

Agenda Item 3



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

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

The Commission on Ethics held a public meeting on
Wednesday, May 9, 2018, at 9:30 a.m.
at the following locations:

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

and via video-conference to:

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

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 located in Carson City.

1. Call to Order and Roll Call.

Chair Cheryl A. Lau, Esq. called the meeting to order in Las Vegas, Nevada at 9:30 a.m. Also present in Las Vegas were Vice-Chair Keith A. Weaver, Esq. and Commissioners Brian Duffrin, Barbara Gruenewald, Esq. and Amanda Yen, Esq. Present for Commission staff in Las Vegas were Executive Director Yvonne M. Nevarez-Goodson, Esq., Commission Counsel Tracy L. Chase, Esq., Associate Counsel Judy Prutzman, Esq., and Executive Assistant Kari Pedroza. Senior Legal Researcher Darci Hayden was present for Commission staff in Carson City. Commissioner Philip K. O'Neill was excused.

The pledge of allegiance was conducted.

2. Public Comment.

The Chair noted that no members of the public were present in Carson City or Las Vegas.

3. Approval of Minutes of the March 21, 2018 Commission Meeting and the April 18, 2018 Regulation Workshop.

Vice-Chair Weaver moved to adopt the March 21, 2018 minutes. Commissioner Duffrin seconded the motion. Commissioner Yen abstained from the vote after she disclosed that she was excused from the March meeting. The Motion was put to a vote and carried unanimously.

Commissioner Yen moved to approve the minutes for the April 18, 2018 meeting. Commissioner Gruenewald seconded the motion. The Motion was put to a vote and carried unanimously.

4. Discussion and approval of a Proposed Stipulation concerning Ethics Complaint No. 17-26C regarding Jeffrey Witthun, Director, Family Support Division, Clark County District Attorney's Office, State of Nevada.

Jeffrey Witthun, Director of the Clark County District Attorney's Office, Family Support Division, and his legal representative, Shannon Wittenberger, Esq., introduced themselves for the record.

Associate Counsel Judy Prutzman presented the facts and terms of the Proposed Stipulated Agreement to the Commission in Ethics Complaint No. 17-26C. Associate Counsel Prutzman summarized that the complaint alleged Mr. Witthun violated the Ethics Law in 2016 when he used his public position to create an unpaid summer internship position for his son within the division and approved the hiring decision that resulted in his son working in a paid part-time position. She reported that the review panel determined that just and sufficient cause existed for the Commission to render an opinion regarding the allegations pertaining to NRS 281A.400(1), (2), (7), and (9) and NRS 281A.420(1).

Associate Counsel Prutzman outlined a proposed stipulated resolution of one nonwillful violation for Mr. Witthun's conduct related to the approval of his son's part-time paid position because he disclosed that he was acting on the matter to his supervisor as well as the head of human resources and both individuals authorized his conduct, and one willful violation for his conduct related to his son's summer internship. The Proposed Stipulated Agreement reflects that Mr. Witthun's conduct related to his son's summer internship would result in a willful violation of the Ethics Law and a \$2,500 civil penalty with an allowance for partial payment of the penalty, given unique personal circumstances, if three conditions were met by Mr. Witthun before the end of the calendar year. The three conditions provided were that Mr. Witthun must facilitate and attend ethics training for all employees within the division he oversees, he must notify his supervisor, the district attorney and the Clark County human resources director of the terms of his stipulation, and he would be required to submit a policy for his division addressing the hiring or supervision of family. If the three conditions were met, Commission staff proposed that \$1,500 of the total penalty would be forgiven and Mr. Witthun would be required to pay \$1,000.

Mr. Witthun's counsel, Shannon Wittenberger, Esq., thanked the Commission for working with her client on a resolution and provided information about mitigating factors and recognized a unique financial hardship Mr. Witthun had recently experienced due to a fire at his residence and that his conduct had been consistent with prior practice at his agency.

Mr. Witthun reiterated to the Commission that he was not aware that his conduct was in violation of the Ethics Law; however, he is more informed now and will ensure that his agency receives ethics training and is currently working on drafting a policy regarding nepotism for his agency.

Mr. Witthun, Counsel Wittenberger and Associate Counsel Prutzman confirmed for the record that they consented to the terms of the Proposed Stipulation.

Commission Counsel Chase stated for the record that the three review panel members in this matter were statutorily precluded under NRS 281A.220 from participating in any further post panel determination. Accordingly, the Proposed Stipulation would be considered by Chair Lau and Commissioners Duffrin and Yen.

Commissioner Duffrin asked Commission staff how they would verify that the conditions of the stipulation had been met. Associate Counsel Prutzman responded that staff has implemented internal procedures for tracking the terms of agreements including calendaring and follow-up. Executive Director Nevarez-Goodson offered that she would provide a report to the Commission when compliance with the terms had been satisfied.

Commissioner Duffrin asked Mr. Witthun to clarify his recent financial hardship and the status of the agency policy regarding the hiring or supervision of family members by public employees within the division. Mr. Witthun responded regarding the extent of the financial hardship experienced as the result of his residential fire and reported that he had a draft policy prepared for consideration by the District Attorney's Policy Committee to review such policies.

Commissioner Yen moved to accept the terms of the Stipulation and direct Commission Counsel to draft a final stipulation in appropriate form. Commissioner Yen noted that while the Commission sympathizes with Mr. Witthun's financial hardship, the basis for the motion was the other mitigating factors, particularly the education and the policy to be implemented. Commissioner Duffrin seconded the Motion. Executive Director Nevarez-Goodson clarified that the Commission did not intend for the terms of the stipulation to be changed. The Motion was put to a vote and carried unanimously. See Exhibit A, Witthun Proposed Stipulated Agreement.

5. Consideration and approval of Bill Draft Request Concepts submitted to the Office of the Governor based upon recommendations of the Executive Director pursuant to NRS 281A.240(1)(d).

Executive Director Nevarez-Goodson presented the final BDR Concepts that were approved during the Commission's prior meeting on March 21, 2018 and provided the Commission procedural information on the Bill Draft Request (BDR) process. The Commissioners did not have any questions on this Item.

The Chair called for a motion to approve the BDR concepts. Commissioner Gruenewald made the Motion and Commissioner Yen seconded the Motion. The Motion passed unanimously.

6. Report by the Executive Director on agency status and operations and possible direction thereon. Items to be discussed include:

- Proposed Regulations for submission to the Legislative Counsel Bureau
- Interim Salary Study (S.C.R. 6) Update
- Public Records Policy
- Education and Outreach by the Commission
- Commission Appointments
- Meeting Schedule
- FY18 Budget Update

Proposed Regulations for submission to the Legislative Counsel Bureau

Executive Director Nevarez-Goodson reported that Commission staff is working diligently on drafting proposed regulations that implement the provisions of S.B. 84 and outlined the next

steps in the process including providing proposed language to the Legislative Counsel Bureau for formal drafting and the Regulation Adoption Hearing, which will require a 30-day notice of the public hearing.

Interim Salary Study (S.C.R. 6) Update

Executive Director Nevarez-Goodson provided a brief update regarding the interim salary study, which was required by Senate Concurrent Resolution 6 from the 2017 Legislative Session. The Committee had not met again since the last Commission meeting and Executive Director Nevarez-Goodson reiterated that at their last meeting the Salary Study Committee agreed to conduct a salary survey and that she is awaiting the results of this survey. Executive Director Nevarez-Goodson stated that she intends to be present at any future committee meeting and will provide the Commission an update as available.

Public Records Policy

Executive Director Nevarez-Goodson discussed the recent decision from the Nevada Supreme Court regarding communications by public employees and public officers on their private devices or through their private email accounts. She reiterated the Commission's policy to communicate via government-issued email accounts for Commission-related business to protect private devices and email accounts from potential requests for public records.

Education and Outreach by the Commission

Executive Director Nevarez-Goodson reported on recent education and outreach efforts and noted that Commission staff has received consistent requests for training from various agencies. She stated she is considering possible adjustments during the budget process to provide outreach via online or digital platforms.

Commission Appointments

Executive Director Nevarez-Goodson acknowledged the two vacant positions and informed the Commission of the upcoming Legislative Commission meeting scheduled for May 16, 2018 at which she expects the Legislative Commission to consider appointments.

Meeting Schedule

Executive Director Nevarez-Goodson stated that there would be a Commission meeting on June 20, 2018 held in Las Vegas.

FY18 Budget

Executive Director Nevarez-Goodson reported that the Commission is on track to spend the fiscal year 2018 base budget this year and that the remaining travel funds will be expended for the June Commission meeting. Executive Director Nevarez-Goodson informed the Commission of the pending retirement of the Commission's Investigator, Anthony Freiberg, and thanked him for his public service.

7. Commissioner Comments on matters including, without limitation, identification of future agenda items, upcoming meeting dates and meeting procedures.

No Commissioner comments.

8. Open Session for Public Comment.

No public comment.

9. Adjournment.

The meeting adjourned at 10:27 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 **June 20, 2018**:

/s/ Cheryl A. Lau

Cheryl A. Lau, Esq.
Chair

/s/ Keith A. Weaver

Keith A. Weaver, Esq.
Vice-Chair

Exhibit A



STATE OF NEVADA
BEFORE THE NEVADA COMMISSION ON ETHICS

In re **Jeffrey Witthun**, Director,
Family Support Division, Clark
County District Attorney's Office,
State of Nevada,

Complaint No. **17-26C**

Subject. /

DRAFT

PROPOSED STIPULATED AGREEMENT

1. **PURPOSE:** This Stipulated Agreement resolves Ethics Complaint No. 17-26C ("Complaint") before the Nevada Commission on Ethics ("Commission") concerning Jeffrey Witthun ("Witthun" or "Subject"), Director of the Family Support Division ("Division") in the Clark County District Attorney's Office.

2. **JURISDICTION:** At all material times, Witthun was a public employee, as defined in NRS 281A.150. The Ethics in Government Law ("Ethics Law") set forth in NRS Chapter 281A¹ gives the Commission jurisdiction over elected and appointed public officers and public employees whose conduct is alleged to have violated the provisions of NRS Chapter 281A. See NRS 281A.280. Accordingly, the Commission has jurisdiction over Witthun in this matter.

3. **PROCEDURAL HISTORY BEFORE COMMISSION**

- a. On or about July 17, 2017, the Commission received this Complaint from an individual who works in the Clark County District Attorney's Office ("Requester")².

¹ Senate Bill 84 ("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 provisions of NRS 281A.400 and 281A.420 before the amendment of S.B. 84 apply to conduct alleged to have occurred before July 1, 2017. The Commission may apply S.B. 84 for all procedural matters. The amendatory provisions of S.B. 84 control over any contrary provisions of NAC Chapter 281A.

² Requester's identity has been kept confidential pursuant to Section 8 of S.B. 84.

- b. On September 11, 2017, the Commission issued its *Order on Jurisdiction and Investigation* accepting jurisdiction and directing the Executive Director to investigate alleged violations of the following provisions of the Ethics Law:³
- 1) 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;
 - 2) NRS 281A.400(2) - Using his public position to secure or grant an unwarranted advantage for himself or any person to whom he has a commitment in a private capacity;
 - 3) NRS 281A.400(7) - Using governmental resources to benefit a significant personal or pecuniary interest;
 - 4) NRS 281A.400(9) - Attempting to benefit his personal or financial interest through the influence of a subordinate; and
 - 5) NRS 281A.420(1) - Failing to disclose a pecuniary interest or commitment in a private capacity to the interest of another person which is reasonably affected by an official matter.
- c. On September 11, 2017, staff of the Commission issued a *Notice of Complaint and Investigation* to the Subject pursuant to section 3.9 of S.B. 84 and Witthun was provided an opportunity to provide a written response to the Complaint.
- d. On October 12, 2017, Witthun, through his legal counsel, Shannon Wittenberger, Esq., provided a written *Response to Ethics Complaint*.
- e. On March 14, 2018, the Executive Director presented a recommendation relating to just and sufficient cause to a three-member review panel pursuant to NRS 281A.440(4), as amended by section 3 of S.B. 84.
- f. A Panel Determination issued on March 22, 2018 concluded that:
- 1) Credible evidence supports just and sufficient cause for the Commission to render an opinion in the matter regarding the allegations pertaining to NRS 281A.400(1), (2), (7) and (9) and NRS 281A.420(1) related to

³ The Commission declined to investigate the alleged violation of NRS 281A.400(4) for lack of sufficient evidence.

Witthun's use of his public position to create a voluntary summer internship position for his son in the Division and his failure to disclose to his supervisor the relationship with his son before he acted on the matter; and

- 2) Sufficient credible evidence supports a determination that just and sufficient cause exists for the Commission to render an opinion in the matter regarding the allegations pertaining to NRS 281A.400(2) related to Witthun's use of his public position to approve the employment of his son in a part-time paid position in the Division.
- g. In lieu of an adjudicatory hearing before the Commission, Witthun now enters into this Stipulated Agreement acknowledging his duty as a public employee to commit himself to protect the public trust and conform his conduct to Chapter 281A of the Nevada Revised Statutes.

4. STIPULATED FACTS: At all material times, the following facts were relevant to this matter:⁴

- a. Witthun is the Director of the Family Support Division ("Division") of the Clark County District Attorney's Office ("DA's Office") and is a public employee as defined by NRS 281A.150. He joined the Division in 2010 as the Assistant Director and was promoted to the Director position in June 2015.
- b. The Clark County District Attorney's Office is a local agency as defined in NRS 281A.119.
- c. Witthun is a lawyer licensed in the State of Nevada.
- d. The Family Support Division is one of four divisions within the DA's Office.
- e. Witthun reports directly to the District Attorney, Steve Wolfson ("Wolfson"), and oversees all operations of the Division and approximately 350 employees.
- f. Witthun's job duties include the day-to-day management of investigators, attorneys and the Information Technology ("IT") and Administrative Departments within the Division. Responsibility for the operations side of the

⁴ Stipulated Facts do not constitute part of the "Investigative File" as that term is defined by Section 9 of S.B. 84. All statutory and common law protections afforded to the Investigative File shall remain and are not affected by this Stipulated Agreement.

Division, including the Call Center, has been delegated to Assistant Director Suzi Truby (“Truby”).

- g. Witthun is not directly involved in the recruitment, screening and interviewing processes for all Division positions. Witthun makes decisions regarding hiring for certain positions in the Division and Wolfson has the ultimate and final approval; however, Wolfson generally only involves himself in the hiring of higher level positions within the Division (i.e. investigative supervisor, I.T. Project Manager, etc). Witthun reviews and approves the background checks for potential employees.
- h. Telauna Byamugisha (“Byamugisha”) is a Management Analyst who handles employment and human resources matters for the Division and reports directly to Truby. Byamugisha is responsible for recruitment efforts for open positions within the Division and manages the interview/selection process.
- i. Adam Witthun (“Adam”) is Witthun’s son. Adam graduated from Foothill High School in 2016 and was planning to attend the College of Southern Nevada in August of 2016.
- j. Two formal internship programs existed in the Division – an internship program for UNLV students who wanted to earn credit for doing social work and a volunteer summer internship program in the Investigations Department for students at Valley High School.
- k. No formal internship program existed in the IT Department.
- l. Witthun is authorized to develop or approve the creation of volunteer or internship opportunities within the Division.
- m. During a regular meeting with Brodie and Michael Brown (“Brown”), the IT Department Manager, Witthun had asked if Adam could shadow them to learn about IT.
- n. During their meeting with Witthun, Brodie suggested the idea of having an IT summer internship program for the summer of 2016 and believed having relatives of employees of the Division would help start the program at its inception and suggested having Adam apply for the program.

- o. Witthun approved of Brodie's idea and agreed that he would not be involved in the vetting or decision-making process. Brodie and Brown discussed with Witthun that Adam should be evaluated for the internship in the same way that other interns in the Division were evaluated.
- p. Several weeks before Adam's graduation from high school and after Witthun had the above referenced discussions with Brodie and Brown, Witthun spoke to Adam about the possibility of him shadowing employees in the IT Department of the Division. At the time, Adam was working part-time as a Bakery Clerk at the Vons supermarket
- q. Witthun did not inform Wolfson that he discussed the creation of a summer internship program for which Adam could apply with his subordinates.
- r. The Division's IT Department summer internship program was not advertised or publicized to the general public.
- s. Adam and the daughter of an IT Systems Programmer were the only interns who worked in the Division's IT Department during the summer of 2016.
- t. On or about June 21, 2016, Adam started working ten hours a week as an unpaid intern in the IT Department, reporting directly to Brodie. He was assigned a Clark County email account and spent time shadowing IT employees and assisting at the IT help desk.
- u. Adam did not receive any compensation or college credit for his work as a summer intern.
- v. While working at the IT help desk as an intern, Adam found out about several part-time job vacancies in the Division through his County email, and he was encouraged by one of his co-workers to apply.
- w. On July 26, 2016, Adam submitted his application for a part-time Customer Service Assistant position in the Division Call Center, a position that paid \$12 per hour. On the first page of the application form, Adam indicated that Witthun was his father and he worked in the Division.
- x. Pursuant to Clark County Personnel Policy III, an "appointing authority may hire temporary, part-time hourly, and exempt employees without going through the competitive process." Accordingly, a job announcement for the part-time

- position Adam applied for was not posted publicly, as was customary, and the recruitment/selection process was handled within the Division by Byamugisha, not the Clark County Office of Human Resources.
- y. Adam told Witthun he was applying for a position in the Division after he submitted his application to Byamugisha.
 - z. Twenty-two applications were received for 4 part-time openings in the Division during summer of 2016. The applicants were interviewed by a panel selected by Byamugisha and consisting of three Division supervisors who worked within Witthun's chain of command but reported directly to Truby.
 - aa. Witthun did not discuss Adam's application or otherwise influence Byamugisha or the three Division supervisors who interviewed Adam.
 - bb. Adam, who was the only applicant with prior/current work experience in the Division, received the second highest rating of the four top applicants after the interview process.
 - cc. On August 17, 2016, before Witthun reviewed background checks for the successful applicants and before Adam received an offer of employment, Witthun sent an email to Wolfson regarding Adam's potential employment in the Division. In the email, Witthun explained that Adam would be working four supervisory levels below him and therefore would not report directly to him.
 - dd. In response to Witthun's email, Wolfson stated that he had "no problem" with Adam's employment in the Division and he suggested that Witthun also speak with Greg Smith ("Smith"), Assistant Director of the Administration Division, which includes Human Resources.
 - ee. In an email dated August 17, 2016, Smith told Witthun and Wolfson that "[t]here is no problem with bringing Adam on, based on the fact that there are several layers of supervision between he [sic] and Jeff [Witthun]."
 - ff. On August 18, 2016, Adam received an offer of employment from Byamugisha that was conditioned on passing a background check.
 - gg. On August 30, 2016, Witthun sent an email to Byamugisha regarding his review of background checks for three of the part-time candidates, including Adam. Witthun did not approve the hire of one candidate based on results of

his background check; Adam and another candidate passed their background check.

- hh. With regard to Adam's background results, because Adam was Witthun's son, Witthun sent an email to County HR and internal HR to give them the ability to override his decision and stated that "if anyone else wants to review this, I certainly have no objection." No further review was conducted and Adam started working as a Part Time Customer Service Assistant in the Division's Call Center on October 10, 2016.
- ii. On July 5, 2017, the Clark County Director of Human Resources, Sandy Jeantete, received a confidential complaint via email, asserting that Adam's employment in the Division violated Nevada's nepotism law (NRS 281.120).
- jj. On August 11, 2017, Adam was transferred to a part-time Runner position in the Criminal Division and received a raise to \$15/hour. Witthun was not involved in the decision to transfer Adam to the Criminal Division.
- kk. Clark County does not have a written policy regarding nepotism, but the County follows Nevada's nepotism law (NRS 281.210) and considers the hiring or supervision of a related person to be a conflict of interest as provided in the following sections of County Personnel Policy XII:

I. PREFERENTIAL TREATMENT

Employees will not use or attempt to use their official County positions to secure or grant privileges, exemptions, advantages, contracts, or preferential treatment for themselves or others.

II. CONFLICTS OF INTEREST AND ACCEPTANCE OF GIFTS

B. An employee's involvement in any activity that is a conflict of interest is prohibited. A conflict of interest is any interest of the employee (financial, personal, collaborative or otherwise) that could impair the independence of judgment or the ability of a reasonable employee to act in the County's or public's best interest in any matter. A conflict of interest may arise from outside employment, donor/donee or debtor/creditor relationships, consulting arrangements, family or personal relationships, legal or fiduciary arrangements and financial investments, or any other matter that could be construed by a reasonable third party as conflicting with the employee's duties.

III. FULL DISCLOSURE

A. Employee will disclose to their Department Heads any potential conflicts of interest that may affect any matter or aspect of their County duties. Employees will not participate as agents or representatives of a County department or take any action or make recommendations on any matter in which they have a conflict of interest as determined by the Department Head.

5. **TERMS / CONCLUSIONS OF LAW**: Based on the foregoing, Witthun and the Commission agree as follows:

- a. Each of the stipulated facts enumerated in Section 4 of this Stipulated Agreement is agreed to by the parties.
- b. Witthun is a public employee, which constitutes a public trust to be held for the sole benefit of the people of the State of Nevada (in particular, the citizens of Clark County).
- c. Witthun has a commitment in a private capacity to the interests of his son Adam. NRS 281A.065(3).
- d. As a public employee, Witthun must commit himself to avoid both actual and perceived conflicts between his private interests and those of the public he serves. *See In re Public Employee*, Comm'n Op. No. 10-73A (2011).
- e. Witthun shall not seek or accept any service, favor or engagement which would tend to improperly to influence a reasonable person in the public employee's position to depart from the faithful and impartial discharge of the public employee's public duties (NRS 281A.400(1)). Witthun also must not use his public position to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself or any person to whom he has a commitment in a private capacity (NRS 281A.400(2)) or attempt to influence a subordinate to benefit his personal or financial interests (NRS 281A.400(9)).
- f. The Commission considers whether an action is unwarranted pursuant to NRS 281A.400(2) if the action was illegal, under nepotism or other laws, or otherwise against the written policies of the agency that employs the public employee.
- g. Witthun must avoid actual and perceived conflicts of interest by disclosing sufficient information to the supervisory head of the organization concerning

- any private relationships which would reasonably affect his action on public matters. NRS 281A.420(1).
- h. Witthun violated NRS 281A.400(1) when he asked his subordinates if his son could shadow them to learn about IT because he was seeking a favor and/or engagement for his son, which would tend to improperly influence a reasonable person in his position as Division Director to depart from the impartial discharge of his public duties.
 - i. Witthun used his position as Division Director to ask his subordinates if his son could shadow them and subsequently authorized his subordinates to create a summer internship program that would only be available to relatives of employees, including his son, in an effort to secure an unwarranted privilege or advantage for his son, a person with whom he has a commitment in a private capacity, in violation of NRS 281A.400(2). Witthun's attempt to influence subordinates in a matter related to his son's attainment of a professional summer internship experience also implicates NRS 281A.400(7) and (9).
 - j. Witthun did not, before discussing the creation of a summer internship program in the IT Department or his son pursuing the program, inform his supervisor of the potential effect of having his son engage in the program, a person to whom Witthun has a commitment in a private capacity. Such a disclosure was required by NRS 281A.420(1).
 - k. Witthun's review of his son's background check and approval of his employment as a part-time employee of the Division violated NRS 281A.400(2).
 - l. Witthun now understands that it was improper for him to use his position as the Division Director to act upon any matters involving his son's employment, both as an unpaid summer intern and as a part-time employee of the Division.
 - m. Witthun's act of asking subordinates if his son could shadow them, followed by his authorization of an internship program that would exclusively be available to relatives of Division employees, including his son, constitutes the precise conduct the provisions of NRS Chapter 281A are intended to discourage and prevent. The Ethics Law establishes a per se conflict of interest for public

- employees regarding public duties which affect the interests of a person to whom the employee is related within the third degree, including a son
- n. Witthun's actions related to his son's summer internship constitute a single course of conduct resulting in one willful violation of the Ethics Law, implicating the provisions of NRS 281A.400(2), (7) and (9) and NRS 281A.420(1), as interpreted and applied in accordance with the provisions of NRS 281A.020.
 - o. The Commission concludes that Witthun's violation was willful pursuant to NRS 281A.170 because he acted intentionally and knowingly, as those terms are defined in NRS 281A.105 and 281A.115, respectively
 - p. For an act to be intentional, NRS 281A.105 does not require that Witthun acted in bad faith, or with ill will, evil intent or malice. However, Witthun acted voluntarily or deliberately on matters related to an internship opportunity for his son. See *In re McNair*, Comm'n Op. Nos. 10-105C, 10-106C, 10-108C, 10-109C and 10-110C (2011) ("the relevant inquiry regarding willful misconduct is an inquiry into the intentional nature of the actor's conduct . . . The fact that an actor may have acted with the best of intentions does not relieve the actor of liability.") (citation omitted).
 - q. NRS 281A.115 defines "knowingly" as "import[ing] a knowledge that the facts exist which constitute the act or omission." NRS Chapter 281A does not require that Witthun had actual knowledge that his conduct violated the Ethics Law, but it does impose constructive knowledge when other facts are present that should put an ordinarily prudent person upon inquiry. See *In re Stark*, Comm'n Op. No. 10-48C (2010). Even if Witthun was deemed to have no actual knowledge that his conduct would violate the provisions of NRS 281A, the record reflects Witthun's long career in public service (including years as a licensed attorney). As such, he was aware of and relied upon the statutes and regulations governing public employees. These circumstances put an ordinarily prudent person upon inquiry that a Division Director is subject to the provisions of the Ethics Law and that any voluntary acts would likewise be subject to NRS Chapter 281A.

- r. The Commission considered the following mitigating factors in determining whether Witthun's violation is willful and the amount of the civil penalty to be imposed on Witthun:
- 1) Witthun has not previously violated the Ethics Law.
 - 2) Witthun has been diligent to cooperate with and participate in the Commission's investigation and resolution of this matter.
 - 3) Neither Witthun nor his son received any remuneration associated with the summer internship position, which was a volunteer, unpaid position.
 - 4) Witthun's son has been transferred to another Division.
 - 5) Witthun relied upon past practices within the Division whereby family members of the Division's staff had been hired to work in the Division.
- s. However, these mitigating factors are offset by the following considerations:
- 1) The seriousness of the conduct is significant when measured against the public's trust that public employees will not use their public position or influence to acquire opportunities or advantages for family members that are not available to the general public.
 - 2) The internship opportunity created untold future benefits for Witthun's son, including a possible advantage as an applicant for the paid part-time position within the Division.
- t. Witthun's actions related to approval of his son's part-time paid position in the Division violate NRS 281A.400(2), but such violation is not deemed willful because the Commission accepts as a mitigating factor to willfulness that Witthun's supervisor approved of Witthun's conduct after disclosure of the facts related to Adam's employment.
- u. For the willful violation, Witthun will pay a civil penalty of \$2,500.00, pursuant to NRS 281A.480, on or before December 30, 2018. However, based upon the unique circumstances presented in this matter and given a recent personal situation that has created a significant financial hardship, the Commission will forgive \$1,500 of the \$2,500 fine if the following conditions are met:

- (a) On or before December 1, 2018, Witthun agrees to facilitate (and attend) an Ethics in Government Law training session(s) for Division staff presented by the Commission's Executive Director, or her designee.
- (b) Witthun shall submit a proposed policy pertaining to the hiring or supervision of family members for all types of positions, paid and unpaid, to the District Attorney administrative staff requesting approval of said policy. Failure of the District Attorney's office to accept and/or implement the policy will not be considered a violation of this Agreement by Witthun. A courtesy copy of such policy will be provided to the Commission on or before December 1, 2018.
- (c) On or before July 1, 2018, Witthun will notify the District Attorney and the Clark County Human Resources Director of the terms of the Stipulated Agreement.
- v. Witthun may pay the penalty in monthly payments of \$100 a month commencing on June 1, 2018.
- w. This Stipulated Agreement depends on and applies only to the specific facts, circumstances and law related to the Ethics Complaint now before the Commission. Any facts or circumstances that may come to light after its entry that are in addition to or differ from those contained herein may create a different resolution of this matter.
- x. This agreement is intended to apply to and resolve only this specific proceeding before the Commission and is not intended to be applicable to or create any admission of liability for any other proceeding, including administrative, civil, or criminal regarding Witthun. If the Commission rejects this Stipulated Agreement, none of the provisions herein shall be considered by the Commission or be admissible as evidence in a hearing on the merits in this matter.

6. WAIVER

- a. Witthun knowingly and voluntarily waives his right to a hearing before the full Commission on the allegations in Ethics Complaint Case No. 17-26C and all rights he may be accorded with regard to this matter pursuant to NRS Chapter 281A, S.B. 84, the regulations of the Commission (NAC Chapter 281A), the

Nevada Administrative Procedures Act (NRS Chapter 233B) and any other applicable provisions of law.

- b. Witthun knowingly and voluntarily waives his right to judicial review of this matter pursuant to NRS 281A, NRS 233B or any other applicable provisions of law.

7. **ACCEPTANCE:** We, the undersigned parties, have read this Stipulated Agreement, understand each and every provision therein, and agree to be bound thereby. The parties orally agreed to be bound by the terms of this agreement during the regular meeting of the Commission on May 9, 2018.⁵

DATED this ____ day of _____, 2018. DRAFT
Jeffrey Witthun

The above Stipulated Agreement is approved by:

FOR JEFFREY WITTHUN,
Subject

DATED this ____ day of _____, 2018. DRAFT
Shannon Wittenberger, Esq.
Counsel for Subject

⁵ Subject waived any right to receive written notice pursuant to NRS 241.033 of the time and place of the Commission's meeting to consider his character, alleged misconduct, professional competence, or physical or mental health.

FOR YVONNE M. NEVAREZ-GOODSON, ESQ.
Executive Director, Commission on Ethics

DATED this ____ day of _____, 2018. DRAFT

Judy A. Prutzman, Esq.
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this ____ day of _____, 2018. DRAFT

Tracy L. Chase, Esq.
Commission Counsel

The above Stipulated Agreement is accepted by the Commission.⁶

DATED _____, 2018.

By: DRAFT

Cheryl A. Lau, Esq.
Chair

By: DRAFT

Brian Duffrin
Commissioner

By: DRAFT

Amanda Yen, Esq.
Commissioner

⁶ Vice Chair Weaver and Commissioners Gruenewald and O'Neill participated in the Panel hearing and are therefore precluded from participating in this Stipulated Agreement pursuant to NRS 281A.220(4).

Agenda Item 4

**NEVADA ETHICS
OPINION REQUEST**

17-21

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

NRS 281A.440(2)

RECEIVED

JUN 26 2017

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.)

NAME: <small>(Last, First)</small>	Gerald Cook - Antinoro Clarence Campbell III	TITLE OF PUBLIC OFFICE: <small>(Position: e.g. city manager)</small>	Sheriff
PUBLIC ENTITY: <small>(Name of the entity employing this position: e.g. the City of XYZ)</small>	Virginia City, Storey County		
ADDRESS: <small>(Street number and name)</small>	205 SC St.	CITY, STATE, ZIP CODE	Virginia City, NV 89440
TELEPHONE:	<small>Work:</small> 775-847-0988	<small>Other: (Home, cell)</small> 775-847-7393	E-MAIL:

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 [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.

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

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.

Clarence Grempel III
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

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.410¹

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 filed² 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.³ 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.

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

² 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."

³ 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 respond⁴ 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 79th 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 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.

Dated this 12th day of July, 2017.

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

⁴ 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

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 DETERMINATION¹

NRS 281A.440(5); NAC 281A.440; S.B. 84²

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.³

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

² 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.

³ 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 26th 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.
Executive Director
Judy A. Prutzman, Esq.
Associate Counsel
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, NV 89703

Email: ynevarez@ethics.nv.gov

Email: jprutzman@ethics.nv.gov

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

Email: kfp@thorndal.com

Email: psb@thorndal.com

Attorney for Subject

Gerald Antinoro
Sheriff
Storey County
P.O. Box 498
Virginia City, NV 89440

Certified Mail No.: 9171 9690 0935 0037 6375 35

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"))¹

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, 2018.² 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 22nd day of March, 2018.

NEVADA COMMISSION ON ETHICS

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

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

¹ 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.

² 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
Executive Director
Judy A. Prutzman, Esq. Email: 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
Thorndal Armstrong et al Email: 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. **17-21C**

Subject. /

NOTICE OF HEARING AND SCHEDULING ORDER

NRS Chapter 281A, as amended by S.B. 84¹

and

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

PLEASE TAKE NOTICE, on **June 20, 2018** and **July 18, 2018**, respectively, the Nevada Commission on Ethics ("Commission") will hold public meetings to include hearings to consider 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, as amended by S.B. 84 ("Ethics Law").²

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. The Review Panel provided opportunity for a deferral agreement; however, the parties were unable to develop such agreement. Accordingly, the Review Panel issued a Referral Order on March 22 2018, referring the allegations supported by credible evidence to the Commission for further proceedings.

Pursuant to 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 hearings will assist the Commission to determine whether any violation of the Nevada Ethics in Government 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.480.

¹ 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 was resolved under the new provisions of law.

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

THE HEARINGS WILL TAKE PLACE:

Wednesday, June 20, 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:

**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**

Wednesday, July 18, 2018 at 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter, at the following location:

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

and via video-conference to:

**Grant Sawyer State Building
Room 4401
555 E. Washington Avenue
Las Vegas, NV 89101**

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 dates 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 Subject at the scheduled hearings. Subject has 5 business days³ after receipt of the Notice of Hearing to respond to the Commission's

³ 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.,

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

On or before **Monday, April 23, 2018**, the Parties may engage in continued investigation of facts and exchange written discovery interrogatories and requests for production. Such requests shall not be costly or burdensome. All responses to discovery requests must be completed not later than 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 regarding depositions of witnesses may be resolved by the Commission through its 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. The investigation of facts and all discovery shall be completed by the Parties no later than **Tuesday, May 1, 2018**.

3. MOTIONS

On or before **Wednesday, May 2, 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 **Wednesday, May 16, 2018**, the Parties may submit written non-discovery-related and substantive/dispositive 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.

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.

1. SUBPOENA POWERS

On or before **Monday, June 25, 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.

2. PREHEARING STATEMENTS

On or before **Monday, June 25, 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.

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.

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.

3. EXHIBIT BOOKS

On or before **Thursday, June 28, 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.

4. OBJECTIONS

On or before **Thursday, July 3, 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.

5. 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 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, with copy to dhayden@ethics.nv.gov. Upon submission, each party shall serve its documents on the other party by electronic mail as follows:

<p>Yvonne M. Nevarez-Goodson, Esq. Executive Director Judy A. Prutzman, Esq. Associate Counsel Nevada Commission on Ethics 704 West Nye Lane, Suite 204 Carson City, NV 89703 ynevarez@ethics.nv.gov jprutzman@ethics.nv.gov</p>	<p>Katherine F. Parks, Esq. Thorndal Armstrong et al 6590 S. McCarran Blvd., #B Reno, NV 89509 kfp@thorndal.com psb@thorndall.com</p>
---	--

A certificate of service shall be included verifying service as required herein.

6. 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.

7. 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: March 29, 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 **Notice of 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

Email: jprutzman@ethics.nv.gov

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

Email: kpf@thorndal.com

Email: psb@thorndal.com

DATED: March 29, 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,

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 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 Hearing and Scheduling Order dated March 29, 2018.

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 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 30TH day of MARCH, 2018.

By: 
Gerald Antinoro

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.

_____ /

GERALD ANTINORO'S MOTION FOR SUMMARY JUDGMENT

1 Katherine F. Parks, Esq. - State Bar No. 6227
2 Thorndal Armstrong Delk Balkenbush & Eisinger
3 6590 S. McCarran Blvd., Suite B
4 Reno, Nevada 89509
5 (775) 786-2882
6 kfp@thorndal.com
7 ATTORNEYS FOR GERALD ANTINORO

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,

14 Subject.

Request for Opinion No. 17-21C

GERALD ANTINORO'S MOTION
FOR SUMMARY JUDGMENT

15 COMES NOW, Gerald Antinoro, by and through his attorneys of record, Thorndal
16 Armstrong Delk Balkenbush & Eisinger, and pursuant to NAC 281A.265, hereby submits his
17 motion for summary judgment on Request for Opinion No. 17-21C.

18 **I**

19 **INTRODUCTION**

20 This matter arose from a Third Party Request for Opinion (RFO) submitted to the
21 Commission by Clarence Gempel III on June 21, 2017. This RFO largely relates to a child
22 custody dispute between Gempel and his ex-wife, Laura Antinoro. Laura Antinoro is married to
23 Storey County Sheriff Gerald Antinoro. In the midst of this dispute, Gempel scheduled a visit
24 with the then nine year old daughter he shares with Laura Antinoro, a right he had not exercised
25 in 6 years. *See*, Exhibit 1, Declaration of Gerald Antinoro. In accordance with the term of the
26 divorce decree, Laura Antinoro agreed to the visitation. *See*, Exhibit 2, Decree of Divorce.
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1 However, out of an abundance of caution, and based on Grempel's past behavior, Mrs. Antinoro
2 determined that the safest place to hold the visitation was the Sheriff's Office in Virginia City,
3 Nevada. Grempel asserts in his Third Party Request for Opinion that, by holding the visitation at
4 the Sheriff's Office, Sheriff Antinoro somehow violated Nevada Ethics laws. These allegations
5 are entirely baseless and are not supported by the facts or applicable law.
6

7 As shall be discussed herein, the actions of Sheriff Antinoro do not demonstrate a
8 violation of any Nevada Ethics law. The purpose of Mrs. Antinoro's decision to hold the visit at
9 the Sheriff's Office was to ensure the safety of Laura Antinoro's young daughter and nothing
10 more. Sheriff Antinoro merely allowed Mrs. Antinoro a service that can be utilized by any
11 member of the general public. Sheriff Antinoro simply did not confer on his spouse an
12 unwarranted privilege, preference, exemption or advantage within the meaning of NRS
13 281A.400 or otherwise. In fact, Laura Antinoro was allowed to use the Sheriff's Office for one to
14 two hours for a visitation between her ex-husband and their minor child in the same fashion as
15 would any member of the public. The Storey County Sheriff's Office, both the main office in
16 Virginia City and the substation in Lockwood, have been open to, and used by, members of the
17 public under just such circumstances for visitations and child custody exchanges. *See*, Exhibit 1,
18 Declaration of Gerald Antinoro; *see also*, Exhibit 3, Declaration of Brandy Gavenda; *see also*,
19 Exhibit 4, Declaration of Tony Dosen; and *see also*, Exhibit 5, Declaration of Eric Kern.
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22 It is readily apparent that Grempel is attempting to utilize the Commission here to further
23 his position in a custody dispute between himself and Laura Antinoro.¹ Such an attempt should
24 not be sanctioned by the Commission whose time and resources should be focused on addressing
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28 ¹On June 21, 2017, Grempel submitted his Third Party Request for Opinion to the Commission. Only six days later,
on June 27, 2017, Grempel filed an ex parte motion in the Family Division of the Second Judicial District Court
seeking a change in his custody arrangement with Laura Antinoro. *See*, Exhibit 6, Order Denying Ex Parte Motion.
Grempel's ex parte motion was rejected by the court. *Id.*

1 actual violations of Nevada Ethics law and not the baseless complaints of a disgruntled ex-
2 spouse.

3 II

4 FACTUAL BACKGROUND

5 Clarence Gempel is the ex-husband of the Laura Antinoro, wife of Storey County
6 Sheriff Gerald Antinoro. *See*, Exhibit 1, Declaration of Gerald Antinoro; *see also*, Exhibit 2,
7 Decree of Divorce. Together, Gempel and Laura Antinoro share a now ten year old daughter
8 (who was nine years of age at the time of the events at issue). *Id.* Gempel currently resides in
9 Prescott, Arizona, and Laura Antinoro and her daughter reside in Storey County, Nevada. On
10 November 28, 2011, Laura Antinoro secured a decree of divorce dissolving her marriage to
11 Gempel. *See*, Exhibit 2, Decree of Divorce. In the divorce decree, the Court awarded sole
12 custody of the minor child to Laura Antinoro. *Id.* As part of the decree, Gempel was granted
13 visitation with their child every other Saturday from 9:00 a.m. to 1:00 p.m. *Id.* Under the
14 specific terms of the divorce degree, Gempel's visits with the minor were to be supervised by an
15 individual of Laura Antinoro's choosing. *Id.* Prior to the subject incident, Gempel had not
16 attempted to exercise his visitation rights for 6 years and had not otherwise seen the minor child
17 since she was three years of age. *See* Exhibit 1, Declaration of Gerald Antinoro.

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21 In the time leading up to the visitation, Gempel contacted Mrs. Antinoro and informed
22 her that he would be in Nevada and would like to exercise his visitation rights. *Id.* Laura
23 Antinoro complied with his request and had initially decided that the visitation could be held at a
24 public park in Virginia City. *Id.* However, as the time for the visitation approached, it became
25 clear to Mrs. Antinoro that Gempel was creating a hostile situation and was challenging the
26 terms of the divorce decree established by the court. *Id.* Mrs. Antinoro was concerned for her
27 daughter's well-being considering that Gempel had not seen the child for six years. *Id.*
28

1 Accordingly, Mrs. Antinoro determined that the most prudent course of action was for the visit
2 to be held at the Sheriff's Office, a safe and publicly accessible location. *Id.*

3 This visit, which is the sole basis of the RFO at issue, occurred on May 20, 2017, and
4 lasted approximately one to two hours. *Id.* Sheriff Antinoro was working on May 20, 2017, in
5 his office. *Id.* The visit took place in a squad room at the Storey County Sheriff's main office in
6 Virginia City, a location which provided privacy to Gempel and the minor child.. *Id.* Gempel
7 also met with his daughter on the deck of the Sheriff's Office during the course of this visit. *Id.*
8 The communication between Sheriff Antinoro and Gempel on May 20, 2017, was limited to
9 Sheriff Antinoro's actions in introducing himself to Gempel. *Id.* At no time did Sheriff
10 Antinoro attempt to participate in the visit between Gempel and the minor child on May 20,
11 2017. *Id.* Sheriff Antinoro was not involved in, or responsible for, the decision to change the
12 location of the visit from a public park to the Sheriff's Office on May 20, 2017. *Id.* That decision
13 was made entirely by Laura Antinoro as a result of her concerns stemming from Gempel's prior
14 conduct. *Id.*

15 This one to two hour visit between the Requestor and the minor child on May 20, 2017,
16 constitutes the entire basis of the instant RFO. Contrary to any arguments otherwise, Sheriff
17 Antinoro did not confer an unwarranted privilege or advantage on his spouse by permitting her to
18 do what any member of the general public has the right to do. As noted above, the Sheriff's
19 Office has, and does, permit members of the general public to use the Sheriff's Office, including
20 both the main office in Virginia City and the substation in Lockwood, when needed, for
21 visitations and child custody exchanges. *See*, Exhibit 1, Declaration of Gerald Antinoro; *see*
22 *also*, Exhibit 3, Declaration of Brandy Gavenda; *see also*, Exhibit 4, Declaration of Tony Dosen;
23 *see also*, Exhibit 5, Declaration of Eric Kern. Nor does the conduct as alleged constitute a
24 violation of NRS 281A.400(7). As there is no evidence, let alone a preponderance of the
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1 evidence, that Sheriff Antinoro violated any provision of Chapter 281A, he is entitled to
2 summary judgment of RFO 17-21C.

3 III

4 LEGAL ANALYSIS

5 A. Standard of Review

6 Summary judgment is appropriate under Rule 56 of the Nevada Rules of Civil Procedure
7 when the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any,
8 that are properly before the court demonstrate that no genuine issue of material fact exists, and
9 the moving party is entitled to judgment as a matter of law. NRCP 56(C). A factual dispute will
10 be considered genuine if the evidence is as such that a rational trier of fact could return a verdict
11 in favor of the non-moving party. *Turner v. Mandalay Sports Entm't, LLC*, 124 Nev. 213, 216,
12 180 P.3d 1172, 1174 (2008). When evaluating the pleadings and other evidence on file in a
13 motion for summary judgment, the court should view it in a light most favorable to the non-
14 moving party. *Id.* at 216.

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18 “When a motion for summary judgment is made and supported as required by NRCP 56,
19 the non-moving party may not rest upon general allegations and conclusions, but must, by
20 affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine factual
21 issue.” *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 713, 57 P.3d 82, 87 (2002) (emphasis
22 added). The substantive law controls which factual disputes are material and will preclude
23 summary judgment; other factual disputes are irrelevant. *Id.* at 731. The purpose of summary
24 judgment is to obviate trials when they would serve no useful purpose. *Short v. Hotel Riviera,*
25 *Inc.*, 79 Nev. 94, 378 P.2d 979 (1963); *Corey v. Ha*, 87 Nev. 32, 482 P.2d 814 (1971).

26
27 Further, in accordance with NRS 281A.480(9), the standard of proof to be applied to this
28 administrative proceeding is that of a preponderance of the evidence. A preponderance of the

1 evidence means such evidence as, when considered and compared with that opposed to it, has
2 more convincing force and the greater probability of truth. *See, Corbin v. State*, 111 Nev. 378,
3 380, 892 P.2d 580 (1995).

4 **B. The Use of the Sheriff's Office by the Spouse of Sheriff Antinoro to Conduct a One**
5 **to Two Hour Child Visitation on May 20, 2017, Did Not Violate NRS 281A.400(2) or**
6 **NRS 281A.400(7).**

7 As noted by this Commission, the citizens of the State of Nevada have a right to be
8 assured to the fullest possible extent that the private interests of their governmental
9 representatives present no conflict of interest between public trust and private gain. *In re: Stork*,
10 Comm'n Op. No. 17-01A (2017). The Commission has defined the intent of the Ethics Laws as
11 follows:

12
13 "The apparent intent of the provisions of NRS Chapter 281 [now NRS Chapter
14 281A] . . . is to prevent public officers and employees from becoming involved in
15 situations generating conflicts between private and public interests so as to
16 preserve and enhance impartiality of public office and faith in the integrity of
17 government."

18 *Id.* at p. 5.

