

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, February 20, 2019, at 9:00 a.m.
at the following location:

Nevada Commission on Ethics
704 W. Nye Lane
Suite 204
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. appeared in Carson City and called the meeting to order at 9:00 a.m. Also appearing in Carson City was Commissioner Philip K. (P.K.) O'Neill. Appearing telephonically were Commissioners Brian Duffrin, Barbara Gruenewald, Esq., Teresa Lowry, Esq., Kim Wallin, CPA and Amanda Yen, Esq. Vice-Chair Keith A. Weaver, Esq. was excused from the meeting. Present for Commission staff in Carson City were Executive Director Yvonne M. Nevarez-Goodson, Esq., Commission Counsel Tracy L. Chase, Esq., Associate Counsel Judy Prutzman, Esq., and Executive Assistant Kari Pedroza.

The pledge of allegiance was conducted.

2. Public Comment.

The Chair asked for public comment. No public comment was provided.

3. Approval of Minutes of the January 16, 2019 Commission Meeting.

Commissioner Wallin moved to approve the January 16, 2019 Minutes. Commissioner O'Neill seconded the motion. The Motion was put to a vote and carried unanimously.

4. Discussion and approval of a Written Opinion concerning Ethics Complaint No. 17-21C regarding Gerald Antinoro, Sheriff, Storey County. (Portions of this Item may be exempt from the Open Meeting Law.)

Chair Lau called the item. Participating Commission members were Chair Lau and Commissioners Duffrin, Lowry, O'Neill and Wallin. Commissioners Gruenewald and Yen did not

participate in the item because they served as members of the Review Panel and were precluded from further participation pursuant to NRS 281A.220(4).

Katherine Parks, Esq., of Thorndal, Armstrong, Delk, Balkenbush, and Eisinger appeared telephonically before the Commission on behalf of subject Gerald Antinoro, Storey County Sheriff.

Associate Counsel Judy A. Prutzman, Esq. appeared on behalf of Executive Director Nevarez-Goodson.

Chair Lau asked the Commission whether they had any revisions to the proposed Written Opinion and there were none. The Proposed Written Opinion included in meeting materials reflects the Commission's determination that Sheriff Antinoro willfully violated the Ethics Law by using governmental property in furtherance of his significant personal interest and the imposition of a \$2,500 civil penalty. Chair Lau provided an opportunity for Ms. Parks to comment on the proposed written opinion on behalf of her client, Sheriff Antinoro, and no comment was provided. The Chair then called for a motion.

Commissioner O'Neill made a motion to approve the Written Opinion as presented and instruct Commission Counsel to finalize the opinion as to legal form and cause it to be properly served on all parties. Commissioner Lowry seconded the motion. The Motion was put to a vote and carried as follows:

Chair Lau:	Aye.
Commissioner Duffrin:	Aye.
Commissioner Lowry:	Aye.
Commissioner O'Neill:	Aye.
Commissioner Wallin:	Aye.

Chair Lau directed Commission Counsel to finalize the form of the opinion and serve it on the parties.

5. Discussion and approval of Commission's 2019 Bill Draft Request No. 23-191 (Senate Bill 129) and any amendments thereto.

Executive Director Nevarez-Goodson informed the Commission that the Bill Hearing for SB 129 was scheduled for February 25, 2019 at 4:00 p.m. and they were welcome to attend. She summarized the Commission's bill as falling within each of ten topics:

1. Chair, Commission and Staff Qualifications, Duties and Responsibilities
2. Requests for Advisory Opinions
3. Ethics Complaints
4. Ethical Standards of Conduct
5. Acknowledgment Forms – Fines
6. Cooling-Off Standards
7. Legal Defense of Public Officers/Employees Before Commission
8. Open Meeting Law Exemption/Application
9. Jurisdiction over State Legislators
10. Administrative Amendments

With regard to the sections of the bill intended to impose fines for failure to properly file an Acknowledgment of Ethical Standards Form, Executive Director Nevarez-Goodson informed the Commission that the process was similar to the Secretary of State's process for collecting fines for failure to file financial disclosure statements. Commissioner Wallin asked the Executive Director if she knew how much the Secretary of State's (SOS) Office collected enforcing penalties for disclosures not filed and Executive Director Nevarez-Goodson responded that the Secretary

of State's office informed that was a small amount as the Secretary of State's Office often waives these fees, but the Secretary of State's Office emphasized that the fees are an incentive to comply. The Executive Director noted the likely fiscal impact of the bill to require additional staff and the potential for this section to be amended out of the bill should the fiscal impact not be supported.

Commissioner O'Neill asked if late filings were a big issue, how many late filings there currently are and who would have the authority to waive such fees. Executive Director Nevarez-Goodson answered that the staff cannot accurately determine how many filings are deficient since there is not a master list of public officers who are required to file, and that the Executive Director or her appointee would authorize such waivers. Further, the Executive Director suggested a proposed amendment to require state and local governments to provide a list of public officers similar to that provided to the Secretary of State for Financial Disclosure Statements.

In regard to the Cooling-off Standards, Executive Director Nevarez-Goodson informed the Commission that the Commission receives many requests for relief from the "cooling-off" prohibitions established in NRS 281A.550 from public officers and employees and the Commission had asked her to inform the affected agencies about the potential impacts of "cooling-off" and how to educate affected employees about the scope of the restriction. The Executive Director conducted this outreach during the last year. In particular, she had conferred with General Counsel for the Public Utilities Commission of the State of Nevada (PUCN) regarding the application of the cooling-off standards to the agency. The Executive Director explained the PUCN indicates it has two divisions, commission staff and regulatory staff, which have specialized positions that may not be otherwise employable, except by regulated business or industry. The PUCN views its regulatory staff as a party in proceedings, which has no influence over the regulated business or industry in the view of the PUCN. The PUCN's General Counsel raised the issue and suggested the Commission consider an amendment to its pending bill to "carve-out" the regulatory staff of the PUCN and address other matters to exclude a restriction on employment with a regulated business or industry in exchange for a strict prohibition against appearing before the PUCN for a regulated business or otherwise assisting a regulated business on matters before the PUCN for one year.

The Executive Director asked for Commission direction regarding the possibility of a carve-out to the standards as it relates to certain employees of the PUCN. Commissioner Wallin expressed her concern about creating carve-outs for one agency rather than clarifying the application of the statute universally. Commissioner Duffrin agreed that a carve-out for certain positions is difficult referencing a comparison to employees of the gaming control board who similarly have access to confidential information. Duffrin expressed concern about any carve-out given confidentiality issues. However, he further indicated his concerns pertaining to challenges in recruitments for regulatory agencies such as Gaming and PUCN, and the lack of understanding public employees have about restricted conduct when seeking outside careers. Commissioner O'Neill explained his opposition to a carve-out and his misgivings about the ability to enforce confidentiality and protect proprietary information if divulged to a future private employer after having access to State of Nevada confidential information. He opposed the amendment and believed it to be best to maintain current provisions so the Commission could determine the merits of individual cases. Commissioner Lowry agreed with Commissioner O'Neill's comments. In discussion, the Commission was inclined to maintain the statute as proposed in its bill and the Chair instructed the Executive Director to provide feedback to the PUCN. The Executive Director confirmed she is in the process of coordinating certain other bill amendments from Washoe County and Clark County, in part, pertaining to the provisions addressing legal representation before the Commission.

Commissioner O'Neill made a motion to approve BDR 23-191, including providing authority to the Executive Director to navigate issues as they arise in the legislative session, which

are consistent with the intent and direction of the Commission, including providing email updates. The motion confirmed the prior direction to the Executive Director to exclude any amendment to provide a specific carve-out to PUCN and provide feedback to the PUCN pertaining to “cooling-off” issues and advising of the concern regarding unintended consequences in carving out certain situations. Commissioner Wallin seconded the motion. The Motion was put to a vote and carried unanimously.

6. Report by the Executive Director on agency status and operations and possible direction thereon. Items to be discussed include:
 - Agency Update and Operations
 - Meeting Schedule
 - 2019 Legislative Updates, including, without limitation:
 - Commission’s Bill (SB 129);
 - Bills affecting the Commission (including, without limitation, AB 70);
 - Commission’s Biennial Budget (FY20-FY21); and
 - Scheduled Hearings

Agency Update and Operations: Executive Director Nevarez-Goodson reiterated that the Commission’s bill hearing for SB 129 was scheduled for February 25, 2019 at 4:00 p.m. She informed the Commissioners of her upcoming meetings with each member of the Senate Legislative Operations and Elections Committee prior to the Bill Hearing and affirmed that she would provide information to the Commissioners about the scheduled meetings and invited them to attend.

Meeting Schedule: Executive Director Nevarez-Goodson referenced the 2019 Commission Meeting schedule provided to the Commission, reiterating that meetings would be scheduled for the third Wednesday of each month and asked that Commissioners be available on these days. She stated that the next meeting in March would be held in Carson City and the following April meeting would likely take place in Las Vegas with Northern Nevada Commissioners and Commission Staff traveling.

2019 Legislative Updates: Executive Director informed the Commission that Commission Staff is currently tracking numerous legislative measures slated to go forward during the Legislative Session and were applicable to the Commission and she would keep the Commissioners apprised of the status of any relevant bills. She also explained the coverage of AB 70 and its proposed amendments to Nevada’s Open Meeting Law (NOML), which were facilitated through a task force established by the Attorney General. The Executive Director let them know that Commission staff during a meeting of the task force had provided some amended language to AB70 pertaining to the ability for a public agency or board to delegate certain matters to their public attorneys or executive staff, as the agency/board deems appropriate. Amendments to AB 70 will be monitored by Commission staff including whether the suggested amendment is pursued.

Executive Director Nevarez-Goodson notified the Commissioners that the Commission’s analyst with the Governor’s Finance Office relayed that the Budget Enhancements submitted by the Commission were not reviewed under the direction not to approve any items for special consideration and she hopes to have further discussion with the Governor’s office on these matters. She let them know about the Budget Hearing scheduled for March 21, 2019, the day after the next Commission Meeting.

Commissioner Yen made a motion to accept the Executive Director’s report on agency status and to provide her the authority to navigate other bills that are proposed during the legislative session. Commissioner Duffrin seconded the motion. The Motion was put to a vote and carried unanimously.

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

No commissioner comments.

8. Public Comment.

No public comment.

9. Adjournment.

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

The meeting adjourned at 10:15 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 by quorum of Commission
at Meeting held on March 20, 2019:

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

Cheryl A. Lau, Esq.
Chair

Agenda Item 4

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COMMISSION
ON ETHICS

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8 STATE OF NEVADA

9 COMMISSION ON ETHICS

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

Request for Opinion No. 17-21C

GERALD ANTINORO'S MOTION
FOR RECONSIDERATION

14 Subject.

15
16 COMES NOW, Gerald Antinoro, by and through his attorneys of record, Thorndal
17 Armstrong Delk Balkenbush & Eisinger, and pursuant to NRS 233B.130(4) and NAC
18 281A.265(7), hereby submits his Motion for Reconsideration of the Opinion rendered by the
19 Nevada Commission on Ethics on the Request for Opinion No. 17-21C, issued on February 27,
20 2019.

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22 I

23 **INTRODUCTION**

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25 This matter arose from a Third Party Request for Opinion (RFO) submitted to the
26 Commission by Clarence Gempel on June 21, 2017. The RFO is largely related to a child
27 custody dispute between Gempel and his ex-wife, Laura Antinoro, and a subsequent one hour
28 child visit between Gempel, Laura Antinoro and their minor child on May 20, 2017. Laura

1 Antinoro is married to Storey County Sheriff Gerald Antinoro. Pursuant to the divorce decree,
2 Grepel requested a visit with the then nine year old daughter he shares with Laura Antinoro.
3 Laura Antinoro agreed to the visitation. However, out of an abundance of caution, and based on
4 Grepel's past behavior, Mrs. Antinoro determined that the safest place to hold the visitation
5 was at the Sheriff's Office in Virginia City, Nevada. See, Exhibit 1, hearing testimony of Laura
6 Antinoro, pp. 125-127, 129, 131. In the RFO, Grepel alleged that, by holding the visitation at
7 the Sheriff's Office, Sheriff Antinoro violated certain Nevada Ethics laws; namely, NRS
8 281A.400(2), NRS 281A.400(7), and NRS 281A.400(9).

10 On February 26, 2018, the Commission's Review Panel issued a Panel Determination
11 finding just and sufficient cause for the Commission to hold a hearing and render an opinion on
12 the alleged violations of NRS 281A.400(2) and (7), based on Sheriff Antinoro permitting the
13 child visitation between Grepel and his daughter to be held at the Sheriff's Office in Virginia
14 City. The Panel also concluded that the facts did not establish credible evidence to substantiate
15 just and sufficient cause to consider the alleged violation of NRS 281A.400(9).

18 On March 29, 2018, the Commission issued a Notice of Hearing and Scheduling Order
19 and Notice of Hearing and Meeting to Consider Your Character, Alleged Misconduct, Profession
20 Competence or Health, setting a hearing for June 20, 2018, to consider dispositive motions. The
21 parties subsequently filed cross-motions for summary judgment and submitted them to the
22 Commission for consideration. After consideration of the parties' briefs and oral argument
23 presented by their respective counsel, the Commission issued an order on July 2, 2018, denying
24 both motions. Additionally, the Commission directed Commission Counsel to issue a Notice of
25 Adjudicatory Hearing and Scheduling Order, allowing further discovery and scheduling an
26 adjudicatory hearing before the Commission on October 17, 2018.
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1 On October 17, 2018, the Commission held an adjudicatory hearing to consider whether
2 Sheriff Antinoro had violated NRS 281A.400(2) or NRS 281A.400(7). At the conclusion of the
3 hearing, the Commission deliberated and announced its decision on the record that, based upon a
4 preponderance of the evidence, Sheriff Antinoro engaged in one willful violation of NRS
5 281A.400(7). No violation was found with regard to NRS 281A.400(2). On February 27, 2019,
6 the Commission issued its Opinion on RFO 17-21(c) consistent with its decision rendered at the
7 conclusion of the hearing.
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9 Sheriff Antinoro files his Motion for Reconsideration pursuant, to NRS 233B.130(4) and
10 NAC 281A. 265(7), and respectfully requests that the Commission reconsider its February 27,
11 2019, Opinion. Sheriff Antinoro respectfully submits that the evidence produced at the
12 adjudicatory hearing does not support a finding by the preponderance of the evidence that Sheriff
13 Antinoro committed a willful violation of NRS 281.400(7).
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15 II

16 LEGAL ARGUMENT

17 A. THE COMMISSION'S FINDINGS ARE NOT SUPPORTED BY A PREPONDERANCE OF 18 THE EVIDENCE

19 Pursuant to NRS 233B.130(3) and NAC 281A. 265(7), a party that is subject to a final
20 administrative agency decision may petition the agency for reconsideration of its final decision
21 within 15 days of service of the decision. At issue in this Motion for Reconsideration is the
22 Commission's finding that Sheriff's Antinoro committed a willful violation of NRS 281A.400(7)
23 by a preponderance of the evidence. NRS 281A.400(7) states in pertinent part as follows:
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25 [e]xcept for State Legislators who are subject to the restrictions set forth in
26 subsection 8, a public officer or employee shall not use governmental time,
27 property, equipment or other facility to benefit a significant personal or pecuniary
28 interest of the public officer or employee or any person to whom the public officer
or employee has a commitment in a private capacity. This subsection does not
prohibit:

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

- 3 (1) The public officer or employee who is responsible for and has
4 authority to authorize the use of such property, equipment or other facility
5 has established a policy allowing the use or the use is necessary as a result
6 of emergency circumstances;
7 (2) The use does not interfere with the performance of the public officer's
8 or employee's public duties;
9 (3) The cost or value related to the use is nominal; and
10 (4) The use does not create the appearance of impropriety

11 The standard of review the Commission applies in this context is the preponderance of the
12 evidence standard. *Nassiri v. Chiropractic Physicians' Bd. of Nev.*, 327 P.3d 487, 488 (Nev.
13 2014)(“[I]n the absence of a specific statutory mandate, agencies generally must utilize, at a
14 minimum, the preponderance-of-the-evidence standard in their adjudicative hearings as it is the
15 general civil standard of proof.”); *see also*, Opinion on RFO No. 17-21C, p. 11. Accordingly, the
16 Commission must determine that, based on the evidence, it is more likely than not that Sheriff
17 Antinoro committed a violation of the Nevada Ethics Law, namely, NRS 281A.400(7).

18 Sheriff Antinoro respectfully submits that the Commission's finding that he committed a
19 willful violation of NRS 281A.400(7) is not supported by a preponderance of the evidence.
20 Specifically, Sheriff Antinoro contends that many of the factual and legal determinations were
21 contrary to the evidence presented at the adjudicatory hearing, as well as the documentary
22 evidence submitted to the Commission. Therefore, Sheriff Antinoro respectfully requests that the
23 Commission reconsider its February 27, 2019, Opinion finding that Sheriff Antinoro committed
24 one willful violation of NRS 281A.400(7).

25 First and foremost, the evidence in this matter does not support a finding that Sheriff
26 Antinoro utilized government property or resources in order to secure a private benefit, nor did
27 he bestow upon Laura Antinoro, any privileges, preferences, exemptions or advantages which
28 were not available to members of the general public. Rather, the evidence demonstrated that

1 Laura Antinoro used a service that was provided and available to members of the public. As
2 argued at the adjudicatory hearing and in the prior briefing, the Storey County Sheriff's Office
3 had a practice of permitting the use of the main Sheriff's office in Virginia City, and the
4 substation in Lockwood, for child custody exchanges and supervised visitations.¹

5 During the adjudicatory hearing, Sheriff Antinoro, and several employees of the Storey
6 County Sheriff's Office, testified that both the main office in Virginia City and the substation in
7 Lockwood had been utilized by members of the public for purposes of child custody exchanges
8 and child visitations. *See*, Exhibit 2, hearing testimony of Gerald Antinoro, pp. 53-54; *see also*,
9 Exhibit 3, hearing testimony of Eric Kern, p. 137; *see also*, Exhibit 4, hearing testimony of
10 Anthony Dosen, p. 167. Specifically, Sheriff Antinoro testified that the Sheriff's Office,
11 including the main station Virginia City, was and is open to members of the general public as a
12 place to conduct child custody exchanges and supervised child visitations. *See*, Exhibit 2, pp.
13 53-54. Sergeant Kern also testified that the main office in Virginia City has been open, when
14 necessary, to conduct supervised child visitations and exchanges on weekends and after regular
15 business hours. *See*, Exhibit 3, p.137; *see also*, Exhibit 4, p. 167. Accordingly, the Commission's
16 findings that there was not an established practice at the Storey County Sheriff's Office of
17 authorizing child custody exchanges or child visitations to take place at the main office in
18 Virginia City and/or the Lockwood substation after regular administrative hours is not supported
19 by a preponderance of the evidence, as there was ample evidence introduced to the contrary.

20 In addition, the evidence at the hearing demonstrated that the Sheriff's Office is open to
21 members of the public for other, non-criminal interactions, after regular administrative hours.
22 Sheriff Antinoro testified that the Sheriff's office is made available to members of the public as

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28 ¹In its decision, the Commission appears to have distinguished between a one hour child visitation such as that at issue and circumstances in which members of the public used the Sheriff's Offices in connection with child custody exchanges. It is undisputed in this case that the visitation in question lasted no more than one hour and there is no meaningful distinction between the use of the Sheriff's offices for such a visit and a child custody exchange (or any other use by the public of the Sheriff's offices in connection with civil matters).

1 an internet safe zone and to provide a safe place for members of the public to accomplish
2 property exchanges such that these activities can be carried out in a safe place. *See*, Exhibit 2, p.
3 32, 52-53, 58-59, 62; *see also*, Exhibit 3, pp. 145-146.

4 In support of its finding that such a policy or practice did not exist, it appears that the
5 Commission relied upon the lack of CAD incident reports that evidenced supervised child
6 visitations and/or child custody exchanges. However, in review of the record, it is clear that there
7 was evidence presented at the hearing which documented a child custody exchange at a Sheriff's
8 office building after regular administrative hours (and other CAD reports which showed such
9 services being made available during regular administrative hours). *See*, Exhibit 5, CAD report
10 bate-stamp numbered ED625; *see also*, Exhibit 6, CAD report bate-stamp numbered ED630.

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13 Based upon the Commission's decision, and in light of the testimony and evidence
14 offered, it would appear that the Commission relied heavily on the testimony of Dave Ballard
15 and Rebecca Parsons on the issue of the alleged lack of a practice of the Storey County Sheriff's
16 Office in permitting uses of the Sheriff's Office by members of the public for activities such as
17 child custody exchanges and visitations. Notably, neither Ballard nor Parsons are employees of
18 the Storey County Sheriff's Office. *See*, Exhibit 7, hearing testimony of Dave Ballard, p. 83, 88;
19 *see also*, Exhibit 8, hearing testimony of Rebecca Parsons, p. 106-107. Neither of these
20 witnesses works at the Sheriff's main office in Virginia City or at the Lockwood substation. *See*,
21 Exhibit 7, p. 88; *see also*, Exhibit 8, p. 107. Mr. Ballard had no knowledge of what occurred on
22 a day to day basis at the Sheriff's Office, whether during regular administrative hours or after
23 such hours. *See*, Exhibit 7, p. 88. Mr. Ballard and Ms. Parsons lacked personal knowledge of
24 whether or not the Sheriff's Office had been open to members of the public after regular
25 administrative hours for the purposes of child custody exchanges, child visitations, or other
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1 activities of a civil, as opposed to a criminal, nature so as to support the Commission's
2 determination that there was no such policy.

3 In contrast to the testimony of these non-Sheriff's Office employees, witnesses actually
4 employed by the Sheriff's Office testified unequivocally that the Sheriff's Office, at both its
5 main station in Virginia City and the Lockwood substation *had* been utilized in a manner similar
6 to that at issue. *See*, Exhibit 2, p. 50, 53-54; *see also*, Exhibit 3, p. 136-137; *see also*, Exhibit 4,
7 p. 167. Further, and to the extent it appears that the Commission focused on the fact that there
8 were not numerous CAD reports documenting such uses of the Sheriff's Office, the law
9 enforcement officers who were called as witnesses made clear that they would not necessarily
10 prepare CAD reports or other documentation of civil interactions such as that at issue. *See*,
11 Exhibit 2, pp. 63-64; *see also*, Exhibit 3, pp. 139-140. The Storey County Sheriff's Office has
12 18 deputies, not including jail staff. *See*, Exhibit 2, p. 51. The Storey County Sheriff's Office
13 serves a community of approximately 4,200 residents. *Id.* at 52. Not all interactions between the
14 sheriff's office and members of the public is commenced with a call from dispatch so as to
15 generate a CAD report. To the contrary, sheriff's deputies are approached by members of the
16 public on the street, receive telephone calls from members of the public on their cell phones,
17 answer the telephone at the main office after regular business hours, and answer, when present, if
18 members of the public knock on the doors of the main office. *See*, Exhibit 2, p. 34, 51; *see also*,
19 Exhibit 3, p. 137-138; *see also*, Exhibit 4, p. 166. The Commission's apparent reliance on the
20 testimony of non-Sheriff's Office employees and the number of CAD reports uncovered of
21 incidents of a similar nature, when examined against the testimony of witnesses with personal
22 knowledge of the operation of the Sheriff's Office, was misplaced and the finding that the
23 Sheriff's Office did not have a policy of permitting uses of the Sheriff's Office by the public of
24 the same or similar nature as that at issue is not supported by a preponderance of the evidence.
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1 The underlying policy of the Storey County Sheriff's Office is to assist the citizens of
2 Storey County as unpredictable and changing situations arise. The frequency of child custody
3 exchanges or visitations has no bearing on whether a policy did, in fact, exist which permitted
4 such uses. Given the very nature of law enforcement, written policies addressing every situation
5 which might arise are not realistic nor should the lack of any such written policy be used to
6 support a violation of NRS 281A.400(7) under the circumstances at issue.
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8 In addition to the foregoing, the Commission, in numerous instances in its opinion, states
9 that Sheriff Antinoro supervised and oversaw the visit between Clarence Gempel and his
10 daughter on May 20, 2017. Such a finding, which appears to be used by the Commission to
11 insinuate that Sheriff Antinoro's actions somehow created the appearance of impropriety, is
12 supported by no evidence in the record. First and foremost, Gempel and his wife, Susan Stubbs,
13 did not appear at the adjudicatory hearing to testify concerning the events at issue. Laura
14 Antinoro testified that her husband introduced himself to Gempel and his wife on May 20, 2017,
15 and did not otherwise interfere in any way with the visit nor was he otherwise involved in the
16 visit. *See*, Exhibit 1, p. 127. Sheriff Antinoro testified that he attended to his regular business
17 during the brief, one hour visit. *See*, Exhibit 2, p. 54. There is no testimony or evidence
18 whatsoever which would support the insinuation or finding that Sheriff Antinoro involved
19 himself with the child visitation at issue.
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22 While perhaps not dispositive, the Commission's apparent disregard of the concerns of
23 Laura Antinoro relative to the child visitation between Gempel and the daughter he had not seen
24 in six years is also unsupported by the evidence presented at the hearing. Mrs. Antinoro testified
25 (to the extent she was permitted to do so) as to the reasons underlying her decision to meet
26 Gempel at the Sheriff's office, rather than in a public park, and her testimony was
27 uncontroverted. *See*, Exhibit 1, pp. 125, 129, 131. In its opinion, the Commission suggests that
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1 there was no evidence “supporting the existence of any implied or actual threat made by
2 Gempel associated with the safety of the minor child or that of Mrs. Antinoro.” *See*, Opinion, p.
3 4, ¶15. This factual finding ignores the only testimony and evidence presented. Again, there
4 was no testimony from Gempel. Further, Sheriff Antinoro was prevented (over objection), by
5 virtue of an order granting the Executive Director’s motion in limine, from presenting more
6 detailed evidence regarding the relationship between Mrs. Antinoro and Gempel relative to the
7 custody issues. *See*, Order Granting in Part and Denying in Part Executive Director’s Motion in
8 Limine to Exclude Certain Evidence or Testimony. To the extent the Commission relied upon
9 the lack of facts of implied or actual threats made by Gempel in the years leading to the child
10 custody visit at issue in connection with its decision, the order precluding Sheriff Antinoro from
11 presenting facts regarding the details of Laura Antinoro’s child custody dispute and relationship
12 with Gempel was clear error.

15 **C. LIMITED USE EXCEPTIONS**

16 Additionally, while the facts and evidence here do not support a finding that Sheriff
17 Antinoro utilized government resources to secure a benefit in a private capacity to his wife, even
18 if such were the case, the one hour use of the Sheriff’s Office by Laura Antinoro on May 17,
19 2017, comports with the limited use exception set forth under NRS 281A.400(7)(a)(1)-(4).

21 There is no dispute that, as the Sheriff of Storey County, Sheriff Antinoro is responsible
22 for, and has the authority to, authorize the use of the Virginia City main office, as well as the
23 substation in Lockwood, as a place where the general public can hold and conduct child
24 visitations and child custody changes. As set forth above, the facts and evidence in this case
25 clearly support a finding that the Storey County Sheriff’s Office maintained a policy wherein
26 members of the public were permitted to utilize the main office in Virginia City and the
27 substation in Lockwood to conduct child custody exchanges and other related services of a civil
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1 nature. The fact that such visitations are permitted without a written policy is immaterial, as the
2 evidence presented clearly established the existence of such a policy. Therefore, the
3 Commission's finding that the first prong of the exception in NRS 281A.400(7) was not
4 established is not supported by a preponderance of the evidence.

5 Further, there was no evidence, let alone a preponderance of the evidence, presented in
6 this matter that would support a finding that the one hour visit between Gempel, Laura
7 Antinoro, and the minor child at the Sheriff's Office on May 20, 2017, in any way interfered
8 with the performance of Sheriff Antinoro's public duties. There was no evidence presented in
9 this matter that would suggest that the cost or value of the use of the Sheriff's Office to conduct a
10 child visitation was anything but non-existent and Commission counsel did not even make such
11 an argument.
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14 Lastly, contrary to the Commission's findings, there was no evidence presented,
15 testimonial or otherwise, to suggest that Sheriff Antinoro participated in the child visitation
16 between Gempel and his minor child so as to create an appearance of impropriety or that Mrs.
17 Antinoro's use of the main office under the circumstances created the appearance of impropriety.
18 The Commission concludes in several of its findings that Sheriff Antinoro "supervised" or
19 otherwise used his "authority as Sheriff of Storey County to personally and singularly offer,
20 schedule, and oversee" the visit between Gempel and his minor daughter. However, the
21 Commission's finding in this regard is contrary to the uncontroverted evidence in this case. Both
22 Sheriff Antinoro and Laura Antinoro testified that, other than introducing himself to Gempel,
23 Sheriff Antinoro largely remained in his office and did not participate or "supervise" the visit, as
24 was found by the Commission. As Gempel and his wife did not appear at the adjudicatory
25 hearing, there was simply no evidence presented which would suggest that Sheriff Antinoro
26 involved himself in this event aside from introducing himself to Gempel. The statements in the
27
28

1 opinion to the effect that Sheriff Antinoro "oversaw" or "supervised" the visit are not supported
2 by any evidence nor did the use at issue create the appearance of impropriety.

