

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

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct  
of **Gerald Antinoro**, Sheriff, Storey  
County, State of Nevada,

Request for Opinion No. 17-21C

Subject. /

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**EXECUTIVE DIRECTOR'S**  
**PREHEARING STATEMENT**

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

10 In the Matter of the Third-Party Request  
11 for Opinion Concerning the Conduct Request for Opinion No. 17-21C  
12 of **Gerald Antinoro**, Sheriff, County of  
13 Storey, State of Nevada,

14 Subject. /

15 The Executive Director of the Nevada Commission on Ethics, through the  
16 Commission's Associate Counsel, Judy A. Prutzman, Esq., hereby submits her  
17 Prehearing Statement.

18 **I. Statement of Relevant Facts**

19 This Third-Party Request for Opinion ("RFO" or "Complaint"), filed with the  
20 Commission on or about June 26, 2017, involves the alleged conduct of public officer  
21 Gerald Antinoro ("Antinoro"), the elected Sheriff of Storey County, in violation of the  
22 Ethics Law. A Panel Determination issued on February 22, 2018 concluded that the  
23 facts establish credible evidence to substantiate just and sufficient cause for the  
24 Commission to render an opinion in the matter regarding the allegations pertaining to  
25 NRS 281A.400(2) and (7) related to Sheriff Antinoro's use of the Sheriff's Office for his  
26 spouse's child visitation appointment.

27 Sheriff Antinoro is married to Laura, the prior spouse of Clarence Gempel, the  
28 private citizen who filed the Complaint. Gempel and Laura have a minor daughter who

1 resides full-time in Virginia City with Sheriff Antinoro and Laura, the primary custodial  
2 parent of the child. Pursuant to a Decree of Divorce dated November 30, 2011,  
3 Gempel is allowed four hours of visitation with his daughter every other Saturday,  
4 supervised by an individual of Laura's choosing.  
5

6 On or around May 17, 2017, Laura had agreed to meet Gempel and his wife,  
7 Susan Stubbs ("Stubbs"), at a public park in Virginia City on Saturday, May 20, 2017 so  
8 Gempel could visit with his daughter. Thereafter, Laura informed Sheriff Antinoro that  
9 she was uncomfortable about meeting Gempel at the park and Sheriff Antinoro told  
10 her that she could use the main office of the Storey County Sheriff's Office, located on  
11 South C Street (hereafter referred to as the "Sheriff's Office"), for the visitation  
12 appointment. Unlike the Storey County Jail, which is staffed by Sheriff's Office  
13 personnel and open to the public 24 hours a day, 7 days a week, the Sheriff's Office is  
14 only open to the public on Monday through Friday, 8 am to 5 pm. The building is locked  
15 on weekends and there is no written policy regarding whether, how or when the public  
16 may access or use space within the Sheriff's Office during non-business hours.  
17  
18

19 The front door of the Sheriff's Office directs the public to "contact dispatch after  
20 hours" and provides the non-emergency dispatch number, 847-0950. If members of the  
21 public call this number seeking access to the Sheriff's Office when the building is not  
22 open, they are told by a dispatcher that the Office is closed. If assistance is requested  
23 and the situation is not an emergency, the dispatcher will contact the deputies on duty  
24 and/or their supervisor to determine if a deputy is available to provide assistance.  
25 Requests for future or scheduled assistance, such as weekend access to the Sheriff's  
26 Office for a pre-arranged child visitation appointment, are not accommodated because  
27  
28

1 it is impossible to know in advance if a deputy will be available to assist with non-  
2 emergency requests. Moreover, deputies cannot guarantee that they will be able to  
3 remain at the Office during an extended child visitation appointment because they may  
4 be called out for emergencies or other matters that take priority.  
5

6 Unlike other members of the public, Laura was not required to call the Storey  
7 County dispatch center to request access to the Sheriff's Office for her Saturday  
8 meeting with Grepel, which request would have likely been denied. Instead, Sheriff  
9 Antinoro told Laura that he would make the Office available for the scheduled visitation  
10 appointment and opened up the office for her, his stepdaughter, Grepel and Stubbs.  
11 He did not ask any other employee of the Sheriff's Office to handle the matter to avoid  
12 a conflict of interest related to his family members and remained on the premises while  
13 the meeting took place in a private space at the Office for almost two hours. Sheriff  
14 Antinoro did not notify dispatch that he was allowing members of the public to use the  
15 Sheriff's Office for a two-hour child visitation appointment or that he was standing by at  
16 the Office while the meeting took place. Accordingly, there is no official record that the  
17 meeting occurred or that members of the public were using the Sheriff's Office on a day  
18 the building was not open for business.  
19  
20

## 21 **II. Claims and Defenses**

### 22 **A. Sheriff Antinoro used his public position to secure or grant an** 23 **unwarranted privilege, preference, exemption or advantage for a person to** 24 **whom he has a commitment in a private capacity, in violation of NRS** 25 **281A.400(2).**

26 The Executive Director will present a preponderance of evidence to demonstrate  
27 that Sheriff Antinoro allowed his wife to use the Sheriff's Office for a two-hour child  
28 visitation appointment on a day that the Office is not open to the public for business. By

1 providing access to the Sheriff's Office by virtue of his elected position, Sheriff Antinoro  
2 granted an unwarranted privilege, preference or advantage to his wife. The type of  
3 access provided to Laura is not available to other members of the public who would like  
4 to schedule after-hours access to the Sheriff's Office for a lengthy private family matter  
5 because the dispatch center is unable to guarantee that a Sheriff's Office deputy would  
6 be available to open up the Office on a Saturday and remain on the premises for an  
7 extended period of time.  
8

9 **B. Sheriff Antinoro used governmental property to benefit a significant**  
10 **personal interest, in violation of NRS 281A.400(7).**

11 The Executive Director will present a preponderance of evidence to demonstrate  
12 that Sheriff Antinoro used the Sheriff's Office, which is governmental property, to  
13 benefit his significant personal interest in providing a comfortable and private location  
14 for his wife and stepdaughter to meet with Grempel.  
15

16 **C. Sheriff Antinoro cannot satisfy all four elements of the limited use**  
17 **exception of NRS 281A.400(7)**

18 Pursuant to his evidentiary burden, Sheriff Antinoro cannot demonstrate by a  
19 preponderance of evidence that Laura's use of the Sheriff's Office was an allowable  
20 limited use pursuant to NRS 281A.400(7)(a). In particular, there is no evidence that a  
21 policy had been established that would allow a member of the public to schedule  
22 access to the Sheriff's Office on a Saturday to conduct a lengthy private meeting.  
23 Additionally, Sheriff Antinoro created an appearance of impropriety and/or a conflict of  
24 interest when he provided law enforcement services and allowed use of the Sheriff's  
25 Office facility for a child visitation appointment involving his wife and stepdaughter.  
26  
27  
28

1 **III. Statement of Issues of Law**

2 The Ethics Law is designed to preserve the public trust and ensure that public  
3 officers and employees maintain proper separation between their public duties and  
4 private interests. See NRS 281A.020. Accordingly, as a public officer, Sheriff Antinoro  
5 is prohibited from using his public position to secure an unwarranted privilege,  
6 preference or exemption for himself or any person to whom he has a commitment in a  
7 private capacity. Sheriff Antinoro has a *per se* commitment in a private capacity to the  
8 interests of Laura, his spouse. See NRS 281A.065(1). Laura's interests include her  
9 interactions with her ex-husband, Grepel, and his visits with their daughter, of whom  
10 Laura has primary physical custody.  
11

12  
13 To determine whether Sheriff Antinoro violated NRS 281A.400(2), the following  
14 issues of law need to be decided by the Commission:

- 15
- 16 1. Did Sheriff Antinoro use his public position to authorize use of the  
17 Sheriff's Office by his spouse?
  - 18 2. Was Laura's use of the Sheriff's Office on a Saturday for a two-hour visit  
19 between her daughter and ex-husband a privilege, preference, exemption  
20 or advantage?
  - 21 3. Was the privilege, preference, exemption or advantage "unwarranted"  
22 because it was provided without justification or adequate reason?

23 The Commission considers whether an action is unwarranted pursuant to NRS  
24 281A.400(2) if the action was illegal or otherwise against the written policies of the  
25 agency that employs the public employee/officer. See *In re Witthun*, Comm'n Op. No.  
26 17-26C (2018) (public employee violated NRS 281A.400(2) when he used his public  
27 position to act upon matters involving his son's employment). Additionally, the  
28 Commission has advised that using a public position to benefit family members in any

1 manner that is distinct from others who are similarly situated could be construed as  
2 providing unwarranted advantages to those family members. See, e.g., *In re Bowler*,  
3 Comm'n Op. No. 17-02A (2017).

4  
5 NRS 281A.400(7) creates a strict prohibition against the use by a public officer  
6 of "governmental time, property, equipment or other facility to benefit a significant  
7 personal or financial interest." Accordingly, the Executive Director must first establish  
8 and the Commission must determine whether Sheriff Antinoro used any governmental  
9 time, property, equipment or other facility to benefit his personal or pecuniary interest. If  
10 this question is answered in the affirmative, Sheriff Antinoro has violated the Ethics Law  
11 unless the "limited use" exception contained in NRS 281A.400(7)(a) applies. In order  
12 for this exception to apply, Sheriff Antinoro must show and the Commission must  
13 determine that the preponderance of evidence establishes all four of the following  
14 limited use factors:  
15

- 16  
17 1. The public officer or employee who is responsible for and has authority to  
18 authorize the use of such property, equipment or other facility has  
19 established a policy allowing the use or the use is necessary as a result  
20 of emergency circumstances;
- 21 2. The use does not interfere with the performance of the public officer's or  
22 employee's public duties;
- 23 3. The cost or value related to the use is nominal; and
- 24 4. The use does not create the appearance of impropriety.

25 As the party seeking application of the "limited use" exception in NRS 281A.400(7),  
26 Sheriff Antinoro bears the burden of proving each element of the exception has been  
27 met. See *N.L.R.B. v. Kentucky River Community Care, Inc.*, 532 U.S. 706, 711, 121 S.  
28 Ct. 1861, (2001) ("[T]he burden of proving justification or exemption under a special

1 exception to the prohibitions of a statute generally rests on the one who claims its  
2 benefits.”); see also 2A C. Sands, *Sutherland on Statutory Construction* § 47.11 at 145  
3 (rev. 4<sup>th</sup> ed. 1984) (“[one] who claims the benefit of an exception from the prohibition of  
4 a statute has the burden of proving that his claim comes within the exception.”). Since  
5 Antinoro bears the burden of proof, he must provide some evidence to establish the  
6 existence of every element of the limited use exception.  
7

8 The Commission has recognized that public officers and public employees should  
9 not be involved in matters associated with a relative because such participation not  
10 only creates an appearance of impropriety, it also creates an impermissible conflict  
11 under the Ethics Law. See *In re Murnane*, Comm’n Op. No. 15-45A (2016); *In re*  
12 *Murray*, Comm’n Op. No. 08-07C (2008) (public officer should not attend meetings  
13 where her husband, representing the labor union, sits across the table from her on  
14 matters pertaining to collective bargaining because such conduct creates the  
15 appearance of impropriety). It is the appearance of impropriety that the Ethics Law  
16 prohibits, even where actual impropriety is lacking. See *In re Collins*, Comm’n Op. No.  
17 11-78A (2012).  
18  
19

20 **IV. Witnesses**  
21

22 The Executive Director expects to call the following witnesses and reserves the  
23 right to examine any witnesses listed and/or examined by Sheriff Antinoro.  
24

WITNESS NAME	EXPECTED TESTIMONY	TIME
Sheriff Gerald Antinoro Storey County	Personal interactions with Laura; details related to Laura’s use of the Sheriff’s Office; his knowledge of written policies contained in the Sheriff’s Office Policy Manual; and all other facts related to the allegations.	60 minutes



1 2	Clarence Gempel <sup>1</sup>	Personal interactions with Laura and details related to his visit with his daughter at the Sheriff's Office.	15 minutes
3 4 5 6	Dave Ballard Director of Emergency Communications Storey County	His knowledge of the training provided to and protocol followed by dispatchers and authentication, as custodian of records, of the May 20, 2017 dispatch log submitted with the Executive Director's exhibits.	15 minutes
7 8 9 10	Rebecca Parsons Communications Specialist (Dispatcher) Storey County	Her knowledge of the protocol followed by dispatchers and the events or incidents that were reported to or by the dispatch center on May 20, 2017.	15 minutes
11 12 13 14	Brandy Gavenda Employee Storey County	Her knowledge and authentication, as custodian of records, of the incident reports of the Storey County Sheriff's Office submitted with the Executive Director's exhibits.	15 minutes

15 **V. Exhibits**

16 In addition to the relevant pleadings that have been filed in this matter, the  
17 Executive Director will rely upon the following exhibits contained in an Exhibit Book for  
18 the purpose of developing the evidentiary record:  
19

- 20 1. Gerald Antinoro's Answers to Executive Director's Interrogatories, dated August  
21 16, 2018: establishes relevant details related to the May 20, 2017 meeting.  
22 2. Gerald Antinoro's Responses to Executive Director's Request for Production of  
23 Documents, dated August 28, 2018, including documents produced.  
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25  
26 <sup>1</sup> This witness resides and works in Arizona and has not, at this time, agreed to voluntarily appear at the  
27 hearing. Pursuant to the Executive Director's *Request for Issuance of Subpoenas* filed on August 27,  
28 2018, an Amended Subpoena was issued by the Chair of the Commission on September 11, 2018 to  
compel Gempel's appearance at the hearing. However, the Commission's subpoenas are not  
enforceable in Arizona and Arizona's rules of civil procedure do not provide for the issuance of a  
subpoena to compel a witness to testify at an administrative proceeding outside Arizona.