19 NRS 281A.020(1) provides:

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

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

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

26 As noted above, the only issue to be addressed by the Commission is whether the use of
27 the Sheriff's Office located in Virginia City by Mrs. Antinoro for a one to two hour visit between
28 her minor child and the Requestor on May 20, 2017, constituted a violation under NRS
28 281A.400(2) and (7). NRS 281A.400(2) provides as follows:

1 [a] public officer or employee shall not use the public officer's or employee's
2 position in government to secure or grant unwarranted privileges, preferences,
3 exemptions or advantages for the public officer or employee, any business entity
4 in which the public officer or employee has a significant pecuniary interest or any
5 person to whom the public officer or employee has a commitment in a private
6 capacity. As used in this subsection, 'unwarranted' means without justification or
7 adequate reason.

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

9 [e]xcept for State Legislators who are subject to the restrictions set forth in
10 subsection 8, a public officer or employee shall not use governmental time,
11 property, equipment or other facility to benefit a significant personal or pecuniary
12 interest of the public officer or employee or any person to whom the public officer
13 or employee has a commitment in a private capacity. This subsection does not
14 prohibit:

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

- 17 (1) The public officer or employee who is responsible for and has
18 authority to authorize the use of such property, equipment or other facility
19 has 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
22 or 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 (i) NRS 281A.400(2)

26 In regard to NRS 281A.400(2), there is no evidence, let alone a preponderance of the
27 evidence, that Sheriff Antinoro secured or granted any "unwarranted privileges, preferences,
28 exemptions or advantages," to Laura Antinoro as result of allowing her to use the Sheriff's Office
to conduct a one to two hour visit between Grepel and their child on May 20, 2017. The
visitation was conducted pursuant to a divorce decree under which Grepel was entitled to visits
with the minor twice a month under the supervision of an individual of Mrs. Antinoro's choosing.
See, Exhibit 2, Decree of Divorce. Regardless of where the visit was conducted, the rights of
Grepel were in no way impeded and Mrs. Antinoro secured no privileges, preferences,

1 exemptions or advantages that were not, and are not, also available to members of the general
2 public.

3 Mrs. Antinoro was not provided any privileges, preferences, exemptions or advantages
4 which were not, and are not, available to members of the general public should such services be
5 needed. As discussed above, the Storey County Sheriff's Office is open to, and used by, members
6 of the public for child visitation and custody exchanges. See, Exhibit 1, Declaration of Gerald
7 Antinoro; see also, Exhibit 3, Declaration of Brandy Gavenda; see also, Exhibit 4, Declaration of
8 Tony Dosen; see also, Exhibit 5, Declaration of Eric Kern. The Sheriff's Office has a statutory
9 obligation to "keep and preserve the peace" in Storey County under state law. See, NRS 248.090.
10 The Sheriff's Office is also required to maintain an office in Virginia City which must be kept
11 open to the public during business hours as a matter of state law. See, NRS 248.030. That the
12 Sheriff's Office is open to members of the public who may need assistance to assure safe
13 visitations and child custody exchanges between separated or divorced parents is unquestionably
14 a benefit to the citizens of Storey County (and others). Under the circumstances, Mrs. Antinoro
15 was not provided any preference or advantage that could not have been utilized by any member
16 of the public, let alone an unwarranted preference or advantage.
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20 Counsel for Sheriff Antinoro have been unable to find any Commission opinions which
21 would provide any precedent to suggest that a public official has been found in violation of NRS
22 281A.400(2) under the same or even similar circumstances. In the *Matter of Request for*
23 *Advisory Opinion by Thomas Cunningham, Comm'n Op. No. 10-52A (2010)*, the Commission
24 responded to a request for an advisory opinion which concerned, in part, the analysis of NRS
25 281A.400(2). In that case, Thomas Cunningham was employed as an Exhibits Preparator II at
26 the Lost City Museum operated by the State of Nevada Department of Cultural Affairs in
27 Overton, Nevada. *Id.* at p. 2. In his private capacity, Cunningham was a photographer. *Id.* At
28

1 the time of that decision, the museum operated a monthly program in which local artists
2 displayed their work for sale under a contract by which the artist and the museum would share
3 the proceeds of any sales made during a monthly exhibit with the artist. *Id.* Although the
4 museum, for a period of time, was in high demand with local artists and had a waiting list of
5 artists seeking to display their work, the museum's 2010 exhibit for August was vacant and had
6 remained vacant for more than a year. *Id.* As a result, the museum asked Mr. Cunningham to
7 display his photography under the same contract terms and conditions as were available to all
8 artists. *Id.* Mr. Cunningham raised the question of whether, by showing his private art through
9 his public employer at the museum and for which he would be compensated financially, he
10 would be in violation of Nevada Ethics laws, including NRS 281A.400(2).
11

12
13 The Commission answered that question in the negative. *Id.* In so doing, the
14 Commission noted that, under the circumstances, Mr. Cunningham was not seeking any
15 preference or advantage at all, "let alone an unwarranted preference or advantage." *Id.* at p. 3.
16 Rather, the Commission noted that, "[t]he opportunity to display art was available to all artists."
17 *Id.*
18

19 Here, the Sheriff's Office was and is open to members of the public who feel that they
20 need a safe place to deal with child custody issues. As in the *Cunningham* decision, Sheriff
21 Antinoro was not seeking or providing a preference to his spouse that is or was unavailable to
22 members of the public at large. Accordingly, there can be no violation of NRS 281A.400(2)
23 here.
24

25 In addition, it cannot be found that the action of Sheriff Antinoro in simply allowing the
26 use of the Sheriff's Office for the visit in question was without justification or adequate reason.
27 The Requestor in this case had not seen his daughter, who was then only 9 years of age, for six
28 years. *See*, Exhibit 1, Declaration of Gerald Antinoro. In fact, the minor child had not seen

1 Grempel since she was three years of age. *Id.* The safety and well being of a 9 year old child
2 certainly provides justification and adequate reason for Laura Antinoro to have utilized the
3 Sheriff's Office for one to two hours on May 20, 2017, to accomplish this visit.

4 The fact that the Sheriff's Office was, and is, open to members of the public should they
5 feel that they need assistance in accomplishing safe child visitations or custody exchanges is of
6 significant benefit to the public and was not an unwarranted privilege bestowed upon Laura
7 Antinoro by virtue of the public office held by her husband.²

9 **(ii) NRS 281A.400(7)**

10 The same logic also applies to the allegation that the one to two hour visit of May 20,
11 2017, rose to the level of a violation of NRS 281A.400(7). Under said statute, a public officer or
12 employee is prohibited from utilizing government resources, including property, equipment, or
13 facility, to secure a benefit in their private capacity. *See*, NRS 281A.400(7). The statute
14 provides a list of exceptions to the general rule, effectively permitting the use of government
15 property, equipment, or other facility for personal use for limited purposes if: (1) The public
16 officer or employee who is responsible for and has authority to authorize the use of such
17 property, equipment or other facility has established a policy allowing the use or the use is
18 necessary as a result of emergency circumstances; (2) The use does not interfere with the
19 performance of the public officer's or employee's public duties; (3) The cost or value related to the
20 use is nominal; and (4) The use does not create the appearance of impropriety.

21 First and foremost, Sheriff Antinoro did not utilize government property or resources to
22 secure a benefit in his private capacity. As was discussed in detail above, the Sheriff's Office
23 was, and is, open to members of the public for child visitation and custody exchanges, both at the
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28 If the Sheriff's Office was to turn away a member of the public who expressed the need for a safe location to
engage in a visitation or child custody exchange, the consequences of such an action could be dire and would
certainly not comport with the Sheriff's Office's statutory mandate to keep and preserve the peace in Storey County.
See, NRS 248.090.

1 main office located in Virginia City, Nevada, and the substation located in Lockwood, Nevada.
2 *See*, Exhibit 1, Declaration of Gerald Antinoro; *see also*, Exhibit 3, Declaration of Brandy
3 Gavenda; *see also*, Exhibit 4, Declaration of Tony Dosen; *see also*, Exhibit 5, Declaration of Eric
4 Kern. Sheriff Antinoro bestowed on Laura Antinoro no “benefit” which is not correspondingly
5 available to members of the general public. This fact obviates any claim whatsoever that Sheriff
6 Antinoro violated NRS 281A.400(7) under the circumstances.

8 Further, the limited use of the Sheriff’s Office by Laura Antinoro for one to two hours on
9 May 20, 2017, constitutes just the sort of limited use contemplated by NRS 281A.400(7)(a)(1-4).
10 First, Sheriff Antinoro, as the Sheriff of Storey County, is responsible for, and has the authority
11 to, authorize the use of the Virginia City main office, as well as the Lockwood substation, for
12 child visitations such as that which occurred on May 20, 2017. The evidence submitted herewith
13 clearly demonstrates that the Sheriff’s Office is, and was in May of 2017, open to members of
14 the general public for such activities. As such, the limited use of the Sheriff’s Office by Mrs.
15 Antinoro on May 20, 2017, cannot be used to impose liability against Sheriff Antinoro for a
16 violation of NRS 281A.400(7) under these circumstances.

19 There is also no evidence, let alone a preponderance of the evidence, which suggests that
20 the May 20, 2017, one to two hour visit between Gempel, Laura Antinoro and the minor child at
21 the Sheriff’s Office in any way interfered with the performance of Sheriff Antinoro’s public
22 duties. Sheriff Antinoro did not participate in the visit between Gempel and the minor child.
23 *See*, Exhibit 1, Declaration of Gerald Antinoro. Sheriff Antinoro did not communicate with
24 Gempel on May 20, 2017, other than to introduce himself. *Id.* Sheriff Antinoro otherwise spent
25 the duration of the visit working in his office. *Id.* It simply cannot be the case that this limited,
26 one to two hour use of the Sheriff’s Office can be found to have interfered with Sheriff
27 Antinoro’s public duties under the facts presented.
28

1 As for the cost or value related to the use of the Sheriff's Office on May 20, 2017, for this
2 visit, the cost or value is not nominal, it is non-existent. Further, this service is one provided to
3 members of the general public free to charge.

4 Lastly, use of the Sheriff's Office under these circumstances cannot be deemed to have
5 created an appearance of impropriety. Again, the Sheriff's Office was and is open to members of
6 the public under the very same circumstances. Sheriff Antinoro did not participate in the visit in
7 any manner and spent the time Gempel was at the Sheriff's Office working in his office. *See*,
8 Exhibit 1, Declaration of Gerald Antinoro.

9
10 With respect to the limited question posed to the Commission in this case, there is simply
11 no evidence which would suggest that Sheriff Antinoro violated NRS 281A.400(7) when his
12 spouse, as could any member of the public who needed assistance, used the Sheriff's Office as a
13 safe place to conduct a visit between a nine year old child and the father she had not seen in six
14 years (since she was three years old) and counsel for Sheriff Antinoro have found no precedent
15 in this Commission's opinions which would suggest otherwise. As such, Sheriff Antinoro is
16 entitled to summary judgment in this matter.
17
18

19 **C. There is No Evidence to Support a Willful Violation of Either NRS 281A.400(2) or**
20 **NRS 281A.400(7).**

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

24 NRS 281A.475 provides that, in determining whether a violation of Chapter 281A is
25 willful and, if so, the amount of any civil penalty which should be imposed on a public officer,
26 the Commission *shall consider*, without limitation, all of the following factors:
27

28 (a) The seriousness of the violation, including, without limitation, the nature,
circumstances, extent and gravity of the violation;

1 (b) The number and history of previous warnings issued to or violations of the provisions
2 of this chapter by the public officer or employee;

3 (c) The cost to the Commission to conduct the investigation and any hearings relating to
4 the violation;

5 (d) Any mitigating factors, including, without limitation, any self-reporting, prompt
6 correction of the violation, any attempts to rectify the violation before any complaint is filed and
7 any cooperation by the public officer or employee in resolving the complaint;

8 (e) Any restitution or reimbursement paid to the parties affected by the violation;

9 (f) The extent of any financial gain resulting from the violation; and

10 (g) Any other matter justice may require.

11
12
13 *See, NRS 281A.475.*

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

17
18 The Commission may find that a public officer's conduct is a willful violation if he or she
19 is found to have acted voluntarily and with the specific intent and purpose either to (i) disobey or
20 disregard what Chapter 281A requires or (ii) do something which Chapter 281A forbids. *See, In*
21 *re: McDonald, Comm'n Op. No. 00-41 (2000).* The Commission may also find that a public
22 officer willfully violated a provision of Chapter 281A if it determines that he or she "knew or
23 reasonably should have known" what Chapter 281A forbids or requires and he or she is found to
24 have acted voluntarily and with "intention, knowledge, and purpose, without justifiable excuse" in
25 violation of a provision of Chapter 281A. *Id.* A violation of Chapter 281A is not "willful" if it
26 occurs as the result of carelessness, thoughtlessness, heedlessness, or inadvertence. *Id.*
27
28

1 The facts of the instant matter compel the conclusion that Sheriff Antinoro did not
2 willfully violate NRS 281A.400(2) or NRS 281A(7) by permitting his spouse to use the Sheriff's
3 Office on one occasion to allow her to hold a visitation between her ex-husband and the minor
4 child whom the Requestor had not seen in six years. Neither the language of Chapter 281A
5 itself, nor any prior opinions of this Commission, would serve to adequately place Sheriff
6 Antinoro on notice that the conduct at issue is prohibited.

7
8 As for the first factor in the analysis, respectfully, the actions of Sheriff Antinoro at issue
9 herein cannot be deemed to be of the required seriousness to rise to the level of a willful
10 violation of Nevada Ethics laws under NRS 281A.475. The nature and circumstances underlying
11 the instant Request for Opinion involve one instance in which Sheriff Antinoro's spouse was
12 permitted to utilize the Sheriff's Office in the same manner and for the same purpose as other
13 members of the public have been, and are, permitted to do. The facts and circumstances do not
14 support the conclusion that the gravity of the alleged violation reaches the statutory level of a
15 willful violation under NRS 281A.475.

16
17
18 As for the second factor, the Commission is aware that Sheriff Antinoro has been
19 involved in several proceedings before it, one of which resulted in a stipulated settlement
20 agreement and one which resulted in a finding of a willful violation by the Commission in 2017,
21 the latter of which is currently on appeal to the Nevada Supreme Court. The circumstances at
22 issue in these prior proceedings are wholly dissimilar from the circumstances presented in the
23 matter at bar and this factor does not compel the finding of a willful violation here.

24
25 At this stage of the proceedings, the cost to the Commission of conducting the
26 investigation into this matter should be minimal.

27 As to mitigating factors, most notably, the subject matter of this Request for Opinion, and
28 the very reason Sheriff Antinoro finds himself before the Commission, arises out of the concern

1 of Laura Antinoro for the safety and well being of the then nine year old child she shares with
2 the Requestor. The Requestor had not seen the minor child since she was three years of age as of
3 May 20, 2017.

4 The Requestor was not affected financially by the conduct at issue nor was there any
5 financial gain whatsoever to Sheriff Antinoro or to his spouse under these circumstances.
6

7 As was discussed above, counsel for Sheriff Antinoro have found no precedent in terms
8 of Commission opinions which would suggest that the actions of Sheriff Antinoro constituted a
9 violation of NRS 281A.400(2) or NRS 281A.400(7) or which would support any finding of a
10 willful violation of any Nevada Ethics laws.

11 There is no evidence here that Sheriff Antinoro acted voluntarily with the specific intent
12 and purpose either to disobey or disregard what Chapter 281A requires or to do something which
13 Chapter 281A forbids. Nor is there any evidence to support the conclusion that Sheriff Antinoro
14 knew or should have known that his actions in permitting his spouse the same courtesy as would
15 be available to a member of the general public was somehow in violation of Chapter 281A. The
16 conduct complained of here arose solely out of a mother's concern that she have a safe place to
17 conduct a visit between her ex-spouse and the nine year old child whom the child's father had not
18 seen since she was three. These circumstances do not give rise to a violation of Chapter 281A at
19 all and they certainly do not rise to the level of a willful violation of Nevada Ethics law.
20
21

22 IV

23 CONCLUSION

24
25 There is simply no evidence, let alone a preponderance of the evidence, that Sheriff
26 Antinoro's action in allowing his spouse to use the Sheriff's Office's main office for a one to two
27 hour period of time for the child visit discussed herein was in violation of NRS 281A.400(2) or
28 NRS 281A.400(7). Sheriff Antinoro permitted his spouse to do nothing which would not have

1 been permitted to a member of the general public who felt that he or she needed a safe location
2 to accomplish a child visitation under such circumstances.

3 As such, Sheriff Antinoro respectfully submits that he is entitled to summary judgment of
4 RFO 17-21C and requests that his motion for summary judgment be granted.

5 DATED this 16th day of May, 2018.

7 THORNDAL ARMSTRONG
8 DELK BALKENBUSH & EISINGER
9 By: Katherine F. Parks
10 Katherine F. Parks, Esq.
11 Thorndal Armstrong Delk
12 Balkenbush & Eisinger
13 6590 S. McCarran Blvd. Suite B
14 Reno, Nevada 89509
15 (775) 786-2882
16 kfp@thorndal.com
17 ATTORNEYS FOR GERALD ANTINORO

CERTIFICATE OF SERVICE

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 MOTION FOR SUMMARY JUDGMENT** 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:

Yvonne M. Nevarez-Goodson, Esq. Executive Director Nevada Commission on Ethics 704 W. Nye Lane, Suite 204 Carson City, Nevada 89703 ynevarez@ethics.nv.gov	Judy A. Prutzman, Esq. Associate Counsel Nevada Commission on Ethics 704 W. Nye Lane, Suite 204 Carson City, Nevada 89703 jprutzman@ethics.nv.gov
Tracy L. Chase, Esq. Commission Counsel Nevada Commission on Ethics 704 W. Nye Lane, Suite 204 Carson City, Nevada 89703 tchase@ethics.nv.gov	

DATED this 16 day of May, 2018


An employee of THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER

EXHIBIT "1"

EXHIBIT "1"

1 Katherine F. Parks, Esq. - State Bar No. 6227
2 Thorndal Armstrong Delk Balkenbush & Eisinger
3 6590 S. McCarran Blvd., Suite B
4 Reno, Nevada 89509
5 (775) 786-2882
6 kfp@thorndal.com
7 ATTORNEYS FOR GERALD ANTINORO

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,

14 Subject.

Request for Opinion No. 17-21C

**DECLARATION OF GERALD
ANTINORO IN SUPPORT OF
MOTION FOR SUMMARY
JUDGMENT**

- 15 1. I am over the age of eighteen (18) and have personal knowledge of the information set
16 forth herein.
- 17 2. I am currently serving as the Sheriff of Storey County, a position I have held since
18 2011.
- 19 3. I am married to Laura Antinoro. Laura Antinoro was formerly married to Clarence
20 Grepel. Laura Antinoro and Clarence Grepel have a now ten year old daughter.
- 21 4. In early 2017, Grepel contacted Laura Antinoro and expressed his desire to visit his
22 then nine year old daughter in Storey County, Nevada. At the time of this request, Grepel had
23 not seen his daughter for six years or since she was three years of age.
- 24 5. Prior to the scheduled visitation, Laura Antinoro expressed her concern that Grepel
25 was creating a hostile situation regarding disputes about the custody of their daughter. Laura
26 Antinoro further expressed her concern about her daughter's well-being and her reaction to
27 seeing her father.
- 28 6. Thereafter, Laura Antinoro suggested to Grepel that the visitation be held at the
Storey County Sheriff's office in order ensure the safety and well-being of the minor child.

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7. It is the custom and practice of the Storey County Sheriff's Office to remain open to, and be used by, members of the public for child visitation and custody exchanges at both the main office located in Virginia City, Nevada, and the substation located in Lockwood, Nevada.

8. On May 20, 2017, the scheduled visitation was held at the main office of the Storey County Sheriff's Office in Virginia City. The visitation was held in the squad room, which provided privacy to Gempel and the minor child, and on outside deck of the main office. The visit between Gempel and the minor child lasted for approximately one to two hours.

9. I did not participate in the visit between Gempel and the minor child. I did not communicate with Gempel other than to introduce myself. I was working in my office throughout the duration of the visitation.

10. At no time did I attempt to participate in the visit between Gempel and the minor child on May 20, 2017.

11. I was not involved in, or responsible for, the decision to change the location of the visit from a public park to the Sheriff's Office on May 20, 2017. That decision was made by my spouse, Laura Antinoro, as a result of her safety concerns.

Dated this 15th day of May, 2018.


GERALD ANTINORO

EXHIBIT "2"

EXHIBIT "2"

1 CODE: 1745
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5

6 **IN THE FAMILY DIVISION**
7 **OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
8 **IN AND FOR THE COUNTY OF WASHOE**
9

10 LAURA GREMPEL,

11 Plaintiff,

Case No. ^{DV} FV41-01573

12 vs.

Dept. No. UM/2

13 CLARENCE E. GREMPEL, III,

14 Defendant.
15

16 **DECREE OF DIVORCE FOLLOWING DEFAULT**

17 (With Children)

18 This matter, having been submitted to this Court for decision following a Complaint
19 for Divorce, after a case management conference, held on November 15, 2011, where the
20 following person(s) appeared:

21 Plaintiff Laura Grempel, who represented herself. The Defendant, Clarence E.
22 Grempel III, did not appear. The Court finds and orders as follows:

23 FINDINGS OF FACT AND CONCLUSIONS OF LAW

- 24 1. The requirements of NRS 125.181 and NRS 125.182 have been met;
25 2. This Court has complete jurisdiction over the parties and of the subject matter of
26 this action to enter this Decree and the orders regarding the distribution of assets and
27 debts;
28

1 3. Wife has been, and is now an actual bona fide resident of the State of Nevada
2 and has actually been domiciled In the State of Nevada for more than six (6) weeks
3 immediately prior to the commencement of this action, and intends to continue to make the
4 State of Nevada his/her home for an indefinite period of time. Such residency has been
5 confirmed by the filing of a Declaration of Resident Witness in Lieu of Affidavit;

6 4. The Parties married on June 1, 2002 In Reno, Nevada and ever since have
7 been, and still are, Husband and Wife;

8 5. The Parties have become, and continue to be, incompatible in marriage and no
9 reconciliation is possible, and/or the Parties have lived separate and apart for more than
10 one year without cohabitating as Husband and Wife;

11 6. The Parties are entitled to a Decree of Divorce and Judgment dissolving the
12 bonds of marriage now existing between them and restoring each of them to the status of
13 single and unmarried persons;

14 7. Wife is not pregnant at this time.

15 8. Wife wishes to resume the use of her maiden name: Laura DeSimone.

16 9. Husband was properly served with the summons and complaint for divorce.
17 Husband has not filed an answer or other responsive pleading to the complaint and no
18 other appearance has been made by Husband.

19 10. A default has been entered against Husband.

20 DECREE OF DIVORCE

21 Based upon the foregoing, the Court hereby orders as follows:

22 Decree

23 1. The bonds of marriage now existing between the Parties are dissolved and an
24 absolute Decree of Divorce is granted to the Parties, and each of the Parties is restored to
25 the status of unmarried person.

26 Division of Assets

27 2. The Court enters the following orders regarding division of the Parties' assets:

28 The community property shall be divided as follows:

1 Wife will receive the Jeep Grand Cherokee automobile while Husband is to
2 receive the Pontiac Grand Am automobile.

3 All other property not specified herein is confirmed as the separate property of the
4 person in whose name the property is held or who currently possesses the property.

5 Division of Debt

6 3. The Court enters the following orders regarding division of the Parties' debts:

7 a. Wife shall receive the following debts:

- 8 i. Dell Financial Services (est. \$280.00);
- 9 ii. ½ Wells Fargo Visa (est. \$5500.00);
- 10 iii. ½ Citibank MasterCard (est. \$2500.00); and
- 11 iv. ½ Bank of the West credit card (est. \$9147.00).

12 b. Husband shall receive the following debts:

- 13 i. Clearstar Financial Credit Union re: Dr. Pak, DDS (est. \$407.00);
- 14 ii. ½ Wells Fargo Visa (est. \$5500.00);
- 15 iii. ½ Citibank MasterCard (est. \$2500.00); and
- 16 iv. ½ Bank of the West credit card (est. \$9147.00).

17 Any debts or obligations incurred by either party that are not identified above shall
18 be paid by the party who incurred the debt or obligation and that party shall indemnify and
19 hold the other party harmless from such debts.

20 Spousal Support

21 4. Neither party has requested any spousal support.

22 Maiden Name

23 5. Wife will return to the use of her maiden name: Laura Angelina DeSimone.

24 FINDINGS AND ORDERS REGARDING

25 CHILD CUSTODY, VISITATION AND CHILD SUPPORT

26 1. The parties have one minor child, whose name and date of birth is:
27
28

1 There are no other minor children as between the two parties.

2 2. The minor child has resided in the State of Nevada for a sufficient period of time
3 for Nevada to be considered her home state under the Uniform Child Custody Jurisdiction
4 and Enforcement Act and the Parental Kidnapping Prevention Act. Nevada is the habitual
5 residence of the children.

6 3. Paternity has been established as follows:

7 A voluntary affidavit of paternity has been signed by both parents pursuant to
8 NRS 126.053.

9 4. The custody and visitation set forth below is in the child's best interests.

10 5. Husband/Father was properly served with the Complaint for Divorce. Father has
11 not filed a response or otherwise appeared. A default has been entered.

12 Based upon the foregoing, the Court hereby orders as follows:

13 Child Custody/Visitation

14 1. Mother is awarded sole legal custody of the minor child.

15 2. Primary physical custody of the minor child is awarded to Mother. Father is
16 granted visitation with the minor child every other Saturday from 9:00 a.m. until 1:00 p.m.
17 Such visitation is to be supervised by an individual of Mother's choosing.

18 Support of Child

19 3. Father shall pay to Mother child support in the amount of \$421.00 per month
20 beginning December, 2011. Said payments shall be made on or before the 15th day of
21 each month. This amount was calculated in accordance with the statutory requirements of
22 NRS 125B.070 and 125B.080.

23 4. The child support obligation shall continue until the child reaches the age of
24 eighteen (18) years, or, if the child is still attending high school at the age of eighteen (18)
25 years, until the child graduated from high school, turns nineteen (19) years old, or is
26 otherwise emancipated, whichever comes first.

27

28

1 and before the planned move, attempt to obtain the written consent of the noncustodial
2 parent to move the child from this State. If the noncustodial parent refuses to give that
3 consent, the custodial parent shall, before he leaves this State with the child, petition the
4 court for permission to move the child. The failure of a parent to comply with the provisions
5 of this section may be considered as a factor if a change of custody is requested by the
6 noncustodial parent.

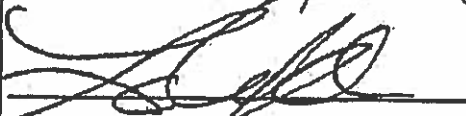
7 Pursuant to NRS 125B.145, child support must be reviewed by the court at least
8 every 3 years to determine whether the order should be modified or adjusted.

9 PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR
10 DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A
11 CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that
12 every person having a limited right of custody to a child or any parent having no right of
13 custody to the child who willfully detains, conceals or removes the child from a parent,
14 guardian or other person having lawful custody or a right of visitation of the child in
15 violation of an order of this court, or removes the child from the jurisdiction of the court
16 without the consent of either the court or all persons who have the right to custody or
17 visitation is subject to being punished for a category D felony as provided in NRS 193.130.

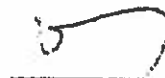
18 The terms of the Hague Convention of October 25, 1980, adopted by the 14th
19 Session of the Hague Conference on Private International Law, apply if a parent abducts
20 or wrongfully retains a child in a foreign country.

21 **IT IS SO ORDERED.**

22 Dated: 02/22/2011

23
24 

25 Family Court Master

23
24 

25 District Judge

26
27
28 **CERTIFIED COPY**

the document to which this certificate is
attached is a full, true and correct copy of
the original on file and of record in my office.

DATE: 11-30-2011

CRAY FRANDEN, Clerk of the Second
Judicial District Court, in and for the County
of Washoe, State of Nevada.

Yvonne R. Whitehead Deputy

CERTIFICATE OF MAILING

Pursuant to NRCF 5(b), I certify that I am an employee of the Second Judicial District Court, and that on the 30th day of November, 2011, I deposited for mailing, first class postage pre-paid, at Reno, Nevada, a true and correct copy of the foregoing document addressed to:

Document: DECREE OF DIVORCE

Laura Gempel
2340 Lousetown Rd.
Reno, NV 89521


Administrative Assistant

EXHIBIT "3"

EXHIBIT "3"

1 Katherine F. Parks, Esq. - State Bar No. 6227
2 Thorndal Armstrong Delk Balkenbush & Eisinger
3 6590 S. McCarran Blvd., Suite B
4 Reno, Nevada 89509
5 (775) 786-2882
6 kfp@thorndal.com
7 ATTORNEYS FOR GERALD ANTINORO

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,

14 Subject.

Request for Opinion No. 17-21C

**DECLARATION OF BRANDY
GAVENDA IN SUPPORT OF
MOTION FOR SUMMARY
JUDGMENT**

15 1. I am over the age of eighteen (18) and have personal knowledge of the information set
16 forth herein.

17 2. I am employed by the Storey County Sheriff's Office in Virginia City and have been
18 so employed for over three years.

19 3. During my employment with the Storey County Sheriff's Office, I have observed that
20 the Sheriff's Office, including the main office located in Virginia City, Nevada, has been open
21 to, and used by, members of the public for child visitation and custody exchanges.

22 Dated this 14 day of May, 2018.

23 

24 BRANDY GAVENDA

EXHIBIT "4"

EXHIBIT "4"

1 Katherine F. Parks, Esq. - State Bar No. 6227
2 Thorndal Armstrong Delk Balkenbush & Eisinger
3 6590 S. McCarran Blvd., Suite B
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5 (775) 786-2882
6 kfp@thorndal.com
7 ATTORNEYS FOR GERALD ANTINORO

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,

14 Subject.

Request for Opinion No. 17-21C

**DECLARATION OF TONY DOSEN IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

15 1. I am over the age of eighteen (18) and have personal knowledge of the information set
16 forth herein.

17 2. I am employed by the Storey County Sheriff's Office and have been so employed
18 since September of 2005.

19 3. During my employment with the Storey County Sheriff's Office, I have observed that
20 the Storey County Sheriff's Office, including the main office located in Virginia City, Nevada,
21 and the substation located in Lockwood, Nevada, have been open to, and used by, members of
22 the public for child visitation and custody exchanges.

23 Dated this 15 day of May, 2018.

24 
25 _____
26 TONY DOSEN
27
28

EXHIBIT "5"

EXHIBIT "5"

1 Katherine F. Parks, Esq. - State Bar No. 6227
 2 Thorndal Armstrong Delk Balkenbush & Eisinger
 3 6590 S. McCarran Blvd., Suite B
 4 Reno, Nevada 89509
 5 (775) 786-2882
 6 kfp@thorndal.com
 7 ATTORNEYS FOR GERALD ANTINORO

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

**DECLARATION OF ERIC KERN IN
 SUPPORT OF MOTION FOR
 SUMMARY JUDGMENT**

14 Subject.

15 1. I am over the age of eighteen (18) and have personal knowledge of the information set
 16 forth herein.

17 2. I am employed by the Storey County Sheriff's Office and have been so employed
 18 since 2009.

19 3. During my employment with the Storey County Sheriff's Office, I have observed that
 20 the Storey County Sheriff's Office, including the main office located in Virginia City, Nevada,
 21 and the substation located in Lockwood, Nevada, have been open to, and used by, members of
 22 the public for child visitation and custody exchanges.

23 Dated this 16 day of May, 2018.


24 
 25 _____
 26 ERIC KERN

EXHIBIT "6"

EXHIBIT "6"

1 CODE:
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6 IN THE FAMILY DIVISION
7 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF WASHOE

9 In the Matter of the Marriage of

10 LAURA GREMPEL,

Case No. DV11-01573

11 Petitioner,

Dept. No. 5

12 Vs.

13 CLARENCE GREMPEL,

14 Respondent.
15 _____/

16 ORDER DENYING EX PARTE MOTION

17 This Court denies Mr. GrempeL's *Ex Parte* Emergency Motion Regarding Children,
18 filed June 27, 2017, and submitted July 17, 2017, for the following reasons.


19 Under WDCR(12)(2), a party requesting relief must generally serve the opposing
20 party with a copy of the motion, attaching proof of this service to his pleading. Service of
21 the pleading is required so that Courts cannot infringe on an individual's rights without
22 notice. Law disfavors *ex parte* motions because they do not afford the opposing party
23 notice or allow the Court to hear both sides of the issue prior to entering an order. This
24 Court also disfavors *ex parte* motion practice and strictly adheres to the standards
25 governing *ex parte* relief. Pursuant to WDFCR 43(2)(a), notice of *ex parte* orders may be
26 excused when immediate and irreparable harm is alleged. Pursuant to WDFCR
27 43(2)(b)(4), *ex parte* orders may be granted without notice when the child's health and
28 safety is in danger.

1 WDFCR 43(1)(a) requires a party seeking an ex parte order to "give reasonable
2 notice to the opposing party." WDFCR 43(1)(b)&(c) state that reasonable notice includes
3 "the date, time and place the request will be made," and that it "must afford the opposing
4 party 24 hours within which the application may be opposed." Pursuant to WDFCR
5 43(2)(a), ex parte orders may be granted without notice when "notice would frustrate the
6 very purpose of the order or cause the party or child to suffer immediate and irreparable
7 injury."

8 The Court finds that Mr. Grepel has failed to provide a sufficient basis for granting
9 his requested relief on an ex parte basis or without the required notice. Therefore, the *ex*
10 *parte* Motion is denied. Parties without lawyers are encouraged to seek the advice of a
11 licensed attorney or contact the Family Court Self-Help Center located at One South Sierra
12 Street, First Floor, Reno, Nevada, (775) 325-6731.

13 **IT IS SO ORDERED.**

14 Dated: July 18, 2017.

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18 Cynthia Lu
19 District Court Judge
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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. /

EXECUTIVE DIRECTOR'S
MOTION FOR SUMMARY JUDGMENT

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9 **STATE OF NEVADA**

10 **BEFORE THE COMMISSION ON ETHICS**

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

15 Subject. /

16 **MOTION FOR SUMMARY JUDGMENT**

17 Yvonne M. Nevarez-Goodson, Esq., Executive Director of the Nevada
18 Commission on Ethics (“Commission”), through the Commission’s Associate Counsel,
19 Judy A. Prutzman, Esq., submits this Motion for Summary Judgment pursuant to NAC
20 281A.265.

21 **POINTS AND AUTHORITIES**

22 **I. INTRODUCTION**

23 This matter arises out of a scheduled child visitation between Clarence
24 Gempel (“Gempel”) and his minor daughter who lives with Gempel’s ex-wife, Laura
25 Antinoro (“Laura”), and Laura’s spouse, Sheriff Gerald Antinoro (“Sheriff Antinoro”).
26 Gempel, who resides in Arizona with his wife, Susan Stubbs (“Stubbs”), is entitled to
27 visitation with his daughter every other Saturday. On a Saturday in May of 2017,
28 Gempel arranged to meet Laura at a public park in Virginia City, a location agreed
upon by Laura, for a scheduled visit with his daughter. However, shortly before the
meeting time and without explanation, Laura changed the location of Gempel’s
scheduled visit to her spouse’s workplace, the Storey County Sheriff’s Office. The

1 Sheriff's Office is not open to the public for business on Saturdays. Accordingly,
2 Grempel was greeted at the front door of the Sheriff's Office building by Sheriff
3 Antinoro. Although Sheriff Antinoro was not on duty that day, he was wearing a "soft"
4 uniform and his Sheriff's badge and gun were visible to Grempel. This was the first
5 time Grempel and Sheriff Antinoro had met.

6 Grempel subsequently submitted Third Party Request for Opinion ("RFO") No.
7 17-21C, alleging that Sheriff Antinoro violated various provisions of NRS Chapter
8 281A, the Nevada Ethics in Government Law ("Ethics Law"),¹ when he used his public
9 position to intimidate Grempel and allowed his visitation with his daughter to be
10 conducted at the Sheriff's Office. *See Exhibit 1, RFO.* A Review Panel concluded that
11 credible evidence exists to support just and sufficient cause for the Commission to
12 hold a hearing and render an opinion regarding whether Sheriff Antinoro violated NRS
13 281A.400(2) and (7). *See Exhibit 2, Panel Determination.*

14 Because the preponderance of undisputed evidence shows that Sheriff
15 Antinoro provided an unwarranted privilege to his spouse and used a government
16 facility for private family purposes, the Executive Director respectfully requests that the
17 Commission grant this Motion for Summary Judgment and find that Sheriff Antinoro
18 committed one willful violation of the Ethics Law for conduct contrary to the provisions
19 of NRS 281A.400(2) and (7).

20 **II. PROCEDURAL HISTORY**

21 On or about June 26, 2017, the Commission received RFO No. 17-21C. *See*
22 *Exhibit 1, RFO.* On July 12, 2017, staff of the Commission served Sheriff Antinoro via
23 certified mail with a Notice to Subject under NRS 281A.440(2), stating that the
24 Commission accepted jurisdiction to investigate the following alleged violations of the
25 Ethics Law:

26 ¹ For all references to NRS Chapter 281A, please see Senate Bill 84 ("S.B. 84") of the 79th Session of
27 the Nevada Legislature (2017), which statutes have yet to be codified. The provisions of NRS 281A.400
28 before the amendment of S.B. 84 apply to conduct alleged to have occurred before July 1, 2017. The
Commission may apply S.B. 84 for all procedural matters. The amendatory provisions of S.B. 84 control
over any contrary provisions of NAC Chapter 281A.

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

On or about September 28, 2017, Sheriff Antinoro, through his attorney, Katherine F. Parks, Esq. of Thorndal, Armstrong, Delk, Balkenbush & Eisinger, provided a written Response to the RFO. A Panel Determination issued on February 22, 2018 concluded 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 Sheriff Antinoro's use of the Sheriff's Office for his spouse's child visitation appointment.² See *Exhibit 2, Panel Determination*.

The Review Panel also determined that Sheriff Antinoro's conduct may be appropriately addressed through corrective action under the terms and conditions of a deferral agreement instead of referring the RFO to the Commission for further proceedings. *Id.* However, Sheriff Antinoro declined to enter into a deferral agreement with the Executive Director and the Review Panel issued a Referral Order on March 22, 2018, referring this matter to the Commission to render an opinion. Thereafter, on March 29, 2018, Commission Counsel issued a Notice of Hearing and Scheduling Order to schedule a June 20, 2018 hearing on any submitted motions.

III. STATEMENT OF RELEVANT FACTS

Sheriff Antinoro, elected as the Storey County Sheriff in 2010, is a public officer as defined in NRS 281A.160. The Storey County Sheriff's Office is a local agency as

² The Panel Determination found that credible evidence did not substantiate just and sufficient cause for the Commission to conduct a public hearing and render an opinion regarding the alleged violations of NRS 281A.400(2) and (9) related to an investigation conducted by Sheriff Antinoro's subordinate of a child welfare matter involving his stepdaughter. Accordingly, these allegations were dismissed.

1 defined in NRS 281A.119 and a political subdivision as defined in NRS 281A.145.
2 According to the Storey County Sheriff's Office website, Sheriff Antinoro "directs the
3 agency in all activities pertaining to the protection of life and property of county
4 residents, visitors and businesses." See Storey County Sheriff's Office Official
5 Website, <https://www.storeycounty.org/397/Staff>. He also develops and implements
6 plans, policies and service programs, and supervises a staff of 24 paid employees. *Id.*

7 Sheriff Antinoro is married to Laura, the prior spouse of Clarence Gempel, the
8 private citizen who filed this RFO. See *Exhibit 1, RFO*. Gempel and Laura have a
9 minor daughter who resides full-time in Virginia City with Sheriff Antinoro and Laura,
10 the primary custodial parent of the child. See *Exhibit 3, Declaration of Clarence*
11 *Gempel ("Gempel Dec.")*. Gempel resides in Arizona with his current wife, Susan
12 Stubbs ("Stubbs"). See *Exhibit 3, Gempel Dec.; Exhibit 4, Declaration of Susan*
13 *Stubbs ("Stubbs Dec.")*. Pursuant to a Decree of Divorce dated November 30, 2011,
14 Gempel is allowed four hours of visitation with his daughter every other Saturday,
15 supervised by an individual of Laura's choosing. See *Exhibit 3, Gempel Dec.*

16 On Saturday May 20, 2017, Gempel traveled to Virginia City with Stubbs for a
17 scheduled visit with his daughter. See *Exhibit 3, Gempel Dec.; Exhibit 4, Stubbs Dec.*
18 They had arranged to meet Laura and the child at 9 a.m. at a public park in Virginia
19 City. *Id.* However, shortly before 9 a.m., Laura changed the location of the visit to the
20 business office of the Storey County Sheriff's Office in Virginia City. *Id.* Laura provided
21 no explanation for the change in location and the weather was not a factor that would
22 have prevented the parties from meeting at the park. *Id.*

23 Sheriff Antinoro's office is located in the business office of the Storey County
24 Sheriff's Office, which is located at 205 South C Street in Virginia City, Nevada. The
25 normal operating hours of the office are Monday through Friday, 8 am to 5 pm and the
26 office is not open to the public on Saturday and Sunday.³ Accordingly, when Gempel
27 and Stubbs arrived at the Sheriff's Office on May 20, 2017, they were greeted at the

28 ³ Under NRS 47.130, the Commission can take judicial notice of the business hours of the Storey County Sheriff's Office because it is a fact "[c]apable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned," such as a website run by a governmental agency. See Storey County Sheriff's Office Official Website, <http://www.storeycounty.org/313/Sheriff>.

1 front door by Sheriff Antinoro, who was wearing a “soft” uniform and his Sheriff’s
2 badge and gun were visible on his belt. See *Exhibit 3, Grempel Dec.*; *Exhibit 4,*
3 *Stubbs Dec.* It was the first time Grempel had met his daughter’s stepfather. Sheriff
4 Antinoro invited them into the office stating, “Welcome to my home.” *Id.* Grempel and
5 Stubbs noticed that the Sheriff’s Office appeared to be closed and they saw only two
6 Sheriff’s Office deputies in the building. *Id.*

7 Grempel’s hour-long visit with his daughter took place in a small meeting room
8 in the Sheriff’s Office. *Id.* He felt uncomfortable about visiting with his daughter at the
9 Sheriff’s Office, which he knew was Sheriff’s Antinoro’s place of employment, and not
10 at a neutral public location such as the park. *Id.*

11 **III. APPLICABLE LAW**

12 **A. Summary Judgment Standard of Review**

13 Summary judgment should be granted where the pleadings and evidence in the
14 record demonstrate that no genuine issue of material fact exists and the moving party
15 is entitled to judgment as a matter of law. *Cervantes v. Health Plan of Nevada*, 127
16 Nev., Adv. Op. 70 at 3, 263 P.3d 261, 264 (2011); NRCP 56(c). The substantive law
17 controls which factual disputes are material and will preclude summary judgment;
18 other factual disputes are irrelevant. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121
19 P.3d 1026, 1029 (2005). The moving party bears the burden of affirmatively
20 demonstrating the absence of a disputed fact and that the moving party is entitled to
21 judgment as a matter of law.

22 Applying the summary judgment standard to this case, the relevant inquiry for
23 the Commission is whether the evidence demonstrates that no genuine issue of
24 material fact remains to be resolved at a full hearing before the Commission. The
25 undisputed facts presented in this motion are supported by state law regarding judicial
26 notice and sworn declarations that set forth facts that would be admissible as
27 evidence during a hearing. Therefore, in the absence of contrary relevant evidence
28 from Sheriff Antinoro, it is appropriate for the Commission to rule on this motion.

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1 **B. Standard of Proof**

2 The standard of proof in an administrative proceeding before the Commission
3 is a preponderance-of-the-evidence standard. NRS 281A.480(9). A preponderance of
4 the evidence refers to “the greater weight of the evidence.” *McClanahan v. Raley's,*
5 *Inc.*, 117 Nev. 921, 925-26, 34 P.3d 573, 576 (2001) (quoting Black's Law Dictionary
6 1201 (7th ed. 1999)). Thus, the factual findings of an administrative decision will only
7 be overturned if they are not supported by substantial evidence, which is evidence
8 that a reasonable mind could accept as adequate to support a conclusion. *Nassiri v.*
9 *Chiropractic Physicians' Bd.*, 130 Nev., Adv. Op. 27, 327 P.3d 487, 489 (2014); NRS
10 233B.135(4).

11 The Executive Director respectfully submits that she is entitled to summary
12 judgment because the material facts of this case are not disputed and the
13 preponderance of evidence shows that Sheriff Antinoro violated NRS 281A.400(2) and
14 (7) when he allowed his spouse to use the Sheriff's Office for a private family matter at
15 a time when the government facility was not available or open to the public for such
16 use.

17 **C. Nevada's Ethics in Government Law**

18 **NRS 281A.065 provides, in relevant part:**

19 “Commitment in a private capacity,” with respect to the interests
20 of another person, means a commitment, interest or relationship
21 of a public officer or employee to a person:

- 22 1. Who is the spouse or domestic partner of the public officer
23 or employee;

24 **NRS 281A.400(2) provides:**

25 A public officer or employee shall not use the public officer's or
26 employee's position in government to secure or grant
27 unwarranted privileges, preferences, exemptions or advantages
28 for the public officer or employee, any business entity in which
the public officer or employee has a significant pecuniary
interest, or any person to whom the public officer or employee
has a commitment in a private capacity to the interests of that
person. As used in this subsection, “unwarranted” means
without justification or adequate reason.

1 **NRS 281A.400(7) provides:**

2 Except for State Legislators who are subject to the restrictions
3 set forth in subsection 8, a public officer or employee shall not
4 use governmental time, property, equipment or other facility to
5 benefit a significant personal or pecuniary interest of the public
6 officer or employee. This subsection does not prohibit:

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

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

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

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

17 (4) The use does not create the appearance of
18 impropriety;

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

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

25 If a governmental agency incurs a cost as a result of a use
26 that is authorized pursuant to this subsection or would ordinarily
27 charge a member of the general public for the use, the public
28 officer or employee shall promptly reimburse the cost or pay the
 charge to the governmental agency.

