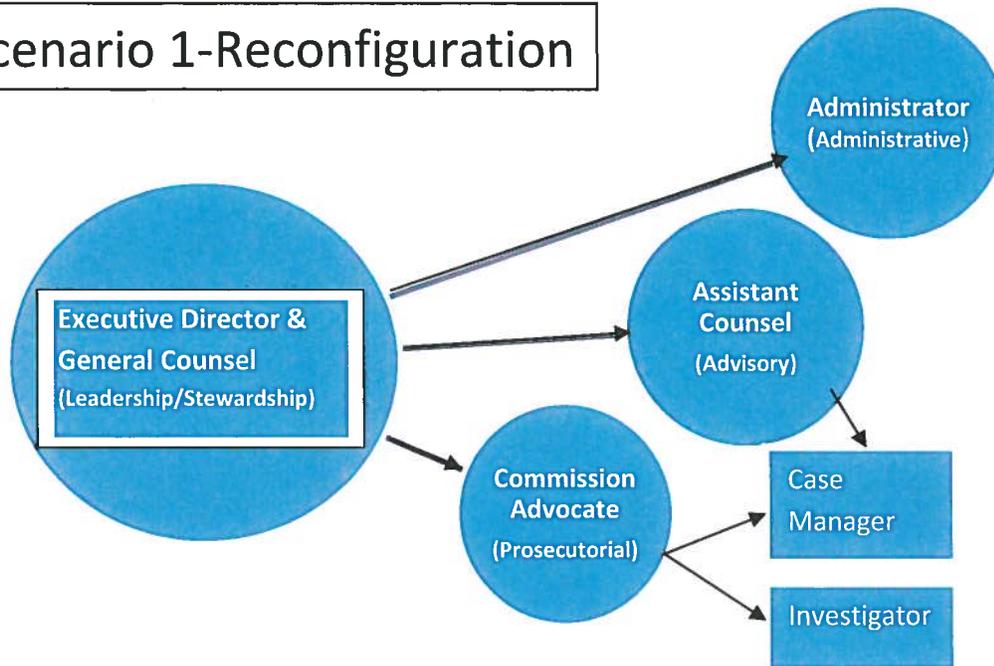
Valerie Carter  
Valerie Carter  
Executive Assistant

Minutes approved June 20, 2012:

Erik Beyer  
Erik Beyer, P.E.  
Chairman

# Proposed Item for Special Consideration - Organizational Charts

## Scenario 1-Reconfiguration



### Duties of EXECUTIVE DIRECTOR AND GENERAL COUNSEL (Chief Level Attorney)

- Administer all aspects of NCOE office and Staff
- Implement policy and activities as directed by Commission
- Serve as Public Information Officer and Sole Media Contact
- Preside over Motions and Discovery matters
- Serve as NCOE liaison to Executive and Legislative branches
- Perform as lead litigation attorney for the Commission.

### Duties of COMMISSION ADVOCATE (Senior Level Attorney)

#### Under the direction of the ED & GC:

- Direct activities in response to all Third-Party RFOs
- Supervise Investigation, make recommendation to Panel
- Prepare cases for hearing
- Negotiate stipulations for proposal to Commission
- Advocate for Commission at hearing
- Prepare written opinions & digests
- Collect sanctions/follow up referral for removal from office
- Lead preparation regarding Judicial Review, appeals

### Duties of ASSISTANT COUNSEL (Entry Level Attorney)

#### Under the direction of the ED & GC:

- Engage in research and writing in response to First-Party RFOs, including writing opinions, abstracts and digests
- Prepare and deliver training and outreach programs
- Research questions regarding OML and PRR for Commission
- Assist ED&GC with general litigation and administrative issues

### Duties of ADMINISTRATOR

#### Under the direction of the ED & GC:

- Lead Budgeting, A/P, A/R, Local Government share, Contracts
- Arrange Commission travel and communications; Staff travel
- Coordinate Legislative and Regulatory changes
- Manage Personnel, IT, Facilities, Supplies, Payroll, Others
- Coordinate Website management
- Interface with State Archives
- Arrange Meetings, Agendas, Court Reporters, Transcripts

### Duties of INVESTIGATOR

#### At the direction of the Commission Advocate:

- Review RFO and Response for details of relevant facts and allegations
- Confer with Commission Advocate to shape direction for investigation
- Contact named and unnamed witnesses, collect documentary and other evidence, confirm alleged facts
- Compile investigative findings into a confidential written report
- Serve as resource for Investigatory Panel
- Continue investigation as required by Commission Advocate
- Assist Commission Advocate at hearings

