



**STATE OF NEVADA
COMMISSION ON ETHICS**

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**MINUTES
of the meeting of the
NEVADA COMMISSION ON ETHICS**

The Commission on Ethics held a public meeting on
Wednesday, August 21, 2019, at 9:30 a.m.
at the following location:

**Governor's Office of Economic Development
808 W. Nye Lane
Carson City, NV 89703**

and via video-conference to:

**Grant Sawyer State Building
Suite 5400
555 E. Washington Avenue
Las Vegas, NV 89101**

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

1. Call to Order and Roll Call.

Chair Cheryl A. Lau, Esq. appeared in Carson City and called the meeting to order at 9:40 a.m. Also appearing in Carson City were Commissioners Brian Duffrin, Barbara Gruenewald, Esq. and Philip K. (P.K.) O'Neill. Appearing in Las Vegas were Vice-Chair Keith A. Weaver, Esq. and Commissioners Teresa Lowry, Esq. and Amanda Yen, Esq. Commissioner Kim Wallin, CPA appeared telephonically. Present for Commission staff in Carson City were Executive Director Yvonne M. Nevarez-Goodson, Esq., Commission Counsel Tracy L. Chase, Esq., Associate Counsel Judy Prutzman, Esq. and Executive Assistant Kari Pedroza.

The pledge of allegiance was conducted.

2. Public Comment.

Risk Hsu, former Chair and Vice-Chair of the Commission on Ethics, provided public comment and asked the Commission to consider a hearing relating to Agenda Item No. 4 so the Commission could provide clear standards with regard to the alleged behavior.

Mike Cullen, Storey County resident, provided public comment in regard to Agenda Item No. 4 and read Storey County Policy, section 1046.6, pertaining to Political Activities.

Kris Thompson, Project Manager for Tahoe-Reno Industrial Center and Storey County resident, provided public comment about the proposed Stipulation in regard to the Agenda Item No. 4.

3. Approval of Minutes of the July 17, 2019 Commission Meeting.

Chair Lau stated that all Commissioners were present for the July meeting except Commissioner Wallin who was excused from that meeting and would abstain from participating on this item.

Commissioner Gruenewald moved to accept the July 17, 2019 Minutes as presented. Commissioner Duffrin seconded the motion. The Motion was put to a vote and carried as follows:

Chair Lau:	Aye.
Vice-Chair Weaver:	Aye.
Commissioner Duffrin:	Aye.
Commissioner Gruenewald:	Aye.
Commissioner Lowry:	Aye.
Commissioner O'Neill:	Aye.
Commissioner Yen:	Aye.
Commissioner Wallin:	Abstain.

4. Discussion and consideration of Proposed Stipulation regarding Ethics Complaint Case Nos. 18-031C and 18-052C (Antinoro). (Portions of this Item may be exempt from Nevada's Open Meeting Law, See Notes)

Chair Lau stated that the members of the Review Panel considering this Item, Chair Lau, and Commissioners Duffrin and Lowry, were precluded from participating in this matter.

Vice-Chair Weaver presided over this item and disclosed for the record that in his private capacity as a medical malpractice attorney he is aware that subject's counsel Katherine Parks, Esq., of Thorndal, Armstrong, Delk, Balkenbush, and Eisinger is a codefendant counsel in a case he is currently litigating. He added that he did not believe there was a conflict or appearance of conflict in presiding over and acting on this matter, however he wanted to give Counsel Parks an opportunity to object to his participation in this matter. Counsel Parks stated she had no objection. Commission Counsel Chase confirmed that Vice-Chair Weaver's relationship with Ms. Parks as independent counsel to a codefendant in a private litigation unrelated to the Ethics Complaint does not establish a pecuniary interest or a commitment in a private capacity. Therefore neither disclosure nor abstention would be required under the Ethics Law. Nevertheless, she advised that the disclosure was appropriate under the Judicial Canons applicable to him as a quasi-judicial officer, but the relationship did not warrant disqualification under the Canons.

Vice-Chair Weaver asked the parties in the Complaint to come forward and identify themselves for the record. Appearing before the Commission in this matter were Associate Counsel Judy A. Prutzman, Esq., representing the Executive Director and Katherine Parks, Esq., representing Subject Gerald Antinoro, who was not in attendance.