3 **D. THE EVIDENCE DOES NOT SUPPORT A FINDING OF A WILLFUL VIOLATION OF**
4 **NRS 281A.400(7)**

5 Here, Sheriff Antinoro respectfully submits that, under the factors set forth in NRS
6 281A.475, there is no evidence to support a finding of a willful violation of the provisions set
7 forth in NRS Chapter 281A. Sheriff Antinoro simply permitted his spouse to utilize the Sheriff's
8 Office to conduct a child visitation in the same manner as he would a member of the general
9 public. Therefore, Sheriff Antinoro respectfully submits that the Commission's finding that he
10 committed a willful violation of NRS 281A.400(7) is not supported by a preponderance of the
11 evidence.
12

13 **IV**

14 **CONCLUSION**

15
16 Based on the foregoing, Sheriff Antinoro respectfully requests that the Commission
17 reconsider its opinion in this matter and enter a finding that there was no violation of NRS
18 281A.400(7) under these circumstances.

19 DATED this 14th day of March, 2019.

20
21 THORNDAL ARMSTRONG
22 DELK BALKENBUSH & EISINGER

23 By: Katherine F. Parks
24 Katherine F. Parks, Esq.
25 Thorndal Armstrong Delk
26 Balkenbush & Eisinger
27 6590 S. McCarran Blvd. Suite B
28 Reno, Nevada 89509
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ATTORNEYS FOR GERALD ANTINORO

CERTIFICATE OF SERVICE

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I certify that I am an employee of THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER, and that on this date I caused the foregoing **GERALD ANTINORO'S MOTION FOR RECONSIDERATION** 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.

XX 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 14 day of March, 2019


An employee of THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER

EXHIBIT "1"

EXHIBIT "1"

BEFORE THE NEVADA COMMISSION ON ETHICS

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AGENDA ITEM 5

Request for Opinion
No. 17-21C (Antinoro)

Adjudicatory Hearing

Wednesday, October 17, 2018

State Bar of Nevada
9456 Double R Boulevard
Suite B
Reno, Nevada

Reported by: Lesley A. Clarkson, CCR #182

1 CHAIRMAN LAU: Please. You may release the witnesses.

2 MS. PRUTZMAN: Thank you.

3 CHAIRMAN LAU: Miss Parks.

4 MS. PARKS: Thank you. My client and I's first witness
5 is Laura Antinoro.

6 CHAIRMAN LAU: Mrs. Antinoro. Welcome.

7 THE WITNESS: Thank you.

8 CHAIRMAN LAU: Please state your full name and spell
9 your last name.

10 THE WITNESS: My name is -- is this on?

11 My name is Laura Antinoro. And you wanted me to spell
12 my name?

13 CHAIRMAN LAU: Yes.

14 THE WITNESS: My last name is spelled A-n-t-i-n-o-r-o.

15 CHAIRMAN LAU: Thank you very much.

16 THE WITNESS: You're welcome.

17 CHAIRMAN LAU: Your witness.

18

19 LAURA ANTINORO,,

20 having been first duly sworn, testified as follows:

21

22 DIRECT EXAMINATION

23 BY MS. PARKS:

24 Q Good afternoon, Mrs. Antinoro. How are you doing.

25 A Doing well, thank you. How are you?

1 never followed through with anything. So as usual I told him
2 that I would be more than happy to meet with him wherever he
3 wanted, and he never showed up in the past.

4 Q Okay. So on or about May 5 he gets in touch with you
5 about seeing the minor. At some point in time were arrangements
6 made for you to meet with Mr. Gempel in a public park?

7 A Yes.

8 Q And initially I mean was that your idea in terms of
9 where this visit should take place?

10 A Yes.

11 Q And at the time of this May 20, 2017, visit, or around
12 that time frame, Mr. Gempel had not seen the minor in how many
13 years?

14 A Six years.

15 Q And so how did you communicate to Mr. Gempel how it
16 was or where the visit would take place?

17 A He texted me on the 14th of May, and that's when I
18 initially suggested the park. He did not respond to that
19 suggestion. And so within ten minutes, I had a few minutes to
20 think about it, and I had become concerned with this particular
21 possible visit just because of, he had been in contact with
22 somebody that I believed to be a very deranged individual, and so
23 I felt a little bit concerned about that, and I suggested that we
24 meet they sheriff's office. And he responded positively. He
25 said okay.

1 Q Okay. So in terms of your communication with him about
2 initially we will have it at the park, you then thought the
3 better of that for safety reasons; is that correct?

4 A Correct.

5 Q Is that something that you then immediately
6 communicated to Mr. Gempel?

7 A Yes, within ten minutes, suggesting the park, to which
8 again he did not respond, I suggested that we meet at the
9 sheriff's office.

10 Q All right. And he didn't express any reservations or
11 objections or concerns about that?

12 A No. None at all.

13 Q And so the visitation took place at the sheriff's
14 office on main in Virginia City, correct?

15 A Correct.

16 Q And were there other persons present at the sheriff's
17 office during the time of this visit?

18 A His wife, to whom -- well, his wife was there, I was
19 there, and, you know, he met my husband, and we all introduced
20 ourselves, and my daughter of course was there.

21 Q Were there other law enforcement officers there?

22 A I believe that they had come in and out and they were
23 working.

24 Q And how long did this visit last?

25 A I think it was about an hour. I didn't time it. But I

1 believe it was around an hour.

2 Q Your husband had not met Mr. Gempel prior to that
3 date, correct?

4 A That's correct.

5 Q And at the time that this visit took place, did your
6 husband introduce himself to Mr. Gempel?

7 A Yes. They shook hands.

8 Q And did he introduce himself to Susan, Mr. Gempel's
9 wife, Susan Stubbs?

10 A I believe so. I mean it was an introduction.

11 Q Quick?

12 A Yeah. Yes.

13 Q Did your husband make a comment to Mr. Gempel along
14 with the lines of welcome to my house?

15 A No.

16 Q Did Sheriff Antinoro, your husband, interfere in any
17 way with this visit between Mr. Gempel and the minor child?

18 A No.

19 Q Did Sheriff Antinoro participate or insert himself into
20 this visit with Mr. Gempel in any way?

21 A No. I mean other than the general small talk that took
22 place at the very beginning of the introduction as we were
23 introducing each other, but no, there was no, he was not
24 involved.

25 MS. PARKS: Thank you.

1 happened on May 20?

2 A No.

3 Q So did your divorce decree allow you to choose anyone
4 to supervise the visits between your daughter and her father?

5 A Yes.

6 Q So was your husband, the sheriff, was he planning to
7 join you for the meeting --

8 A Yes.

9 Q -- on May 20? So whether it was at the park or the
10 library, or ultimately the sheriff's office, you knew that he
11 would be joining you.

12 A I could have chosen anyone, or as many as I wanted, and
13 I chose my husband.

14 Q Okay. So why did the sheriff's office seem like a
15 better place to meet with Mr. Grepel than the park?

16 A Because I felt concerned. I felt concerned about who
17 he was connected with, my ex-husband, who he was connected with.
18 There was an element of, my ex-husband was an unpredictable
19 person anyway.

20 Q Stick to the answer to my question, please.

21 A Well --

22 Q Why the sheriff's office in particular was better than
23 the park.

24 A I was concerned for my safety and for my daughter's
25 safety. I didn't know what to expect.

1 Yes, Commissioner O'Neill.

2 EXAMINATION BY THE COMMISSION

3 BY COMMISSIONER O'NEILL:

4 Q Miss Antinoro, what was your husband wearing that day?

5 A I don't remember, quiet honestly. It was cold that
6 whole week leading up to it, so -- that's all I can tell you. I
7 don't remember what he was wearing.

8 Q If I understand correctly, you said you felt safer in
9 an enclosed building, enclosed room with limited access, than in
10 an open park with a person that you felt could be threatening to
11 you?

12 A Well, I didn't feel like I had, I had a lot less
13 control over the environment in a park, but yes, in an enclosed
14 room I felt safer.

15 Q Could you explain that to me, why?

16 A I guess because, again, I felt like my husband was
17 associated with some dangerous people, and I wasn't sure if this
18 could have been an ambush. I didn't know what to expect. I
19 hadn't seen him in a number of years, and the fact that he was
20 associating with people who have made threats against my family,
21 I just wasn't sure what to expect.

22 COMMISSIONER O'NEILL: Thank you.

23 Thank you, Madam Chair.

24 CHAIRMAN LAU: Thank you very much. Any other
25 questions?

EXHIBIT "2"

EXHIBIT "2"

BEFORE THE NEVADA COMMISSION ON ETHICS

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AGENDA ITEM 5

Request for Opinion
No. 17-21C (Antinoro)

Adjudicatory Hearing

Wednesday, October 17, 2018

State Bar of Nevada
9456 Double R Boulevard
Suite B
Reno, Nevada

Reported by: Lesley A. Clarkson, CCR #182

1 visitation issue, what you would you do with that call?

2 A Most of the time I would say I would transfer it to
3 dispatch. If I had a deputy that was standing right there, I
4 would say hey, can you take this call. That happens on occasion,
5 but mostly I would send it to dispatch.

6 COMMISSIONER LOWRY: Thank you.

7 CHAIRMAN LAU: Thank you, Commissioner Lowry. Any
8 other questions or comments for witness Gavenda?

9 Hearing none, thank you, Miss Gavenda.

10 At this moment, we are going to take a five minute
11 break, and then we will start at ten to eleven.

12 (Recess taken.)

13 CHAIRMAN LAU: We are back on the record.

14 Miss Prutzman.

15 MS. PRUTZMAN: Thank you, Madam Chair. At this time I
16 would like to call the subject, Sheriff Antinoro, as a witness.

17 CHAIRMAN LAU: Sheriff Antinoro, welcome.

18 THE WITNESS: Thank you.

19 CHAIRMAN LAU: Would you please give your full name and
20 spell your last name.

21 THE WITNESS: Gerald Antinoro. A-n-t-i-n-o-r-o.

22 CHAIRMAN LAU: Thank you very much. Your witness.

23 Would you use the microphone, please. Thank you.

24 Miss Prutzman.

25 MS. PRUTZMAN: Thank you.

1 sheriff's office?

2 A Same thing I have told dozens of other people.

3 Q Okay. Why did you and Laura think that the sheriff's
4 office would be a good place, or let's say a better place than
5 the park for her to meet Mr. Gempel?

6 A It's a more secure environment.

7 Q Can you explain that, please? Secure in what way?

8 A Secure as in personal safety of people. We have a
9 designated internet safety zone at the sheriff's office, we do
10 property exchanges at the sheriff's office, substation, the jail.
11 Any time people are in conflict, we use the office for that
12 because it provides for personal safety.

13 Q Does it provide for personal safety because of the
14 nature of the structure, or personal safety because there are law
15 enforcement personnel typically present?

16 A Because there are law enforcement personnel typically
17 present, yes.

18 Q What is the address of the sheriff's office facility
19 that you and Laura discussed meeting at?

20 A As I said, it's 205 South C Street in Virginia City.

21 Q So it is the same office where your office is located.

22 A Correct.

23 Q Okay. Who owns this building?

24 A Storey County.

25 Q I'm going to show you the executive director's

1 there. I have deputies that work 24 hours a day, seven days a
2 week who work out of the office.

3 Q Well, let me clarify. Do you have any admin staff or
4 other personnel that would be expected to remain at that
5 particular site all day, for example, on a Saturday?

6 A No. Statute doesn't require that.

7 Q Okay. So how would members of the public gain access
8 to this sheriff's office location when the building is locked?

9 A A number of ways. They could either try the door and
10 see if it's unlocked, which it may or may not be if somebody is
11 inside, they could call one of the deputies and meet there, they
12 could call dispatch and go to the building, meet somebody there.

13 Q So can you tell me, the Storey County detention center,
14 where is that located?

15 A That's located on the south end of Virginia Street on
16 State Route 341.

17 Q So approximately how far away from the main office is
18 that?

19 A Maybe a mile.

20 Q A mile? Is the detention center building locked on the
21 weekend?

22 A No.

23 Q It's not? So it's open to the public?

24 A The front lobby is, yes.

25 Q Always open?

1 document a custody exchange that occurred at the Lockwood
2 substation of the Storey County Sheriff's Department?

3 A Yes.

4 MS. PARKS: I'd like to, with your permission, I think
5 the commission can take judicial notice of what day of the week
6 this was, but I'd like to help the witness. This is a 2017
7 calendar, if anyone has any objections to me showing this to the
8 witness.

9 CHAIRMAN LAU: No objections.

10 MS. PARKS: Thank you.

11 BY MS. PARKS:

12 Q Sheriff, if you could please take a look at my
13 calendar, and turn to January 15, 2017, please.

14 A Okay.

15 Q And what day of the week was January 15, 2017?

16 A Sunday.

17 Q And what type, according this CAD incident report, did
18 this call come in?

19 A Just after six p.m.

20 Q So this particular exhibit documents a custody exchange
21 that occurred on a Sunday after regular administrative hours at
22 the Lockwood station of the Storey County Sheriff's Department?

23 A Yes.

24 Q Sheriff, are there other ways in which your law
25 enforcement officers are contacted by members of the public other

1 than through dispatch?

2 A Yes.

3 Q Can you please describe what some of those other ways
4 are?

5 A They can be contacted on the street, by someone in
6 person. A perfect example is just this last weekend I had some
7 people in Fernley who contacted me via my cell phone, made
8 arrangements for a civil standby, and I contacted the deputy and
9 had them meet with the people. And that was over the course of
10 Saturday and Sunday.

11 Q So just this weekend you had occasion to arrange for a
12 civil custody interaction?

13 A This was a civil standby, not a custody issue. We have
14 also had people come up, like I said, and contact deputies on the
15 street. I have been contacted at three a.m. when I was there at
16 the office, I had somebody walk in needing a custody, or not a
17 custody, a civil standby down the street from the sheriff's
18 office.

19 Q Sheriff, how many officers are under your command?

20 A Excluding jail staff?

21 Q Exclude the jail staff, please.

22 A 18 deputies.

23 Q And as the sheriff of Storey County, do you have an
24 estimate, sir, for approximately how many residents or citizens
25 there are of Storey County?

1 A Approximately 4,200 residents.

2 Q Sheriff, is it unusual for members of the public to
3 come into the sheriff's office and make requests for assistance
4 in what might be described as civil disputes?

5 A All the time.

6 Q You mentioned an internet safe zone. Can you explain
7 what that is?

8 A That was something set up by the legislature to where
9 there were, all political subdivisions set up a place where there
10 could be a safe exchange of goods or services, whatever the case
11 may be, that were arranged over the internet.

12 Q So for example, somebody could come to the sheriff's
13 office if they had decided to buy something over Craigslist, and
14 they felt a little bit reluctant to just go wherever that person
15 might be, is that what you mean?

16 A Correct.

17 Q Sheriff Antinoro, on the date of the visit of May 20,
18 2017, did you interfere with this visit that Mr. Gremmel had with
19 the minor child in any way?

20 A No.

21 Q Sheriff Antinoro, did you say to the requester
22 Mr. Gremmel, when you met him for the first time, welcome to my
23 house?

24 A No. I believe I greeted them and took them into the
25 squad room and went about my business while they conducted their

1 visit.

2 Q And the deputies that were on duty on May 20, 2017, you
3 didn't call them in, I think you have testified, you didn't call
4 them in to somehow assist with that visit?

5 A Correct.

6 Q And no deputy was taken away from his or her regular
7 duties in order to allow for this visit to have occurred?

8 A Correct.

9 Q Were there any resources in terms of staffing or
10 otherwise that were expended as a result of this visit of May 20,
11 2017?

12 A No.

13 Q And Sheriff Antinoro, how long have you been with the
14 sheriff's office? Can you tell us again, please?

15 A Since 2006. So twelve years.

16 Q And in your history with the sheriff's office, do you
17 have personal knowledge of the sheriff's office, including the
18 main office in Storey County, being open for members of the
19 public when it comes to having a place to do child custody
20 exchanges and visitations?

21 A Yes.

22 Q And that's not limited to Monday through Friday nine to
23 five; is that true?

24 A That's correct. I recall one that happened starting
25 just right about closing time actually that was in the squad

1 room, probably 2011 -- well, 2012 or 2013. It was shortly after
2 we moved into that building.

3 Q And sheriff, you have deputies that work in three
4 shifts. Would that be correct?

5 A Basically, yes.

6 Q So you have officers who were on duty 24/7, correct?

7 A Correct.

8 Q And you would have officers who would be physically
9 present at the main office of the Storey County Sheriff's Office
10 on weekends and after hours; is that true, sir?

11 A Yes.

12 Q And as this visit was occurring, sir, you went about
13 your regular business; is that correct?

14 A That is correct.

15 Q And do you know how long it had been since Mr. Gempel
16 had seen the minor child prior to --

17 MS. PRUTZMAN: Objection. I have an objection.

18 CHAIRMAN LAU: So moved. Yes.

19 MS. PRUTZMAN: The motion, the ruling on the motion in
20 limine filed by the executive director indicated that any
21 information related to Mr. Gempel's relationship with his
22 daughter was impermissible unless it had to do with the state of
23 mind of Laura Antinoro.

24 MS. PARKS: I would suggest it absolutely does, and
25 this question goes to that and is not barred by the chairman's

1 the facility is open and available 24 hours a day seven days a
2 week?

3 A Pretty much, yes. Some of it is by appointment, some
4 of it is when you contact a deputy or myself. But it is a public
5 building, it is the public's building, so if the public has a
6 need, we allow the public in.

7 There's been days when there's been things going on in
8 Virginia City that I know there's going to be staff or volunteers
9 around the office, and we will leave the doors unlocked
10 throughout the entire weekend so the public can come in and if
11 nothing else have access to the restroom facilities. We did that
12 just recently during a couple of big events. We do that
13 throughout the summer during the event season.

14 And as I testified, I have been in there, I go in at
15 all hours of the day and night, and generally speaking I leave
16 the door unlocked, and I have had people walk in at three a.m.
17 and ring the bell on the counter to see if there was anybody
18 there.

19 Q And so as I understand the answers that you gave to
20 your lawyer, you want the citizens of your community to know that
21 the facility is open, available 24/7, including for safety
22 issues. So if there are civil disputes or other potential
23 escalating issues, they can know that's a safe place for them; is
24 that right?

25 A Correct.

1 Q So how do you advertise to the citizens of your
2 community that the facility is open and available to them 24/7,
3 especially with serious issues like custody exchanges and
4 visitation so that they wouldn't expect to be able to use the
5 facility and then somehow find out that it's not available? How
6 do you let your members know that 24/7 if you want to come here
7 for a custody visitation or exchange, it's guaranteed that it's
8 going to be available to you?

9 A There is no guarantee. A lot of it just depends on the
10 availability of staffing. But the deputies communicate to people
11 that they can come there, either to the main office, the jail
12 facility, or the substation. Many of these things are arranged
13 in advance. It's not very often that it just pops up in the
14 middle of the night, hey, we are going to do a child visitation
15 at the sheriff's office. Generally there is a phone call that is
16 made that takes place in advance.

17 Some of the stuff, like I said, the internet safety
18 zone, that was an act that was adopted by the county commission
19 that was put out at a public county commission meeting and then
20 through communications through the county commission meeting
21 minutes that that was designated an internet safety zone.

22 Another example is like when the county library shut
23 down during an open county commission meeting, we told the public
24 at that time that they were welcome to come to the sheriff's
25 office and be allowed internet access provided we had staffing

1 policies that are specific to custody visitation, other than what
2 your lawyer pointed out that has to do with retrieval of
3 property?

4 A That's what I'm saying, it's more than just retrieval
5 of property. It may address specific retrieval of property, but
6 there is more to a civil standby. Much of this is just conveyed
7 supervisor to subordinate and through the field training process.
8 And the circumstances of a standby, a civil standby vary so
9 greatly from one person to the next and one day to the next that
10 no, there is not a policy specific to custody exchanges or, but
11 there's not a specific policy regarding any number of civil
12 standbys. A civil standby is a civil standby. We stand by and
13 keep the peace while people conduct whatever business they have
14 to conduct.

15 Q I think you just answered this question. So is there
16 anything in this entire policy book that directs members of your
17 department, whether it be the deputies, dispatch, or anyone else,
18 how to handle a request for custody visitation? In other words,
19 the circumstances under which they, if it's not during
20 administrative hours, can say to a member of the public, I'm
21 sorry, but on the ranking of things we have got to do at this
22 moment this doesn't count?

23 A Well, the officers do have discretion and they do have
24 the ability to prioritize. If somebody wants to do a civil
25 standby to do a custody exchange, but we are dealing with an

1 armed robbery at the time, then of course we know what's going to
2 take precedent. The people will have to wait, because we have
3 limited resources. But the staff also knows that all other
4 things be being equal, we have the ability and the opportunity,
5 then we will stand by and do what that takes to get through
6 whatever the circumstances are.

7 Q So if any of your deputies testify here today, will
8 they tell us that absent an emergency, the facility will be made
9 open and available to anyone who requests it for custody
10 visitation 24/7 based on their training?

11 A I believe that they would.

12 COMMISSIONER WEAVER: Thank you, sir.

13 CHAIRMAN LAU: Thank you. Any questions, comments for
14 the sheriff?

15 Yes. Commissioner Lowry.

16 BY COMMISSIONER LOWRY:

17 Q Good morning, sheriff.

18 A Good morning.

19 Q Regarding calling in incidents to dispatch and
20 generating an incident report, does any of your policies here
21 cover when your officers should call in to dispatch and generate
22 a report when they respond to something?

23 A I couldn't tell off the top of my head whether there's
24 a specific policy, but it is the practice and they should call
25 in. However, not everything does get called in, depending on how

1 the circumstances come about. As I believe I mentioned, just
2 this past weekend I had someone contact me directly. We made
3 arrangements for the deputy to do a standby, I contacted the
4 deputy directly, I had to call him back and check. The deputy,
5 when he responded out to handle the standby, he may have called
6 in to dispatch and generated that incident report, but the entire
7 circumstance was set up and arranged and he met with the people
8 prior to an incident that were being generated. So yes, it's
9 always good to have it documented, but not everything always gets
10 documented.

11 Q So you said it should be called in.

12 A Correct.

13 Q That would be your best practice.

14 A Correct.

15 Q Not only so that you have a record of it, but certainly
16 for officer safety.

17 A Correct.

18 Q So, and that would apply to civil standbys as well,
19 that your best practice and what you should do is that you should
20 call it in.

21 A Correct.

22 Q So why didn't you call it in in this instance so that
23 you would have the appropriate record and documentation that this
24 child custody standby occurred?

25 A I felt that it was very low-level issue that, so I did

EXHIBIT "3"

EXHIBIT "3"

BEFORE THE NEVADA COMMISSION ON ETHICS

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AGENDA ITEM 5

Request for Opinion
No. 17-21C (Antinoro)

Adjudicatory Hearing

Wednesday, October 17, 2018

State Bar of Nevada
9456 Double R Boulevard
Suite B
Reno, Nevada

Reported by: Lesley A. Clarkson, CCR #182

1 I just assumed that it was available.

2 COMMISSIONER WEAVER: Thank you.

3 THE WITNESS: You're welcome.

4 CHAIRMAN LAU: Thank you very much. Any other comments
5 or questions for Mrs. Antinoro?

6 Thank you very much, Mrs. Antinoro.

7 THE WITNESS: You're welcome.

8 MS. PARKS: Thank you. I'd like to call Eric Kern,
9 please.

10 CHAIRMAN LAU: Welcome, Mr. Kern.

11 THE WITNESS: Hello.

12 CHAIRMAN LAU: Please sit. State your full name and
13 spell your last name, please.

14 THE WITNESS: It's Eric Michael Kern, K-e-r-n.

15 CHAIRMAN LAU: Thank you very much. Your witness.

16

17 ERIC KERN,

18 having been first duly sworn, testified as follows:

19

20 DIRECT EXAMINATION

21 BY MS. PARKS:

22 Q Mr. Kern, who is your current employer?

23 A Storey County. Storey County Sheriff's Office.

24 Q And do you have a rank?

25 A Sergeant.

1 A A total for the whole day of Saturday or just --

2 Q No. Let's do --

3 A On average there's two deputies on on Saturdays.

4 Q And sergeant, where is the jail located with respect to
5 the main office in Virginia City?

6 A It's approximately a mile away from it. It's down the
7 truck route a little outside of town.

8 Q So sir, would it be appropriate and fair to say that
9 there are law enforcement officers, deputies with Storey County
10 Sheriff's Office that are on duty 24 hours a day, seven days a
11 week?

12 A Yes, that's correct.

13 Q And in the course of your law enforcement duties, sir,
14 do you have occasion to deal with citizens of Storey County or
15 otherwise, members of the public, on matters that are not
16 strictly criminal matters?

17 A Yes.

18 Q And so that would be civil type disputes that might
19 arise with people. Do you deal with those sorts of things?

20 A Yes, all the time.

21 Q Can you give an idea of what sort of civil disputes
22 that you might encounter in a typical week or typical couple of
23 weeks?

24 A Generally you'll run into a lot, I mean civil issues
25 are more common, more than the criminal that we see, honestly,

1 but just property disputes issues, family issues, any number of
2 things. You know, I can't think of them off the top of my head,
3 but the majority of the stuff that we deal with is, at least in
4 my experience, is generally more wrapped up in a civil aspect.
5 It might be, their initial interpretation might be that it's
6 criminal in nature, but when you look at it a little bit further,
7 it a lot of times comes to be civil.

8 Q Do part of your duties, sergeant, include, for example,
9 patrolling up and down main street in Virginia City?

10 A Yes.

11 Q Sort of walking up and down main street and going on
12 patrol. Would that be accurate?

13 A Yes.

14 Q Are you aware, sergeant, of the main office of the
15 Storey County Sheriff's Department admitting members of the
16 public after regular business hours and on the weekends?

17 A Yes. With another like an employee or as in like
18 giving them access, yes, with another deputy or employee is
19 there.

20 Q Right. I mean not by themselves.

21 A Right, no.

22 Q Not by themselves, probably understood. But sir, you
23 are aware or you have had experience with allowing access to
24 members of the public to the main office of the sheriff's
25 department there in Virginia City after regular eight to five

1 business hours Monday through Friday.

2 A Yes.

3 Q Is that an unusual occurrence?

4 A No.

5 Q And sir, are you aware of, in connection with your work
6 at the sheriff's office, then, of the main office of the
7 sheriff's office having been opened up for child custody visits
8 and exchanges on weekends and after regular business hours?

9 A Yes.

10 Q In terms of your experience in dealing with the public,
11 do all of your experiences or your, what instigates something
12 that you might be doing with a member of the public, do all of
13 those issues, are they all instigated by dispatch?

14 A No.

15 Q How are some of the other ways or manners in which
16 people in the community might communicate with you or might a
17 civil issue come to your attention?

18 A Well, we can be flagged down by people, people can come
19 knock on the door. On occasion I have answered the telephone
20 after hours in the squad room and had somebody that needed
21 assistance and helped them. A lot of times we get court
22 documents or other things of that nature through the court that
23 specify a date and time. It doesn't necessarily go through the
24 communications center, but we are aware of it.

25 Q So you have had occasion working after the regular

1 business office is closed and on the weekends, you have had
2 occasion to answer the regular phone line when it rings at the
3 sheriff's office?

4 A Yes.

5 Q And you do that if you are there?

6 A Yeah.

7 Q Okay. And you have had occasion where citizens have
8 actually walked up to the sheriff's office and knocked on the
9 door and instigated a conversation with you?

10 A Yes.

11 Q And when that has happened, then, you have responded
12 and addressed them and dealt with them.

13 A Yes.

14 Q And that would include allowing people access to the
15 office; is that correct?

16 A Yeah. I mean depending on the circumstances.

17 Q Sure. I guess that is really a good point, sergeant.
18 You deal with a multitude of different types of calls and
19 incidents, correct?

20 A Yes.

21 Q As a law enforcement officer in Storey County, are you
22 trained and do you consider it part of your duty to assist
23 members of the public not just with criminal issues, but civil
24 disputes?

25 A Yes.

1 Q And in terms of the manner in which people might come
2 into contact with you on civil issues, in terms of child custody
3 and child visitation type issues, do you know, sergeant, whether
4 the court itself refers people to the sheriff's office to assist
5 them with child custody exchanges?

6 A Yeah, at times they do. When they have issues, you
7 know, between the parents or however it might be for their
8 protection or what not, they will direct them to contact the
9 sheriff's office.

10 Q So that's not an unusual occurrence that people will
11 find their way to members of the sheriff's office because they
12 were referred by other agencies.

13 A Yes.

14 Q Like the courts.

15 A Yeah.

16 Q Sir, when you have interactions with members of the
17 public on civil issues, you have indicated it doesn't always come
18 through dispatch, correct?

19 A Correct.

20 Q And you as a member, a sergeant with the Storey County
21 Sheriff's Office, you yourself don't prepare CAD reports
22 specifically, correct?

23 A I do not prepare CAD incident reports. I would create,
24 I can do case narratives, though.

25 Q So you would have a different sort of a report that you

1 might prepare to document certain incidents, correct?

2 A Yes.

3 Q Sir, would it be fair to say that not every interaction
4 you might have with a member of the public on a civil issue, not
5 every one of those civil actions would ultimately be created or
6 documented in a report, would that be fair to say?