29 **IV. LEGAL ARGUMENT**

30 The Ethics Law seeks to secure the public trust by promoting an appropriate
31 separation between a public officer's private interests and public duties. To promote
32 integrity in public service, the Ethics Law is concerned with situations involving public
33 officers that create the appearance of impropriety as well as actual impropriety and
34 conflicts of interests. See *In re Wilson*, Comm'n Op. No. 13-81C (2014). Permitting
35 family members to use a government facility for private purposes when the facility is
36 not open to the public creates the type of harm to the public that the Ethics Law is

1 designed to prohibit, as it creates a conflict of interest and an appearance of
2 impropriety.

3 The preponderance of evidence presented with this motion demonstrates that
4 Sheriff Antinoro secured and granted an unwarranted privilege, exemption or
5 advantage to himself and his spouse and improperly used government property for a
6 private family matter. As the public officer responsible for enforcing the policies and
7 practices of the Storey County Sheriff's Office, Sheriff Antinoro should have known
8 that allowing his spouse to use the Sheriff's Office building for private purposes during
9 non-business hours can be construed as preferential treatment that creates an
10 unwarranted privilege and the appearance of impropriety, in violation of the Ethics
11 Law.

11 **A. Sheriff Antinoro Violated NRS 281A.400(2)**

12 As a public officer, Sheriff Antinoro is prohibited from using his public position
13 to secure an unwarranted privilege, preference or exemption for himself or any person
14 to whom he has a commitment in a private capacity. Sheriff Antinoro has a *per se*
15 commitment in a private capacity to the interests of Laura, his spouse. See NRS
16 281A.065(1). Laura's interests include her interactions with her ex-husband, Gempel,
17 and his visits with her daughter, whom Laura has primary physical custody of.

18 To determine whether Sheriff Antinoro violated NRS 281A.400(2), the
19 Commission must answer these two questions:

- 20 1. Was Laura's use of the Sheriff's Office on a Saturday for a scheduled
21 visit between her daughter and ex-husband a privilege, preference,
22 exemption or advantage?
- 23 2. Was the privilege, preference, exemption or advantage "unwarranted"
24 because it was provided without justification or adequate reason?

25 When the Sheriff's Office is closed for business, Sheriff Antinoro has the
26 authority to access and provide access to the Sheriff's Office buildings. Therefore,
27 Sheriff Antinoro would be using his position in government to open the Sheriff's Office
28 for use at times other than regular business hours. It is undisputed that Sheriff
Antinoro allowed his spouse to use a meeting room in the Sheriff's Office on a

1 Saturday to meet Gempel for a supervised visit with her daughter. It is also
2 undisputed that the Sheriff's Office is not open to the public on Saturdays. Laura's
3 private use of a meeting room at the Sheriff's Office was therefore a privilege or
4 advantage because the facility is not available for such use by members of the public
5 during the weekend. The only reason Laura was allowed to use meeting space at the
6 Sheriff's Office on a Saturday was because her spouse, Sheriff Antinoro, has access
7 to the building at all times by virtue of his public position.

8 Sheriff Antinoro has offered no facts to justify why the Sheriff's Office was a
9 more appropriate place than the park for Laura to conduct her private family matter.
10 Indeed, Laura provided no explanation for changing the location of Gempel's visit
11 with his daughter to her spouse's place of employment, rather than any other place
12 that was open and accessible to the public on a Saturday.

13 While Sheriff Antinoro has every right to accompany and assist his spouse with
14 his stepdaughter's scheduled visits with Gempel, he is not allowed to interject his
15 public role into such private family matters for the benefit of his spouse. Under the
16 circumstances of this case, Sheriff Antinoro's use of his public position to provide his
17 spouse with the unwarranted privilege of using the Sheriff's Office on a Saturday for a
18 supervised child visitation involving her ex-husband violated NRS 281A.400(2).

19 **B. Sheriff Antinoro Violated NRS 281A.400(7)**

20 NRS 281A.400(7) creates a strict prohibition against a public officer's use of
21 "governmental time, property, equipment or other facility to benefit a significant
22 personal or financial interest." Accordingly, the Commission must first determine if
23 Antinoro used governmental property to benefit a significant personal or pecuniary
24 interest. If this question is answered in the affirmative, the Commission must next
25 consider whether the "limited use" exception contained in NRS 281A.400(7)(a) applies
26 to Antinoro's use of the government property.

27 **1. Sheriff Antinoro Used a Governmental Facility to Benefit a Significant Personal** 28 **Interest**

Sheriff Antinoro used the Sheriff's Office for a private family matter involving his
spouse and stepdaughter on a day when the facility was not open to the public. It

1 cannot be disputed that the Sheriff's Office building is a government facility. Although
2 Grempel and his wife recall that Sheriff Antinoro referred to the Sheriff's Office as "his
3 home" when he greeted them, this reference does not change the nature of the
4 Sheriff's Office from a government facility to a non-government or private facility.
5 Furthermore, the fact that the Sheriff's Office was not open for business to the general
6 public when Sheriff Antinoro used it for private family matters also does not change
7 the character of the facility from public to private.

8 It is not necessary to show that Sheriff Antinoro realized any *pecuniary* benefit
9 by using the Sheriff's Office for a scheduled child visitation involving his spouse and
10 stepdaughter. The Nevada Legislature intended NRS 281A.400(7) to reach beyond
11 financial interests by referring also to "personal" interests. See *In re Bowles*, Comm'n
12 Op. No. 96-49 (1996) (discussing application of former NRS 281.481(7) to a public
13 officer's personal use of public money when he "borrowed" \$100 from a DMV cash
14 drawer to pay for food at a Democratic Party picnic). The Commission has therefore
15 acknowledged that the appropriate inquiry is "whether the public officer used the
16 public's resources to benefit himself *in any way*." *Id.* (emphasis in original).

17 Quite simply, NRS 281A.400(7) draws a "clear and bright line": public property
18 belongs to the public and cannot be used for personal benefit. See *id.* Thus, the
19 Commission recently determined that NRS 281A.400(7) was violated by a public
20 employee who, on several occasions, used his employee key card to access a
21 storage area in a city government building after normal working hours to spend the
22 night. See *In re Boldt*, Comm'n Op. No. 17-37C (2018) ("*Boldt*"). Likewise, the
23 Commission should find that Sheriff Antinoro's use of a meeting room in the Sheriff's
24 Office on a Saturday benefited his significant personal interests related to his
25 stepdaughter's visitation with her father and his spouse's interactions with her prior
26 spouse.

27 2. Sheriff Antinoro's Use of the Sheriff's Office Does Not Satisfy All Elements of
28 the Limited Use Exception in NRS 281A.400(7)(a)

In 1997, the Nevada Legislature passed Senate Bill 214 ("S.B. 214") to add a
limited use exception to the general prohibition contained in NRS 281A.400(7). The

1 legislative history of S.B. 214 indicates that the exception was added in recognition
2 that there are situations in which the “necessary use” of government property would
3 be justified. See Hearing on S.B. 214 Before Senate Comm. on Gov’t Affairs, 69th Leg.
4 (Nev., May 7, 1997). Sheriff Antinoro’s conduct is not permissible under the “limited
5 use” exception unless each of the following factors is satisfied:

- 6 (1) There is a policy authorizing Sheriff Antinoro to use the Storey
7 County Sheriff’s Office facility on a weekend for private family
8 matters;
- 9 (2) Use of the Sheriff’s Office facility did not interfere in any way
10 with the performance of Sheriff Antinoro’s public duties;
- 11 (3) The cost or value related to the use was nominal; and
- 12 (4) The use did not create the appearance of impropriety.

13 As the Storey County Sheriff, Antinoro is the public officer “who is responsible
14 for and has authority to authorize the use of” the Sheriff’s Office facility for private
15 purposes unrelated to official business of the Sheriff’s Office. Accordingly, Sheriff
16 Antinoro had the ability to and may assert that he did establish a policy allowing the
17 use of a meeting room at the Sheriff’s Office for a private family matter on a Saturday.
18 However, no formal written policy exists regarding use of the Sheriff’s Office facility for
19 private family matters by members of the public or other employees of the Sheriff’s
20 Office. The Executive Director notes the inherent potential for abuse when a public
21 officer has authority to allow private use of government property for himself or family
22 members on an ad hoc basis, or conveniently asserts the existence of such a policy
23 for isolated instances which later become the focus of an ethics complaint.

24 Although a preponderance of evidence does not establish that Sheriff
25 Antinoro’s use of the Sheriff’s Office meeting room for a private family matter
26 interfered with the performance of his public duties, the cost or value related to the
27 use could be credibly valued as more than nominal. If such use were made available
28 to the general public on the weekends, as contended by the Sheriff under his alleged
policy, the cost of staffing the facility is unknown and almost certainly would not be
nominal.

1 The decisive inquiry hereafter focuses on whether Sheriff Antinoro's use of
2 meeting space at the Sheriff's Office for private family matters creates the appearance
3 of impropriety under NRS 281A.400(7)(a)(4). The Commission has previously found
4 that a public employee's use of a government vehicle for personal purposes created
5 the "appearance of impropriety" as evidenced by the complaint filed by a citizen who
6 witnessed the use of the vehicle. See *In re Public Employee*, Comm'n Op. No. 99-33A
7 (2000). In the present matter, the complaint was filed by an individual who not only
8 witnessed Sheriff Antinoro's private use of the Sheriff's Office on a Saturday, but also
9 felt intimidated and uncomfortable by such use as he was required to visit with his
10 daughter in a public facility that is also the workplace of his daughter's stepfather, the
11 Storey County Sheriff. Sheriff Antinoro's use of the Sheriff's Office for a visit between
12 his family members and Gempel created an appearance of impropriety because it
13 was unavoidably tied to the authority of the Sheriff's Office.

14 The Sheriff's Office building, like the city government building used in *In re*
15 *Boldt*, is a government facility that is not available for private use by members of the
16 public during non-business hours. Additionally, no evidence exists to demonstrate that
17 the Sheriff's Office building is a place where private family activities, such as child
18 visitations, can be conducted over the weekend and supervised by the Sheriff. While
19 Antinoro has earned the right to be Sheriff through a vote of the citizens of Storey
20 County, that right does not allow him to use his public office to gain access to
21 government property for his private interests. Although the Sheriff's Office is housed in
22 a building that is frequently accessed by members of the public to conduct various
23 types of personal business, such access is only available to the public on Monday
24 through Friday during regular business hours.

25 Sheriff Antinoro's limited use of the Sheriff's Office building for a scheduled
26 family visit on a Saturday violated NRS 281A.400(7) because it created an
27 appearance of impropriety. As an official place of law enforcement activity, the
28 Sheriff's Office facility conveys the power and prestige of Sheriff Antinoro's position as
the elected Sheriff of Storey County and his use of the facility for personal purposes
was inappropriate. The added intimidation of a law enforcement environment to the

1 Requester, above and beyond what may have otherwise been an uncomfortable
2 setting in any other governmental office or other public place, signifies the appearance
3 of impropriety. See *In re Kirkland*, Comm'n Op. No. 98-41 (1999) (stating that a public
4 officer should not use his uniform, badge, employees, private office, or other non-
5 public facilities for personal purposes).

6 **C. Sheriff Antinoro's Conduct Constitutes One Willful Violation of the Ethics
7 Law**

8 If the Commission grants the Executive Director's Motion for Summary
9 Judgment it will conclude that Sheriff Antinoro's conduct violated the Ethics Law.
10 Given the nature of the conduct, combined with Antinoro's history of violating the
11 Ethics Law, this violation should be declared willful and subject to a civil penalty.

12 **1. Sheriff Antinoro's Conduct Constitutes One Willful Violation**

13 Even if Sheriff Antinoro did not actually intend to violate the Ethics Law, his
14 use of the Storey County Sheriff's Office for private family matters was willful, as
15 defined in NRS 281A.170, because he acted intentionally and knowingly. Under the
16 Ethics Law, a willful violation is based upon conduct that is intentional and knowing.
17 To find that Sheriff Antinoro acted intentionally, NRS 281A.105 requires the
18 Commission to conclude only that Sheriff Antinoro acted "voluntarily" or "deliberately,"
19 rather than accidentally or inadvertently. The definition of "intentionally" does **not**
20 require proof that the intentional behavior was done in bad faith or with malicious
21 motive to be deemed willful.

22 The Ethics Law also requires that Sheriff Antinoro had knowledge of his
23 actions. NRS 281A.115 defines "knowingly" as "import[ing] a knowledge that the facts
24 exist which constitute the act or omission, and does not require knowledge of the
25 prohibition against the act or omission." Accordingly, it is not necessary that Sheriff
26 Antinoro had actual knowledge that his conduct would violate NRS 281A.400(2) and
27 (7). See *State v. Rhodig*, 101 Nev. 608 (1985) (" . . . the law does not require
28 knowledge that such an act or omissions unlawful."). Sheriff Antinoro knew he was
using the Sheriff's Office building for private purposes in a manner and at a time not

1 otherwise available to the general public when he allowed his spouse to meet
2 Grempel at the office for a visit with his daughter.

3 2. Mitigating Factors Do Not Support a Determination That Sheriff Antinoro's
4 Violation Was Not Willful

5 Although Sheriff Antinoro's conduct was intentional and knowing, the
6 Commission nevertheless considers whether the mitigating factors set forth in NRS
7 281A.475 and NRS 281A.480(5)(a) and (b) support a determination that the violation
8 was not willful and whether a civil penalty should be imposed pursuant to NRS
9 281A.480. However, the Commission may consider the totality of the circumstances in
10 its determination of willfulness even where certain mitigating factors may be present.
11 In fact, the Nevada Legislature acknowledged this discretion by enacting NRS
12 281A.475(2), which expressly states that the factors outlined in NRS 281A.475(1) are
13 not exclusive or exhaustive such that the Commission may consider the severity of the
14 violation.

15 With respect to the mitigating factors outlined in NRS 281A.475, Sheriff
16 Antinoro has not received any financial gain as a result of his conduct. However, this
17 mitigating factor is offset by several considerations. First, the seriousness of the
18 conduct is significant when measured against the public's trust that an elected public
19 officer will not use government facilities for private purposes or provide preferential
20 treatment to family members regarding the use of government facilities. Second,
21 Antinoro has previously committed two ethics violations for which the Commission
22 expressed significant concerns about the need for appropriate separation of
23 government property and private interests. In 2015, the Commission approved a
24 stipulated agreement that resulted in one non-willful violation for Sheriff Antinoro's use
25 of governmental time and resources to further his own campaign interests. *See Exhibit*
26 *5, In re Antinoro, Comm'n Op. No. 14-59C (2015)*. More recently, the Commission
27 imposed a \$1,000 civil penalty for Sheriff Antinoro's willful violation of NRS
28 281A.400(7) related to his use of the official letterhead of the Storey County Sheriff's
Office for a letter of endorsement for a political candidate. *See Exhibit 6, In re*
Antinoro, Comm'n Op. No. 16-54C (2017). Finally, in declining to resolve this matter

1 with a deferral agreement as authorized by the Review Panel, Sheriff Antinoro has
2 failed to cooperate in resolving this matter. [REDACTED]

3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 Based on the undisputed facts and preponderance of evidence establishing
7 Sheriff Antinoro's use of government property to benefit his personal interest as a
8 matter of law, the Executive Director respectfully requests summary judgment for one
9 willful violation of the Ethics in Government Law.

10 **D. A Significant Civil Penalty Should be Imposed**

11 For Sheriff Antinoro's second willful violation of the Ethics Law, the Commission
12 may impose a civil penalty up to but not exceeding \$10,000. NRS 281A.480(1)(b). The
13 Executive Director requests that the Commission impose a significant civil penalty for
14 this violation in the amount of \$8,000. The Commission should consider Sheriff
15 Antinoro's continued disregard for the Ethics Law given his separate, recent violations
16 of the law. The proposed penalty of \$8,000 is an appropriate penalty given the
17 seriousness of the conduct and Sheriff Antinoro's continued disregard for the Ethics
18 Law.

19 The Commission has previously imposed monetary penalties for the willful use
20 of government property that does not include an element of bad faith or reckless
21 disregard for the Ethics Law. For example, the Commission imposed a civil penalty of
22 \$1,000 in *In re Breslow*, Comm'n Op. No. 98-21C (2000) when the Commission found
23 that Mr. Breslow violated former NRS 281.481(7) (the predecessor statute to NRS
24 281A.400(7)) by using the cell phone issued for his use as Mayor by the City of
25 Sparks for personal business. The \$1,000 penalty was imposed even though Mr.
26 Breslow agreed to reimburse the City of Sparks for his personal calls. In *Boldt*, the
27 Commission imposed a \$1,000 civil penalty for Mr. Boldt's personal use of
28

1 government property in violation of NRS 281A.400(7), even though it was Mr. Boldt's
2 first ethics violation, he had already been reprimanded by his employer and he
3 diligently cooperated by resolving the matter before it was presented to a Review
4 Panel.

5 **V. CONCLUSION**

6 Sheriff Antinoro willfully violated NRS 281A.400(2) and (7) when he allowed his
7 family members to use a meeting room in the Sheriff's Office on a Saturday to conduct
8 a visit between Gempel and his daughter. The Ethics Law exists to confront conduct
9 such as this that interferes with a public officer's duty to protect the public trust and
10 separate his private interests from those of the public he serves. The use of a
11 government facility not otherwise available to private citizens for private family matters
12 is the type of harm to the public that the Ethics Law is designed to prohibit, as it
13 creates a conflict of interest and an appearance of impropriety.

14 Summary judgment should be granted and the Commission should find that
15 Sheriff Antinoro committed one willful violation of the Ethics Law, specifically NRS
16 281A.400(2) and (7). As this is Sheriff Antinoro's third violation of the Ethics Law and
17 second willful violation, the Executive Director urges the Commission to impose a
18 meaningful civil penalty of \$8,000. Consistent with past practice, the Commission may
19 authorize the Executive Director and Subject to enter into a payment schedule not to
20 exceed one year after the Commission's final decision in this matter.

21 DATED this 16th day of May, 2018.

22 NEVADA COMMISSION ON ETHICS

23 /s/ Judy A. Prutzman
24 Judy A. Prutzman, Esq.
25 Associate Counsel
26 Nevada Commission on Ethics
27
28

Exhibit 1

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.)

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

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.

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

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.

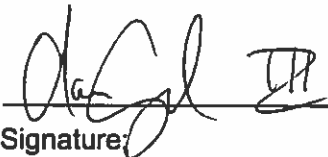
State the total number of additional pages attached (including evidence) _____.

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.

Exhibit 2



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 DETERMINATION¹

NRS 281A.440(5); NAC 281A.440; S.B. 84²

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.³

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

² 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.

³ 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 26th 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

Executive Director

Judy A. Prutzman, Esq.

Email: 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

Thorndal Armstrong et al

Email: 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

Exhibit 3

DECLARATION OF CLARENCE GREMPEL

I, Clarence Gempel, declare as follows:

1. I personally know the facts stated in this Declaration. If called as a witness, I could competently testify to the facts set out herein.
2. I am a resident of the State of Arizona.
3. My minor daughter lives in Virginia City, Nevada with my ex-wife Laura and Laura's spouse, Sheriff Antinoro.
4. Pursuant to a Decree of Divorce dated November 30, 2011, Laura has sole legal custody and primary physical custody of my daughter. I am entitled to visitation with my daughter every other Saturday from 9 a.m. until 1 p.m. and such visitation is to be supervised by an individual of Laura's choosing.
5. On May 20, 2017, I traveled to Virginia City with my spouse, Susan Stubbs, for a visit with my daughter. I had arranged to meet Laura and my daughter at 9 a.m. at a public park in Virginia City.
6. Shortly before 9 a.m., Laura sent a text message to me to tell me that she wanted to change the visit location to the Storey County Sheriff's Office, located at 205 South C Street in Virginia City. Laura did not provide a reason for the change in location, but I do not believe the weather was a factor because it was a nice day to meet at the park.
7. When my wife and I arrived at the Sheriff's Office building, the office was not opened for business. Sheriff Antionoro met us at the door and invited us in stating, "Welcome to my home."
8. My visit with my daughter took place in a small meeting room located inside the Sheriff's Office building. Sheriff Antinoro and Laura were both present during the visit.

9. Sheriff Antinoro was not wearing a formal uniform, but his Sheriff's badge and a gun were visible on his belt. This was the first time my wife and I had met Sheriff Antinoro.
10. To the best of my knowledge, two Sheriff's Office deputies were the only other people present in the building when I was there. I did not see any other Sheriff's Office employees or members of the public in the building.
11. My visit with my daughter was approximately 1 hour long.
12. I was uncomfortable about visiting with my daughter in the Sheriff's Office, which I knew to be Sheriff Antinoro's place of employment. I would have preferred to conduct the visit at a park or some other neutral public location.
13. I declare under penalty of perjury under the laws of the State of Arizona that the foregoing is true and correct and that I signed this Declaration on May 8, 2018.


Clarence Gempel

Exhibit 4

DECLARATION OF SUSAN STUBBS

I, Susan Stubbs, declare as follows:

1. I personally know the facts stated in this Declaration. If called as a witness, I could competently testify to the facts set out herein.
2. I am a resident of the State of Arizona.
3. I am married to Clarence Gempel ("Clay").
4. Clay's minor daughter lives in Virginia City, Nevada with Clay's ex-wife Laura and Laura's spouse, Sheriff Antinoro.
5. On May 20, 2017, Clay and I traveled to Virginia City for a visit with his daughter. We had arranged to meet Laura and my step-daughter at 9 a.m. at a public park in Virginia City.
6. Shortly before 9 a.m., Laura sent a text message to Clay to tell him that she wanted to change the visit location to the Storey County Sheriff's Office, located at 205 South C Street in Virginia City. Laura did not provide a reason for the change in location, but I do not believe the weather was a factor because it was a nice day to meet at the park.
7. When Clay and I arrived at the Sheriff's Office building, the office was not opened for business. Sheriff Antionoro met us at the door and invited us in stating, "Welcome to my home."
8. Our visit with Clay's daughter took place in a small meeting room located inside the Sheriff's Office building. Sheriff Antinoro and Laura were both present during the visit.
9. Sheriff Antinoro was not wearing a formal uniform, but his Sheriff's badge and a gun were visible on his belt. This was the first time my husband and I had met Sheriff Antinoro.

10. To the best of my knowledge, two Sheriff's Office deputies were the only other people present in the building when I was there. I did not see any other Sheriff's Office employees or members of the public in the building.
11. Our visit with Clay's daughter was approximately 1 hour long.
12. I declare under penalty of perjury under the laws of the State of Arizona that the foregoing is true and correct and that I signed this Declaration on May 7, 2018.

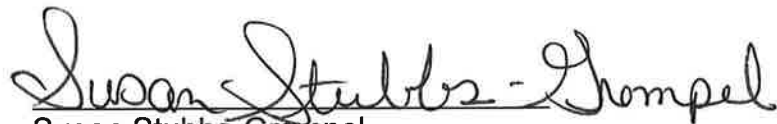

Susan Stubbs-Grempel

Exhibit 5



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. **14-59C**

_____ Public Officer. /

STIPULATED AGREEMENT

1. **PURPOSE:** This Stipulated Agreement resolves Third-Party Request for Opinion (“RFO”) No. 14-59C before the Nevada Commission on Ethics (“Commission”) concerning Gerald Antinoro (“Antinoro”), Sheriff, Storey County, State of Nevada, and serves as the final opinion in this matter (“Sheriff’s Office”).

2. **JURISDICTION:** At all material times, Antinoro served as a Sheriff of Storey County. As such, Antinoro is an elected public officer, as defined in NRS 281A.160. The Ethics in Government Law (“Ethics Law”) set forth in NRS Chapter 281A provides the Commission jurisdiction over elected and appointed public officers and public employees whose conduct is alleged to have violated the provisions of NRS Chapter 281A. See NRS 281A.280. Accordingly, the Commission has jurisdiction over Antinoro in this matter.

3. **PROCEDURAL HISTORY BEFORE COMMISSION**

a. On or about July 30, 2014, the Commission received this RFO from Shawn Mahan, alleging that Antinoro violated the provisions of NRS 281A.020(1) and 281A.400(1), (2), (7) and (9) by: (1) using governmental time and resources in his capacity as Sheriff to further his own campaign interests; and (2) using his position as Sheriff to harass and intimidate his subordinate employees who are also running for Sheriff.¹

¹The RFO also alleged violations of NRS 281A.400(8) and 281A.500. Pursuant to NAC 281A.405, the Commission Counsel and Executive Director rejected jurisdiction regarding these allegations because NRS 281A.400(8) applies only to state legislators, and no evidence was provided to support the allegations of NRS 281A.500 as required by NAC 281A.400.

- b. As required by NAC 281A.410, the Commission gave Antinoro notice of this RFO by mail. Pursuant to NRS 281A.440(3), Antinoro was provided an opportunity to respond to the allegations.
- c. On August 18, 2014, Antinoro submitted his response to the RFO.
- d. A panel was held February 18, 2015 pursuant to NRS 281A.440, finding that credible evidence establishes just and sufficient cause for the Commission to render an opinion regarding the allegations implicating NRS 281A.400(2) and (9), and 281A.020(1).
- e. Antinoro challenged the findings of the panel by filing a motion to dismiss which was denied by the Commission. The Commission requested that additional facts be presented at a hearing on the allegations.
- f. In lieu of a hearing, Antinoro now enters into this Stipulated Agreement acknowledging his duty as a public officer to commit himself to protect the public trust and conform his conduct to NRS Chapter 281A.

4. **STIPULATED FACTS**: At all material times, the following Stipulated Facts are relevant to this matter:

Parties

- a. Antinoro is the elected Sheriff of Storey County, a public officer as defined in NRS 281A.160.
- b. Antinoro won re-election as Sheriff of Storey County in 2014.
- c. Shawn Mahan, Requester, was a Deputy Sheriff for Storey County who was also running for the office of Sheriff in 2014 and was an employee of Sheriff Antinoro.
- d. The Storey County Sheriff's Office is a local agency, as defined in NRS 281A.119, and part of a political subdivision, as defined in NRS 281A.145.
- e. John Michael Mendoza was a Deputy Sheriff in Storey County, a public employee as defined in NRS 281A.150. He was the Senior Outreach Coordinator for the Sheriff's Office, and Officer of We Care.
- f. Melanie Keener was the Acting Undersheriff in Storey County, a public employee as defined in NRS 281A.150.

- g. Jeff Bowers was a Sergeant in Storey County, a public employee as defined in NRS 281A.150.
- h. We Care, a volunteer organization for senior outreach, was an organization managed out of the Storey County Sheriff's Office and founded by the Sheriff's Office.
- i. Marilee Miller was a We Care volunteer.
- j. Infinity Hospice Care is a private organization which provided services relating to senior health issues.

Infinity Hospice Event

- k. Heather McCutcheon was a representative of Infinity Hospice Care.
- l. McCutcheon contacted Mahan and asked if he would act as a liaison for her in Storey County since she was new to Infinity Health Care and the County.
- m. Mahan accepted the invitation and flyers were produced by Infinity Hospice with Mahan's name on the flyer.
- n. The Infinity event was intended as both a campaign event for Shawn Mahan and an informational event for Infinity Hospice.
- o. The Infinity Flyers had a picture of Mahan in civilian dress with a caption stating "Commitment to Community."
- p. The Infinity Flyer stated that Infinity Hospice Care and Shawn Mahan present Senior Services in Storey County.
- q. The flyers did not reference Mahan's status as a deputy sheriff nor did the flyer clarify that Infinity was not affiliated in any way with the Storey County Sheriff's Office.
- r. The outreach event was scheduled to take place on July 22, 2014. Mahan requested time off of work as a Deputy in advance of the event, and such time off was granted.
- s. Sheriff Antinoro directed Sgt. Bowers, Mahan's immediate supervisor, to inform Mahan that his participation in the Infinity Event was in violation of Sheriff's Office policy and that he was prohibited from continuing to engage in such activities. Sgt. Bowers then issued a Cease and Desist Order forbidding Mahan to attend the event.

t. The Cease and Desist Order, dated July 15, 2014, stated:

Deputy Mahan.

Pursuant to our telephone conversation this afternoon I am providing this e-mail with serves as a direct order to cease and desist any planned event regarding Infinity Hospice Care. The reason for this action is, but is not limited to, the following reasons:

1) You are both on and off duty, a representative of the Storey County Sheriff's Office. I will refer you to existing policy if you are confused as to expected behavior. All conduct that directly or indirectly affects the Storey County Sheriff's Office falls under the purview of existing Policy & Procedure.

2) The Storey County Sheriff's Office already has in place a senior awareness program. Any and all activity which involves the seniors or any other demographic group in this county where you, as a representative of the Sheriff's office, present yourself as a member of this office, whether explicit or implied, is directly governed by the Sheriff or his designee. The Sheriff has given no authorization to present yourself in this event nor has he sanctioned this event

3) You have presented no assurance that Infinity Hospice Care is an appropriate entity to conduct business in this county. Further, you are expressly prohibited by policy to advocate for any for-profit business within this county. The fact that you announce only your name on the flyer announcing this event does not diminish the fact that you are in fact an employee of the Sheriff's office. Even were you allowed to seek such advocacy of a for-profit business from the Sheriff, you have presented no evidence that this company is competitive or offers superior service to county residents versus other, competing hospice care businesses. This is an egregious violation of your oath of office and ethical codes of conduct.

4) SCSO Policy & Procedure 340.3.4 (ab) states: "you are prohibited from ... Any other on-duty or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of the Office or which is contrary to good order, efficiency or morale " Your event only serves to confuse citizens of Storey County as to which program to trust (Infinity Hospice versus the existing Senior Program). As such, this event breaks down the order you are expected to maintain.

Lastly, the Sheriff, as your employer, has a duty to present to our citizens consistent and cohesive service. Your planned event is directly contrary to his intent due, among other things, a conflict with an existing sanctioned program. As your Sheriff, he has the right, and has exercised that right, to demand you seek his approval before any such event can be planned.

Participation in this program by you will result in severe disciplinary action being taken against you. I encourage you to seek approval from the Sheriff before any such event is planned in the future.

Sergeant Jeff Bowers
Storey County Sheriff's Office
(775) 847-1146

- u. Mahan did not attend event; however, he sat in the parking lot and greeted attendees at the event, and he gave an interview to the local press.
- v. On August 19, 2014, Sheriff Antinoro placed Deputy Mahan on administrative leave for issues arising from the alleged harassment of the Infinity Hospice event and alleged abuse of sick time.

5. **TERMS / CONCLUSIONS OF LAW:** Based on the foregoing, Antinoro and the Commission agree as follows:

- a. For purposes of this settlement only, each of the stipulated facts enumerated in section 4 of this Stipulated Agreement are agreed to by the parties.² For purposes of Conclusions of Law, the Commission accepts each of the stipulated facts as true and correct.
- b. Antinoro holds a public office which constitutes a public trust to be held for the sole benefit of the people of the State of Nevada (in particular, the people of Storey County). Public officers have a duty to avoid conflicts between public and private interests. NRS 281A.020(1).
- c. A public officer must not use his position as Sheriff of Storey County to secure unwarranted privileges, preferences or advantages for himself. See NRS 281A.400(2).
- d. A public officer must not attempt to influence a subordinate to benefit his personal or financial interests. NRS 281A.400(9).
- e. Whether an action is unwarranted, pursuant to NRS 281A.400(2) can turn upon whether the action was legal, or in this instance, constitutional. (See *In re Kirkland*, Comm'n Opinion 98-41 (1998)).
- f. The Cease and Desist Order was drafted to prevent Mahan from attending the Infinity Hospice event in violation of the Sheriff's Office policy; however, the language in the Order was vague and in the panel's opinion raises First Amendment concerns.
- g. Based upon the investigation, any infringement upon Mahan's First Amendment rights was inadvertent and has some support in relevant case law.

² Stipulated Facts do not constitute part of the "Investigative File" as that term is defined by NRS 281A.440(17), as amended by Assembly Bill 60, 78th Session of the Nevada State Legislature, effective May 27, 2015. All statutory and common law protections afforded to the Investigative File shall remain and are not affected by this Stipulated Agreement.

- h. As the Cease and Desist Order could be interpreted to infringe upon Mahan's First Amendment rights, and impede Mahan's ability to campaign for office, Antinoro obtained an unwarranted benefit from the Order violating NRS 281A.400(2), (9) and NRS 281A.020.
- i. Antinoro agrees to clarify the Storey County Sheriff's Office policies pertaining to sheriff deputies and their associations with outside entities and is willing to provide the Commission with a courtesy copy of the new policies after completion.
- j. It is arguable that the actions of Antinoro might rise to a violation of Mahan's First Amendment rights, or at least an appearance of impropriety, implicating NRS 281A.400(2), NRS 281A.400(9) and NRS 281A.020, which is contested by the subject.
- k. However, even if the actions did rise to a violation of Mahan's First Amendment rights implicating NRS 281A.400(2), NRS 281A.400(9) and NRS 281A.020, based upon the consideration and application of the statutory criteria set forth in NRS 281A.475, the Commission concludes that such violation in this case would not be deemed a "willful violation" pursuant to NRS 281A.170 and the imposition of a civil penalty pursuant to NRS 281A.480 would not be appropriate for reasons that follow:
 - 1) Antinoro has not previously been the subject of any violation of the Ethics Law.
 - 2) Antinoro has not received any personal financial gain as the result of his conduct in this matter.
 - 3) Antinoro has been diligent to cooperate with and to participate in the Commission's investigation and analysis, as well as the resolution process.
- l. This Stipulated Agreement depends on and applies only to the stipulated facts, circumstances and law related to this RFO now before the Commission. Any facts or circumstances that may come to light after its entry that are in addition to or differ from those contained herein may create a different resolution of this matter.


m. This Stipulated Agreement is intended to apply to and resolve only this specific proceeding before the Commission and is not intended to be applicable to or create any admission of liability for any other proceeding, including administrative, civil, or criminal regarding the Subject.

6. **WAIVER:**

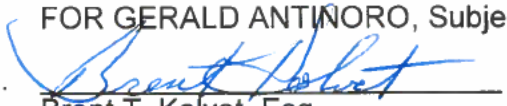
a. Antinoro knowingly and voluntarily waives a full hearing before the Commission on the allegations in this RFO (No. 14-59C) and of any and all rights he may be accorded pursuant to NRS Chapter 281A, the regulations of the Commission (NAC Chapter 281A), the Nevada Administrative Procedure Act (NRS Chapter 233B), and the laws of the State of Nevada.

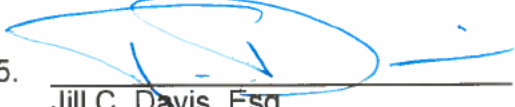
b. Antinoro knowingly and voluntarily waives his right to any judicial review of this matter as provided in NRS Chapter 281A, NRS Chapter 233B or any other provision of Nevada law.

7. **ACCEPTANCE:** We, the undersigned parties, have read this Stipulated Agreement, understand each and every provision therein, and agree to be bound thereby. The parties orally agreed to be bound by the terms of this Stipulated Agreement during the regular meeting of Commission on July 15, 2015.

DATED this 24th day of JULY, 2015. 
Gerald Antinoro

The above Stipulated Agreement is approved by:

DATED this 5 day of August, 2015. 
FOR GERALD ANTINORO, Subject
Brent T. Kolvet, Esq.
Counsel for Subject

DATED this 10 day of August, 2015. 
FOR YVONNE M. NEVAREZ-GOODSON
Executive Director, Commission on Ethics
Jill C. Davis, Esq.
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this 10th day of August, 2015. Tracy L. Chase
Tracy L. Chase, Esq.
Commission Counsel

The above Stipulated Agreement is accepted by the Commission.³

DATED July 15 2015.

By: /s/ Paul H. Lamboley
Paul H. Lamboley
Chairman

By: /s/ James M. Shaw
James M. Shaw
Commissioner

By: /s/ John C. Carpenter
John C. Carpenter
Commissioner

By: /s/ Magdalena Groover
Magdalena Groover
Commissioner

By: /s/ Timothy Cory
Timothy Cory
Commissioner

By: /s/ Keith A. Weaver
Keith A. Weaver
Commissioner

³ Vice-Chairman Gale and Commissioner Lau served on the Investigatory Panel for this RFO and are precluded from participating in further proceedings, including consideration of the Proposed Stipulated Agreement ("proposed stipulation"), pursuant to NRS 281A.220. All other Commissioners are eligible to participate in the consideration of this matter

Exhibit 6



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. **16-54C**

Subject. /

OPINION

I. INTRODUCTION AND PROCEDURAL HISTORY

Pursuant to NRS 281A.440(2)(b), a *Third-Party Request for Opinion* ("RFO") was filed with the Nevada Commission on Ethics ("Commission") on June 2, 2016, alleging that Gerald Antinoro, ("Antinoro"), Storey County Sheriff, violated various provisions of the Ethics in Government Law set forth in Chapter 281A of the Nevada Revised Statutes ("Ethics Law").

On or about June 17, 2016, the Commission served Antinoro via certified mail with a *Notice to Subject* advising him of the allegations set forth in the RFO implicating NRS 281A.400(2) (using public position to grant an unwarranted advantage to himself or others), NRS 281A.400(7) (improperly using government resources) and NRS 281A.520 (causing a government entity to incur an expense in support of a candidate).

On July 26, 2016, Antinoro, by and through his attorney, Katherine F. Parks, Esq., with Thorndal Armstrong Delk Balkenbush & Eisinger, provided a response to the allegations.

On August 2, 2016, the Commission served Antinoro with a *Notice of Additional Issues and Facts* via process server, which identified relevant issues and facts beyond those presented in the original RFO concerning Antinoro appearing in a video endorsement wearing his uniform. On August 16, 2016, Antinoro waived the statutory time limits for a hearing in this matter pursuant to NRS 281A.440(6) and submitted a response to the additional allegations on September 6, 2016.

On October 26, 2016, the Commission's Investigatory Panel issued its *Panel Determination* finding just and sufficient cause for the Commission to hold a hearing and render an opinion in this matter based on credible evidence that alleged Antinoro used official letterhead to make a private political endorsement in violation of NRS 281A.400(7).¹ However, under NAC 281A.435, the Panel concluded that the facts did not establish credible evidence to substantiate just and sufficient cause for the Commission

¹ Commissioners Groover and Gruenewald served on the Investigatory Panel and are precluded by NRS 281A.220(4) from participation in further matters after issuance of the Panel Determination. Accordingly, the necessary quorum to act upon this matter and the number of votes necessary is reduced as though these members were not members of the Commission under NAC 281A.200. All other Commissioners are eligible to participate in the consideration of this matter.

to consider the alleged violations of NRS 281A.400(2), NRS 281A.400(7) (regarding use of badge and uniform), and NRS 281A.520. Therefore, those allegations were dismissed.

On November 3, 2016, a *Notice of Hearing and Scheduling Order* was issued outlining a schedule for discovery and dispositive motions and setting the matter for hearing for February 15, 2017.

Parties filed *Stipulated Facts* on and subsequently agreed to continue the February hearing to a later date. A *First-Amended Notice of Hearing and Scheduling Order* was issued by the Commission on January 5, 2017 approving the continuance and setting the hearing for April 19, 2017, for consideration of any stipulated agreements or dispositive motions.

On March 1, 2017, the Executive Director filed a *Motion for Summary Judgment*. Antinoro filed an *Opposition to the Motion for Summary Judgment and a Cross-Motion for Summary Judgment* on March 15, 2017. The Executive Director filed a *Reply to the Opposition and an Opposition to the Cross-Motion for Summary Judgment* on March 21, 2017 followed by Antinoro's *Reply to the Opposition to the Cross-Motion for Summary Judgment* on March 27, 2017, collectively referred to as "Motions."

On April 19, 2017, the Commission considered oral argument, the Motions and record on file to issue its determination granting the Executive Director's Motion for Summary Judgment and denying Antinoro's Motion for Summary Judgment. The Commission ordered that the parties submit briefs on willfulness of the violation under the requirements of NRS 281A.475 and whether any penalties or fines should be imposed by the Commission pursuant to the provisions of NRS 281A.480. See *Order on Motions for Summary Judgment* dated May 3, 2017. Accordingly, a *Notice of Hearing and Scheduling Order Regarding Briefing* was issued on March 3, 2017, reflecting the stipulation of the parties to submit briefs and for the Commission to consider submitted briefs without oral argument.

On May 15, 2017, the Commission held a hearing to consider the briefs. At the conclusion of the May hearing and, after fully considering the record in accordance with the requirements of the law including, without limitation, the mitigating factors set forth in NRS 281A.475, the Commission deliberated and announced its decision on the record that, based upon a preponderance of evidence, Subject Antinoro engaged in one willful violation of NRS 281A.400(7). A penalty in the amount of \$1,000.00 was imposed on Antinoro. In addition, the Commission provided the Executive Director authority to coordinate a schedule for payment of the fine, which schedule must not exceed six (6) months. The Commission now renders this written opinion setting forth its formal findings of fact and conclusions of law in compliance with NRS 233B.125.

II. FINDINGS OF FACT

The Commission granted summary judgment against Antinoro because there are no material issues of fact remaining in dispute and summary judgment was warranted as a matter of law. Antinoro's conduct is deemed to constitute one willful violation of NRS 281A.400(7), as more particularly set forth in this opinion, which determination of willfulness considered the mitigating factors set forth in NRS 281A.475, and resulted in a fine imposed in the amount of \$1,000. In rendering this opinion, the Commission determines the following facts to be established under the preponderance of evidence standard set forth in NRS 281A.480:

1. Antinoro is the elected Sheriff of Storey County, a public officer as defined in NRS 281A.160.
2. Storey County is a political subdivision as defined in NRS 281A.145.
3. The Storey County Sheriff's Office is a local agency as defined in NRS 281A.119.
4. During the relevant time period, Nevada State Assemblywoman Michelle Fiore ("Fiore") was a United States Congressional candidate for Nevada's Third Congressional District in Clark County.
5. On May 27, 2016, Fiore contacted Sheriff Antinoro by phone to request his endorsement of her candidacy for U.S. Congress.
6. Sheriff Antinoro prepared a three-paragraph statement endorsing Fiore's candidacy, dated May 27, 2016, on his personal computer at his home during his lunch hour.
7. The statement endorsing Fiore's candidacy was typed on the official Storey County Sheriff's Office letterhead and emailed to Fiore from Sheriff Antinoro's personal computer and email account.
8. The official letterhead of the Storey County Sheriff's Office utilized by Sheriff Antinoro included the header displaying the official logo and the footer containing address and contact information.
9. On May 27, 2016, Sheriff Antinoro's private endorsement, with the exception of the footer containing the address and contact information, appeared in a YouTube video that was tweeted on Fiore's Twitter account, @VoteFiore.
10. The YouTube video containing Sheriff Antinoro's private endorsement was also posted on Fiore's Facebook page on May 27, 2016.
11. Sheriff Antinoro did not produce the YouTube video or supply any of the other images used in the video. Fiore did not contact Sheriff Antinoro to inform him about the endorsement video.
12. Fiore was defeated in her campaign for U.S. Congress in the primary election held on June 15, 2016.
13. Policy Number 213 of the Storey County Administrative Policies and Procedures ("Storey County Policies") addresses political activity by employees:

213: Political Activity

Employees are expressly forbidden to use any employer resources, including but not limited to: interoffice mail, email, telephone, fax machines, the Internet, or copy machines to engage in any political activity outside the approved scope of the employees' official duties.

....

Employees who are seeking, or who have been elected or appointed to public office, shall not conduct any business related to these activities while on duty. This includes all the items listed in the previous section, (i.e., political activity).

14. The Storey County Policies contain the following definition of “employee:”

Employee: A person employed in a budgeted position on a full- or part-time basis. For purposes of those section of these policies covering discipline, layoff, and dispute resolution, the term employee excludes elected officials, department heads and casual workers.

15. The Storey County Sheriff’s Office has a policy regarding Employee Speech, Expression and Social Networking that addresses endorsements:

1060.4.1 UNAUTHORIZED ENDORSEMENTS, ADVERTISEMENTS, AND ACTIVITIES

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or deputy associations, employees may not represent the Storey County Sheriff’s Office or identify themselves in any way that could be reasonably perceived as representing the Storey County Sheriff’s Office in order to do any of the following, unless specifically authorized by the Sheriff:

(a) Endorse, support, oppose or contradict any political campaign or initiative.

...

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group), is affiliated with this office, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Storey County Sheriff’s Office.

16. Antinoro issued a private message endorsing a political candidate by use of the official letterhead of the Storey County Sheriff’s Office.

17. The official letterhead of the Storey County Sheriff’s Office is government property.

18. Antinoro’s conduct in using the official letterhead of the Storey County Sheriff’s Office as the mechanism to provide a private political endorsement did not comply with the policies established by Storey County or the Storey County Sheriff’s Office.

19. The endorsement provided to Fiore did not contain a disclaiming statement that the endorsement was not representative of the Storey County Sheriff’s Office.

20. Antinoro has a significant personal interest in endorsing a political candidate, which private interest is of such importance as to be protected as free speech by the *First Amendment of the U.S. Constitution*.

21. The record did not demonstrate that Antinoro’s conduct constituted a permitted limited use of governmental property for a personal benefit as permitted by NRS 281A.400(7)(a).

22. Antinoro’s conduct violated NRS 281A.400(7), which prohibits the use of government property to benefit a significant personal interest of the public officer or employee.

III. STATEMENT OF THE ISSUE AND RELEVANT STATUTES

A. ISSUE

The issue is whether Antinoro's conduct in utilizing government property to benefit a significant personal interest constitutes a willful violation of NRS 281A.400(7). The Nevada Legislature has expressly declared that public office is a public trust to be held for the sole benefit of the people. The Ethics Law governs the conduct of public officers and employees and requires that public officers and employees must avoid conflicts between their private interests and those of the general public they serve. See NRS 281A.020(1).

B. RELEVANT STATUTES

1. Duty to Avoid Conflicts - NRS 281A.020(1) provides:

1. It is hereby declared to be the public policy of this State that:
 - (a) A public office is a public trust and shall be held for the sole benefit of the people.
 - (b) A public officer or employee must commit himself or herself to avoid conflicts between the private interests of the public officer or employee and those of the general public whom the public officer or employee serves.