Associate Counsel Prutzman provided a brief overview of the Proposed Stipulation Agreement which would resolve two Ethics Complaint Cases concerning subject Gerald Antinoro, Sheriff of Storey County. Associate Counsel Prutzman summarized that Complaint Case No. 18-031C, which alleged that Sheriff Antinoro violated the Ethics Law when he wore his Sheriff's uniform and/or badge in photos that appeared on his campaign billboard, website and Facebook page. She further provided a summary regarding Complaint Case No. 18-052C, which alleged that Sheriff Antinoro violated the Ethics Law when he wore his uniform and/or badge during several campaign debates and on his campaign float during the Memorial Day Parade in Virginia City. She added that the Complaint alleged that Sheriff Antinoro improperly used his public

position to benefit his campaign for reelection and solicited funds during a live radio show. Associate Counsel Prutzman informed the Commission that the Proposed Stipulation Agreement dismisses the allegations related to the radio show as the investigation did not reveal evidence to support a violation and dismisses the allegations regarding the Sheriff's use of his official uniform and badge during his campaign for reelection with a finding of no violation. She stated that the agreement confirms that the use of a uniform or badge during a campaign by an elected official or any public officer or employee creates an appearance of impropriety and violates NRS 281A.400(7). She explained that in reaching the resolution, Executive Director recognized that use of official uniforms and paraphernalia while campaigning for reelection has not been clearly outlined previously as it applies to elected incumbent officials, and because of this and other mitigating factors outlined in the Proposed Stipulation, Executive Director Nevarez-Goodson recommends that no violation be found in either case.

Associate Counsel Prutzman referenced a 2016 Stipulation issued by the Commission in which allegations regarding Elko County Sheriff Pitts' use of his uniform and badge while campaigning for reelection were dismissed and concluded that Sheriff Pitts did not violate the ethics law. She acknowledged that since the stipulated agreement in Pitts did not declare that such use could actually violate the Ethics Law, there has been some confusion regarding whether such use is appropriate. She explained that the Proposed Stipulation would require that the Executive Director send a letter to the Nevada Sheriffs' and Chiefs' Association with information and guidance about the Commission's position regarding the use of uniforms, badges and other physical accoutrements of public office while campaigning for election. Associate Counsel Prutzman noted that the Stipulation clarifies that the Federal Hatch Act and Advisory Opinions issued by the Federal Office of Special Counsel do not prevent the application of Nevada's Ethics Laws to political activities of Nevada public officers or employees. She concluded her presentation by advising the Commission that she and the Executive Director believe that the resolution is reasonable and fair and will establish important precedent by providing clear guidance to law enforcement personnel regarding the use of their physical accoutrements of office during campaign activities.

Kathy Parks, Esq., on behalf of Subject Antinoro, stated that she had nothing to add, however, she thanked the Commission staff for their cooperation and efforts put into drafting the Stipulation.

Vice-Chair Weaver asked if the Commission had questions for either party.

Commissioner O'Neill asked Associate Counsel Prutzman if Sheriff Antinoro based his actions upon the advice given him by Attorney Beko during the Sheriffs' and Chiefs' meeting and whether the Commission's investigation confirmed this fact. Associate Counsel Prutzman answered affirmatively. Commissioner O'Neill commented that he believed the law already clearly prohibited the use of a uniform or badge during a campaign and asked follow-up questions of Associate Counsel Prutzman and Counsel Parks in regard to the Stipulation and its anticipated effect of providing clarification and direction to law enforcement going forward.

Commissioner Gruenewald moved to accept the terms of the Stipulated Agreement as presented and directed Commission Counsel to finalize it in appropriate form. Commissioner Wallin seconded the Motion.

Commissioner O'Neill stated for the record that despite his belief that law already prohibited such use, he would be voting in favor of the motion (with hesitancy) based upon Sheriff Antinoro's confirmation that he was acting on advice from a licensed attorney.

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The Motion was put to a vote and carried as follows:

Chair Lau:	Abstain.
Vice-Chair Weaver:	Aye.
Commissioner Duffrin:	Abstain.
Commissioner Gruenewald:	Aye.
Commissioner Lowry:	Abstain.
Commissioner O'Neill:	Aye.
Commissioner Wallin:	Aye.
Commissioner Yen:	Aye.

5. Determination and direction regarding referral of the Commission's finding of a willful violation of the Ethics Law pursuant to a Stipulated Agreement in In re Cooper, Comm'n Op. No. 18-005C (2019), and all associated public records to the Nevada Attorney General pursuant to NRS 281A.790(7).