- Storey County Sheriff's Office Policy Manual: demonstrates that 1) no written policy exists regarding use of the Sheriff's Office by members of the public for child visitation appointments and/or after-hours meetings; and 2) a policy exists regarding conflicts of interest related to Sheriff's Office services provided to family members.
- CAD Incident Report 1712010040 dated 12/01/2017: documentation of assistance with a child visitation/custody matter that purportedly occurred at the Sheriff's Office.

3. Storey County Communications Dispatcher Training Manual: demonstrates that requests for Sheriff's Office assistance with child custody/child visitation matters are not specifically addressed in dispatcher training.
4. Nineteen (19) Storey County Sheriff's Office CAD Incident Reports: demonstrates that no documented child visitation appointments were held at the Sheriff's Office between May 20, 2016 and May 20, 2018.
5. Storey County Sheriff's Office Dispatch Log for May 20, 2017<sup>2</sup>: demonstrates activities reported to the dispatch center by on-duty Sheriff's Office personnel during the time of the child visitation appointment on May 20, 2017.
6. Photograph of the front doors of the Sheriff's Office at 205 South C Street in Virginia City: demonstrates the hours when the Sheriff's Office building is open.

**VI. Stipulations**

There are no stipulations at this time.

**VII. Motions**

On September 13, 2018, the Executive Director submitted a *Motion in Limine* and an *Opposition to the Motion* was untimely submitted on September 25, 2018.<sup>3</sup> The *Motion* is currently under review and pending.

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<sup>2</sup> Summarized in a chart attached as Exhibit A.

<sup>3</sup> The *Opposition to the Motion* was not timely filed in accordance with the *Amended Notice of Adjudicatory Hearing and Scheduling Order*.

1 **VIII. Other**

2 Sheriff Antinoro has previously committed two ethics violations for which the  
3 Commission expressed significant concerns about the need for appropriate separation  
4 between Sheriff Antinoro's use of government resources and his private interests. See  
5 *In re Antinoro*, Comm'n Op. No. 14-59C (2015); *In re Antinoro*, Comm'n Op. No. 16-  
6 54C (2017).<sup>4</sup> [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]

12 [REDACTED] Accordingly, if the Commission determines that  
13 Sheriff Antinoro willfully violated the Ethics Law, it may impose a civil penalty of up to  
14 \$10,000 for the second willful violation. See NRS 281A.790(1). The Executive Director  
15 recommends that the Commission impose a meaningful civil penalty of at least \$8,000  
16 because this would be Sheriff Antinoro's third violation of the Ethics Law and second  
17 willful violation.  
18

19 DATED this 2<sup>nd</sup> day of October, 2018.

20 NEVADA COMMISSION ON ETHICS

21  
22 /s/ Judy A. Prutzman  
23 Judy A. Prutzman, Esq.  
24 Associate Counsel  
25 Nevada Commission on Ethics  
26

27 <sup>4</sup> This matter is currently the subject of an appeal in the Nevada Supreme Court.  
28 [REDACTED]  
[REDACTED]



# **Exhibit A**

**Summary of Storey County Sheriff's Office CAD Incident Reports  
Contained in Executive Director's Exhibit #4**

<b>DATE/TIME</b>	<b>INCIDENT COMMENTS</b>	<b>LOCATION</b>
Sunday 06/05/2016 4:47 pm	Custody matter	Redacted location, Virginia City
Friday 08/12/2016 6:48 pm	Visitation exchange/court order	Golden Gate Gas Station, McCarran
Monday 12/26/2016 11:33 am	Req for civil standby for custody exchange; RP is in 95 Ford Explorer green will meet at the end of the drive way	Redacted location, Virginia City
Monday 05/02/2016 10:29 am	Father is refusing to bring child back to mother	Redacted location, Virginia City
Sunday 01/08/2017 3:54 pm	RP needing to req 4 pm drop off for custody exchange	Redacted location, Lockwood
Friday 01/13/2017 6:02 pm	RP requesting a civil standby to pick up daughter for visitation. RP will be standing by in a white Jeep at the sub station. Please contact male half if unable to meet at 1830 hrs and advise him.	Redacted location, Lockwood
Sunday 01/15/2017 6:00 pm	Civil standby – child custody exchange – will meet at the LW sub at 1830	Redacted location, Lockwood
Wednesday 03/01/2017 5:10 pm	Go Fund Me page violating custody agreement information/wants to make a report	Redacted location, Mark Twain
Sunday 04/30/2017 4:26 pm	RP advised he has custody exchange at the above address at 1900 hrs/RP concerned for his child's safety/RP stated his ex has recently shown up at the exchange with her boyfriend in his 2 seat fed-ex truck and the child has been unrestrained in the vehicle/RP has reported this to child services/would like to speak to a deputy	Golden Gate Gas Station, McCarran
Sunday 04/30/2017 6:18 pm	Child exchange at 1845 hrs	Golden Gate Gas Station, McCarran

**Summary of Storey County Sheriff's Office CAD Incident Reports  
Contained in Executive Director's Exhibit #4**

<b>DATE/TIME</b>	<b>INCIDENT COMMENTS</b>	<b>LOCATION</b>
Tuesday 07/25/2017 4:12 pm	Req standby at res and evaluate the welfare of the mother picking up her children from her sisters res	Redacted location, Lockwood
Thursday 10/12/2017 2:50 pm	Ref to a custody issue with her ex husband Justin subject is not on location yet/he is due there in about 10 min/she advised it is precautionary	Redacted location, Lockwood
Friday 11/03/2017 5:17 pm	Unstable mother/caller req a deputy call her about child custody issue/caller is in California and her daughter lives at the above address	Redacted location, Mark Twain
Friday 12/01/2017 6:39 pm	Civil stand by/custody agreement	Storey County Sheriff's Admin Office, 205 S C St, Virginia City
Thursday 12/21/2017 9:49 am	Child custody issue	Redacted location, Lockwood
Saturday 12/23/2017 11:18 am	13 yom child was with his mom this week as per custody paperwork, he called his dad and his dad came and got him/mom would like a deputy to come to her res	Redacted location, Lockwood
Friday 02/09/2018 3:51 am	Pershing County called and advised that DCFS in Pershing County will be placing 2 children with their grandparents in the Highlands after a domestic that occurred in Pershing County	Redacted location, VC Highlands
Wednesday 03/14/2018 10:21 pm	The subj just walked in to the house and will/neg weapons/threatening to take the child	Redacted location, Lockwood
Friday 01/06/2017 2:42 pm	Civil stand by for child exchange @ 1830	Redacted location, Lockwood

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**Gerald Antinoro**, Sheriff, Storey County,  
State of Nevada,

Request for Opinion No. 17-21C

Subject.

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**GERALD ANTINORO'S PRE-HEARING STATEMENT**



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8 **STATE OF NEVADA**  
9 **COMMISSION ON ETHICS**

10 In the Matter of the Third-Party Request for  
11 Opinion Concerning the Conduct of **Gerald**  
12 **Antinoro**, Sheriff, Storey County, State of  
13 Nevada,

Request for Opinion No. 17-21C

14 Subject.

15 **GERALD ANTINORO'S PRE-HEARING STATEMENT**

16 COMES NOW, Subject, GERALD ANTINORO, by and through his attorneys of record,  
17 THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER, hereby submits his Pre-  
18 Hearing Statement in anticipation of the adjudicatory hearing of October 17, 2018.

19 **Statement of Relevant Facts**

20 The instant Third Party Request for Opinion, submitted to the Commission by Clarence  
21 Grepel, arises out of a child visitation held at the Storey County Sheriff's Office on May 20,  
22 2017. Clarence Grepel is the ex-husband of Laura Antinoro, the wife of Storey County Sheriff  
23 Gerald Antinoro. Mrs. Antinoro secured a decree of divorce from Grepel on November 28,  
24 2011. By virtue of the divorce decree, Mrs. Antinoro was awarded sole custody of the couple's  
25 minor child, a daughter. At the time of the child visitation at issue, Grepel had not attempted  
26 to exercise his visitation rights for six years and had not otherwise seen the minor child since she  
27 was three years of age. Due to this significant passage of time and her safety concerns, Mrs.  
28

1 Antinoro made arrangements to hold the child visitation at the Storey County Sheriff's Office  
2 building located at 205 South C Street, Virginia City, Nevada. Sheriff Antinoro and several  
3 other deputies were on duty at the time of the visitation. The short visitation took place in a  
4 squad room and on the deck of the Sheriff's Office. The communication between Sheriff  
5 Antinoro and Gempel was limited to an introduction. At no time did Sheriff Antinoro attempt  
6 to participate in the visit between Gempel and the minor child.  
7

8 The issue to be litigated at the hearing of October 17, 2018, is whether the conduct  
9 described above constitutes a violation of NRS 281A.400(2) or NRS 281A.400(7). Commission  
10 counsel has argued that such is the case based largely upon the argument that the visit at issue  
11 occurred after regular business hours on a Saturday. Based largely on a photograph of the front  
12 door of the Sheriff's Office, which describes regular office hours for that location of 8:00 a.m. to  
13 5:00 p.m., Monday through Friday (for administrative and support staff), Commission counsel  
14 suggests that Sheriff Antinoro allowed his wife to avail herself of the Sheriff's Office when it  
15 was not otherwise open to the public. Contrary to this position, Sheriff Antinoro will present  
16 evidence at the hearing that the Sheriff's Office has permitted other members of the public to use  
17 the Sheriff's Office in similar situations and that the Sheriff's Office, which has a statutory duty  
18 to keep the peace, does not simply close down after 5:00 p.m. and on the weekends. Such an  
19 argument ignores the realities of law enforcement and the fact that situations which might call  
20 for law enforcement response and/or attention do not fit neatly into regular business hours. In  
21 fact, the photograph referenced by Commission counsel during this litigation expressly notes that  
22 a person wishing to reach the Sheriff's Office "after hours" can call a non-emergency number for  
23 assistance. The Sheriff's office remains open and operational 24 hours a day, 7 days a week.  
24 This includes having, on average, two deputies on duty at the Virginia City main office during a  
25 weekend shift.  
26  
27  
28

1 Common sense dictates that child visitations will sometimes occur on the weekends,  
2 given school schedules and other such considerations. Further, and in terms of the alleged  
3 violations at issue, it is plainly irresponsible to suggest that Laura Antinoro somehow loses  
4 benefits which would otherwise be available to her as a member of the general public solely by  
5 virtue of the fact that she is married to the Sheriff of Storey County.  
6

#### 7 Claims and Defenses

8 Sheriff Antinoro disputes that the conduct in question violated either of the statutes  
9 discussed below. Mrs. Antinoro was not permitted to avail herself of a privilege or preference  
10 not extended to other members of the public and Sheriff Antinoro will present evidence of this  
11 fact at the adjudicatory hearing. The specific facts relevant to Sheriff Antinoro's defense are  
12 addressed below.  
13

#### 14 Statement of Issues of Law

15 NRS 281A.400(2) provides as follows:

16 [a] public officer or employee shall not use the public officer's or employee's  
17 position in government to secure or grant unwarranted privileges, preferences,  
18 exemptions or advantages for the public officer or employee, any business entity  
19 in which the public officer or employee has a significant pecuniary interest or any  
20 person to whom the public officer or employee has a commitment in a private  
21 capacity. As used in this subsection, "unwarranted" means without justification or  
22 adequate reason.

23 There is no evidence to support the contention that the facts described above  
24 could result in the finding of a violation of NRS 281A.400(2). Sheriff Antinoro secured  
25 no privileges, preferences, exemptions or advantages to Laura Antinoro which are not  
26 available to members of the public in need of same and this will be evident based on the  
27 testimony of witnesses who will appear before the Commission.

28 NRS 281A.400(7) states as follows:

[e]xcept for State Legislators who are subject to the restrictions set forth in  
subsection 8, a public officer or employee shall not use governmental time,

1 property, equipment or other facility to benefit a significant personal or pecuniary  
2 interest of the public officer or employee or any person to whom the public officer  
3 or employee has a commitment in a private capacity. This subsection does not  
4 prohibit:

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

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

11 (2) The use does not interfere with the performance of the public officer's  
12 or employee's public duties;

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

14 (4) The use does not create the appearance of impropriety.

15 There is no evidence to support the contention that the facts described above  
16 could result in a finding of a violation of NRS 281A.400(7). Sheriff Antinoro did not  
17 utilize government resources, including property, equipment, or facility, to secure a  
18 benefit to Laura Antinoro in his private capacity. This is true because the Sheriff's Office  
19 has been used by members of the public at large for the same or similar purposes. Such a  
20 use is in accord with the statutory duty of the Sheriff's Office to "keep and secure peace"  
21 in the County. See, NRS 248.030.