7 A That would be, yes.

8 Q And if someone suggested to you, sir, that the main
9 office of the Storey County Sheriff's Department was closed at
10 five p.m. and on the weekends, how would you respond to that?

11 A Well, sheriff's office is open 24 hours a day, seven
12 days a week. The office itself, that would be the administrative
13 staff that does like the licensing and what not, the civil
14 process, Brandy Gavenda, the employees that work up front there,
15 those are what the hours mean.

16 Q But otherwise you consider the sheriff's office itself
17 to be open beyond those business hours?

18 A Yes, the sheriff's office is open 24/7.

19 Q I'm going to show you an exhibit, but unfortunately I
20 have to find wherever they went, the public's version of these.

21 Actually, I'm going to show you mine. Showing you,
22 sergeant, what is part of Exhibit 4. It is ED620 for purposes of
23 reference. Do you recognize generally what sort of document that
24 is, sir?

25 A Yeah. It's an incident report from our RIMS system.

1 whereabouts to dispatch, would you expect this deputy to notify
2 you when he or she is no longer assisting that member of the
3 public? What would your expectations be as a supervisor of a
4 deputy who was assigned to assist with what, I'm not sure what
5 you would call it, maybe a civil standby situation?

6 A I wouldn't necessarily expect them to notify me or
7 require that from them. Every situation that you deal with is a
8 little bit different. I have full confidence in the deputies
9 that I supervise that if they need my assistance, they will ask
10 me. But I mean that's really kind of at their discretion. It
11 depends on the situation that they are dealing with as to whether
12 or not they are, as to how far they are going to go with
13 contacting people or getting involved with it. It could be
14 something that's very simple, it could be something that's
15 bigger.

16 Q So on a Saturday I think you said you have maybe two or
17 three deputies who are typically on duty?

18 A Yes, I have -- yeah.

19 Q So if you had a deputy who was assigned to assist a
20 member of the public who wanted access to the business office for
21 approximately an hour, would you want to know when that deputy
22 would be available?

23 A It all depends on the circumstances of why they are
24 there. I have had deputies, I have personally assisted with
25 civil issues inside of the sheriff's office. I have other

1 deputies that have assisted with civil issues outside of the
2 sheriff's office that are not necessarily reporting that directly
3 to me or seeking my approval. The sheriff's office itself is
4 where we do our work, it's where we write our reports, we
5 facilitate all kinds of things with people.

6 I have had people come in and done transfer of property
7 to them after hours, and, you know, set up, civil, has nothing to
8 do with us as a criminal nature, it's just you have two people
9 don't get along. One wants to drop of property for the other
10 one, they drop it off, the other person comes at a certain time,
11 knocks on the door, and picks up it. I'm not necessarily going
12 to make a case over that if I'm exchanging their property. Or
13 really tell dispatch anything about it if it was something that
14 was brokered outside of the communications center.

15 Q If a deputy was requested to assist a member of the
16 public who did express that he or she had a concern about meeting
17 with, for example, an ex-spouse for a family matter because that
18 member of the public expressed a concern about the safety or the
19 possible motives of the ex-spouse coming to visit, would that be
20 a concern to you, placing a deputy in that situation?

21 A Well, of course it would be a concern to me. But are
22 you just saying as in like a visitation between two parties, and
23 the one person is concerned that the other one might act out?

24 Q Right.

25 A Our safety is the number one, so is the public, so of

EXHIBIT "4"

EXHIBIT "4"

BEFORE THE NEVADA COMMISSION ON ETHICS

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AGENDA ITEM 5

Request for Opinion
No. 17-21C (Antinoro)

Adjudicatory Hearing

Wednesday, October 17, 2018

State Bar of Nevada
9456 Double R Boulevard
Suite B
Reno, Nevada

Reported by: Lesley A. Clarkson, CCR #182

1 CHAIRMAN LAU: How long do you suppose the testimony
2 will be?

3 MS. PARKS: My direct examination of this witness?
4 Five minutes, maybe.

5 CHAIRMAN LAU: About five? Okay. And if it is
6 cumulative, we will stop.

7 MS. PARKS: Here's the other thing that I would beg the
8 indulgence of the committee on. I have pared down my witness
9 list based potentially on discussions we had at the prehearing
10 conference, and at this time it's my intent that this would be my
11 last witness. So I would appreciate the latitude, and I will be
12 very brief.

13 CHAIRMAN LAU: Please state your full name and spell
14 your last.

15 THE WITNESS: Anthony C. D-o-s-e-n.

16 CHAIRMAN LAU: Please begin.

17

18 ANTHONY DOSEN,

19 having been first duly sworn, testified as follows:

20

21 DIRECT EXAMINATION

22 BY MS. PARKS:

23 Q Sir, can you please tell the commission who your
24 employer is currently.

25 A Storey County Sheriff's Office.

1 Q Can you tell the commission how long you have been with
2 the Storey County Sheriff's Office?

3 A Approximately 13 years.

4 Q Sir, what is your current rank?

5 A I'm assigned as the chief deputy.

6 Q As the chief deputy, do you have business cards with
7 the sheriff's office?

8 A Yes, ma'am, I do.

9 Q And is your cell phone, is it listed on your business
10 cards?

11 A Yes, ma'am, it is.

12 Q Is it unusual, chief deputy, for you to be contacted
13 directly by a member of the community on your cell phone?

14 A No, it's not.

15 Q Sir, have you been contacted directly by members of the
16 public on your cell phone to address situations that one might
17 describe as civil issues?

18 A Yes, I have.

19 Q Chief deputy, is that an unusual occurrence that one
20 contacts you on your cell phone, a member of the public?

21 A I don't consider it that. We are a small community,
22 and we are very much into community policing. So I don't see
23 that as out of the ordinary.

24 Q I'm just saying that that's not an unusual occurrence
25 when it comes to you.

1 A No, it's not.

2 Q So if someone were to contact you, chief deputy, on
3 your cell phone concerning a civil issue of any kind, if you are
4 available, do you make efforts to assist them?

5 A Yes, ma'am, I do.

6 Q If someone contacted you directly on your cell phone, a
7 member of the public, this is a call then that would not go
8 through dispatch; is that correct?

9 A If it did not involve a criminal type of activity, then
10 I more or less wouldn't report it to dispatch.

11 Q Understood. And sir, in your capacity as chief deputy,
12 are you aware of circumstances or situations where the main
13 office of the Storey County Sheriff's Department has been used
14 for child custody exchanges and visitations after regular hours
15 and on weekends?

16 A The sheriff's office has in Virginia City, along with
17 the Lockwood substation, along with the jail in Storey County.

18 MS. PARKS: Thank you. No further questions.

19 CHAIRMAN LAU: Thank you. Counsel Prutzman.

20 MS. PRUTZMAN: I just have a few questions.

21 CROSS-EXAMINATION

22 BY MS. PRUTZMAN:

23 Q Chief deputy, were you at the sheriff's office, the
24 business office on May 20, 2017, the day the sheriff's wife met
25 with Mr. Grempel?

EXHIBIT "5"

EXHIBIT "5"



STOREY COUNTY SHERIFF'S OFFICE

CAD INCIDENT REPORT
1701150015

08/21/2018

Location [REDACTED]				Cross Streets COUR DE LA CELEDON/CA			City LOCKWOOD			
Incident Type CITZAST - CITIZEN ASSIST				Call Taker S055			Dispatcher S125			
Date 01/15/2017	Priority 3	Primary Unit D4	Beat 4	Fire Zone 41	Area 6	Map 201	Source TELEPHONE CALL			
Caller Name SEEGER, JENNIFER				Caller Address [REDACTED]				Caller Phone [REDACTED]		
Dispositions Assisted as needed (Case # ?)					Weapon		Alm Level		Case Number	
Vehicles					Associated Incidents					

Incident Times		Special Circumstances							
Received	18:00:00								
Created	18:02:05								
Dispatched	18:32:01								
En Route									
On Scene	18:32:04								
Closed	18:34:39	Persons							
Revd-Closed	34:39	Sex	DOB	Race	DL				

Unit Times	Deputies	Dispatched	Enroute	On Scene	Clear	Disp-On Scene	Enrt-On Scene	On Scene-Clear	Disp-Clear
D4	S041	18:32:01		18:32:04	18:34:39	00:03	N/A	02:35	02:38

Incident Comments
CIVIL STANDBY - CHILD CUSTODY EXCHANGE - WILL MEET AT THE LW SUB AT 1830

TIME	#	EVENT	BY
18:02:05	1	Incident initiated at [REDACTED]	S055
18:32:01	2	D4 DISP: [REDACTED]	S125
18:32:04	3	D4 10-23.	S125
18:34:39	4	D4 10-8. CIVIL STANDBY COMPLETE	S125
18:34:39	5	D4 Closed - Disposition AS	S125

EXHIBIT "6"

EXHIBIT "6"



STOREY COUNTY SHERIFF'S OFFICE

CAD INCIDENT REPORT

1712210010

08/21/2018

Location [REDACTED]				Cross Streets TRW WAY			City LOCKWOOD		
Incident Type CIVIL - ANY CIVIL PROBLEM				Call Taker S127			Dispatcher S127		
Date 12/21/2017	Priority 3	Primary Unit S2	Beat 4	Fire Zone 41	Area 6	Map TRW	Source TELEPHONE CALL		
Caller Name				Caller Address			Caller Phone		
Dispositions Action Taken (Case #)				Weapon		Alm Level	Case Number		
Vehicles				Associated Incidents					
Incident Times		Special Circumstances							
Received	09:49:22								
Created	09:50:35								
Dispatched	09:50:50								
En Route									
On Scene	09:50:54								
Closed	10:06:39								
Rcvd-Closed	17:17								
Unit Times	Deputies	Dispatched	Enroute	On Scene	Clear	Disp-On Scene	Eart-On Scene	On Scene-Clear	Disp-Clear
S2	S033	09:50:50		09:50:54	10:06:39	00:04	N/A	15:45	15:49

Incident Comments
CHILD CUSTODY ISSUE

TIME	#	EVENT	BY
09:50:35	1	Incident initiated at Lockwood, (Unknown Address)	S127
09:50:45	2	Location changed from Lockwood, (Unknown Address)	S127
09:50:45	3	to [REDACTED]	S127
09:50:50	4	S2 DISP [REDACTED]	S127
09:50:54	5	S2 10-23	S127
09:51:32	6	S2 CHILD CUSTODY ISSUE	S127
10:05:42	7	S2 10-23 AT THE LOCKWOOD SUB	S127
10:06:39	8	S2 10-8.	S127
10:06:39	9	S2 Closed - Disposition AT	S127

EXHIBIT "7"

EXHIBIT "7"

BEFORE THE NEVADA COMMISSION ON ETHICS

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AGENDA ITEM 5

Request for Opinion
No. 17-21C (Antinoro)

Adjudicatory Hearing

Wednesday, October 17, 2018

State Bar of Nevada
9456 Double R Boulevard
Suite B
Reno, Nevada

Reported by: Lesley A. Clarkson, CCR #182

1 RENO, NEVADA, WEDNESDAY, OCTOBER 17, 2018, 12:52 P.M.

2 -o0o-

3
4 CHAIRMAN LAU: We are back on the record.

5 Counsel Prutzman, your witness.

6 MS. PRUTZMAN: Yes. Thank you, Madam Chair. I'm going
7 to call Dave Ballard next.

8 CHAIRMAN LAU: Mr. Ballard, welcome. Please state your
9 name, last name, and spell your last name.

10 THE WITNESS: My name is Dave Ballard, B-a-l-l-a-r-d.

11 CHAIRMAN LAU: Thank you very much.

12 Your witness.

13
14 DAVE BALLARD,

15 having been first duly sworn, testified as follows:

16
17 DIRECT EXAMINATION

18 BY MS. PRUTZMAN:

19 Q Good afternoon. Thank you for being here. So
20 Mr. Ballard, where do you work?

21 A I work for Storey County communications.

22 Q And what is your job title?

23 A Director of communications.

24 Q And what are you responsible for in this position?

25 A I'm in charge of dispatch, which is 911, police, fire,

1 medical, and pretty much all communications to the county,
2 phones, radios, FCC licensing, all that kind of stuff.

3 Q So when you say dispatch, what kind of calls do you,
4 does dispatch respond to?

5 A We respond to everything, but we primarily receive
6 emergency and nonemergency calls from the public.

7 Q So who is your direct supervisor?

8 A My direct supervisor, well, it's, I report to Pat
9 Whitten, county manager Pat Whitten, and I also report to a
10 board, which consists of the sheriff and the fire chief.

11 Q Okay. And so what department, are you your own
12 division?

13 A I am my own department, yes.

14 Q Does anybody from the sheriff's office ever supervise
15 or train you or any of your dispatchers in any way?

16 A There's no supervision from them. We work together
17 with them. We provide I guess technical support. Basically we
18 provide support, so no.

19 Q Where is the dispatch center located where your
20 dispatchers work and where you work as well?

21 A It's at 911 State Route 341, which is the Storey County
22 detention facility.

23 Q When is this particular facility open to the public?

24 A Well, it's a public building, it houses inmates, so
25 it's primarily opening 24/7 to the public. My office is not. My

CROSS-EXAMINATION

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BY MS. PARKS:

Q So Mr. Ballard, if I understand your testimony correctly, you are not an employee of the sheriff's office, correct?

A No, I'm not.

Q And your office is located in the same building as the detention center is located?

A Yeah. We are on just the other side of the wall.

Q So you would not have occasion in your job to be physically present at the Storey County Sheriff's Office on main street, the main office?

A Unless I have some sort of business there, I'm running paperwork or I'm up, you know, seeing the sheriff or something, no, I really don't have any, I don't have really any business to be there.

Q Right. On a day-to-day basis, whether it be Monday through Friday, nine to five, or on the weekends, you wouldn't know what did or did not go on at the sheriff's office, correct?

A No, I don't know.

Q With respect to whether or not private citizens might be allowed in or out of the sheriff's office, that's not part of your job.

A No, that's correct.

Q In terms of your testimony, you said you are the

EXHIBIT "8"

EXHIBIT "8"

BEFORE THE NEVADA COMMISSION ON ETHICS

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AGENDA ITEM 5

Request for Opinion
No. 17-21C (Antinoro)

Adjudicatory Hearing

Wednesday, October 17, 2018

State Bar of Nevada
9456 Double R Boulevard
Suite B
Reno, Nevada

Reported by: Lesley A. Clarkson, CCR #182

1 COMMISSIONER O'NEILL: Thank you.

2 CHAIRMAN LAU: Other questions, comments for
3 Mr. Ballard?

4 Seeing none, thank you very much, Mr. Ballard.

5 THE WITNESS: Thank you.

6 CHAIRMAN LAU: You may call your next witness.

7 MS. PRUTZMAN: Madam Chair, my next witness will be
8 Becky, Rebecca Parsons.

9 CHAIRMAN LAU: Miss Parsons, welcome.

10 THE WITNESS: Thank you.

11 CHAIRMAN LAU: Please state your name and spell your
12 last name.

13 THE WITNESS: Rebecca Parsons, P-a-r-s-o-n-s.

14 CHAIRMAN LAU: Your witness.

15 MS. PRUTZMAN: Thank you, Madam Chair.

16

17 REBECCA PARSONS,

18 having been first duly sworn, testified as follows:

19

20 DIRECT EXAMINATION

21 BY MS. PRUTZMAN:

22 Q Good afternoon. Thank you for being here, Miss
23 Parsons. Can you tell the commissioners where you work, please.

24 A I work for Storey County communications in the dispatch
25 center.

1 Q The business center?

2 A That's an assumption on me. Usually if 205 calls,
3 that's where we initiate an incident at is 205. If they are
4 calling, if somebody from 205 is calling us, that's where we
5 would initiate it. I would assume Sam 3 was at 205.

6 Q Can you tell from that report what time this incident
7 was originated?

8 A At 1839.

9 Q Which is?

10 A Is when we received it. At 1844 is when it was
11 created.

12 Q So that would have been after the business hours of the
13 office.

14 A Correct.

15 Q Okay.

16 MS. PRUTZMAN: I think no further questions.

17 CHAIRMAN LAU: Thank you very much. Your witness.

18 MS. PARKS: Thank you.

19 CROSS-EXAMINATION

20 BY MS. PARKS:

21 Q Hi, Miss Parsons.

22 A Hi.

23 Q So that I understand, you are an employee of Storey
24 County; is that correct?

25 A Yes.

1 Q And as an employee of Storey County, as a dispatcher,
2 you would not have reason to work on a day-to-day basis, for
3 example, at the sheriff's office, main office in Virginia City,
4 correct?

5 A At the 205 address? No.

6 Q At the 205 address or at the Lockwood substation.

7 A No.

8 Q I want to take a quick look, if we could, Miss Parsons,
9 at some of these exhibits that were referenced during your direct
10 examination. This would include Exhibit 5. And if you look at
11 Exhibit 5, about four pages in, starting at EB638, this is the,
12 it says log search results at the top. Are you with me?

13 A Yes.

14 Q Okay. Thanks. Do you have any personal knowledge,
15 Miss Parsons, of how many deputies may have been assigned to work
16 on May 20, 2017?

17 A We don't get the, a normal day would be I would have at
18 least one in Lockwood and one in Virginia City.

19 Q But you yourself, I mean you are documenting in your
20 logs here events that happened, calls that come in to you,
21 correct?

22 A Correct.

23 Q So let me ask you a question. If we look at that first
24 page there where it says ED638. And occasionally there will be a
25 reference, for example, 5/20/17, 1:57 p.m. It says 10-8 for I-80

1 Judy A. Prutzman, Esq. (#6078)
2 Associate Counsel
3 Nevada Commission on Ethics
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6 (775) 687-5469
7 jprutzman@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 **EXECUTIVE DIRECTOR'S RESPONSE TO**
16 **GERALD ANTINORO'S MOTION FOR RECONSIDERATION**

17 Yvonne M. Nevarez-Goodson, Esq., Executive Director of the Nevada Commission
18 on Ethics ("Commission"), by and through the Commission's Associate Counsel, Judy
19 A. Prutzman, Esq., hereby submits her Response to Gerald Antinoro's Motion for
20 Reconsideration ("Motion") submitted on March 14, 2019.

21 **INTRODUCTION**

22 Antinoro seeks reconsideration of the Commission's finding that he committed a
23 willful violation of NRS 281A.400(7), asserting that the finding is not supported by a
24 preponderance of the evidence. The Commission issued its findings in a written
25 Opinion on February 27, 2019 following a 5-hour adjudicatory hearing and almost an
26 hour of closed deliberations on October 17, 2018.

27 ///

1 **LEGAL ANALYSIS**

2 Pursuant to NRS 233B.130(4) and NAC 281A.265(7), a petition/motion for
3 reconsideration of a written opinion of the Commission may be filed before the party
4 files a petition for judicial review. In the absence of any applicable standard for
5 reviewing a request for reconsideration, the Commission has discretion whether to
6 grant or deny reconsideration. The Executive Director submits that the Commission
7 should deny Antinoro’s Motion because it fails to raise any new issues of fact or law or
8 demonstrate that the Commission erroneously failed to consider any material fact or
9 legal standard. Rather, the Motion simply revisits the facts and arguments presented
10 during the adjudicatory hearing and asks the Commission to reweigh the evidence or
11 reassess witness credibility. However, the Commission’s disagreement with Antinoro’s
12 view of the evidence is an insufficient reason for the Commission to reconsider or
13 reverse its decision. Though not a basis for reconsideration, the Commission
14 unquestionably supported its finding of a willful violation based upon a preponderance
15 of the evidence as supported by more than 45 findings of fact issued by the
16 Commission in its Opinion.
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20 **A. The Commission Considered All Material Facts and Its Findings Are**
21 **Supported by a Preponderance of Evidence**

22 The preponderance of the evidence standard set forth in NRS 281A.790(9)
23 requires that the evidence enables the Commission, as the trier of fact, to determine
24 that “the existence of the contested fact is more probable than its nonexistence of the
25 contested fact.” See NRS 233B.0375. The preponderance of the evidence burden does
26 not require the Executive Director to present a greater number of witnesses who
27
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1 provide testimony to establish that an ethics violation occurred. *See, e.g., McClanahan*
2 *v. Raley's, Inc.*, 117 Nev. 921, 925-26 (2001). Rather, "preponderance of the evidence"
3 merely refers to "[t]he greater weight of the evidence." *Id.* (citing *Black's Law Dictionary*
4 1201 (7th ed. 1999)).

5
6 The Commission's factual findings and decision that Antinoro willfully violated
7 NRS 281A.400(7) are based upon a preponderance of the evidence presented at the
8 adjudicatory hearing. Specifically, the following evidence in the record supports the
9 Commission's conclusion that Antinoro's conduct was not excused by the limited-use
10 exception set forth in NRS 281A.400(7)(a). Antinoro himself provided testimony that
11 supports the Commission's findings that: (1) the Main Station of the Sheriff's Office was
12 not open for business on the date he unlocked the building to provide access to his wife
13 for a child visitation appointment (Exhibit A, p. 33, p. 35); (2) Antinoro did not seek
14 assistance from any other member of the Sheriff's Office and remained on the
15 premises during the visitation (Exhibit B, p. 37); (3) the Sheriff's Office had no written
16 policy regarding use of the Main Station for supervised child visitations after normal
17 business hours (Ex. C, pp. 43-45); and (4) no CAD Incident Records established that
18 any supervised child visitation had occurred between May 1, 2016 and May 1, 2018 at
19 the Main Station or the Lockwood Substation (Ex. D, pp. 38-43). The Commission
20 considered Sergeant Kern's and Antinoro's testimony regarding a possible prior
21 supervised child visitation occurring at the Sheriff's Office in the past (Ex. E, pp. 53-54,
22 p. 157), and determined that such testimony was inconclusive and did not provide
23 evidence that a policy had been created by custom or practice that would permit the
24 after-hours use of the squad room at the Main Station for a private child visitation
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1 matter. See Opinion, p. 7, ¶ 41. The non-specific testimony of Antinoro and Kern
2 regarding their recollection of a prior child visitation, combined with the testimony of Ms.
3 Parsons regarding her lack of knowledge of any such visitations during her ten years of
4 employment at the Storey County dispatch center (Ex. F, p. 98, p. 113), supported the
5 Commission’s conclusion that a *de facto* policy established by custom or practice did
6 not exist. See Opinion, p. 15.

8 Contrary to Antinoro’s assertion, the Commission did consider the concerns of
9 Antinoro’s wife related to the child visitation between Clarence Gempel and Antinoro’s
10 step-daughter. The Commission appropriately excluded certain character evidence of
11 Gempel and his motivation for filing the ethics complaint as more prejudicial than
12 relevant. See *Order Granting in Part and Denying in Part Executive Director’s Motion in*
13 *Limine to Exclude Certain Evidence or Testimony*. However, the Commission did not
14 exclude evidence regarding Mrs. Antinoro’s state of mind and her concern for her
15 child’s well-being or safety, finding such evidence to be relevant. *Id.* Accordingly, Mrs.
16 Antinoro was allowed to testify that she believed Gempel “was associated with some
17 dangerous people” and also believed he “was an unpredictable person.” See Exhibit 1
18 to Antinoro’s Motion. On the other hand, Antinoro testified that he did not contact
19 dispatch on the day of the visitation because he felt it was a “very low-level issue” (Ex.
20 G, pp. 64-65) and did not believe it was necessary to ask any deputies to assist with
21 the visitation (Ex. H, p. 37, p. 53). The Commission properly weighed the testimony to
22 determine there was no evidence of any implied or actual threat made by Gempel
23 associated with the safety of the minor child or that of Mrs. Antinoro. Furthermore, the
24 preponderance of the evidence supported the Commission’s determination that the
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1 asserted safety concern did not satisfy the requirements of the limited-use exception of
2 NRS 281A.400(7) to warrant Antinoro's use of government resources for a personal
3 purpose.
4

5 **B. The Requirements of the Limited-Use Exception of NRS 281A.400(7) Were
6 Not Established**

7 The Commission properly concluded that Antinoro did not demonstrate by a
8 preponderance of evidence that his wife's use of the Sheriff's Office was an allowable
9 limited use pursuant to NRS 281A.400(7)(a). In particular, the Commission
10 appropriately determined that no policy had been established for such use, based on
11 the clear and undisputed absence of a written policy and the lack of a *de facto* policy
12 established by custom or practice. See Opinion, p. 15. This finding was supported by
13 the testimony of Ms. Parsons, Antinoro and Kerns regarding the infrequent use of the
14 Sheriff's Office facilities for supervised child visitations. The Commission also
15 determined that Antinoro's use of the Main Station for his own step-daughter's visitation
16 created an appearance of impropriety because such use created a conflict and was not
17 permitted by a written policy, the Sheriff's Office Policy 1050 governing nepotism.
18 Antinoro testified that Policy 1050 applies to him but he did not call dispatch to handle
19 the matter and avoid the conflict, as required in the policy (Ex. I, pp. 45-47, p. 72-73).
20
21

22 **C. The Preponderance of Evidence Supports a Willful Violation**

23 The Commission appropriately concluded that Antinoro's violation was willful
24 pursuant to NRS 281A.170 because he acted intentionally and knowingly, as those
25 terms are defined in NRS 281A.105 and 281A.115, respectively. The term
26 "intentionally" does not require proof of bad faith, ill will, evil intent or malice. NRS
27
28

1 281A.105. Willfulness was established because there was no evidence presented to
2 demonstrate that Antinoro acted accidentally or inadvertently with regard to his wife's
3 use of the Sheriff's Office. See *In re McNair*, Comm'n Op. Nos. 10-105C, 10-106C, 10-
4 108C, 10-109C and 10-110C (2011) ("the relevant inquiry regarding willful misconduct
5 is an inquiry into the intentional nature of the actor's conduct . . . The fact that an actor
6 may have acted with the best of intentions does not relieve the actor of liability.")
7 (citation omitted).
8

9
10 **CONCLUSION**

11 For the foregoing reasons, the Executive Director respectfully requests that the
12 Commission deny Antinoro's Motion for Reconsideration of the Commission's February
13 27, 2019 Opinion.
14

15 DATED this 19th day of March, 2019.

16 NEVADA COMMISSION ON ETHICS

17 /s/ Judy A. Prutzman

18 Judy A. Prutzman, Esq.

19 Associate Counsel

20 Nevada Commission on Ethics
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Exhibit A

BEFORE THE NEVADA COMMISSION ON ETHICS

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AGENDA ITEM 5

Request for Opinion
No. 17-21C (Antinoro)

Adjudicatory Hearing

Wednesday, October 17, 2018

State Bar of Nevada
9456 Double R Boulevard
Suite B
Reno, Nevada

Reported by: Lesley A. Clarkson, CCR #182

1 Exhibit 6.

2 MS. PRUTZMAN: Commissioners, I think you can find this
3 at page ED655.

4 BY MS. PRUTZMAN:

5 Q There are these the front doors to the building where
6 you met with Mr. Grempel on May 20, 2017?

7 A Yes.

8 Q What is the days and business hours of the sheriff's
9 office noted in this office?

10 A Eight to five, Monday through Friday.

11 Q Is this building locked on the days and hours listed in
12 the photo?

13 A It depends on if anybody's there or not.

14 Q Okay. So on a weekend, if somebody was there, the
15 doors would be unlocked?

16 A Yes.

17 Q Unlocked and open.

18 A They may be, depending on the weather.

19 Q Who has keys to this office?

20 A All of the staff.

21 Q All of the staff. Okay. Including you, of course.

22 A Yes.

23 Q Are any Storey County Sheriff's Office employees
24 assigned to work at this particular location on the weekend?

25 A Well, it depends on how you mean assigned to work

1 A 24 hours a day.

2 Q Okay. So how many deputies are on duty at the
3 detention center on a Saturday?

4 A Generally two.

5 Q Okay. Did you and Laura discuss the possibility of
6 meeting Mr. Gempel at the detention center that Saturday?

7 A I may have said that. I may have said you can meet at
8 the jail or at the office.

9 Q Does the detention center have a comfortable private
10 space where your wife and stepdaughter could have met with
11 Mr. Gempel?

12 A Just an open lobby with a few chairs in it.

13 Q So there's really no space where they could sit and
14 visit?

15 A There's space they could sit and visit.

16 Q In the open front lobby?

17 A Yes.

18 Q So do you recall if the doors to the main office of the
19 sheriff's office were locked or unlocked on May 20, 2017?

20 A I believe I unlocked it when I arrived there.

21 Q So you were the person that -- did you arrive with your
22 wife and daughter at the same time?

23 A I don't recall. I believe so.

24 Q Okay. And you were the one that unlocked the doors?

25 A Yes.

Exhibit B

BEFORE THE NEVADA COMMISSION ON ETHICS

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AGENDA ITEM 5

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No. 17-21C (Antinoro)

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Reported by: Lesley A. Clarkson, CCR #182

1 Q Okay. And how if at all did these two deputies assist
2 with your wife's access to the office or the visit on that day?

3 A They, other than being present at the facility, they
4 did not.

5 Q Okay. So they were not involved at all?

6 A Just being there.

7 Q Do you recall what they were doing there?

8 A I don't. I believe it was just briefing each other. I
9 believe that Gaunt had just come on duty, and Deputy Jewkes had
10 already been on for a number of hours.

11 Q Is it common for deputies to be at the sheriff's office
12 over the weekend if they are not assigned to an incident or
13 otherwise waiting for a call?