### Duties of CASE MANAGER/LEGAL RESEARCHER

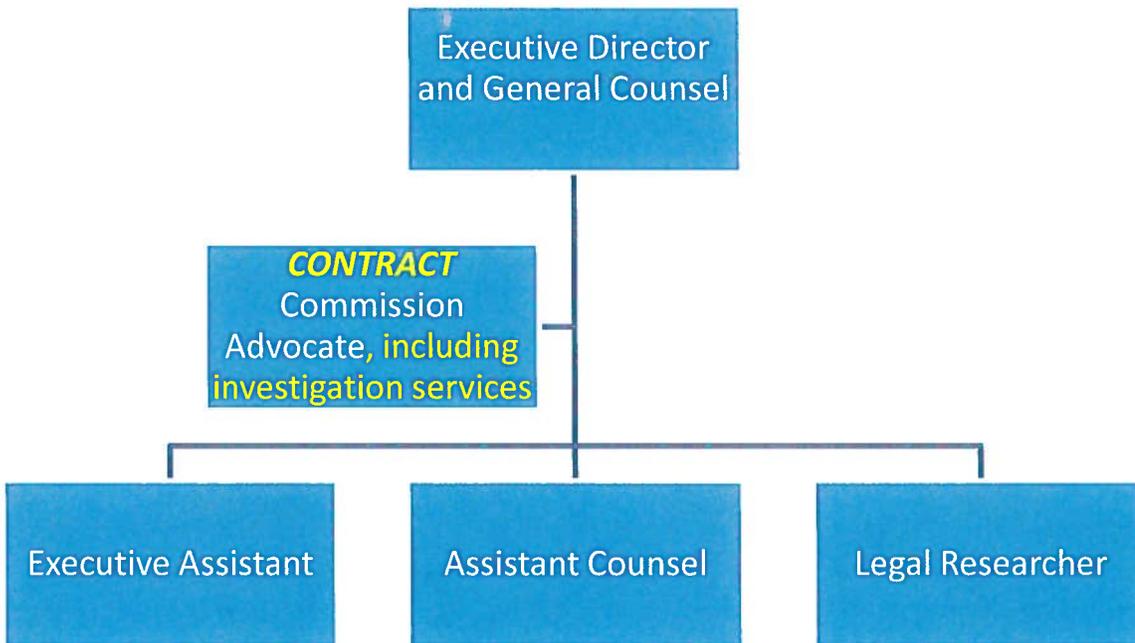
#### At the direction of the Commission Advocate and Assistant Counsel:

- Calendar deadlines, serve notices
- Provide general administrative support to attorneys
- Prepare subpoenas, notices and other documents
- Maintain RFO Logs
- Coordinate witnesses, documents and evidence for hearing books and at hearings

## Proposed Item for Special Consideration - Organizational Charts

POSITION	Current Unclassified Pay	Proposed Unclassified Pay
Executive Director	\$95,453	
Executive Director and General Counsel		\$129,285 - 137,145 (Solicitor-ED&GC)
Commission Counsel/Assistant Counsel	\$93,259	\$93,259 (Entry Level DAG)
Commission Advocate		\$104,231 - 126,174(Sr. DAG - Sup. Ct. Legal Counsel)
Case Manager/Legal Researcher	\$52,947	\$55,696
Executive Assistant/Administrator	\$54,858	\$54,858
Investigator	\$64,302	\$64,302