22 While the facts here support no finding whatsoever that Sheriff Antinoro utilized  
23 government resources to secure a benefit in a private capacity, even if such were the case,  
24 the circumstances at issue meet the exceptions of NRS 281A.400(7)(1)-(4). Here, the  
25 evidence will show that it is Sheriff Antinoro who responsible for, and has authority to,  
26 authorize the use of the Sheriff's Office in such a manner and that he has allowed such a  
27 use by members of the general public. The fact that the Sheriff's Office does not have an  
28 express written policy which *expressly describes* "child custody" visits (as opposed to  
general written policies which reflect upon obligations of the Sheriff's Office to the  
public) does not detract from the fact that such a use falls within the basic statutory

1 obligation of the Sheriff's Office to keep the peace in Storey County. Sheriff Antinoro  
2 will present evidence at the hearing that the child visitation in no way interfered with the  
3 performance of his job duties. Sheriff Antinoro did not participate in the child visitation  
4 and did not communicate with Grempel other than to introduce himself. Sheriff Antinoro  
5 otherwise spent the duration of the visit working in his office. As for the cost or value  
6 related to the use of the Sheriff's Office for the visit, it is non-existent. Lastly, evidence  
7 will be presented at the hearing which demonstrates that this one to two hour child  
8 visitation in no way created an appearance of impropriety. Again, the Sheriff's Office  
9 was and is open to members of the public under the same or similar circumstances.  
10 Sheriff Antinoro did not participate in the visit in any manner. While public officials  
11 must be mindful of their ethical obligations, to find an appearance of impropriety here,  
12 based upon a complaint filed by an angry ex-husband, would be outrageous.

15 While at all times denying that the conduct of Sheriff Antinoro under the circumstances  
16 violated NRS 281A.400(2) or NRS 281A.400(7), there is certainly *not* any evidence here which  
17 would support a finding of a willful violation of any Nevada Ethics law.

19 NRS 281A.475 provides that, in determining whether a violation of Chapter 281A is  
20 willful and, if so, the amount of any civil penalty which should be imposed on a public officer,  
21 the Commission *shall consider*, without limitation, all of the following factors:

- 22 (a) The seriousness of the violation, including, without limitation, the nature,  
23 circumstances, extent and gravity of the violation;  
24 (b) The number and history of previous warnings issued to or violations of the provisions  
25 of this chapter by the public officer or employee;  
26 (c) The cost to the Commission to conduct the investigation and any hearings relating to  
27 the violation;  
28 (d) Any mitigating factors, including, without limitation, any self-reporting, prompt  
correction of the violation, any attempts to rectify the violation before any complaint is filed and  
any cooperation by the public officer or employee in resolving the complaint;  
(e) Any restitution or reimbursement paid to the parties affected by the violation;  
(f) The extent of any financial gain resulting from the violation; and  
(g) Any other matter justice may require.

1 *See*, NRS 281A.475.

2 NRS 281A.475(3) also cautions that, in applying the factors discussed above, the  
3 Commission “shall treat comparable situations in a comparable manner and shall ensure that the  
4 disposition of the matter bears a reasonable relationship to the severity of the violation.”  
5

6 The Commission may find that a public officer’s conduct is a willful violation if he or she  
7 is found to have acted voluntarily and with the specific intent and purpose either to (i) disobey or  
8 disregard what Chapter 281A requires or (ii) do something which Chapter 281A forbids. *See, In*  
9 *re: McDonald*, Comm’n Op. No. 00-41 (2000). The Commission may also find that a public  
10 officer willfully violated a provision of Chapter 281A if it determines that he or she “knew or  
11 reasonably should have known” what Chapter 281A forbids or requires and he or she is found to  
12 have acted voluntarily and with “intention, knowledge, and purpose, without justifiable excuse”  
13 in violation of a provision of Chapter 281A. *Id.* A violation of Chapter 281A is not “willful” if  
14 it occurs as the result of carelessness, thoughtlessness, heedlessness, or inadvertence. *Id.*  
15  
16

17 The facts of the instant matter compel the conclusion that Sheriff Antinoro did not  
18 willfully violate NRS 281A.400(2) or NRS 281A(7) by permitting his spouse to use the Sheriff’s  
19 Office on one occasion to allow her to hold a visitation between her ex-husband and the minor  
20 child whom the Requestor had not seen in six years. Neither the language of Chapter 281A  
21 itself, nor any prior opinions of this Commission, would serve to adequately place Sheriff  
22 Antinoro on notice that the conduct at issue is prohibited. Past decisions of the Commission  
23 relied upon by Commission counsel during this matter are readily distinguishable and  
24 demonstrate how and why the conduct at issue here was not in violation of Chapter 281A (i.e. *In*  
25 *re Boldt*, Comm’n Op. No. 17-37C (2018)).  
26  
27

28 As for the first factor in the analysis, the actions of Sheriff Antinoro at issue herein  
cannot be deemed to be of the required seriousness to rise to the level of a willful violation of

1 Nevada Ethics laws under NRS 281A.475. The nature and circumstances underlying the instant  
2 Request for Opinion involve one instance in which Sheriff Antinoro's spouse was permitted to  
3 utilize the Sheriff's Office in the same manner and for the same purpose as other members of the  
4 public have been, and are, permitted to do.

5         As for the second factor, the Commission is aware that Sheriff Antinoro has been  
6 involved in several proceedings before it, one of which resulted in a stipulated settlement  
7 agreement and one which resulted in a finding of a willful violation by the Commission in 2017,  
8 the latter of which is currently on appeal to the Nevada Supreme Court. The circumstances at  
9 issue in these prior proceedings are wholly dissimilar from the circumstances presented in the  
10 matter at bar and this factor does not compel the finding of a willful violation here.

11         The cost to the Commission of conducting the investigation into this matter should be  
12 minimal.

13         As to mitigating factors, most notably, the subject matter of this Request for Opinion, and  
14 the very reason Sheriff Antinoro finds himself before the Commission, arises out of the concern  
15 of Laura Antinoro for the safety and well being of the then nine year old child she shares with  
16 the Requestor. The Requestor had not seen the minor child since she was three years of age as of  
17 May 20, 2017.

18         The Requestor was not affected financially by the conduct at issue nor was there any  
19 financial gain whatsoever to Sheriff Antinoro or to his spouse under these circumstances.

20         Counsel for Sheriff Antinoro have found no precedent in terms of Commission opinions  
21 which would suggest that the actions of Sheriff Antinoro constituted a violation of NRS  
22 281A.400(2) or NRS 281A.400(7) or which would support any finding of a willful violation of  
23 any Nevada Ethics laws.

1 There is no evidence here that Sheriff Antinoro acted voluntarily with the specific intent  
2 and purpose either to disobey or disregard what Chapter 281A requires or to do something which  
3 Chapter 281A forbids. Nor is there any evidence to support the conclusion that Sheriff Antinoro  
4 knew or should have known that his actions in permitting his spouse the same courtesy as would  
5 be available to a member of the general public was somehow in violation of Chapter 281A. The  
6 conduct complained of here arose solely out of a mother's concern that she have a safe place to  
7 conduct a visit between her ex-spouse and the nine year old child whom the child's father had  
8 not seen since she was three. These circumstances do not give rise to a violation of Chapter  
9 281A at all and they certainly do not rise to the level of a willful violation of Nevada Ethics law.

10  
11 **Witnesses**

12  
13 1. Gerald Antinoro will testify regarding those issues identified in the above-referenced  
14 Statement of Relevant Facts, including, but not limited to, the use of the Sheriff's Office, both in  
15 Virginia City and in Lockwood, by members of the public, regarding the hours of operation of  
16 the Sheriff's Office, regarding the circumstances of the child custody visit of May 20, 2017, and  
17 regarding any and all facts relevant to NRS 481A.475. Counsel expects Sheriff Antinoro's  
18 testimony to take no longer than 30 minutes.

19  
20 2. Laura Antinoro will testify regarding the circumstances of the child custody visit of  
21 May 20, 2017, including, but not limited to, facts relevant to whether or not the child visitation in  
22 question created an appearance of impropriety and facts relevant to NRS 481A.475. Counsel  
23 expects Laura Antinoro's testimony will take no longer than 30 minutes.

24  
25 3. Dan Gaunt will testify regarding those issues identified in the above-referenced  
26 Statement of Relevant Facts, including, but not limited to, the use of the Sheriff's Office by  
27 members of the public and the hours of operation of the Sheriff's Office. Counsel expects Mr.  
28 Gaunt's testimony to take no longer than 15 minutes.



1           4. Brooke Jewkes will testify regarding those issues identified in the above-referenced  
2 Statement of Relevant Facts, including, but not limited to, the use of the Sheriff's Office by  
3 members of the public and the hours of operation of the Sheriff's Office. Counsel expects Ms.  
4 Jewkes' testimony to take no longer than 15 minutes.

5           5. Eric Kern will testify regarding those issues identified in the above-referenced  
6 Statement of Relevant Facts, including, but not limited to, the use of the Sheriff's Office by  
7 members of the public and the hours of operation of the Sheriff's Office. Counsel expects Mr.  
8 Kern's testimony to take no longer than 15 minutes.

9           6. Tony Dosen will testify regarding those issues identified in the above-referenced  
10 Statement of Relevant Facts, including, but not limited to, the use of the Sheriff's Office by  
11 members of the public and the hours of operation of the Sheriff's Office. Counsel expects Mr.  
12 Dosen's testimony to take no longer than 15 minutes.

13           7. Brandy Gavenda will testify regarding those issues identified in the above-referenced  
14 Statement of Relevant Facts, including, but not limited to, the use of the Sheriff's Office by  
15 members of the public and the hours of operation of the Sheriff's Office. Counsel expects Ms.  
16 Gavenda's testimony to take no longer than 15 minutes.

17           8. Chris Parker will testify regarding those issues identified in the above-referenced  
18 Statement of Relevant Facts, including, but not limited to, the use of the Sheriff's Office by  
19 members of the public and the hours of operation of the Sheriff's Office. Counsel expects Mr.  
20 Parker's testimony to take no longer than 15 minutes.

21           9. Myles Foutz will testify regarding those issues identified in the above-referenced  
22 Statement of Relevant Facts, including, but not limited to, the use of the Sheriff's Office by  
23 members of the public and the hours of operation of the Sheriff's Office. Counsel expects Mr.  
24 Foutz's testimony to take no longer than 15 minutes.

1 10. Dave Ballard will testify regarding those issues identified in the above-referenced  
2 Statement of Relevant Facts, including, but not limited to, the use of the Sheriff's Office by  
3 members of the public and the hours of operation of the Sheriff's Office. Counsel expects Mr.  
4 Ballard's testimony to take no longer than 15 minutes.

5 11. Pat Whitten will testify regarding those issues identified in the above-referenced  
6 Statement of Relevant Facts, including, but not limited to, the use of the Sheriff's Office by  
7 members of the public and the hours of operation of the Sheriff's Office. Counsel expects Mr.  
8 Whitten's testimony to take no longer than 15 minutes.

9 Sheriff Antinoro reserves the right to cross-examine witnesses identified by Commission  
10 counsel, including, but not limited to, Clarence Gempel, Susan Gempel, Rachel Ferris, and  
11 Rebecca Parsons. Counsel would estimate that the cross-examination of Mr. and Mrs. Gempel  
12 would take no longer than 30 minutes. Additional time will be needed depending upon the  
13 number of witnesses called by Commission counsel.  
14

15  
16 **Exhibits**

17 1. Decree of Divorce  
18

19 [REDACTED]  
20 [REDACTED]

21 6. CAD Incident Report No. 171010040

22 7. Storey County Sheriff's Office Policy Manual

23 8. Photograph of door to Sheriff's Office facility in Virginia City produced by  
Commission counsel in opposition to Subject's motion for summary judgment

24 **Stipulations**

25 None at this time.  
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Motions

The Executive Director filed a motion in limine which has been opposed by Sheriff Antinoro and is pending a decision.

DATED this 2nd day of October, 2018.

THORNDAL ARMSTRONG  
DELK BALKENBUSH & EISINGER

By: Katherine F. Parks

Katherine F. Parks, Esq.  
State Bar No. 6227  
6590 S. McCarran Blvd., Suite B  
Reno, Nevada 89509  
(775) 786-2882  
kfp@thorndal.com  
ATTORNEYS FOR GERALD ANTINORO

**CERTIFICATE OF SERVICE**

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I certify that I am an employee of THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER, and that on this date I caused the foregoing **GERALD ANTINORO'S PRE-HEARING STATEMENT** to be served on all parties to this action by:

\_\_\_\_\_ placing an original or true copy thereof in a sealed, postage prepaid, envelope in the United States mail at Reno, Nevada.

electronic mail

\_\_\_\_\_ personal delivery

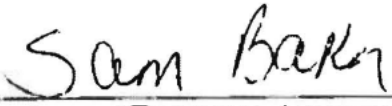
\_\_\_\_\_ facsimile (fax)

\_\_\_\_\_ Federal Express/UPS or other overnight delivery

fully addressed as follows:

**Executive Director:**  
  
**Judy A. Prutzman, Esq.**  
**Associate Counsel**  
**Nevada Commission on Ethics**  
**704 W. Nye Lane, Suite 204**  
**Carson City, Nevada 89703**  
**ynevarez@ethics.nv.gov**  
**jprutzman@ethics.nv.gov**  
**tchase@ethics.nv.gov**  
**dhayden@ethics.nv.gov**

DATED this 2 day of October, 2018.