14 A They are in and out of there all the time. They have
15 restroom facilities, break facilities there, computers for doing
16 reports, telephones for making phone calls, doing follow-up. So
17 they are there all the time.

18 Q Okay. So were you present at the sheriff's office
19 during the entire time the visit took place?

20 A Yes.

21 Q Okay. So when the visit was over, you left. And do
22 you recall if you locked the doors behind you when you left?

23 A I don't recall. I don't recall if one of the deputies
24 was still inside or not. If they were still inside, then I very
25 likely could have left it unlocked.

Exhibit C

BEFORE THE NEVADA COMMISSION ON ETHICS

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AGENDA ITEM 5

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No. 17-21C (Antinoro)

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Suite B
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Reported by: Lesley A. Clarkson, CCR #182

1 reports list the main office of the sheriff's office as a
2 location where these incidents took place?

3 A No.

4 Q Can you tell from any of those reports whether any of
5 these incidents took place at the Lockwood office?

6 A I couldn't tell you that either.

7 Q Was your wife's meeting with Mr. Gempel at the
8 sheriff's office documented in an incident report?

9 A I don't believe so.

10 Q Why not?

11 A Just wasn't called in. There's always things that
12 happen that don't get called in.

13 Q So I'd like to take a look at the sheriff's office
14 policy manual. We are going to take a look at part of the
15 executive director's Exhibit 2.

16 MS. PRUTZMAN: And for the commissioners, this policy
17 manual starts on page ED012.

18 BY MS. PRUTZMAN:

19 Q Sheriff, was this the Storey County Sheriff's Office
20 policy manual that was in effect May of 2017?

21 A To the best of my knowledge, yes.

22 Q Who is responsible for creating the policies in this
23 manual?

24 A I am.

25 Q And who is responsible for enforcing these policies?

1 A I am.

2 Q Who did these policies apply to?

3 A Everyone with the sheriff's office.

4 Q Do they apply to you?

5 A Yes, they do.

6 Q I'd like to direct your attention to page, and I'm
7 looking at the Bates numbers, I know there are page numbers on
8 the policy manual, too, but the Bates number that start with ED,
9 so please look at ED016 to ED019, the table of contents for the
10 policy manual.

11 In particular on ED019, can you please tell the
12 commissioners how many policies are listed in this table of
13 contents?

14 Sir, I'm sorry, did you hear the --

15 A You are asking how many policies there are?

16 Q Yeah. I think the last policy should be probably
17 listed on ED019.

18 A Well, it says 1061, but there's not 1,061 policies.
19 There's gaps in the numbers, there's places that are left open
20 for future development. But the number is 1061 that's been
21 assigned to it.

22 Q So there aren't actually 1,061, is that what you are
23 saying?

24 A Correct.

25 Q Does this policy manual contain all the written

1 policies of the sheriff's office?

2 A Unless there was a general order that hasn't been
3 incorporated into it.

4 Q Okay. Do any of these written policies of the
5 sheriff's office describe or address the type of service or
6 assistance that was provided to your wife using the sheriff's
7 office facilities for child visitation or similar such matters?

8 A There is nothing specifically on point to that, no.

9 Q So why doesn't this lengthy policy manual address how,
10 when, or why an employee of the sheriff's office would provide
11 such an assistance to a member of the public?

12 A I don't have a policy on how, when, or why an employee
13 goes to lunch or takes a break, either.

14 Q Okay.

15 A It says right at the beginning of it that this manual
16 is a guide to employees. It's not an all encompassing, every
17 possible circumstance addressed.

18 Q Can you please turn to page ED526. This is policy
19 1050. Can you please read the title of this policy.

20 A Nepotism and conflicting relationships.

21 Q On page 2 of this policy, which is ED527, there's a
22 section on the bottom of the page called employee responsibility.
23 Could you please read the last two paragraphs of that section on
24 that page.

25 A "Whenever any employee is placed in circumstances that

Exhibit D

BEFORE THE NEVADA COMMISSION ON ETHICS

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AGENDA ITEM 5

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9456 Double R Boulevard
Suite B
Reno, Nevada

Reported by: Lesley A. Clarkson, CCR #182

1 Q Okay. Now I'd like to take a look executive director's
2 Exhibit 1. I'm going to refer to page ED005.

3 So Sheriff Antinoro, in your answer to interrogatory
4 number 8 you stated that you discovered one documented 30-minute
5 child visitation that occurred at 6:30 p.m. at the main office of
6 the Storey County Sheriff's Office on December 1, 2017. Correct?

7 A Correct.

8 Q And you later provided a copy of this incident report
9 related to this event in response to the executive director's
10 request for documents. Correct?

11 A Correct.

12 MS. PRUTZMAN: And that document can be found in the
13 executive director's Exhibit 2 on page ED557.

14 BY MS. PRUTZMAN:

15 Q Sheriff, do you recall where or how you got this
16 report?

17 A It would have been pulled out of the computer system.

18 Q Did you perform a search to pull that out of the
19 computer system yourself?

20 A I don't recall if I did or not.

21 Q Who else would have pulled out this report for you?

22 A It could have been one of the administrative
23 assistants.

24 Q Okay. Can you describe, looking at this incident
25 report, what incident is occurring according to this report.

1 A Just what it says on there, civil standby custody
2 agreement.

3 Q And it indicates that it occurred at the main office?

4 A It just gives the location of Storey County Sheriff's
5 Office, admin office, 205 South C Street.

6 Q So this particular incident report was also provided in
7 response to a public records request that resulted in 18 incident
8 reports being produced.

9 MS. PRUTZMAN: These are all found in the executive
10 director's Exhibit 4. And I'm going to look particularly at the
11 incident report located at page ED623. I have a copy I'm going
12 hand out to the commissioners, just so you can, I want to make a
13 comparison here.

14 So ED623 is the page I'm looking at. Does everyone
15 have --

16 BY MS. PRUTZMAN:

17 Q So this appears to also be a copy of incident report
18 1712010040 regarding the incident that occurred on December 1,
19 2017. Is that correct?

20 A Appears to be, yes.

21 Q Okay. So I'd like to look at the information that
22 shows up in this part of the report.

23 MS. PRUTZMAN: You all have copies, so I don't expect
24 you to be able to read this. I'm just kind of pointing out what
25 we are looking at.

1 BY MS. PRUTZMAN:

2 Q Could you tell me where this particular information
3 comes from here (indicating)?

4 A From the dispatch center.

5 Q So what is that describing?

6 A It says incident initiated at Storey County Sheriff's
7 Office, administrative office. Per Sam 3, requested RP go to
8 911, which is the jail, for assistance, and then some information
9 from the jail.

10 Q Do you know which deputy the code S3 stands for?

11 A At that point in time, off the top of my head, no. I
12 would have to look at the list of numbers, because our numbers
13 have changed since then.

14 Q Okay. And C2 is a unit code assigned to a jailer
15 working at the detention center, correct?

16 A Correct.

17 Q So is it true that this, the event described here on
18 the bottom half of the report, that the reporting party showed up
19 at the sheriff's office on C Street seeking assistance with civil
20 standby on a Friday night, and that person was sent to the
21 detention center?

22 A That's what it appears to be, yes.

23 Q And the third line indicates that C2, a jailer at the
24 detention center, assisted with this matter, beginning at 1845,
25 and by 1908 the matter was closed. So does it look like this

1 entire incident took about 20 minutes?

2 A Yes.

3 Q So would you agree that this incident report indicates
4 that somebody went to the main office on Friday night looking for
5 assistance with a child custody matter and was told to go to the
6 detention center?

7 A That's what it appears to be.

8 Q So there was no 30-minute child visitation that
9 occurred at the sheriff's office on that day, correct?

10 A I couldn't tell you that, but based on what this says,
11 it appears that they were sent down to the jail.

12 Q Do you have an explanation for why the report that you
13 provided in response to the executive director's discovery
14 responses does not contain that specific information provided in
15 the report that, provided in response to the public records
16 request?

17 A In our records management system there's two ways of
18 printing a report, printing a report in a public version or
19 printing the full report. Printing the public version does not
20 include the notes that the dispatchers put in.

21 Q Okay. So you printed out the report that was provided
22 in response to the discovery request without the dispatch notes.

23 A I testified I don't recall if I printed it or if one of
24 my administrative assistants printed it for me.

25 Q Okay. I'd like to look at the other incident reports

1 that are contained in the executive director's Exhibit 4. We
2 heard from Brandy Gavenda that these were provided in response to
3 a public records request seeking incident reports between May 1,
4 2016, and May 1, 2018, containing the word child visitation or
5 custody. There are 19 report here. And, you know, it's sort of
6 cumbersome, but just to get it in the record, could you please
7 read the location and city of those, that data that is found at
8 the top of the reports, where each reported incident took place,
9 starting on page ED615.

10 A Golden Gate gas station.

11 Q Can you also list the city, please?

12 A McCarran. The next one just says Lockwood, the next
13 one just says Virginia City, Virginia City, Lockwood, Lockwood,
14 Mark Twain, Lockwood, Virginia City, Virginia City, Lockwood,
15 McCarran, Golden Gate gas station again, Golden Gate gas station,
16 McCarran, Lockwood, Mark Twain, Lockwood, Lockwood, Virginia City
17 Highlands, Lockwood, and Lockwood.

18 Q Okay. Thank you. Did any of these reported incidents
19 involving child custody or visitation matters take place at the
20 location where your wife met with Mr. Gempel?

21 A I couldn't tell you. There was some blacked out that
22 just say Virginia City.

23 Q I think we heard from Brandy Gavenda that the redacted
24 information would be information that includes private
25 residential information. So did you see any, any of those

1 reports list the main office of the sheriff's office as a
2 location where these incidents took place?

3 A No.

4 Q Can you tell from any of those reports whether any of
5 these incidents took place at the Lockwood office?

6 A I couldn't tell you that either.

7 Q Was your wife's meeting with Mr. Gempel at the
8 sheriff's office documented in an incident report?

9 A I don't believe so.

10 Q Why not?

11 A Just wasn't called in. There's always things that
12 happen that don't get called in.

13 Q So I'd like to take a look at the sheriff's office
14 policy manual. We are going to take a look at part of the
15 executive director's Exhibit 2.

16 MS. PRUTZMAN: And for the commissioners, this policy
17 manual starts on page ED012.

18 BY MS. PRUTZMAN:

19 Q Sheriff, was this the Storey County Sheriff's Office
20 policy manual that was in effect May of 2017?

21 A To the best of my knowledge, yes.

22 Q Who is responsible for creating the policies in this
23 manual?

24 A I am.

25 Q And who is responsible for enforcing these policies?

Exhibit E

BEFORE THE NEVADA COMMISSION ON ETHICS

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AGENDA ITEM 5

Request for Opinion
No. 17-21C (Antinoro)

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Reported by: Lesley A. Clarkson, CCR #182

1 visit.

2 Q And the deputies that were on duty on May 20, 2017, you
3 didn't call them in, I think you have testified, you didn't call
4 them in to somehow assist with that visit?

5 A Correct.

6 Q And no deputy was taken away from his or her regular
7 duties in order to allow for this visit to have occurred?

8 A Correct.

9 Q Were there any resources in terms of staffing or
10 otherwise that were expended as a result of this visit of May 20,
11 2017?

12 A No.

13 Q And Sheriff Antinoro, how long have you been with the
14 sheriff's office? Can you tell us again, please?

15 A Since 2006. So twelve years.

16 Q And in your history with the sheriff's office, do you
17 have personal knowledge of the sheriff's office, including the
18 main office in Storey County, being open for members of the
19 public when it comes to having a place to do child custody
20 exchanges and visitations?

21 A Yes.

22 Q And that's not limited to Monday through Friday nine to
23 five; is that true?

24 A That's correct. I recall one that happened starting
25 just right about closing time actually that was in the squad

1 room, probably 2011 -- well, 2012 or 2013. It was shortly after
2 we moved into that building.

3 Q And sheriff, you have deputies that work in three
4 shifts. Would that be correct?

5 A Basically, yes.

6 Q So you have officers who were on duty 24/7, correct?

7 A Correct.

8 Q And you would have officers who would be physically
9 present at the main office of the Storey County Sheriff's Office
10 on weekends and after hours; is that true, sir?

11 A Yes.

12 Q And as this visit was occurring, sir, you went about
13 your regular business; is that correct?

14 A That is correct.

15 Q And do you know how long it had been since Mr. Gempel
16 had seen the minor child prior to --

17 MS. PRUTZMAN: Objection. I have an objection.

18 CHAIRMAN LAU: So moved. Yes.

19 MS. PRUTZMAN: The motion, the ruling on the motion in
20 limine filed by the executive director indicated that any
21 information related to Mr. Gempel's relationship with his
22 daughter was impermissible unless it had to do with the state of
23 mind of Laura Antinoro.

24 MS. PARKS: I would suggest it absolutely does, and
25 this question goes to that and is not barred by the chairman's

1 know it's something that happens, and it's something we have
2 done. I would be under the impression that they reached out to
3 dispatch or to our office itself to know to get ahold of us to
4 make such a request.

5 Q Have you known of a circumstance with any frequency
6 where actual visitations occur after hours, as opposed to
7 transferring children, or whatever the right term is?

8 A In my recollection I can remember a husband/wife,
9 boyfriend/girlfriend, I can't remember exactly how their
10 relationship was, but they had a child in common, and they would
11 have visitations in our squad room in the sheriff's office. I
12 wasn't actively involved in those, so I can't say for sure, you
13 know. I know it was daylight, but I can't say for sure if it was
14 a weekday or a weekend. But that would be the only one of like
15 that nature that I was ever, that I ever was aware of, other than
16 like the child exchanges or property exchanges.

17 Q So just one more question if I may. Do you train your
18 officers to make the facility available after hours, absent an
19 emergency for a visitation say for an hour?

20 A That's not something that's generally in our training,
21 no. It's not part of our FTO protocol.

22 Q Whether it's formal or not, do you train your officers
23 to do that?

24 A I don't train them to do that, no. If my officers face
25 a situation that was similar to that, and they asked me, I would

Exhibit F

BEFORE THE NEVADA COMMISSION ON ETHICS

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1 during a time other than those hours posted on the door, and you
2 were asked is the sheriff's office open, what would you say?

3 A I would say, the business office is what we would call
4 it, is closed Monday, or it's open Monday through Friday from
5 eight to five. And I would refer them, if it's a nonemergency,
6 they want records or something to that effect. If they need a
7 response, then of course I'd take an incident and send a deputy.

8 Q Okay. So in the ten years that you have been working
9 as a dispatcher, have you ever received calls from members of the
10 public requesting to use the sheriff's office facilities for a
11 child visitation appointment during nonbusiness hours or over the
12 weekend?

13 A No.

14 Q No? If you did get that kind of call, how would you
15 handle it?

16 A If they wanted to use the facilities or they wanted to
17 like have a deputy respond for like --

18 Q Okay. Let me, I'm sorry, let me clarify. I said
19 facilities. Let's focus on the business office, the main
20 business office up on C Street, which has the posted business
21 hours Monday through Friday eight to five. If a member of the
22 public called say on a Friday and requested access to space in
23 the business office so they could conduct some private matter,
24 specifically a child visitation, how would you handle that call?

25 A For after hours, I mean if they were asking for during

1 Q In the ten years when you have worked both those
2 shifts, did you ever get a call after hours where somebody wasn't
3 seeking to make an appointment for visitation but said something
4 along the lines I'm at the sheriff's office, it's closed, but I'd
5 like to use this facility, or can I use this facility for
6 visitation basically now or on demand or in the next 30 minutes?

7 A I have never had a call like that.

8 Q In your professional capacity as a dispatcher, do you
9 know whether it's the policy and practice of the Storey County
10 Sheriff's Department to make the business office available after
11 hours on demand for visitation?

12 A I do not know their policies.

13 Q But in your professional capacity, do you know whether
14 or not that's what they do?

15 A I don't know that.

16 Q Okay. How about in your, are you a Storey County
17 resident?

18 A No.

19 Q Do you know in your personal capacity if that's what
20 they do?

21 A I do not know that.

22 Q Has anybody trained you or told you or advised you that
23 that that's one of the goals of the Storey County Sheriff's
24 Department to make the business office, the facility, available
25 after hours for that type of reason, including for security

Exhibit G

BEFORE THE NEVADA COMMISSION ON ETHICS

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AGENDA ITEM 5

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1 the circumstances come about. As I believe I mentioned, just
2 this past weekend I had someone contact me directly. We made
3 arrangements for the deputy to do a standby, I contacted the
4 deputy directly, I had to call him back and check. The deputy,
5 when he responded out to handle the standby, he may have called
6 in to dispatch and generated that incident report, but the entire
7 circumstance was set up and arranged and he met with the people
8 prior to an incident that were being generated. So yes, it's
9 always good to have it documented, but not everything always gets
10 documented.

11 Q So you said it should be called in.

12 A Correct.

13 Q That would be your best practice.

14 A Correct.

15 Q Not only so that you have a record of it, but certainly
16 for officer safety.

17 A Correct.

18 Q So, and that would apply to civil standbys as well,
19 that your best practice and what you should do is that you should
20 call it in.

21 A Correct.

22 Q So why didn't you call it in in this instance so that
23 you would have the appropriate record and documentation that this
24 child custody standby occurred?

25 A I felt that it was very low-level issue that, so I did

1 not personally call it in.

2 Q So we had a report that we discussed earlier that was a
3 child custody exchange that roughly lasted two minutes, and that
4 was called in and documented, as would be best practice.

5 A And that would be dependent on how the call was
6 received. If the call came straight to one of the deputies, they
7 may or may not call it in to dispatch. If someone approached
8 them on the street, said hey, this is what I'd like to do, we are
9 right here outside your office, can we take care of this here,
10 they may just come in, take care of it, and go about their
11 business, and it never does get called in.

12 We have people come to the business office all the time
13 for a routine VIN inspection, which again is another thing that
14 should be called in. However, out of hundreds of them that we do
15 a year, there may be a couple of dozen that get called in,
16 depending on how they come about. The ones that go to the
17 business office seldom get called in.

18 So yes, there is a best practice, there is a safety
19 factor, but not everything gets called in.

20 Q So your deputies have discretion, it would be fair to
21 say that your regular practice in your department, your deputies
22 have discretion as to -- let me divide it up.

23 In a criminal situation your deputies have discretion
24 on whether or not they can call it in and generate a record of
25 what they are responding to?

Exhibit H

BEFORE THE NEVADA COMMISSION ON ETHICS

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AGENDA ITEM 5

Request for Opinion
No. 17-21C (Antinoro)

Adjudicatory Hearing

Wednesday, October 17, 2018

State Bar of Nevada
9456 Double R Boulevard
Suite B
Reno, Nevada

Reported by: Lesley A. Clarkson, CCR #182

1 Q Okay. And how if at all did these two deputies assist
2 with your wife's access to the office or the visit on that day?

3 A They, other than being present at the facility, they
4 did not.

5 Q Okay. So they were not involved at all?

6 A Just being there.

7 Q Do you recall what they were doing there?

8 A I don't. I believe it was just briefing each other. I
9 believe that Gaunt had just come on duty, and Deputy Jewkes had
10 already been on for a number of hours.

11 Q Is it common for deputies to be at the sheriff's office
12 over the weekend if they are not assigned to an incident or
13 otherwise waiting for a call?

14 A They are in and out of there all the time. They have
15 restroom facilities, break facilities there, computers for doing
16 reports, telephones for making phone calls, doing follow-up. So
17 they are there all the time.

18 Q Okay. So were you present at the sheriff's office
19 during the entire time the visit took place?

20 A Yes.

21 Q Okay. So when the visit was over, you left. And do
22 you recall if you locked the doors behind you when you left?

23 A I don't recall. I don't recall if one of the deputies
24 was still inside or not. If they were still inside, then I very
25 likely could have left it unlocked.

1 visit.

2 Q And the deputies that were on duty on May 20, 2017, you
3 didn't call them in, I think you have testified, you didn't call
4 them in to somehow assist with that visit?

5 A Correct.

6 Q And no deputy was taken away from his or her regular
7 duties in order to allow for this visit to have occurred?

8 A Correct.

9 Q Were there any resources in terms of staffing or
10 otherwise that were expended as a result of this visit of May 20,
11 2017?

12 A No.

13 Q And Sheriff Antinoro, how long have you been with the
14 sheriff's office? Can you tell us again, please?

15 A Since 2006. So twelve years.

16 Q And in your history with the sheriff's office, do you
17 have personal knowledge of the sheriff's office, including the
18 main office in Storey County, being open for members of the
19 public when it comes to having a place to do child custody
20 exchanges and visitations?

21 A Yes.

22 Q And that's not limited to Monday through Friday nine to
23 five; is that true?

24 A That's correct. I recall one that happened starting
25 just right about closing time actually that was in the squad

Exhibit I

BEFORE THE NEVADA COMMISSION ON ETHICS

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AGENDA ITEM 5

Request for Opinion
No. 17-21C (Antinoro)

Adjudicatory Hearing

Wednesday, October 17, 2018

State Bar of Nevada
9456 Double R Boulevard
Suite B
Reno, Nevada

Reported by: Lesley A. Clarkson, CCR #182

1 policies of the sheriff's office?

2 A Unless there was a general order that hasn't been
3 incorporated into it.

4 Q Okay. Do any of these written policies of the
5 sheriff's office describe or address the type of service or
6 assistance that was provided to your wife using the sheriff's
7 office facilities for child visitation or similar such matters?

8 A There is nothing specifically on point to that, no.

9 Q So why doesn't this lengthy policy manual address how,
10 when, or why an employee of the sheriff's office would provide
11 such an assistance to a member of the public?

12 A I don't have a policy on how, when, or why an employee
13 goes to lunch or takes a break, either.

14 Q Okay.

15 A It says right at the beginning of it that this manual
16 is a guide to employees. It's not an all encompassing, every
17 possible circumstance addressed.

18 Q Can you please turn to page ED526. This is policy
19 1050. Can you please read the title of this policy.

20 A Nepotism and conflicting relationships.

21 Q On page 2 of this policy, which is ED527, there's a
22 section on the bottom of the page called employee responsibility.
23 Could you please read the last two paragraphs of that section on
24 that page.

25 A "Whenever any employee is placed in circumstances that

1 would require the employee to take enforcement action or provide
2 official information or services to any relative or individual
3 with whom the employee is involved in a personal or business
4 relationship, employee shall promptly notify his or her
5 uninvolved immediate supervisor. In the event that no uninvolved
6 supervisor is immediately available, then employee shall notify
7 dispatch to have another uninvolved employee either relieve the
8 involved employee or minimally remain present to witness the
9 action."

10 Q So on page ED526, this policy defines relative. Can
11 you please take a look at that and read that definition?

12 A "An employee's parents, step-parents, spouse, domestic
13 partner, significant other, child, natural, adopted, or step,
14 sibling, or grandparent."

15 Q Thank you. Does this policy apply to you?

16 A Yes, it does.

17 Q Why didn't you ask another employee of the sheriff's
18 office to handle the arrangements related to your wife's
19 visitation matter on May 20, 2017?

20 A I believe there was two deputies that were present.

21 Q Did she make the arrangements to access the sheriff's
22 office with those particular deputies?

23 A No.

24 Q Who did she make the arrangements with?

25 A I did.

1 Q Why didn't you tell your wife to call the dispatch
2 center to arrange to use the sheriff's office facility for her
3 meeting?

4 A Because it was just as easy to deal with me.

5 MS. PRUTZMAN: I have nothing further.

6 CHAIRMAN LAU: Thank you very much. Your witness.

7 MS. PARKS: Thank you very much.

8 CROSS-EXAMINATION

9 BY MS. PARKS:

10 Q Sheriff Antinoro, you have the executive director's,
11 you have exhibits up there, correct?

12 A Correct.

13 Q Could you please turn to Exhibit 2. It's the policy
14 and procedure. Would you please turn to the section that is
15 Bates stamped ED325, please. It's listed as policy 472 at the
16 top. Just let me know when you are there.

17 A Okay.

18 Q So are you familiar with what is set forth there in
19 Exhibit 2, Bates stamped ED325?

20 A Yes.

21 Q What is that?

22 A Dealing with civil disputes.

23 Q Is that a section of your policy for the sheriff's
24 office?

25 A Yes.

1 touch with you, take care, safe travels, et cetera, et cetera,
2 everybody parted and went about their way. No clue that there
3 was any issues whatsoever. And it wasn't until other people
4 inserted themselves into this matter that this then became an
5 issue.

6 Q I said no more questions, but one last question.
7 Moving forward do you think it would be prudent to maybe document
8 those types of meetings?

9 A Hindsight is always 20/20.

10 CHAIRMAN LAU: Any other questions, comments for the
11 sheriff?

12 Commissioner Wallin.

13 BY COMMISSIONER WALLIN:

14 Q Sheriff, in your previous testimony you stated that you
15 felt you have to follow the policies, that you are subject to the
16 policies as well. And in the policy you have the conflict policy
17 that if you are doing something go involving a family member,
18 that you are to call your supervisor, and if you don't have a
19 supervisor, you are to call dispatch. So can you tell me why you
20 didn't call dispatch in this matter?

21 A Because it is my discretion, being the sheriff, and
22 when I had two deputies on the property, I didn't figure that it
23 needed to go anywhere beyond that. Dispatch is not part of the
24 sheriff's office, they are a standalone entity of the county.
25 So, and they don't dictate policy to us, I don't dictate policy

1 to them.

2 This is just a generalized guideline to try and keep my
3 deputies out of trouble. And like I said, when I walked into the
4 building and saw two of my deputies there, I felt we
5 substantially met the spirit of the policy.

6 Q Okay. But you didn't know that they were going to be
7 there, and you are kind of saying that you aren't really subject
8 to these policies. I'm confused. Are you subject to these
9 policies?

10 A I didn't say I was not subject to them. I said I'm the
11 one who creates them. But as I said, the arrangement was made to
12 meet there, and had I felt there was an issue, I would have
13 called a deputy to meet me there. However, there were two
14 deputies there when I had arrived, and we had arrived probably
15 10, 15 minutes prior to Mr. Grempel.

16 COMMISSIONER WALLIN: Thank you. No further questions.

17 CHAIRMAN LAU: Thank you very much. Any other
18 questions?

19 Commissioner O'Neill.

20 COMMISSIONER O'NEILL: Thank you, Madam Chair.

21 BY COMMISSIONER O'NEILL:

22 Q Sheriff Antinoro, just for clarification. Going to the
23 CAD reports, there's a difference between a CAD report and a
24 police report or a more in-depth report; is that correct?

25 A Yes.



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. /

OPINION

I. INTRODUCTION AND PROCEDURAL HISTORY

Pursuant to NRS 281A.440(2)(b), a *Third-Party Request for Opinion* ("Complaint") was filed with the Nevada Commission on Ethics ("Commission") on June 26, 2017, 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").¹

On or about July 12, 2017, the Commission served Antinoro via certified mail with a *Notice to Subject* advising him of the allegations set forth in the Complaint implicating NRS 281A.400(2) (using public position to grant an unwarranted advantage to himself or others), 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 pecuniary interest through the influence of a subordinate).

On July 17, 2017, Antinoro, by and through his attorney, Katherine F. Parks, Esq., with Thorndal Armstrong Delk Balkenbush & Eisinger, provided a waiver of statutory time limits for an investigation and a hearing in this matter pursuant to NRS 281A.440(6) and submitted a response to the allegations on September 28, 2017.

On February 26, 2018, the Commission's Review Panel ("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 violated NRS 281A.400(2) and (7) related to Antinoro's use of the Sheriff's Office for his step-child's supervised visitation appointment.² Additionally, Under NAC 281A.435, the Panel concluded that the facts did not establish credible evidence to substantiate just and sufficient cause for the Commission to consider the alleged violations of NRS

¹ Senate Bill 84 of the 79th Session of the Nevada Legislature (2017) amends NRS Chapter 281A, effective July 1, 2017. Pursuant to S.B. 84, the amendatory provisions governing administrative proceedings applies to any pending or subsequent matter. However, other amendatory enactments to the Ethics Law are effective on July 1, 2017, after the conduct at issue in this matter. Consequently, the Commission applied the version of the Ethics Law in effect at the time of the alleged conduct. See Section III.B, Relevant Statutes, below.

² Commissioners Gruenewald, Stewart and Yen 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.

281A.400(2) and NRS 281A.400(9) related to the investigation conducted by Antinoro's subordinate of a child welfare matter involving Antinoro's step-child. Therefore, those allegations were dismissed. Pursuant to NRS 281A.740, the Panel determined that Antinoro's conduct could be corrected by a deferral agreement that contained certain conditions. However, no deferral agreement was presented to the Panel for approval. Consequently, in furtherance of its determination, the Panel issued a Referral Order on March 22, 2018, referring the Complaint to the Commission to render an opinion in the matter.

On March 29, 2018, the Commission issued a *Notice of Hearing and Scheduling Order and Notice of Hearing and Meeting to Consider Your Character, Alleged Misconduct, Professional Competence or Health (NRS 241.033)* setting a hearing for June 20, 2018 to consider dispositive motions. Thereafter, each party filed a Motion for Summary Judgment (collectively the "Motions"), which were fully briefed and submitted for the Commission's consideration. After considering the parties' briefs and arguments, presented by their representative counsel, and considering the entire record, the Commission issued an order on July 2, 2018, denying both Motions. In addition, the Commission instructed Commission Counsel to issue a *Notice of Adjudicatory Hearing and Scheduling Order ("NOAHSO")* allowing further discovery and scheduling an adjudicatory hearing before the Commission on October 17, 2018, which was issued on July 2, 2018. Later amendments of the NOAHSO were issued to clarify certain procedural matters.

