



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In re **Thomas Robinson**,
Deputy Chief, Reno Police
Department, State of Nevada,

Ethics Complaint No. **18-028C**

Subject. /

PANEL DETERMINATION¹
NRS 281A.725

The Nevada Commission on Ethics (“Commission”) received this Ethics Complaint No. 18-028C (“Complaint”) regarding the alleged conduct of Thomas Robinson (“Robinson” or “Subject”) a Deputy Chief at the Reno Police Department (“RPD”), State of Nevada, in violation of the Ethics in Government Law set forth in NRS Chapter 281A (“Ethics Law”). The Commission issued its *Order on Jurisdiction and Investigation* on June 21, 2018, which Order instructed the Executive Director to investigate alleged violations of NRS 281A.400(2), (7) and (9) and NRS 281A.420(1) and (3) for conduct associated with the promotion of the Subject’s brother at RPD.²

As a Chief Deputy of RPD, Robinson 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 Complaint relate to the Subject’s conduct as a public officer and has associated implications under the Ethics Law. In particular, the Ethics Complaint alleged that Robinson misused his official position as a Deputy Chief of

¹ Except as provided by law, a Panel Determination shall not be cited as precedent.

² In consultation with and upon the advice of Commission Counsel, Executive Director Yvonne Nevarez-Goodson disclosed to the Commission upon receipt of the complaint that she had a commitment in a private capacity under NRS 281A.065(6) to the sister-in-law of a potential witness, Chief Soto, and again disclosed the commitment to the members of the Review Panel. However, the private commitment and interests of the sister-in-law were not materially affected by this matter as the conduct of Chief Soto was not at issue under the Ethics Law in this Complaint. Consequently, the independence of judgment of a reasonable person in the Executive Director’s situation would not be materially affected by the private commitment so as to require abstention under NRS 281A.420. Commission Counsel disclosed to the Commission that she previously was employed as the Chief Deputy City Attorney for the City of Reno and in that capacity she had represented RPD and had spoken to Deputy Chief Robinson about city business and legal matters. She also disclosed that she has an ongoing friendship and, prior to 2014, had supervised Deputy City Attorney Jack Campbell, Esq., in his capacity in representing the City, including RPD, in legal matters. Commission Counsel’s friendship with Mr. Campbell is infrequent and they see one another a couple times each year. After Mr. Campbell’s separation from the City of Reno in 2014, Mr. Campbell represented a plaintiff in a pending lawsuit that pertained to the promotional process at issue in this Ethics Complaint. In addition, the Ethics Law establishes a legal separation between the Commission Counsel’s duties as legal advisor to the Commission and the duties of the Executive Director to conduct the investigation of an ethics complaint. Commission Counsel has no percipient knowledge of the facts at issue in this case or the pending lawsuit. Further, neither the relationship with Deputy Chief Robinson or Mr. Campbell requires disqualification under the Code of Judicial Conduct nor do they constitute a “commitment in a private capacity” under NRS 281A.065, which would require disclosure/abstention under the Ethics Law. The Commission and the Review Panel agreed and instructed both the Executive Director and Commission Counsel to perform their respective statutory duties with regard to this Ethics Complaint. The Executive Director and Commission Counsel disclosed these matters and the Commission’s direction to the Subject and Chief Soto, as applicable, and neither objected to the determination.

the RPD to secure unwarranted preferences for his brother, an applicant for a promotion within the RPD. The Complaint further alleged Robinson used government resources to benefit his own personal or pecuniary interests and improperly influenced his subordinates for his personal interests related to his brother's promotion.

On February 20, 2019, a Review Panel ("Panel") consisting of Chair Cheryl A. Lau, Esq. (Presiding Officer) and Commissioners Brian Duffrin and Teresa Lowry, Esq., reviewed the following: 1) Ethics Complaint No. 18-028C; 2) Subject's Response to the Complaint; 3) Investigator's Report; 4) Executive Director's Recommendation to the Review Panel; and 5) Proposed Letter of Instruction.³

The Panel does not find just and sufficient cause for the Commission to render an opinion regarding any of the alleged violations as follows:

NRS 281A.400(2) – The investigation revealed that Robinson recognized the conflict by discussing the matter with his supervisor, then-acting Chief Soto, who was also the supervisory head of the RPD. Under the direction of Chief Soto, Robinson abstained from the Civil Service assessors' discussion of his brother as an applicant and also abstained from the Executive Team's interview of his brother. Robinson participated in the discussions and interviews of other applicants and the final review of all applicants with the Executive Team. Chief Soto believed that all appropriate steps were taken to remove Robinson from what he perceived were the portions of the selection process that directly involved Robinson's brother. Moreover, the Executive Team confirmed that Robinson did not influence its review of candidates or recommendations to Chief Soto in support of his brother's promotion or, alternatively, to discourage his brother's promotion. Accordingly, no evidence was established to support that Robinson misused his position to secure an unwarranted preference for his brother or himself.