  
\_\_\_\_\_  
An employee of THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER

17-21C (Antinoro)  
RFO

**NEVADA ETHICS  
OPINION REQUEST**

**NEVADA COMMISSION ON ETHICS  
THIRD-PARTY REQUEST FOR OPINION**

RECEIVED

JUN 26 2017

COMMISSION ON ETHICS  
NEVADA

17-21

NRS 281A.440(2)

1. Provide the following information for the public officer or employee you allege violated the Government Law, NRS Chapter 281A: (If you allege that more than one public officer or employee has violated the law, use a separate form for each individual.)

<b>NAME:</b> (Last, First)	Gerald Cook - Antinoro <del>Clarence Campbell III</del>	<b>TITLE OF PUBLIC OFFICE:</b> (Position: e.g. city manager)	Sheriff
<b>PUBLIC ENTITY:</b> (Name of the entity employing this position: e.g. the City of XYZ)	Virginia City, Storey County		
<b>ADDRESS:</b> (Street number and name)	205 S.C. St.	<b>CITY, STATE, ZIP CODE</b>	Virginia City, NV 89440
<b>TELEPHONE:</b>	Work: 775-847-0889 Other: (Home, cell) 775-847-7393	<b>E-MAIL:</b>	

2. Describe in specific detail the public officer's or employee's conduct that you allege violated NRS Chapter 281A. (You must include specific facts and circumstances to support your allegation: times, places, and the name and position of each person involved.)

Check here  if additional pages are attached.

Antinoro used one of his deputies Frank Valdez to find out what personal information I know about Antinoro. This is in light of a custody issue with my daughter, who is now Antinoro's step-daughter. Antinoro is abusing his office by protecting his wife, Laura Antinoro my ex-wife, and not charging her with concealment of a child, which is against a court order. Antinoro also attempted to use his office in order to intimidate me when setting

3. Is the alleged conduct the subject of any action currently pending before another administrative or judicial body? If yes, describe:


4. What provisions of NRS Chapter 281A are relevant to the conduct alleged? Please check all that apply.

Statute	Essence of Statute:
<input checked="" type="checkbox"/> NRS 281A.020(1)	Failing to hold public office as a public trust; failing to avoid conflicts between public and private interests.
<input type="checkbox"/> NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.
<input type="checkbox"/> NRS 281A.400(2)	Using his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person.
<input type="checkbox"/> NRS 281A.400(3)	Participating as an agent of government in the negotiation or execution of a contract between the government and any business entity in which he has a significant pecuniary interest.

up visitation with my daughter. We were originally going to meet at a park in Virginia City however this was changed last minute and I was asked to meet Laura and [REDACTED] my daughter at the Sheriff's office in Virginia City. Antinoro referred to the office as "his home".

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input checked="" type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input checked="" type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here  if additional pages are attached.

<b>NAME and TITLE:</b> (Person #1)		Frank Valdez	
<b>ADDRESS:</b>		205 S.C. St.	
<b>TELEPHONE:</b>		CITY, STATE, ZIP	
Work: 775-847-0159		Virginia City, NV 89440	
Other: (Home, cell)		<b>E-MAIL:</b>	
<b>NATURE OF TESTIMONY:</b>		Frank Valdez called me to question me about personal information I know about Antinoro.	
<b>NAME and TITLE:</b> (Person #2)			
<b>ADDRESS:</b>		CITY, STATE, ZIP	
<b>TELEPHONE:</b>		<b>E-MAIL:</b>	
Work:		Other: (Home, cell)	
<b>NATURE OF TESTIMONY:</b>			



**6. YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS PURSUANT TO NRS 281A.440(2)(b)(2).**

Attach all documents or items you believe provide credible evidence to support your allegations. NAC 281A.435(3) defines credible evidence as any reliable and competent form of proof provided by witnesses, records, documents, exhibits, minutes, agendas, videotapes, photographs, concrete objects, or other similar items that would reasonably support the allegations made. A newspaper article or other media report will not support your allegations if it is offered by itself.

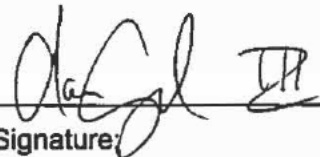
State the total number of additional pages attached (including evidence) \_\_\_\_\_.

**7. REQUESTER'S INFORMATION:**

YOUR NAME:	Clarence Grempe III		
YOUR ADDRESS:	1305 N. Cliff Rose Rd	CITY, STATE, ZIP:	Prescott, AZ 86305
YOUR TELEPHONE:	Day: 928-583-4414	Evening: Same	E-MAIL: raine0520@gmail.com

By my signature below, I affirm that the facts set forth in this document and all of its attachments are true and correct to the best of my knowledge and belief. I am willing to provide sworn testimony if necessary regarding these allegations.

I acknowledge that, pursuant to NRS 281A.440(8) and NAC 281A.255(3), this Request for Opinion, the materials submitted in support of the allegations, and the Commission's investigation are confidential until the Commission's Investigatory Panel renders its determination, unless the Subject of the allegations authorizes their release.

  
Signature:

6-21-17  
Date:

CLARENCE GREMPEL III  
Print Name:

**You must submit an original and two copies of this form bearing your signature, and three copies of the attachments to:**

Executive Director  
Nevada Commission on Ethics  
704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703



Forms submitted by facsimile will not be considered as properly filed with the Commission.  
NAC 281A.255(3)

TELEPHONE REQUESTS FOR OPINION ARE NOT ACCEPTED.



**STATE OF NEVADA  
COMMISSION ON ETHICS**  
704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703  
(775) 687-5469 • Fax (775) 687-1279  
[ethics.nv.gov](http://ethics.nv.gov)

In the Matter of the Third-Party Request for  
Opinion Concerning the Conduct of **Gerald  
Antinoro**, Sheriff, Storey County, State of  
Nevada,

Request for Opinion No. **17-21C**  
**Confidential**

Subject. /

**NOTICE TO SUBJECT OF REQUEST FOR OPINION**  
Pursuant to NRS 281A.440(2) and NAC 281A.410<sup>1</sup>

NOTICE IS HEREBY GIVEN that the Nevada Commission on Ethics ("Commission") received a Third-Party Request for Opinion ("RFO") on June 26, 2017, alleging that you may have engaged in conduct contrary to certain provisions of Nevada Revised Statutes ("NRS") Chapter 281A, the Nevada Ethics in Government Law. Pursuant to NAC 281A.405, as amended by Temporary Regulation T003-16, the Commission's Executive Director and Commission Counsel have determined that the RFO was properly filed<sup>2</sup> and that the Commission has jurisdiction to investigate the allegations related to your conduct as the Sheriff of Storey County when you allegedly used your office and/or personnel to contact the Requester of the RFO concerning a private matter.<sup>3</sup> These allegations implicate the following statutes:

- NRS 281A.400(2)** Using public position to secure or grant unwarranted privileges, preferences, exemptions or advantages for the public officer or any person to whom the public officer has a commitment in a private capacity to the interest of that person.
- NRS 281A.400(7)** Using governmental time, property, equipment or other facility to benefit a significant personal or pecuniary interest.
- NRS 281A.400(9)** Attempting to benefit a personal or financial interest through the influence of a subordinate.

<sup>1</sup> For all references to NRS Chapter 281A, please see S.B. 84 of the 79<sup>th</sup> Session of the Nevada Legislature (2017). For all references to NAC Chapter 281A, please see the Commission's Temporary Regulation T003-16.

<sup>2</sup> Under NRS 281A.280 and 281A.440 and NAC 281A.400, the Commission has jurisdiction to investigate and take appropriate action regarding an alleged violation of NRS Chapter 281A by a public officer or employee if the allegations are filed on the appropriate form with sufficient evidence to support the allegations, which includes "any reliable and competent form of proof provided by witnesses, public and private records, audio or visual recordings, documents, exhibits, concrete objects and other such forms of proof."

<sup>3</sup> Jurisdiction was not accepted for the allegations implicating NRS 281A.400(5) because the evidence submitted does not support that you used non-public information obtained through your public office to further your pecuniary interests or those of another person.

Pursuant to NRS 281A.440, you may respond<sup>4</sup> to this RFO in writing to the Executive Director, Yvonne M. Nevarez-Goodson, Esq., at the Nevada Commission on Ethics at 704 W. Nye Lane, Suite 204, Carson City, NV 89704. The Executive Director will present your response as well as a recommendation to a review panel regarding whether the investigation yields just and sufficient cause for the Commission to hold a hearing and render an opinion in the matter. Any response to the RFO must be submitted on or before:

**Thursday, August 17, 2017.**

Pursuant to NAC 281A.410, attached is a copy of the RFO and a form for waiving the time limits set forth in subsection 4, 5 and 6 of NRS 281A.440. Please see NRS Chapter 281A, S.B. 84 of the 79<sup>th</sup> Session of the Nevada Legislature (2017) and NAC Chapter 281A (as amended by the Nevada Legislature's Temporary Regulation No. T003-16) for State law and regulatory provisions applicable to administrative matters before the Commission available on the Commission's website at [ethics.nv.gov](http://ethics.nv.gov) or the Nevada Legislature's Law Library.

You are entitled to be represented by an attorney of your selection and you may be entitled to representation by the attorney advising the public department or body you serve. Please notify the Commission if you will be represented by counsel.

Except as otherwise provided in NRS 281A.440, the Commission and its staff will hold its activities in response to this RFO (including the fact that it received the RFO) confidential until a review panel determines whether just and sufficient cause exists for the Commission to hold a hearing and render an opinion. However, the Commission has no authority to require the Requester to maintain the confidentiality of this matter. As a result, information may appear in the public or the media. The Commission will not be the source of any public information and will neither confirm nor deny the existence of this RFO until a review panel has completed its review and rendered its determination. You will be provided notice of the Panel's determination.

If you have any questions regarding this notice, please contact me at (775) 687-5469 or [ynevarez@ethics.nv.gov](mailto:ynevarez@ethics.nv.gov).

Dated this 12<sup>th</sup> day of July, 2017.

/s/ Yvonne M. Nevarez-Goodson  
Yvonne M. Nevarez-Goodson, Esq.  
Executive Director

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<sup>4</sup> The purpose of the response is to provide the Executive Director with any information relevant to the matter that the public officer or employee believes may assist the Executive Director in conducting the investigation and the review panel in its determination of just and sufficient cause for the Commission to hold a hearing and render an opinion. The public officer or employee is not required in the response or in any proceeding before the review panel to assert, claim or raise any objection or defense, in law or fact, to the allegations against the public officer or employee and no objection or defense, in law or fact, is waived, abandoned or barred by the failure to assert, claim or raise it in the response or in any proceeding before the review panel. NRS 281A.440(3)

**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 deposited for mailing, via U.S. Postal Service, certified mail, return receipt requested, through the State of Nevada mailroom, a true and correct copy of the **Notice to Subject of RFO No. 17-21C** addressed as follows:

Gerald Antinoro  
Storey County Sheriff's Office  
205 S. C Street  
P.O. Box 205  
Virginia City, NV 89440

Cert. Mail No.: 9171 9690 0935 0037 6424 47

Dated: 7/12/17



\_\_\_\_\_  
Employee, Nevada Commission on Ethics



**STATE OF NEVADA  
COMMISSION ON ETHICS**

704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703  
(775) 687-5469 • Fax (775) 687-1279  
<http://ethics.nv.gov>

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**Gerald Antinoro**, Sheriff, Storey County,  
State of Nevada,

Request for Opinion No. **17-21C**

\_\_\_\_\_  
Subject. /

**WAIVER OF STATUTORY TIME REQUIREMENTS**

Please initial all that apply:

INITIAL  
HERE

I, Gerald Antinoro, the above Subject, affirm that I have read the provisions of NRS 281A.440(4) and (5), and hereby freely and voluntarily waive the statutory time limit therein, which requires that the investigation and determination of the investigatory panel of this request for opinion be completed within 85 days after the Nevada Commission on Ethics determined it has jurisdiction over this matter.

INITIAL  
HERE

I, Gerald Antinoro, the above Subject, affirm that I have read the provisions of NRS 281A.440(6) and hereby freely and voluntarily waive the statutory time limit therein, which requires that the Commission hold a hearing and render an opinion in this matter within 60 days after the determination of just and sufficient cause by an investigatory panel.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Gerald Antinoro

Date received: \_\_\_\_\_

\_\_\_\_\_  
Employee of the Commission

RECEIVED

JUN 26 2017

COMMISSION ON ETHICS in NEVADA

NEVADA ETHICS OPINION REQUEST

NEVADA COMMISSION ON ETHICS THIRD-PARTY REQUEST FOR OPINION

NRS 281A.440(2)

17-21

1. Provide the following information for the public officer or employee you allege violated the Government Law, NRS Chapter 281A: (If you allege that more than one public officer or employee has violated the law, use a separate form for each individual.)