On July 10, 2018, Antinoro signed a *Waiver of Notice Required under NRS 241.033(1) to Consider Character, Misconduct, or Competence of Person in Ethics Complaint Adjudicatory Hearing and Other Proceedings to be Heard by the State of Nevada Commission on Ethics*.

On September 13, 2018, the Executive Director filed a *Motion in Limine to Exclude Certain Evidence or Testimony ("Motion in Limine")*. Subject Antinoro's opposition to the *Motion in Limine* was served on the Executive Director on September 24, 2018 and was filed with the Commission on September 25, 2018. On October 9, 2018, the Chair issued an *Order granting in part and denying in part the Motion in Limine*.

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

On October 17, 2018, the Commission held an adjudicatory hearing to consider whether Antinoro had violated NRS 281A.400(2) or NRS 281A.400(7). At the conclusion of the adjudicatory hearing and after fully considering the record, testimony, evidence and arguments of the parties, 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). No violation was found with regard to NRS 281A.400(2). A penalty in the amount of \$2,500.00

was imposed on Antinoro. 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

In rendering this opinion, the Commission reviewed and considered all evidence and testimony set forth in the record including 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. The Storey County Sheriff has a station located at 205 South C. Street, Virginia City, Nevada ("Main Station") and a substation located in Lockwood, Nevada ("Lockwood Substation").
5. The Main Station is open to the public for business Monday through Friday, 8 a.m. to 5 p.m., and the Lockwood Substation is open to the public for business Tuesday through Thursday, 10 a.m. to 3 p.m.
6. The Main Station and the Lockwood Substation ("Stations") are not regularly open to the public for business outside of the posted public business hours. There are certain exceptions to the weekend closures for special events. In addition, the public may request assistance by calling dispatch or 911, or possibly knock on the locked door of the respective station to determine whether a deputy is on duty and/or available to respond.
7. During the relevant time period, Antinoro was married to Laura Antinoro, the prior spouse of Clarence Gempel ("Gempel").
8. Laura Antinoro and Clarence Gempel were divorced on November 30, 2011.
9. The Divorce Decree awarded sole legal and physical custody of a minor child to Laura Antinoro. Gempel was granted supervised visitation with the minor child every other Saturday from 9 a.m. until 1 p.m. Laura Antinoro was permitted to choose the location for the supervised visitation and who would provide the supervision.
10. On approximately May 5, 2017, Gempel contacted Mrs. Antinoro requesting visitation with the minor child.
11. On approximately May 14, 2017, Gempel and Mrs. Antinoro agreed that supervised child visitation would occur on Saturday, May 20, 2017, at a local park.
12. Thereafter, in a conversation between Mrs. Antinoro and Antinoro, Mrs. Antinoro expressed a concern about the upcoming supervised child visitation because Gempel had not seen the minor child in approximately 6 years. In that conversation, Antinoro offered the Main Station for the visitation since it is a secure location. No other alternatives were considered.

13. Antinoro has a significant personal interest in assuring his step-child was properly supervised during the child visitation with Grempel.
14. Mrs. Antinoro testified that whenever her ex-husband Grempel requested visitation with their minor child, she “never at any time said no” to the visitation. On this occasion, Mrs. Antinoro told Grempel that she would be “happy to meet him wherever he wanted” and suggested a park. Within minutes, she changed her mind and altered the location to the Main Station. Her reasons for the change pertained to her concerns about the length of time between supervised child visitations and because she believed Grempel had contact with a person that she found to be deranged, therefore, she did not want the visitation to be conducted in the “open.”
15. Grempel resided in Arizona and was agreeable to a supervised child visitation in accordance with the Divorce Decree. He brought his current spouse to Nevada for the visitation. The record and testimony before the Commission did not establish facts supporting the existence of any implied or actual threat made by Grempel associated with the safety of the minor child or that of Mrs. Antinoro.
16. On May 20, 2017, the Main Station was closed to the public. Antinoro unlocked the doors of the Main Station for the supervised child visitation.
17. Grempel and his current spouse arrived mid-morning for the supervised child visitation and the visitation occurred mainly in the squad room of the Main Station. The squad room is a large open room with work stations.
18. Two deputies were on duty on May 20, 2017, and they were busy conducting a shift change at the time of the supervised child visitation and advising one another of matters relevant thereto. Neither deputy provided any assistance nor did they involve themselves with the visitation.
19. Prior to opening the Main Station, Antinoro did not know that the two deputies were on duty at the Main Station. Antinoro welcomed the Grempels and supervised the child visitation, which was without incident.
20. Antinoro testified that his use of the Main Station for supervised child visitation could be classified as a “civil standby” to protect the welfare of the mother and minor child. However, Mrs. Antinoro did not request a civil standby and Antinoro did not seek the services of the on-duty deputies, contact dispatch to report the civil standby, or complete an incident report as is protocol because there were no problems with the visitation.
21. Antinoro testified that for officer safety, it was best practices or standard procedure for an officer to call dispatch and complete an incident report when conducting a civil standby. He did not contact dispatch for this matter because he felt it was a “low-level” issue.
22. The Storey County Sheriff’s Office has established a policy manual. In synopsis, the policy manual contains the following provisions that apply to all members of the Sheriff’s Office, including the Sheriff, and which the Commission determines are relevant:

- a. Policy 106.1 – Establishes that all members [of the Storey County Sheriff's Office], regardless of assignment (Detention or Sheriff's Office), are required to conform to the provisions of the manual.
- b. Policy 204 – Establishes methods by which the policy manual may be amended pursuant to departmental directives or special orders.
- c. Policy 214.5 – Establishes that a departmental directive or special order to ensure the effective operations of the Sheriff's Office are promulgated by either the Sheriff or authorized designee.
- d. Policy 320.2 – Requires that members of the Sheriff's Office responding to incidents of domestic violation and violation of related court orders must stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is a criminal behavior. It is also the policy of the Sheriff's Office to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.
- e. Policy 472 – Establishes policy on civil disputes that mandates members of the Sheriff's Office must not become personally involved in the dispute and shall at all times remain impartial. The policy does not reference providing supervised visitation for a child custody civil matter. Instead, the policy references civil standbys to maintain the peace at the scene of a civil dispute with the goal of safeguarding persons and property, provided that the member refrain from providing legal advice or inappropriate advice. The policy details two forms of civil disputes for standby assistance: (1) standby to retrieve personal property and (2) procedures for violation of court orders should be addressed by issuing court, unless there is an immediate need for an arrest, which arrest must be approved by a supervisor.
- f. Policy 1050 – Establishes policy on "Nepotism and Conflicting Relationships" which defines "conflict of interest" to be "any actual, perceived or potential conflict of interest in which it reasonably appears that an employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationships." The policy defines "relative" to include a spouse and step-child. The policy mandates that whenever an employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative, the employee shall notify their supervisor. If there is no supervisor, the employee shall notify dispatch to have another uninvolved employee to relieve the involved employee or remain present to witness the action.

23. Antinoro admitted that the written policies of the Sheriff's Office do not specifically reference supervised child visitations and that he used the Main Station for the supervised child visitation under the "generalized" civil standby policy.

24. Neither the Sheriff nor his designee issued a departmental directive or special order that permitted a member of the Sheriff's Office to hold or supervise a private child visitation during non-business hours at the Main Station pursuant to Policy 204.

25. Neither the Sheriff nor his designee issued a departmental directive or special order establishing an exception to the public hours established for the Main Station to

permit a member of the Sheriff's Office to provide supervised child visitations services for himself or for the public pursuant to Policy 214.5.

26. The Sheriff's Office does not provide information to the public regarding child visitation services, it has no established program or protocols governing such services, and it does not train its administrative staff or police officers on child visitation services.
27. Ms. Gavenda, Administrative Assistant II, Storey County Sheriff's Office, testified the Main Station was open from 8 to 5, Monday through Friday, and the doors are locked when the facility is not open to the public. She also testified that if a deputy was in the Main Station after hours, the deputy might be able to respond should someone knock on the door for assistance.
28. Ms. Gavenda did not recall ever having received a request for the Sheriff's Office to provide supervised child visitation services. She testified that if she had received such a call, no written or other protocols had been established to allow administrative staff to schedule or permit supervised visitation in the Sheriff's office. The matter would be referred to dispatch or alternatively, if a deputy was available to take the call, it could be transferred accordingly.
29. Storey County Dispatch produced dispatch records ("CAD Incident Reports") that detailed domestic or child custody incidents occurring between May 1, 2016 and May 1, 2018. These records pertained to responses to child welfare matters and associated child custody exchanges which occurred at various locations.
30. In responding to interrogatories, Antinoro identified one CAD record he thought pertained to a previous supervised child visitation that lasted 30 minutes and occurred at the Main Station on December 1, 2017. See ED 557.
31. A detail review of the CAD Incident Record ED 557 and testimony associated with its verification confirmed that it was an incomplete version or redacted record. ED 623 represented the complete document.
32. ED 623 indicates that the reporting party was directed to the Detention Facility (identified as "911" in the record) for assistance and the matter was a civil standby for an issue pertaining to a custody agreement which took approximately 20 minutes. Upon review of ED 623, Antinoro could not confirm whether the reported incident pertained to a 30-minute supervised child visitation at the Main Station.
33. When questioned about the other CAD Incident Records, Antinoro was unable to confirm whether any supervised child visitation had occurred at the Main Station or at the Lockwood Substation between May 1, 2016 and May 1, 2018.
34. Based upon a review of the entire record, the Commission does not find that the CAD Incident Records establish that any supervised child visitation had occurred between May 1, 2016 and May 1, 2018, at either the Main Station or the Lockwood Substation.
35. Antinoro testified that, in his history with the Sheriff's Office, he had personal knowledge of the Sheriff's Office being open for members of the public as a place to conduct child custody exchanges. Separately, he recalled one prior supervised child visitation, which possibly occurred in 2011 or 2012.

36. Ms. Parsons, a Senior Communications Specialist employed by Storey County Dispatch for over 10 years, testified that, during her service as a dispatcher, she was aware of requests for civil standbys for child custody exchanges, but did not recall ever receiving or processing any requests for supervised child visitation by law enforcement or from the public. If Dispatch had received such a request, the protocol would be to route the inquiry to the Sheriff's Office.
37. Additionally, Ms. Parsons does not recall ever receiving a call from the public to utilize the Storey County Sheriff's Office for supervised child visitation services, including a request for such services after hours.
38. Sergeant Kern, who has been employed approximately 9 years by the Storey County Sheriff's Office, testified that civil standbys usually pertain to property exchanges or child custody exchanges. A civil standby generally takes approximately 5 to 30 minutes, however, they could be longer. He recalls possibly one family utilizing the squad room at the Main Station for a supervised child visitation in the past, but could not confirm any specific details because he was not involved in the matter. Sergeant Kern testified that the recalled visitation was the only one of like nature that he was aware of during his term of service for Storey County. In addition, Sergeant Kern confirmed that it is not part of the Sheriff's Office training or written protocols for officers to make its facilities available for supervised child visitations.
39. Sergeant Kern, as a supervisor in the Sheriff's Office, testified that he was aware of the nepotism policy [Policy 1050], which defines a "conflict of interest" as: "[a]ny actual, perceived or potential conflict of interest in which it reasonably appears that an employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship." When asked whether he would allow a deputy he supervised to use his official position to supervise a child visitation for his own step-child, Sergeant Kern indicated he would comply with the policy and, at a minimum, have another officer who was not related to the matter be present.
40. The Commission finds that there was not an established policy governing supervised child visitations by the Storey County Sheriff's Office. The record demonstrates that supervised child visitations would be very unusual and so infrequent as to have no written policies or protocols.
41. The Commission does not find that a policy had been created by custom or practice that would permit the after-hour use of the squad room at the Main Station for a private supervised child visitation matter. The testimony presented on the prior use of the Main Station for one supervised child visitation years ago was inconclusive and without specifics as to whether it was conducted pursuant to a court order or as a civil standby. The testimony did not provide evidence that government resources or facilities were provided for private supervised child visitation matters for employees and members of the Sheriff's Office. Furthermore, use of government facilities for a private purpose benefitting a relative would be inconsistent with other established written policies of the Sheriff's Office.
42. Based upon the record, the Commission does not find credible evidence establishing that the supervised child visitation constituted a civil standby. The matter was not of an urgent nature, did not constitute an emergency situation, and no established protocols for a civil standby were followed, such as reporting to dispatch, asking

another deputy to assist given the nepotism policy, completion of an incident report and other relevant protocols.

43. Based upon the record, the Commission finds that the supervised child visitation was a private civil matter and the Sheriff's Office had a practice of referring private civil matters to appropriate resources.
44. Even arguably if the supervised child visitation constituted a police matter, Antinoro did not comply with established policies of the Sheriff's Office, including the nepotism policy restricting handing matters for relatives who are persons to whom there is a private commitment. He did not direct his spouse to administration, dispatch or another member of the Sheriff's Office to ascertain the availability of police resources to handle the subject civil matter because it was "easier" to deal with it himself.
45. Although other officers were present at the Main Station, performing other duties on the weekend day of the subject supervised child visitation, Antinoro did not request any other member to handle the situation or be present during the visitation given his conflict.
46. The record establishes that Antinoro violated NRS 281A.400(7) by using his authority as Sheriff of Storey County to personally and singularly offer, schedule and oversee a supervised child visitation for his own step-child in furtherance of his significant personal interest. In particular Antinoro offered the Main Station as a secure location and personally opened government facilities for a private civil matter at a time the facility was closed to the public. In doing so, the record establishes that Antinoro did not follow established Storey County Sheriff's Office policies and procedures, which were designed to prevent him from utilizing his official authority to use government property and resources in furtherance of a private, civil matter.
47. Pursuant to the Divorce Decree, Antinoro, as a private citizen, certainly could have supervised the subject child visitation at a private location rather than utilizing Storey County government facilities.
48. The record does not establish by a preponderance of evidence that Antinoro violated NRS 281A.400(2), pertaining to improper use of a government position to grant an "unwarranted" preference or privilege given the definition of "unwarranted" set forth therein.

III. STATEMENT OF THE ISSUE AND RELEVANT STATUTES

A. ISSUE

The issues considered by the Commission are whether Antinoro's conduct in utilizing government property to benefit a significant personal interest constitutes a violation of either NRS 281A.400(2) or 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) and NRS 281A.400 (Code of Ethical Standards).

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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. Use of Government position to secure or grant “unwarranted” privileges, preferences or advantages – NRS 281A.400(2) provides:

A public officer or employee shall not use the public officer’s or employee’s position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages 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. As used in this subsection, “unwarranted” means without justification or adequate reason.

3. 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.

4. 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.

5. 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.

6. 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. In furtherance of State policy to protect the public trust, the Code of Ethical Standards was enacted to require proper separation of private interests and commitments from public duties. See NRS 281A.400. The Commission has recognized that public officers and employees should not participate or be involved with matters that directly pertain to relatives because such participation, at a minimum, creates an appearance of impropriety and often creates an impermissible conflict under the Ethics Law. See *In re Murnane*, Comm'n Op. No. 15-45A (2016) and *In re Murray*, Comm'n Op. No. 08-07C (2008).

Based upon the preponderance of evidence standard, the Commission does not find there to be a violation of NRS 281A.400(2). Remaining at issue is whether Antinoro's conduct in personally using government facilities was for a significant personal interest and, if so, whether the use constitutes a violation of the Ethics Law or is permitted under NRS 281A.400(7). NRS 281A.400(7) contains a strict prohibition against a public officer or employee from using government time, resources, property, equipment or other facility to benefit a significant personal or pecuniary interest of the public officer or public employee. Pursuant to NRS 281A.400(7)(a), a limited-use exception to the strict prohibition is established when the use is either the result of an emergency or the governmental agency established a policy permitting the use. In either case, the use must not interfere with the performance of public duties, the cost or value must be nominal and the use may not create an appearance of impropriety.

Antinoro contends that his use of the government facility (Main Station) for a supervised child visitation between his spouse, her ex-husband and his minor step-child was similar to an authorized use previously provided to the general public by the Sheriff's Office. Specifically, Antinoro contends that the use was permitted under his official authority and public duty to maintain public safety through civil standby services, as addressed in Policy 472 of the Storey County Sheriff's Office. Alternatively, Antinoro asserts that should Policy 472 not be controlling, a *de facto* policy was created by custom and practice of the Sheriff's Office that permits supervised child visitations to occur at the Main Station.

The Commission's analysis determines whether Antinoro had a significant personal interest in using the Main Station for the supervised child visitation and whether the use of government property was for an official purpose or private matter within the prohibition set forth in NRS 281A.400(7). The Commission then considers whether the limited-use exception applies. The Commission considers whether the use of government property was permitted under NRS 281A.400(7)(a) because it was a result of an emergency or otherwise permitted by an established policy of the Storey County Sheriff's Office.

1. Antinoro's Use of the Main Station for the Supervised Child Visitation was for a Substantial Personal Interest Prohibited by NRS 281A.400(7)

Antinoro contends his use of the Main Office for the supervised child visitation was in performance of his public duties. Certainly, police services may be requested by the public to assist in keeping the peace and maintaining the safety of persons involved in civil disputes. However, the record does not establish that police intervention was requested or necessary to keep the peace or that an emergency situation existed in which the safety of any person was at issue.

Antinoro holds a significant personal interest in assuring the child visitation for his step-child was properly supervised. Even though Antinoro's spouse expressed a concern about the visitation, the record did not establish that Grepel, who resided out of state, had made any implied or actual threats to Antinoro, his spouse or the minor child. Contrary to the concern, Mrs. Antinoro testified that she would not "at any time" say "no" to visitation. On this particular occasion, Mrs. Antinoro told Grepel that she would be "happy to meet him wherever he wanted" and suggested a park. In communications with his spouse, Antinoro testified that he offered the Main Station for the supervised child visitation. Mrs. Antinoro then moved the supervised visitation to the Main Station, without objection from Grepel.

The supervised child visitation was held on a weekend when the Main Station was closed to the public and took approximately one hour. Antinoro used his official authority to open the Main Station to conduct the supervised child visitation. Antinoro confirmed he did not know whether the Main Station would even be occupied at the time he opened the doors. Present during the supervised child visitation were Antinoro, his spouse, Mr. Grepel, Mr. Grepel's spouse, and the minor child. Antinoro indicated that two deputies were on duty conducting a shift change at the time. However, Antinoro did not discuss the matter with the deputies nor did he utilize their services because the supervised child visitation was a "low-level" issue he could handle himself. By all accounts, the visitation was friendly, lacking any dispute and without incident. No party testified that the visitation created an emergency situation or necessitated or required police intervention to protect the safety of any person.

Credible evidence was not provided to establish that Antinoro's personal supervision of his step-child's visitation constituted a police civil standby situation. Antinoro, himself, had no safety concerns. Moreover, Gempel had not made any threats and Mrs. Antinoro did not specifically request police intervention, a civil standby or the use of police facilities. The record and policies of the Sheriff's Office establish that child exchanges and property exchanges are likely of short duration and are the type of civil standbys usually conducted by the Storey County Sheriff's Office. Antinoro testified that it was proper procedure for officer safety to report a civil standby to dispatch and complete an incident report. However, Antinoro did not notify dispatch or contact on-duty deputies to notify them that he was conducting a civil standby and he did not prepare a police incident report. If Antinoro considered the supervision of his own step-child's visitation to be a police matter or a safety concern, it should have been properly handled pursuant to established policies and protocols of the Storey County Sheriff's Office.

Antinoro should have complied with Policy 320.2 associated with facilitating civil disputes to appropriate civil remedies and community resources. Antinoro did not consider nor discuss with his spouse any alternate locations or resources. Further, Policy 472, addressing civil disputes and civil standbys, mandates that members of the Sheriff's Office must not become personally involved in the disputes and shall at all times remain impartial. Here, the opposite occurred. Antinoro was personally involved in the matter as the child's step-father. Antinoro singularly supervised his step-child's visitation in accordance with the Divorce Decree. However, in doing so, Antinoro did not comply with Policy 472 or Policy 1050 pertaining to conflicts of interest. Policy 1050 addresses handling police matters for relatives and instructs on proper avoidance of a conflict of interest. However, Antinoro did not follow the Policy's directives to contact a supervising deputy or notify dispatch. Two deputies were on duty and available at the Main Station and neither were advised of the situation. Instead, Antinoro chose to use his official authority to permit use of the Main Station for his private matter. The lack of compliance with written policy directives of the Storey County Sheriff's Office confirms that Antinoro's use of the Main Station was a private use rather than a civil standby situation requiring implementation of police powers.

By handling the matter himself, Antinoro acted outside of the established policies and protocols of the Sheriff's Office. Antinoro should not have placed himself in a compromising situation between private interests and public duties. Accordingly, based upon the record, the Commission determines that Antinoro's use of the Main Station for his step-child's supervised visitation was in furtherance of a significant personal interest and was restricted by NRS 281A.400(7).

2. The Limited-use Exception set forth in NRS 281A.400(7)(a)

The Commission next considers whether the subject use was permitted by the limited-use exception established in the statute. NRS 281A.400(7) is not violated when the circumstances confirm there is a limited use of governmental property, equipment or other facility for personal purposes provided that:

- (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.

All four requirements must be met by the public officer or employee to be entitled to application of the limited-use exception. Initially, it is noted that the record does not establish the existence of an emergency nor does Antinoro contend that to be the case. Consequently, the Commission focusses on analyzing whether the use was permitted by an established and controlling policy. Antinoro contends that his use was permitted by Policy 472 governing civil standbys. Alternatively, he asserts that a *de facto* policy had been created permitting the use by custom and practice. In support of his positions, Antinoro asserts that, as the Sheriff, he could authorize the use, there was no interference with his job duties, the cost was nominal, and there was no appearance of impropriety.

Certainly, Antinoro can establish policies, directives or special orders under his authority as the Sheriff of Storey County. The central issue presented is not one of authority, but whether a policy had actually been established in writing or by custom or practice (a *de facto* policy), which would have permitted the personal or private use of the Main Station to benefit a significant personal interest. A policy is a standard course of action that has been officially established by an organization. See Black's Law Dictionary, 10th Edition, 2014. At a minimum, establishment of a policy, given the reference to the past-tense of the verb "established," connotes a past action, whether it be established by transmission to the organization and its personnel in writing or through knowledge, instruction, training or other relevant act.

Policy 472 governs the conduct of members of the Sheriff's Office in performing a civil standby under established protocols. The Commission is not persuaded that Policy 472 applies or governs this situation because it does not apply to the use of government property for a private matter by a member of the Sheriff's Office given the policy's stated impartiality requirements. Furthermore, Policy 472 does not establish protocols or even reference the rendering of supervised child visitations to the general public. Likewise, details permitting an after-hours use of government facilities for supervised child visitation are absent. It is further noted that Policy 320.2 establishes a protocol to refer civil domestic issues to appropriate civil resources.

Significantly, the directives of Policy 472 safeguard impartiality. Antinoro did not take any steps to remain impartial in compliance with established policy, which at a minimum, creates an appearance of impropriety under the Ethics Law given Antinoro's private use of government property. Antinoro handled his relatives' matter himself, without notification or assistance from other officers or notification to dispatch, without completion of an incident report and without referral to other civil resources. The conflict of interest is evident because Antinoro used the authority of his public office to handle his own significant private matter. Policy 1050 governing nepotism applies to the situation and the matter should have been handled by a disinterested member of the Sheriff's Office, including associated notification and reporting protocols. The policies of the Sheriff's Office do not permit or excuse the personal use of the government facility presented under the circumstances. Here, impartiality and conflict policy mandates applied, but were disregarded.

Separately, the Commission is not convinced and does not find that a *de facto* policy had been established based upon the prior use of the Main Station for a supervised child visitation. Child exchanges are not the same as conducting a private supervised visitation of a relative's child after-hours in a government facility.³ The record and policy

³ The fact that the Storey County Dispatch facility now has a designated area to promote public safety, which is monitored by cameras, is irrelevant and not determinative.³ The area was established after the conduct at issue to provide a secure location for the private sales of goods and to conduct child exchanges.

parameters establish that child exchanges and property exchanges are likely of short duration and are the type of civil standbys usually conducted by the Storey County Sheriff's Office. Supervised child visitations vary and would be of longer duration, requiring dedicated resources, and are not addressed in policy.

Further, the record does not contain any documented instance verifying that a member of the Sheriff's Office used government facilities to supervise a child visitation for his own benefit or for the benefit of a relative, with the sole exception of Antinoro. Notably, supervised child visitations were so unusual that a testifying dispatcher and administrative personnel did not recall any calls requesting the use or the actual use of Sheriff's Office facilities for supervised child visitation. Antinoro recalls one supervised child visitation at the Main Station that occurred possibly in 2011 or 2012. Sergeant Kerns recalls one family using the facility for supervised child visitation purposes years ago.⁴ With the exception of the prior supervised child visitation recalled, no witness testified to specific facts or details pertaining to prior supervised child visitations, no incident reports were produced, no member of the Sheriff's Office testified whether any such visitations were supervised by law enforcement or whether government facilities were made available for such visitations after hours. The witnesses' recollections pertaining to the prior supervised child visitation were general in nature, lacked detail, and established that such a situation was infrequent, if not rare. Importantly, the record does not establish any protocols or associated training for a deputy or other member of the Sheriff's Department regarding scheduling or supervising child visitation matters in a government facility. The lack of uniformity, absence of protocols and infrequent occurrences serve to negate the existence of a *de facto* policy established by custom or practice.

The Commission determines that not all requirements of the limited-use exception have been established. Antinoro's use of the Main Station to supervise his own step-child's visitation created an appearance of impropriety, constituted a conflict and was not permitted by an established written policy or *de facto* policy of the Sheriff's Office. Antinoro either could have, but did not, participate in the supervised child visitation at a non-government location, or properly follow the policies of the Sheriff's Office and directives of the Ethics Law to avoid the conflict or appearance of impropriety for a supervised child visitation at the Main Station. Based upon the record, the Commission determines that Antinoro violated NRS 281A.400(7) because his private use of government facilities benefitted his own significant personal interests and such use was not permitted by the limited-use exception.

B. INTENTIONAL AND KNOWINGLY

Prior to application of the mitigating factors set forth in NRS 281A.475, the Commission considered whether Antinoro's use of government property for his step-child's supervised visitation 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).

⁴ It is likely that both recollections involved the same supervised child visitation. However, even if there were two incidents, it would not have been determinative to the analysis.

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 offered the Sheriff’s Main Station for the supervised child visitation, even when other options were available to him. Antinoro’s conduct was not accidental or inadvertent nor did he claim it to be. *Id.*⁵

The Ethics Law requires that Antinoro had knowledge of his actions or use of the government facilities for a private purpose. 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 Commission confirmed in a recent opinion that the Subject’s conduct 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. See *In re Boldt*, Comm’n Op. No. 17-37C (2018). As established in NRS 281A.400(7), the impropriety in using government facilities for a private use when no exception applies is clear and unambiguous. As in *Boldt*, the record before the Commission established that Antinoro intentionally and knowingly acted when he used the Main Station, a government facility, after hours for a private child visitation, which he accessed for the supervised visit.

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

The Commission considers all relevant mitigating factors set forth in NRS 281A.475 in determining whether a civil penalty is appropriate. However, 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, and
7. Other Matters as Justice Requires.

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⁵ 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).

NRS 281A.400(7) establishes a strict prohibition against use of public facilities and resources unless the use is permitted by the limited-use exception. The Commission considered the lack of associated costs and absence of financial gain and the history of Antinoro's two previous violations, which occurred prior to the conduct at issue. The Commission provided less weight to the two prior violations than other factors given that Antinoro stipulated to resolve RFO No. 14-59C as a non-willful violation, and RFO No. 16-54C remains subject to appellate proceedings.⁶

The Commission provided greater weight to factors pertaining to the seriousness of this violation as established by the record, including the strict prohibition in the Ethics Law restricting public officers and employees use of public facilities to benefit a significant personal interest, the obvious conflict associated with handling matters for relatives benefiting Antinoro's own significant private interests, lack of self-reporting or correction of the violation, lack of personal responsibility, failure to mitigate, and other matters justice required. Antinoro did not comply with established policies and procedures of the Sheriff's Office or the Ethics Law, which he is charged with enforcing as the head of the organization. Antinoro's reticence in taking personal responsibility or steps to mitigate the circumstances, such as implementing additional training in the proper use of government facilities or instituting other actions to properly avoid similar conflicts in the future, is also provided greater weight.

The nature of the violation and the totality of Antinoro's 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) and NRS 281A.400(7). Based upon the record, the Commission determines that Antinoro's conduct constitutes a single willful violation of NRS 281A.400(7) and imposes a civil penalty of \$2,500 against Antinoro.

V. CONCLUSIONS OF LAW

1. At all times relevant to this matter, Antinoro was a "public officer," as defined by NRS 281A.160.
2. Pursuant to NRS 281A.440(1) and NRS 281A.460, the Commission has jurisdiction to render an opinion in this matter.
3. Antinoro, as a public officer, has 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, is prohibited from using government time, resources, property, equipment or other facility to benefit his significant personal or pecuniary interest, unless the limited-use exception applies to the circumstances.
5. Pursuant to the provisions of the Ethics Law and the record, all requirements of the limited-use exception set forth in NRS 281A.400(7)(a) are not met; therefore, the conduct is not excused by the exception.