Vice-Chair Weaver presided over the matter and asked Commission Counsel to provide a summary to the Commission.

Commission Counsel Chase confirmed that Chair Lau and Commissioners Duffrin and Lowry served on the panel in this matter and would abstain from participating pursuant to NRS 281A.220.

Commission Counsel Chase presented a summary of Commission Opinion No. 18-005C. She notified the Commission that Subject Cooper was notified of this Agenda Item and that Cooper waived Nevada's Open Meeting Law personal notice requirements and was not present. Commission Counsel Chase summarized the Commission's duties to refer the allegations to the Nevada Attorney General's office for possible criminal implications in compliance with NRS 281A.790(7). She informed the Commission she had contacted the Nevada Attorney General's office on its behalf and obtained the appropriate referral protocols, which she included in the Commission's meeting materials along with the recommendation and proposed motion consistent with the referral.

Commissioner O'Neill moved that the Commission reasonably believes the willful violation of the Ethics Law stipulated in Cooper, Commission Opinion No. 18-005C of 2019 also constitutes a criminal offense and directed Commission Counsel and the Executive Director to refer the matter on behalf of the Commission, including all associated public records, to the Attorney General's office and to cooperate with the Attorney General, as requested. Commissioner Wallin seconded the Motion. The Motion was put to a vote and carried unanimously.

6. Presentation and approval of the Fiscal Year 2019 Annual Report prepared by the Executive Director pursuant to NAC 281A.180(2).

Executive Director Nevarez-Goodson referred the Commission to the Fiscal Year 2019 Annual Report and accompanying charts and graphs provided at the meeting. She reiterated that the report was in draft form and asked that the Commission provide feedback to her on the report prior to finalization for publication. She went over the report in summary and pointed out some minor reporting changes to the Case Statistics and Civil Penalties sections. Executive Director Nevarez-Goodson provided the Commission highlights of each section of the annual report.

Commissioner O'Neill asked Executive Director Nevarez-Goodson if the pie charts would be included in the report and she replied that her intention is to embed the charts into the report if the Commission approved.

Commissioner Wallin suggested more detail be provided on the Complaints by Location chart to encompass data pertaining to the Letters of Caution/Instruction issued by the Commission.

Commissioner Duffrin asked about detailing training provided in the rural areas and correlation to Ethics Complaints.

Commissioner O'Neill requested that staff track time associated with Ethics training including travel time and investigations. The Executive Director replied that this data could prove useful for budget enhancements for investigative and outreach travel.

Commissioner Gruenewald moved to approve the Fiscal Year 2019 Annual Report as presented including the Commission's suggested revisions. Commissioner Yen seconded the Motion. Commissioner O'Neill asked that the motion be withdrawn to allow time for review of the draft Annual Report. There was discussion about the current state of the report and clarification that the report was in draft form. Executive Director Nevarez Goodson informed the Commission of her intent to bring the report before the Commission again at the next meeting for final approval prior to publication and that under this Item she was seeking approval of the draft version of the report. Commissioner Gruenewald amended her motion to accept the draft of the Fiscal Year 2019 Annual Report as presented and include the Commission's suggested revisions. Commissioner Yen amended her second of the Motion. The Motion was put to a vote and carried unanimously.

7. Report and recommendations by Executive Director on agency status and operations and possible direction thereon. Items to be discussed include, without limitation:
- Upcoming Commission Meetings
 - Case Status
 - FY20 Budget Status
 - Protocols regarding confidentiality of a requestor's identity pursuant to NRS 281A.750(2)

Upcoming Commission Meetings: Executive Director Nevarez-Goodson asked the Commissioners to reserve the third Wednesday in September and October for Commission Meetings and the second Wednesday in November and December to accommodate Holiday schedules. She stated that she would let the Commission know if she did not anticipate a need for the monthly Commission meeting. She requested availability in September for a panel meeting from existing panel members, Commissioners Duffrin, Lowry and Yen. She informed the Commission that she and Commission Counsel Chase would be attending the annual COGEL conference in December and that between the Holiday and the conference there would mostly like not be a formal Commission meeting that month.

Case Status: Executive Director Nevarez-Goodson provided an informal update on the case status and shared that the Commission is continuing to receive regular Ethics Complaints which will result in the usual email correspondence to the Commission in processing the complaints. She added further that of the Complaints received in the last month and a half there were a number of cases for which the Commission did not receive a waiver of statutory time frame for investigation. She explained that these cases would be required to be presented at panel where applicable sooner and as they were completed staff would resume processing the older pending cases.