2. Improper use of Government Resources and Property - NRS 281A.400(7) provides:

Except for State Legislators who are subject to the restrictions set forth in subsection 8, a public officer or employee shall not use governmental time, property, equipment or other facility to benefit a significant personal or pecuniary interest of the public officer or employee. This subsection does not prohibit:

- (a) A limited use of governmental property, equipment or other facility for personal purposes if:
 - (1) The public officer or employee who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;
 - (2) The use does not interfere with the performance of the public officer's or employee's public duties;
 - (3) The cost or value related to the use is nominal; and
 - (4) The use does not create the appearance of impropriety;
- (b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or
- (c) The use of telephones or other means of communication if there is not a special charge for that use.

.....If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

///

3. Standards for Determining Willful Violation – NRS 281A.475 provides:

1. In determining whether a violation of this chapter is a willful violation and, if so, the amount of any civil penalty to be imposed on a public officer or employee or former public officer or employee pursuant to NRS 281A.480, the Commission shall consider [:], without limitation:

(a) The seriousness of the violation, including, without limitation, the nature, circumstances, extent and gravity of the violation;

(b) The number and history of previous warnings issued to or violations of the provisions of this chapter by the public officer or employee;

(c) The cost to the Commission to conduct the investigation and any hearing relating to the violation;

(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 parties affected by the violation;

(f) The extent of any financial gain resulting from the violation; and

(g) Any other matter justice may require.

2. The factors set forth in this section are not exclusive or exhaustive, and the Commission may consider other factors in the disposition of the matter if they bear a reasonable relationship to the Commission's determination of the severity of the violation.

3. In applying the factors set forth in this section, the Commission shall treat comparable situations in a comparable manner and shall ensure that the disposition of the matter bears a reasonable relationship to the severity of the violation.

4. Definitions applicable to Willfulness Determination:

NRS 281A.105 “Intentionally” defined:

“Intentionally” means voluntarily or deliberately, rather than accidentally or inadvertently. The term does not require proof of bad faith, ill will, evil intent or malice.

NRS 281A.115 “Knowingly” defined:

“Knowingly” imports a knowledge that the facts exist which constitute the act or omission, and does not require knowledge of the prohibition against the act or omission. Knowledge of any particular fact may be inferred from the knowledge of such other facts as should put an ordinarily prudent person upon inquiry.

NRS 281A.170 “Willful” defined:

“Willful violation” means a violation where the public officer or employee:

1. Acted intentionally and knowingly; or
2. Was in a situation where this chapter imposed a duty to act and the public officer or employee intentionally and knowingly failed to act in the manner required by this chapter,

↳ unless the Commission determines, after applying the factors set forth in NRS 281A.475, that the public officer's or employee's act or failure to act has not resulted in a sanctionable violation of this chapter.

5. Civil Penalties for Willful Violations – NRS 281A.480 provides in pertinent part:

1. In addition to any other penalties provided by law and in accordance with the provisions of NRS 281A.475, the Commission may impose on a public officer or employee or former public officer or employee civil penalties:

- (a) Not to exceed \$5,000 for a first willful violation of this chapter;
- (b) Not to exceed \$10,000 for a separate act or event that constitutes a second willful violation of this chapter; and
- (c) Not to exceed \$25,000 for a separate act or event that constitutes a third willful violation of this chapter.

9. A finding by the Commission that a public officer or employee has violated any provision of this chapter must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.

IV. DECISION

A. WILLFUL VIOLATION OF NRS 281A.400(7) - IMPROPER USE OF GOVERNMENT RESOURCES AND PROPERTY

The Ethics Law is designed to preserve the public trust and ensure that public officers and employees maintain proper separation between their public duties and private interests. See NRS 281A.020. The Ethics Law contains a strict prohibition against a public officer or employee from using government time, property, equipment or other facility to benefit a significant personal or pecuniary interest of the public officer or employee. NRS 281A.400(7). Pursuant to NRS 281A.400(7)(a), a governmental agency may establish by policy a limited use exception to the strict prohibition, allowing the use or the use is necessary as a result of emergency circumstances provided that such use does not interfere with the performance of public duties, the cost or value is nominal and the use does not create an appearance of impropriety.

The official letterhead of a government constitutes government property. See *In re Hammargren*, Comm'n Op. No. 95-35C (1996); *In re Hettrick*, Comm'n Op. No. 01-10A (2001); and *In re Tiffany*, Comm'n Op. No. 05-21C (2007). The use of official letterhead demonstrates a wielding or exertion of the official authority of public office. It also creates the impression that the Sheriff's Office, as a law enforcement department, endorses the contents of the letter.² An endorsement on private letterhead does not carry the same weight as one issued on official letterhead. The message or speech is not regulated by the Ethics Law; however, the mechanism by which the message was delivered, or use of official letterhead, is the concern. Certainly, "all individuals enjoy a constitutional right to speak out on political concerns." *Hettrick at p. 2*. However, the Ethics Law prohibits the

² Storey County Sheriff Policy 1060.4.1 recognized the appearance of impropriety for its members when using public positions, property or resources to privately endorse any political campaign because such conduct is reasonably perceived as representing the Storey County Sheriff's Office. Consequently, the policy required that even private endorsements of political candidates required disclaimers.

use of governmental property, including its official letterhead, to benefit a significant personal interest, especially when such use creates an appearance of impropriety or the impression that the government sanctions the activity. *Id.*

Moreover, the right of a private citizen to endorse a candidate of his selection is of such significance as to be provided constitutional protection under the *First Amendment*. See *Buckley v. Valeo*, 424 U.S. 1, 14, 96 S.Ct. 612, 632 (1976). Consequently, the private endorsement of a candidate is a significant personal interest for purposes of application of the Ethics Law.

Prior to application of the mitigating factors set forth in NRS 281A.475, the Commission considered whether Antinoro's use of government property as the mechanism to provide a private political endorsement was intentional or knowingly. Pursuant to NRS 281A.170, a willful violation is premised upon conduct that was intentional and knowing, which terms are defined in NRS 281A.105 and NRS 281A.115. The legislative history enacting these provisions associated with the definition of a willful violation of NRS Chapter 281A requires the Commission to interpret the meanings of "intentional" and "knowing" consistent with Nevada case law. See Legislative Minutes of Assembly Committee on Elections, Procedures, Ethics and Constitutional Amendments, May 12, 2009, and Senate Committee on Judiciary, May 21, 2009, regarding Senate Bill 160 of the 75th Legislative Session of Nevada (2009).

For an act to be intentional, NRS 281A.105 requires that Antinoro acted "voluntarily and deliberately." See *In re Fine v. Nevada Commission on Judicial Discipline*, 116 Nev. 1001 (2000) ("the relevant inquiry regarding willful misconduct is an inquiry into the intentional nature of the actor's conduct."). Here, Antinoro purposefully utilized the official letterhead to provide a private endorsement. His conduct was not accidental or inadvertent. *Id.*³

The Ethics Law requires that Antinoro had knowledge of his actions. See NRS 281A.115 (definition of "knowingly"). It is properly noted that the provisions of NRS Chapter 281A do not require Antinoro to have actual knowledge that his conduct violated the Ethics Law but it does impose constructive knowledge on a public officer when other facts are present that should put an ordinarily prudent person upon inquiry. See *Garcia v. The Sixth Judicial District Court of Nevada*, 117 Nev. 697, 30 P.3d 1110 (2001) ("constructive knowledge fulfills a statutory requirement that an act be done 'knowingly.' State of mind need not be proved by positive or direct evidence but may be inferred from conduct and the facts and circumstances disclosed by the evidence."); and *State v. Rhodig*, 101 Nev. 608, 707 P.2d 549 (1985) ("... the law does not require knowledge that such an act or omission is unlawful.").

The record before the Commission established that Antinoro knew he was utilizing the official letterhead of the Storey County Sheriff as the mechanism to provide a private political endorsement. Further confirming the intentionality of the conduct is the parties' stipulation that Antinoro typed the endorsement "on the official Storey County Sheriff's office letterhead." See *Stipulated Facts*. Further, the use of official letterhead to endorse a political candidate was not permitted by established policy of the affected agencies, nor was it permitted under the limited use exception set forth in NRS 281A.400(7)(a) or other applicable law.⁴

³ The law does not require proof that the intentional behavior was engaged in bad faith or with malicious motive to be deemed willful. See *In re Matson*, Comm'n Op. No. 14-70C (2016).

⁴ The Commission did not find the advisory letter issued by the Office of Special Counsel discussing the application of the Federal Hatch Act to a partisan sheriff, permitting the use of title and badge to endorse

B. NRS 281A.475 - MITIGATING FACTORS AND CIVIL PENALTY

The Commission considered the mitigating factors set forth in NRS 281A.475 in conducting an analysis of willfulness and determination of the appropriateness of a civil penalty. Each factor may not necessarily be present or be provided equal weight. In synopsis, these factors are:

1. Seriousness of Violation
2. History of Warnings or Violations
3. Cost of Investigation and Hearings
4. Mitigating Factors (cooperation, self-reporting, correction of violation, etc.)
5. Restitution or Reimbursements paid to Affected Parties
6. Extent of Financial Gain
7. Other Matters as Justice Requires

In review of the mitigating factors contained in NRS 281A.475, the Commission reviewed the totality of the circumstances, which included taking into consideration Antinoro's cooperation in stipulating to a set of facts, the nature of the RFO did not require an expensive or lengthy investigation/hearing, there was no financial gain and the use of the official letterhead for a private endorsement was accomplished during a lunch hour on a personal computer.

The conduct at issue relates to utilizing government property to benefit a substantial personal interest. The seriousness of the violation is demonstrated by the intentional use of official government letterhead as the mechanism to provide a private political endorsement. Further confirming the gravity of the conduct is Antinoro's noncompliance with policies issued by the County and Sheriff's Office that expressly restricted use of public resources for political purposes including candidate endorsements.

Antinoro had not taken any steps to mitigate his conduct, such as reissuing the endorsement on private letterhead or requesting removal of the official letterhead from social media sites. Further, Antinoro had recently committed an ethics violation associated with the use of an official position in a political/election environment. See *in re Antinoro*, Comm'n Op. No. 14-59C. The totality of conduct is determined to be significant when measured against the public's trust and the public policy of the State of Nevada requiring public officers and employees to maintain a proper separation between the role of a public servant and a private citizen. NRS 281A.020(2).

Based on the foregoing, the Commission determines that Antinoro's conduct constituted a willful violation of NRS 281A.400(7) and imposes a civil penalty against Antinoro of \$1,000.

V. CONCLUSIONS OF LAW

1. At all times relevant to this matter, Antinoro was a "public officer," as defined by NRS 281A.160 and 281A.180.
2. Pursuant to NRS 281A.440(1) and NRS 281A.460, the Commission has jurisdiction to render an opinion in this matter.

political candidates, to be precedential or applicable to the circumstances presented. See *Order on Motions for Summary Judgment* issued May 3, 2017.

3. Antinoro, as a public officer, had a duty under the Ethics Law and its interpretive opinions to maintain proper separation between public duties and private interests. See NRS 281A.020.
4. Pursuant to NRS 281A.400(7), Antinoro, as a public officer, was prohibited from using government time, property, equipment or other facility to benefit a significant personal or pecuniary interest of the public officer or employee.
5. Summary Judgment was appropriately granted given the undisputed or uncontested facts of this matter, the applicable provisions of the Ethics Law, and the interpretive opinions of the Ethics Law.⁵
6. Pursuant to the provisions of the Ethics Law, Antinoro willfully violated NRS 281A.400(7) by using official letterhead (government property) as the mechanism to provide a private political endorsement.
7. In accordance with the authority of the Commission under NRS 281A.475 and NRS 281A.480, civil penalties are imposed and Antinoro must pay a civil penalty in the amount of \$1,000. Authorization is provided for the Executive Director and Subject Antinoro to enter into a payment schedule, with payment being completed within six (6) months after the date of this opinion.

Any Finding of Fact hereafter construed to constitute a Conclusion of Law, or any Conclusion of Law construed to constitute a Finding of Fact, is hereby adopted and incorporated as such to the same extent as if originally so designated.⁶

The following Commissioners participated in this Opinion:

Dated this 8th day of June, 2017.

NEVADA COMMISSION ON ETHICS

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

By: /s/ Phillip K. O'Neill
Phillip K. O'Neill
Commissioner

By: /s/ Keith A. Weaver
Keith A. Weaver, Esq.
Vice-Chair

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

By: /s/ Brian Duffrin
Brian Duffrin
Commissioner

By: /s/ Lynn Stewart
Lynn Stewart
Commissioner

⁵ See *Order on Motions for Summary Judgment* issued on May 3, 2017.

⁶ Findings of Fact and Conclusion of Law are set forth separately in this opinion as required by NRS 233B.125; however, they are deemed interchangeable for interpretive purposes. See *State, Dep't of Commerce v. Soeller*, 98 Nev. 579, 586, 656 P.2d 224, 228 (1982)(concluding that when "the conclusion itself gives notice of the facts on which the Commission relied ... we may imply the necessary factual findings, so long as the record provides substantial evidence to support the Commission's conclusion").

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 **OPINION** in Request for Opinion **No. 16-54C**, via U.S. Certified Mail and electronic mail, to the Parties and the Requester, as an interested person, as follows:

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*Attorney for Subject
Gerald Antinoro*

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*Attorney for Requester
Kris Thompson*

DATED: June 8, 2017



An employee, Nevada Commission on Ethics

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.

_____ /

GERALD ANTINORO'S OPPOSITION TO
EXECUTIVE DIRECTOR'S MOTION FOR SUMMARY JUDGMENT

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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,

14 Subject.

Request for Opinion No. 17-21C

15 **GERALD ANTINORO'S OPPOSITION**
16 **TO MOTION FOR SUMMARY**
17 **JUDGMENT**

18 COMES NOW, Gerald Antinoro, by and through his attorneys of record, Thorndal
19 Armstrong Delk Balkenbush & Eisinger, and pursuant to NAC 281A.265, hereby submits his
20 opposition to the Executive Director's Motion for Summary Judgment on Request for Opinion
21 No. 17-21C.

22 **INTRODUCTION**

23 This matter comes before the Commission by way of Third Party Request for Opinion
24 (RFO) No. 17-21C submitted by Clarence Gempel on June 21, 2017, and which largely relates
25 to a child custody dispute between Gempel and his ex-wife, Laura Antinoro. Laura Antinoro is
26 currently married to Storey County Sheriff Gerald Antinoro. The underlying factual basis of the
27 RFO arose out of a child visitation between Gempel and his minor daughter, who lives with
28 Laura Antinoro is Storey County, Nevada. Pursuant to the divorce decree dissolving the marriage
between Gempel and Laura Antinoro, Gempel is entitled to visitation with his daughter other
every Saturday for three hours. In early 2017, Gempel contacted Laura Antinoro to schedule a

1 visit with the minor. Prior to this request, Grepel had not seen his daughter since she was three
2 years of age. Despite her reservations regarding the well-being and safety of her child, Mrs.
3 Antinoro agreed to the visit.

4 The visit was scheduled for May 20, 2017. At the time of the request, Mrs. Antinoro
5 suggested that the visit be held at a public park in Virginia City, Nevada. However, given the
6 fact that Grepel had not seen the minor child for more than six years, and given Mrs.
7 Antinoro's past history with Grepel, Mrs. Antinoro became concerned about the well being of
8 the minor and decided to change the location of the meeting to the Storey County Sheriff's
9 Office in Virginia City, Nevada. Members of the general public are permitted to, and have, used
10 the Sheriff's Office locations in both Virginia City and Lockwood for that purpose (including on
11 weekends). *See*, Exhibits 1, 3, 4, and 5 to Sheriff Antinoro's Motion for Summary Judgment.

12
13
14 The visit was held on May 20, 2017. Contrary to the Executive Director's
15 characterization of the visit, Grepel was provided ample privacy and had very minimal
16 interaction with Sheriff Antinoro. The visit was held in both the squad room and on the outside
17 deck of the Sheriff's Office. At no time did Sheriff Antinoro attempt to participate in the visit
18 between Grepel and his daughter nor did he attempt to intimidate Grepel. Sheriff Antinoro
19 merely introduced himself to Grepel and retired to his office to continue working. *See*, Exhibit
20 1, to Sheriff Antinoro's Motion for Summary Judgment.

21
22 The entire factual basis of the RFO consists of the one to two hour visit between Grepel
23 and his daughter. While the Executive Director attempts to frame the visit as a clear cut ethics
24 violation, Mrs. Antinoro simply utilized a service that is available to the general public. By no
25 means did Sheriff Antinoro confer any unwarranted privilege or advantage on his spouse by
26 permitting her to do what any member of the general public has a right to do. The Sheriff's
27 Office permits members of the general public to use its Virginia City and Lockwood facilities,
28

1 when needed, to hold visitation and child custody exchanges. Accordingly, the conduct at issue
2 does not constitute a violation of NRS 281A.400(2) or NRS 281A.400(7). As there is no
3 evidence, let alone a preponderance of the evidence, that Sheriff Antinoro violated any provision
4 of Chapter 281A, summary judgment is not appropriate in favor of the Executive Director and
5 the RFO should be dismissed on the Motion for Summary Judgment filed with the Commission
6 by Sheriff Antinoro.
7

8 LEGAL ANALYSIS

9 The primary purpose of the Ethics laws in the State of Nevada is to assure its citizens, to
10 the fullest extent possible, that the private interests of their governmental representatives present
11 no conflict of interest between public trust and private gain. *See, In re: Stork*, Comm'n Op. No.
12 17-01A (2017). There is no dispute that the underlying public policy of the Ethics law is to
13 promote integrity in public service by preventing the appearance of impropriety as a result of
14 conflicts between public and private interests. However, when there is no cause to find a
15 violation of the Ethics Law, the Commission must dismiss such allegations accordingly.
16
17

18 In the present case, there is no evidence to suggest that holding a child visitation at the
19 Storey County Sheriff's Office violates any provision of NRS Chapter 281A. Rather, Laura
20 Antinoro availed herself of a service available to the general public to ensure that the visitation
21 between her minor daughter and her estranged father was safe and secure. The Commission
22 cannot find that such visitation constituted a violation of the Ethics Law by virtue of the
23 relationship between Sheriff Antinoro and his spouse.
24

25 **I. Sheriff Antinoro's Conduct Does Not Constitute a Violation of Any Provision of** 26 **Chapter 281A of the Nevada Revised Statutes.**

27 As it pertains to NRS 281A.400(2), the Executive Director asserts that the use of the
28 Sheriff's Office facilities, during what she alleges to have been *non-business hours*, to conduct
the visit between Gempel and his minor daughter, is a clear cut violation of NRS 281A.400(2).

1 However, in order for the Commission to find that a violation of NRS 281A.400(2) did, in fact,
2 occur, there must be evidence that Sheriff Antinoro secured or granted an unwarranted privilege,
3 preference, exemption or advantage to his spouse as a result of such visit. As it stands, the
4 Executive Director has failed to proffer a single piece of evidence to suggest that this was the
5 case. Rather, in keeping with the statutory obligations under NRS 248.090, Sheriff Antinoro
6 permitted the visit to occur, as he would, and has, done for members of the general public
7 wishing to conduct a child visitation. This was done in the discretion of Laura Antinoro to ensure
8 that the visit between Gempel and his minor daughter was conducted in a safe and secure
9 environment. The Executive Director suggests that Sheriff Antinoro has provided no justification
10 or adequate reason for the conduct at issue. Such an assertion is simply contrary to the facts in
11 this case, as the reason for the conduct at issue was to protect the well-being of a nine year old
12 child who had not seen her father since she was three years of age.
13

14
15 The Executive Director appears to be fixated on the fact that the visit was held during
16 what she describes in her motion as non-business hours, but such fact is irrelevant and has
17 absolutely no bearing on the circumstances of this case. While there is no dispute that the listed
18 business hours of the Sheriff's Office in Virginia City are Monday through Friday from 8:00
19 a.m. to 5:00 p.m., these office hours pertain to administrative and support staff. By the very
20 nature of its work, i.e. law enforcement, the Storey County Sheriff's Office remains open and
21 operational 24 hours a day, 7 days a week. This includes having, on average, two deputies on
22 duty at the Virginia City main office during a weekend shift, a fact that is corroborated in the
23 Executive Director's motion when she acknowledges that there were several other deputies
24 present at the Sheriff's Office on May 20, 2017. The obligations of the Storey County Sheriff's
25 Office to "keep and preserve the peace" do not simply cease to exist after hours or on weekends.
26
27 The Sheriff's Office does, and has, permitted child custody exchanges and visitations on
28

1 weekends. Common sense more than dictates the child visitations will sometimes occur on
2 weekends, given school schedules and other such considerations. The Executive Director has
3 provided the Commission with no meaningful evidence to establish that Mrs. Antinoro was
4 provided any preference or advantage that could not have been utilized by any member of the
5 public merely because the visit occurred on a Saturday. Rather, the Executive Director simply
6 makes conclusory allegations in this regard which do not meet the preponderance of the evidence
7 standard.
8

9 Additionally, the Executive Director suggests that Sheriff Antinoro's failure to offer any
10 facts justifying the change in venue somehow bears on the alleged violation of NRS
11 281A.400(2). Such an argument is without merit. First and foremost, the Executive Director
12 offers nothing in the way of evidence to suggest that Sheriff Antinoro had anything to do with
13 the change in the location of the visit at issue and, in fact, he did not. *See*, Exhibit 1 to Sheriff
14 Antinoro's Motion for Summary Judgment. The decision to ask Grepel to meet his daughter at
15 the Sheriff's Office was made by Laura Antinoro based on her concerns for the well-being of her
16 nine year old child under circumstances in which Grepel had not seen the minor for more than
17 six years. *Id.* It is irresponsible to suggest that Laura Antinoro, as a member of the public,
18 should not have had the option of holding the visit in question in a safe location merely because
19 she is married to the Sheriff of Storey County. The safety and well being of a nine year old child
20 certainly provides justification and adequate reason for Mrs. Antinoro to have utilized the
21 Sheriff's Office for one to two hours on May 20, 2017, to accomplish the visit.
22
23

24 The crux of this matter hinges on the fact that the Sheriff's Office was and is open to
25 members of the public should they feel they need assistance in accomplishing safe child
26 visitations and custody exchanges. This includes facilitating custody exchanges and visitations
27 on weekends. This significant benefit, afforded to all members of the general public, was not an
28

1 unwarranted privilege bestowed upon Laura Antinoro by virtue of the public office held by her
2 husband.

3 Next, the Executive Director asserts that the actions surrounding the visitation between
4 Gempel and his minor daughter on May 20, 2017, amounts to a violation of NRS 281A.400(7).
5 Again, the Executive Director has failed to proffer any evidence to support a finding that Sheriff
6 Antinoro's conduct amounted to an ethical violation. First and foremost, Sheriff Antinoro did not
7 utilize government property or resources to secure a benefit in his private capacity. As addressed
8 above, the Sheriff's Office has and does open its doors to members of the general public for the
9 purposes of child visitations and custody exchanges. Moreover, the offering of such services are
10 not limited to regular business hours which might be worked by administrative staff, but are
11 available after hours and on weekends, as well. Given the very statutory obligations of the
12 Sheriff's Office, it cannot, and does not, shut its doors after 5:00 p.m. or on weekends. Rather,
13 the Sheriff's Office remains open and operational 24 hours a day, 7 days a week. This includes
14 having, on average, two deputies on duty at the Virginia City office during weekend shifts.
15 Accordingly, there is no evidence that Sheriff Antinoro bestowed on Laura Antinoro a benefit
16 that was not correspondingly available to the general public.
17

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19
20 In support of her motion, the Executive Director cites to the Commission's Opinion in *In*
21 *re Boldt*, Comm'n Op. No. 17-37C (2018). The Executive Director's reliance on such opinion is
22 misplaced and easily distinguishable from the present matter. In *Boldt*, the Commission found
23 that a public employee's use of a storage area, beyond normal working hours, to stay overnight,
24 amounted to a violation of NRS 281A.400(7). Access to the storage area was restricted and
25 limited only to employees with key card access. *Id.* Despite that fact, over a seven to eight month
26 period of time, the Subject in *Boldt* used his employee key card to enter the restricted, non-public
27 area 162 times after the end of normal work hours. The facts present in *Boldt* differ greatly from
28

1 those presently before the Commission. Here, the Sheriff's Office was and is open to the public
2 24 hours a day, 7 days a week. Members of the public can and do utilize the Sheriff's Office to
3 facilitate custody exchanges and visitations and this service is not limited to regular business
4 hours as suggested by the Executive Director. While the Executive Director attempts to equate
5 the violations in *Boldt* to the facts presented in the instant matter, it is clear that the *Bolt*
6 stipulated agreement is not applicable, as the public is not prohibited from accessing the Sheriff's
7 Office.
8

9 Additionally, and contrary to the arguments made by the Executive Director, Sheriff
10 Antinoro submits that the limited use exception under NRS 281A.400(7) applies under the
11 circumstances. Pursuant to NRS 281A.400(7), the use of government property, equipment, or
12 other facility for personal use for limited purposes is permitted if: (1) the public officer or
13 employee who is responsible for and has authority to authorize the use of such property,
14 equipment or other facility has established a policy allowing the use or the use is necessary as a
15 result of emergency circumstances; (2) the use does not interfere with the performance of the
16 public officer's or employee's public duties; (3) the cost or value related to the use is nominal;
17 and (4) the use does not create the appearance of impropriety.
18

19 First, Sheriff Antinoro, as the Sheriff of Storey County, is responsible for, and has the
20 authority to, authorize the use of the Virginia City main office, as well as the Lockwood
21 substation, for child visitations such as that which occurred on May 20, 2017. The fact that such
22 visitations are permitted without a written policy regarding same is immaterial and the evidence
23 presented by Sheriff Antinoro in his Motion for Summary Judgment establishes the existence of
24 such a policy. Accordingly, the first prong of the exception is clearly met. Second, there is no
25 evidence, let alone a preponderance of the evidence, which suggests that the May 20, 2017, one
26 to two hour visit between Grepel, Laura Antinoro and the minor child at the Sheriff's Office in
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1 any way interfered with the performance of Sheriff Antinoro's public duties and the Executive
2 Director admits this fact in her motion. There is no evidence whatsoever that Sheriff Antinoro
3 participated in the visit between Grepel and his minor daughter or that he did anything more
4 than introduce himself.¹

5
6 As for the cost or value related to the use of the Sheriff's Office on May 20, 2017, for
7 this visit, the cost or value is not nominal, it is non-existent. While the Executive Director
8 speculates that such costs could be "credibly valued as more than nominal" if the Sheriff's Office
9 were required to bring in a deputy on the weekend to staff or facilitate such a visit, she fails to
10 proffer any evidence to support her allegations. In reality, the Sheriff's Office has, on average,
11 two deputies working at the Virginia City office during the weekends. Given its statutory
12 obligations and the very nature of law enforcement, the Sheriff's Office does not shut down after
13 regular business hours or on the weekends. Members of the general public have used the
14 Sheriff's Office to hold child visitations after regular business hours at no additional expense to
15 Storey County in terms of wages to law enforcement officers. As noted above, the Executive
16 Director admits in her motion that several other deputies were at the Sheriff's Office on May 20,
17 2017. Therefore, the third prong of the inquiry is also met. Lastly, use of the Sheriff's Office
18 under these circumstances cannot be deemed to have created an appearance of impropriety.
19 Again, the Sheriff's Office was and is open to members of the public under the very same
20 circumstances, including after regular business hours and on the weekends. There is simply no
21 evidence which would suggest that Sheriff Antinoro violated NRS 281A.400(7) when his spouse,
22 as could any member of the public who needed assistance, used the Sheriff's Office as a safe
23 place to conduct a visit between a nine year old child and the father she had not seen in six years.
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¹The Executive Director contends that Sheriff Antinoro made a comment to Grepel to the effect of "welcome to my home." While Sheriff Antinoro categorically denies having made any such statement, it is not material to the instant motion.

1 Again, the Executor Director cites a Commission Opinion that is easily distinguishable
2 from the present matter. In *In re Public Employee*, Comm'n Op. No. 99-33A (2000), the
3 Commission determined that the limited use exception under NRS 281A.400(7) did not apply
4 when a public employee was found to have been driving a state vehicle for personal purposes.
5 The Commission's decision was based on the fact that the public employee in that case lacked
6 the authority to authorize such use based on the State Administrative Manual's (SAM) policy for
7 state vehicle use for private purposes. Specifically, authorization for personal use of the vehicle
8 could only be authorized by the Department of Administration and had not been under the facts
9 of that matter. That is not the case here. Sheriff Antinoro, as the elected Sheriff of Storey
10 County, had the authority to authorize the use of the Sheriff's Office for the visit in question, as
11 he does with respect to such visits involving other members of the public. Additionally, the
12 Commission found that the limited use exception did not apply in the above-referenced matter
13 because use of a state vehicle for personal purposes created the appearance of impropriety.
14 Again, that is not the case here. While a state vehicle under the facts of that case could only be
15 utilized by a public employee, the use of the Sheriff's Office to conduct a child visitation or
16 exchange is a service that can utilized by any member of the general public. Therefore, by
17 permitting his spouse to utilize a service open to the general public, there is no appearance of
18 impropriety, regardless of Sheriff Antinoro's relationship to his spouse.

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21
22 **II. Sheriff Antinoro's Conduct Does Not Amount to a Willful Violation Under Either**
23 **NRS 281A.400(2) or NRS 281A.400(7)**

24 While Sheriff Antinoro maintains that his conduct did not amount to a violation under
25 either NRS 281A.400(2) or NRS 281.400(7), he also submits that there is no evidence to support
26 a finding of a willful violation of any Nevada Ethics law. In determining whether a public officer
27 committed a willful violation, the Commission shall consider those factors set forth in NRS
28 281A.475. Here, Sheriff Antinoro respectfully submits that, under these factors, there is no

1 evidence to support a finding of a willful violation of the provisions set forth in NRS Chapter
2 281A. Under the circumstances, the seriousness of the violation does not rise to the level to
3 determine that violation was willful. Sheriff Antinoro simply permitted his spouse to utilize the
4 Sheriff's Office to conduct a child visitation, just as he would any other member of the general
5 public. Moreover, the Commission is fully aware of the prior proceedings involving Sheriff
6 Antinoro. However, the Commission is also aware that the facts and circumstances of each prior
7 case are dissimilar to the facts and circumstances of matter presently before the Commission.
8 Additionally, at this stage, the cost to Commission of conducting this investigation should be
9 minimal. In regard to mitigating factors, the whole basis of the RFO at issue arose out of the
10 concern of a mother regarding a visit between her minor daughter and the father she had not seen
11 in over six years. Lastly, it is undisputed that no financial gain was derived from holding the
12 visitation at the Sheriff's Office. Sheriff Antinoro merely permitted a use of the Sheriff's Office
13 which is available to members of the public at large.

14
15
16 While the Executive Director contends that Sheriff Antinoro committed a willful
17 violation because he knew or should have known that using the Sheriff's Office as venue for the
18 visitation between Grepel and his daughter constituted a violation of Nevada Ethics law, there
19 is simply no authority to support that position.

20
21 Based upon the foregoing, Sheriff Antinoro respectfully submits that the Executive
22 Director's Motion for Summary Judgment be denied.

23 DATED this 23rd day of May, 2018.

24
25 THORNDAL ARMSTRONG
26 DELK BALKENBUSH & EISINGER

27 By: Katherine F. Parks
28 Katherine F. Parks

CERTIFICATE OF SERVICE

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 OPPOSITION TO MOTION FOR SUMMARY JUDGMENT** 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:

fully addressed as follows:

Yvonne M. Nevarez-Goodson, Esq. Executive Director Nevada Commission on Ethics 704 W. Nye Lane, Suite 204 Carson City, Nevada 89703 ynevarez@ethics.nv.gov	Judy A. Prutzman, Esq. Associate Counsel Nevada Commission on Ethics 704 W. Nye Lane, Suite 204 Carson City, Nevada 89703 jprutzman@ethics.nv.gov
Tracy L. Chase, Esq. Commission Counsel Nevada Commission on Ethics 704 W. Nye Lane, Suite 204 Carson City, Nevada 89703 tchase@ethics.nv.gov	

DATED this 23 day of May, 2018


An employee of THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER

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. /

EXECUTIVE DIRECTOR'S OPPOSITION TO
GERALD ANTINORO'S MOTION FOR SUMMARY JUDGMENT

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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, Storey
13 County, State of Nevada,

14 Subject. /

15 Yvonne M. Nevarez-Goodson, Esq., Executive Director of the Nevada
16 Commission on Ethics (“Commission”), by and through the Commission’s Associate
17 Counsel, Judy A. Prutzman, Esq., hereby submits her Opposition to Gerald Antinoro’s
18 Motion for Summary Judgment (“Motion”) submitted on May 16, 2018.

19 **INTRODUCTION**

20 As the elected Sheriff of Storey County, Gerald Antinoro (“Antinoro”) violated the
21 Ethics in Government Law (“Ethics Law”) when he allowed his spouse to use facilities
22 at the main office of the Storey County Sheriff’s Office for a private family matter. A
23 conclusion that Antinoro’s conduct did not violate the Ethics Law will erode the Nevada
24 Legislature’s directive to ensure the public’s trust in the appropriate separation between
25 the roles of persons who are both public servants and private citizens.

26 In his Motion, Antinoro characterizes this matter as a baseless complaint from a
27 disgruntled father in a custody dispute with Antinoro’s wife, Laura. Antinoro asks the
28

1 Commission to find that his conduct does not implicate NRS 281A.400(2) and (7)
2 because he merely allowed his wife to use the Sheriff's Office for a child visitation
3 between her ex-husband and daughter, which is "a service that can be utilized by any
4 member of the general public." Antinoro asserts that Laura was allowed to use the
5 Sheriff's Office "in the same fashion as would any member of the public" because it is
6 the "custom and practice of the Storey County Sheriff's Office to remain open to, and
7 be used by, members of the public for child visitation and custody exchanges."
8 However, Antinoro fails to provide any details regarding this so-called custom and
9 practice. In particular, the evidence before the Commission does not demonstrate how
10 or if a member of the public can seek and obtain last-minute permission to utilize the
11 Sheriff's Office for a two-hour child visitation on a Saturday morning, as Laura did.
12
13

14 As demonstrated in the Executive Director's Motion for Summary Judgment filed
15 with the Commission on May 16, 2018, it is an undisputed fact that the Sheriff's Office
16 is not open to the public for business on Saturdays. The preponderance of evidence
17 indicates that Antinoro's authorization of Laura's use of the Sheriff's Office for a private
18 custody matter involving Antinoro's own family was an unwarranted privilege
19 unavailable to other members of the public and resulted in Antinoro's private use of a
20 government facility that violates NRS 281A.400(2) and (7). When Antinoro uses
21 government property that is inextricably associated with his public position as the
22 elected Sheriff for a private matter, it creates confusion for the public about the nature
23 of his role with regard to that matter and blurs the line between Antinoro's personal
24 family interests and his public duties as Sheriff. This is the type of conduct and harm to
25 the public that the Ethics Law is designed to prohibit. In particular, there was no way for
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1 Grepel to know whether Sheriff Antinoro was present at the facility in his capacity as
2 the Sheriff, for law enforcement purposes, or in his private capacity as the stepfather of
3 the minor child.

4
5 The Commission should deny Antinoro's Motion and grant the Executive
6 Director's Motion for Summary Judgment, finding that Antinoro willfully violated NRS
7 281A.400(2) and (7) and imposing a civil penalty of \$8,000.

8 LEGAL ANALYSIS

9 **I. No Factual Disputes Remain for an Evidentiary Hearing**

10
11 It is well-settled that mere conjecture or hope of proving one's case at a hearing
12 or trial is insufficient to create a factual issue and avoid summary judgment. *Howard*
13 *Hughes Med. Inst. v. Gavin*, 96 Nev. 905, 909, 621 P.2d 489, 491 (1981) (interpreting
14 N.R.C.P. 56(e)). It is appropriate for the Commission to resolve this matter by ruling on
15 the respective Motions for Summary Judgment filed by the parties because there are
16 no disputed material fact issues. The sole issue is one of law, namely: Did Sheriff
17 Antinoro violate NRS 281A.400(2) and (7) when he authorized his wife's use of the
18 main office of the Sheriff's Office for a child visitation on May 20, 2017? With respect to
19 this legal question, these relevant material facts are undisputed: (1) the child visitation
20 occurred on a Saturday at the main office of the Sheriff's Office and (2) the main office
21 of the Sheriff's Office is not open to the public for business on Saturdays.

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23
24 Antinoro's Motion must be denied because he has not provided the type of
25 evidence required to support a motion for summary judgment. NRCP 56(e) imposes an
26 affidavit requirement when written statements of witnesses are offered as evidence in
27 support of summary judgment. NRS 53.045 permits a party to meet an affidavit
28

1 requirement either by sworn affidavit or unsworn declaration made under penalty of
2 perjury. The declarations accompanying Antinoro's Motion do not comply with the
3 statutory provisions of NRS 53.045 because they do not contain any statement
4 indicating that they were signed by the declarants under penalty of perjury. Accordingly,
5 the Commission should not consider any of the declarations as evidence of the
6 existence or truth of the facts contained in the declarations.
7

8 The Commission need not expend additional resources and unnecessarily call
9 upon witnesses for a full public hearing because no further evidence or testimony is
10 required for the Commission to determine whether a violation of the Ethics Law has
11 occurred. The facts now before the Commission demonstrate that Antinoro violated
12 NRS 281A.400(2) and (7), and the Executive Director's Motion should be granted.
13

14 **II. Laura's Use of the Storey County Sheriff's Office Was an Unwarranted**
15 **Privilege Granted by Antinoro in Violation of NRS 281A.400(2)**

16 NRS 281.400(2) prohibits a public officer from using his position in government
17 to secure or grant unwarranted privileges, preferences, exemptions or advantages for
18 himself or any person to whom he has a commitment in a private capacity to the
19 interests of that person. By a preponderance of the evidence, Antinoro used his
20 position as Sheriff to secure or grant an unwarranted privilege for his spouse, a person
21 with whom he has a commitment in a private capacity.
22

23 Antinoro asserts that no privilege was provided to his spouse because it is the
24 custom and practice of the Storey County Sheriff's Office to remain open to members
25 of the public for child visitation and custody exchanges. However, members of the
26 public who, like Laura, decide last-minute on a Saturday morning that they would like to
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1 conduct their child visitation at the main office of the Sheriff's Office in Virginia City will
2 find that the office is closed and has posted hours of 8 am to 5 pm, Monday through
3 Friday, on the front door. See Exhibit 1, Photos of Storey County Sheriff's Office. In the
4 absence of any evidence regarding the details of the so-called custom and practice
5 relied upon by Sheriff Antinoro, it is difficult to understand how members of the public
6 would even know that they can use the Sheriff's Office as a location for child visitation
7 on any day, let alone on a Saturday.
8

9 But for the fact that he is the Sheriff, Antinoro would not have access to the
10 Sheriff's Office on a day the main office is not open for business. Furthermore, as the
11 Sheriff of Storey County, Antinoro provided his spouse with the opportunity to know that
12 she could, with no or very little prior notice, obtain access to the Sheriff's Office on a
13 Saturday morning for a child visitation appointment. By authorizing his wife to use the
14 Sheriff's Office for the last-minute visit between Gempel and the child, Sheriff Antinoro
15 provided his family members with a place for visitation that would not otherwise have
16 been available had Laura Antinoro not been the Sheriff's wife. Antinoro's justification for
17 his conduct is that his wife was concerned for her daughter's well-being and
18 determined that it was prudent for the visit to be held at the Sheriff's Office because it is
19 a safe and publicly accessible location. However, Antinoro provides no evidence that
20 the public park where the visit was originally set to occur was not a safe and publicly
21 accessible location. Furthermore, as permitted in her Decree of Divorce, Laura could
22 have chosen Antinoro as the individual to supervise the visitation at the park.
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26 Sheriff Antinoro's concern for the safety of his family members does not justify or
27 provide an adequate reason for his improper use of his public position to secure or
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1 grant a privilege to a family member. The privilege Sheriff Antinoro secured or granted
2 to his wife was, therefore, “unwarranted.”

3 **III. Antinoro’s Use of the Storey County Sheriff’s Office for a Private Family**
4 **Matter Violated NRS 281A.400(7)**

5 Antinoro’s use of a government facility for a private family matter violated NRS
6 281A.400(7) because there is no policy authorizing such use and the use creates an
7 appearance of impropriety. NRS 281A.400(7) states, in relevant part, that “a public
8 officer or employee shall not use governmental time, property, equipment or other
9 facility to benefit a significant personal or pecuniary interest of the public officer or
10 employee.” According to Antinoro, his wife was concerned for her daughter’s well-being
11 and decided that it would be prudent for the visit to be held at a safe and publicly
12 accessible location. Under these circumstances, allowing Laura to use the Sheriff’s
13 Office benefits Antinoro’s significant personal interest in the safety and well-being of his
14 wife and stepdaughter. The fact that the Sheriff’s Office can be used by members of the
15 general public for child visitation does not eliminate the existence of a private benefit or
16 interest related to Antinoro when his own family members are using the facility.
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20 Antinoro’s use of facilities in the Storey County Sheriff’s Office for a private
21 family matter violated NRS 281A.400(7), unless all four of the limited use factors apply:

- 22 (1) The public officer or employee who is responsible for and
23 has authority to authorize the use of such property, equipment
24 or other facility has established a policy allowing the use or the
25 use is necessary as a result of emergency circumstances;
- 26 (2) The use does not interfere with the performance of the
27 public officer’s or employee’s public duties;
- 28 (3) The cost or value related to the use is nominal; and

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

2 The preponderance of evidence indicates that Sheriff Antinoro did not establish
3 a policy allowing the use of the Sheriff's Office for child visitation and custody
4 exchanges, in particular on days or at times when the office is otherwise not open to
5 the public for business. According to the Storey County Sheriff's Office website, the
6 office is open for business Monday through Friday, 8 am to 5 pm.¹ See Storey County
7 Sheriff's Office Official Website, <http://www.storeycounty.org/313/Sheriff>; see also
8 Exhibit 1, Photos of Storey County Sheriff's Office. Antinoro presents unsworn
9 declarations to demonstrate that it is the custom and practice of the Sheriff's Office to
10 remain open to members of the public for child visitation and custody exchanges.
11 However, as explained herein, these declarations are deficient because they were not
12 signed under penalty of perjury and do not comply with the evidentiary requirement for
13 summary judgment. Moreover, a "custom and practice" does not constitute an
14 "established policy" as contemplated in NRS 281A.400(7)(a)(1). Additionally, the
15 declarations do not specify that the Sheriff's Office is open and available to the public
16 on a *Saturday*, which is when Antinoro allowed Laura to use the facility. In fact, the
17 declarations provide no details regarding the so-called custom and practice, making it
18 impossible to know what the actual policy is or how the policy is communicated to the
19 public.
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26 ¹ Under NRS 47.130, the Commission can take judicial notice of the business hours of the Storey County
27 Sheriff's Office because it is a fact "[c]apable of accurate and ready determination by resort to sources
28 whose accuracy cannot reasonably be questioned," such as a website run by a governmental agency.