⁶ In public comment occurring during the Commission's public meeting on October 17, 2018, assertions were made by a member of the public alleging improper conduct by Antinoro. This alleged conduct commented on was not part of Antinoro's adjudicatory hearing and was not considered by the Commission in rendering its determinations or this opinion.

6. Based upon the preponderance of evidence standard, Antinoro willfully violated NRS 281A.400(7) by using government property in furtherance of his significant personal interest in supervising the subject child visitation.
7. Based upon the preponderance of evidence standard, the Commission concludes there is insufficient evidence in the record to establish that Antinoro violated NRS 281A.400(2).
8. 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 \$2,500. 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 issuance 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.⁷

The following Commissioners participated in this Opinion:

Dated this 27th day of February, 2019.

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/ Teresa Lowry
Teresa Lowry, Esq.
Commissioner

By: /s/ Kim Wallin
Kim Wallin, CPA
Commissioner

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⁷ 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").

Separate Statement:

This Commissioner did not vote in favor of the majority opinion even though he respects the opinion of the majority from a statutory construction and legal perspective. Instead, he made a motion, which did not receive a second, that referenced the mitigating factors contained in NRS 281A.475 and preponderance of evidence standards established in NRS 281A.480, to find that Antinoro's conduct constituted a single violation of the Ethics Law of NRS 281.400(7). The motion confirmed that the violation was not willful and no fine should be imposed because the welfare of a child was a proper concern of the sheriff's department and the sheriff, and there was testimony that the same accommodation would have been provided to any other member of the public. Further, the Commission could have instituted corrective measures including education and training, and direction to the Sheriff to properly establish a policy pertaining to the handling of supervised child visitations by members of the Storey County Sheriff's Office.

By: /s/ Brian Duffrin
Brian Duffrin
Commissioner

Dissent:

This Commissioner dissents from the majority opinion because the evidence demonstrated the existence of a safety concern for a child's welfare. The accommodation that what was offered to Antinoro's spouse and child was available to the general public despite the absence of clear evidence the general public used the benefit. Specifically, there was testimony that, even though requests were rare, if the Storey County Sheriff's Office had been asked by a member of the public to use its facilities for supervised child visitation purposes, such a request would have been routed to a deputy to determine whether the requested government facilities or deputy supervision and law enforcement resources would be available. As a matter of public policy, appropriate government facilities and resources should be made available for public use to address public safety concerns. Because Antinoro testified that his use of government facilities was in furtherance of a child welfare concern, he should proceed to establish a written policy and associated program so it is clear that the facilities and resources of the Storey County Sheriff's Office are available to the members of the public for public safety matters including supervised child visitations. The establishment of a written policy and program would assure that the general public has knowledge regarding and access to government facilities and resources and alleviate any claims of preference, impropriety or noncompliance with the Ethics Law.

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

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. 17-21C via U.S. Certified Mail and electronic mail to the Parties as follows:

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DATED: February 27, 2019



An employee, Nevada Commission on Ethics

BEFORE THE NEVADA COMMISSION ON ETHICS

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AGENDA ITEM 5

Request for Opinion
No. 17-21C (Antinoro)

Adjudicatory Hearing

Wednesday, October 17, 2018

State Bar of Nevada
9456 Double R Boulevard
Suite B
Reno, Nevada

Reported by: Lesley A. Clarkson, CCR #182

<p>A_P_P_E_A_R_A_N_C_E_S</p> <p>Page 2</p> <p>COMMISSION MEMBERS PRESENT</p> <p>CHERYL LAU, Chairman</p> <p>KEITH A. WEAVER</p> <p>BARBARA GRUENEWALD</p> <p>BRIAN DUFFRIN</p> <p>P. K. O'NEILL</p> <p>TERESA LOWRY</p> <p>KIM WALLIN</p> <p>TRACY CHASE, Commission Counsel</p> <p style="text-align: center;">PARTY APPEARANCES</p> <p>Yvonne Nevarez-Goodson, Executive Director</p> <p>Represented by: Judy L. Prutzman, Associate Counsel</p> <p>Subject Gerald Antinoro</p> <p>Represented by: Katherine F. Parks</p> <p style="padding-left: 40px;">Attorney at Law</p> <p style="padding-left: 40px;">Thorndal, Armstrong, Delk,</p> <p style="padding-left: 80px;">Balkenbush & Eisinger</p> <p style="padding-left: 40px;">6590 South McCarran Boulevard</p> <p style="padding-left: 40px;">Reno, Nevada 89509</p>	<p>Page 3</p> <p>I_N_D_E_X</p> <p>EXECUTIVE DIRECTOR WITNESSES: PAGE:</p> <p>Brandy Gavenda</p> <p style="padding-left: 40px;">Direct Examination by Ms. Prutzman 19</p> <p style="padding-left: 40px;">Cross-Examination by Ms. Parks 22</p> <p style="padding-left: 40px;">Examination by the Commission 24</p> <p>Gerald Antinoro</p> <p style="padding-left: 40px;">Direct Examination by Ms. Prutzman 29</p> <p style="padding-left: 40px;">Cross-Examination by Ms. Parks 47</p> <p style="padding-left: 40px;">Redirect Examination by Ms. Prutzman 55</p> <p style="padding-left: 40px;">Examination by the Commission 57</p> <p>Dave Ballard</p> <p style="padding-left: 40px;">Direct Examination by Ms. Prutzman 82</p> <p style="padding-left: 40px;">Cross-Examination by Ms. Parks 88</p> <p style="padding-left: 40px;">Examination by the Commission 89</p> <p>Rebecca Parsons</p> <p style="padding-left: 40px;">Direct Examination by Ms. Prutzman 94</p> <p style="padding-left: 40px;">Cross-Examination by Ms. Parks 106</p> <p style="padding-left: 40px;">Redirect Examination by Ms. Prutzman 111</p> <p style="padding-left: 40px;">Examination by the Commission 112</p> <p>SUBJECT WITNESSES:</p> <p>Laura Antinoro</p> <p style="padding-left: 40px;">Direct Examination by Ms. Parks 122</p> <p style="padding-left: 40px;">Cross-Examination by Ms. Prutzman 128</p> <p style="padding-left: 40px;">Examination by the Commission 131</p> <p>Eric Kern</p> <p style="padding-left: 40px;">Direct Examination by Ms. Parks 133</p> <p style="padding-left: 40px;">Cross-Examination by Ms. Prutzman 143</p> <p style="padding-left: 40px;">Redirect Examination by Ms. Parks 151</p> <p style="padding-left: 40px;">Examination by the Commission 153</p> <p>Anthony Dosen</p> <p style="padding-left: 40px;">Direct Examination by Ms. Parks 165</p> <p style="padding-left: 40px;">Cross-Examination by Ms. Prutzman 167</p>
<p>Page 4</p> <p>1 RENO, NEVADA, WEDNESDAY, OCTOBER 17, 2018, 10:05 A.M.</p> <p>2 -000-</p> <p>3</p> <p>4 AGENDA ITEM NO. 5</p> <p>5 Pursuant to NRS 281A.745, Adjudicatory</p> <p>6 Hearing to hear testimony, receive evidence,</p> <p>7 deliberate and render an opinion concerning</p> <p>8 Request for Opinion No. 17-21C regarding the</p> <p>9 conduct of Gerald Antinoro, Sheriff, Storey</p> <p>10 County.</p> <p>11</p> <p>12 CHAIRMAN LAU: Now is the time and place for a hearing</p> <p>13 regarding RFO 17-21C regarding Gerald Antinoro, sheriff, Storey</p> <p>14 County, state of Nevada.</p> <p>15 Counsel Parks, would you like to come forward.</p> <p>16 Commissioner Gruenewald, since you were on the panel,</p> <p>17 the distinguished panel, for Antinoro; therefore, you cannot</p> <p>18 participate in the hearing. However, we would welcome your</p> <p>19 presence here.</p> <p>20 COMMISSIONER GRUENEWALD: Thank you.</p> <p>21 CHAIRMAN LAU: We have Counsel Parks.</p> <p>22 Would the parties please identify themselves, their</p> <p>23 clients, and any witnesses which are present to be sworn in for</p> <p>24 the record.</p> <p>25 Counsel Prutzman.</p> <p>MS. PRUTZMAN: Yes. Thank you, Madam Chair. I'm the</p> <p>associate counsel for the commission on ethics, and I'm here on</p> <p>the behalf of the executive director, Yvonne Nevarez-Goodson.</p>	<p>Page 5</p> <p>1 And you want me to identify my witnesses?</p> <p>2 CHAIRMAN LAU: Yes, please.</p> <p>3 MS. PRUTZMAN: Well, the subject, Sheriff Antinoro, is</p> <p>4 a witness that I will be examining. He is of course here. And</p> <p>5 then I have Brandy Gavenda is here, Dave Ballard, and also</p> <p>6 Rebecca Parsons to be sworn in.</p> <p>7 CHAIRMAN LAU: Thank you very much.</p> <p>8 Counsel Parks.</p> <p>9 MS. PARKS: Good morning, and thank you, Madam Chair.</p> <p>10 Katherine Parks on behalf of Sheriff Gerald Antinoro. Nice to</p> <p>11 see you all again.</p> <p>12 I have with me here today the sheriff, I have Laura</p> <p>13 Antinoro with me as well, Tony Dosen, Eric Kern, and Dan Gaunt.</p> <p>14 CHAIRMAN LAU: Thank you very much. Counsel, are the</p> <p>15 subpoenaed documents and other evidence, today are they present</p> <p>16 in this room and provided to the commission?</p> <p>17 MS. CHASE: Madam Chair, I have provided as a result of</p> <p>18 the prehearing conference that you held with the parties an</p> <p>19 exhibit book for each of the members today on the commission.</p> <p>20 All the evidence has been admitted by the Chair, so all of that</p> <p>21 information is available in this room to you. There's a public</p> <p>22 copy as well available to the public in the back of the room.</p> <p>23 CHAIRMAN LAU: Thank you very much, commission counsel.</p> <p>24 As Chair I have issued certain rulings relating to</p> <p>25 evidence and the evidence books. The books have been admitted</p>

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1 into evidence in this adjudicatory hearing by stipulation of the
 2 parties.
 3 Are there any other preliminary matters to be taken
 4 care of? Thank you.
 5 Madam court reporter, would you please administer the
 6 oath to all parties and witnesses that are present who will be
 7 testifying.
 8 Would the witnesses please stand.
 9 (Six witnesses sworn.)
 10 CHAIRMAN LAU: The subject may remain present during
 11 the hearing, and both parties have the right to examine the
 12 witnesses. It is the policy of this commission to exclude
 13 witnesses from the hearing room until called. The waiting place
 14 has been established under the supervision of the commission
 15 staff, and in order to preserve the integrity of the process the
 16 commission requires that witnesses wait until called and not
 17 discuss the case, including the testimony, during the pendency of
 18 the proceedings.
 19 And each party may provide up to ten minutes of an
 20 opening statement. And Counsel Prutzman, you will begin, and
 21 then Counsel Parks will present her opening statement. And
 22 Counsel Prutzman, you will start the executive director's case by
 23 calling your first witness. And for each witness called, Counsel
 24 Parks will be provided the opportunity to cross-examination, and
 25 Counsel Prutzman, you may redirect. At any time a commissioner

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1 On June 26, 2017, the commission received Request for Opinion
 2 17-21C concerning Gerald Antinoro, the elected sheriff of Storey
 3 County for the state of Nevada. The RFO, which I will refer to
 4 as the ethics complaint, alleges that Sheriff Antinoro violated
 5 the ethics lawsuit when he authorized and arranged for his wife
 6 Laura to use a meeting room in the sheriff's office on Saturday
 7 May 20, 2017, for a lengthy visitation appointment between his
 8 stepdaughter and Laura's ex-husband, Mr. Clarence Gempel, who is
 9 the requester of this particular complaint.
 10 After an investigation the review panel unanimously
 11 concluded that the facts established credible evidence to
 12 substantiate just and sufficient cause for the commission to
 13 render an opinion regarding the allegations pertaining to NRS
 14 281A.400, subsections 2 and 7.
 15 The commission considered motions for summary judgment
 16 filed by both parties, and those motions were denied on July 2,
 17 2018, which brings us to this adjudicatory hearing. The order
 18 denying the motions indicated the hearing would assist the
 19 commission in determining facts regarding the existence of a
 20 policy permitting the public use of the sheriff's office for
 21 child visitations and similar matters, any training of personnel
 22 associated with this policy, if one does exist, and the manner in
 23 which the child visitation was scheduled and conducted. You will
 24 therefore hear some facts today related to those issues that were
 25 raised in the order.

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1 may ask questions by directing them to the Chair.
 2 MS. CHASE: Madam Chair, since you have issued an
 3 exclusion order, would all witness please, except for the subject
 4 obviously, and Miss Prutzman, your first witness, if you could
 5 have that available, if you could leave the room and wait
 6 outside. And you can talk with your respective counsel for a
 7 moment if you want to set up a time or coordinate that if you
 8 haven't done it already.
 9 (Off the record while witnesses
 10 excluded.)
 11 CHAIRMAN LAU: Miss Prutzman, you may call your first
 12 witness.
 13 MS. PRUTZMAN: Madam Chair, shall I do opening first?
 14 CHAIRMAN LAU: Yes. I'm sorry. I'm just way ahead.
 15 MS. PRUTZMAN: Yes, you are.
 16 CHAIRMAN LAU: Please proceed with your opening
 17 statement.
 18 MS. PRUTZMAN: Thank you, Madam Chair. I'm going to
 19 try to do this without the microphone, but I have one here, so
 20 let me know if I'm not speaking loud enough.
 21 Good morning, commissioners. For the record, I'm Judy
 22 Prutzman, associate counsel for the commission. I am
 23 representing the executive director in this matter today, and I
 24 will provide some opening comments on her behalf.
 25 I'd like to start with a brief overview of this case.

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1 This hearing is not about Laura Antinoro's conduct, and
 2 it's also not about the conduct of the requester, Mr. Gempel.
 3 You are here today to decide if Sheriff Antinoro willfully
 4 violated the ethics law by failing to avoid a conflict of
 5 interest between his public duties and his commitment in a
 6 private capacity to the interests of his wife and his
 7 stepdaughter. To reach this decision, you don't need to
 8 understand why Laura Antinoro felt uncomfortable about meeting
 9 her ex-husband at a park on Saturday, and you don't need to
 10 conclude that it was unreasonable for her to change the location
 11 of the meeting. You also should not consider the motives or
 12 conduct of Mr. Gempel, the requester of this complaint, because
 13 that is not relevant in any way to the finding of a violation.
 14 You will not hear from Mr. Gempel today. As I
 15 explained in the executive director's prehearing statement,
 16 Mr. Gempel resides and works in Arizona, and the commission's
 17 subpoenas are not enforceable in Arizona. Although Mr. Gempel
 18 was asked to voluntarily appear at this hearing today, either in
 19 person or by telephone, he has declined to do so. It is our
 20 understanding that Mr. Gempel does not desire to directly
 21 participate in this matter because doing so may disrupt his
 22 ability to amicably co-parent the daughter he shares with Laura
 23 Antinoro. However, Mr. Gempel's absence does not diminish the
 24 credibility of the facts he attested to in his complaint, and his
 25 testimony about the manner and place of the May 20 meeting would

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1 not differ from any of the testimony you will hear from
 2 individuals who are here today. These basic facts are not
 3 disputed.

4 In the complaint Mr. Gempel provides the following
 5 account of the May 20 meeting at the sheriff's office: Antinoro
 6 attempted to use his office in order to intimidate me when
 7 setting up visitation with my daughter. We were originally going
 8 to meet at a park in Virginia City. However, this was changed
 9 last minute, and I was asked to meet Laura and my daughter at the
 10 sheriff's office in Virginia City.

11 Accordingly, this ethics complaint requires the
 12 commission to answer one simple question, did Mr. Sheriff
 13 Antinoro violate the ethics law when he opened up the sheriff's
 14 office on a Saturday for a private matter involving his own
 15 family members?

16 As you consider this question and listen to the
 17 evidence provided during the hearing today, I ask you to be
 18 mindful of the legislative policy that's expressed in NRS
 19 281.020, which states that a public officer like Sheriff Antinoro
 20 has public duties that he must separate from his private duties
 21 and relationships to preserve the public trust.

22 Pursuant to NRS 286.065, the legislature has deemed
 23 certain relationships to establish the type of private
 24 commitments that implicate conflicts of interest. Under the
 25 facts of this case, Sheriff Antinoro clearly has commitments in a

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1 privilege because the preponderance of evidence will show that
 2 other members of the public cannot and do not use the sheriff's
 3 office for lengthy family meetings on a Saturday. Sheriff
 4 Antinoro authorized and made available Laura's use of the
 5 sheriff's office on a day and in a manner that was not otherwise
 6 available to the public.

7 The preponderance of evidence will also show that
 8 Sheriff Antinoro willfully violated NRS 281A.400, subsection 7,
 9 which creates a strict prohibition against the use by a public
 10 officer of governmental property or equipment or other facility
 11 to benefit a significant personal interest. The sheriff's office
 12 is a government facility, and the government nature of the
 13 facility is not changed by the fact that the building is
 14 sometimes open to the public. The significant personal interest
 15 involved here is Sheriff Antinoro's interest in the well-being
 16 and comfort of his wife and stepdaughter.

17 As the party seeking application of the limited use
 18 exception, which is set forth in NRS 281A.400, subsection 7(a),
 19 Sheriff Antinoro has the burden of proving each of the four
 20 elements in the limited use exception has been met. This burden
 21 cannot be met because the preponderance of evidence will
 22 demonstrate that no policy has actually been created regarding
 23 use of the sheriff's office for private family matters, in
 24 particular on days when the office is not otherwise open to the
 25 public for business.

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1 private capacity to the interests of his wife and his
 2 stepdaughter. These types of relationships trigger concerns
 3 about conflicts and appearances of impropriety. For that reason
 4 the commission has repeatedly decided that public officers and
 5 public employees should not, through their public positions,
 6 become involved with matters associated with family members,
 7 because such involvement creates an appearance of impropriety and
 8 an impermissible conflict under the ethics law.

9 I have cited two commission cases in the executive
 10 director's prehearing statement that discuss the commission's
 11 concerns related to conflicts and family members. One of those
 12 cases is in re Mernon and the other in re Murray.

13 The executive director has the burden of proving an
 14 ethics violation by a preponderance of evidence, which means that
 15 you do not need to be persuaded that the facts are true beyond a
 16 reasonable doubt. To conclude that Sheriff Antinoro violated the
 17 ethics law, it is only necessary for you to decide that the
 18 evidence provided by the executive director is more convincing or
 19 more believable than the evidence offered by Sheriff Antinoro.

20 The preponderance of evidence presented to the
 21 commission today will show that Sheriff Antinoro willfully
 22 violated NRS 281A, subsection 2, which requires public officers
 23 to refrain from using their public positions in any manner that
 24 could be construed as providing unwarranted advantages to family
 25 members. Laura's use of the sheriff's office was an unwarranted

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1 Sheriff Antinoro will testify that there was custom or
 2 practice that permits the public use of the sheriff's office in
 3 the manner it was used by his wife. However, a custom or
 4 practice does not constitute an established policy as required by
 5 statute. Additionally, there's no evidence that the so-called
 6 custom or practice, if one exists, has been communicated to the
 7 general public or to the dispatchers who were responsible for
 8 responding to requests for this type of service from members of
 9 the public. The custom appears to be a custom that only family
 10 members or close friends of the sheriff and staff would know
 11 about. Without an established policy regarding use of sheriff's
 12 office for a private family matter, the limited use of government
 13 resources is not permitted.

14 The limited use exception also fails because Sheriff
 15 Antinoro's use of the sheriff's office to accommodate a family
 16 meeting involving his wife and stepdaughter created an appearance
 17 of impropriety.

18 The ethics law is concerned with the use of government
 19 resources in a way that mixes both the private and public aspects
 20 of a public officer's life. By using the sheriff's office to
 21 accommodate his family members, Sheriff Antinoro failed to
 22 recognize that he should not be involved in matters associated
 23 with his wife and stepdaughter, because such involvement creates
 24 a conflict of interest.

25 Acknowledgment of the ethics standard form that Sheriff

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1 Antinoro and all public officers in Nevada are statutorily
 2 required to file says that he has read and understands the
 3 statutory ethics standard for public officers. As a public
 4 officer, it's Sheriff Antinoro's job to know how to avoid
 5 conflicts of interest in the performance of his public duties.
 6 He has been in public office since 2011, has filed three
 7 acknowledgment forms, and the executive director is concerned
 8 that this is the third ethics case involving Sheriff Antinoro's
 9 use of government resources for private purposes. If you decide
 10 that Sheriff Antinoro violated the ethics law, this would be his
 11 third violation. If you determine the violation was willful, it
 12 would be Sheriff Antinoro's second willful violation, and the
 13 commission may impose a civil penalty up to \$10,000.

14 Even if Sheriff Antinoro did not actually intend to
 15 violate the ethics law, his use of the Storey County Sheriff's
 16 Office for private family matters was willful, because he acted
 17 intentionally and knowingly. Under the ethics law a willful
 18 violation is based upon conduct that is intentional and knowing.
 19 To find that he acted intentionally, the commission must only
 20 conclude that he acted voluntarily or deliberately rather than
 21 accidentally or inadvertently. The definition of intentional
 22 does not require proof the intentional behavior was done in bad
 23 faith or with malicious motive to be deemed willful.

24 There is some additional confidential information that
 25 I will ask the commission to consider, and I will request a brief

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1 fact, and as we shall discuss, the documentary evidence obtained
 2 by the executive director and submitted to the commission as
 3 evidence, actually supports the position and the fact that the
 4 sheriff's office, and not just the Storey County Sheriff's Office
 5 main office in Virginia City, but the Lockwood office as well, is
 6 open to the public, has been used by members of the public for
 7 just such visits on the weekends and after what could be
 8 described as regular business hours for administrative staff of
 9 the sheriff's office.

10 There will be no evidence here that Sheriff Antinoro
 11 interfered with this visit in any way, shape, or form so as
 12 otherwise to create or cause an appearance or an actual
 13 impropriety or conflict of interest. The position taken by the
 14 executive director in this case in terms of focusing on, for
 15 example, a photograph of the front door of the main office of the
 16 Storey County Sheriff's Office that reads eight to five Monday
 17 through Friday, but contains a number, nonemergency, for people
 18 to contact the sheriff's office after hours.

19 But the focus on the idea that the sheriff's office was
 20 closed at the time of this Saturday visit, it glorifies form over
 21 substance, and it demonstrates a misunderstanding, I think, of
 22 what actually occurs when it comes to law enforcement. The
 23 Storey County Sheriff's Office main office where this visit
 24 happened is located on the main boardwalk of Virginia City. It
 25 is not unusual, and what we shall present here today is evidence

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1 closed session with the parties to present this statement with my
 2 closing statement. But this concludes my opening remarks.

3 CHAIRMAN LAU: Thank you very much, Counsel Prutzman.
 4 Counsel Parks.

5 MS. PARKS: Good morning. Good morning, commissioners,
 6 and thank you very much. I'm anxious to get to the evidence and
 7 the testimony here today, so I'm going to keep my comments short.

8 I agree with Miss Prutzman that the issue to be looked
 9 at and decided by the commission today is one that is very
 10 simple, and it is one I think that was recognized by the
 11 commissioners during the hearing on the motions for summary
 12 judgment that we had in this case. The issue here and what is to
 13 be determined is whether or not the brief use of the sheriff's
 14 office, main office building in Storey County in Virginia City
 15 constituted an unwarranted advantage that was granted to Laura
 16 Antinoro. And primarily the commission, excuse me, the executive
 17 director's argument in this regard is based upon the claim that
 18 this visit took place on a Saturday and on a day when purportedly
 19 the sheriff's office is not open to the general public.

20 What is going to be established by my client and I
 21 today is that that's simply not the case. There will be no
 22 evidence that the short visit at the sheriff's office that
 23 occurred on May 20, 2017, between the requester, who is, as Miss
 24 Prutzman indicated, is personally not going to be here today, and
 25 his minor daughter, violated any section of Chapter 281A. In

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1 and testimony that members of the public knock on the door after
 2 regular business hours and are let in, contact sheriff's deputies
 3 who they know after hours for assistance, and that that is a
 4 reality. This is a law enforcement office. The Storey County
 5 Sheriff's Office serves the community that is relatively small.
 6 The members of the community know the law enforcement officers in
 7 their jurisdiction.

8 What we will also show is that it is not true that
 9 every interaction such as this where a sheriff's deputy is
 10 assisting a member of the community with a civil matter is
 11 something that goes through dispatch, generates a report. Again,
 12 that is form over substance, and in reality law enforcement
 13 operations go on 24/7. The sheriff's office main office is
 14 staffed 24/7. The fact that the administrative staff may only
 15 work from nine a.m. to five p.m. Monday through Friday is
 16 immaterial to whether or not members of public have been
 17 permitted the same sort of use of the sheriff's office
 18 facilities. And I would submit that it is the duty of the
 19 sheriff's office to assist members of the public in such a
 20 manner.

21 To suggest that there is an ethical violation here with
 22 respect to this use would not be to determine that Laura Antinoro
 23 was granted an unwarranted advantage not granted to the members
 24 of the public. It would be to find that Laura Antinoro, who was
 25 dealing with a situation in which her minor child had not seen

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1 her father in six years, is not permitted to take advantage of a
 2 service that is offered to other members of the public solely by
 3 virtue of who she's married to. And that just cannot be what the
 4 legislature intended in enacting Chapter 281A.
 5 There will be no evidence here of a violation of NRS
 6 281A.400, subpart 2, with respect to an unwarranted privilege or
 7 advantage, because there was not one. Laura Antinoro took
 8 advantage of something that members of the general public are
 9 permitted to do. Nor will there be evidence to support a
 10 violation of NRS 281A.400, subpart 7.
 11 Certainly, given the facts of this case, it is my
 12 client's and I's position that there being no violation of NRS
 13 281A.400, subpart 2 or 7, that there absolutely will be no
 14 evidence to support a willful violation here.
 15 I'm going to refrain from discussing in my opening any
 16 of those issues that may come up in my closing arguments with
 17 respect to willfulness. As I said, my client and I are anxious
 18 to get to the testimony and the evidence here today, and we thank
 19 you for your time.
 20 CHAIRMAN LAU: Thank you very much, Counsel Parks.
 21 Miss Prutzman, you may call your first witness.
 22 MS. PRUTZMAN: My first witness will be Brandy Gavenda.
 23 CHAIRMAN LAU: Miss Gavenda, welcome.
 24 THE WITNESS: Thank you.
 25 CHAIRMAN LAU: You have a microphone there if you need

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1 that should start on page ED615.
 2 BY MS. PRUTZMAN:
 3 Q You have a copy there yourself, Miss Gavenda?
 4 MS. PRUTZMAN: As we mentioned in preliminary, as the
 5 Chair mentioned in preliminary statement, this exhibit is deemed
 6 admitted. I'm going to, through Miss Gavenda's testimony, help
 7 you understand where these documents came from.
 8 BY MS. PRUTZMAN:
 9 Q So Miss Gavenda, can you please explain briefly to the
 10 commissioner what a CAD incident report is.
 11 A When a call comes to dispatch, it's logged through our
 12 CAD system. This is part of our RIMS system, and so the dispatch
 13 calls are logged in this manner.
 14 Q Okay. Did you produce these reports in Exhibit 4 in
 15 response to a public records request?
 16 A Yes.
 17 Q And do you remember what that public records request
 18 asked for?
 19 A It asked for, there was a specific date range. Without
 20 having it in front of me, I don't know the exact date range. And
 21 it asked for incidents that had to do with custody, child
 22 visitation, and we ran them on those criteria.
 23 Q Okay. Do you recall that the, does it sound correct
 24 that the time frame was approximately two years?
 25 A Yeah. There was a range. I think it was January 1

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1 it.
 2 Please state your name and spell your last name.
 3 THE WITNESS: You tell me if I need it.
 4 My name is Brandy Gavenda, G-a-v-e-n-d-a.
 5 CHAIRMAN LAU: Thank you. Your witness.
 6 MS. PRUTZMAN: Thank you, Madam Chair.
 7
 8 BRANDY GAVENDA,
 9 having been first duly sworn, testified as follows:
 10
 11 DIRECT EXAMINATION
 12 BY MS. PRUTZMAN:
 13 Q Thank you for being here, Miss Gavenda. Can you please
 14 tell the commissioners where you work.
 15 A I work for the Storey County Sheriff's Office.
 16 Q What is your job title?
 17 A My job title is admin assistant two.
 18 Q How long have you worked in this position?
 19 A I have been at the sheriff's office three and a half
 20 years, admin two for about a year.
 21 Q Okay. And who is your supervisor in the office?
 22 A The sheriff.
 23 Q The sheriff? Okay. So we are going to take a look at
 24 the executive director's Exhibit 4.
 25 MS. PRUTZMAN: For your information, commissioners,

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1 through March -- no, May.
 2 Q Okay.
 3 A Of 2016 possibly. Is that correct?
 4 MS. PRUTZMAN: I'll represent to the commissioners that
 5 the request was for a period of time between May 1, 2016, and May
 6 1 of 2018.
 7 THE WITNESS: Okay.
 8 BY MS. PRUTZMAN:
 9 Q Does that sound correct?
 10 A Yes.
 11 Q Thank you. Can you explain what information has been
 12 redacted from these reports?
 13 A Sure. We took out the last names of the individuals
 14 and any addresses that were not business related, phone numbers.
 15 And I don't believe that there were any child, juvenile names in
 16 there, but we would have redacted that as well.
 17 Q Okay. So the information at the top of these reports
 18 that would be redacted, I think at the top there's a section
 19 where the address, specific address of the incident would be?
 20 A If it was a home, we would have redacted that. But we,
 21 did you want --
 22 Q So those would be personal residences if it's redacted.
 23 A Uh-huh.
 24 Q Thank you. Do you know if it's possible to print an
 25 incident report without any of the descriptive information that

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1 shows up on the bottom half of the report?