Executive Director Nevarez-Goodson requested that at its next meeting the Commission reassess the need for a request to the Board of Examiners and Interim Finance Committee for additional resources due to increased caseload and absence of statutory timeline waivers.

FY20 Budget Status: Executive Director Nevarez-Goodson informed the Commission of some internal budgetary changes, specifically some court reporting funds previously used for review panel transcripts and certain Commission Meetings has been used for the transcription of investigatory interviews to meet demands of the increased case load. She explained that the Commission has recording equipment and will still be in compliance with the Open Meeting Law if panels and meetings are recorded but not transcribed.

The Executive Director noted that while travel funds so far this Fiscal Year have been used for Education and Outreach she is anticipating expending some travel funds for the November Meeting which is scheduled to be held in Northern Nevada with Southern Nevada Commissioners traveling.

Executive Director Nevarez-Goodson provided an update on the EITS conversion and asked Commissioners if they could bring their Commission issued tablets to the next meeting so that updates may be administered.

Protocols regarding confidentiality of a requestor's identity pursuant to NRS 281A.750(2): The Executive Director outlined the two provisions for confidentiality protection under the statute. The first provision mandates confidentiality for an individual who is employed by the same agency as the subject and the second provision provides the Commission's discretion to order confidentiality of a requestor who asserts that there is bona fide threat of physical harm to themselves or to a member of their family from the subject of the complaint. She provided some general examples of the latter provisional circumstances and stated that she has received questions from some Commissioners regarding protocol for ascertaining if a threat is bona fide. As such, she wanted to discuss the matter during a Commission meeting to formulate any direction for staff in determining confidentiality.

Commissioner O'Neill expressed his concern about the lack of equality provided for confidentiality under the discretionary provision as opposed to the mandatory provision. He stated that complainants may be deterred because they are unable to remain confidential and are unable to provide enough evidence of a legitimate threat against themselves or members of their family by the subject. He proposed that the Complaint be first evaluated for legitimacy and then confidentiality determined utilizing a more liberal standard.

Executive Director Nevarez-Goodson responded to Commissioner O'Neill's comments that the statute grants the Commission authority to determine whether the evidence is sufficient to support a concern of a bona fide threat. She added that a determination cannot be based on the merits of the complaint because the individual has the right to withdraw the complaint if their identity is not going to remain confidential. She provided an additional avenue could be for a complaint to be initiated by the Commission if the requestor did not want to continue after being denied confidentiality.

Commission Counsel Chase provided that there is an opportunity for the complainant to submit additional evidence of a threat after the Commission notifies them that their identity will not be protected.

Commissioner Duffrin suggested revisions to the Complaint Form including the possibility of adding more space or a supplemental page for the requestor to provide more detail about the perceived threat if the requestor does not indicate to proceed on the complaint form.

Executive Director closed her report with an expression of her appreciation to Commission staff for their hard work under the demands of the increased case load.

Commissioner O'Neill moved to accept the Executive Director's agency status report as presented. Commissioner Lowry seconded the motion. The motion was put to a vote and carried unanimously.

Executive Director Nevarez-Goodson recognized the efforts and hard work of Associate Counsel Judy Prutzman, Esq. who has obtained other employment and will be leaving the employment of the Commission. She publicly thanked Judy for her investment in the Commission over the years and wished her well in her new endeavor.

On behalf of the Commission, Chair Lau thanked Judy Prutzman for her contribution to the Commission.

8. Commissioner comments and identification of future agenda items. No action will be taken under this agenda item.

There were no Commissioner comments.

9. Public Comment.

No public comment.

10. Adjournment.

Commissioner Gruenewald made a motion to adjourn the public meeting. Commissioner Wallin seconded the motion. The Motion was put to a vote and carried unanimously.

The meeting adjourned at 11:09 a.m.

Minutes prepared by:

[/s/ Kari Pedroza](#)

Kari Pedroza
Executive Assistant

[/s/ Yvonne M. Nevarez-Goodson](#)

Yvonne M. Nevarez-Goodson, Esq.
Executive Director

Minutes approved October 16, 2019:

[/s/ Cheryl A. Lau](#)

Cheryl A. Lau, Esq.
Chair

[/s/ Keith A. Weaver](#)

Keith A. Weaver, Esq.
Vice-Chair