1 Additionally, it has not been established that Antinoro actually has authority to
2 authorize use of a county building by the public during non-business hours. County
3 sheriffs are required to keep an office open in accordance with the provisions of NRS
4 245.040. See NRS 248.030. According to NRS 245.040(2), the board of county
5 commissioners, not the sheriff, designates the days and hours during which the office
6 of the sheriff must be kept open for the transaction of public business. A sheriff's office
7 may deviate from the hours of operation required pursuant to NRS 245.040 *only* if the
8 board of county commissioners approves the plan for the deviation submitted by the
9 office. NRS 245.040(4). Antinoro provides no evidence that the Storey County Board of
10 County Commissioners has, pursuant to NRS 245.040, approved any plan or policy
11 that allows the Sheriff's Office to deviate from the established Sheriff's Office hours of
12 operation that are announced to the public on the Sheriff's Office website and posted at
13 the actual facility.
14
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16 The preponderance of evidence also indicates that Antinoro's use of the Sheriff's
17 Office for his own private family matters creates the appearance of impropriety. As an
18 official place of law enforcement activity, the Sheriff's Office facility conveys the power
19 and prestige of Antinoro's position as the elected Sheriff of Storey County and his use
20 of the facility for personal purposes was inappropriate. The added intimidation of a law
21 enforcement environment to the Requester, above and beyond what may have
22 otherwise been an uncomfortable setting in any other governmental office or public
23 place, signifies the appearance of impropriety. See *In re Kirkland*, Comm'n Op. No. 98-
24 41 (1999) (stating that a public officer should not use his uniform, badge, employees,
25 private office, or other non-public facilities for personal purposes).
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1 By using the Sheriff's Office for a private family matter involving his wife and
2 stepdaughter, Antinoro failed to recognize the conflict of interest between his official
3 duties as the Sheriff and his private interests related to his family members. Such use
4 of the Sheriff's Office by Antinoro at any time raises the specter of unethical behavior
5 because it is unclear whether his authorization and presence in the government facility
6 during the child visitation is related to his public law enforcement duties or his private
7 interests regarding his family members. Antinoro's use of a government facility for
8 private family matters is precisely the type of impropriety the Ethics Law seeks to avoid
9 through NRS 281A.400(7). Without a clear line drawn with respect to this conduct, the
10 Commission opens the door to a multitude of other limited uses of government property
11 for matters involving the family members of public officers.
12
13

14 **IV. The Preponderance of Evidence Support a Willful Violation**

15 As explained in the Executive Director's Motion for Summary Judgment, the
16 Commission can conclude that Antinoro's violation was willful pursuant to NRS
17 281A.170 because he acted intentionally and knowingly, as those terms are defined in
18 NRS 281A.105 and 281A.115, respectively. Willfulness is established where Antinoro
19 acted voluntarily or deliberately with regard to his wife's use of the Sheriff's Office. See
20 *In re McNair*, Comm'n Op. Nos. 10-105C, 10-106C, 10-108C, 10-109C and 10-110C
21 (2011) ("the relevant inquiry regarding willful misconduct is an inquiry into the
22 intentional nature of the actor's conduct . . . The fact that an actor may have acted with
23 the best of intentions does not relieve the actor of liability.") (citation omitted).
24
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26 Any mitigating factors that may apply in this matter are offset by the seriousness
27 of the conduct, which is significant when measured against the public's trust that its
28

1 elected public officer will not use his public position or influence to acquire privileges or
2 advantages for family members that are not available to the general public.
3 Additionally, the Commission should consider that the cost to the Commission to
4 resolve this matter has increased and will continue to increase because Antinoro
5 refused to enter into a deferral agreement as recommended by the Review Panel.
6

7 Accordingly, the Executive Director respectfully affirms the arguments set forth
8 in her Motion for Summary Judgment for a finding of a single willful violation and
9 associated penalty of \$8,000.
10

11 **V. Conclusion**

12 This case provides the Commission with an opportunity to restate and clarify the
13 ethical boundaries applicable to the use of a government property for personal
14 purposes. The undisputed facts in this matter support a finding that Antinoro willfully
15 violated NRS 281A.400(2) and (7) and Antinoro's Motion for Summary Judgment must
16 therefore be denied.
17

18 DATED this 24th day of May, 2018.

19 NEVADA COMMISSION ON ETHICS
20

21 /s/ Judy A. Prutzman
22 Judy A. Prutzman, Esq.
23 Associate Counsel
24 Nevada Commission on Ethics
25
26
27
28

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the Nevada Commission on Ethics and that on
3 this day in Carson City, Nevada, I transmitted via email, a true and correct copy of the
4 **Opposition to Gerald Antinoro’s Motion for Summary Judgment** in Third-Party
5 Request for Opinion No. 17-21C to the following parties:
6

7 Katherine F. Parks, Esq. Email: kfp@thorndal.com
8 Thorndal Armstrong, et al.
9 6590 S. McCarran Blvd., #B psb@thorndal.com
Reno, NV 8950

10 *Attorney for Subject*

11
12 Dated: May 24, 2018 /s/ Kari Ann Pedroza
13 Employee, Nevada Commission on Ethics
14
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Exhibit 1



205





HOURS
8-5 M-F

CONTACT
DISPATCH
AFTER HOURS
847-0950

EMERGENCY
CALL
911

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

BRENT T. KOLVET**
TERRY V. BARKLEY*
JOHN D. HOOKS
KEVIN A. PICK
MEGHAN M. GOODWIN
ALEXANDRA B. MLEOD
JOSEPH E. BALKENBUSH
DOUGLAS J. DUESMAN
CURTIS R. RAWLINGS*
KIRBY R. WELLS*
SEAN D. COONEY
MADISON N. GREGOR
DANIEL J. McCAIN
KEITH B. GIBSON*
CHRISTY LYN M. GALLIHER
ADAM L. WOODRUM

Of Counsel*
Special Counsel**

Via electronic mail only

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

Re: Request for Opinion No. 17-21C

Dear Ms. Chase:

Please allow the following to constitute my request, pursuant to ¶3 of your Notice of Hearing and Scheduling Order, for permission from the Chair or presiding officer to provide a limited reply in support of my client's Motion for Summary Judgment. This request is limited to allowing the attached Declarations to be submitted to the Commission. These Declarations are identical to those which were submitted at Exhibits 1, 3, 4, and 5 of my client's Motion for Summary Judgment, *save and except* the inclusion of language at the beginning of each which states the these individuals signed their respective Declarations *under penalty of perjury*. While I disagree with Commission Counsel's suggestion that the Declarations submitted with my client's motion are somehow defective, or that my client's motion, or the evidence presented therewith does not meet the requirements of NAC 281A.265, especially given the Commission's discretion to relax normal rules of evidence, I wish to submit the attached Declarations out of an abundance of caution.



**THORNDAL
ARMSTRONG**
DELK BALKENBUSH & EISINGER

A PROFESSIONAL CORPORATION

ATTORNEYS
www.thorndal.com

KATHERINE F. PARKS, ESQ.
RENO OFFICE
kfp@thorndal.com

May 29, 2018

LAS VEGAS

1100 E. BRIDGER AVENUE
LAS VEGAS, NV 89101
MAILING:
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LAS VEGAS, NV 89125-2070
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FAX: (702) 366-0327

RENO

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RENO, NV 89509
(775) 786-2882
FAX: (775) 786-8004

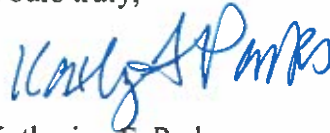
ELKO

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

JAMES J. JACKSON
(1958-2014)

As the Notice of Hearing and Scheduling Order does not contain any further direction as to how, procedurally, to obtain authority to submit a reply brief, I will await further word from the Commission in this regard.

Yours truly,



Katherine F. Parks

KFP/psb

Enclosures

cc: Yvonne M. Nevarez-Goodson, Esq.
Judy Prutzman, Esq.

EXHIBIT "1"

EXHIBIT "1"

1 Katherine F. Parks, Esq. - State Bar No. 6227
2 Thorndal Armstrong Delk Balkenbush & Eisinger
3 6590 S. McCarran Blvd., Suite B
4 Reno, Nevada 89509
5 (775) 786-2882
6 kfp@thorndal.com
7 ATTORNEYS FOR GERALD ANTINORO

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,

14 Subject.

Request for Opinion No. 17-21C

**DECLARATION OF GERALD
ANTINORO IN SUPPORT OF
MOTION FOR SUMMARY
JUDGMENT**

15 I declare, under penalty of perjury, as follows:

16 1. I am over the age of eighteen (18) and have personal knowledge of the information set
17 forth herein.

18 2. I am currently serving as the Sheriff of Storey County, a position I have held since
19 2011.

20 3. I am married to Laura Antinoro. Laura Antinoro was formerly married to Clarence
21 Grempel. Laura Antinoro and Clarence Grempel have a now ten year old daughter.

22 4. In early 2017, Grempel contacted Laura Antinoro and expressed his desire to visit his
23 then nine year old daughter in Storey County, Nevada. At the time of this request, Grempel had
24 not seen his daughter for six years or since she was three years of age.

25 5. Prior to the scheduled visitation, Laura Antinoro expressed her concern that Grempel
26 was creating a hostile situation regarding disputes about the custody of their daughter. Laura
27 Antinoro further expressed her concern about her daughter's well-being and her reaction to
28 seeing her father.

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6. Thereafter, Laura Antinoro suggested to Grempel that the visitation be held at the Storey County Sheriff's office in order ensure the safety and well-being of the minor child.

7. It is the custom and practice of the Storey County Sheriff's Office to remain open to, and be used by, members of the public for child visitation and custody exchanges at both the main office located in Virginia City, Nevada, and the substation located in Lockwood, Nevada.

8. On May 20, 2017, the scheduled visitation was held at the main office of the Storey County Sheriff's Office in Virginia City. The visitation was held in the squad room, which provided privacy to Grempel and the minor child, and on outside deck of the main office. The visit between Grempel and the minor child lasted for approximately one to two hours.

9. I did not participate in the visit between Grempel and the minor child. I did not communicate with Grempel other than to introduce myself. I was working in my office throughout the duration of the visitation.

10. At no time did I attempt to participate in the visit between Grempel and the minor child on May 20, 2017.

11. I was not involved in, or responsible for, the decision to change the location of the visit from a public park to the Sheriff's Office on May 20, 2017. That decision was made by my spouse, Laura Antinoro, as a result of her safety concerns.

Dated this 25th day of May, 2018.


GERALD ANTINORO

EXHIBIT "3"

EXHIBIT "3"

1 Katherine F. Parks, Esq. - State Bar No. 6227
2 Thorndal Armstrong Delk Balkenbush & Eisinger
3 6590 S. McCarran Blvd., Suite B
4 Reno, Nevada 89509
5 (775) 786-2882
6 kfp@thorndal.com
7 ATTORNEYS FOR GERALD ANTINORO

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,

14 Subject.

Request for Opinion No. 17-21C

**DECLARATION OF BRANDY
GAVENDA IN SUPPORT OF
MOTION FOR SUMMARY
JUDGMENT**

15 I declare, under penalty of perjury, as follows:

- 16 1. I am over the age of eighteen (18) and have personal knowledge of the information set
17 forth herein.
- 18 2. I am employed by the Storey County Sheriff's Office in Virginia City and have been
19 so employed for over three years.
- 20 3. During my employment with the Storey County Sheriff's Office, I have observed that
21 the Sheriff's Office, including the main office located in Virginia City, Nevada, has been open
22 to, and used by, members of the public for child visitation and custody exchanges.

23 Dated this 25 day of May, 2018.

24 
25 _____
26 BRANDY GAVENDA

EXHIBIT "4"

EXHIBIT "4"

1 Katherine F. Parks, Esq. - State Bar No. 6227
2 Thorndal Armstrong Delk Balkenbush & Eisinger
3 6590 S. McCarran Blvd., Suite B
4 Reno, Nevada 89509
5 (775) 786-2882
6 kfp@thorndal.com
7 ATTORNEYS FOR GERALD ANTINORO

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,

14 Subject.

Request for Opinion No. 17-21C

15 **DECLARATION OF TONY DOSEN IN**
16 **SUPPORT OF MOTION FOR**
17 **SUMMARY JUDGMENT**

18 I declare, under penalty of perjury, as follows:

19 1. I am over the age of eighteen (18) and have personal knowledge of the information set
20 forth herein.

21 2. I am employed by the Storey County Sheriff's Office and have been so employed
22 since September of 2005.

23 3. During my employment with the Storey County Sheriff's Office, I have observed that
24 the Storey County Sheriff's Office, including the main office located in Virginia City, Nevada,
25 and the substation located in Lockwood, Nevada, have been open to, and used by, members of
26 the public for child visitation and custody exchanges.

27 Dated this 25 day of May, 2018.

28 
TONY DOSEN

EXHIBIT "5"

EXHIBIT "5"

1 Katherine F. Parks, Esq. - State Bar No. 6227
2 Thorndal Armstrong Delk Balkenbush & Eisinger
3 6590 S. McCarran Blvd., Suite B
4 Reno, Nevada 89509
5 (775) 786-2882
6 kfp@thorndal.com
7 ATTORNEYS FOR GERALD ANTINORO

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,
14 Subject.


Request for Opinion No. 17-21C

**DECLARATION OF ERIC KERN IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

15 I declare, under penalty of perjury, the following:

- 16 1. I am over the age of eighteen (18) and have personal knowledge of the information set
17 forth herein.
- 18 2. I am employed by the Storey County Sheriff's Office and have been so employed
19 since 2009.
- 20 3. During my employment with the Storey County Sheriff's Office, I have observed that
21 the Storey County Sheriff's Office, including the main office located in Virginia City, Nevada,
22 and the substation located in Lockwood, Nevada, have been open to, and used by, members of
23 the public for child visitation and custody exchanges.

24 Dated this 25th day of May, 2018.

25 
26 ERIC KERN

1 Judy A. Prutzman, Esq. (#6078)
2 Associate Counsel
3 Nevada Commission on Ethics
4 704 West Nye Lane, Suite 204
5 Carson City, Nevada 89703
6 (775) 687-5469
7 judyprutzman@ethics.nv.gov

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, Storey
13 County, State of Nevada,

14 Subject. /

15 **RESPONSE TO ANTINORO'S REQUEST TO PROVIDE A LIMITED REPLY**

16 Yvonne M. Nevarez-Goodson, Esq., Executive Director of the Nevada
17 Commission on Ethics ("Commission"), by and through the Commission's Associate
18 Counsel, Judy A. Prutzman, Esq., hereby submits her Response to Antinoro's Request
19 submitted on May 29, 2018.

20 Antinoro seeks to submit four Declarations that are identical to the Declarations
21 submitted with his Motion for Summary Judgment, except that they now include
22 language which states that the Declarations were signed under penalty of perjury.
23 Recognizing that administrative proceedings typically need not strictly follow the rules
24 of evidence (see NRS 233B123(1)), if the Commission considers the Declarations as
25 evidence, the Executive Director does not view such evidence as sufficient to avoid a
26 summary judgment determination that Antinoro violated the Ethics Law.

1 In particular, as the Executive Director notes in her Opposition to Antinoro's
2 Motion for Summary Judgment, the Declarations do not specify that the Sheriff's Office
3 is open and available to the public on a *Saturday*, which is when Antinoro allowed his
4 wife to use the facility. In fact, the Declarations fail to provide any details regarding the
5 so-called custom and practice, making it impossible to know what the actual policy is or
6 how the policy is communicated to the public. Accordingly, the undisputed facts in this
7 matter support a finding that Antinoro willfully violated NRS 281A.400(2) and (7) and
8 the Executive Director's Motion for Summary Judgment must therefore be granted.
9

10
11 DATED this 31st day of May, 2018.

12 NEVADA COMMISSION ON ETHICS

13
14 /s/ Judy A. Prutzman
15 Judy A. Prutzman, Esq.
16 Associate Counsel
17 Nevada Commission on Ethics
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1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the Nevada Commission on Ethics and that on
3 this day in Carson City, Nevada, I transmitted via email, a true and correct copy of the
4 **Response to Antinoro's Request to Provide a Limited Reply** in Third-Party Request
5 for Opinion No. 17-21C to the following parties:
6

7 Katherine F. Parks, Esq. Email: kfp@thorndal.com
8 Thorndal Armstrong, et al.
9 6590 S. McCarran Blvd., #B psb@thorndal.com
Reno, NV 8950

10 *Attorney for Subject*

11
12 Dated: May 31, 2018 /s/ Kari Anne Pedroza
13 Employee, Nevada Commission on Ethics
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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:

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DATED: June 4, 2018

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

Agenda Item 5

Cheryl A. Lau, Esq.
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June 20, 2018

Re: Additional BDR Proposals

Dear Commissioners:

Under NRS 281A.240, the Commission's Executive Director must "recommend to the Commission any legislation that the Executive Director considers desirable or necessary to improve the operation of the Commission and maintain high standards of ethical conduct in government." In response to this statutory mandate, the Executive Director presented and the Commission approved the submission of various proposed bill draft request ("BDR") concepts for the 2019 Legislative Session, which have been provided to the Governor for review and consideration.

The Commission presented and passed an extensive bill during the 2017 Session (SB 84) aimed at providing the Commission with broader discretion to resolve complaint cases, including through letters of caution and instruction, deferral agreements, and additional penalties other than monetary sanctions, such as admonishments, reprimands, censures, and other corrective or remedial action. The bill further streamlined the Commission's processing of complaint cases to reflect fair due process and promote significant efficiencies in Commission processes and staff work flow while establishing certainty, predictability and stability for Nevada's public officers and employees. Finally, SB 84 addressed inconsistencies among the Ethics Law's standards of conduct to ensure equal application to conflicts that involve financial interests and relationship-based interests. Commission staff has been working hard during the Interim to implement these changes and the Commission is in the process of adopting new and revised regulations to reflect many of these changes.

The BDR recommendations for the 2019 Legislative Session were based upon issues that have arisen in specific cases before the Commission, the Commission's outreach and education program to Nevada's public officers and employees, and the implementation of SB 84. These statutory changes may be beneficial to clarify the legislative intent and/or the Commission's interpretation of certain provisions of NRS Chapter 281A, as amended by SB 84.

In response to the recent codification of SB 84 into NRS Chapter 281A, as well as the development of new regulations to carry out the amendments and existing practices before the Commission, I recommend the following additional BDR Proposals for your further consideration:

- 1) Eliminate Designation of “Willful” Violations from the Ethics Law
 - A violation of the law is sufficient and the Commission can evaluate the circumstances to determine the amount of penalty, if any.
 - The Willful designation confuses public officers and employees, and their attorneys as implying a requirement for bad faith or malicious intent. Willful simply means knowing (not knowing you violated the law) and intentional (deliberate and not accidental) conduct. The willful designation allows the Commission to impose penalties, but the Commission may evaluate circumstances without a willful designation to determine whether a penalty is appropriate, or some other corrective action.
- 2) Authorize Commission/Staff to issue a “Notice of Formal Charges” to the Subject of a Complaint instead of turning over the Ethics Complaint filed by the Requester.
 - Public not expected to understand legal requirements
 - Commission makes an initial decision regarding jurisdiction and investigation and the Subject should be provided notice of the allegations as deemed relevant by the Commission.
 - This will protect identities of requesters deemed confidential – no redactions or internal errors inadvertently disclosing requesters
- 3) Authorize an Investigation (or Preliminary Investigation) Before Notice of Formal Charges – No Opportunity to Respond at this juncture
 - Subjects are hiring attorneys or requesting formal declarations/affidavits of co-workers and subordinates impeding the Commission’s investigation
 - Executive Director should have ability to independently investigate allegations before improper influence takes place
- 4) Exempt stipulated agreements and other negotiations for deferral agreements from public records and OML
 - Although the Commission may deliberate and receive evidence and information regarding proposed stipulations in confidential setting, the Commission must currently act on a proposed stipulation in an open public meeting. The OML requires that the public be provided with meeting materials at the same time they are made available to the public body for purposes of taking action.
 - A negotiated stipulation may be voted against by the Commission and the public then has a version of events that may not otherwise be proven at hearing.
 - Cases may be settled for many different reasons, based upon various nuances of facts and law.
 - It is appropriate that any final stipulation becomes a public record. We can also continue to allow public comment on final actions taken by the Commission regarding approval/denial of a stipulation.
 - Parties may not agree to enter into settlement negotiations if the case becomes public before an adjudication.
- 5) Authorize the Commission to decline to investigate and issue a letter in an ethics complaint that it initiates on its own motion.

- Current law states that the Commission automatically directs the Executive Director to conduct an investigation of an ethics complaint that the Commission initiates on its own motion.
 - The Commission may wish to initiate a complaint, but nevertheless believe it can be appropriately resolved through a letter of caution or instruction without a formal investigation.
- 6) Clarify the 45-day timeline to “render an advisory opinion”
 - The Commission is not required to hold a hearing for a request for an advisory opinion – the Commission may take the matter under submission based on the written request, public records, and staff recommendations.
 - The Commission may not render its opinion until the 45th day after receiving the complaint based on meeting schedules
 - A written opinion may take an additional month or longer after a hearing or decision by the Commission.
 - Clarify that the 45-day deadline is the “decision of the Commission” – not the final written opinion.
 - 7) Confirm written opinions as precedential value – not ad hoc rulemaking
 - 8) Protect confidential requesters who are public officers or employees from producing records related to ethics complaints they file pursuant to a public records request
 - Especially if the goal behind the public records request is to identify the requester of an ethics complaint
 - 9) Allow Panel members to serve as settlement judges for proposed stipulated agreements or other settlement negotiations.
 - After an ethics complaint has been referred by the Commission by a Review Panel, it may be beneficial to have a settlement judge that will not be adjudicating the case (the remaining 5 Commissioners) and someone who is already familiar with the evidence.
 - 10) Confirm Exemption from OML even if Subject waives confidentiality
 - Current law suggests that the Commission is exempt from the OML for receipt of information/evidence and deliberations of an ethics complaint unless the subject waives confidentiality.
 - Even if the subject waives confidentiality, the Commission should be able to maintain its exemption from OML for purposes of notice requirements, meeting materials, sensitive or confidential information, protecting whistleblowers, etc.
 - 11) Clarify jurisdiction in advisory context
 - Current Law only specifically references the jurisdiction of the Commission of an ethics complaint and excludes references to an advisory request.
 - 12) Abstention on matters that materially affect private client representations
 - Current law only requires disclosure of the name of a client and nature of the representation on an issue before the public officer
 - 13) Cooling-Off regarding Contracts with Agency
 - Amend 281A.550(5) to prohibit (for one year) employment by a private person/entity which has a contract with the public agency beyond the initial time frame for a public officer who was involved in “awarding of contract” within 1 year to include a time frame in which the public officer or employee directly managed, influenced or implemented the contract within the preceding year.
 - 14) Clarify advisory confidentiality – to entire public agency?

- Current law states that a public officer or employee may disclose a request for an advisory opinion to his/her public agency without waiving confidentiality of the request.
 - Should this be limited to a supervisor within the agency?
 - Further, if the subject of a request for advisory opinion waives confidentiality, do they waive it for the request, opinion, transcript, evidence, and communications with staff? Or must it be specific waiver?
- 15) Legal Representation of subject in complaint case
- Current law requires the Attorney General (or its insurer) to represent the subject of an ethics complaint who is a state public officer or employee, unless certain circumstances are present
 - Do we want to mandate such representation in advisory cases?
 - Should we mandate local government attorneys to similarly represent local government public officers and employees?
- 16) Clarify that failure to file written response to allegations should not be basis to refuse to participate in investigation
- Current law does not mandate a written response and failure to file a written response is not deemed to be a waiver to defend
 - However, we have current subpoena power to require the subject of a complaint to participate in an investigation.
- 17) Deadlines for Deferral Agreements? By order of the Panel?
- 18) Authorize Review Panel to Dismiss a complaint and Issue a Letters of Caution or Instruction even if it determines that just and sufficient cause exists.
- Cases may exist where threshold of just and sufficient cause based upon credible evidence may exist, but the Panel may nevertheless view the alleged conduct as inappropriate for deferral agreement, but appropriate for dismissal with or without a letter of caution.
 - Perhaps such a conclusion should require a recommendation and approval to the Commission in cases where just and sufficient cause exists.
- 19) Define “render an opinion” or “make a determination”
- Existing law regularly uses phrase “render an opinion” and/or “make a determination” without clarifying whether these are oral or written determinations made at a hearing or otherwise
 - When statutory deadlines are imposed, it may be impossible to have the Commission or Panel make a decision and have a written order/opinion on the same day or within the statutory timeframe based on scheduling of meetings and otherwise.
 - Law states that a panel shall make a determination within 15 days of the Executive Director’s Recommendation. It does not require a written determination but later statutes refer to timing in which a written determination is served.
- 20) Clarify confidentiality of requester in discovery –
- NRS 281A.750(3) - delete first sentence. Suggests that Commission may not maintain the confidentiality of the requester unless there is sufficient evidence without requester’s testimony.
 - Focus on last sentence – we can maintain the confidentiality of the Requester and may use the requester’s testimony without divulging the status as the requester.
- 21) Clarify timing of discovery (anytime – NO) 755
- Delete “anytime after written notice of a panel determination”

- Under current practice, after a matter is referred to the Commission by a Panel, the Commission serves notice of the adjudicatory hearing and schedules deadlines for discovery.
- 22) Clarify Executive Director Role in adjudicatory hearing as party
- Various statutes contemplate role of the Executive Director in negotiating Deferral agreements and otherwise serving as a party in ethics complaints.
 - Statute requiring adjudicatory hearings is silent with regard to the Executive Director (NRS 281A.745)
- 23) Require the Executive Director to be an attorney
- The Executive Director has significant statutory responsibilities to present recommendations and conduct legal analysis and provide ethics law training throughout the state. Although the ED may hire an Associate Counsel or other staff to carry out his/her duties, the statutory duties are on the ED and the ED should be qualified to conduct legal analysis.
- 24) Provide process for adjudicating when a person has interfered with an investigation
- Current law authorizes the Commission to impose penalties on any person who interferes with an investigation (NRS 281A.790(2))
 - The statute provides no process by which the Commission may do so – either authorize Commission to develop process by regulation or clarify that such a determination may be made through an adjudicatory hearing before the Commission.
- 25) Eliminate requirement for the Commission to treat stipulated agreements in a comparable manner
- Stipulations are entered into for any number of reasons where both parties may have strengths or weaknesses in the case, but nevertheless agree to certain outcomes, or the Commission may decide as a strategic matter to dismiss a case or an allegation to avoid litigation or otherwise. These decisions are fact/case specific and need not have comparability to other cases.
- 26) Confirm stay of advisory proceedings if ethics complaint is filed.

Previously-Approved BDR Concepts Submitted to Governor:

- 1) Clarify Scope of Open Meeting Law Exemption to Commission proceedings – Including action taken in Complaint Cases – in particular during confidential phases of a case.
- Intent:
 - o The Commission serves as a quasi-judicial body responsible for enforcing the Ethics Law applicable to public officers and employees. The statutory structure preserves the confidentiality of a complaint through certain proceedings and provides short statutory deadlines and timelines for hearings and other administrative matters. Given the unique framework and the propriety of information reviewed by the Commission in such cases, the Legislature has always treated the Commission as a different administrative agency than others for purposes of the Open Meeting Law and provided an exemption from the OML, as confirmed in Legislative History by the Attorney General’s Office. Recent

challenges have questioned the scope of the exemption to the Open Meeting Law. Examples: Action may be taken in closed session during confidential phases of case and no notice of character or competence is required under OML during confidential phases and because subjects are separately notified of all proceedings under notices of hearing coordinated with subjects and counsel.

2) Impose fines for late filings of Acknowledgment Forms.

- Intent:
 - o The Ethics Law requires all State and Local Government Public Officers (not employees) to file an Acknowledgment of Statutory Ethical Standards confirming that the public officer understands the Ethics Law. Public officers often do not file the form or file it late, with very little enforcement authority by the Commission.
- The Secretary of State (SOS) imposes fines for failure to file and late filings of Financial Disclosure Statements (FDS).
- In discussions with the Department of Administration and Governor's Office of Finance, such a fee could potentially operate as revenue to off-set certain expenses in the Commission's budget and/or serve as an efficiency measure as required by the current budget instructions after a pilot period of one to two years to determine the amount of projected revenue.
- Potential considerations include the amount of staff time necessary to track/impose fines which could trigger Fiscal Note. We would collaborate with the SOS for processing of fines and use the same list of individuals identified as public officers required to file the FDS Forms.
- Without effective enforcement, no incentive to file the form.

3) Impose additional "cooling-off" measure: Prohibit public officer or employee from securing or granting privileges, preferences, exemptions, advantages, or economic opportunities, including, without limitation, accepting or providing any gift, service, favor, employment, engagement, or emolument for/to himself/herself or a person to whom he/she has a commitment in a private capacity within 1 year after the public officer has taken an official action related to the matter.

- Intent:
 - o The Commission has experienced questions and/or circumstances in which a public officer or employee acts in an official capacity to create an economic opportunity or to benefit a personal relationship or interest after the official action. Current law only contemplates circumstances in which a public officer or employee engages in conduct in an official capacity that benefits an existing personal interest.
- Example:
 - o Planning Commissioner/Board Member votes to approve a zoning amendment. The Commissioner/Board Member is a realtor in his/her private capacity. The additional "cooling-off" measure would restrict the Commissioner/ Board member from listing the same property for a client on the same matter that he/she acted in his/her official capacity to ensure the zoning within 1 year.

- Possible Exceptions:
 - o Introduction of legislative matter exempt from disclosure/abstention requirements; this measure could likewise exempt any personal benefits resulting from an action taken solely as the initiation of a legislative measure.
 - o Consider ability for Commission to grant relief from strict application in appropriate circumstances.
 - o The official action does not create a benefit or opportunity greater than that for any other person similarly situated.
- 4) Clarify disclosure/abstention obligations related to conflicts that arise out of confidential relationships – must be legally protected or confidential relationship.
- Intent:
 - o Under current law, a public officer or employee must disclose the full nature and extent of any private interest/relationship that is affected by an official matter, including how/whether the interests of certain persons with whom there is a private relationship (family, business, employer, etc.) are affected by the official matter. The disclosure requires the name of the person with whom there is a relationship and the nature of the relationship. Certain business relationships are confidential as a matter of law and the disclosure requirements place the public officer in the position of violating other confidentiality provisions.
 - Examples:
 - o Attorney/client Relationships – Must disclose that the matter affects a private client relationship, but the full nature and extent of the conflict (name of client/nature of representation) need not be disclosed if it is accompanied by an abstention.
 - o Realtors - Various nondisclosure agreements require absolute confidentiality in listing agreements.
 - If disclosure without explaining full nature of conflict as a result of a confidential relationship, must also abstain from acting to protect public trust.
 - Exclusions: Confirm that the public officer may not contract out of the application of the Ethics Law and/or the definition of a “commitment in a private capacity to the interests of another person.”
- 5) Clarify scope of Cooling-Off Prohibitions.
- Intent:
 - o Various governmental agency attorneys continuously ask for clarification regarding the scope of cooling-off applicable to certain positions within the agency, including for recruitment purposes and advising their clients.
 - o Some agencies have offered that the effects of cooling-off are having the opposite impact than originally intended by the Legislature which was, in part, to prevent government from losing its qualified staff to the private sector. Instead, agencies are having difficulty with recruitment for positions in regulatory agencies for positions which are not compensated as highly as the private sector and are later prohibited from working for the private sector for one year.

- Apply similar criteria to cooling-off interpretation that may be consistent with private sector non-compete clauses; i.e. whether an interpretation causes an undue hardship or unreasonable restraint than is generally necessary on the public officer or employee.
 - o Agency counsel contemplates that concerns about actual impropriety, *quid pro quo*, misuse of positions can be captured under other statutes.
 - Repeal language in NRS 281A.550(3) prohibiting “seeking” of employment.
 - o The statute currently prohibits a public employee from “seeking” employment opportunities before the Commission has determined whether the statute applies to the public employee or to grant relief, yet the Commission will refuse to opine on cooling-off requirements to speculative facts and circumstances. Employees often are unable to present facts and circumstances related to the type of work, duties or nature of the employer if they are prohibited from seeking the opportunities.
 - Clarify which positions constitute having “direct control or influence” over an action, particularly if it is a lower-level employee.
- 6) Clarify criteria regarding the Commission’s ability to initiate a complaint on its own motion.
- Intent:
 - o Current law states that the Commission may not initiate a complaint on its own motion based solely on an anonymous source. However, information that may come to the attention of the Commission or its Executive Director may be in the form of public records or information that would only come to our attention via a source that does not desire to file a complaint but is nevertheless the type of conduct that should be investigated to ensure the public’s trust in government and the role of the Commission.
 - Clarify that the Commission may accept information from an anonymous source if the information includes otherwise publicly available information that would not otherwise be readily knowable to the Commission staff.
- 7) Advisory Opinions.
- Intent:
 - o Under existing law, only a public officer or employee can request a confidential advisory opinion from the Commission regarding his/her own past, present or future conduct based upon a specific set of facts or circumstances. The Commission must then rely solely upon the facts as presented by the requester, which may inaccurately characterize the nature of the public position, role of the agency or other factors the Commission may deem relevant to provide accurate advice.
 - Without disclosing the name or position of the requester of an advisory opinion, unless confidentiality is waived, authorize Commission to seek information from agency legal counsel in context of a request for advisory opinion to ensure Commission has accurate information regarding the role of agency and duties of a position in rendering advice.

- Authorize governmental agencies (Managers/Legal Counsel) to bring requests for advisory opinions seeking clarification of Ethics Laws as applicable to certain positions within the agency given a specific set of circumstances.

8) Clarify contracting prohibitions/restrictions.

- Intent:
 - o Under current law, every public officer or employee is prohibited from entering into a contract with ANY state or local governmental entity, unless an exception applies, including if the contract is subject to open competitive bidding or relief is granted by the Commission. Other existing State laws establish criminal consequences for public officers and employees who enter into certain contracts with government, even if the Commission grants relief from an ethical violation.
- This concept would clarify that the ethical concerns relate to contracts in which the public officer or employee has some influence or other conflict of interest as a result of his public position, and to otherwise align the prohibition with the concurrent criminal statutes which prohibit certain contracts.
- This proposal mirrors the suggestion of SB 391 from 2011.
 - o Example: Is it an ethical conflict for a public employee who works for a State agency to enter into a contract with a county to provide plumbing services unrelated to his/her work for the State?

9) Expand Ethics Law to include prohibition against abuse of position or power.

- The Commission's current jurisdiction to investigate and render an opinion in a matter must include evidence of a pecuniary interest or commitment in a private capacity to the interests of another person that is in conflict with public duties.
- The Commission is criticized for not having the ability to evaluate inappropriate conduct of public officers and employees that does not implicate these specific private interests but nevertheless implicates conduct that does not comport with the public trust and is otherwise an abuse of official power. As a concept, this may be a valuable idea, but it will require the Commission to develop specific guidelines for public officers to understand the boundaries of conduct deemed as abusive.
- We may develop factors/criteria to consider in evaluating whether conduct amounts to an abuse of authority or power.

10) Amend NRS 281A.400(7) – Clarify and/or revise the criteria for the Limited Use Exception to this statute which prohibits use of governmental resources for a significant personal purpose.

- Intent:
 - o Existing Law prohibits a public officer or employee from using government resources for a personal purpose unless the use is limited under certain criteria (the Limited Use Exception)
- The “Appearance of Impropriety” language could be defined.
- Delete or define “significant” requirement regarding a “personal interest.”

11) Extend definition of a Commitment in a Private Capacity for a public officer or employee to the following relationships:

- Intent:
 - o The Ethics Law defines conflicts of interest to include the interests of a person to whom a public officer or employee shares certain private relationships, including certain family members, business entities and affiliates, employers, household members and “substantially similar relationships” to those listed herein. The Commission has interpreted certain relationships to qualify as “substantially similar” including certain relationships with business entities.
- Clarify that fiduciary or other significant volunteer service to a “Nonprofit entity” qualifies as a private commitment.
 - o We have significant requests for clarification and/or application about the nature of conflicts for disclosure and abstention purposes for public officers who are affiliated with nonprofit entities. Concerns have been raised by agency legal counsel that this type of relationship is not captured specifically in statute and has many variations.
- Subordinate employees:
 - o Current law states that a public officer or employee has a commitment to his/her employer – not to his/her employee (subordinate). Various cases have prompted questions about whether a public officer or employee acts inappropriately to benefit or affect the interests of a subordinate.
- Clarify scope of “continuous” regarding a continuous business or substantially similar relationship where the relationship has ended. Should it violate the law for a public employee to terminate a business relationship and approve a contract for that business with his governmental entity the next day?

12) Clarify scope of Legislative Privilege and Immunity.

- Intent:
 - o Existing Law states that the Commission does not have jurisdiction of a State Legislator and/or legislative employee for a matter that constitutes a core legislative function or is otherwise protected by Legislative Privilege and Immunity. A legislator or employee may claim privilege and immunity and force litigation before the Commission has had an opportunity to investigate the conduct to determine whether it is protected conduct.
- Clarify that the Commission has jurisdiction to investigate allegations of legislative misconduct to determine whether the conduct is protected by legislative privilege and immunity.

13) Clarify scope of Commission Counsel’s authority regarding litigation and Executive Director’s authority regarding administration of the agency.

- Intent:
 - o The extent of the authority of the 2 professional-level positions which are appointed by the Commission to carry out the mission of the agency has been questioned in litigation.
- Clarify the scope of authority and duties in legal and administrative matters.

14) Clarify complaint proceedings:

- Intent:
 - o Clarify the types of notice required for Ethics Complaints, including that the Commission may issue a Formal Notice of Charges if it determines that a complaint will be investigated rather than providing a copy of the complaint form that a member of the public submits. The public is not responsible for analyzing whether a public officer or employee's conduct violates a specific statutory provision. Instead, Commission staff (lawyers) evaluate the allegations in a complaint form and determine whether alleged conduct implicates the statutes. If the complainant is granted confidentiality, it is an administrative hurdle to redact any and all information in a complaint form that identifies the requester.
- Public officers and employees, in particular those who work in the same agency as the subject of a complaint, if relevant to the complaint, should be required to participate in an investigation of the Commission. The Commission's investigatory file remains confidential and we therefore can protect the identity of any witness who is interviewed during the course of an investigation. For example:
 - o **NRS 1.460 Public officers and employees to cooperate with Commission; service of process.**
 - o 1. All public officers and employees of the State, its agencies and political subdivisions and all officers of the court shall cooperate with the Commission in any lawful investigation or proceeding of the Commission and furnish information and reasonable assistance to the Commission or its authorized representative.
 - o 2. All sheriffs, marshals, police officers and constables shall, upon request of the Commission or its authorized representative, serve process on behalf of and execute all lawful orders of the Commission.
- Housekeeping clarifications for proceedings.

Agenda Item 6



**Unclassified Salary Survey Report
for the
Committee to Study the Salaries of Certain Positions
in the Unclassified and
Nonclassified Service of the State**

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Prepared By:
Department of Administration
Division of Human Resource Management

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SUMMARY

The authority for the survey was outlined in Senate Concurrent Resolution 6 of the 2017 Nevada State Legislature. The purpose of this report is to act as a resource for the Committee to Study the Salaries of Certain Positions in the Unclassified and Nonclassified Service of the State to assist them in making informed decisions relating to employee compensation.

At the direction of Committee, the Division of Human Resource Management (DHRM) conducted a salary survey of 37 Unclassified titles within the following State of Nevada agencies: Public Utilities Commission, Commission on Ethics and Nevada State Gaming Control Board. Of those 64 governmental and private organizations surveyed, DHRM received responses from 23 (35.93%) organizations overall.

SALARY SURVEY PROCEDURE

The 2018 Unclassified Salary Survey was designed by the Department of Administration, Division of Human Resource Management in response to Senate Concurrent Resolution 6 of the 2017 Legislative Session to facilitate the collection, analysis and presentation of salary information concerning unclassified positions specific to the Commission on Ethics, the Nevada Gaming Control Board, and the Public Utilities Commission of Nevada, and medical- and health-related positions. The survey included the selection of classes, the survey sample, the survey methodology and the application of the data as described below.

SURVEY SAMPLE

The survey sample includes private and public employers and nation-wide state governments. State governments include Idaho, Montana, New Mexico, Oregon, Utah and Mississippi.

SELECTION OF UNCLASSIFIED POSITIONS

Titles included in the unclassified salary survey were provided by the Commission on Ethics, the Nevada Gaming Control Board, and the Public Utilities Commission of Nevada, based on changes in the cost of living, the rate of turnover, and difficulty of recruitment for positions compared to the private sector salaries for similar positions.

Thirty-seven positions were selected to be surveyed.

SALARY SURVEY METHODOLOGY

Employers were asked to report the minimum as well as the maximum salary paid for each survey class. The information provided was for salaries currently in effect.

ORGANIZATIONS SURVEYED

<p> NV Energy Southwest Gas Corporation AT & T CenturyLink Utilities, Inc. (in NV, "Great Basin Water Company") Charles River Associates Strategen Consulting E3 Energy + Environmental Economics National Economic Research Associates The Brattle Group Utilitech, Inc. Tesla Southwest Energy Efficiency Project Natural Resources Defense Counsel Solar Energy Industries Association Regulatory Assistance Project Western Resource Advocates Switch Wal-Mart Holland & Hart McDonald Carano Lewis Roca Rothgerber Christie LLP Fennimore Craig Davison Van Cleve, P.C. Earthjustice Parsons Behle & Latimer Kaempfer Crowell Law Offices of Allison MacKenzie The Griffin Company Barrick Gold Corporation Newmont Mining Corporation Sierra Nevada Corporation IGT City of Las Vegas City of Henderson Clark County City of Reno Washoe County Federal Communications Commission </p>	<p> California Public Utilities Commission Arizona Corporation Commission Public Utilities Commission of Oregon California Independent System Operator Natural Regulatory Research Institute Lawrence Berkeley National Laboratory California Fair Political Practices Commission City of Oakland Public Ethics Commission Colorado Independent Ethics Commission Denver Board of Ethics Hawaii State Ethics Commission City and County of Honolulu Ethics Commission Oklahoma Ethics Commission Oregon Public Utility Commission Washington State Executive Ethics Board State of Pennsylvania State of New Jersey State of Massachusetts State of Mississippi State of Colorado State of Idaho State of Montana State of New Mexico State of Oregon State of Utah </p>
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UNCLASSIFIED POSITION DESCRIPTIONS

- U1007 CHIEF, ADMINISTRATION (GAMING CONTROL BOARD)**
Responsible for the overall administration and management of the State of Nevada Gaming Control Board's administrative services and business functions on a statewide basis. Provides overall direction, oversight and control of the Gaming Control Board's human resources programs, financial services programs, facilities, professional standards, and records management services programs. Additionally, provides support and oversight of the gaming research, administrative hearings, and office support functions for the Gaming Control Board and the Nevada Gaming Commission.
- U1018 NETWORK SPECIALIST 2 (GAMING CONTROL BOARD)**
Responsible for enterprise IT operations involving systems administration, network administration, computer and application support, video conferencing support, as well as help desk support for all agency offices. This position requires strong technical skills relating to the above responsibilities, good customer service skills, good oral and written communication skills, as well as the ability to quickly and independently learn new technologies.
- U1095 SENIOR APPLICATIONS DEVELOPER (GAMING CONTROL BOARD)**
Responsible for application development for the Gaming Control Board. This involves all aspects of development, from business process analysis and requirements gathering, to implementation including designing, developing, testing, debugging, documenting and supporting software applications and SharePoint sites.
- U1025 SUPERVISOR (GAMING CONTROL BOARD)**
Accounting: Responsible for planning, organizing, directing and overseeing all accounting and fiscal management activities of the Gaming Control Board and supervision of a support staff.
- U1022 AGENT, AUDIT (GAMING CONTROL BOARD)**
Performs various audit procedures including evaluation of a casino's internal control environment and determining whether gaming licenses have adhered to the Minimum Internal Control Standards as required by the Board; performs financial statement analysis; evaluates the various components of audit risk; performs analytical review procedures and substantive testing. Requires a bachelor's degree in accounting or business administration with specific courses in accounting.
- U1017 AGENT, ENFORCEMENT (GAMING CONTROL BOARD)**
Conducts criminal, regulatory and intelligence investigations in compliance with State gaming statutes and applicable regulations; collects, analyzes, and documents the information obtained; prepares comprehensive reports for the distribution and use of the Gaming Control Board, the Nevada Gaming Commission and other authorized agencies; investigates disputes involving gaming activities; ensures regulatory compliance by gaming licensees; develops and operates informants; provides instruction and on the job training to new agents; may act as a first-line supervisor of subordinates. Must be certified as a Category I Peace Officer within one year of employment.
- U1050 AGENT, TAX & LICENSE (GAMING CONTROL BOARD)**
Responsible for conducting on-site reviews of gaming and general business records of gaming licensees; conducts inspections to determine degree of compliance with statutes and regulations; conducts counts of slots and gaming equipment. Provides licensees with guidance as to appropriate gaming revenue records that must be maintained and provides explanations and interpretations of the Gaming Control Act and regulations.
- U1012 AGENT, INVESTIGATIONS (GAMING CONTROL BOARD)**
Investigates applicants for gaming licenses and other transactions or issues and collects, analyzes and documents the information obtained. Responsible for preparing comprehensive investigative reports on gaming applications for presentation to the Gaming Control Board and Gaming Commission.

U1014 CHIEF, ENFORCEMENT (GAMING CONTROL BOARD)

Conducts criminal, regulatory and intelligence investigations in compliance with State gaming statutes and applicable regulations; collects, analyzes, and documents the information obtained; prepares comprehensive reports for the distribution and use of the Gaming Control Board, the Nevada Gaming Commission and other authorized agencies; investigates disputes involving gaming activities; ensures regulatory compliance by gaming licensees; develops and operates informants; provides instruction and on the job training to new agents; may act as a first-line supervisor of subordinates. Must be certified as a Category I Peace Officer within one year of employment.

U1026 ELECTRONIC LAB ENGINEER (GAMING CONTROL BOARD)

Responsible for evaluating gaming devices, gaming associated equipment, and modifications thereto for regulatory compliance; performing forensic analysis in the investigation of patron complaint, dispute, or criminal allegations; analyzing technology as it relates to the gaming industry for suitability; and performing related work as assigned.

U1070 SENIOR LAB ENGINEER (GAMING CONTROL BOARD)

Responsible for supervising the work performance of assigned staff; reviewing gaming devices, gaming associated equipment, and modifications thereto for regulatory compliance; performing forensic analysis in the investigation of patron complaint, dispute, or criminal allegations; analyzing technology as it relates to the gaming industry for suitability; and performing related work as assigned.

U1067 SENIOR RESEARCH SPECIALIST (GAMING CONTROL BOARD)

Researching, interpreting and applying federal, state and local statutes and regulations, including the Act and NGC Regulations, and remaining abreast of gaming trends, matters and issues within and outside of Nevada in order to complete projects as assigned. Tracking gaming legislative proposals and other legislative proposals potentially impacting the Board and/or staff and providing the Board and the Division Chiefs and/or their designees with written synopses and analyses of said proposals and status reports on, such legislative proposals.

U4702 CHAIR (PUBLIC UTILITIES COMMISSION)

As lead utility and energy regulator for the State, this position oversees public utilities consistent with state and federal law. Responsible for providing guidance on operations, and overall management of the Public Utilities Commission. This position presides over administrative hearings, investigatory proceedings, workshops and public consumer sessions while managing an active docket of litigated cases. Responsible for drafting legally binding orders, reports and administrative regulations.

U4407 EXECUTIVE DIRECTOR (PUBLIC UTILITIES COMMISSION)

Serves as Chief Financial Officer for the Commission, directs the daily operation of the organization including all administrative, human resources, public relations and development and implementation of policy and procedures. Manages all purchases, acquisitions and contracts for the commission.

U4501 PUBLIC UTILITIES COMMISSIONER (PUBLIC UTILITIES COMMISSION)

Oversees the regulation of public utilities consistent with state and federal law. Responsible for managing an active docket of litigated cases. Presides over administrative hearings, investigatory proceedings, public consumer sessions, and workshops. Drafts legally-binding orders, evidentiary and procedural rulings, reports, and administrative regulations.

U3903 CHIEF ATTORNEY (PUBLIC UTILITIES COMMISSION)

General Counsel PUC: This position acts as General Counsel to the commission specializing in the following areas of law: administrative, utility, energy, telecommunications, water, environmental, contract, employment, government affairs and appellate. This position represents the council in legislative matters and in interactions with state and federal agencies and officials. This position is a supervisory role, coordinating and managing workload for a staff of more junior attorneys.

Staff Counsel PUC: This position acts as legal support for the Regulatory Operations Staff. This position is a supervisory role overseeing and directing the strategy and analysis for commission staff's participation in commission proceedings and managing workload for a staff of attorneys and legal secretaries.

Hearing Officer PUC: Performs role of administrative law judge; schedules and presides over administrative proceedings, including prehearing conferences, consumer sessions, workshops, mediations, arbitrations, and hearings in rulemakings, investigations, and contested cases; rules on procedural motions and the admissibility of evidence. Prepares draft orders for the PUCN's consideration.