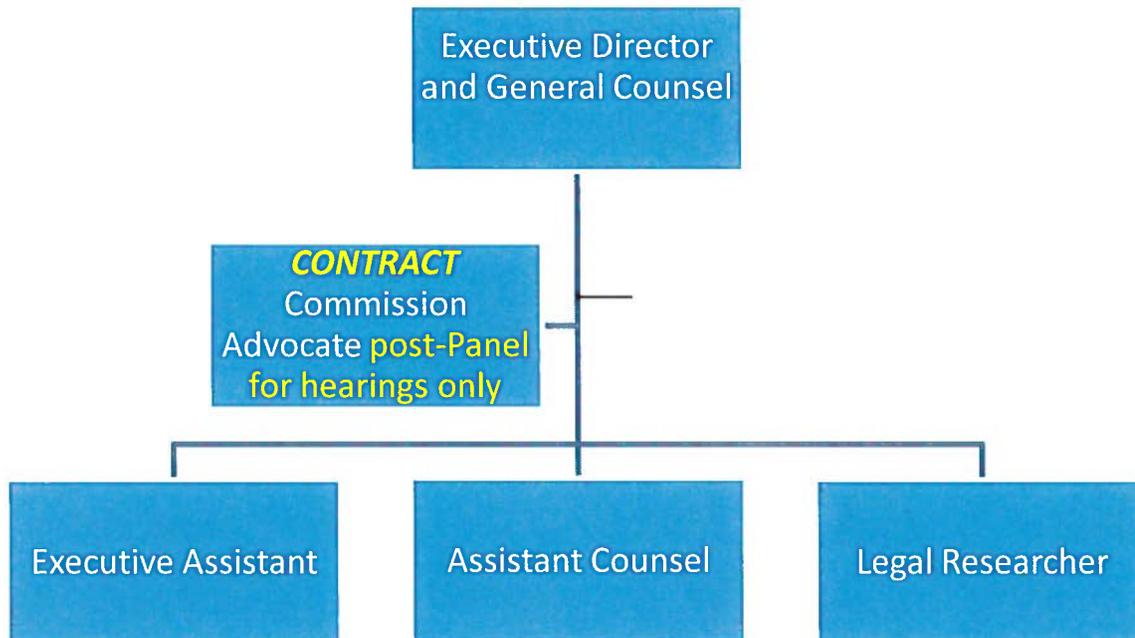
### Scenario 2 - contract all work on 3rd-Party RFOs



Expect 1 FTE Attorney plus 0.75 FTE Investigator = Approx \$130,000 for attorney at current Contract Attorney level and \$60,000 for Investigator if we add in the value of benefits

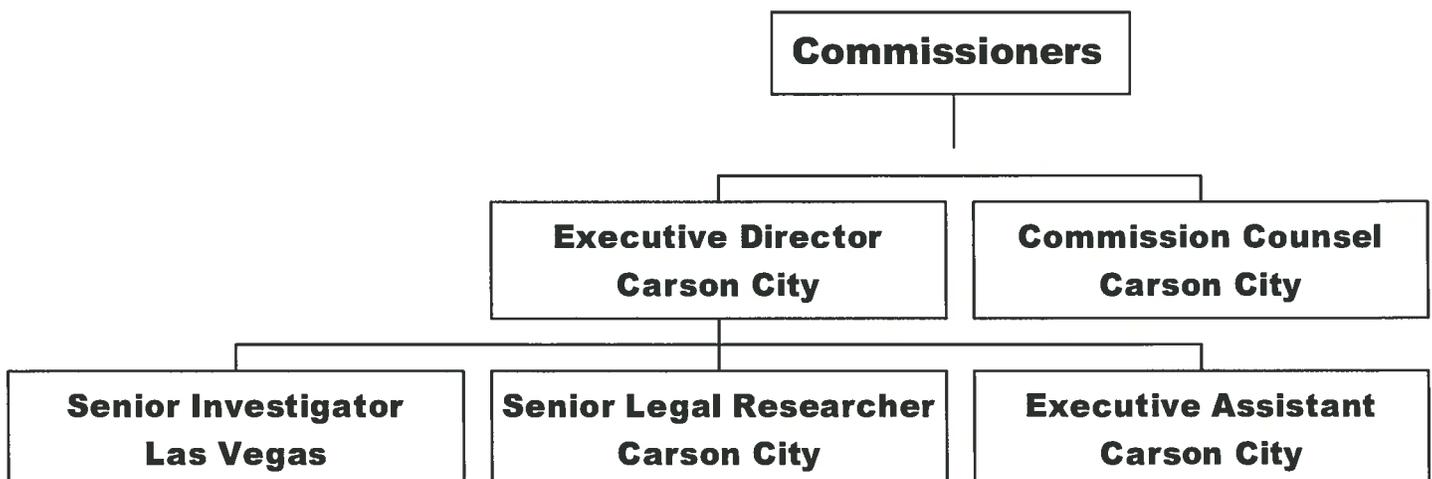
## Proposed Item for Special Consideration - Organizational Charts

### Scenario 3 - contract only 3rd-Party RFOs post-panel



CONTRACT NOT TO EXCEED 1500 hours per year of Attorney time (0.5 to 0.75 FTE) = approx. \$110,000 at current Contract Attorney level.

### Scenario 4 - Enhance current organization as needed



Provide for staffing and funding requests for BOE and IFC funds as public demand and public need for access to Commission opinions arise - - one down-side of this methods is that it is funded solely by the State with no contribution from Local Governments. Second issue is two persons report to Commissioners = potential conflicts and no clear supervisory head.