2 A I'm not aware how that would be done.

3 Q Okay. So there's only one, when you get a public

4 records request, for example, there's only one way to print out

5 the report without omitting information?

6 A I'm not sure. I would have to play with the system.

7 Without having it in front of me, I can't answer that question.

8 Q Okay. So you produced these particular reports in the

9 manner that you would normally produce reports in response to a

10 public records request.

11 A Yes.

12 MS. PRUTZMAN: I have no more questions.

13 CHAIRMAN LAU: Thank you very much.

14 CROSS-EXAMINATION

15 BY MS. PARKS:

16 Q Good morning, Miss Gavenda.

17 A Good morning.

18 Q Good morning. Can you tell us what the regular

19 administrative telephone number is for the sheriff's office at

20 Virginia City?

21 A The office where I work is Area Code 775 847-0959.

22 Q Do you happen to know what the regular office number is

23 for the substation in Lockwood?

24 A Yes. It's 775 342-0950.

25 Q I guess that was cart before horse. Is there a

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1 Weaver.

2 EXAMINATION BY THE COMMISSION

3 BY COMMISSIONER WEAVER:

4 Q Could you tell us what your regular job duties are,

5 please?

6 A I'm one of those I have other duties as assigned. So I

7 do, we do case reporting, we do dog licensing, CCW processing,

8 brothel work permit processing, report requests, we pay the

9 bills. I'm saying we. There's another admin as well. We enter

10 payroll, answer the phone, direct calls in that manner.

11 Q So do you have an exhibit book?

12 A I do.

13 MS. PRUTZMAN: Not the full book. We can provide.

14 COMMISSIONER WEAVER: I just want to ask a question

15 about GA000560. I can give you this one.

16 BY COMMISSIONER WEAVER:

17 Q Can you tell by looking at that photograph, which is of

18 a door, if that's the office that you work in?

19 A It is.

20 COMMISSIONER WEAVER: Can I have that back for a

21 second.

22 BY COMMISSIONER WEAVER:

23 Q And do you work during eight to five?

24 A Uh-huh.

25 Q Those are the administrative hours?

Page 23

1 substation of the sheriff's department that's located in

2 Lockwood?

3 A Yes.

4 Q And after regular administrative hours -- let me ask

5 you this.

6 Administrative hours at the sheriff's office in

7 Virginia City, what are they typically?

8 A Eight to five.

9 Q How about at Lockwood?

10 A The admin is there Tuesday through Thursday ten to

11 three.

12 Q And after regular administrative hours, if the

13 telephone rings or the regular office number is called, what

14 happens to those calls?

15 A In our office we forward them to dispatch

16 automatically. It does still ring in the office, so occasionally

17 they will be picked up when somebody is there.

18 Q If a deputy or someone is there, sometimes the phone

19 will be answered.

20 A Uh-huh.

21 MS. PARKS: Thank you.

22 CHAIRMAN LAU: Thank you very much.

23 MS. PRUTZMAN: I have no redirect.

24 CHAIRMAN LAU: Thank you.

25 Any questions from the commissioners? Yes, Vice Chair

Page 25

1 A Yes.

2 Q What happens after five o'clock Monday through Friday?

3 A In regards to?

4 Q Is the door locked, to your knowledge?

5 A The door is locked, yes.

6 Q So the facility isn't open to the public 24 hours a

7 day, is that correct, to your knowledge?

8 A If there's a deputy there, and somebody knocks on the

9 door, then it would be opened and they would deal with the public

10 in that manner.

11 Q But if this, where it says after hours, does that mean

12 to you --

13 A It means after five.

14 Q So if a member of the public after five p.m. on Monday

15 to Friday or on a Saturday or Sunday walks up to the door, it's

16 not necessarily unlocked 24 hours a day?

17 A No. It would be locked after, we lock it when we

18 leave, yes.

19 Q And there's you and then another quote-unquote

20 administrative person in the office; is that right?

21 A Yes. She works the same hours as me.

22 Q So unless by chance there's a deputy in the office on

23 Saturday or Sunday or in the middle of the night, for example,

24 and a member of the public walks up to that, they are not going

25 to be able to walk into the sheriff's office; is that correct?

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1 A Not unassisted, correct.

2 Q So they would have to contact this after hours number,

3 and then a determination would be made as to whether or not the

4 office would be open to them; is that right?

5 A Yes.

6 Q So is the bottom line, as far as you know as an

7 administrative person, that the facility isn't open 24 hours a

8 day?

9 A I would have to say that's correct.

10 COMMISSIONER WEAVER: Thank you.

11 CHAIRMAN LAU: Any other questions? Yes, Commissioner

12 O'Neill.

13 COMMISSIONER O'NEILL: Thank you, Madam Chair.

14 BY COMMISSIONER O'NEILL:

15 Q I apologize, I'm having trouble pronouncing your last

16 name.

17 A It's Gavenda.

18 Q Miss Gavenda, during your working hours, I assume that

19 there's a shift change in deputies sometime during the day?

20 A Uh-huh.

21 Q When the deputies come in to do shift change, how long

22 does it normally take?

23 A They don't always do the shift change at the office.

24 Being admin, I don't, that wouldn't be a question for me. That

25 would be, I would direct that to the sergeant or -- I don't have

Page 28

1 visitation issue, what you would you do with that call?

2 A Most of the time I would say I would transfer it to

3 dispatch. If I had a deputy that was standing right there, I

4 would say hey, can you take this call. That happens on occasion,

5 but mostly I would send it to dispatch.

6 COMMISSIONER LOWRY: Thank you.

7 CHAIRMAN LAU: Thank you, Commissioner Lowry. Any

8 other questions or comments for witness Gavenda?

9 Hearing none, thank you, Miss Gavenda.

10 At this moment, we are going to take a five minute

11 break, and then we will start at ten to eleven.

12 (Recess taken.)

13 CHAIRMAN LAU: We are back on the record.

14 Miss Prutzman.

15 MS. PRUTZMAN: Thank you, Madam Chair. At this time I

16 would like to call the subject, Sheriff Antinoro, as a witness.

17 CHAIRMAN LAU: Sheriff Antinoro, welcome.

18 THE WITNESS: Thank you.

19 CHAIRMAN LAU: Would you please give your full name and

20 spell your last name.

21 THE WITNESS: Gerald Antinoro. A-n-t-i-n-o-r-o.

22 CHAIRMAN LAU: Thank you very much. Your witness.

23 Would you use the microphone, please. Thank you.

24 Miss Prutzman.

25 MS. PRUTZMAN: Thank you.

Page 27

1 that knowledge of the deputies' schedule and how they do shift

2 change.

3 Q Your office is separated how far from the squad office

4 or squad room?

5 A Feet, several feet.

6 Q Is it --

7 A But they don't really do the shift change there.

8 Q They don't normally do the shift change?

9 A They come in -- like I said, that's not a question for

10 me on how they handle shift change.

11 Q I understand that. Has anybody else spoken you to

12 besides the two attorneys about this incident?

13 A No.

14 Q No?

15 COMMISSIONER O'NEILL: Thank you. Thank you, Madam

16 Chair.

17 CHAIRMAN LAU: Thank you, Commissioner O'Neill. Any

18 other questions or comments for Miss Gavenda?

19 Yes.

20 BY COMMISSIONER LOWRY:

21 Q Good morning. In your administrative role, do you

22 receive calls from the general public?

23 A Yes.

24 Q And if you were to receive a call from the general

25 public that they needed assistance regarding a child custody

Page 29

1 GERALD ANTINORO,

2 having been first duly sworn, testified as follows:

3

4 DIRECT EXAMINATION

5 BY MS. PRUTZMAN:

6 Q Good morning, sir.

7 A Good morning.

8 Q What is your current occupation?

9 A Sheriff of Storey County.

10 Q How long have you been the sheriff of Storey County?

11 A Just about eight years.

12 Q And where is your office, your physical place of

13 employment located?

14 A The main office is in Virginia City at 205 South C

15 Street.

16 Q And what is your wife's name?

17 A Laura.

18 Q How long have you and Laura been married?

19 A About a year and a half.

20 Q And Laura has a daughter who lives with you and Laura?

21 A That is correct.

22 Q And how old is this daughter?

23 A Just shy of eleven.

24 Q Who is the father of Laura's daughter that lives with

25 you?

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1 A Clarence Gempel.
 2 Q And where does Mr. Gempel reside?
 3 A In Arizona.
 4 Q Does your wife have full custody of the daughter that
 5 she shares with Mr. Gempel?
 6 A Yes.
 7 Q Do you know how often Mr. Gempel is permitted to visit
 8 with his daughter?
 9 A I believe the paperwork allows for a visit every other
 10 weekend.
 11 Q I'm going to ask you some questions now about the week
 12 before May 20, 2017. Do you recall when your wife informed you
 13 that she had scheduled a meeting for a child visitation
 14 appointment to occur between her daughter and Mr. Gempel?
 15 A Yes.
 16 Q Can you tell me, tell me how and approximately when she
 17 told you about that.
 18 A Just about a week before the visit she said that he had
 19 contacted her and wanted to arrange a visit.
 20 Q Okay. And do you remember what day the visit was
 21 supposed to take place?
 22 A Saturday or Sunday.
 23 Q Okay. And where was Laura originally planning to meet
 24 Mr. Gempel with her daughter?
 25 A She initially said she was thinking about doing it at

Page 32

1 sheriff's office?
 2 A Same thing I have told dozens of other people.
 3 Q Okay. Why did you and Laura think that the sheriff's
 4 office would be a good place, or let's say a better place than
 5 the park for her to meet Mr. Gempel?
 6 A It's a more secure environment.
 7 Q Can you explain that, please? Secure in what way?
 8 A Secure as in personal safety of people. We have a
 9 designated internet safety zone at the sheriff's office, we do
 10 property exchanges at the sheriff's office, substation, the jail.
 11 Any time people are in conflict, we use the office for that
 12 because it provides for personal safety.
 13 Q Does it provide for personal safety because of the
 14 nature of the structure, or personal safety because there are law
 15 enforcement personnel typically present?
 16 A Because there are law enforcement personnel typically
 17 present, yes.
 18 Q What is the address of the sheriff's office facility
 19 that you and Laura discussed meeting at?
 20 A As I said, it's 205 South C Street in Virginia City.
 21 Q So it is the same office where your office is located.
 22 A Correct.
 23 Q Okay. Who owns this building?
 24 A Storey County.
 25 Q I'm going to show you the executive director's

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1 the park in Virginia City, but had concerns about their
 2 well-being.
 3 Q Were you planning to join Laura for this visit at the
 4 park or wherever else it was going to occur?
 5 A I assumed I would, yes.
 6 Q Okay. Was this going to be the first time that you met
 7 Mr. Gempel?
 8 A Yes.
 9 Q So you said that Laura mentioned she wasn't sure she
 10 wanted to have it at the park?
 11 A Correct.
 12 Q And so can you describe to me how the idea of meeting
 13 at the sheriff's office came up?
 14 A Just she said she had concerns about that, and I said
 15 if you have concerns, just you can do it at the sheriff's office
 16 like we do with everybody else.
 17 Q Was there any reason that the park was not going to be
 18 a good place for Laura to meet Mr. Gempel? That Saturday, for
 19 example, was the weather looking like it would not be good?
 20 A I couldn't tell you.
 21 Q Okay. So when you discussed other possible locations
 22 that Laura could meet Mr. Gempel, were there any other locations
 23 besides the sheriff's office that were discussed?
 24 A Not that I recall.
 25 Q So you just said perhaps you should meet at the

Page 33

1 Exhibit 6.
 2 MS. PRUTZMAN: Commissioners, I think you can find this
 3 at page ED655.
 4 BY MS. PRUTZMAN:
 5 Q There are these the front doors to the building where
 6 you met with Mr. Gempel on May 20, 2017?
 7 A Yes.
 8 Q What is the days and business hours of the sheriff's
 9 office noted in this office?
 10 A Eight to five, Monday through Friday.
 11 Q Is this building locked on the days and hours listed in
 12 the photo?
 13 A It depends on if anybody's there or not.
 14 Q Okay. So on a weekend, if somebody was there, the
 15 doors would be unlocked?
 16 A Yes.
 17 Q Unlocked and open.
 18 A They may be, depending on the weather.
 19 Q Who has keys to this office?
 20 A All of the staff.
 21 Q All of the staff. Okay. Including you, of course.
 22 A Yes.
 23 Q Are any Storey County Sheriff's Office employees
 24 assigned to work at this particular location on the weekend?
 25 A Well, it depends on how you mean assigned to work

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1 there. I have deputies that work 24 hours a day, seven days a
 2 week who work out of the office.
 3 Q Well, let me clarify. Do you have any admin staff or
 4 other personnel that would be expected to remain at that
 5 particular site all day, for example, on a Saturday?
 6 A No. Statute doesn't require that.
 7 Q Okay. So how would members of the public gain access
 8 to this sheriff's office location when the building is locked?
 9 A A number of ways. They could either try the door and
 10 see if it's unlocked, which it may or may not be if somebody is
 11 inside, they could call one of the deputies and meet there, they
 12 could call dispatch and go to the building, meet somebody there.
 13 Q So can you tell me, the Storey County detention center,
 14 where is that located?
 15 A That's located on the south end of Virginia Street on
 16 State Route 341.
 17 Q So approximately how far away from the main office is
 18 that?
 19 A Maybe a mile.
 20 Q A mile? Is the detention center building locked on the
 21 weekend?
 22 A No.
 23 Q It's not? So it's open to the public?
 24 A The front lobby is, yes.
 25 Q Always open?

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1 Q Who let Mr. Gempel, and his wife Susan was with him, I
 2 believe, who let Mr. Gempel and Susan into the office on that
 3 day?
 4 A I did.
 5 Q And can you describe where exactly the meeting took
 6 place?
 7 A In the squad room.
 8 Q And is that in an office, a meeting space, can you
 9 describe how that's -- describe it to the commissioners, please.
 10 A It's a big, open room with an oval table in the middle
 11 of it, about the size of these table outlines, a bench along the
 12 wall that has some computers, work stations.
 13 Q Do you recall about what time Mr. Gempel and his wife
 14 arrived at the sheriff's office?
 15 A Midmorning, ten or eleven o'clock.
 16 Q Okay. And about how long did they stay to visit with
 17 your wife's daughter?
 18 A My recollection, I thought it was about an hour.
 19 Q About an hour? So besides you and your wife,
 20 Mr. Gempel, his wife, and Laura's daughter, do you recall who
 21 else was present at the sheriff's office during this visit?
 22 A Yes.
 23 Q Can you tell me who was there?
 24 A Deputy Daniel Gaunt and Deputy Brooke Jewkes were there
 25 when I arrived.

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1 A 24 hours a day.
 2 Q Okay. So how many deputies are on duty at the
 3 detention center on a Saturday?
 4 A Generally two.
 5 Q Okay. Did you and Laura discuss the possibility of
 6 meeting Mr. Gempel at the detention center that Saturday?
 7 A I may have said that. I may have said you can meet at
 8 the jail or at the office.
 9 Q Does the detention center have a comfortable private
 10 space where your wife and stepdaughter could have met with
 11 Mr. Gempel?
 12 A Just an open lobby with a few chairs in it.
 13 Q So there's really no space where they could sit and
 14 visit?
 15 A There's space they could sit and visit.
 16 Q In the open front lobby?
 17 A Yes.
 18 Q So do you recall if the doors to the main office of the
 19 sheriff's office were locked or unlocked on May 20, 2017?
 20 A I believe I unlocked it when I arrived there.
 21 Q So you were the person that -- did you arrive with your
 22 wife and daughter at the same time?
 23 A I don't recall. I believe so.
 24 Q Okay. And you were the one that unlocked the doors?
 25 A Yes.

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1 Q Okay. And how if at all did these two deputies assist
 2 with your wife's access to the office or the visit on that day?
 3 A They, other than being present at the facility, they
 4 did not.
 5 Q Okay. So they were not involved at all?
 6 A Just being there.
 7 Q Do you recall what they were doing there?
 8 A I don't. I believe it was just briefing each other. I
 9 believe that Gaunt had just come on duty, and Deputy Jewkes had
 10 already been on for a number of hours.
 11 Q Is it common for deputies to be at the sheriff's office
 12 over the weekend if they are not assigned to an incident or
 13 otherwise waiting for a call?
 14 A They are in and out of there all the time. They have
 15 restroom facilities, break facilities there, computers for doing
 16 reports, telephones for making phone calls, doing follow-up. So
 17 they are there all the time.
 18 Q Okay. So were you present at the sheriff's office
 19 during the entire time the visit took place?
 20 A Yes.
 21 Q Okay. So when the visit was over, you left. And do
 22 you recall if you locked the doors behind you when you left?
 23 A I don't recall. I don't recall if one of the deputies
 24 was still inside or not. If they were still inside, then I very
 25 likely could have left it unlocked.

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1 Q Okay. Now I'd like to take a look executive director's
 2 Exhibit 1. I'm going to refer to page ED005.
 3 So Sheriff Antinoro, in your answer to interrogatory
 4 number 8 you stated that you discovered one documented 30-minute
 5 child visitation that occurred at 6:30 p.m. at the main office of
 6 the Storey County Sheriff's Office on December 1, 2017. Correct?
 7 A Correct.
 8 Q And you later provided a copy of this incident report
 9 related to this event in response to the executive director's
 10 request for documents. Correct?
 11 A Correct.
 12 MS. PRUTZMAN: And that document can be found in the
 13 executive director's Exhibit 2 on page ED557.
 14 BY MS. PRUTZMAN:
 15 Q Sheriff, do you recall where or how you got this
 16 report?
 17 A It would have been pulled out of the computer system.
 18 Q Did you perform a search to pull that out of the
 19 computer system yourself?
 20 A I don't recall if I did or not.
 21 Q Who else would have pulled out this report for you?
 22 A It could have been one of the administrative
 23 assistants.
 24 Q Okay. Can you describe, looking at this incident
 25 report, what incident is occurring according to this report.

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1 BY MS. PRUTZMAN:
 2 Q Could you tell me where this particular information
 3 comes from here (indicating)?
 4 A From the dispatch center.
 5 Q So what is that describing?
 6 A It says incident initiated at Storey County Sheriff's
 7 Office, administrative office. Per Sam 3, requested RP go to
 8 911, which is the jail, for assistance, and then some information
 9 from the jail.
 10 Q Do you know which deputy the code S3 stands for?
 11 A At that point in time, off the top of my head, no. I
 12 would have to look at the list of numbers, because our numbers
 13 have changed since then.
 14 Q Okay. And C2 is a unit code assigned to a jailer
 15 working at the detention center, correct?
 16 A Correct.
 17 Q So is it true that this, the event described here on
 18 the bottom half of the report, that the reporting party showed up
 19 at the sheriff's office on C Street seeking assistance with civil
 20 standby on a Friday night, and that person was sent to the
 21 detention center?
 22 A That's what it appears to be, yes.
 23 Q And the third line indicates that C2, a jailer at the
 24 detention center, assisted with this matter, beginning at 1845,
 25 and by 1908 the matter was closed. So does it look like this

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1 A Just what it says on there, civil standby custody
 2 agreement.
 3 Q And it indicates that it occurred at the main office?
 4 A It just gives the location of Storey County Sheriff's
 5 Office, admin office, 205 South C Street.
 6 Q So this particular incident report was also provided in
 7 response to a public records request that resulted in 18 incident
 8 reports being produced.
 9 MS. PRUTZMAN: These are all found in the executive
 10 director's Exhibit 4. And I'm going to look particularly at the
 11 incident report located at page ED623. I have a copy I'm going
 12 hand out to the commissioners, just so you can, I want to make a
 13 comparison here.
 14 So ED623 is the page I'm looking at. Does everyone
 15 have --
 16 BY MS. PRUTZMAN:
 17 Q So this appears to also be a copy of incident report
 18 1712010040 regarding the incident that occurred on December 1,
 19 2017. Is that correct?
 20 A Appears to be, yes.
 21 Q Okay. So I'd like to look at the information that
 22 shows up in this part of the report.
 23 MS. PRUTZMAN: You all have copies, so I don't expect
 24 you to be able to read this. I'm just kind of pointing out what
 25 we are looking at.

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1 entire incident took about 20 minutes?
 2 A Yes.
 3 Q So would you agree that this incident report indicates
 4 that somebody went to the main office on Friday night looking for
 5 assistance with a child custody matter and was told to go to the
 6 detention center?
 7 A That's what it appears to be.
 8 Q So there was no 30-minute child visitation that
 9 occurred at the sheriff's office on that day, correct?
 10 A I couldn't tell you that, but based on what this says,
 11 it appears that they were sent down to the jail.
 12 Q Do you have an explanation for why the report that you
 13 provided in response to the executive director's discovery
 14 responses does not contain that specific information provided in
 15 the report that, provided in response to the public records
 16 request?
 17 A In our records management system there's two ways of
 18 printing a report, printing a report in a public version or
 19 printing the full report. Printing the public version does not
 20 include the notes that the dispatchers put in.
 21 Q Okay. So you printed out the report that was provided
 22 in response to the discovery request without the dispatch notes.
 23 A I testified I don't recall if I printed it or if one of
 24 my administrative assistants printed it for me.
 25 Q Okay. I'd like to look at the other incident reports

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1 that are contained in the executive director's Exhibit 4. We
 2 heard from Brandy Gavenda that these were provided in response to
 3 a public records request seeking incident reports between May 1,
 4 2016, and May 1, 2018, containing the word child visitation or
 5 custody. There are 19 report here. And, you know, it's sort of
 6 cumbersome, but just to get it in the record, could you please
 7 read the location and city of those, that data that is found at
 8 the top of the reports, where each reported incident took place,
 9 starting on page ED615.

10 A Golden Gate gas station.

11 Q Can you also list the city, please?

12 A McCarran. The next one just says Lockwood, the next
 13 one just says Virginia City, Virginia City, Lockwood, Lockwood,
 14 Mark Twain, Lockwood, Virginia City, Virginia City, Lockwood,
 15 McCarran, Golden Gate gas station again, Golden Gate gas station,
 16 McCarran, Lockwood, Mark Twain, Lockwood, Lockwood, Virginia City
 17 Highlands, Lockwood, and Lockwood.

18 Q Okay. Thank you. Did any of these reported incidents
 19 involving child custody or visitation matters take place at the
 20 location where your wife met with Mr. Gempel?

21 A I couldn't tell you. There was some blacked out that
 22 just say Virginia City.

23 Q I think we heard from Brandy Gavenda that the redacted
 24 information would be information that includes private
 25 residential information. So did you see any, any of those

Page 44

1 A I am.

2 Q Who did these policies apply to?

3 A Everyone with the sheriff's office.

4 Q Do they apply to you?

5 A Yes, they do.

6 Q I'd like to direct your attention to page, and I'm
 7 looking at the Bates numbers, I know there are page numbers on
 8 the policy manual, too, but the Bates number that start with ED,
 9 so please look at ED016 to ED019, the table of contents for the
 10 policy manual.

11 In particular on ED019, can you please tell the
 12 commissioners how many policies are listed in this table of
 13 contents?

14 Sir, I'm sorry, did you hear the --

15 A You are asking how many policies there are?

16 Q Yeah. I think the last policy should be probably
 17 listed on ED019.

18 A Well, it says 1061, but there's not 1,061 policies.
 19 There's gaps in the numbers, there's places that are left open
 20 for future development. But the number is 1061 that's been
 21 assigned to it.

22 Q So there aren't actually 1,061, is that what you are
 23 saying?

24 A Correct.

25 Q Does this policy manual contain all the written

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1 reports list the main office of the sheriff's office as a
 2 location where these incidents took place?

3 A No.

4 Q Can you tell from any of those reports whether any of
 5 these incidents took place at the Lockwood office?

6 A I couldn't tell you that either.

7 Q Was your wife's meeting with Mr. Gempel at the
 8 sheriff's office documented in an incident report?

9 A I don't believe so.

10 Q Why not?

11 A Just wasn't called in. There's always things that
 12 happen that don't get called in.

13 Q So I'd like to take a look at the sheriff's office
 14 policy manual. We are going to take a look at part of the
 15 executive director's Exhibit 2.

16 MS. PRUTZMAN: And for the commissioners, this policy
 17 manual starts on page ED012.

18 BY MS. PRUTZMAN:

19 Q Sheriff, was this the Storey County Sheriff's Office
 20 policy manual that was in effect May of 2017?

21 A To the best of my knowledge, yes.

22 Q Who is responsible for creating the policies in this
 23 manual?

24 A I am.

25 Q And who is responsible for enforcing these policies?

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1 policies of the sheriff's office?

2 A Unless there was a general order that hasn't been
 3 incorporated into it.

4 Q Okay. Do any of these written policies of the
 5 sheriff's office describe or address the type of service or
 6 assistance that was provided to your wife using the sheriff's
 7 office facilities for child visitation or similar such matters?

8 A There is nothing specifically on point to that, no.

9 Q So why doesn't this lengthy policy manual address how,
 10 when, or why an employee of the sheriff's office would provide
 11 such an assistance to a member of the public?

12 A I don't have a policy on how, when, or why an employee
 13 goes to lunch or takes a break, either.

14 Q Okay.

15 A It says right at the beginning of it that this manual
 16 is a guide to employees. It's not an all encompassing, every
 17 possible circumstance addressed.

18 Q Can you please turn to page ED526. This is policy
 19 1050. Can you please read the title of this policy.

20 A Nepotism and conflicting relationships.

21 Q On page 2 of this policy, which is ED527, there's a
 22 section on the bottom of the page called employee responsibility.
 23 Could you please read the last two paragraphs of that section on
 24 that page.

25 A "Whenever any employee is placed in circumstances that

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1 would require the employee to take enforcement action or provide
 2 official information or services to any relative or individual
 3 with whom the employee is involved in a personal or business
 4 relationship, employee shall promptly notify his or her
 5 uninvolved immediate supervisor. In the event that no uninvolved
 6 supervisor is immediately available, then employee shall notify
 7 dispatch to have another uninvolved employee either relieve the
 8 involved employee or minimally remain present to witness the
 9 action."

10 Q So on page ED526, this policy defines relative. Can
 11 you please take a look at that and read that definition?

12 A "An employee's parents, step-parents, spouse, domestic
 13 partner, significant other, child, natural, adopted, or step,
 14 sibling, or grandparent."

15 Q Thank you. Does this policy apply to you?

16 A Yes, it does.

17 Q Why didn't you ask another employee of the sheriff's
 18 office to handle the arrangements related to your wife's
 19 visitation matter on May 20, 2017?

20 A I believe there was two deputies that were present.

21 Q Did she make the arrangements to access the sheriff's
 22 office with those particular deputies?

23 A No.

24 Q Who did she make the arrangements with?

25 A I did.

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1 Q And as the sheriff of Storey County, do you expect your
 2 law enforcement officers to do things enforcing their duties
 3 other than address criminal matters?

4 A Yes. I expect them to serve the public.

5 Q Right. Is it important in your department that your
 6 deputies understand that one of the requirements of their job is
 7 to assist members of the public with civil type matters?

8 A Yes.

9 Q And child custody exchanges, that would be a type of
 10 civil matter, correct?

11 A Yes.

12 Q And if you look at Exhibit 2, ED325, does this policy
 13 address the manner in which sheriff's deputies are expected to
 14 interact with the public in civil matters?

15 A In a generalized sense, yes.

16 Q Correct. And if you look at the next page there, it's
 17 Bates stamped ED326. Are you there?

18 A Yes.

19 Q That addresses there at the middle of the page,
 20 4462.4.1 talks about standby requests. Do you see that there?

21 A Yes.

22 Q Would that particular policy relate to interactions
 23 that your officers would have with members of the public when it
 24 comes to civil standbys and things like child custody issues?

25 A Yes.

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1 Q Why didn't you tell your wife to call the dispatch
 2 center to arrange to use the sheriff's office facility for her
 3 meeting?

4 A Because it was just as easy to deal with me.

5 MS. PRUTZMAN: I have nothing further.

6 CHAIRMAN LAU: Thank you very much. Your witness.

7 MS. PARKS: Thank you very much.

8 CROSS-EXAMINATION

9 BY MS. PARKS:

10 Q Sheriff Antinoro, you have the executive director's,
 11 you have exhibits up there, correct?

12 A Correct.

13 Q Could you please turn to Exhibit 2. It's the policy
 14 and procedure. Would you please turn to the section that is
 15 Bates stamped ED325, please. It's listed as policy 472 at the
 16 top. Just let me know when you are there.