U3811 SENIOR ATTORNEY (PUBLIC UTILITIES COMMISSION)

Position A: Specializes in the following areas of law: administrative, utility, energy, telecommunications, water, environmental, contract, employment, and appellate. Represents the PUCN's interests before state and federal courts, and before federal regulatory agencies, in matters often involving complex litigation. Testifies before legislative committees and other governmental entities. Drafts various documents, including orders, notices, pleadings, memoranda, contracts, policies, and procedures. Reviews and edits documents prepared by other attorneys and assists with the professional development of entry-level attorneys.

Position B: Advises Staff Counsel and the Director of Regulatory Operations regarding probable legal or other impact of recommendations to the PUCN; represents the Regulatory Operations Staff ("Staff") in PUCN proceedings, which often involve complex litigation. Formulates and responds to data requests; prepares and executes protective agreements for receipt of confidential material; reviews filings for legal adequacy and content; prepares legal comments, briefs, responses to petitions, stipulations, proposed regulations, and other pleadings. Assists Staff's technical experts with the preparation of testimony; cross-examines other expert witnesses; negotiates settlements.

U3810 ADMINISTRATIVE ATTORNEY (PUBLIC UTILITIES COMMISSION)

This position is responsible for providing legal advice to commissioners and hearing officers, drafting orders, notices, reports, and regulations. Coordinating schedules, managing caseloads and participating in hearings, workshops and prehearing conferences. May also review filings received by the commission, draft notices and other legal documents and conduct legal research.

U3927 COMMISSION POLICY ADVISOR (PUBLIC UTILITIES COMMISSION)

Possesses education and substantial experience in one or more of the following fields: accounting, finance, economics, and engineering. Responsible for reviewing utility data and other evidence and presenting analysis to commissioners and hearing officers. Provides expertise and makes recommendations regarding the appropriate disposition of various utility regulation issues in contested proceedings. Monitors activities of federal, state, and regional regulatory entities and periodically provides briefings to commissioners on these activities.

U3921 MANAGER, SYSTEMS OPERATION (PUBLIC UTILITIES COMMISSION)

Manages and oversees the day-to-day information technology systems operations for the Commission, including, but not limited to: maintaining and monitoring the Commission's network and equipment; designing and maintaining database applications, records management systems, and Commission web site and Intranet; oversees the Commission's video conferencing system, IT security policies, and IT budget.

U4804 DIRECTOR, REGULATORY OPERATIONS (PUBLIC UTILITIES COMMISSION)

Supervises and manages all aspects of the Regulatory Operations Staff ("Staff"), comprised of five technical divisions (Engineering, Resource and Market Analysis, Financial Analysis, Consumer Complaint Resolution, and Rail Safety). Oversees all of Staff's participation before the PUCN, as well as all of Staff's independent investigations of utility operations within Nevada. Responsible for managing Staff resources for preparation and defense of expert testimony on complex issues, comments, reports, and other filings submitted to the PUCN. Determines, prepares, and presents Staff policy positions in proceedings before the PUCN; negotiates settlements between parties on behalf of Staff.

- U4919 MANAGER, RESOURCE/MARKET ANALYSIS (PUBLIC UTILITIES COMMISSION)**
 Manages the Resource and Market analysis division which develops economic analysis for support of Staff's participation in Commission proceedings. Serves as an expert witness in Commission proceedings through written and oral testimony. Manages several staff positions including one administrator responsible for tracking renewable energy credits.
- U4515 REGULATORY ECONOMIST (PUBLIC UTILITIES COMMISSION)**
 Performs applied economic research on a wide range of matters related to the short-term and long-term forecasting of loads and other billing determinates of public utilities, to include: competitive policy analysis, market analysis, cost analysis, and rate structure analysis of various aspects of utility issues (e.g., telecommunications, electric, gas, water and sewer). Conducts analysis to support the Regulatory Operations Staff's participation in PUCN proceedings, serves as expert witness in PUCN proceedings, preparing written testimony and orally defending testimony.
- U3908 MANAGER, SAFETY & QUALITY ASSURANCE (PUBLIC UTILITIES COMMISSION)**
 Manages the Engineering division which performs engineering and technical investigations and analysis concerning prudent resource and facility planning, design, construction and operation of utilities. May serve as expert witness for Commission proceedings. Oversees inspection activities regarding state's "Call Before You Dig" laws.
- U4410 ENGINEER, ELECTRIC (PUBLIC UTILITIES COMMISSION)**
 Performs detailed engineering and technical investigations and analyses in the areas of renewable energy, electric utility design, and construction and operation of electric utilities. Performs comprehensive audits and inspections of utility plant investments, such as generation facilities, new transmission and distribution facilities, and other plant records in the context of ratemaking, resource planning, and other regulatory proceedings; performs inspections of distributed energy resources; reviews applications for permits to construct utility facilities. Serves as expert witness in PUCN proceedings, preparing written testimony and orally defending testimony. Participates in all PUCN rulemaking and investigatory proceedings addressing renewable energy issues. Participates in planning meetings with various state, local, and federal agencies.
- U4411 ENGINEER, GAS PIPELINE (PUBLIC UTILITIES COMMISSION)**
 Conducts technical inspections, audits, and investigations of gas utility facilities and operators, including reviewing designs, construction work, operation and maintenance activities, and operation and emergency response procedures to ensure safety regulation compliance. Performs field inspections and investigations relating to excavation damage prevention (i.e. "One-call") for natural gas and other types of underground facilities. Serves as expert witness in PUCN proceedings, preparing written testimony and orally defending testimony.
- U4409 ENGINEER, WATER (PUBLIC UTILITIES COMMISSION)**
 Performs detailed engineering and technical investigations and analysis regarding prudent resource planning and facility planning, design, construction and operation of water and wastewater utilities. Conducts comprehensive audits, investigations, and inspections of regulated water and wastewater facilities. Interacts with various state, local, and federal agencies, including the Nevada Department of Environmental Protection and the Nevada Department of Water Resources. Serves as expert witness in PUCN proceedings, preparing written testimony and orally defending testimony.
- U4526 RESOURCE PLANNING ENGINEER (PUBLIC UTILITIES COMMISSION)**
 Performs detailed engineering and technical investigations related to utility resource planning. Performs code inspections of utilities. Serves as expert witness in PUCN proceedings, preparing written testimony and orally defending testimony.
- U2901 EXECUTIVE DIRECTOR, ETHICS (ETHICS COMMISSION)**
 Responsible for developing and implementing the Commission's budget, policies and procedures; appointing and supervising staff; developing and conducting outreach and education; and representing the Commission in the media/public, Executive Branch and the Legislature. This position conducts investigations of ethics complaints, negotiates settlement agreements and prosecutes cases before the

Commission. Responsible for recommending, drafting and presenting legislation and administrative regulations.

U2902 COMMISSION COUNSEL (ETHICS COMMISSION)

Responsible for representing the Commission and its staff in all legal matters. This position serves as the Commission's clerk and advisor for all legal pleadings and filings by parties in contested cases for quasi-judicial proceedings and requests for advisory opinions by public officers and employees.

U2904 ASSOCIATE COUNSEL (ETHICS COMMISSION)

Serves as legal counsel for the Executive Director in contested cases and the Associate Commission Counsel in non-contested matters.

U9088 SR. PSYCHIATRIST (RANGE C) (HHS AND CORRECTIONS)

Responsible for participating in and leading a multi-disciplinary team managing a wide variety of patients and diagnoses. Dynamic work responsibilities include providing assessments and evaluating patients, planning and reviewing care and treatment of individual patients; prescribing medications, preparing reports and case histories and interpreting medical records. Responsibilities also include ensuring regulatory and Joint Commission compliance as well as participation in the Resident training and Internship programs.

U9086 SR. INSTITUTIONAL DENTIST (B) (CORRECTIONS)

Establishes and administers a comprehensive institutional dental health program, including the clinical performance of professional activities in the administration of individual treatments of the institution's population. Requires a valid license to practice dentistry as well as 3 years of professional experience in a correctional setting.

U9087 SR. PHYSICIAN (RANGE C) (HHS, CORRECTIONS AND DETR)

Performs professional medical duties involving general examination, diagnosis, care and treatment; supervises the medical services; and performs related work as required. Responsible for prescribing medications by using standard pharmacological procedures.

U9074 PHARMACIST 1 (HHS AND CORRECTIONS)

Responsible for preparing, compounding and dispensing drugs upon written order from a licensed practitioner.

2018 UNCLASSIFIED SALARY SURVEY

CLASS/TITLE	# OF RESPONDENTS	STATE OF NEVADA	ALL RESPONDENTS
<i>CHIEF, ADMINISTRATION (GAMING CONTROL BOARD)</i>		8	
AVERAGE AUTHORIZED MINIMUM SALARY		113,406	166,165
% Difference			-46.52%
AVERAGE AUTHORIZED MAXIMUM SALARY		113,406	252,490
% Difference			-122.64%
AVERAGE ACTUAL MINIMUM SALARY		113,406	205,320
% Difference			-81.05%
AVERAGE ACTUAL MAXIMUM SALARY		113,406	248,304
% Difference			-118.95%
<i>NETWORK SPECIALIST 2 (GAMING CONTROL BOARD)</i>		13	
AVERAGE AUTHORIZED MINIMUM SALARY		94,709	66,389
% Difference			29.90%
AVERAGE AUTHORIZED MAXIMUM SALARY		94,709	111,118
% Difference			-17.33%
AVERAGE ACTUAL MINIMUM SALARY		94,709	77,567
% Difference			18.10%
AVERAGE ACTUAL MAXIMUM SALARY		94,709	91,535
% Difference			3.35%
<i>SENIOR APPLICATIONS DEVELOPER (GAMING CONTROL BOARD)</i>		12	
AVERAGE AUTHORIZED MINIMUM SALARY		87,949	68,253
% Difference			22.39%
AVERAGE AUTHORIZED MAXIMUM SALARY		87,949	117,682
% Difference			-33.81%
AVERAGE ACTUAL MINIMUM SALARY		87,949	87,097
% Difference			0.97%
AVERAGE ACTUAL MAXIMUM SALARY		87,949	109,769
% Difference			-24.81%
<i>SUPERVISOR (GAMING CONTROL BOARD)</i>		13	
AVERAGE AUTHORIZED MINIMUM SALARY		93,723	70,971
% Difference			24.28%
AVERAGE AUTHORIZED MAXIMUM SALARY		93,723	112,274
% Difference			-19.79%
AVERAGE ACTUAL MINIMUM SALARY		93,723	83,822
% Difference			10.56%
AVERAGE ACTUAL MAXIMUM SALARY		93,723	98,236
% Difference			-4.82%
<i>AGENT, AUDIT (GAMING CONTROL BOARD)</i>		12	
AVERAGE AUTHORIZED MINIMUM SALARY		73,771	56,124
% Difference			23.92%
AVERAGE AUTHORIZED MAXIMUM SALARY		73,771	95,587
% Difference			-29.57%
AVERAGE ACTUAL MINIMUM SALARY		73,771	71,313
% Difference			3.33%
AVERAGE ACTUAL MAXIMUM SALARY		73,771	87,122
% Difference			-18.10%
<i>AGENT, ENFORCEMENT (GAMING CONTROL BOARD)</i>		6	
AVERAGE AUTHORIZED MINIMUM SALARY		73,771	44,037
% Difference			40.31%
AVERAGE AUTHORIZED MAXIMUM SALARY		73,771	86,931
% Difference			-17.84%
AVERAGE ACTUAL MINIMUM SALARY		73,771	55,690
% Difference			24.51%
AVERAGE ACTUAL MAXIMUM SALARY		73,771	69,771
% Difference			5.42%

2018 UNCLASSIFIED SALARY SURVEY

CLASS/TITLE	# OF RESPONDENTS	STATE OF NEVADA	ALL RESPONDENTS
<i>AGENT, TAX & LICENSE (GAMING CONTROL BOARD)</i>			
	10		
AVERAGE AUTHORIZED MINIMUM SALARY		73,771	49,432
% Difference			32.99%
AVERAGE AUTHORIZED MAXIMUM SALARY		73,771	82,901
% Difference			-12.38%
AVERAGE ACTUAL MINIMUM SALARY		73,771	58,413
% Difference			20.82%
AVERAGE ACTUAL MAXIMUM SALARY		73,771	72,316
% Difference			1.97%
<i>AGENT, INVESTIGATIONS (GAMING CONTROL BOARD)</i>			
	10		
AVERAGE AUTHORIZED MINIMUM SALARY		73,771	50,071
% Difference			32.13%
AVERAGE AUTHORIZED MAXIMUM SALARY		73,771	76,857
% Difference			-4.18%
AVERAGE ACTUAL MINIMUM SALARY		73,771	56,188
% Difference			23.83%
AVERAGE ACTUAL MAXIMUM SALARY		73,771	65,441
% Difference			11.29%
<i>CHIEF, ENFORCEMENT (GAMING CONTROL BOARD)</i>			
	8		
AVERAGE AUTHORIZED MINIMUM SALARY		113,406	86,421
% Difference			23.80%
AVERAGE AUTHORIZED MAXIMUM SALARY		113,406	128,540
% Difference			-13.34%
AVERAGE ACTUAL MINIMUM SALARY		113,406	78,460
% Difference			30.81%
AVERAGE ACTUAL MAXIMUM SALARY		113,406	110,799
% Difference			2.30%
<i>ELECTRONIC LAB ENGINEER (GAMING CONTROL BOARD)</i>			
	3		
AVERAGE AUTHORIZED MINIMUM SALARY		100,452	58,518
% Difference			41.75%
AVERAGE AUTHORIZED MAXIMUM SALARY		100,452	87,948
% Difference			12.45%
AVERAGE ACTUAL MINIMUM SALARY		100,452	72,264
% Difference			28.06%
AVERAGE ACTUAL MAXIMUM SALARY		100,452	85,327
% Difference			15.06%
<i>SENIOR LAB ENGINEER (GAMING CONTROL BOARD)</i>			
	4		
AVERAGE AUTHORIZED MINIMUM SALARY		105,474	70,144
% Difference			33.50%
AVERAGE AUTHORIZED MAXIMUM SALARY		105,474	124,750
% Difference			-18.28%
AVERAGE ACTUAL MINIMUM SALARY		105,474	97,030
% Difference			8.01%
AVERAGE ACTUAL MAXIMUM SALARY		105,474	113,844
% Difference			-7.94%
<i>SENIOR RESEARCH SPECIALIST (GAMING CONTROL BOARD)</i>			
	7		
AVERAGE AUTHORIZED MINIMUM SALARY		99,726	64,512
% Difference			35.31%
AVERAGE AUTHORIZED MAXIMUM SALARY		99,726	97,103
% Difference			2.63%
AVERAGE ACTUAL MINIMUM SALARY		99,726	77,588
% Difference			22.20%
AVERAGE ACTUAL MAXIMUM SALARY		99,726	92,485
% Difference			7.26%

2018 UNCLASSIFIED SALARY SURVEY

CLASS/TITLE	# OF RESPONDENTS	STATE OF NEVADA	ALL RESPONDENTS
<i>CHAIR (PUBLIC UTILITIES COMMISSION)</i>		<i>9</i>	
AVERAGE AUTHORIZED MINIMUM SALARY		132,540	111,405
% Difference			15.95%
AVERAGE AUTHORIZED MAXIMUM SALARY		132,540	154,855
% Difference			-16.84%
AVERAGE ACTUAL MINIMUM SALARY		132,540	133,215
% Difference			-0.51%
AVERAGE ACTUAL MAXIMUM SALARY		132,540	154,883
% Difference			-16.86%
<i>EXECUTIVE DIRECTOR (PUBLIC UTILITIES COMMISSION)</i>		<i>11</i>	
AVERAGE AUTHORIZED MINIMUM SALARY		124,181	123,230
% Difference			0.77%
AVERAGE AUTHORIZED MAXIMUM SALARY		124,181	190,029
% Difference			-53.03%
AVERAGE ACTUAL MINIMUM SALARY		124,181	156,651
% Difference			-26.15%
AVERAGE ACTUAL MAXIMUM SALARY		124,181	167,352
% Difference			-34.76%
<i>PUBLIC UTILITIES COMMISSIONER (PUBLIC UTILITIES COMMISSION)</i>		<i>6</i>	
AVERAGE AUTHORIZED MINIMUM SALARY		124,181	103,899
% Difference			16.33%
AVERAGE AUTHORIZED MAXIMUM SALARY		124,181	154,525
% Difference			-24.44%
AVERAGE ACTUAL MINIMUM SALARY		124,181	118,194
% Difference			4.82%
AVERAGE ACTUAL MAXIMUM SALARY		124,181	136,512
% Difference			-9.93%
<i>CHIEF ATTORNEY (GEN COUNSEL - PUBLIC UTILITIES COMMISSION)</i>		<i>10</i>	
AVERAGE AUTHORIZED MINIMUM SALARY		125,377	153,513
% Difference			-22.44%
AVERAGE AUTHORIZED MAXIMUM SALARY		125,377	251,657
% Difference			-100.72%
AVERAGE ACTUAL MINIMUM SALARY		125,377	211,033
% Difference			-68.32%
AVERAGE ACTUAL MAXIMUM SALARY		125,377	230,706
% Difference			-84.01%
<i>CHIEF ATTORNEY (STAFF COUNSEL - PUBLIC UTILITIES COMMISSION)</i>		<i>10</i>	
AVERAGE AUTHORIZED MINIMUM SALARY		125,377	121,585
% Difference			3.02%
AVERAGE AUTHORIZED MAXIMUM SALARY		125,377	190,448
% Difference			-51.90%
AVERAGE ACTUAL MINIMUM SALARY		125,377	158,587
% Difference			-26.49%
AVERAGE ACTUAL MAXIMUM SALARY		125,377	187,885
% Difference			-49.86%
<i>CHIEF ATTORNEY (HEARING OFFICER - PUBLIC UTILITIES COMMISSION)</i>		<i>6</i>	
AVERAGE AUTHORIZED MINIMUM SALARY		125,377	92,593
% Difference			26.15%
AVERAGE AUTHORIZED MAXIMUM SALARY		125,377	142,457
% Difference			-13.62%
AVERAGE ACTUAL MINIMUM SALARY		125,377	149,457
% Difference			-19.21%
AVERAGE ACTUAL MAXIMUM SALARY		125,377	186,146
% Difference			-48.47%

2018 UNCLASSIFIED SALARY SURVEY

CLASS/TITLE	# OF RESPONDENTS	STATE OF NEVADA	ALL RESPONDENTS
<i>SNR ATTORNEY, PUBLIC UTILITIES COMMISSION, POSITION A</i>		<i>10</i>	
AVERAGE AUTHORIZED MINIMUM SALARY		113,436	100,980
% Difference			10.98%
AVERAGE AUTHORIZED MAXIMUM SALARY		113,436	168,071
% Difference			-48.16%
AVERAGE ACTUAL MINIMUM SALARY		113,436	113,784
% Difference			-0.31%
AVERAGE ACTUAL MAXIMUM SALARY		113,436	158,669
% Difference			-39.88%
<i>SNR ATTORNEY, PUBLIC UTILITIES COMMISSION, POSITION B</i>		<i>10</i>	
AVERAGE AUTHORIZED MINIMUM SALARY		113,436	112,374
% Difference			0.94%
AVERAGE AUTHORIZED MAXIMUM SALARY		113,436	180,628
% Difference			-59.23%
AVERAGE ACTUAL MINIMUM SALARY		113,436	145,014
% Difference			-27.84%
AVERAGE ACTUAL MAXIMUM SALARY		113,436	173,498
% Difference			-52.95%
<i>ADMINISTRATIVE ATTORNEY (PUBLIC UTILITIES COMMISSION)</i>		<i>7</i>	
AVERAGE AUTHORIZED MINIMUM SALARY		75,226	88,357
% Difference			-17.46%
AVERAGE AUTHORIZED MAXIMUM SALARY		75,226	143,261
% Difference			-90.44%
AVERAGE ACTUAL MINIMUM SALARY		75,226	101,841
% Difference			-35.38%
AVERAGE ACTUAL MAXIMUM SALARY		75,226	133,672
% Difference			-77.69%
<i>COMMISSION POLICY ADVISOR (PUBLIC UTILITIES COMMISSION)</i>		<i>7</i>	
AVERAGE AUTHORIZED MINIMUM SALARY		96,881	90,073
% Difference			7.03%
AVERAGE AUTHORIZED MAXIMUM SALARY		96,881	157,357
% Difference			-62.42%
AVERAGE ACTUAL MINIMUM SALARY		96,881	117,349
% Difference			-21.13%
AVERAGE ACTUAL MAXIMUM SALARY		96,881	132,195
% Difference			-36.45%
<i>MANAGER, SYSTEMS OPERATION (PUBLIC UTILITIES COMMISSION)</i>		<i>14</i>	
AVERAGE AUTHORIZED MINIMUM SALARY		97,572	83,058
% Difference			14.88%
AVERAGE AUTHORIZED MAXIMUM SALARY		97,572	134,605
% Difference			-37.95%
AVERAGE ACTUAL MINIMUM SALARY		97,572	96,351
% Difference			1.25%
AVERAGE ACTUAL MAXIMUM SALARY		97,572	120,781
% Difference			-23.79%
<i>DIRECTOR, REGULATORY OPERATIONS (PUBLIC UTILITIES COMMISSION)</i>		<i>8</i>	
AVERAGE AUTHORIZED MINIMUM SALARY		124,181	106,046
% Difference			14.60%
AVERAGE AUTHORIZED MAXIMUM SALARY		124,181	175,926
% Difference			-41.67%
AVERAGE ACTUAL MINIMUM SALARY		124,181	128,662
% Difference			-3.61%
AVERAGE ACTUAL MAXIMUM SALARY		124,181	151,988
% Difference			-22.39%

2018 UNCLASSIFIED SALARY SURVEY

CLASS/TITLE	# OF RESPONDENTS	STATE OF NEVADA	ALL RESPONDENTS
<i>MANAGER, RESOURCE/MARKET ANALYSIS (PUBLIC UTILITIES COMMISSION)</i>		6	
AVERAGE AUTHORIZED MINIMUM SALARY		103,884	80,451
% Difference			22.56%
AVERAGE AUTHORIZED MAXIMUM SALARY		103,884	137,088
% Difference			-31.96%
AVERAGE ACTUAL MINIMUM SALARY		103,884	102,139
% Difference			1.68%
AVERAGE ACTUAL MAXIMUM SALARY		103,884	110,265
% Difference			-6.14%
<i>REGULATORY ECONOMIST (PUBLIC UTILITIES COMMISSION)</i>		10	
AVERAGE AUTHORIZED MINIMUM SALARY		96,900	63,693
% Difference			34.27%
AVERAGE AUTHORIZED MAXIMUM SALARY		96,900	119,888
% Difference			-23.72%
AVERAGE ACTUAL MINIMUM SALARY		96,900	82,609
% Difference			14.75%
AVERAGE ACTUAL MAXIMUM SALARY		96,900	101,091
% Difference			-4.33%
<i>MANAGER, SAFETY & QUALITY ASSURANCE (PUBLIC UTILITIES COMMISSION)</i>		10	
AVERAGE AUTHORIZED MINIMUM SALARY		98,881	81,965
% Difference			17.11%
AVERAGE AUTHORIZED MAXIMUM SALARY		98,881	136,444
% Difference			-37.99%
AVERAGE ACTUAL MINIMUM SALARY		98,881	96,101
% Difference			2.81%
AVERAGE ACTUAL MAXIMUM SALARY		98,881	120,265
% Difference			-21.63%
<i>ENGINEER, ELECTRIC (PUBLIC UTILITIES COMMISSION)</i>		7	
AVERAGE AUTHORIZED MINIMUM SALARY		96,900	63,600
% Difference			34.37%
AVERAGE AUTHORIZED MAXIMUM SALARY		96,900	97,952
% Difference			-1.09%
AVERAGE ACTUAL MINIMUM SALARY		96,900	80,547
% Difference			16.88%
AVERAGE ACTUAL MAXIMUM SALARY		96,900	93,624
% Difference			3.38%
<i>ENGINEER, GAS PIPELINE (PUBLIC UTILITIES COMMISSION)</i>		7	
AVERAGE AUTHORIZED MINIMUM SALARY		90,174	59,021
% Difference			34.55%
AVERAGE AUTHORIZED MAXIMUM SALARY		90,174	105,986
% Difference			-17.53%
AVERAGE ACTUAL MINIMUM SALARY		90,174	69,552
% Difference			22.87%
AVERAGE ACTUAL MAXIMUM SALARY		90,174	85,912
% Difference			4.73%
<i>ENGINEER, WATER (PUBLIC UTILITIES COMMISSION)</i>		6	
AVERAGE AUTHORIZED MINIMUM SALARY		98,881	64,086
% Difference			35.19%
AVERAGE AUTHORIZED MAXIMUM SALARY		98,881	98,809
% Difference			0.07%
AVERAGE ACTUAL MINIMUM SALARY		98,881	68,938
% Difference			30.28%
AVERAGE ACTUAL MAXIMUM SALARY		98,881	94,429
% Difference			4.50%

2018 UNCLASSIFIED SALARY SURVEY

CLASS/TITLE	# OF RESPONDENTS	STATE OF NEVADA	ALL RESPONDENTS
<i>RESOURCE PLANNING ENGINEER (PUBLIC UTILITIES COMMISSION)</i>		7	
AVERAGE AUTHORIZED MINIMUM SALARY		90,174	74,838
% Difference			17.01%
AVERAGE AUTHORIZED MAXIMUM SALARY		90,174	123,619
% Difference			-37.09%
AVERAGE ACTUAL MINIMUM SALARY		90,174	89,125
% Difference			1.16%
AVERAGE ACTUAL MAXIMUM SALARY		90,174	104,842
% Difference			-16.27%
<i>EXECUTIVE DIRECTOR, ETHICS (ETHICS COMMISSION)</i>		7	
AVERAGE AUTHORIZED MINIMUM SALARY		113,436	133,940
% Difference			-18.08%
AVERAGE AUTHORIZED MAXIMUM SALARY		113,436	233,037
% Difference			-18.08%
AVERAGE ACTUAL MINIMUM SALARY		113,436	148,394
% Difference			-30.82%
AVERAGE ACTUAL MAXIMUM SALARY		113,436	166,711
% Difference			-30.82%
<i>COMMISSION COUNSEL (ETHICS COMMISSION)</i>		3	
AVERAGE AUTHORIZED MINIMUM SALARY		113,436	102,822
% Difference			9.36%
AVERAGE AUTHORIZED MAXIMUM SALARY		113,436	174,194
% Difference			-53.56%
AVERAGE ACTUAL MINIMUM SALARY		113,436	136,720
% Difference			-20.53%
AVERAGE ACTUAL MAXIMUM SALARY		113,436	159,970
% Difference			-41.02%
<i>ASSOCIATE COUNSEL (ETHICS COMMISSION)</i>		4	
AVERAGE AUTHORIZED MINIMUM SALARY		101,495	95,068
% Difference			6.33%
AVERAGE AUTHORIZED MAXIMUM SALARY		101,495	154,110
% Difference			-51.84%
AVERAGE ACTUAL MINIMUM SALARY		101,495	121,995
% Difference			-20.20%
AVERAGE ACTUAL MAXIMUM SALARY		101,495	166,009
% Difference			-63.56%
<i>SENIOR PSYCHIATRIST (RANGE C)(HHS AND CORRECTIONS)</i>		5	
AVERAGE AUTHORIZED MINIMUM SALARY		187,711	124,369
% Difference			33.74%
AVERAGE AUTHORIZED MAXIMUM SALARY		187,711	227,263
% Difference			-21.07%
AVERAGE ACTUAL MINIMUM SALARY		187,711	198,463
% Difference			-5.73%
AVERAGE ACTUAL MAXIMUM SALARY		187,711	233,541
% Difference			-24.42%
<i>SENIOR INSTITUTIONAL DENTIST (B)(CORRECTIONS)</i>		4	
AVERAGE AUTHORIZED MINIMUM SALARY		146,916	93,143
% Difference			36.60%
AVERAGE AUTHORIZED MAXIMUM SALARY		146,916	183,089
% Difference			-24.62%
AVERAGE ACTUAL MINIMUM SALARY		146,916	122,136
% Difference			16.87%
AVERAGE ACTUAL MAXIMUM SALARY		146,916	162,301
% Difference			-10.47%

2018 UNCLASSIFIED SALARY SURVEY

CLASS/TITLE	# OF RESPONDENTS	STATE OF NEVADA	ALL RESPONDENTS
<i>SENIOR PHYSICIAN (RANGE C)(HHS, CORRECTIONS AND DETR)</i>			
	6		
AVERAGE AUTHORIZED MINIMUM SALARY		165,134	144,264
% Difference			12.64%
AVERAGE AUTHORIZED MAXIMUM SALARY		165,134	276,482
% Difference			-67.43%
AVERAGE ACTUAL MINIMUM SALARY		165,134	180,824
% Difference			-9.50%
AVERAGE ACTUAL MAXIMUM SALARY		165,134	224,711
% Difference			-36.08%
<i>PHARMACIST 1 (HHS AND CORRECTIONS)</i>			
	6		
AVERAGE AUTHORIZED MINIMUM SALARY		105,647	72,282
% Difference			31.58%
AVERAGE AUTHORIZED MAXIMUM SALARY		105,647	132,041
% Difference			-24.98%
AVERAGE ACTUAL MINIMUM SALARY		105,647	96,584
% Difference			8.58%
AVERAGE ACTUAL MAXIMUM SALARY		105,647	108,871
% Difference			-3.05%

The seal of the Supreme Court of Nevada is a circular emblem. It features a central figure, likely a personification of Justice, holding a scale and a sword. The words "SUPREME COURT OF NEVADA" are inscribed around the top inner edge of the seal, and "FIAT JUSTITIA" is inscribed around the bottom inner edge. The seal is rendered in a light gray, semi-transparent style.

Salary Market Analysis Report

Supreme Court of Nevada

June 1, 2018

Project Overview

- In January of 2018, the Nevada Supreme Court received a Market Salary Report from a third party consulting firm, Trupp HR.
- Trupp HR gathered salary data for 15 positions within the court, both unclassified and non-classified positions.
 - Of the 15 classifications reviewed, the Court Marshal position concluded in insufficient data.
- Trupp HR researched positions within six jurisdictions within the state of Nevada that have relevant and comparable positions.
- In addition to the data Trupp gathered from the six jurisdictions, Trupp also collected market salary data from Salary.com CompAnalyst and Economic Research Institute Assessor.

Project Overview

- Relevant Jurisdictions
 - City of Carson, Nevada
 - City of Sparks, Nevada
 - Clark County, Nevada
 - Elko County, Nevada
 - Washoe County, Nevada
 - Sonoma County Superior Court, California
 - Salary.com CompAnalyst
 - Economic Research Institute (ERI) Salary Assessor

Project Overview

Since receiving the Market Salary Report from Trupp HR, the Nevada Supreme Court collected supplemental salary data and added the following jurisdictions to applicable positions:

- Federal District Court (Nevada)
- Western United States (California, Arizona, Oregon, Utah, New Mexico and Idaho)

Results- Ahead of Market Value

- Of the 15 classifications that were surveyed, the following positions within the Nevada Supreme Court were found to currently exceed the market data.
 - Deputy Clerk II
 - Paralegal

Results- Meets Market Value

Of the 15 classifications that were surveyed, the following positions within the Nevada Supreme Court were found to currently meet the market data, and were recommended to maintain current salary structure.

- Court Services Analyst III
- IT Analyst II*
- IT Technician III*
- Personnel Analyst II

*Indicates salary data after July 1, 2017 and the one grade adjustment.

Results- Under Market Value

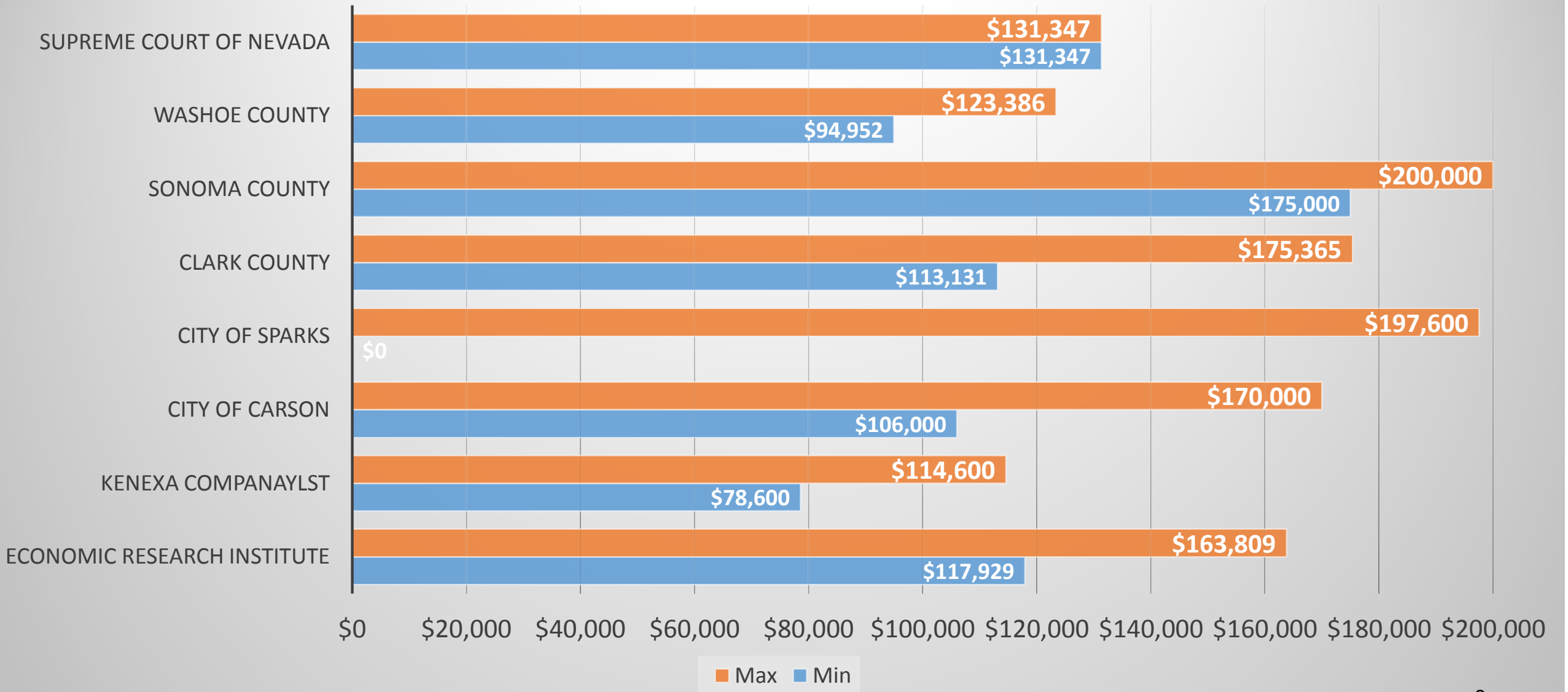
Of the 15 classifications that were surveyed, the following positions within the Nevada Supreme Court were found to be behind the relevant market. Trupp HR recommended the pay range be reviewed and an adjustment considered for these positions:

- Director and State Court Administrator*
- Deputy Director*
- Legal Counsel*
- Staff Attorney*
- Accounting Assistant II
- Administrative Assistant II
- Law Librarian II

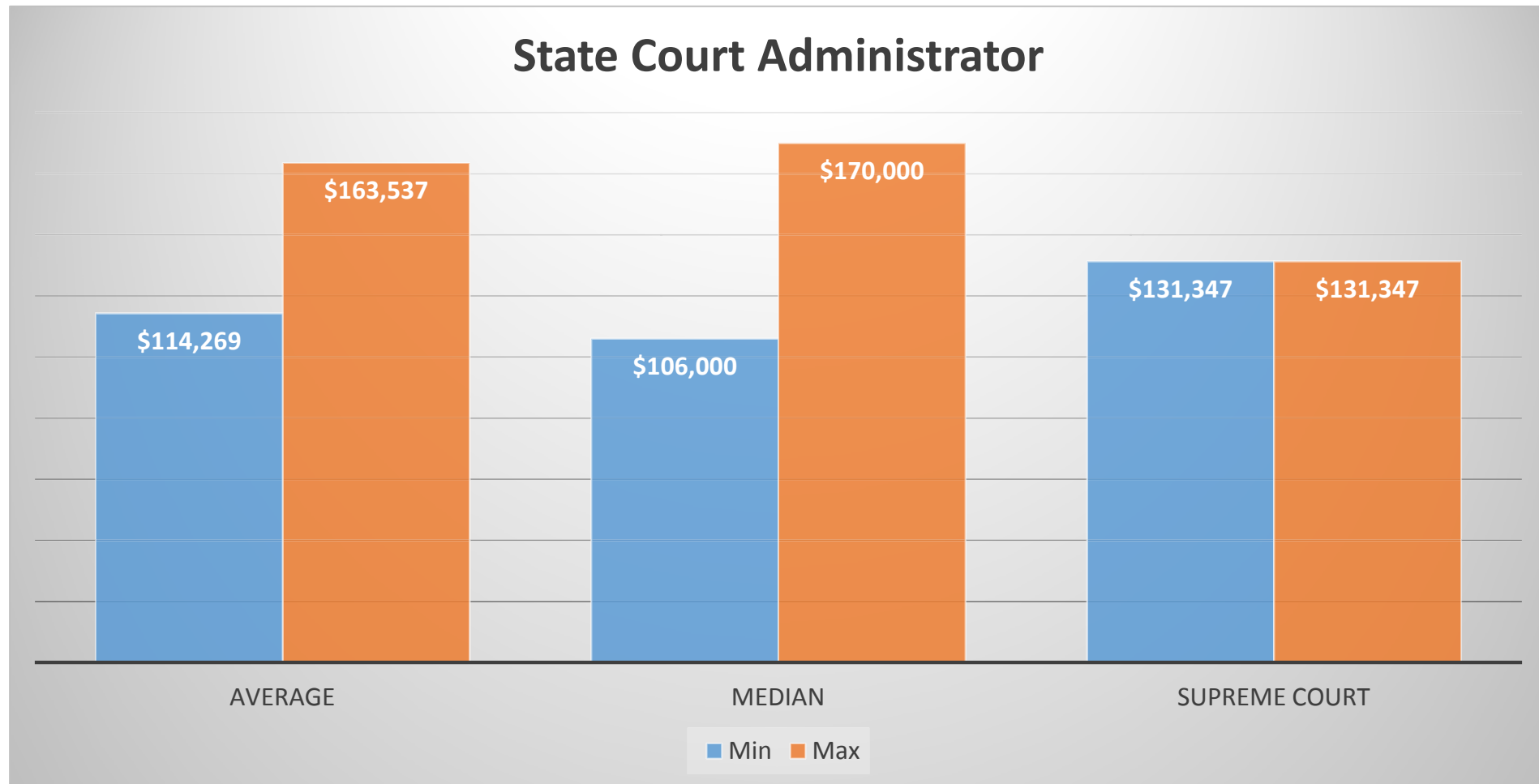
* represents positions on the Unclassified Pay Bill.