<b>NAME:</b> (Last, First)	Gerald Cook - Antinoro <del>Clarence Campbell III</del>	<b>TITLE OF PUBLIC OFFICE:</b> (Position: e.g. city manager)	Sheriff
<b>PUBLIC ENTITY:</b> (Name of the entity employing this position: e.g. the City of XYZ)	Virginia City, Storey County		
<b>ADDRESS:</b> (Street number and name)	205 SC St.	<b>CITY, STATE, ZIP CODE</b>	Virginia City, NV 89440
<b>TELEPHONE:</b>	<b>Work:</b> 775-847-0889	<b>Other: (Home, cell)</b> 775-847-7393	<b>E-MAIL:</b>

2. Describe in specific detail the public officer's or employee's conduct that you allege violated NRS Chapter 281A. (You must include specific facts and circumstances to support your allegation: times, places, and the name and position of each person involved.)

Check here  if additional pages are attached.

Antinoro used one of his deputies Frank Valdez to call me in order to find out what personal information I know about Antinoro. This is in light of a custody issue with my daughter, who is now Antinoro's step-daughter. Antinoro is abusing his office by protecting his wife Laura Antinoro my ex-wife, and not charging her with concealment of a child, which is against a court order. Antinoro also attempted to use his office in order to intimidate me when setting

3. Is the alleged conduct the subject of any action currently pending before another administrative or judicial body? If yes, describe:


4. What provisions of NRS Chapter 281A are relevant to the conduct alleged? Please check all that apply.

Statute	Essence of Statute:
<input checked="" type="checkbox"/> NRS 281A.020(1)	Failing to hold public office as a public trust; failing to avoid conflicts between public and private interests.
<input type="checkbox"/> NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.
<input type="checkbox"/> NRS 281A.400(2)	Using his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person.
<input type="checkbox"/> NRS 281A.400(3)	Participating as an agent of government in the negotiation or execution of a contract between the government and any business entity in which he has a significant pecuniary interest.

up visitation with my daughter. We were originally going to meet at a park in Virginia City however this was changed last minute and I was asked to meet Laura and Madison, my daughter, at the Sheriff's office in Virginia City. Antinoro referred to the office as "his home".

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input checked="" type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input checked="" type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here  if additional pages are attached.

<b>NAME and TITLE:</b> (Person #1)	Frank Valdez		
<b>ADDRESS:</b>	205 S.C. St.	<b>CITY, STATE, ZIP</b>	Virginia City, N.M.
<b>TELEPHONE:</b>	Work: 775-847-0159	Other: (Home, cell)	<b>E-MAIL:</b> 89446
<b>NATURE OF TESTIMONY:</b>	Frank Valdez called me to question me about personal information I know about Antinoro.		
<b>NAME and TITLE:</b> (Person #2)			
<b>ADDRESS:</b>		<b>CITY, STATE, ZIP</b>	
<b>TELEPHONE:</b>	Work:	Other: (Home, cell)	<b>E-MAIL:</b>
<b>NATURE OF TESTIMONY:</b>			



**6. YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS PURSUANT TO NRS 281A.440(2)(b)(2).**

Attach all documents or items you believe provide credible evidence to support your allegations. NAC 281A.435(3) defines credible evidence as any reliable and competent form of proof provided by witnesses, records, documents, exhibits, minutes, agendas, videotapes, photographs, concrete objects, or other similar items that would reasonably support the allegations made. A newspaper article or other media report will not support your allegations if it is offered by itself.

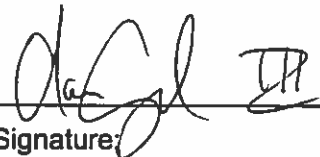
State the total number of additional pages attached (including evidence) \_\_\_\_\_.

**7. REQUESTER'S INFORMATION:**

YOUR NAME:	Clarence Grempel III		
YOUR ADDRESS:	1305 W. Cliff Rose Rd	CITY, STATE, ZIP:	Prescott, AZ 86305
YOUR TELEPHONE:	Day: 928-583-4414	Evening: Same	E-MAIL: raine0520@gmail.com

By my signature below, I affirm that the facts set forth in this document and all of its attachments are true and correct to the best of my knowledge and belief. I am willing to provide sworn testimony if necessary regarding these allegations.

I acknowledge that, pursuant to NRS 281A.440(8) and NAC 281A.255(3), this Request for Opinion, the materials submitted in support of the allegations, and the Commission's investigation are confidential until the Commission's Investigatory Panel renders its determination, unless the Subject of the allegations authorizes their release.

  
Signature:

6-21-17  
Date:

CLARENCE GREMPER III  
Print Name:

**You must submit an original and two copies of this form bearing your signature, and three copies of the attachments to:**

Executive Director  
Nevada Commission on Ethics  
704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703



Forms submitted by facsimile will not be considered as properly filed with the Commission.  
NAC 281A.255(3)

TELEPHONE REQUESTS FOR OPINION ARE NOT ACCEPTED.



RECEIVED

JUL 19 2017

COMMISSION ON ETHICS

STATE OF NEVADA  
COMMISSION ON ETHICS

704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703  
(775) 687-5469 • Fax (775) 687-1279  
<http://ethics.nv.gov>

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**Gerald Antinoro**, Sheriff, Storey County,  
State of Nevada,

Request for Opinion No. 17-21C

Subject: /

WAIVER OF STATUTORY TIME REQUIREMENTS

Please initial all that apply:

I, Gerald Antinoro, the above Subject, affirm that I have read the provisions of NRS 281A.440(4) and (5), and hereby freely and voluntarily waive the statutory time limit therein, which requires that the investigation and determination of the investigatory panel of this request for opinion be completed within 85 days after the Nevada Commission on Ethics determined it has jurisdiction over this matter.

I, Gerald Antinoro, the above Subject, affirm that I have read the provisions of NRS 281A.440(6) and hereby freely and voluntarily waive the statutory time limit therein, which requires that the Commission hold a hearing and render an opinion in this matter within 60 days after the determination of just and sufficient cause by an investigatory panel.

Dated: 7/17/17

Gerald Antinoro

Date received: 7/19/17  
~~7/14/17~~

Employee of the Commission



**STATE OF NEVADA**

**BEFORE THE NEVADA COMMISSION ON ETHICS**

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**Gerald Antinoro**, Sheriff, Storey County,  
State of Nevada,

Request for Opinion No. **17-21C**

Subject. /

**PANEL DETERMINATION<sup>1</sup>**

NRS 281A.440(5); NAC 281A.440; S.B. 84<sup>2</sup>

The Nevada Commission on Ethics ("Commission") received Third-Party Request for Opinion No. 17-21C ("RFO") regarding the alleged conduct of Storey County Sheriff Gerald Antinoro ("Antinoro" or "Subject"). Specifically, the RFO alleges that the Subject violated the following provisions of the Ethics in Government Law ("Ethics Law") set forth in NRS Chapter 281A:

NRS 281A.400(2) – using his public position to secure or grant unwarranted privileges, preferences or advantages to benefit himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity;

NRS 281A.400(7) - using governmental time, property, equipment or other facility to benefit a significant personal or pecuniary interest; and

NRS 281A.400(9) - attempting to benefit a personal or financial interest through the influence of a subordinate.

As the Storey County Sheriff, Antinoro is a public officer as defined in NRS 281A.160. The Commission has jurisdiction over this matter pursuant to NRS 281A.280 because the allegations contained in the RFO relate to the Subject's conduct as a public officer and have associated implications under the Ethics Law.

On February 22, 2018, a Review Panel ("Panel") consisting of Commissioners Barbara Gruenewald, Esq., Lynn Stewart and Amanda Yen, Esq. reviewed the following: 1) RFO No. 17-21C; 2) Subject's Response to the RFO; 3) Investigator's Report; and 4) the Executive Director's Recommendation to the Review Panel.<sup>3</sup>

<sup>1</sup> Except as provided otherwise by law, a Panel Determination shall not be cited as legal precedent.

<sup>2</sup> S.B. 84 of the 79th Session of the Nevada Legislature (2017) amends and enacts various provisions of NRS Chapter 281A, which statutes have yet to be formally codified. The amendatory provisions of S.B. 84 control over any contrary provisions of NAC Chapter 281A. This RFO was submitted before the effective date of S.B. 84. However, the terms of S.B. 84 permit the Commission to implement any procedural changes set forth in S.B. 84. Accordingly, the panel process will be resolved under the new provisions of law.

<sup>3</sup> All materials provided to the Panel, except the RFO, represent portions of the investigator file and remain confidential pursuant to Section 9 of S.B. 84.

Under NAC 281A.435, the Panel unanimously finds and concludes that the facts do not establish credible evidence to substantiate just and sufficient cause for the Commission to consider the alleged violations of NRS 281A.400(2) and (9) related to the investigation conducted by Antinoro's subordinate of a child welfare matter involving his spouse's child. Therefore, these allegations are dismissed.

Under NAC 281A.435, the Panel unanimously finds and concludes that the facts establish credible evidence to substantiate just and sufficient cause for the Commission to render an opinion in the matter regarding the allegations pertaining to NRS 281A.400(2) and (7) related to Antinoro's use of the Sheriff's Office for his spouse's child visitation appointment.

However, pursuant to Section 5 of S.B. 84, the Panel reasonably believes that Antinoro's conduct may be appropriately addressed through corrective action under the terms and conditions of a deferral agreement instead of referring this RFO to the Commission for further proceedings. Accordingly, the Executive Director is authorized to develop a deferral agreement with Antinoro. The deferral agreement must confirm subject's acknowledgement of the requirements pertaining to a deferral agreement established in S.B. 84, including:

- Executive Director's authority to monitor compliance with the deferral agreement.
- Subject's obligation to comply with the terms of the deferral agreement and consequences associated with noncompliance, including the authority of the Review Panel to refer the RFO to the Commission for further proceedings, which could include an adjudicatory hearing on the merits.
- The RFO will be dismissed after the compliance period provided that there is satisfactorily compliance with the Deferral Agreement.

In addition, the deferral agreement must, without limitation, require Antinoro to:

1. Comply with the Ethics Law for a period of one year without being the subject of another complaint arising from an alleged violation of the Ethics Law and for which a review panel determines there is just and sufficient cause for the Commission to render an opinion in the matter.
2. Attend and complete ethics training provided by Commission Staff no later than September 30, 2018.
3. File with the Commission on or before May 15, 2018, an Acknowledgment of Statutory Ethical Standards form to acknowledge that he received, read and understands the statutory ethical standards for public officers and public employees provided in NRS Chapter 281A, as amended by S.B. 84.
4. Agree to establish or clarify, in consultation with official legal counsel, the Storey County Sheriff's Office policies or protocols pertaining to maintaining proper separation of private interests from public duties (whether such duties be direct or supervisory), as required by the Ethics Law. The policy must provide recognition of conflicts associated with use of government property, law enforcement activities and investigations of the personnel of the Sheriff's Office including its Sheriff, and their relatives and other persons to whom there is a private commitment under NRS 281A.065. Copies of such policies must be provided to the Commission on or before September 30, 2018.

In addition, the Deferral Agreement may include other corrective or remedial action deemed appropriate by the Executive Director for the Panel's review and approval.

Unless an extension is authorized or directed by the Commission Counsel on behalf of the Review Panel, the Executive Director and Subject shall provide a proposed deferral agreement to the Review Panel by March 14, 2018, for consideration of final approval by the Panel. If the Review Panel does not approve the deferral agreement or if the Subject declines to enter into a deferral agreement, the Review Panel will issue an Order referring this matter to the Commission for further proceedings.

Dated this 26<sup>th</sup> day of February, 2018.

NEVADA COMMISSION ON ETHICS

By: /s/ Barbara Gruenewald  
Barbara Gruenewald, Esq.  
Commissioner

By: /s/ Amanda Yen  
Amanda Yen, Esq.  
Commissioner

By: /s/ Lynn Stewart  
Lynn Stewart  
Commissioner

## 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 transmitted a true and correct copy of the **PANEL DETERMINATION** regarding **Third-Party Request for Opinion No. 17-21C** via U.S. Certified Mail and electronic mail addressed as follows:

Yvonne M. Nevarez-Goodson, Esq.

Email: [ynevarez@ethics.nv.gov](mailto:ynevarez@ethics.nv.gov)

Executive Director

Judy A. Prutzman, Esq.

Email: [jprutzman@ethics.nv.gov](mailto:jprutzman@ethics.nv.gov)

Associate Counsel

Nevada Commission on Ethics

704 W. Nye Lane, Suite 204

Carson City, NV 89703

Katherine F. Parks, Esq.