NRS 281A.400(7) - The investigation did not reveal any evidence to support a finding that Robinson's brother's promotion to a lieutenant position at RPD would benefit any significant personal or pecuniary interest of Robinson. Accordingly, credible evidence does not support a determination that just and sufficient cause exists for the Commission to render an opinion regarding Robinson's use of government resources in violation of NRS 281A.400(7).⁴

NRS 281A.400(9) – The investigation revealed that Robinson did not influence any of his subordinates with regard to the selection of his brother for promotion. The assessors from the Civil Service Commission and members of the Executive Team that conducted the review and interview of applicants to make a recommendation to Chief Soto for the final decision were not subordinate to Robinson.

NRS 281A.420 – The investigation revealed that Robinson and Chief Soto discussed the conflict involving Robinson's brother's candidacy for promotion to lieutenant, and that Chief Soto, the supervisory head of RPD, knew that Robinson's brother was a candidate, as did the other members of the Executive Team. Robinson's supervisor approved of Robinson's participation on the Executive Team and instructed Robinson to abstain from participating in the initial review of his brother's application and his brother's interview, which he did.

³ All materials provided to the Panel, except the Ethics Complaint, represent portions of the investigatory file and remain confidential pursuant to NRS 281A.750.

⁴ NRS 281A.400(7) was amended in the 2017 Legislative Session to apply to private commitments to other persons as defined in NRS 281A.065, effective July 1, 2017. Since the conduct at issue was in 2015, the version of the law in effect at the time was applied to the circumstances.

Under NAC 281A.430 and 281A.435, the Panel unanimously finds and concludes that the facts do not establish credible evidence to support a determination that just and sufficient cause exists for the Commission to render an opinion in the matter. However, pursuant to NRS 281A.730, the Panel finds that, despite insufficient evidence to support a violation in this matter, Robinson should not have been involved in any aspect of the promotional activities regarding which his brother was an applicant, and the Panel will issue a Confidential Letter of Caution to Robinson regarding the applicability of the Ethics Law to his duty to avoid conflicts between his public duties and private commitments to his brother, and any future conflicts that may exist given any chain-of-command issues involving his brother. No further proceedings will be held with regard to this matter and the Complaint will be dismissed.

Nonetheless, the Panel takes this opportunity to educate public officers and employees in similar situations involving family members. The Panel was concerned about the underlying appearance of impropriety related to Robinson's relationship with his brother and his involvement in any aspect of the promotional selection process, not just the portions that specifically involved his brother's application or interview. Although the Panel did not find sufficient evidence in this case to warrant a Commission opinion, the Commission has opined that public officers and public employees must not be involved in certain material matters associated with a relative because such participation not only creates an appearance of impropriety, but it also creates an impermissible "per se" conflict under the Ethics Law. See *In re Murnane*, Comm'n Op. No. 15-45A (2016) and *In re Public Officer*, Comm'n Op. No. 17-41A (2018). In Op. No. 17-41A, the Commission directed the Public Officer to properly disclose the familial relationship and to abstain from any participation in personnel matters pertaining to a relative, including promotions. Accordingly, it would have been a better course of action for Robinson to properly disclose and abstain from participating in any step of the screening process, including interviews and discussions of other candidates, which involved his brother's selection for promotion and created an appearance of impropriety.

Dated this 27th day of February, 2019.

NEVADA COMMISSION ON ETHICS

By: /s/ Cheryl A. Lau
Cheryl A. Lau, Esq.
Chair/Presiding Officer

By: /s/ Teresa Lowry
Teresa Lowry, Esq.
Commissioner

By: /s/ Brian Duffrin
Brian Duffrin
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 **Ethics Complaint No. 18-028C** via U.S. Certified Mail and electronic mail as follows:

Thomas Robinson
Deputy Chief
Reno Police Department
P.O. Box 1900
Reno NV 89502

Certified Mail No.: 9171 9690 0935 0037 6376 58
Email: robinsont@reno.gov

Dated: 2/27/19



Employee, Nevada Commission on Ethics