Unclassified Pay Bill Position Results

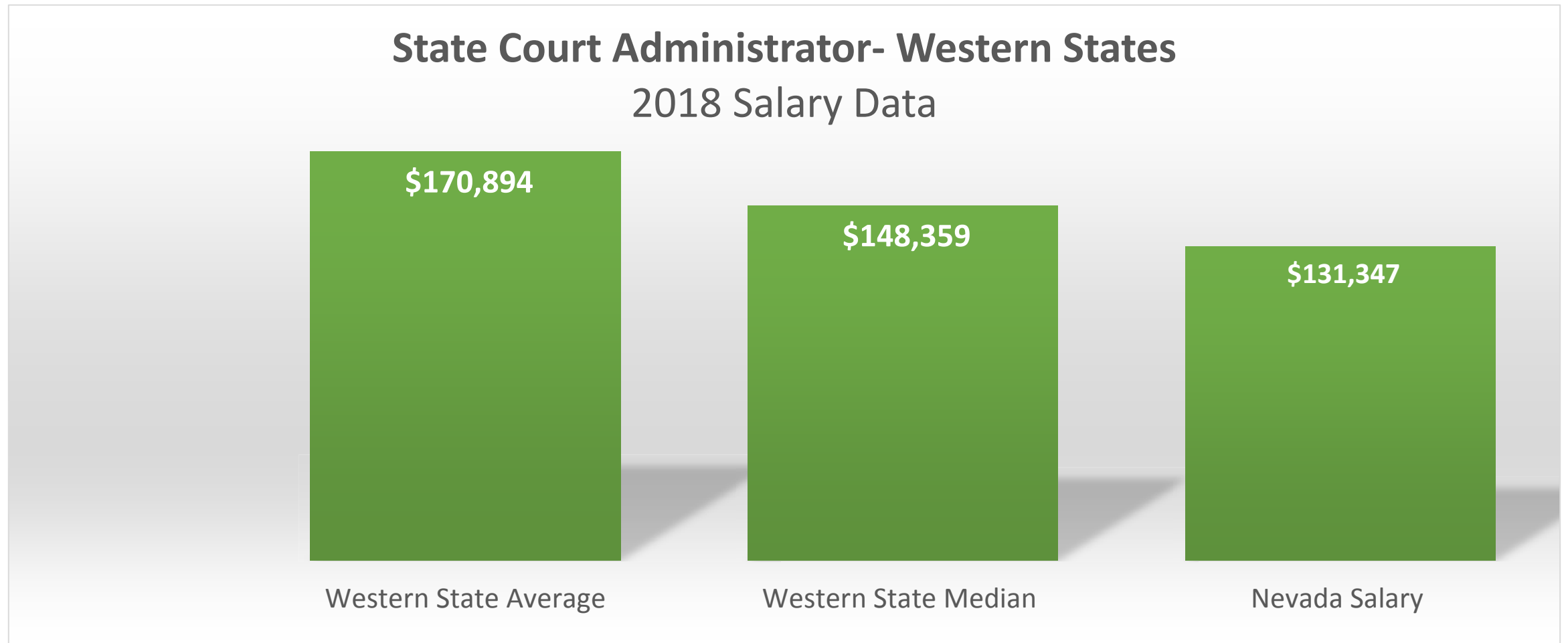
State Court Administrator



Unclassified Pay Bill Position Results

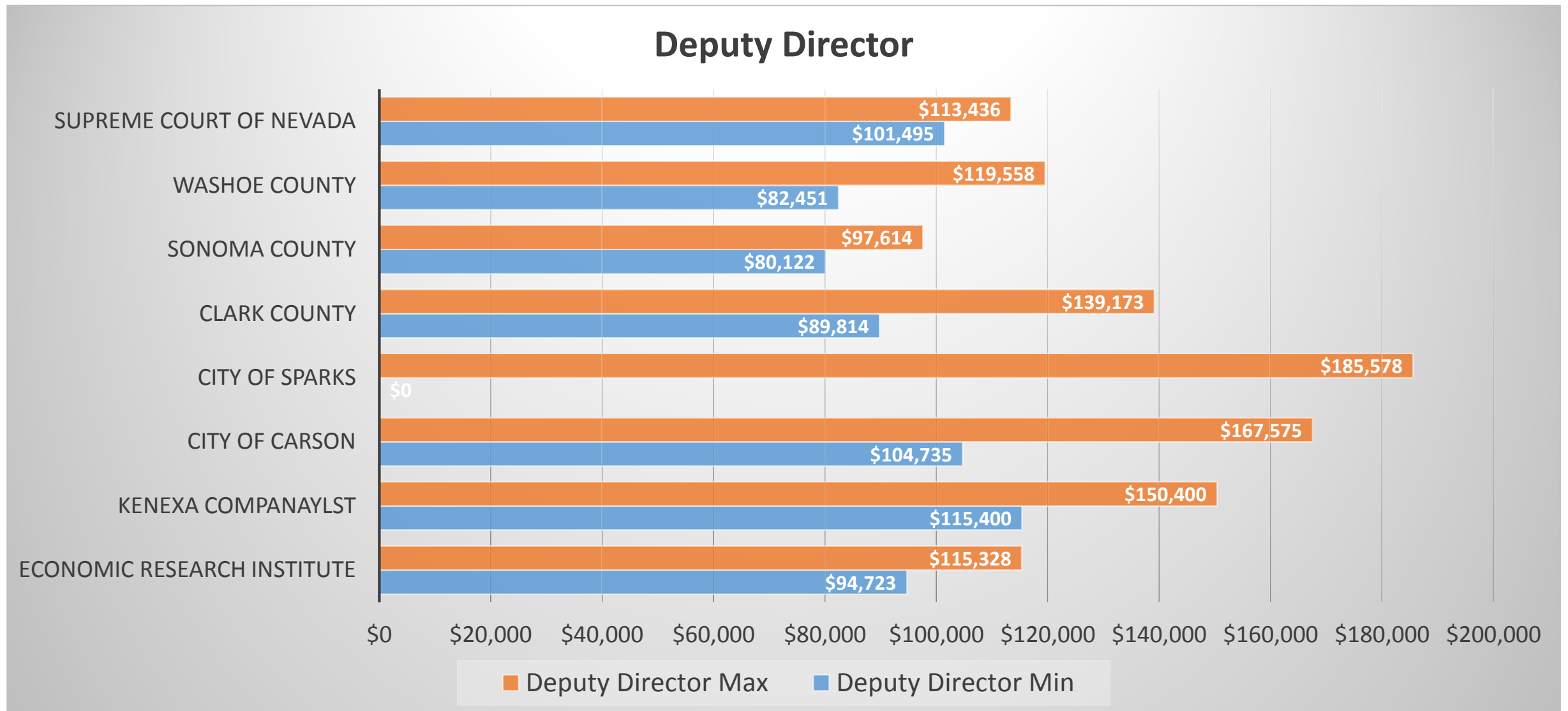


Supplemental Market Data Results

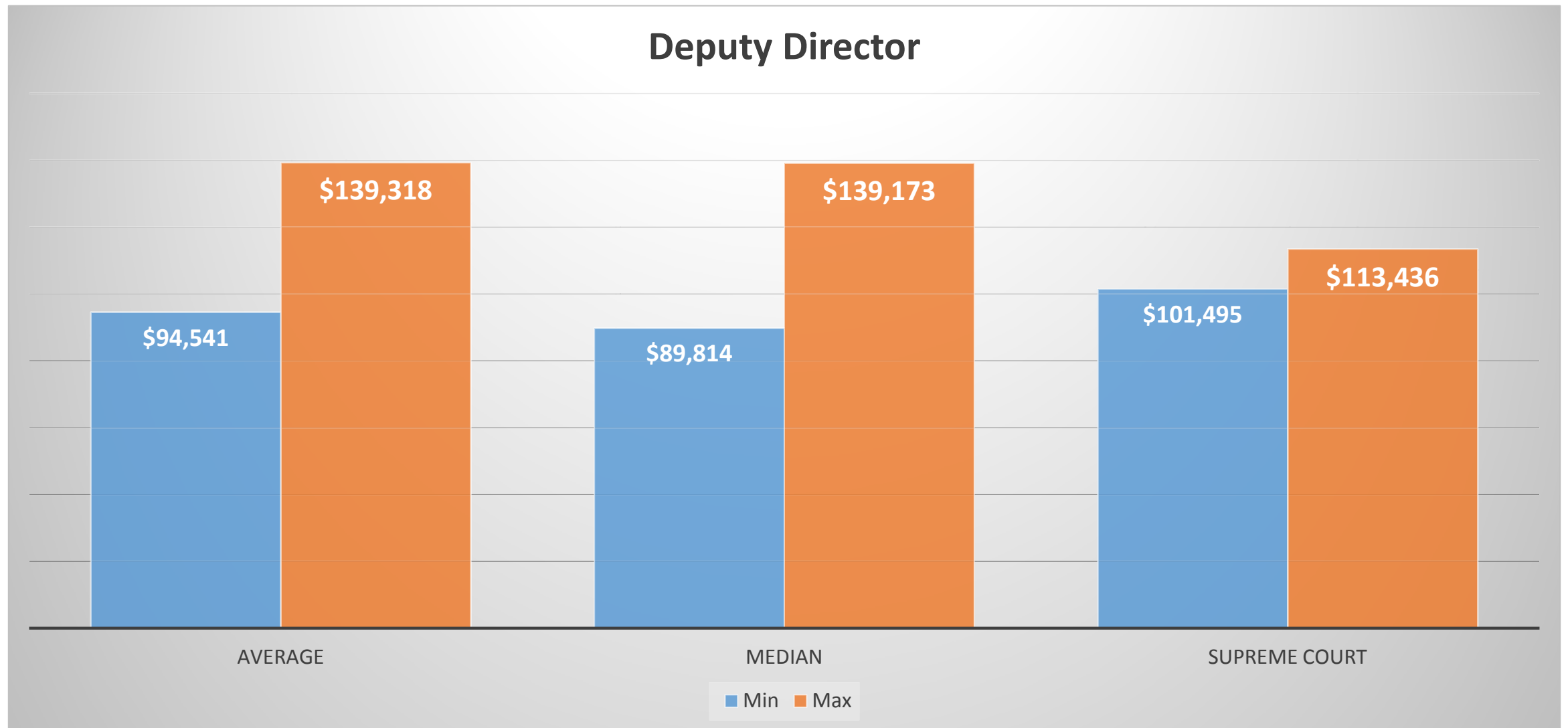


Salary data provided by the Nation Center for State Courts

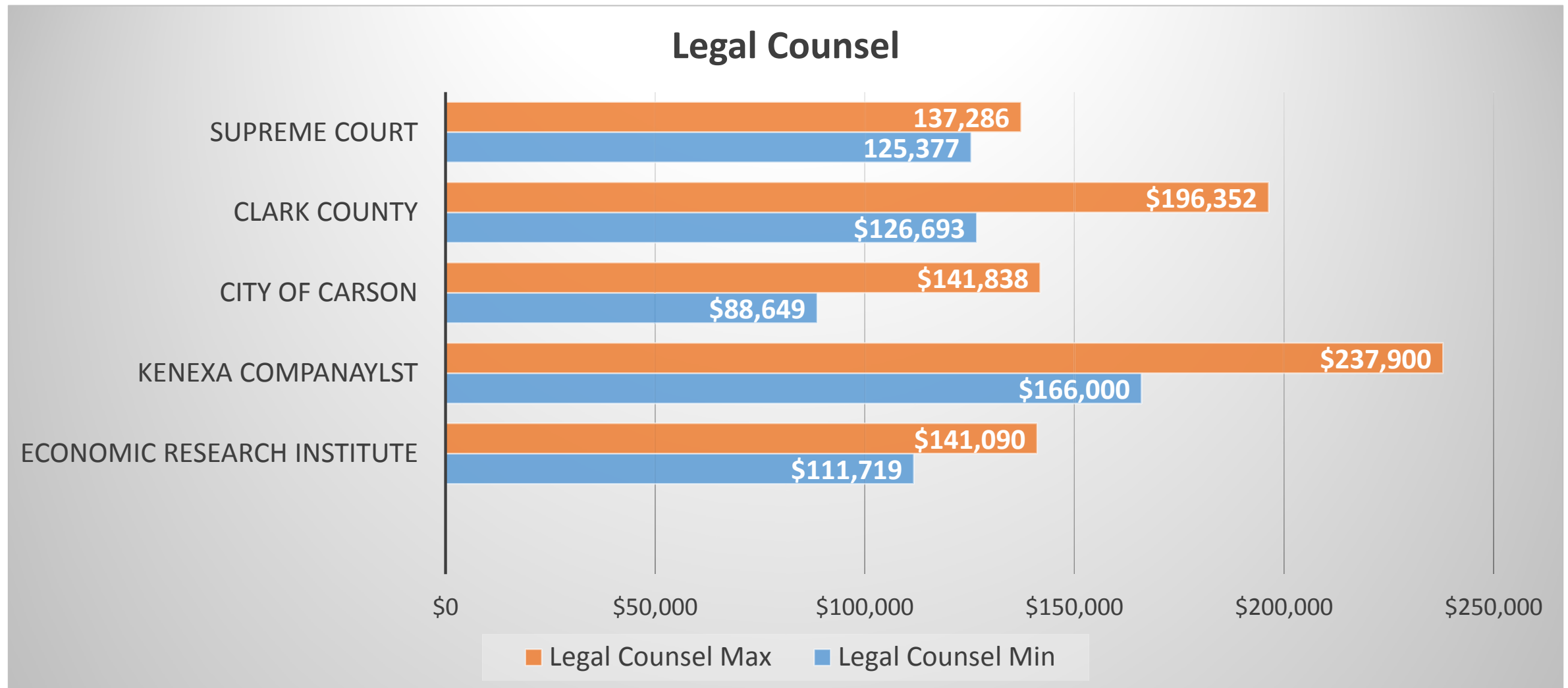
Unclassified Pay Bill Position Results



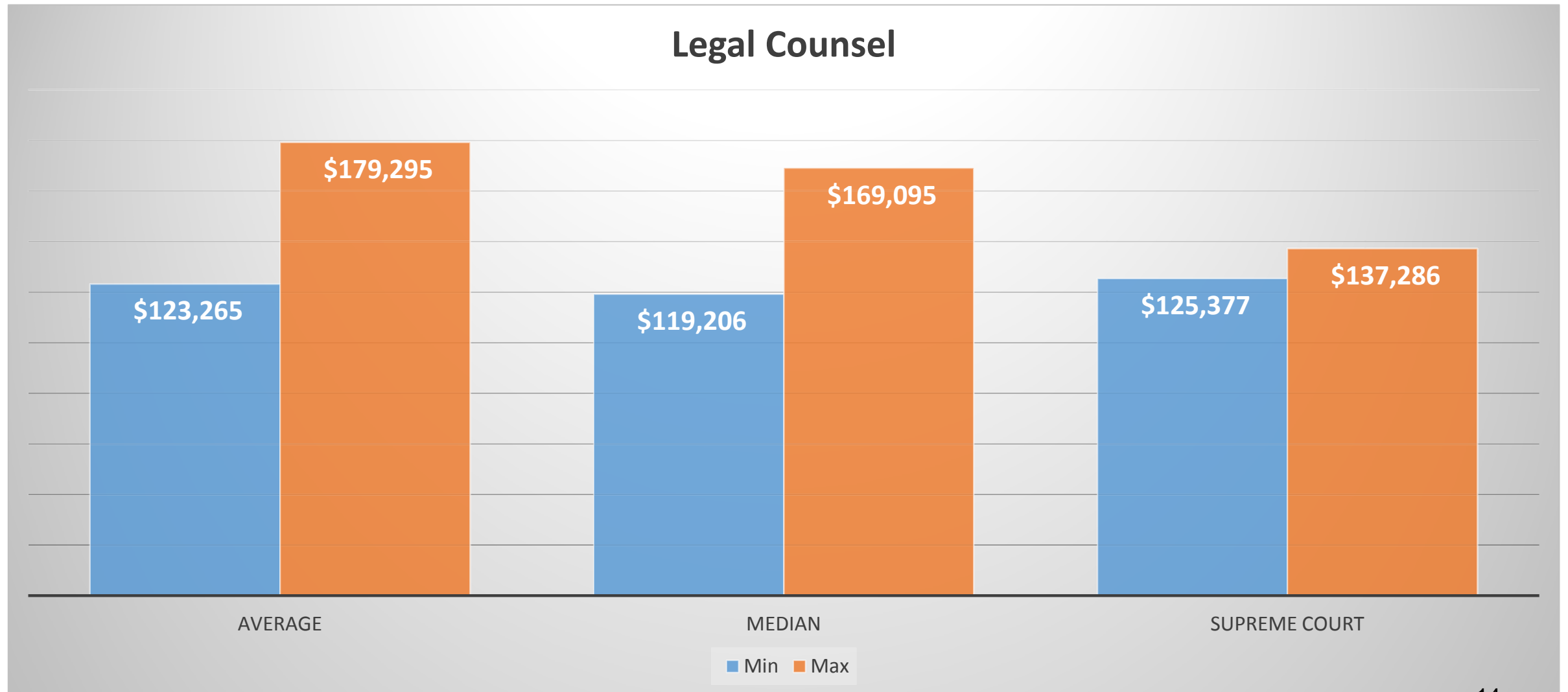
Unclassified Pay Bill Position Results



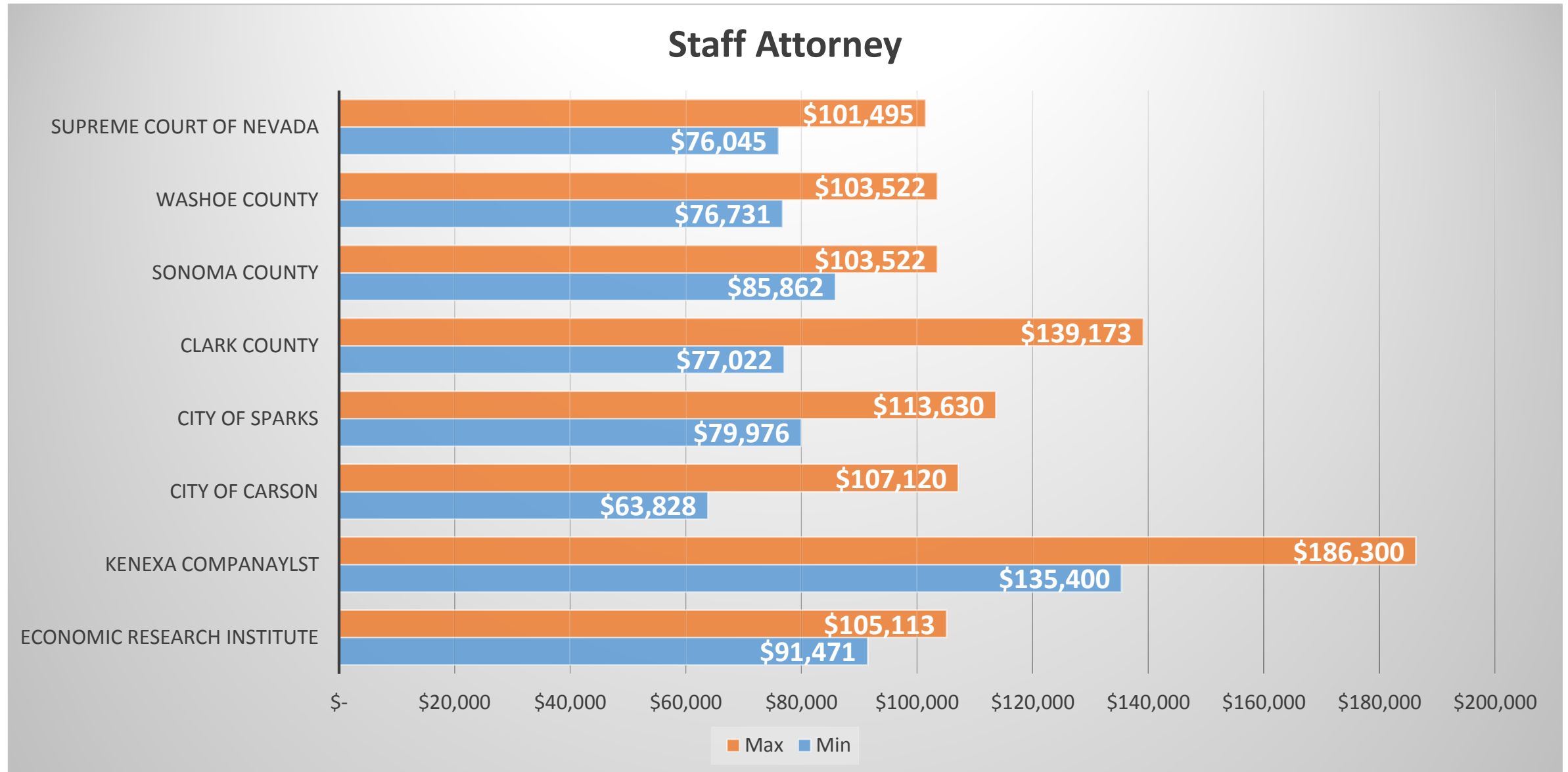
Unclassified Pay Bill Position Results



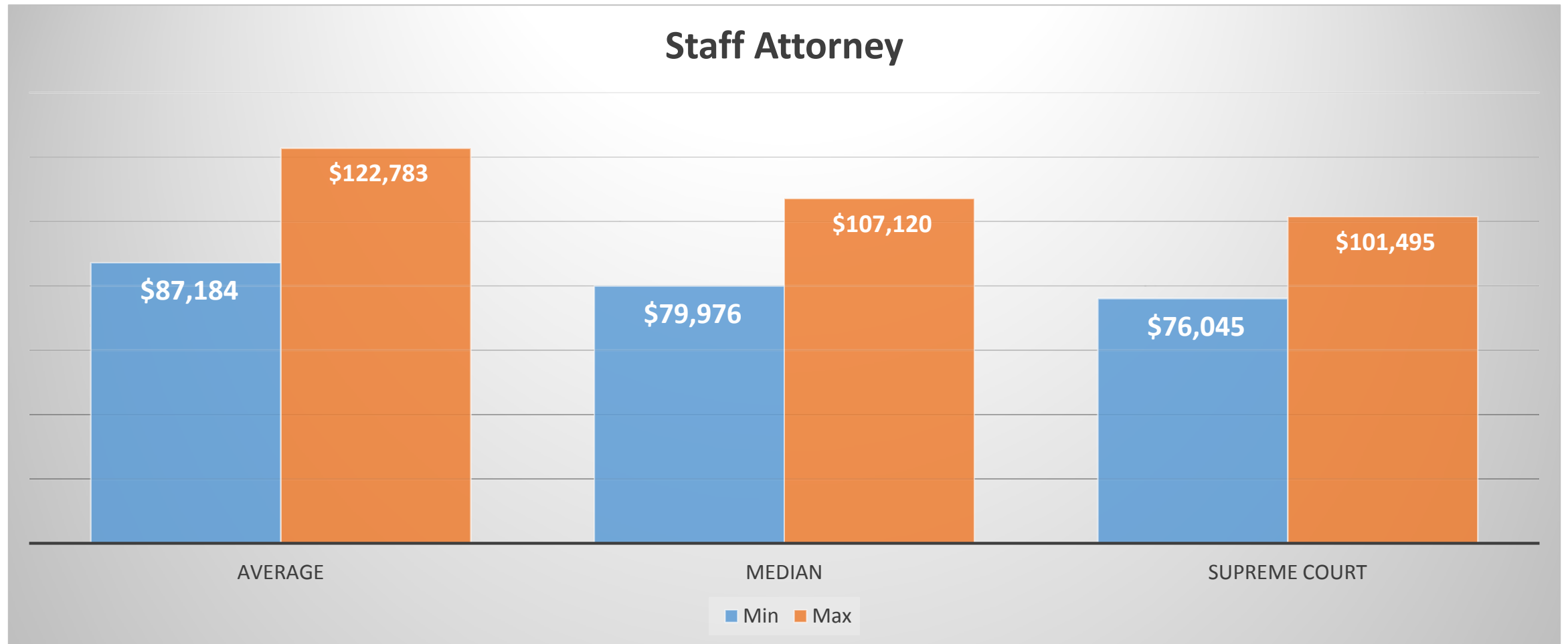
Unclassified Pay Bill Position Results



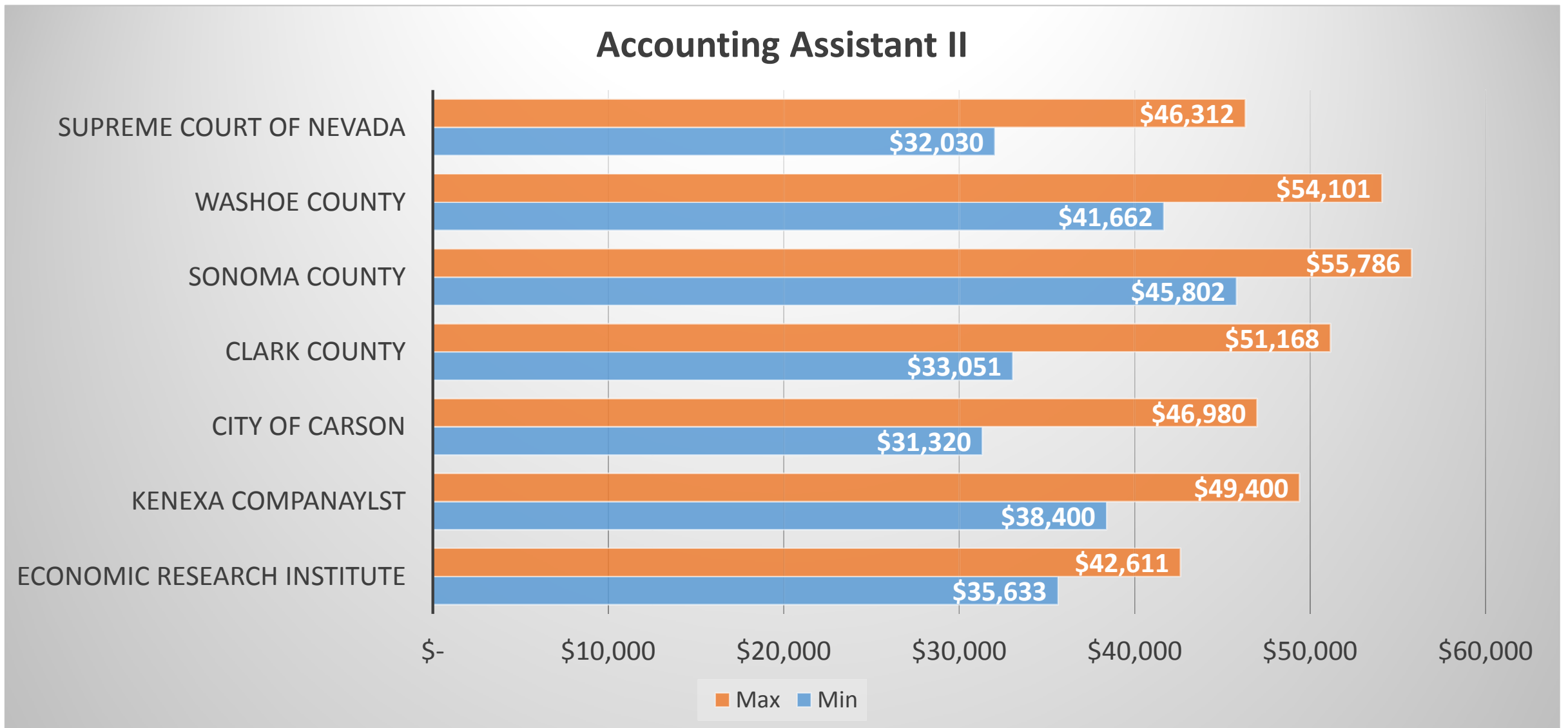
Unclassified Pay Bill Position Results



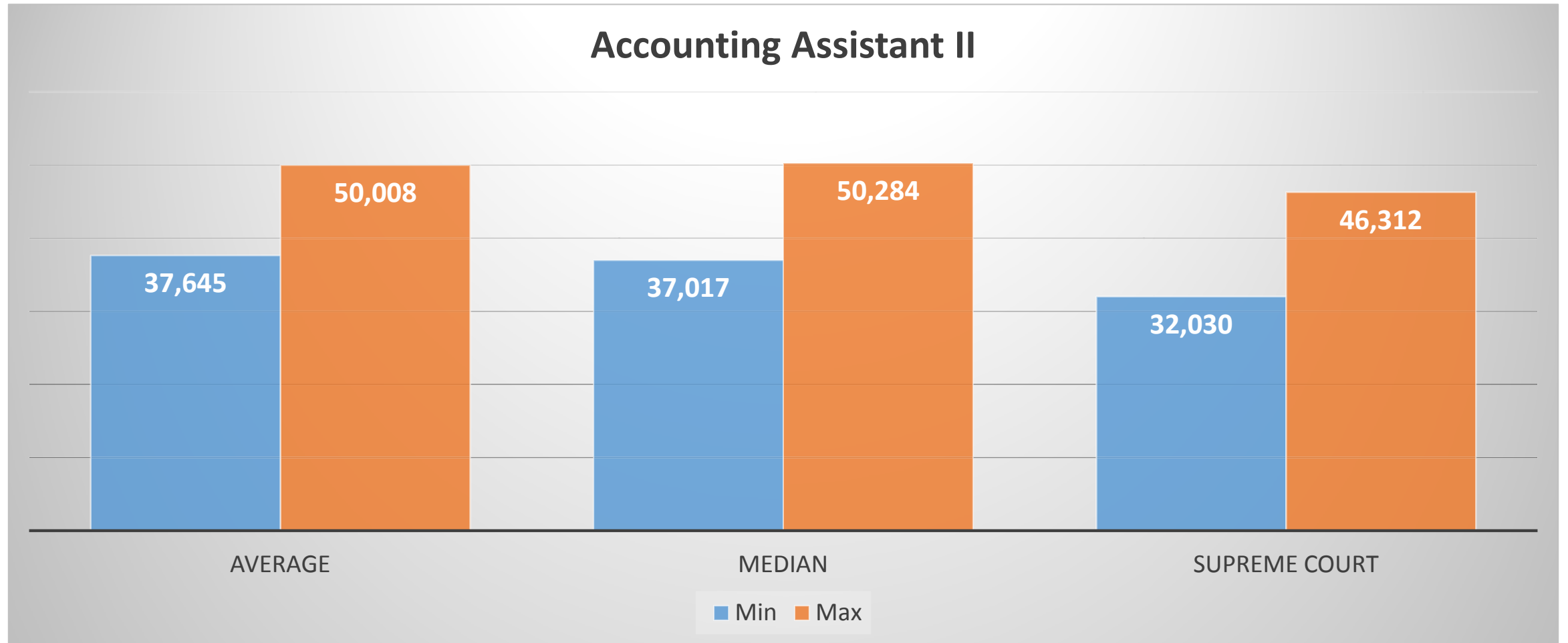
Unclassified Pay Bill Position Results



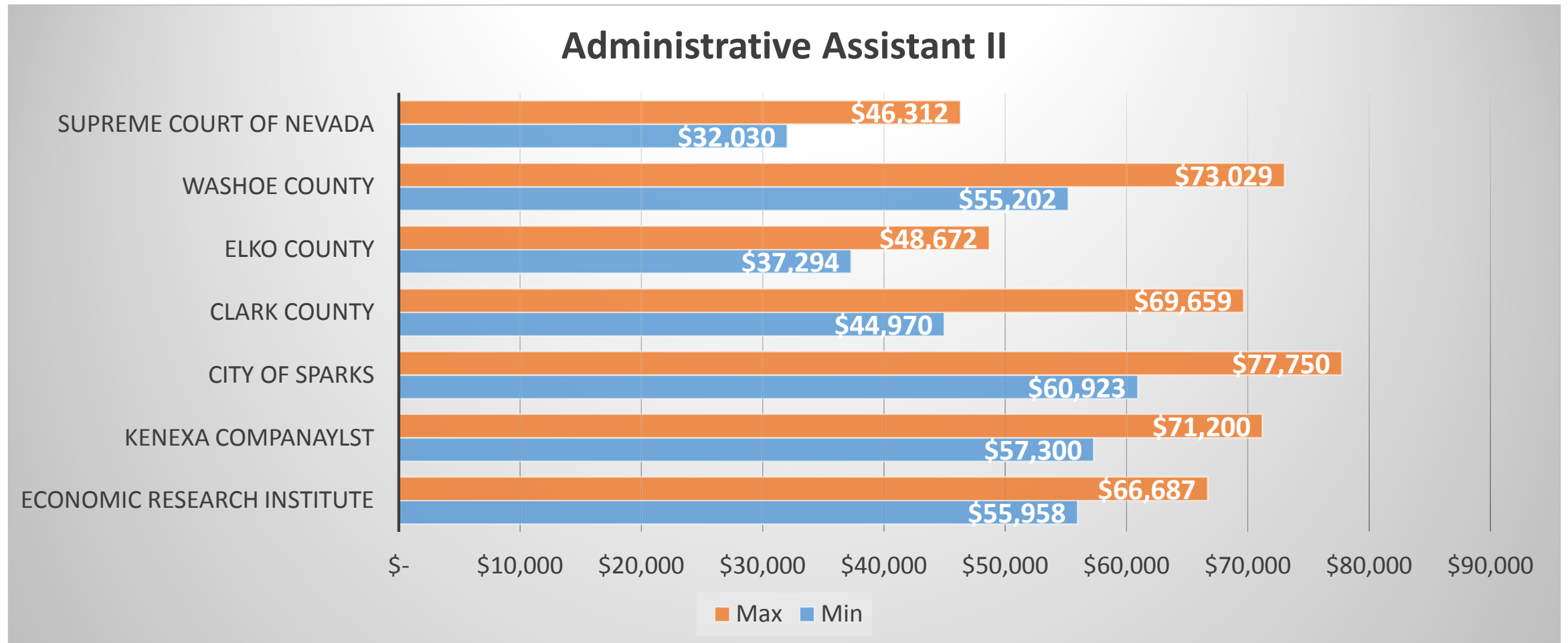
Non-classified Position Results



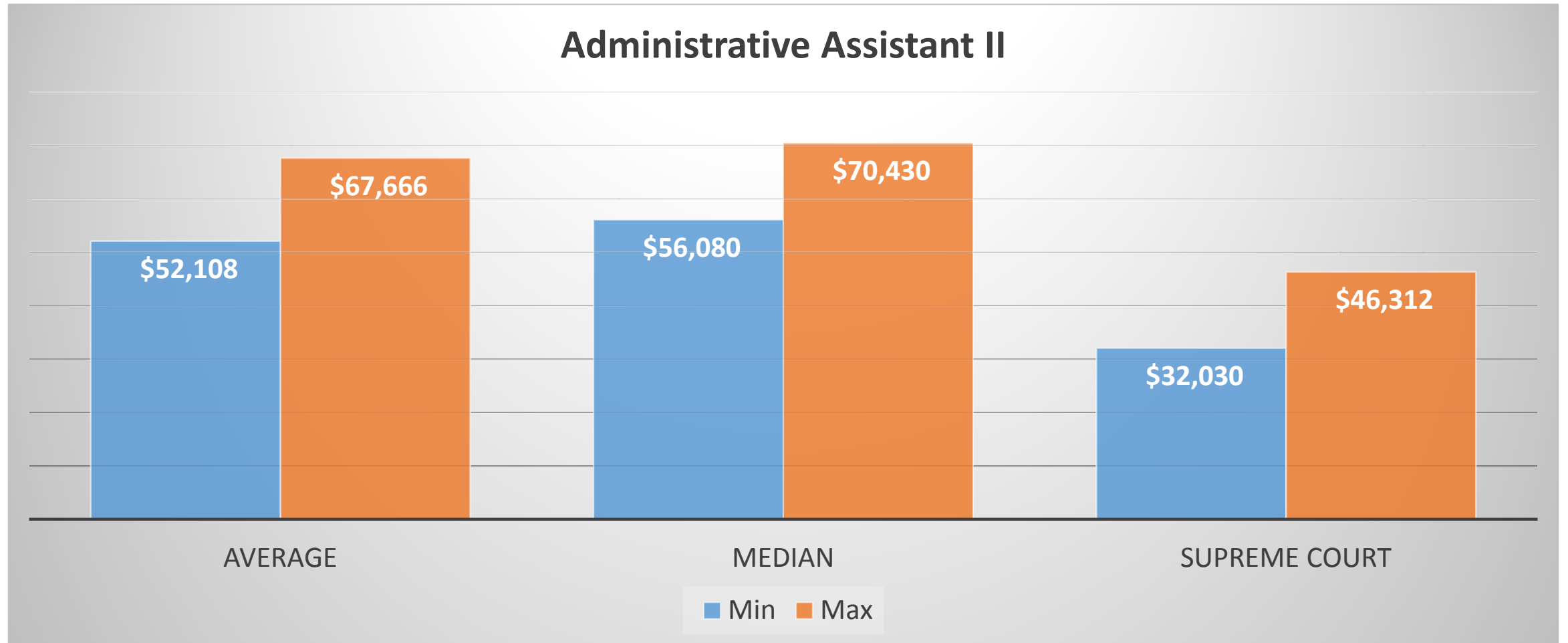
Non-classified Position Results



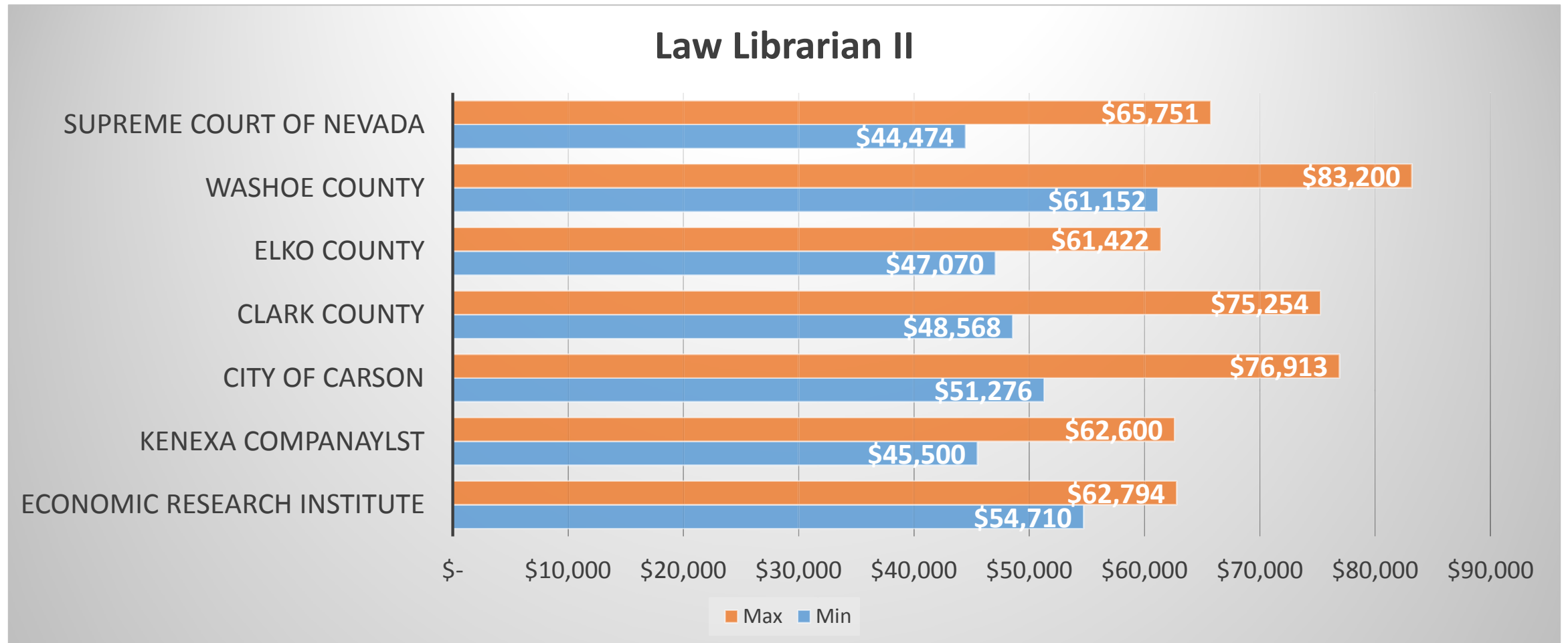
Non-classified Position Results



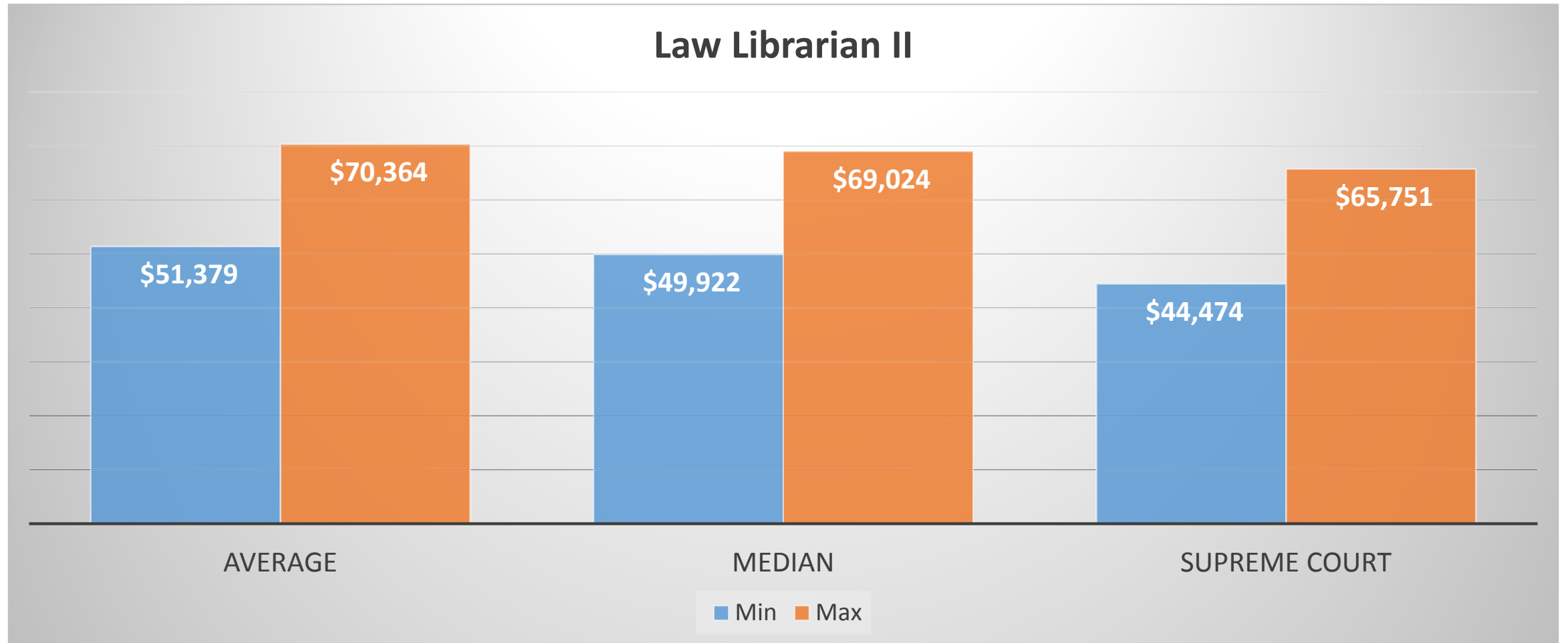
Non-classified Position Results



Non-classified Position Results



Non-classified Position Results

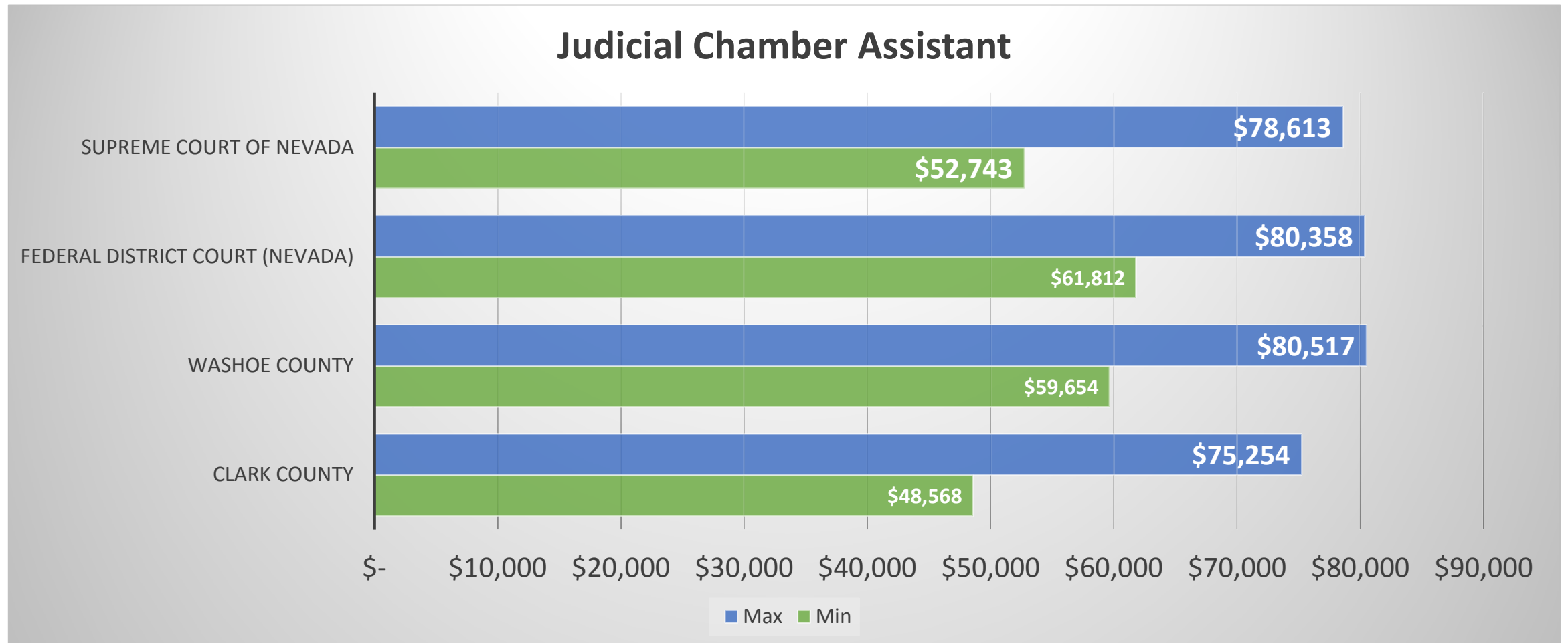


Supplemental Market Data

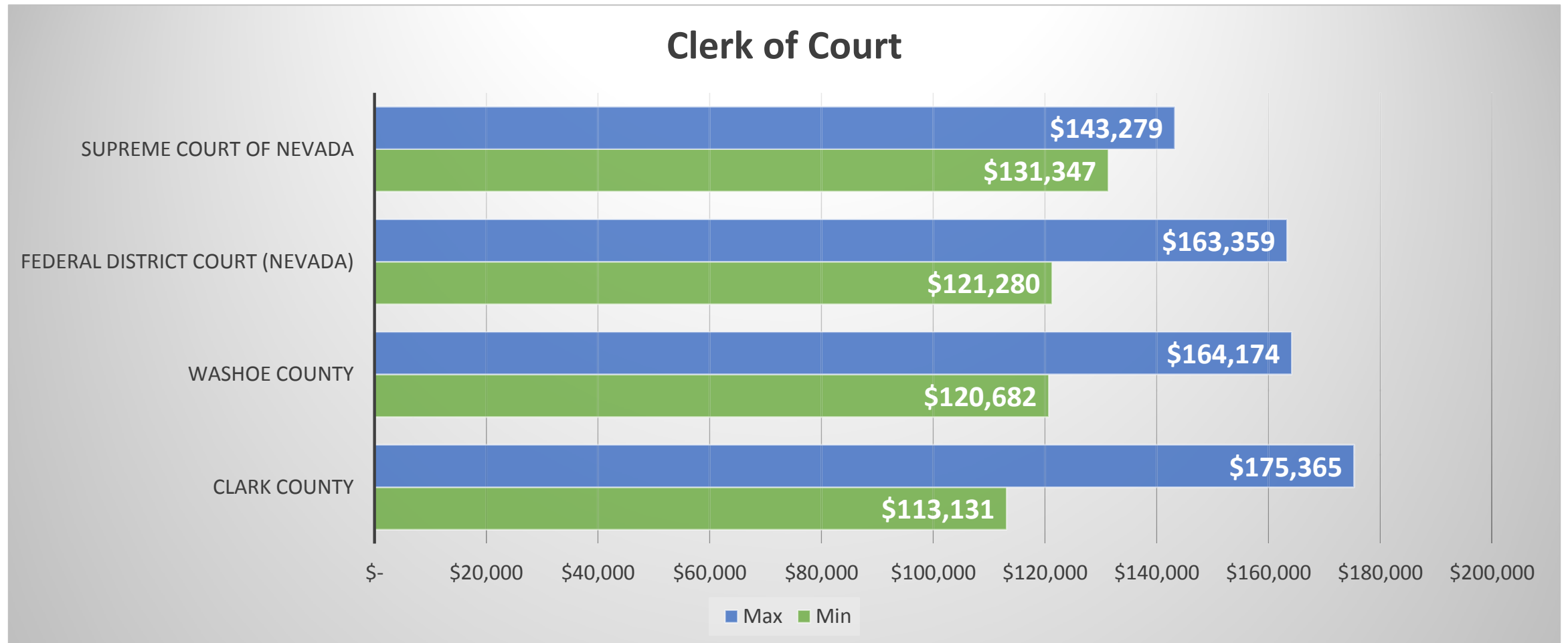
In addition to the Market Salary Survey from Trupp HR. The Supreme Court has surveyed the following jurisdictions, **Clark County, Washoe County, and The Federal District Court** for the positions of:

- Judicial Chamber Assistant
- Clerk of Court
- Law Clerk

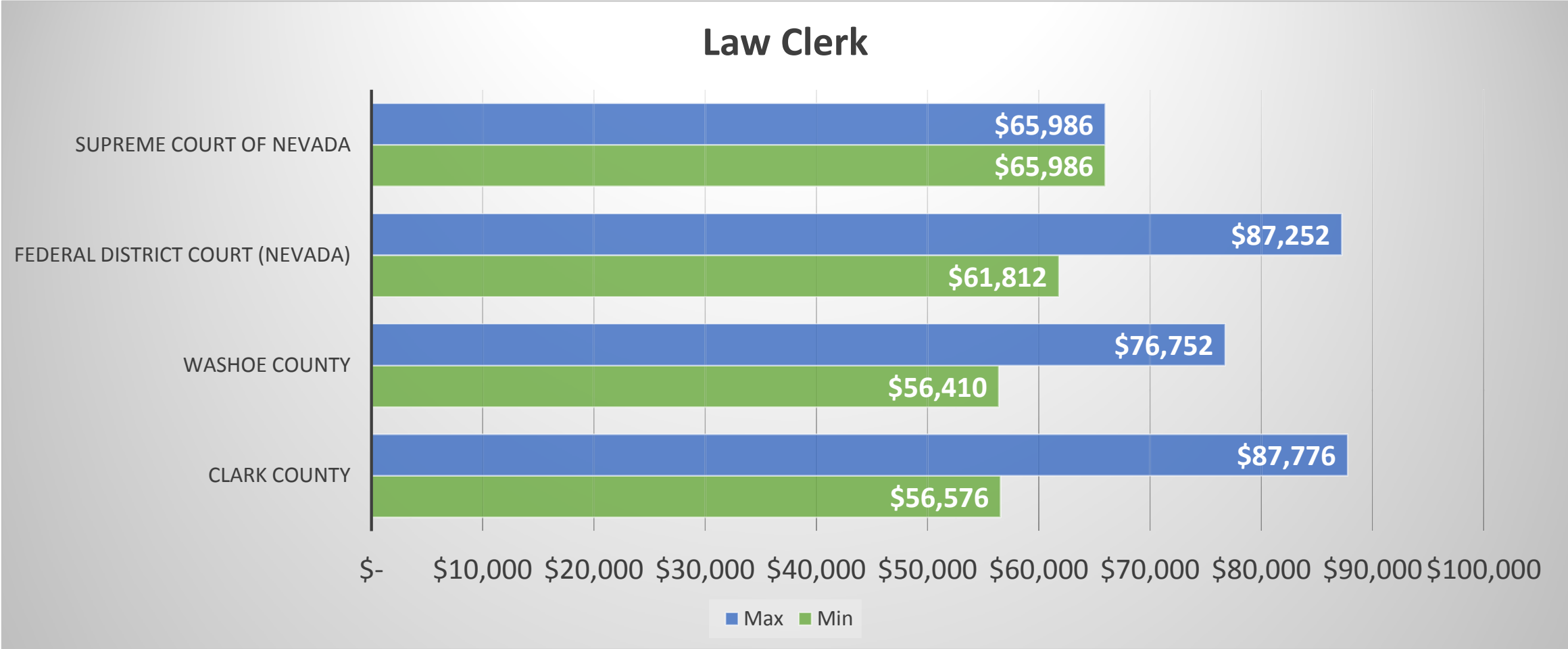
Supplemental Market Data Results



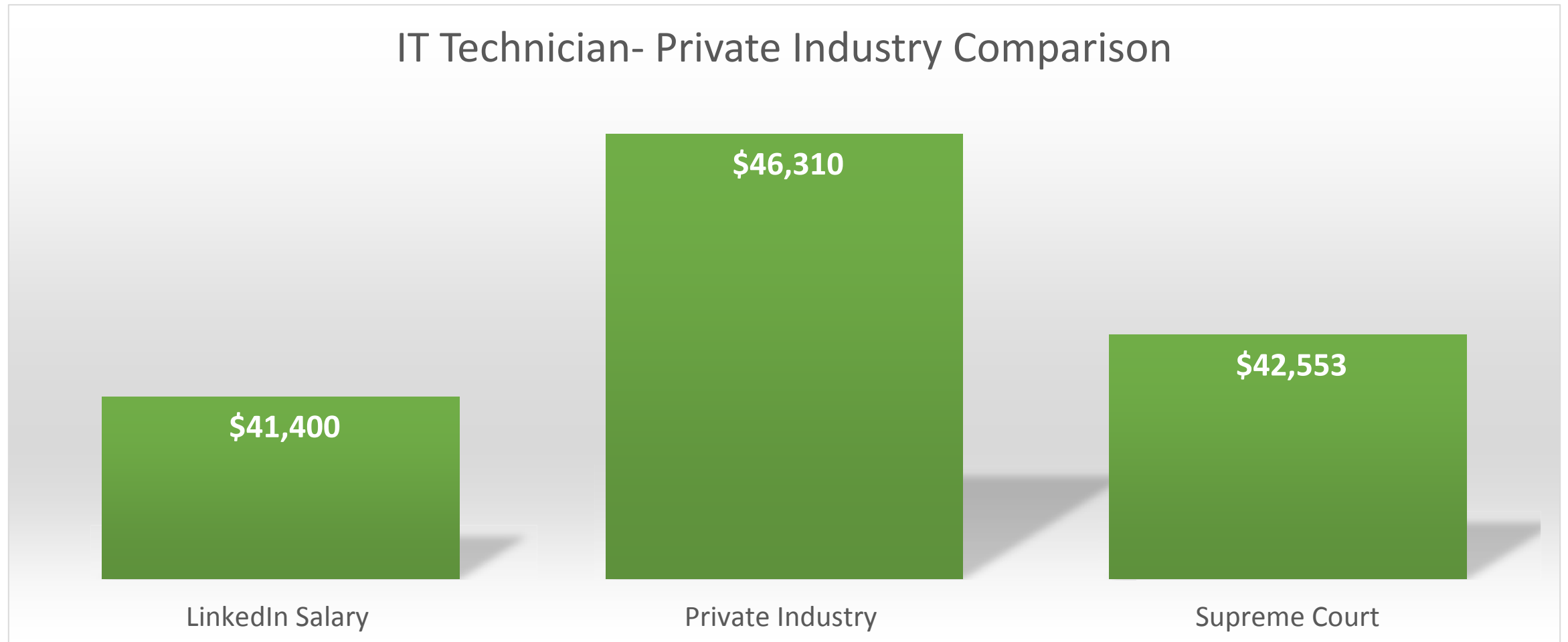
Supplemental Market Data Results



Supplemental Market Data Results



Supplemental Market Data Results



MINUTES OF THE JANUARY 31, 2018,
MEETING OF THE COMMITTEE TO STUDY
THE SALARIES OF CERTAIN POSITIONS IN THE
UNCLASSIFIED AND NONCLASSIFIED SERVICE OF THE STATE
(SCR 6, 2017 LEGISLATIVE SESSION)

The first meeting of the Committee to Study the Salaries of Certain Positions in the Unclassified and Nonclassified Service of the State (SCR 6, 2017 Legislative Session) was held at 1:00 p.m. on Wednesday, January 31, 2018, in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada with videoconference to Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada.