Email: [kfp@thorndal.com](mailto:kfp@thorndal.com)

Thorndal Armstrong et al

Email: [psb@thorndal.com](mailto:psb@thorndal.com)

6590 S. McCarran Blvd., #B

Reno, NV 89509

*Attorney for Subject*

Gerald Antinoro

Sheriff

Certified Mail No.: 9171 9690 0935 0037 6375 35

Storey County

P.O. Box 498

Virginia City, NV 89440

*Subject*

Dated: 2/26/18



\_\_\_\_\_  
Employee, Nevada Commission on Ethics



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**Gerald Antinoro**, Sheriff, Storey County,  
State of Nevada,

Request for Opinion No. 17-21C

Subject. /

REVIEW PANEL  
REFERRAL ORDER

(Section 5(6) of Senate Bill 84 (2017) ("S.B. 84"))<sup>1</sup>

A Review Panel comprised of three members of the Nevada Commission on Ethics ("Commission") issued a Panel Determination in Request for Opinion No. 17-21C regarding Subject Gerald Antinoro, Sheriff of Storey County, on February 26, 2018.<sup>2</sup> The Panel Determination enumerates certain allegations that are established by credible evidence and substantiates the Review Panel's just and sufficient cause determination for the Commission to render an opinion thereon. In lieu of referring the allegations to the Commission for further proceedings, the Panel Determination directed the Executive Director and the Subject ("Parties") to develop a deferral agreement. The Parties were unable to develop a deferral agreement. Therefore, the Review Panel now refers this matter to the Commission for further proceedings.

IT IS HEREBY ORDERED:

The Review Panel refers Request for Opinion No. 17-21C to the Commission to render an opinion in the matter in furtherance of the just and sufficient cause determination issued in the Panel Determination.

Dated this 22<sup>nd</sup> day of March, 2018.

NEVADA COMMISSION ON ETHICS

By: /s/ Barbara Gruenewald  
Barbara Gruenewald, Esq.  
Commissioner

By: /s/ Amanda Yen  
Amanda Yen, Esq.  
Commissioner

<sup>1</sup> S.B. 84 of the 79th Session of the Nevada Legislature (2017) amends and enacts various provisions of NRS Chapter 281A, which statutes have yet to be formally codified. The amendatory provisions of S.B. 84 control over any contrary provisions of NAC Chapter 281A. This RFO was submitted before the effective date of S.B. 84. However, the terms of S.B. 84 permit the Commission to implement any procedural changes set forth in S.B. 84. Accordingly, the panel process will be resolved under the new provisions of law.

<sup>2</sup> A quorum of the three-member Review Panel approved issuance of this order.

## CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted a true and correct copy of the **REFFERAL ORDER** regarding Third-Party Request for Opinion **No. 17-21C** via electronic mail addressed as follows:

Yvonne M. Nevarez-Goodson, Esq.      Email: [ynevarez@ethics.nv.gov](mailto:ynevarez@ethics.nv.gov)  
Executive Director

Judy A. Prutzman, Esq.                      Email: [jprutzman@ethics.nv.gov](mailto:jprutzman@ethics.nv.gov)  
Associate Counsel

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

Katherine F. Parks, Esq.                      Email: [kfp@thorndal.com](mailto:kfp@thorndal.com)

Thorndal Armstrong et al                      Email: [psb@thorndal.com](mailto:psb@thorndal.com)  
6590 S. McCarran Blvd., #B

Reno, NV 89509

*Attorney for Subject*

Dated:           3/22/18          

  
\_\_\_\_\_  
Employee, Nevada Commission on Ethics





**STATE OF NEVADA**

**BEFORE THE NEVADA COMMISSION ON ETHICS**

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**Gerald Antinoro**, Sheriff, County of  
Storey, State of Nevada,

Request for Opinion No. **17-021C**

Subject. /

**ORDER REGARDING REQUEST TO FILE LIMITED REPLY  
AND ORAL ARGUMENT**

The State of Nevada Commission on Ethics ("Commission") has duly scheduled a hearing for oral argument on **June 20, 2018**, on two pending cross-motions for summary judgment ("Pending Motions") filed with the Commission as follows:

1. Executive Director's Motion for Summary Judgment dated May 16, 2018 and Subject's Opposition thereto dated May 23, 2018.
2. Subject's Motion for Summary Judgment dated May 16, 2018 and Executive Director's Opposition thereto dated May 24, 2018.

On May 29, 2018, Subject requested permission from the Chair or presiding officer to provide a limited reply in support of his Motion for Summary Judgment and Executive Director filed a response thereto on May 31, 2018.

Based upon the record of proceedings and NAC 281A.265, the Commission finds good cause to issue the following order:

1. Subject Antinoro's request to file a limited reply is granted and both the limited reply and the Executive Director's response thereto are accepted and will be considered by the Commission. No other papers shall be filed with respect to the Pending Motions unless leave of the Commission is provided for good cause shown.
2. The Commission confirms that oral argument is scheduled on the Pending Motions to be presented by the parties, through their representative counsel, at the scheduled hearing. The hearing scheduled for the Commission to hear oral arguments on the Pending Motions shall remain as scheduled in the Notice of Hearing and Scheduling Order, which hearing shall commence on June 20, 2018, at 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter at the following location:

**Grant Sawyer State Building  
Room 4412  
555 E. Washington Avenue  
Las Vegas, NV 89101**

**and via video-conference to:**

**Nevada Legislative Building  
Room 3138  
401 S. Carson Street  
Carson City, NV 89701**

Each party is provided a 20 minute oral argument presentation, which time allotment includes closing remarks. The order of presentments are: (1) Executive Director's presentation; (2) Subject Antinoro's presentation; (3) Executive Director's closing remarks; and (4) Subject Antinoro's closing remarks.

If the Commission's decision on the Pending Motions is not dispositive, it will issue an amended Notice of Hearing and Scheduling Order scheduling an adjudicatory hearing on August 15, 2018, or other date as set by Commission Counsel.

DATED: June 4, 2018

/s/ Cheryl A. Lau

Cheryl A. Lau, Esq.

Chair, Nevada Commission on Ethics

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I served via E-mail, as stipulated to by the parties, a true and correct copy of the **ORDER REGARDING REQUEST TO FILE LIMITED REPLY AND ORAL ARGUMENT** in Request for Opinion No. 17-021C, addressed as follows:

Yvonne M. Nevarez-Goodson, Esq.  
Executive Director  
Judy A. Prutzman, Esq.  
Associate Counsel  
Nevada Commission on Ethics  
704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703

Email: [ynevarez@ethics.nv.gov](mailto:ynevarez@ethics.nv.gov)

Email: [jprutzman@ethics.nv.gov](mailto:jprutzman@ethics.nv.gov)

Katherine F. Parks, Esq.  
Thorndal Armstrong et al  
6590 S. McCarran Blvd., #B  
Reno, NV 89509  
*Attorney for Subject*

Email: [kfp@thorndal.com](mailto:kfp@thorndal.com)  
[psb@thorndall.com](mailto:psb@thorndall.com)

DATED: June 4, 2018

/s/ Kari Anne Pedroza  
Employee, Nevada Commission on Ethics



## STATE OF NEVADA

### BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**Gerald Antinoro**, Sheriff, County of  
Storey, State of Nevada,

Request for Opinion No. **17-021C**

Subject. /

#### **ORDER DENYING MOTIONS FOR SUMMARY JUDGMENT AND DIRECTING AN ADJUDICATORY HEARING**

On January 26, 2017, the Nevada Commission on Ethics ("Commission") received Third-Party Request for Opinion No. 17-021C ("RFO") from a member of the public pursuant to NRS 281A.440(2) concerning the conduct of Storey County Sheriff Gerald Antinoro ("Subject" or "Antinoro") alleging violations of certain provisions of the Nevada Ethics in Government Law ("Ethics Law") set forth in NRS Chapter 281A.

On February 26, 2018, a *Panel Determination* was issued, finding "just and sufficient cause" for the Commission to conduct a public hearing and render an opinion regarding whether Antinoro's conduct in permitting use of the Sheriff's Office for his spouse's child visitation appointment violated the provisions of NRS 281A.400(2) and (7).

On March 29, 2018, the Commission issued a *Notice of Hearing and Scheduling Order and Notice of Hearing and Meeting to Consider Your Character, Alleged Misconduct, Professional Competence or Health (NRS 241.033)* setting a hearing for June 20, 2018 to consider dispositive motions. Thereafter, each party filed a Motion for Summary Judgment (collectively the "Motions") which were fully briefed and submitted for consideration of the Commission.

#### **HEARING ON THE MOTIONS AND STANDARD OF REVIEW**

On June 20, 2019, the Commission<sup>1</sup> called the matter to order and considered the Motions, the record of proceedings and oral arguments presented by the parties. Consistent with the definition of a "party" set forth in NAC 281A.060, Ms. Judy A. Prutzman, Esq. appeared in representation of Ms. Yvonne M. Nevarez-Goodson, Esq. and Ms. Katherine F. Parks, Esq. appeared in representation of Subject Antinoro.

The rules governing practice before the Commission are set forth in NRS Chapter 281A and NAC 281A.250 to NAC 281A.310. A Motion for Summary Judgment is a dispositive motion which is permitted to be made after the issuance of a Panel Determination. See NAC 281A.265. NRS 281A.790(9) establishes the burden of proof for finding a violation of NRS Chapter 281A as a "preponderance of the evidence." See also NRS 233B.121.

The Commission is not required to follow the standards applicable to a Motion for Summary Judgment contained in the Nevada Rules of Civil Procedure ("NRCP"); however, it is not prejudicial error for the Commission to do so. The Nevada Supreme Court has opined that such rules "are not binding on a state agency in an adjudicatory proceeding, unless expressly

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<sup>1</sup> Since Commissioners Gruenewald, Stewart and Yen served on the Panel, they are precluded from further participation in the adjudicatory process and the necessary quorum for the Commission to act on a matter is reduced pursuant to NAC 281A.200(1).

adopted by the agency.” *Dutchess Bus. Servs. v. Nev. State Bd. of Pharm*, 124 Nev. 701, 710, 191 P.3d. 1159 (2008). The Commission has not expressly adopted the provisions of NRCP 56(c), which establish the standard for granting a Motion for Summary Judgment in a judicial proceeding as “[t]he judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law.” Accordingly, the Commission bases its determination on the preponderance of evidence standard and confirms that the provisions of NRCP 56 are instructive, but are not mandatory.

### **DISCUSSION AND ORDER**

The allegations before the Commission pertain to violations of NRS 281A.400(2) (use of public position to obtain an unwarranted preference or advantage for oneself or person to whom there is a commitment in a private capacity) and NRS 281A.400(7) (use of government time or property to benefit a significant personal interest). At issue is Antinoro’s conduct in allowing his spouse to use the Sheriff’s Office for child visitation on a weekend during non-public hours. The child visitation was initially slated to occur in a public park and was moved to the Sheriff’s Office at the request of Antinoro’s spouse.

Antinoro’s position is there is an established policy permitting public use of the Sheriff’s Office for child visitation and that the office is open 24/7, or on the weekend, for child visitation matters when there is a concern about preservation of the peace. Therefore, the use of government property for a private purpose was proper or not “unwarranted” for application of NRS 281A.400(2) and the use of government property for a private purpose falls within the limited-use exception of NRS 281A.400(7). The Executive Director contends there is no evidence of written policy or facts detailing the parameters of the alleged policy, the child visitation was moved at the last minute and occurred on a weekend, when the office was otherwise closed to the public, and the request from one spouse to another, creates an appearance of impropriety under the Ethics Law, precluding application of the limited-use exception.

Given the disputed or lack of evidence associated with the establishment of a policy and its parameters and other disputed facts, the Commission finds that there remain issues of material fact to be resolved at an adjudicatory hearing. An adjudicatory hearing will assist the Commission in determining facts associated with the establishment of the policy including its parameters and associated training of personnel in its application, the manner in which the child visitation was scheduled and conducted, the timing of events and other facts related to the RFO.

Therefore, based upon the entire record and the Commission’s consideration of the Motions following oral argument presentments, the Commission finds good cause to enter following order:

1. The Executive Director’s Motion f Summary Judgment is denied.
2. Subject Antinoro’s Motion for Summary Judgment is denied.
3. Commission Counsel is instructed to issue a Notice of Hearing and Scheduling Order allowing further discovery and setting an adjudicatory hearing before the Commission, including issuance of any related waivers or notices under the direction of the Chair of the Commission.

DATED: July 2, 2018

/s/ Cheryl A. Lau  
Cheryl A. Lau, Esq.  
Chair, Nevada Commission on Ethics

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I served via E-mail, as stipulated to by the parties, a true and correct copy of the **ORDER DENYING MOTIONS FOR SUMMARY JUDGMENT** in Request for Opinion **No. 17-021C**, addressed as follows:

Yvonne M. Nevarez-Goodson, Esq.  
Executive Director  
Judy A. Prutzman, Esq.  
Associate Counsel  
Nevada Commission on Ethics  
704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703

Email: [ynevarez@ethics.nv.gov](mailto:ynevarez@ethics.nv.gov)

Email: [jprutzman@ethics.nv.gov](mailto:jprutzman@ethics.nv.gov)

Katherine F. Parks, Esq.  
Thorndal Armstrong et al  
6590 S. McCarran Blvd., #B  
Reno, NV 89509  
*Attorney for Subject*

Email: [kfp@thorndal.com](mailto:kfp@thorndal.com)  
[psb@thorndall.com](mailto:psb@thorndall.com)

DATED: July 2, 2018

  
\_\_\_\_\_  
Employee, Nevada Commission on Ethics

JOHN L. THORNDAL  
JAMES G. ARMSTRONG  
CRAIG R. DELK  
STEPHEN C. BALKENBUSH  
PAUL F. EISINGER  
CHARLES L. BURCHAM  
BRIAN K. TERRY  
ROBERT F. BALKENBUSH  
PHILIP GOODHART  
KATHERINE F. PARKS  
KEVIN R. DIAMOND  
MICHAEL C. HETEVY  
BRIAN M. BROWN  
GREGORY M. SCHULMAN  
MEGHAN M. GOODWIN

THIERRY V. BARKLEY\*  
JOHN D. HOOKS  
DOUGLAS J. DUESMAN  
SEAN D. COONEY  
DANIEL J. McCAIN  
KEITH B. GIBSON\*  
CHRISTY LYN M. GALLIHER  
VINCENT M. GODINHO  
WADE CARNER  
LUKE W. MOLLECK  
AILEEN E. COHEN\*  
HARRY J. ROSENTHAL\*  
JUSTIN H. PFREHM\*

Of Counsel\*



**THORNDAL  
ARMSTRONG**  
DELK BALKENBUSH & EISINGER

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**KATHERINE F. PARKS, ESQ.**  
**RENO OFFICE**  
**[kfp@thorndal.com](mailto:kfp@thorndal.com)**

**July 10, 2018**

LAS VEGAS

1100 E. BRIDGER AVENUE  
LAS VEGAS, NV 89101  
MAILING  
P O BOX 2070  
LAS VEGAS, NV 89125-2070  
(702) 366-0622  
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RENO

6590 S. MCCARRAN BLVD., SUITE B  
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(775) 786-2882  
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ELKO

919 IDAHO STREET  
ELKO, NV 89801  
(775) 777-3011  
FAX (775) 786-8004

JAMES J. JACKSON  
(1958-2014)

**Via electronic mail only**

Tracy Chase, Esq.  
Nevada Commission on Ethics  
704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703

**Re: Request for Opinion No. 17-21C**

Dear Ms. Chase:

Enclosed please find the Waiver of Statutory Time Requirements form which has been executed by my client. If you have any questions, please feel free to contact me.

Yours truly,

Katherine F. Parks

KFP/psb

Enclosures

cc: Yvonne Nevarez-Goodson, Esq. (via electronic mail)  
Judy Prutzman, Esq. (via electronic mail)



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

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**Gerald Antinoro**, Sheriff, County of  
Storey, State of Nevada,

Ethics Complaint  
Case No. 17-21C


Subject. /

**WAIVER OF NOTICE REQUIRED UNDER NRS 241.033(1)  
TO CONSIDER CHARACTER, MISCONDUCT, OR COMPETENCE  
OF PERSON IN ETHICS COMPLAINT ADJUDICATORY HEARING AND  
OTHER PROCEEDINGS TO BE HEARD  
BY THE STATE OF NEVADA COMMISSION ON ETHICS**

The Nevada Commission on Ethics ("Commission") will be holding hearings and other proceedings (collectively "Proceedings") to consider the Subject's character, misconduct or competence as related to this Ethics Complaint. If the Proceedings are not exempt from Nevada's Open Meeting Law pursuant to NRS Chapters 241 or 281A, NRS 241.033(1) requires notice be personally served on Subject of the time and place of the meeting at least 5 working days before the meeting or sent by certified mail to the last known address at least 21 working days before the meeting. The parties, through their respective counsel, have agreed to comply with all deadlines and scheduled dates for proceedings, as set forth in the Notice of Adjudicatory Hearing and Scheduling Order, and any issued amendments thereto.

I, Gerald Antinoro, understand the statutory requirements of NRS 241.033 and hereby knowingly and voluntarily waive my rights to written notice as required under NRS 241.033 for any proceeding set forth in the above-identified Notice of Adjudicatory Hearing and Scheduling Order. In doing so, I expressly consent to any discussion during the applicable meeting and resultant action of the Commission, including any discussion of my qualifications, competence and character in relation thereto. Prior to signing this waiver, I either had the opportunity to discuss this matter with my attorney or have voluntarily determined to proceed on my own accord, thereby waiving the right to consult with an attorney.

Dated this 10<sup>TH</sup> day of JULY, 2018.

By:   
Gerald Antinoro





**STATE OF NEVADA**

**BEFORE THE NEVADA COMMISSION ON ETHICS**

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**Gerald Antinoro**, Sheriff, County of  
Storey, State of Nevada,

Request for Opinion No. **17-21C**

\_\_\_\_\_  
Subject. /

**SECOND AMENDED NOTICE OF  
ADJUDICATORY HEARING AND SCHEDULING ORDER**

NRS Chapter 281A<sup>1</sup>

and

**Notice of Hearing and Meeting to Consider  
Your Character, Alleged Misconduct, Professional Competence or Health  
(NRS 241.033)**

**PLEASE TAKE NOTICE**, on **October 17, 2018**, the Nevada Commission on Ethics ("Commission") will hold a public meeting to include consideration of the alleged misconduct, professional competence or health of Gerald Antinoro ("Subject"), the Sheriff of Storey County, as it pertains to the Nevada Ethics in Government Law set forth in Chapter 281A of the Nevada Revised Statutes ("Ethics Law").<sup>2</sup>

After receipt of Request for Opinion No. 17-21C ("RFO"), the Commission issued a Notice to Subject stating that the Commission accepted jurisdiction to investigate certain alleged violations of the Ethics Law. On September 28, 2017, Subject provided a written response to the allegations. A Review Panel reviewed the RFO and related investigation conducted by the Executive Director and issued a Panel Determination on or about February 26, 2018, concluding that there is sufficient credible evidence to support a determination that just and sufficient cause exists for the Commission to render an opinion in this matter with respect to certain alleged violations as stated therein.

Pursuant to NRS 281A.745, which codified S.B. 84, Sec. 6.5, Subject has waived his right to the 60-day time requirement for a hearing in this matter. The scheduled hearing will assist the Commission to determine whether any violation of the Ethics Law has occurred and, if a violation is found, whether such violation is willful and whether any penalties will be imposed by the Commission pursuant to NRS 281A.785 and 281A.790.

<sup>1</sup> The provisions of NRS 281A.400 and 281A.420 before amendments were made to NRS Chapter 281A by Senate Bill 84 of the 79<sup>th</sup> Session of the Nevada Legislature (2017) apply to conduct alleged to have occurred before July 1, 2017.

<sup>2</sup> This notice is issued in compliance with the requirements of the Ethics Law and NRS 241.033. However, certain portions of the hearing are exempt from Nevada's Open Meeting Law pursuant to NRS Chapters 241 and 281A.

## **THE ADJUDICATORY HEARING WILL TAKE PLACE:**

Wednesday, October 17, 2018 at 9:00 a.m., or as soon thereafter as the Commission is able to hear any submitted motions or stipulations, at the following location:

**State Bar of Nevada Office  
9456 Double R Blvd, Suite B  
Reno, NV 89521**

Although portions of a hearing are exempt from Nevada's Open Meeting Law pursuant to NRS 241.016, the Commission makes every effort to open the hearing to the public. An agenda will be posted and a record will be made by a certified court reporter. Subject has the right to appear, be represented by legal counsel, hear evidence presented, respond to evidence, and present evidence on his/her behalf.

In accordance with the Scheduling Order outlined below, each party has the right to participate in discovery, request that the Commission issue subpoenas to compel witnesses to testify and/or produce evidence. In making this request, the requesting party may be required to demonstrate the relevance of the requested discovery, witnesses' testimony and/or evidence and shall be responsible for subpoena service and related costs. Other rights are found in NRS Chapter 281A, NRS Chapter 233B and NAC Chapter 281A. The Commission must support any finding of a violation of the Ethics Law by a preponderance of the evidence.

### **Scheduling Order**

The Commission is scheduled to hear this matter on the date noticed above. The Commission's Executive Director and the Subject (hereafter referred to respectively as a "Party" or the "Parties," as applicable) shall comply with the following scheduling order:

#### **1. APPEARANCE**

The Commission requests the appearance of the Subject at the scheduled hearings. Subject has 5 business days<sup>3</sup> after receipt of the Notice of Hearing to respond to the Commission's request pursuant to NRS 281A.300. If Subject does not respond, the Executive Director may request a subpoena to compel Subject's attendance. Further, If Subject is not excused by the Chair or present when the matters are called, the Commission may consider as true the alleged violations specified in the Panel Determination.

#### **2. DISCOVERY/INVESTIGATION**

The discovery deadline to complete all requested discovery and responses thereto is **Thursday, September 13, 2018**. Prior to the discovery deadline, the Parties may engage in continued investigation of facts and exchange written discovery interrogatories, requests for admission and requests for production. With the exception of a request to issue a subpoena, written discovery requests and responses thereto shall be served on all Parties but are not required to be filed with the Commission unless presented for its consideration as evidence or testimony at any hearing or pursuant to any request, objection, motion, stipulation or other pleading filed with the Commission.

Discovery requests shall not be costly or burdensome. All responses to discovery requests must be provided a minimum period to respond of 5 business days after receipt of the discovery request. Within the limits of time available for satisfying the requirements and deadlines set forth in this scheduling order and preparing for hearing, a party may request to depose any witnesses. Such depositions may be taken by telephone as agreed by the Parties. Any disagreement

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<sup>3</sup> For the purposes of applying the deadlines established by this Scheduling Order, "business days" means the Commission's regular business days of Monday through Thursday between 7:00 a.m. and 5:30 p.m., excluding State Closures and Holidays. The computation of any time prescribed by this Scheduling Order shall be governed by the computation of time attributed to periods prescribed by NRS 281A.190.

regarding depositions of witnesses may be resolved by the Commission by presenting a written request directed to the Chair or Vice-Chair who will determine whether it is appropriate to issue subpoenas to compel the testimony of such witnesses at deposition or hearing.

### **3. SUBPOENA POWERS**

On or before **Monday, August 27, 2018**, the Parties may submit a written request for the Commission to consider the issuance of subpoenas for the production of documents or to compel the attendance of witnesses at the hearing, if any, pursuant to NRS 281A.300. If issued, each Party shall serve such subpoenas in the manner provided in the Nevada Rules of Civil Procedure for service of subpoenas in a civil action and must pay all applicable costs of such service.

### **4. MOTIONS**

On or before **Tuesday, September 18, 2018**, the Parties may submit written discovery-related and procedural motions to the Commission. The opposing Party shall submit a written response to any such motion not later than 5 business days after receipt of the motion. A reply to any responsive pleading may be permitted at the discretion of the Chair or presiding officer, which format may include presentation by oral argument during the hearing.

On or before **Monday, October 1, 2018**, the Parties may submit any *motions in limine*. The opposing Party shall submit a written response to any such motion not later than 5 business days after receipt of the motion. A reply to any responsive pleading may be permitted at the discretion of the Chair or presiding officer, which format may include presentation by oral argument during the hearing.

All motions shall be submitted upon the pleadings unless oral argument is requested and permitted by the Chair. Unless additional pages are authorized by the Chair for good cause, any motion, response or opposition shall be limited to ten (10) pages, exclusive of exhibits and any reply shall be limited to five (5) pages, exclusive of exhibits.

### **5. PREHEARING STATEMENTS**

On or before **Tuesday, October 2, 2018**, the Parties shall submit prehearing statements to the Commission. The Prehearing Statements shall be in proper format, limited to ten (10) pages and must include the following information:

#### **a) Statement of Relevant Facts**

A brief statement of relevant facts, including any admitted or undisputed facts.

#### **b) Claims and Defenses**

A concise statement of the party's allegations or defenses and the facts supporting the same. Such allegations, defenses and facts shall be organized by listing each essential element of the allegation or defense and stating the facts in support of each such element as they relate to specific provisions of NRS Chapter 281A.

**c) Statement of Issues of Law**

A statement of any issues of law supported by authorities with a brief summary of the relevant rule. The Parties should emphasize any Commission opinions deemed relevant and applicable.

**d) Witnesses**

The names of each witness, except impeaching witnesses, the party expects to call, a clear statement of the expected testimony of each witness and its relevance, and an estimate of the time the party will require for the testimony of each witness. To the extent possible, provide an estimate of time for cross-examination of the opposing party's witnesses.

**e) Exhibits**

A list of the exhibits expected to be identified and introduced at hearing for the purpose of developing the evidentiary record and a concise statement of the relevancy of each exhibit.

**f) Stipulations**

A concise statement of any stipulations regarding the admissibility of an exhibit or expected testimony of any witness.

**g) Motions**

A brief summary of any pre-hearing procedural or substantive motions. Except for any procedural or substantive motions that arise during the hearing, all pre-hearing procedural and substantive motions must be submitted in accordance with this scheduling order.

**h) Other**

Any other appropriate comments, suggestions or information which may assist the Commission in the disposition of the case.

**6. EXHIBIT BOOKS**

On or before **Thursday, October 4, 2018**, the Parties shall submit to the Commission an electronic copy of an exhibit book(s) in PDF format consisting of the exhibits, if any, expected to be identified and introduced as evidence at the hearing. The exhibit book(s) must include an index of the exhibits and be Bates numbered.

**7. OBJECTIONS**

On or before **Monday, October 8, 2018**, the Parties shall submit a concise statement of any objections to the admissibility of any exhibit identified by the other party or expected testimony of any witnesses. Such statement shall not exceed three (3) pages. If no objection is stated as to any exhibit or expected testimony, the Commission will presume that there is no objection to the admission into evidence of the listed exhibits or expected testimony.