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator David Parks, Chair
Assemblywoman Maggie Carlton, Vice Chair
Senator Joyce Woodhouse
Assemblyman Chris Brooks

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator Pete Goicoechea
Assemblyman Al Kramer
Peter Long, Administrator, Division of Human Resource Management, Department of Administration

COMMITTEE MEMBERS EXCUSED:

None

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Jeff Ferguson, Senior Program Analyst
Mark Krmpotic, Fiscal Analyst, Senate
Cindy Jones, Fiscal Analyst, Assembly
Brenda Erdoes, Legislative Counsel
Becky Lowe, Fiscal Analysis Division Secretary

EXHIBITS:

- Exhibit A: Agenda
- Exhibit B: SCR 6, 2017 Legislative Session
- Exhibit C: Classified and Unclassified Employment, Division of Human Resource Management, Department of Administration
- Exhibit D: Unclassified Levels Pay Difference, Division of Human Resource Management, Department of Administration
- Exhibit E: Unclassified Levels Sorted by Tier, Division of Human Resource Management, Department of Administration
- Exhibit F: Letter from the Nevada Faculty Alliance, Dr. Kent M. Ervin, Ph.D.

Exhibit G: 2016 Salary and Benefits Study, Division of Human Resource Management, Department of Administration

Exhibit H: CY 2015 Unclassified/Nonclassified Turnover by Title

Exhibit I: CY 2016 Unclassified/Nonclassified Turnover by Title

Exhibit J: CY 2017 Unclassified/Nonclassified Turnover by Title

I. ROLL CALL.

Senator David Parks, Chair, called the meeting to order at 1:04 p.m. The secretary called roll and all members were present.

II. PUBLIC COMMENT.

Elizabeth “Betsy” Gonzales, District Judge, Department XI, Eighth Judicial District Court, testified as president of the Nevada District Judges Association. She said the District Judges were very happy to be included in the study. She offered to provide any information requested by the Committee.

III. ELECTION OF VICE CHAIR

SENATOR WOODHOUSE MOVED TO NOMINATE ASSEMBLYWOMAN CARLTON TO SERVE AS VICE CHAIR OF THE COMMITTEE. THE MOTION WAS SECONDED BY ASSEMBLYMAN BROOKS.

THE MOTION CARRIED UNANIMOUSLY.

IV. OPENING REMARKS BY THE CHAIR AND INTRODUCTIONS

Chair Parks said an in-depth look at salaries within the unclassified and nonclassified service was long overdue. He recalled the rigors of balancing the budget during the recent deep recession, and said now was a good time to look at how state employees were compensated. More importantly, the compensation system must be such that qualified employees were retained. He said the state did not want to be a training ground for employees to pursue opportunities elsewhere.

Chair Parks introduced himself as the state senator from Senate District 7. He said he had been a Nevada legislator for 22 years. His background was in public finance, but he had experience dealing with classification and compensation studies at the local government level. He asked the Committee members to introduce themselves.

Vice Chair Carlton said she had served in the Nevada Senate for 12 years and had been in the Nevada Legislature since 1999. She looked forward to working with the Committee on this issue, which needed to be addressed, but had been lying dormant.

Assemblyman Brooks, who represented Assembly District 10, said it was his second year in the Nevada Legislature. He looked forward to working on this important subject.

Senator Woodhouse said she represented Senate District 5, which was a large portion of Henderson and unincorporated Clark County. She served as chair of the Senate Committee on Finance during the 2017 Legislative Session, and had served on that committee in previous sessions. She said it was very apparent that state employees were carrying the brunt of the budget cuts made during the recession. She said during the 2017 Legislative Session, it became clear to her that there were a number of inequities within the salary structure for state employees, so she was glad that the study was moving forward.

Senator Goicoechea said he represented Senate District 19, the eastern half of the state, including five rural counties, and a part of rural Clark County as well. He had been a member of the Nevada Assembly for ten years, and was in his sixth year in the Nevada Senate. He was involved in local government prior to serving in the Legislature, and had experience with salary bills for classified and unclassified staff, and elected officials, over the last 32 years. He looked forward to working on the salary survey, which was the key to retaining quality employees.

Assemblyman Kramer said he represented Assembly District 40, which included Carson City and southeast Washoe County. He was looking forward to learning and contributing to the Committee.

Mr. Peter Long, Administrator, Division of Human Resource Management (DHRM), Department of Administration, said he was available to provide any assistance the Committee required in performing the review.

Jeff Ferguson, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), said he would be providing support to the Committee. He introduced Mark Krmpotic, Senate Fiscal Analyst, Cindy Jones, Assembly Fiscal Analyst, and Brenda Erdoes, Legislative Counsel.

V. REVIEW OF THE DUTIES AND RESPONSIBILITIES OF THE COMMITTEE TO STUDY THE SALARIES OF CERTAIN POSITIONS IN THE UNCLASSIFIED AND NONCLASSIFIED SERVICE OF THE STATE

Jeff Ferguson, Senior Program Analyst Fiscal Analysis Division, LCB, said the Committee was formed pursuant to Senate Concurrent Resolution 6 (SCR 6) (Exhibit B), 2017 Legislative Session. He said SCR 6 recognized that there was a Commission to Review the Compensation of Constitutional Officers, Legislators, Supreme Court Justices, Judges of the Court of Appeals, District Judges and Elected

County Officers created by NRS 281.1571. That committee made recommendations concerning the appropriate salaries to be paid to elected officers. In addition, NRS 284.175 directed the Administrator of the DHRM to make recommendations to the Legislature concerning the appropriate salaries to be paid to employees in the classified service of the state. He said there was not a vehicle for unclassified and nonclassified positions to be reviewed, and that was the purpose of this Committee. He noted Peter Long, Administrator, DHRM, would present information outlining the difference between classified, unclassified and nonclassified positions.

Mr. Ferguson said the resolution directed the Committee to conduct an interim study concerning the appropriate salaries for certain positions in the unclassified and nonclassified service of the state. The study must include the following:

1. A review of any position within the Judicial Department of the State Government, the Commission on Ethics, the Nevada Gaming Control Board, the Public Utilities Commission of Nevada and any other department, commission or agency of the State of Nevada as determined by the Committee;
2. A selection of the positions in the unclassified and nonclassified service of the state in each department, commission or agency of the State of Nevada which were to be included in the interim study;
3. A review of the salary paid to the state officer or employee in each position selected for review by the Committee; and
4. A market salary analysis for each position selected for review by the Committee to be performed in a manner determined by the Committee.

Mr. Ferguson said SCR 6 required that, in conducting the interim study, the Committee may consider whether any position currently designated as within the classified, unclassified or nonclassified service of the state should be redesignated. In addition, any recommended legislation proposed by the Committee must be approved by a majority of the members of the Senate and a majority of the members of the Assembly appointed to the Committee. The Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the 80th Session of the Nevada Legislature.

Mr. Ferguson said the meeting would include presentations on what kinds of positions might be studied; there would be a discussion of agencies that were performing their own studies, such as the Courts; and, there would be a discussion about positions within the Nevada System of Higher Education (NSHE).

Mr. Ferguson said the Committee could select positions to start a review of a market salary analysis. He noted the DHRM, in its regular course of business in performing a market analysis survey of classified positions, could concurrently perform an analysis of unclassified and nonclassified positions.

Chair Parks recalled discussion during the budget hearings of the 2017 Legislative Session about a review of unclassified and nonclassified positions in other state agencies. He asked if some of those positions might be included in the analysis.

Mr. Ferguson said some of the positions discussed during the 2017 Legislative Session may be included in the meeting material, but, ultimately, the Committee may select any positions that it wishes for review. He noted that the Committee was limited to four meetings. In addition, there was no budget for surveys or analysis, but the DHRM agreed to take on that role. There was not a broad capacity to survey lots of positions. The Committee would select the positions that needed consideration at this point in time.

Chair Parks agreed that no funding had been provided to the Committee to contract for services to perform the review. The Committee would rely upon services that could be provided by other agencies.

VI. PRESENTATION ON UNCLASSIFIED AND NONCLASSIFIED POSITIONS WITHIN THE STATE

Cassie Moir, Deputy Administrator, DHRM, Department of Administration, provided a brief overview of classified, unclassified and nonclassified service to the state.

Ms. Moir said, pursuant to NRS 284.150, the classified service of the State of Nevada was comprised of all positions in the public service now existing or hereafter created that were lawfully designated as being in the classified service, and filled according to merit and fitness from eligible lists prepared upon the basis of examination. She explained that compensation for classified positions was based on a grade and step system, which was classified according to the following factors: nature and complexity of work; required knowledge, skills, and abilities; supervisory/managerial responsibility; independence/supervision received; scope of responsibility/consequence of error; authority to take action/decision making; and personal contacts. Classes similar in scope and complexity, etc., warranted similar compensation.

Ms. Moir explained that pursuant to NRS 284.140, the unclassified service of the state consisted of the following state officers or employees in the Executive Department of the State Government who received annual salaries for their services:

1. Members of boards and commissions, and heads of departments, agencies and institutions required by law to be appointed.

2. Except as otherwise provided in NRS 223.085, 223.570 and 223.600, all persons required by law to be appointed by the Governor or heads of departments or agencies appointed by the Governor or by boards. For example, Deputy Directors, Administrators, Deputy Administrators, attorneys, executive assistants, and professionals with specialized skills.
3. All employees other than clerical in the Office of the Attorney General and the State Public Defender required by law to be appointed by the Attorney General or the State Public Defender.

Ms. Moir explained that nonclassified staff was comprised of employees in the Office of the Governor, or the Judicial or Legislative Branch. Pay was not set by the Legislature or DHRM, but rather a pool of money was granted for salaries and pay was determined by the appointing authority.

Chair Parks recalled a discussion about how the positions in the boards and commissions fit into position classifications. Ms. Moir said several board chairs were in the unclassified service.

VII. PRESENTATION ON SALARY STRUCTURES WITHIN THE UNCLASSIFIED SERVICE OF THE STATE

Cassie Moir, Deputy Administrator, DHRM, Department of Administration, explained that compensation for unclassified service was handled differently from classified service. Maximum salaries for the unclassified positions were set by the Legislature in the pay bill. Over the past three to four legislative sessions the agencies have contacted the DHRM prior to the legislative session for compensation recommendations for their requested unclassified positions so that they could be included in the budgeting process. Prior to that, the agencies would plug a number into their budget calculations, the request would go through the budget process, and would be either approved or disapproved by the Legislature.

Ms. Moir explained, once approved by the Legislature, unclassified positions were assigned to a tier within the existing tier structure; for example, Director was assigned to tier 1, Deputy Director was assigned to tier 2. She said there were 13 tiers within the unclassified tier structure, as well as an additional section for professionals with specialized skills that did not meet the criteria an existing tier.

Ms. Moir said that some professional positions with specialized skills did not fit neatly into the tier structure; for example, a power facility communications technician.

Ms. Moir said, for the classified services, the current market salary survey process involved choosing a representative sample of 25 to 30 “benchmark” positions in the classified service, and surveying other public and private employers for wage ranges for positions for which there was a match. Over the last 5 to 6 biennia, the DHRM surveyed for positions whose salaries were identified as being 25 to 30 percent below

market; for example, firefighters, administrative assistants, accounting assistants, professional engineers, personnel analysts, IT professionals, social workers, registered nurses, compliance investigators and Department of Public Safety officers. For that process, the DHRM Compensations Analyst included a brief description of the benchmark positions and the responding parties provided compensation information for positions in their agencies they thought were comparable. The responses were aggregated to compare the state's current compensation structure for the benchmark positions with the responses from the public and private employers in Nevada and other states.

Ms. Moir reported that the response rate from both private and public employers had steadily decreased over the last decade due to lack of manpower or other factors. The market surveys were not conducted for unclassified positions as job descriptions and class specifications were not maintained by the DHRM. She noted the statute related to surveys was specific to classified positions only.

In response to a question from Senator Goicoechea, Ms. Moir explained that tier levels for new unclassified positions were determined by DHRM staff, which used the position's title and pay to determine the appropriate tier. Senator Goicoechea asked if there was an appeal process. Ms. Moir replied that there was no appeal process for that decision.

Chair Parks noted that the Committee members received a handout showing the current pay policy for unclassified service sorted by tier and description (Exhibit E).

Mr. Ferguson said the handout, which was provided by the DHRM, showed the positions and the associated salaries in each of the 13 tiers (Exhibit E, pages 1 through 8). He noted those salaries were approved in the unclassified pay bill. He said on the bottom of page 8 began a list of professionals either with specialized skills, or currently unclassified. He said that list was a mish-mash of different positions that did not fit nicely into one of the tiers. He believed these positions were most in question in terms of how the salaries were set and whether the salaries were equitable. He noted there were quite a few different positions. He said the Committee may want to focus on those positions.

In response to a question from Chair Parks, Ms. Moir explained that the term "pay policy" was used historically to describe the different pay schedules.

Peter Long, Administrator, DHRM, Department of Administration, explained further that pay policy 10 was for unclassified service on the employee/employer retirement plan, and pay policy 11 was for unclassified employees on the employer paid retirement plan. He noted that the employee/employer retirement plan differed in that 13 percent was deducted from the employee's pay for retirement. Under the employer paid retirement, the employee did not contribute anything directly from their paycheck, but instead received a reduced salary in order for the state to make that contribution.

VIII. PRESENTATION ON CURRENT MARKET SALARY ANALYSIS FOR THE SUPREME COURT FUNDED BY THE 2017 LEGISLATURE

Nevada Supreme Court Justice Mark Gibbons said Chief Justice Michael Douglas and Robin Sweet, Court Administrator, were not available to attend the Committee meeting, because the Nevada Supreme Court was hosting a conference of chief justices throughout the United States and its territories being held at Lake Las Vegas in Henderson.

Justice Gibbons said the Nevada Supreme Court had started its market salary survey as previously discussed by the Committee and representatives of LCB. He said McKenna McCormack, Personnel Officer, Nevada Supreme Court would give a status report.

McKenna McCormack, Personnel Officer, Nevada Supreme Court, said the market salary survey was in the final stages. She said the Nevada Supreme Court hired a human resources contractor to perform the survey. Fifteen classified and nonclassified staff positions throughout the court were selected for the survey. The positions were compared to similar positions in six counties. In addition, the contractor had a database comprised of aggregated salary information that included factors like the size of the organization, industry, and organization affiliations. Ms. McCormack said she was working with the contractor to finish the survey, and she hoped it would be completed in February 2018, after which it would be presented to the Committee.

Assemblywoman Carlton asked how the salary survey would be incorporated with the survey being performed for the Committee by the DHRM.

Ms. McCormack explained that the Nevada Supreme Court started its market salary survey in the fall of 2017, before they knew the Committee would be formed.

Assemblywoman Carlton said she would hate for the work to be performed twice. She asked if outside verification would be needed if that information were to be incorporated into the Committee's report.

Chair Parks agreed that there was neither the time nor the resources to replicate the work.

Mr. Ferguson said, during the 2017 Legislative Session, there was a decision unit in the Nevada Supreme Court's budget to provide some funding to perform its own market salary analysis. That was the study referenced by Ms. McCormack. He said the Nevada Supreme Court could present its findings to the Committee at a subsequent meeting, at which time the Committee could ask questions about the study. If the Committee wished, the recommendations of the Nevada Supreme Court study may be included in the recommendations of the Committee. He noted that the report would be presented by the Nevada Supreme Court to the Nevada Legislature as well.

Senator Woodhouse asked for the timeline for the completion of the Nevada Supreme Court's market salary analysis. Ms. McCormack said most of the data had been received from the vendor. After the final touches were made, the analysis must go to the Court for its review. She said that the Court was very near to completion of its analysis.

Justice Gibbons said the Nevada Supreme Courts goal was initially to have the analysis ready for today's Committee meeting. He had reviewed the data with Ms. Sweet and Ms. McCormack, but the information had not yet been submitted to the Justices for their review. He noted that some of the Nevada Supreme Court staff members were relieved from their normal job activities to participate in the host activities for the conference of chief justices.

Assemblyman Kramer said he understood that the Nevada Supreme Court's market salary analysis was comparing other public and private sector legal organizations of similar size. He asked how the private sector salaries and job descriptions would be used to compare to a judge's position.

Ms. McCormack noted that the City of Carson, City of Sparks, Clark County, Elko County, Washoe County and Sonoma County, California were selected for comparison. She did not have information as to the entities that comprised the vendor's database, other than they were "like entities," but the entities could be courts in other cities.

Assemblyman Kramer asked how private sector salaries were compared to public sector salaries. Ms. McCormack clarified that private sector salaries were not used for comparison in the market salary analysis.

IX. DISCUSSION OF UNCLASSIFIED POSITIONS AND SALARY STRUCTURES WITHIN THE NEVADA SYSTEM OF HIGHER EDUCATION

Jeff Ferguson, Senior Program Analyst Fiscal Analysis Division, LCB, said NRS 284.140 defined the composition of unclassified service. Subsection 4 indicated that, except as otherwise provided by the Board of Regents of the University of Nevada pursuant to NRS 396.251, officers and members of the teaching staff and the staff of the Agricultural Extension Department and Experiment Station of the Nevada System of Higher Education, or any other state institution of learning, and student employees of these institutions would be unclassified positions.

Mr. Ferguson noted, in speaking with LCB Legal Division staff, and Christine Casey, NSHE's Director of Human Resources, it was determined that the Board of Regents of the University of Nevada had taken responsibility for setting the salaries for certain NSHE positions. The DHRM did not consider those positions to be unclassified, nor did the DHRM have data on those positions, as that information was kept internally within NSHE.

Mr. Ferguson added that A.B. 202 (2017 Legislative Session) required the Legislative Commission to appoint a committee to conduct an interim study concerning the cost and affordability of higher education in the state. There was a provision within A.B. 202 that directed that committee formed by the bill to examine whether the system of compensation for faculty of each NSHE institution was appropriate in order to recruit and retain quality faculty to further programs of higher education and research. He said it appeared that a study of faculty salaries would be under the purview of A.B. 202 (2017 Legislative Session).

Mr. Ferguson said the NSHE positions did not fall under the definition of an unclassified or a nonclassified position. There was a means to study those positions in the interim committee associated with A.B. 202. It was staff's opinion that the Committee did not need to concern itself with the salaries of NSHE positions at this time. Mr. Ferguson noted that the chair of the Nevada Faculty Alliance was present to make comments.

In response to a question from Chair Parks, who asked if the results of the A.B. 202 and S.C.R. 6 interim studies would be reviewed together for comparison, Mr. Ferguson said the two studies were separate and unrelated at this point. Mr. Ferguson was not sure of the progress of the A.B. 202 interim study. If there was data available from both interim studies, the Legislature could utilize that information together.

Dr. Kent M. Ervin, Ph.D., Legislative Liaison, Nevada Faculty Alliance (NFA), described the NFA as an independent statewide association of faculty of all eight NSHE institutions. He said, based on the comments from Mr. Ferguson that the Committee would not review NSHE positions, his remarks would be brief.

Dr. Ervin said there had been confusion in the Legislature as to whether faculty were in the unclassified, nonclassified or classified service. He noted NRS 396.110 authorized the Board of Regents to create its own regulations for the government of the Nevada System of Higher Education. These regulations were embodied in the Board of Regents Handbook.

Dr. Ervin said NSHE staff was comprised of about 5,800 academic and administrative faculty, 2,600 classified employees, and a little over 200 executives and administrators comparable to nonclassified employees. He provided a table comparing the conditions of employment for the state employee groups in Nevada ([Exhibit F](#)).

Dr. Ervin said he appreciated that A.B. 202 was formed to study faculty salaries. He noted that NSHE was cooperating fully with that committee, and he believed that committee was the appropriate venue for consideration of faculty salaries.

X. DISCUSSION OF CURRENT MARKET SALARY ANALYSES PERFORMED BY THE DIVISION OF HUMAN RESOURCE MANAGEMENT FOR CLASSIFIED POSITIONS

Cassie Moir, Deputy Administrator, DHRM, Department of Administration, said that a market salary analysis for the classified service began with the selection of a representative sample of job classes. Ms. Moir referred to the 2016 Salary and Benefits Study, Division of Human Resource Management, Department of Administration (Exhibit G) as an example of a completed market salary analysis. Ms. Moir said class descriptions for the benchmarked positions were included in the report, as well as the responses from the survey.

Ms. Moir said the DHRM would do something very similar for the unclassified positions that were selected for review. The DHRM would reach out to get information from other public employers and some private employers with similar positions. That data would be aggregated to show the minimum and maximum salaries for the positions being reviewed.

Senator Goicoechea noted only one private employer responded out of 16 requests.

Ms. Moir said the survey response rate had dropped significantly over the last decade. Many organizations either did not want to share the data, or did not want to take the time, or may not have staff within the organization to provide the data. She said it could be difficult to get data from the entities. In response to a question from Senator Goicoechea, she said the State of California declined to provide data for the survey.

Referring to a graph showing the State of Nevada Eight Year Average Pay Comparison with Nevada Municipalities on page 8 of the 2016 Salary and Benefits Study, Division of Human Resource Management, Department of Administration (Exhibit G), Assemblywoman Carlton noted that for FY 2010 through FY 2013, the State of Nevada pay comparison was much lower than other Nevada municipalities and the Consumer Price Index (CPI). She asked if that reflected the pay cuts and furloughs to the state employees' pay in that period. Ms. Moir said that was correct.

Assemblywoman Carlton noted that the Nevada municipalities' employee pay and the CPI increased between 1.7 percent and 3 percent during the period that the state employee salaries were reduced by 4.8 percent. She said it was important to note for the record that the budget deficits of the recession were paid for by the employees of the state. She asked if there was a method to estimate the buying power lost by state employees over those four years.

Ms. Moir said she was not aware of anyone who had done such a study.

Assemblywoman Carlton said the graphic on page 8 (Exhibit G) illustrated what happened when the state tried to dig itself out of a hole by making deep cuts in pay, enforcing furloughs, and suspending pay increases.

Assemblywoman Carlton said a number of state employees have reported that, because of the pay cuts and lack of pay increases during the recession, there were supervisors making less than the people they supervised. There was an avenue for those employees to have their pay adjusted, but some of the agencies would not address the issue. She asked if the DHRM knew how many state employees were in that situation. She understood a number of those employees had left state service, but there were still a number of firefighters and law enforcement employees in that position. She noted those positions did not have a private sector equivalent.

Mr. Long explained that there were two circumstances in which a supervisor's pay could be lower than the pay of a subordinate. He recalled that a step 10 was added to the pay structure at the end of the 2005 Legislative Session. That increase was added to the classified pay structure, but not the unclassified pay structure. There were some conditions where an unclassified supervisor made less than a classified subordinate. The second issue was where a supervisor made less than a subordinate in the classified service. He said this would not typically happen for reasons other than longevity. Except for when the step increases were frozen during the recession, step increases are given each year for standard or above performance. Ultimately, the supervisor who was at a higher grade would make more than the subordinate. There was a provision in regulation that allowed for the supervisor's pay to be adjusted. That was at the discretion of the agency. It was also based on an agency's ability to pay for the adjustment in pay.

Assemblywoman Carlton said she had a problem with the supervisor's pay adjustment being at an agency's discretion. An agency could chose not to address that a classified or unclassified supervisor was being paid less than a subordinate, and that there was no recourse for the employee. She said when pay was frozen lots of folks lost ground. She noted that the economy was improving, there were more jobs available, and there were employees leaving state service. She reiterated the comment from Senator Goicoechea that it was important to retain good employees, because it was costly to train them.

XI. SELECTION OF POSITIONS TO REVIEW FOR MARKET SALARY ANALYSIS

Jeff Ferguson, Senior Program Analyst Fiscal Analysis Division, LCB, said the DHRM performed a market salary analysis for classified positions every even numbered year. It was his understanding that the DHRM was embarking on that study for 2018. The DHRM agreed to review the unclassified positions selected by the Committee concurrently with its review of classified positions.

Mr. Ferguson noted that the DHRM did not always get the number of responses it would like. He said if the list of positions on the survey was lengthy, the entities may become overwhelmed and not respond. He asked a representative from the DHRM to talk about the number or classification of positions it would be comfortable including in the survey.

Mr. Ferguson noted that three handouts showing turnover for classified and unclassified positions were provided to the Committee: CY 2015 Unclassified/Nonclassified Turnover by Title (Exhibit H); CY 2016 Unclassified/Nonclassified Turnover by Title (Exhibit I); CY 2017 Unclassified/Nonclassified Turnover by Title (Exhibit J). The DHRM was asked to provide these statistics, because turnover was an indicator that the agencies could be having difficulties hiring or retaining certain positions. Mr. Ferguson cautioned that the gross turnover percentage could be deceiving; for example, if there were two positions, and one employee left, gross turnover would be 50 percent.

Mr. Ferguson said four agencies that testified during the hearing for S.C.R. 6 were the Office of the Attorney General, Commission on Ethics, Gaming Control Board, and Public Utilities Commission. The latter three were specifically mentioned in S.C.R. 6 for the Committee's review. He said the turnover information, in addition to the list of professionals with specialized skills or currently unclassified and did not meet one of the other tier criteria (page 9, Exhibit E) could be helpful to the Committee members in determining the positions for review.

Mark Krmpotic, Senate Fiscal Analyst, Fiscal Analysis Division, LCB, noted that the Public Employees' Retirement System salaries listed on pages 41 and 42 of the CY 2015 Unclassified/Nonclassified Turnover by Title (Exhibit H) were set by the Interim Retirement and Benefits Committee, and not included in the unclassified pay bill.

Mr. Long pointed out that Section 1 of S.C.R. 6 required that the study *include a review of any position within the Judicial Department of the State Government, the Commission on Ethics, the Nevada Gaming Control Board, the Public Utilities Commission of Nevada and any other department, commission or agency of the State of Nevada as determined by the Committee.* He said, in order to get responses from the other entities, he estimated 30 to 40 job titles would be the maximum number to include in the survey.

Chair Parks noted that 37 positions were evaluated in the 2016 Salary and Benefits Study (Exhibit G). He asked Mr. Long how many positions could be included in the review of the unclassified positions.

Mr. Long said the DHRM had performed reviews with 75 and 80 classes. As the number of responses decreased, the DHRM decreased the number of classes included in the survey. He said private sector entities often chose not to respond. For the public sector, DHRM staff obtains the information from the entities' websites. He asked the Committee to keep in mind that the DHRM would be performing its classified study concurrent to the unclassified study requested by the Committee. One classification analyst would conduct the entire study for both the classified and the unclassified

positions. He did not think more than 40 unclassified positions could be included in the study.

Chair Parks asked if the classified positions for the market salary analysis have been identified. Mr. Long said that selection would occur in February 2018. He added that the number of positions would be similar to the number included in the 2016 report.

Senator Goicoechea said over the past two or three sessions, there had been an effort by some agencies to move positions from classified to unclassified. He suggested the surveys include a comparison between the classified and unclassified salaries to determine if that was the best way to retain employees. Chair Parks agreed that was an ongoing concern.

Chair Parks asked the Committee members for their recommendations of specific classifications for review.

Senator Goicoechea recommended that DHRM staff suggest which agencies and position classifications needed review.

Assemblywoman Carlton said that it was difficult for agencies to hire specialists in health care, the legal field and engineering. For example, it was difficult to fill clinical psychologist positions in mental health facilities. It was difficult to compete with the private sector to recruit attorneys. She would like to have more information about the vacancies that existed in the state agencies. She asked if there was a list of vacant positions that would give an idea of the difficult-to-fill positions.

Assemblyman Kramer said turnover and vacancies were a factor, but the length of time a position remained vacant was information the Committee would need as well.

Mr. Long said the DHRM could provide a report showing the number of positions allocated for a job class, as well as how many of those positions were vacant. He could also provide the average length of time positions in a classification remained vacant, which would provide an idea of how long it took to fill a position. He added the caveat that sometimes positions were not filled for other reasons, such as salary savings, or due to large retirement payouts. A position may not be vacant due to a lack of qualified applicants.

Mr. Long said the DHRM had information on the difficult to recruit classified positions. He said Assemblywoman Carlton was correct in that any of the health care positions were difficult to fill, such as nurses, mental health counselors, and social workers. Law enforcement and Correctional Officer positions were also difficult to fill. It was particularly difficult to fill any of these positions in the rural areas.

Mr. Long said, for unclassified positions, it was more difficult to gather data from other entities from which to compare; he explained that the positions were in the unclassified service due to their specialized skills, so there may be only one position with that title.

He noted the DHRM did not recruit for unclassified positions. He suggested that the Committee members look at the turnover for unclassified positions that had more than 5 or 10 positions, with 15 percent or higher turnover, which was above the average turnover for state service.

Chair Parks asked Mr. Long when the DHRM would need the list of unclassified positions to begin the market salary analysis. Mr. Long said as soon as the list was available, the DHRM would begin working on the survey. The survey for classified positions would be completed in August or September. If the DHRM was provided a list at the next meeting of the Committee, it would be able to complete the survey by June or July.

Mr. Ferguson said Fiscal staff would work with DHRM staff to identify classifications with more than 10 to 15 positions with high rates of turnover, as well as a list of positions such as law enforcement and health care services that were hard to fill positions. The Committee would need to meet relatively soon to select the types of classifications the Committee would like to include in the study. That list would be provided to the DHRM to include in its market salary analysis.

Chair Parks said there was work to be done to determine which positions should be included in the survey. He did not think the Committee was ready to select the positions for the survey. He said the Committee may need to request approval to add a fifth meeting.

Assemblywoman Carlton said it was important to include the Gaming Control Board and Public Utilities Commission of Nevada (PUCN) in the survey. She said the Gaming Control Board was the “gold standard” for gaming regulation in the world. She noted the PUCN would be facing lots of work with the changing landscape over the few next years, and should have all of the necessary resources to perform its work. She said a study of the legal staff, engineers and other professionals in those agencies might provide guidance to other positions in the unclassified and nonclassified service in other state agencies.

Chair Parks said the decision as to which positions would be included in the survey would be deferred to the next meeting.

XII. DISCUSSION OF POTENTIAL TOPICS, DATES, AND LOCATIONS FOR FUTURE MEETINGS

Chair Parks recommended that the next meeting be held in the same locations.

Assemblywoman Carlton noted that most of the Committee members and staff would be at the February 8, 2018, meeting of the Interim Finance Committee (IFC). If the IFC agenda allowed, it may be possible to schedule the Committee meeting after the IFC meeting.

Mr. Krmpotic said the IFC agenda for February 8, 2018, was fairly modest, and was not expected to be a lengthy meeting.

Senator Goicoechea asked if that would allow enough time for LCB and DHRM staff to prepare for the meeting. Mr. Long said that he and Mr. Ferguson could meet and have recommendations available for the Committee by February 8, 2018.

Senator Woodhouse noted that the IFC meeting began at 9 a.m. She suggested that the Committee meet at 1:30 p.m. or 2:00 p.m. on February 8, 2018. She asked if the agenda posting could specify that the Committee meeting would begin 30 minutes after the adjournment of the IFC meeting. Brenda Erdoes, Legislative Counsel, said it would be possible to indicate on the agenda that the meeting would start at a certain time, or 30 minutes after the adjournment of the IFC meeting.

Chair Parks asked the Committee if there were any other topics the Committee members would like to appear on the next agenda, other than the selection of positions for review. There were no suggestions for other topics.

XIII. PUBLIC COMMENT

Stephanie Mullen, Executive Director, PUCN, thanked the Committee for identifying the need for the study. She offered any assistance that the PUCN could provide, including encouraging survey participation, or providing position lists and needs within the PUCN. She said the PUCN was willing and able to provide any assistance.

Yvonne Nevarez-Goodson, Executive Director, Commission on Ethics, said she echoed the comments of her colleague at the PUCN and extended her office as a resource to the Committee. She said the Commission on Ethics was vocal during the 2017 Legislative Session as to its concerns about salaries, and would like to extend its appreciation to the Legislature for addressing compression issues within the Commission on Ethics salaries. She said there was a benefit in a study that compared unclassified to nonclassified service. She said, for many years, the Commission on Ethics had compared its staff positions in terms of duties and responsibilities to the Judicial Discipline Commission. She said there was disparity between what the Commission on Ethics believes to be equivalent positions between the two agencies. She offered the resources of her office to the Committee or its staff that might need information from the Commission on Ethics.

Dr. Kent M. Irvin, Ph.D., Nevada Faculty Alliance (NFA), said Dr. Yvonne Steadman, University of Nevada, Reno, School of Business, was an expert in management compensation systems, and served on the NFA salary and benefits committee. He said Dr. Steadman said there were three types of equity in compensation in large enterprises, corporations and government: external equity, which was relative to the broader market of other employers; internal equity, which was how positions were compensated within the enterprise; and personal equity, which was how one person who had similar responsibilities was compensated in relation to another person. He

said the Committee was discussing external equity, which was very important. However, some of the questions were about internal equity, such as the idea that a supervisor would be paid less than a supervisee. In addition, there was gender equity in male-dominated professions that were paid more than others. He noted that the classified positions for which the pay scale was increased by a grade in the 2017 Legislative Session were male-dominated positions, such as IT and public safety. He said internal equity issues can be difficult, because it was hard to compare diverse positions such as IT staff, program officers, accountants, nurses and student advisors. He said there were methods to make such comparisons.

Dr. Irvin said one of the methods that he was familiar with was called the “Hay System,” which was used by the City of Sparks and Washoe County. The Hay System rated each job based on knowhow requirements, problem-solving skills, and accountability. Knowhow would include technical versus other kinds of knowledge. Accountability would include autonomy, authority and management.

Dr. Irvin said to study the problems of classified, unclassified, faculty, and professional staff equity would require a deeper level of analysis. Performing a Hay System analysis would be more expensive than the budget of the Committee allowed. Therefore, he suggested the Hay System method of analysis be discussed by the 2019 Legislature.

Fran Almaraz, the American Society of Mechanical Engineers (ASME), thanked the Committee for bringing up the topic of salary inequity, as many ASME state employees were underpaid. The difference between the state salaries and salaries in the private sector was quite great in some instances. Retention was important because training employees was expensive. Salary was usually the reason an employee would leave state employment for the private sector. She thanked the Committee members for working on the issue, and looked forward to working with the Committee in the future.

XIV. ADJOURNMENT

The meeting was adjourned at 2:52 p.m.

Respectfully submitted,

Becky Lowe, Committee Secretary

APPROVED:

Senator David Parks, Chair

Date: _____

Copies of exhibits mentioned in these minutes are on file in the Fiscal Analysis Division at the Legislative Counsel Bureau, Carson City, Nevada. The division may be contacted at (775)684-6821.

State of Nevada Commission on Ethics

Case Status Log

* CONFIDENTIAL/UNREDACTED *

RFO No.	Date Filed	Jurisdiction	Subject of RFO	Requester	Status
18-037C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Jurisdictional Recommendation Pending - NCOE Staff (7/30/18)
18-037C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Jurisdictional Recommendation Pending - NCOE Staff (7/30/18)
18-036C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Jurisdictional Recommendation Pending - NCOE Staff (7/23/18)
18-035A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Advisory Hearing 7/18/18 or 8/15/18
18-034C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Jurisdictional Recommendation Pending - NCOE Staff (7/23/18)
18-033A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn (see 18-032C Duplicate)
18-032A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Advisory Hearing 6/20/18
18-031C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Jurisdictional Recommendation Pending - NCOE Staff (7/16/18)
18-30C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Jurisdictional Hearing 6/20/18
18-029A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Advisory Hearing 6/20/18
18-028C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Jurisdictional Hearing 6/20/18
18-027A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Advisory Hearing 6/20/18
18-026C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Jurisdictional Hearing 6/20/18
18-025C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Jurisdictional Hearing 6/20/18
18-024C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Jurisdictional Hearing 6/20/18

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Case Status Log

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RFO No.	Date Filed	Jurisdiction	Subject of RFO	Requester	Status
18-023C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Instruction (Jurisdiction; No Investigation)
18-022C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
18-021C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Opinion issued 6/1/18, Abstract Opinion Pending
18-020C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn (see 18-019C Duplicate)
18-019C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Caution (Jurisdiction; No Investigation)
18-018C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
18-017C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Instruction (Jurisdiction; No Investigation)
18-016C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Instruction (Jurisdiction; No Investigation)
18-015C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Opinion issued 5/30/18, Abstract Opinion Pending
18-014C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Instruction (Jurisdiction; No Investigation)
18-013A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn
18-012A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Advisory Hearing 6/20/18
18-011C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Investigation Pending - Awaiting Subject's Response
18-010C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
18-009A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)

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RFO No.	Date Filed	Jurisdiction	Subject of RFO	Requester	Status
18-008A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn
18-007A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Improper Filing)
18-006A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Opinion issued 4/26/18, Abstract Opinion Pending
18-005C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Investigation Pending - Awaiting Subject's Response
18-004C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Instruction (Jurisdiction; No Investigation)
18-003C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Instruction (Jurisdiction; No Investigation)
18-002C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn (see 18-004C)
18-001C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn
17-56C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
17-55C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Instruction (Jurisdiction; No Investigation)
17-54C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Caution (Jurisdiction; No Investigation)
17-53C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
17-52C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Caution (Jurisdiction; No Investigation)
17-51C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
17-50C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)

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Case Status Log

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RFO No.	Date Filed	Jurisdiction	Subject of RFO	Requester	Status
17-49A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Opinion issued 12/19/17
17-48C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
17-47A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
17-46C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
17-45C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissal with Letter of Instruction (Jurisdiction; No Investigation)
17-44C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
17-43C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
17-42A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Opinion issued 12/14/17, Abstract Opinion issued 2/13/18
17-41A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Opinion issued 12/11/17, Abstract Opinion issued 2/13/18
17-40C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Instruction (Jurisdiction; No Investigation)
17-39A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Opinion issued 12/14/17, Abstract Opinion issued 2/13/18
17-38C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
17-37C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Stipulation Executed 1/22/18
17-36C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Deferral Agreement 3/27/18, Compliance Pending
17-35C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed by Panel with Letter of Caution 1/17/18

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Case Status Log

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RFO No.	Date Filed	Jurisdiction	Subject of RFO	Requester	Status
17-34C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Caution (Jurisdiction; No Investigation)
17-33C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Instruction (Jurisdiction; No Investigation)
17-32C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
17-31C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
17-30C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Caution (Jurisdiction; No Investigation)
17-29C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed by Panel 11/20/17
17-28A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Opinion issued 10/5/17, Abstract Opinion issued 2/13/18
17-27C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Deferral Agreement 1/16/18, Compliance Pending
17-26C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Stipulation Executed 5/29/18, Compliance Pending
17-25C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed by Panel with Letter of Instruction 3/29/18
↑ FISCAL YEAR 2017-2018 ↑					
17-23C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Deferral Agreement 11/7/17, Compliance Pending
17-21C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Motion Hearing 6/20/18
↑ FISCAL YEAR 2016-2017 ↑					
16-54C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Pending Litigation

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Case Status Log

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RFO No.	Date Filed	Jurisdiction	Subject of RFO	Requester	Status
15-74A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Pending Litigation
↑ FISCAL YEAR 2015-2016 ↑					
14-22C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Pending Litigation
14-21C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Pending Litigation
↑ FISCAL YEAR 2013-2014 ↑					

State of Nevada
Commission on Ethics
FY18 Training Information

Date	Presenter	Entity:	Location:	Jurisdiction
7/26/17	YMNG	UNR IVLP Parliamentarian Delegation	Carson City	State
7/26/17	YMNG	TRMPA Truckee Meadows Regional Planning Agency	Sparks	Local
7/27/17	YMNG	UNR - Northern NV International Center - Burmese Delegation	Carson City	Other
8/1/17	YMNG	Clerk's Academy (UNR Extended Studies)	Reno	Local
8/16/17	JAP	UNR - Northern NV International Center - Jordan Delegation	Carson City	Other
9/13/17	YMNG	Clark County Training #1	Las Vegas	Local
9/13/17	YMNG	City of Las Vegas	Las Vegas	Local
9/14/17	YMNG	County Fiscal Officer's Presentation	Pahrump	Local
9/26/17	YMNG	NACO Conference	Winnemucca	Local
9/27/17	YMNG	City of Elko	Elko	Local
9/27/17	YMNG	City of West Wendover	West Wendover	Local
9/28/17	YMNG	City of Ely	Ely	Local
10/3/17	YMNG	DETR	Carson City	State
10/11/17	YMNG	Virgin Valley Water District/City of Mesquite	Mesquite	Local
10/12/17	YMNG	Clark County Dept. of Building & Fire Prevention	Las Vegas	Local
10/25/2017	YMNG	AG Boards & Commission Training	Carson City	State
11/1/17	YMNG	AG Boards & Commission Training	Las Vegas	State
11/8/17	YMNG	LVCVA Executive Staff	Las Vegas	Local
11/14/17	YMNG	LVCVA Staff	Las Vegas	Local
11/17/17	YMNG	NV Association of School Boards	Carson City	State
12/12/17	YMNG	LVCVA B.O.D. - I	Las Vegas	Local
1/19/18	YMNG	Social Worker's Board	Reno	State
1/24/18	YMNG	Regional Transportation Commission - Washoe County	Reno	Local
1/25/18	YMNG	PEBP Board	Carson City	State
1/26/18 (AM)	YMNG	NV State Public Charter School Authority	Carson City	State
1/26/18 (PM)	YMNG	No NV Assoc Gov't Accountants Panel	Reno	Local
2/1/18	YMNG	DETR	Carson City	State
2/5/18	YMNG	Carson City DA Retreat	Carson City	Local
2/13/18 (AM)	YMNG	LVCVA B.O.D. - II	Las Vegas	Local
2/13/18 (PM)	YMNG	UNLV Ethics in Public Administration Class	Las Vegas	Other
2/15/18	YMNG	AG Boards & Commission Training	Carson City	State
3/13/18	YMNG	Incline Village General Improvement District	Incline	Local
3/14/18	YMNG	NV Dept of Agriculture	Sparks	State
4/3/18	YMNG	DETR	Carson City	State
4/25/18	YMNG	Clark Co Dept. of Business License	Las Vegas	Local
4/25/18	YMNG	UMC's Governing Board	Las Vegas	Local
5/7/18	YMNG	Douglas Co.	Minden	Local
6/5/18	YMNG	DHHS DCFS	Las Vegas	State
6/6/18	YMNG	City of Henderson City Council	Las Vegas	Local
6/14/18	YMNG	Bureau of Disability Adjudication	Carson City	State
6/28/18	YMNG	DHHS DCFS	Reno	State



STATE OF NEVADA COMMISSION ON ETHICS

REMAINING Meeting Dates for 2018 (3rd Wednesday of Each Month)*

June 20th

July 18th

August 15th

September 19th

October 17th

November 14th* (2nd Wed.)

December 12th* (2nd Wed.)