**8. FORMAT, SUBMISSION AND SERVICE REQUIREMENTS**

All documents must be within the designated page limitations as set forth in this scheduling order, unless a written request for additional pages is granted by the Chair based upon good cause. With the exception of exhibits, submitted documents must contain a caption and signature, and be consecutively page-numbered on 8 ½ by 11-inch pleading paper with double-spaced text and using a font no smaller than 12 characters per inch. The Parties may stipulate to a joint appendix book, which must include a blue cover sheet. Otherwise, the Executive Director's filings

and submissions, including Exhibit Books, must include a green cover sheet. The Subject's filings and submissions, including Exhibit Books, must include a yellow cover sheet. Any attached exhibits must contain exhibit numbers at the bottom right corner of each page.

The Parties have stipulated to electronic service of all matters. The Parties shall submit all documents on the designated deadline not later than 5:30 p.m. (the Commission's close of business) electronically in PDF format to [tchase@ethics.nv.gov](mailto:tchase@ethics.nv.gov), with copy to [dhayden@ethics.nv.gov](mailto:dhayden@ethics.nv.gov). Upon submission, each Party shall serve its documents on the other Party by electronic mail directed to the attorney-of-record as follows:

<p>Executive Director:</p> <p>Judy A. Prutzman, Esq. Associate Counsel Nevada Commission on Ethics 704 West Nye Lane, Suite 204 Carson City, NV 89703 <a href="mailto:ynevarez@ethics.nv.gov">ynevarez@ethics.nv.gov</a> <a href="mailto:jprutzman@ethics.nv.gov">jprutzman@ethics.nv.gov</a></p>	<p>Subject:</p> <p>Katherine F. Parks, Esq. Thorndal Armstrong et al 6590 S. McCarran Blvd., #B Reno, NV 89509 <a href="mailto:kfp@thorndal.com">kfp@thorndal.com</a> <a href="mailto:psb@thorndall.com">psb@thorndall.com</a></p>
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A certificate of service shall be included verifying service as required herein.

#### **9. EXTENSIONS, CONTINUANCES AND SCHEDULING MATTERS**

The Parties may not agree to extensions of the deadlines included herein without the written consent of the Commission or Chair. Extensions will not be granted except in the case of good cause shown. No unilateral request for continuance of the scheduled hearing will be granted except upon extraordinary circumstances stated in written motion. Please direct any scheduling matters to Commission Counsel, Tracy L. Chase, Esq., at (775) 687-5469 or via email at [tchase@ethics.nv.gov](mailto:tchase@ethics.nv.gov).

#### **10. PREHEARING CONFERENCE**

After the receipt of Prehearing Statements, the Commission may set a prehearing conference between the Parties and the Chair or designee to be held before the hearing set for this matter.

DATED: September 11, 2018

/s/ Tracy L. Chase  
Tracy L. Chase, Esq.  
Commission Counsel

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted a true and correct copy of the **Amended Notice of Adjudicatory Hearing and Scheduling Order** in Request for Opinion **No. 17-21C** via electronic mail to the Parties as follows:

Yvonne M. Nevarez-Goodson, Esq.  
Executive Director  
Judy A. Prutzman, Esq.  
Associate Counsel  
704 W. Nye Lane, Suite 204  
Carson City, NV 89703

Email: [ynevarez@ethics.nv.gov](mailto:ynevarez@ethics.nv.gov)

Email: [jprutzman@ethics.nv.gov](mailto:jprutzman@ethics.nv.gov)

Katherine F. Parks, Esq.  
Thorndal Armstrong et al  
6590 S. McCarran Blvd., #B  
Reno, NV 89509

Email: [kfp@thorndal.com](mailto:kfp@thorndal.com)

Email: [psb@thorndal.com](mailto:psb@thorndal.com)

DATED: September 11, 2018



\_\_\_\_\_  
Employee of the Nevada Commission on Ethics



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party  
Request for Opinion Concerning the  
Conduct of **Gerald Antinoro**, Sheriff,  
County of Storey, State of Nevada,  
Subject. /

Request for Opinion No. **17-021C**

**ORDER GRANTING IN PART AND DENYING IN PART**  
**EXECUTIVE DIRECTOR'S MOTION IN LIMINE**  
**TO EXCLUDE CERTAIN EVIDENCE OR TESTIMONY**

On September 13, 2018, the Executive Director filed a *Motion in Limine* to Exclude Certain Evidence or Testimony. Subject Antinoro's opposition to the *Motion in Limine* was served on the Executive Director on September 24, 2018 and was filed with the Commission on September 25, 2018. Although Subject's filing was late, it was timely served on the Executive Director. See *Second Amended Notice of Adjudicatory Hearing and Scheduling Order*. Therefore, all filed pleadings are considered as submitted.<sup>1</sup>

The Executive Director seeks to exclude as irrelevant or unfairly prejudicial the following evidence and testimony: (1) the character of the requester, Clarence Gempel; (2) the Requester's motives for filing this Ethics Complaint; and (3) the nature of the relationships with his minor daughter and/or his ex-wife, Laura Antinoro, including the fact that he has not seen his daughter during the six years prior to May 20, 2017. Subject opposes the Motion in Limine asserting that the Commission should be presented with the facts regarding Requester's custody issues because they demonstrate a hostile situation and the subject custody visitation should have been conducted in a safe and secure matter consistent as provided to other persons in need of such assistance.

The Commission evaluates the evidence before it based on its relevance and competence. See NRS 233B.123(1) (allowing the admittance of evidence during administrative proceedings except if the evidence is precluded by statute or irrelevant, immaterial or unduly repetitious.) NRS 48.015 defines "relevant evidence" to include "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence." Further, the Commission does not consider the "bad faith" or motivation for filing an ethics complaint as cause for dismissal because the question to be determined is whether the Subject's conduct violated the Ethics Law. See *Dehne et al v. Avaino et al*, 219 F.Supp.2d 2096 (2001) (injunction entered against enforcement of former law (NRS 281.551), which provided authority to sanction a requester for a bad faith filing). However, evidence of character and conduct of a witness may be utilized to impeach a witness' credibility, subject to the statutory limitations set forth in NRS 48.045(1)I, which statute directly references the impeachment requirements of NRS 50.085.

<sup>1</sup> The pleading sequence does not include a reply since no request to file a reply was initiated by the moving party pursuant to NAC 281A.265.

In reviewing whether the character of the Requester is relevant in this case, the Commission looks at his anticipated testimony. Requester is expected to present percipient facts regarding a child custody visitation that took place at the Sheriff's Office. Antinoro expects to cross-examine the Requester with possible questioning that may include the history of a contentious custody dispute. Although the fact that there was a custody dispute may be relevant to Mrs. Antinoro's state of mind and the reason for requesting that visitation be conducted in the Sheriff's Office, as set forth below, it is determined that questioning into the specific details of a long-term custody dispute are more prejudicial than they are relevant to this case. Consequently, the Motion in Limine is granted to exclude this evidence. Nevertheless, if there is an issue regarding the credibility of the Requester, impeachment cross-examination is permitted as outlined in NRS 50.085.

With regard to the Requester's personal motivation for filing the ethics complaint, this information is not admissible unless it directly pertains to his credibility or veracity as a percipient witness and constitutes proper impeachment under NRS 50.085. At this time, this threshold has not been met. Therefore, the Motion in Limine is granted to exclude this evidence. However, should it be relevant for impeachment purposes, that matter may be considered at the adjudicatory hearing.

Based upon Subject's opposition to the Motion in Limine, it does not appear that the Subject is contesting the majority of the expected testimony of the Requester. Instead, Subject asserts that the domestic situation caused Mrs. Antinoro to seek the assistance of the Sheriff's Office to protect the child during a custody visitation and that a court order permitted the visitation to be supervised at Mrs. Antinoro's discretion. Mrs. Antinoro's state of mind and her concern for her child's wellbeing or safety based upon the nature of her relationship with her ex-husband, the Requester, are relevant. The Commission will review whether the public services or government facilities of the Sheriff's office were properly utilized by Subject Antinoro in a manner as would be available to other citizens with similar domestic concerns. However, this testimony is limited to the establishment of Mrs. Antinoro's state of mind and, if the inquiry is expanded to character evidence of the Requester or his personal motivation in filing the Ethics Complaint, as limited herein, the Executive Director may renew her objections during the adjudicatory hearing.

DATED: October 9, 2018

/s/ Cheryl A. Lau  
Cheryl A. Lau, Esq.  
Chair, Nevada Commission on Ethics



## CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I served via E-mail, as stipulated to by the parties, a true and correct copy of the **ORDER GRANTING IN PART AND DENYING IN PART EXECUTIVE DIRECTOR'S MOTION IN LIMINE TO EXCLUDE CERTAIN EVIDENCE OR TESTIMONY** in Request for Opinion No. 17-021C, addressed as follows:

Yvonne M. Nevarez-Goodson, Esq.  
Executive Director  
Judy A. Prutzman, Esq.  
Associate Counsel  
Nevada Commission on Ethics  
704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703

Email: [ynevarez@ethics.nv.gov](mailto:ynevarez@ethics.nv.gov)

Email: [jprutzman@ethics.nv.gov](mailto:jprutzman@ethics.nv.gov)

Katherine F. Parks, Esq.  
Thorndal Armstrong et al  
6590 S. McCarran Blvd., #B  
Reno, NV 89509  
*Attorney for Subject*

Email: [kfp@thorndal.com](mailto:kfp@thorndal.com)  
[psb@thorndall.com](mailto:psb@thorndall.com)

DATED: October 9, 2018



\_\_\_\_\_  
Employee, Nevada Commission on Ethics



**STATE OF NEVADA**

**BEFORE THE NEVADA COMMISSION ON ETHICS**

In the Matter of the Third-Party  
Request for Opinion Concerning the  
Conduct of **Gerald Antinoro**, Sheriff,  
County of Storey, State of Nevada,

Request for Opinion No. **17-021C**

\_\_\_\_\_  
Subject. /

**ORDER RE: EXECUTIVE DIRECTOR'S OBJECTION  
AND CERTAIN ADJUCATORY HEARING PROCEDURES**

On October 8, 2018, the Executive Director filed *Executive Director's Objection* to certain evidence or testimony. On October 10, 2018, the Chair of the Commission held a Prehearing Conference which was attended by Executive Director Nevarez-Goodson represented by Associate Counsel Prutzman and Subject Antinoro was represented by Ms. Parks, Esq. The Chair provided the parties information on the adjudicatory hearing process established in Section 58 of Approved Regulation of the Commission on Ethics, LCB No. R108-18, and received comments from the parties on exhibit objections, use of declarations, stipulations and redactions, among other matters prior to issuance of certain pre-hearing rulings. Based upon the review of the record and the information provided at the Prehearing Conference, the Chair finds good cause to issue the following order.

**ORDER**

1. Each party should be prepared to present their respective cases within the time allotment of 2 hours and 20 minutes, including opening and closing statements.
2. With regard to the Executive Director's Objection to cumulative testimony, any objection to cumulative testimony is reserved and may be raised at the hearing at the time such testimony is proffered.
3. The parties have stipulated and it is ordered that the following exhibits be removed from the materials for the adjudicatory hearing: Subject Antinoro's Exhibits numbered 2, 3, 4 and 5.
4. The following exhibits are admitted into evidence by stipulation of the parties without objection and pursuant to the order of the Chair:
  - a. Executive Director's Exhibits numbered 1, 2, 3, 4, 5, and 6.
  - b. Subject Antinoro's Exhibits numbered 1, 6, 7 and 8.

///

///

5. Certain irrelevant information shall be redacted from the meeting materials and exhibits, as follows:

- a. All references to the name and birth date of any minor.
- b. Subject Antinoro's Exhibit No. 1, will be redacted to exclude irrelevant information contained in the Decree of Divorce, as determined by the Chair.
- c. References to certain confidential items shall be removed from the public hearing book.

DATED: October 10, 2018

/s/ Cheryl A. Lau  
Cheryl A. Lau, Esq.  
Chair, Nevada Commission on Ethics

## CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I served via E-mail, as stipulated to by the parties, a true and correct copy of the **ORDER REGARDING EXECUTIVE DIRECTOR'S OBJECTION AND CERTAIN ADJUDICATORY HEARING PROCEDURES** in Request for Opinion No. **17-021C**, addressed as follows:

Yvonne M. Nevarez-Goodson, Esq.  
Executive Director  
Judy A. Prutzman, Esq.  
Associate Counsel  
Nevada Commission on Ethics  
704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703

Email: [ynevarez@ethics.nv.gov](mailto:ynevarez@ethics.nv.gov)

Email: [jprutzman@ethics.nv.gov](mailto:jprutzman@ethics.nv.gov)

Katherine F. Parks, Esq.  
Thorndal Armstrong et al  
6590 S. McCarran Blvd., #B  
Reno, NV 89509  
*Attorney for Subject*

Email: [kfp@thorndal.com](mailto:kfp@thorndal.com)  
[psb@thorndall.com](mailto:psb@thorndall.com)

DATED: October 10, 2018

  
\_\_\_\_\_  
Employee, Nevada Commission on Ethics