17 A Okay.

18 Q So are you familiar with what is set forth there in
 19 Exhibit 2, Bates stamped ED325?

20 A Yes.

21 Q What is that?

22 A Dealing with civil disputes.

23 Q Is that a section of your policy for the sheriff's
 24 office?

25 A Yes.

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1 Q I'd like you to please turn to Exhibit 4 now if you
 2 would. This is the CAD reports that were discussed during the
 3 direct testimony. If you could please turn and find Bates
 4 stamped ED620.

5 COMMISSIONER WEAVER: What was that page?

6 MS. PARKS: I'm sorry. ED620.

7 BY MS. PARKS:

8 Q Are you there?

9 A Yes.

10 Q And Sheriff Antinoro, can you describe just briefly
 11 ED620, this is one of the CAD reports that you were testifying
 12 about, correct?

13 A Correct.

14 Q And if you look at the date in the left-hand corner,
 15 can you read the date, please?

16 A 8/21/18.

17 Q Under date there that's on the right-hand side?

18 A That's the print date. Excuse me. January 15, 2017.

19 Q Can you read what sort of incident type this is?

20 A Citizen civil standby.

21 Q If you look in your incident comments there, can you
 22 describe what's being set forth under incident comments?

23 A Yes. It says civil standby, custody, child custody
 24 exchange. Will meet at the Lockwood substation at 6:30 p.m.

25 Q Does this particular incident report, a CAD report,

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1 document a custody exchange that occurred at the Lockwood
 2 substation of the Storey County Sheriff's Department?
 3 A Yes.
 4 MS. PARKS: I'd like to, with your permission, I think
 5 the commission can take judicial notice of what day of the week
 6 this was, but I'd like to help the witness. This is a 2017
 7 calendar, if anyone has any objections to me showing this to the
 8 witness.
 9 CHAIRMAN LAU: No objections.
 10 MS. PARKS: Thank you.
 11 BY MS. PARKS:
 12 Q Sheriff, if you could please take a look at my
 13 calendar, and turn to January 15, 2017, please.
 14 A Okay.
 15 Q And what day of the week was January 15, 2017?
 16 A Sunday.
 17 Q And what type, according this CAD incident report, did
 18 this call come in?
 19 A Just after six p.m.
 20 Q So this particular exhibit documents a custody exchange
 21 that occurred on a Sunday after regular administrative hours at
 22 the Lockwood station of the Storey County Sheriff's Department?
 23 A Yes.
 24 Q Sheriff, are there other ways in which your law
 25 enforcement officers are contacted by members of the public other

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1 A Approximately 4,200 residents.
 2 Q Sheriff, is it unusual for members of the public to
 3 come into the sheriff's office and make requests for assistance
 4 in what might be described as civil disputes?
 5 A All the time.
 6 Q You mentioned an internet safe zone. Can you explain
 7 what that is?
 8 A That was something set up by the legislature to where
 9 there were, all political subdivisions set up a place where there
 10 could be a safe exchange of goods or services, whatever the case
 11 may be, that were arranged over the internet.
 12 Q So for example, somebody could come to the sheriff's
 13 office if they had decided to buy something over Craigslist, and
 14 they felt a little bit reluctant to just go wherever that person
 15 might be, is that what you mean?
 16 A Correct.
 17 Q Sheriff Antinoro, on the date of the visit of May 20,
 18 2017, did you interfere with this visit that Mr. Gempel had with
 19 the minor child in any way?
 20 A No.
 21 Q Sheriff Antinoro, did you say to the requester
 22 Mr. Gempel, when you met him for the first time, welcome to my
 23 house?
 24 A No. I believe I greeted them and took them into the
 25 squad room and went about my business while they conducted their

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1 than through dispatch?
 2 A Yes.
 3 Q Can you please describe what some of those other ways
 4 are?
 5 A They can be contacted on the street, by someone in
 6 person. A perfect example is just this last weekend I had some
 7 people in Fernley who contacted me via my cell phone, made
 8 arrangements for a civil standby, and I contacted the deputy and
 9 had them meet with the people. And that was over the course of
 10 Saturday and Sunday.
 11 Q So just this weekend you had occasion to arrange for a
 12 civil custody interaction?
 13 A This was a civil standby, not a custody issue. We have
 14 also had people come up, like I said, and contact deputies on the
 15 street. I have been contacted at three a.m. when I was there at
 16 the office, I had somebody walk in needing a custody, or not a
 17 custody, a civil standby down the street from the sheriff's
 18 office.
 19 Q Sheriff, how many officers are under your command?
 20 A Excluding jail staff?
 21 Q Exclude the jail staff, please.
 22 A 18 deputies.
 23 Q And as the sheriff of Storey County, do you have an
 24 estimate, sir, for approximately how many residents or citizens
 25 there are of Storey County?

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1 visit.
 2 Q And the deputies that were on duty on May 20, 2017, you
 3 didn't call them in, I think you have testified, you didn't call
 4 them in to somehow assist with that visit?
 5 A Correct.
 6 Q And no deputy was taken away from his or her regular
 7 duties in order to allow for this visit to have occurred?
 8 A Correct.
 9 Q Were there any resources in terms of staffing or
 10 otherwise that were expended as a result of this visit of May 20,
 11 2017?
 12 A No.
 13 Q And Sheriff Antinoro, how long have you been with the
 14 sheriff's office? Can you tell us again, please?
 15 A Since 2006. So twelve years.
 16 Q And in your history with the sheriff's office, do you
 17 have personal knowledge of the sheriff's office, including the
 18 main office in Storey County, being open for members of the
 19 public when it comes to having a place to do child custody
 20 exchanges and visitations?
 21 A Yes.
 22 Q And that's not limited to Monday through Friday nine to
 23 five; is that true?
 24 A That's correct. I recall one that happened starting
 25 just right about closing time actually that was in the squad

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1 room, probably 2011 -- well, 2012 or 2013. It was shortly after
 2 we moved into that building.

3 Q And sheriff, you have deputies that work in three
 4 shifts. Would that be correct?

5 A Basically, yes.

6 Q So you have officers who were on duty 24/7, correct?

7 A Correct.

8 Q And you would have officers who would be physically
 9 present at the main office of the Storey County Sheriff's Office
 10 on weekends and after hours; is that true, sir?

11 A Yes.

12 Q And as this visit was occurring, sir, you went about
 13 your regular business; is that correct?

14 A That is correct.

15 Q And do you know how long it had been since Mr. Gempel
 16 had seen the minor child prior to --

17 MS. PRUTZMAN: Objection. I have an objection.

18 CHAIRMAN LAU: So moved. Yes.

19 MS. PRUTZMAN: The motion, the ruling on the motion in
 20 limine filed by the executive director indicated that any
 21 information related to Mr. Gempel's relationship with his
 22 daughter was impermissible unless it had to do with the state of
 23 mind of Laura Antinoro.

24 MS. PARKS: I would suggest it absolutely does, and
 25 this question goes to that and is not barred by the chairman's

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1 Can you tell me, please, looking at the time, times
 2 there that were reported by dispatch, how long does it look like
 3 this particular civil standby lasted?

4 A This one only lasted a couple of minutes.

5 Q We discussed and you read relevant portions of the
 6 nepotism and conflicting relationships policy found at ED526. So
 7 I'd like to give you a hypothetical. If one of your on-duty
 8 deputies was contacted either through dispatch or personally as
 9 you said sometimes happens, and the call came from the deputy's
 10 sister, and she was requesting civil standby assistance because
 11 her ex-husband was coming to do a custody exchange of that
 12 deputy's, I guess that would be niece, would it be a violation of
 13 your office's conflict policy for that deputy to handle that
 14 civil standby?

15 A Not if he contacted his supervisor and the supervisor
 16 said it was okay.

17 Q So that's what the deputy should do.

18 A Correct.

19 Q Okay.

20 MS. PRUTZMAN: Nothing further.

21 CHAIRMAN LAU: Thank you very much.

22 My fellow commissioners, do you have any questions or
 23 comments for the sheriff? Yes, Vice Chair Weaver.

24 //

25 //

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1 order.

2 CHAIRMAN LAU: Opposition upheld.

3 BY MS. PARKS:

4 Q And sheriff --

5 CHAIRMAN LAU: Excuse me, yes, that was in the motion
 6 in limine. But I'll allow the testimony.

7 MS. PARKS: I appreciate that. Thank you.

8 BY MS. PARKS:

9 Q Sheriff, do you know how long it had been prior to May
 10 20, 2017, that Mr. Gempel had seen the minor?

11 A A little over six years was my understanding.

12 MS. PARKS: I have no further questions. Thank you.

13 REDIRECT EXAMINATION

14 BY MS. PRUTZMAN:

15 Q So sheriff, would you describe your assistance to your
 16 wife with regard to her using the sheriff's office for a visit,
 17 would you describe that as a civil standby?

18 A I would, yes.

19 Q Okay. How long do most civil standbys last? I mean
 20 what's the expectation?

21 A There is no expectation. It depends on the nature of
 22 the standby. There are some that I know of that have lasted up
 23 to four hours. Depends on the nature of standby.

24 Q Could we look at executive director's Exhibit 4, page
 25 ED620 again, please.

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1 EXAMINATION BY THE COMMISSION

2 BY COMMISSIONER WEAVER:

3 Q Good morning, sheriff.

4 A Good morning.

5 Q Thank you for being here today. I have a few questions
 6 that I'd like, and a few clarifications, please.

7 A Okay.

8 Q If the facility was open and available on the day in
 9 question, why did you need to unlock the doors and let your wife
 10 in?

11 A The front door was not unlocked when we arrived. It's
 12 normally a closed day. Like I said, sometimes, depending on who
 13 is there, they may unlock the door, they may not unlock the door.
 14 So the deputies that were there at the time were back in the
 15 squad room and obviously weren't in a position to watch the front
 16 office.

17 Q So if somebody would have, unlike your wife whom you
 18 let in, if somebody would have walked up and wanted to go in and
 19 use the facility for any legitimate purpose, they wouldn't have
 20 been available to because the door was locked; is that right?

21 A They could have knocked on the door and a response
 22 would have been made, and they could have been allowed at that
 23 point. I have done that my own self after hours when people have
 24 knocked on the door.

25 Q So I'm still a little bit -- is it your position that

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1 the facility is open and available 24 hours a day seven days a
 2 week?
 3 A Pretty much, yes. Some of it is by appointment, some
 4 of it is when you contact a deputy or myself. But it is a public
 5 building, it is the public's building, so if the public has a
 6 need, we allow the public in.
 7 There's been days when there's been things going on in
 8 Virginia City that I know there's going to be staff or volunteers
 9 around the office, and we will leave the doors unlocked
 10 throughout the entire weekend so the public can come in and if
 11 nothing else have access to the restroom facilities. We did that
 12 just recently during a couple of big events. We do that
 13 throughout the summer during the event season.
 14 And as I testified, I have been in there, I go in at
 15 all hours of the day and night, and generally speaking I leave
 16 the door unlocked, and I have had people walk in at three a.m.
 17 and ring the bell on the counter to see if there was anybody
 18 there.
 19 Q And so as I understand the answers that you gave to
 20 your lawyer, you want the citizens of your community to know that
 21 the facility is open, available 24/7, including for safety
 22 issues. So if there are civil disputes or other potential
 23 escalating issues, they can know that's a safe place for them; is
 24 that right?
 25 A Correct.

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1 available to facilitate that.
 2 So we have done everything reasonably within our power
 3 to let the public know that it is their building and it is made
 4 available to them.
 5 Q But what I'm just still not understanding is, unlike
 6 for example your wife, who would know that's available to her, or
 7 somebody that might have a relationship with a deputy who would
 8 know that it's available to them 24/7 for a custody exchange,
 9 specifically how do you let the public know that it is available
 10 to them, or have you?
 11 A If you came, like I said, we have put the message out
 12 there any number of ways. If you were to come to Virginia City,
 13 if you had an issue, you did not have my phone number or know any
 14 of my deputies or know how to contact any of them personally, and
 15 you went to the office outside the normal business hours, you
 16 would see the sign on the door if the door is locked and nobody
 17 is present, you would call that nonemergency number on the door.
 18 That would ring to dispatch, who then in turn would contact a
 19 deputy who could come there, unlock the door, and meet you there
 20 and explain what was available to you.
 21 Q Thank you. So your counsel pointed you to Bates ED326,
 22 which has a section under civil disputes, specifically 4.72.4.1.
 23 Do you recall that, that standby request?
 24 A Yes.
 25 Q I was confused what the relevance of that is to any

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1 Q So how do you advertise to the citizens of your
 2 community that the facility is open and available to them 24/7,
 3 especially with serious issues like custody exchanges and
 4 visitation so that they wouldn't expect to be able to use the
 5 facility and then somehow find out that it's not available? How
 6 do you let your members know that 24/7 if you want to come here
 7 for a custody visitation or exchange, it's guaranteed that it's
 8 going to be available to you?
 9 A There is no guarantee. A lot of it just depends on the
 10 availability of staffing. But the deputies communicate to people
 11 that they can come there, either to the main office, the jail
 12 facility, or the substation. Many of these things are arranged
 13 in advance. It's not very often that it just pops up in the
 14 middle of the night, hey, we are going to do a child visitation
 15 at the sheriff's office. Generally there is a phone call that is
 16 made that takes place in advance.
 17 Some of the stuff, like I said, the internet safety
 18 zone, that was an act that was adopted by the county commission
 19 that was put out at a public county commission meeting and then
 20 through communications through the county commission meeting
 21 minutes that that was designated an internet safety zone.
 22 Another example is like when the county library shut
 23 down during an open county commission meeting, we told the public
 24 at that time that they were welcome to come to the sheriff's
 25 office and be allowed internet access provided we had staffing

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1 issue in this case.
 2 A It's a generalized policy on how to interact when
 3 somebody is in need of a civil standby. A civil standby could be
 4 this, a custody dispute, it could be two roommates going their
 5 separate ways but fighting over property, it could be a
 6 landlord/tenant dispute. This is just a generalized policy how
 7 we would conduct that, or our actions, whether it is a landlord/
 8 tenant dispute, whether it's two roommates, or a domestic battery
 9 type of a situation or a custody situation. They are all civil
 10 standbys as far as we are concerned.
 11 Q So it's your, what you are telling us is that this
 12 4.72.41 only talks about standby assistance for retrieval of
 13 property is specific as well to custody exchanges; is that what
 14 you are saying?
 15 A Like I was saying, it's a generalized policy rule for
 16 civil standby type circumstances.
 17 Q Is there anything in that section that is broader than
 18 retrieval of property?
 19 A Just the practice of our office. And like I said at
 20 the beginning, at the very front of this manual it says that this
 21 is a general guide. It's not intended to be all encompassing for
 22 every circumstance that you could probably face.
 23 Q Right. I mean I got your analogy that you don't have a
 24 policy of when your staff is going for lunch, but what I was
 25 wondering is, is there anything more specific in these dozens of

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1 policies that are specific to custody visitation, other than what
 2 your lawyer pointed out that has to do with retrieval of
 3 property?
 4 A That's what I'm saying, it's more than just retrieval
 5 of property. It may address specific retrieval of property, but
 6 there is more to a civil standby. Much of this is just conveyed
 7 supervisor to subordinate and through the field training process.
 8 And the circumstances of a standby, a civil standby vary so
 9 greatly from one person to the next and one day to the next that
 10 no, there is not a policy specific to custody exchanges or, but
 11 there's not a specific policy regarding any number of civil
 12 standbys. A civil standby is a civil standby. We stand by and
 13 keep the peace while people conduct whatever business they have
 14 to conduct.
 15 Q I think you just answered this question. So is there
 16 anything in this entire policy book that directs members of your
 17 department, whether it be the deputies, dispatch, or anyone else,
 18 how to handle a request for custody visitation? In other words,
 19 the circumstances under which they, if it's not during
 20 administrative hours, can say to a member of the public, I'm
 21 sorry, but on the ranking of things we have got to do at this
 22 moment this doesn't count?
 23 A Well, the officers do have discretion and they do have
 24 the ability to prioritize. If somebody wants to do a civil
 25 standby to do a custody exchange, but we are dealing with an

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1 the circumstances come about. As I believe I mentioned, just
 2 this past weekend I had someone contact me directly. We made
 3 arrangements for the deputy to do a standby, I contacted the
 4 deputy directly, I had to call him back and check. The deputy,
 5 when he responded out to handle the standby, he may have called
 6 in to dispatch and generated that incident report, but the entire
 7 circumstance was set up and arranged and he met with the people
 8 prior to an incident that were being generated. So yes, it's
 9 always good to have it documented, but not everything always gets
 10 documented.
 11 Q So you said it should be called in.
 12 A Correct.
 13 Q That would be your best practice.
 14 A Correct.
 15 Q Not only so that you have a record of it, but certainly
 16 for officer safety.
 17 A Correct.
 18 Q So, and that would apply to civil standbys as well,
 19 that your best practice and what you should do is that you should
 20 call it in.
 21 A Correct.
 22 Q So why didn't you call it in in this instance so that
 23 you would have the appropriate record and documentation that this
 24 child custody standby occurred?
 25 A I felt that it was very low-level issue that, so I did

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1 armed robbery at the time, then of course we know what's going to
 2 take precedent. The people will have to wait, because we have
 3 limited resources. But the staff also knows that all other
 4 things be being equal, we have the ability and the opportunity,
 5 then we will stand by and do what that takes to get through
 6 whatever the circumstances are.
 7 Q So if any of your deputies testify here today, will
 8 they tell us that absent an emergency, the facility will be made
 9 open and available to anyone who requests it for custody
 10 visitation 24/7 based on their training?
 11 A I believe that they would.
 12 COMMISSIONER WEAVER: Thank you, sir.
 13 CHAIRMAN LAU: Thank you. Any questions, comments for
 14 the sheriff?
 15 Yes. Commissioner Lowry.
 16 BY COMMISSIONER LOWRY:
 17 Q Good morning, sheriff.
 18 A Good morning.
 19 Q Regarding calling in incidents to dispatch and
 20 generating an incident report, does any of your policies here
 21 cover when your officers should call in to dispatch and generate
 22 a report when they respond to something?
 23 A I couldn't tell off the top of my head whether there's
 24 a specific policy, but it is the practice and they should call
 25 in. However, not everything does get called in, depending on how

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1 not personally call it in.
 2 Q So we had a report that we discussed earlier that was a
 3 child custody exchange that roughly lasted two minutes, and that
 4 was called in and documented, as would be best practice.
 5 A And that would be dependent on how the call was
 6 received. If the call came straight to one of the deputies, they
 7 may or may not call it in to dispatch. If someone approached
 8 them on the street, said hey, this is what I'd like to do, we are
 9 right here outside your office, can we take care of this here,
 10 they may just come in, take care of it, and go about their
 11 business, and it never does get called in.
 12 We have people come to the business office all the time
 13 for a routine VIN inspection, which again is another thing that
 14 should be called in. However, out of hundreds of them that we do
 15 a year, there may be a couple of dozen that get called in,
 16 depending on how they come about. The ones that go to the
 17 business office seldom get called in.
 18 So yes, there is a best practice, there is a safety
 19 factor, but not everything gets called in.
 20 Q So your deputies have discretion, it would be fair to
 21 say that your regular practice in your department, your deputies
 22 have discretion as to -- let me divide it up.
 23 In a criminal situation your deputies have discretion
 24 on whether or not they can call it in and generate a record of
 25 what they are responding to?

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1 A Criminal situation is a little different than a civil
 2 situation. But depending on the nature of it, generally if a
 3 criminal situation is going to generate a report, they are going
 4 to call it in, because they are going to need a case number. If
 5 they are dealing with a criminal matter, that will be documented
 6 for future purposes. Civil cases, civil issues may or may not
 7 be.

8 Q So just to clarify. So you are saying they do or do
 9 not have discretion to call something in in a criminal case?

10 A Like I said, depending on the nature. If you want to
 11 be real technical, a traffic stop is a criminal matter. However,
 12 there's many times traffic stops don't get called in because of
 13 either radio issues or because of how quickly it occurs, that the
 14 deputy may handle that and go about their business. If you are
 15 talking about a burglary or a, you know, something more serious,
 16 something that leads to an arrest, those will all be called in.

17 Q Is it a fair statement to say that your deputies have
 18 discretion, whether it's a criminal case or a civil case, as to
 19 whether or not they call the situation in to dispatch and
 20 generate a report?

21 A Correct.

22 Q Okay.

23 COMMISSIONER LOWRY: Thank you.

24 CHAIRMAN LAU: Thank you, Commissioner Lowry. Other
 25 comments?

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1 for employees.

2 I guess my question is, have you ever considered having
 3 a policy up until this point for child visitation?

4 A I believe the policy on breaks just says they are
 5 entitled to them and about when during their shift. It doesn't
 6 say how they should take them, when they should take them, or
 7 where they should take them.

8 Regarding you direct question, no, because the
 9 circumstances are so varied it would be very hard to put
 10 something together that would be all encompassing. I think what
 11 we have serves as a pretty good guide. If Lexipol does come up
 12 with something along the lines as time goes on, then we would
 13 probably look at that and see if it's something that we could
 14 incorporate.

15 Q Thank you. A question I had, your testimony earlier
 16 about changing the location of the child visitation from the
 17 park, some park in Virginia City, to the sheriff's office was due
 18 in part to either you or your wife's concern about the safety of
 19 the daughter? Is that what I heard?

20 A It was her concern, yes.

21 Q You said you thought the sheriff's office was a more
 22 secure location. And you said, please correct me if I am stating
 23 these, what you said incorrectly, that because there were
 24 officers present at the sheriff's office on that day. But then
 25 you later said that the two officers were not called, they just

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1 Sir, yes Commissioner Duffrin.

2 BY COMMISSIONER DUFFRIN:

3 Q How are you doing at this point of the day?

4 A Good. Thank you.

5 Q I'll try to make these questions short and brief. You
 6 mentioned that policy manual. This looks very familiar to me.
 7 Is this a Lexipol manual that you got from Lexipol and kind of
 8 managed it for your own agency?

9 A Yes, it is.

10 Q I'm familiar with that. There are many policies in
 11 here, I counted approximately 50, but there's hundreds of pages
 12 of policies. You mentioned that for a child custody or child
 13 visitation there's not a specific policy in here, which made some
 14 sense to me. But you also mentioned there's no policy for, you
 15 know, something as simple as having lunch breaks or breaks for
 16 your officers. Is that what I heard?

17 A Yes, basically.

18 Q But you do have a policy for your breaks for your
 19 officers on policy number 1034. It's ED506. There is actually a
 20 policy in there, once again a general policy.

21 But my point in bringing that up, you can make this
 22 however you want to make this. You can create policies for
 23 however you want to. And this thing is pretty voluminous, so I
 24 can see why you may have missed the one page, less than a page,
 25 on breaks, because it refers to some other county rule on breaks

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1 happened to be there on a shift change I understand. So you
 2 really didn't even know that the officers were there when you
 3 unlocked the office to have that meeting; is that correct?

4 A That is correct. I did not know they were there until
 5 I got there. However, the last time I checked, I was an officer,
 6 too, and I can always call one of the deputies in if I felt that
 7 it was necessary.

8 Q I guess just tell me your frame of mind on that day.
 9 You are concerned about the safety of the child, your
 10 stepdaughter, and you hadn't seen this man or actually maybe
 11 never met this man before, the father, and you brought him into
 12 your own office, yet I think you said it was your squad room?

13 A Correct.

14 Q Is the squad room, is that open to the public?

15 A Well, it's behind a gate, but yes, as a general rule,
 16 anybody in the public can go in there.

17 Q They can't go --

18 A I walked Miss Prutzman back there last week without
 19 hesitation.

20 Q But the word squad room delineates to me that it is for
 21 the squad, it's for the officers to bring people back, it's not a
 22 public room.

23 A We do interviews back there all the time, we do
 24 training there, we have had meetings. This is not a big
 25 facility. This is not a big police department or sheriff's

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1 office with hundreds of rooms or, we have limited space that's
 2 multipurpose. And as I said, we have had people in there before
 3 when we have been discussing family death notifications, we have
 4 had visitations take place there before, we have had any number
 5 of things, community meetings have taken place at that table. So
 6 it is a public room.

7 **Q Did it ever occur to you on that day to call someone**
 8 **else, another officer, one of your deputies, to assist you in the**
 9 **child visitation, did that ever cross your mind, and not be**
 10 **present, have somebody else be present?**

11 A I had no idea what to expect that day, never having met
 12 the individual. But when I saw there were deputies there, then I
 13 wasn't terribly concerned with it. And as I testified, my day, I
 14 greeted them, took them into the squad room, told them if they
 15 needed anything I would be in my office. And I was in my office,
 16 which is closer to the squad room than you are to me, it's
 17 immediately through the door. And as I said, being a small
 18 office as it is, and you are only a few feet away from the
 19 administrative office where the public comes in the front door,
 20 and that's, the two deputies were back in the squad room for a
 21 brief period, and then to give them privacy to conduct their
 22 visitation, they walked out into the front office and the
 23 administrative office. But as I said, all of them were closer to
 24 me in my office than you are to me on the other side the room.

25 **Q Up until you saw the deputies that day when you opened**

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1 touch with you, take care, safe travels, et cetera, et cetera,
 2 everybody parted and went about their way. No clue that there
 3 was any issues whatsoever. And it wasn't until other people
 4 inserted themselves into this matter that this then became an
 5 issue.

6 **Q I said no more questions, but one last question.**
 7 **Moving forward do you think it would be prudent to maybe document**
 8 **those types of meetings?**

9 A Hindsight is always 20/20.
 10 CHAIRMAN LAU: Any other questions, comments for the
 11 sheriff?
 12 Commissioner Wallin.
 13 BY COMMISSIONER WALLIN:

14 **Q Sheriff, in your previous testimony you stated that you**
 15 **felt you have to follow the policies, that you are subject to the**
 16 **policies as well. And in the policy you have the conflict policy**
 17 **that if you are doing something go involving a family member,**
 18 **that you are to call your supervisor, and if you don't have a**
 19 **supervisor, you are to call dispatch. So can you tell me why you**
 20 **didn't call dispatch in this matter?**

21 A Because it is my discretion, being the sheriff, and
 22 when I had two deputies on the property, I didn't figure that it
 23 needed to go anywhere beyond that. Dispatch is not part of the
 24 sheriff's office, they are a standalone entity of the county.
 25 So, and they don't dictate policy to us, I don't dictate policy

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1 **the door and they were in your office and the sheriff's office in**
 2 **Virginia City, did you think that might be intimidating for the**
 3 **father, that it was you and you alone as the sheriff and not**
 4 **other deputies there, did you think it might be intimidating for**
 5 **that individual?**

6 A I thought it would be less intimidating for him than
 7 having a dozen deputies standing there to greet him. I wasn't
 8 thinking of that at all. I just wanted to provide the same
 9 service for my wife that I provided to other people, and that was
 10 to have a safe place. I have been involved with situations
 11 similar to this with an ex-wife, went through custody battles
 12 there, and so I know when to extract myself from it. So other
 13 than giving them a safe place to meet, I stayed pretty much out
 14 of it.

15 **Q My last question is, did it ever cross your mind that**
 16 **you needed to document this on a CAD report or any kind of an**
 17 **incident report just to note that this event had happened and the**
 18 **office was being used for this meeting, did that ever cross your**
 19 **mind?**

20 A It did not, because there was no problem whatsoever
 21 with the visit. They came, everybody was pleasant, the
 22 introductions were made, they had a nice visit, they went out
 23 onto the rear deck of the sheriff's office, came back in,
 24 everybody was laughing and giggling and having a good old time.
 25 When the father and his wife left, they said okay, we will be in

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1 to them.

2 This is just a generalized guideline to try and keep my
 3 deputies out of trouble. And like I said, when I walked into the
 4 building and saw two of my deputies there, I felt we
 5 substantially met the spirit of the policy.

6 **Q Okay. But you didn't know that they were going to be**
 7 **there, and you are kind of saying that you aren't really subject**
 8 **to these policies. I'm confused. Are you subject to these**
 9 **policies?**

10 A I didn't say I was not subject to them. I said I'm the
 11 one who creates them. But as I said, the arrangement was made to
 12 meet there, and had I felt there was an issue, I would have
 13 called a deputy to meet me there. However, there were two
 14 deputies there when I had arrived, and we had arrived probably
 15 10, 15 minutes prior to Mr. Grepel.

16 COMMISSIONER WALLIN: Thank you. No further questions.
 17 CHAIRMAN LAU: Thank you very much. Any other
 18 questions?
 19 Commissioner O'Neill.
 20 COMMISSIONER O'NEILL: Thank you, Madam Chair.
 21 BY COMMISSIONER O'NEILL:

22 **Q Sheriff Antinoro, just for clarification. Going to the**
 23 **CAD reports, there's a difference between a CAD report and a**
 24 **police report or a more in-depth report; is that correct?**

25 A Yes.

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1 Q Can you do a quick summation of that difference?

2 A A CAD report, CAD stand for computer-aided or computer-

3 assisted dispatch. This is the report that is created by the

4 dispatch. When something is called in to them, they put it in,

5 and whatever they put in there is there. The two different

6 versions, one is a public printing, the other is the full

7 printing. So that is what dispatch creates.

8 If we do a report on something, whether it's to

9 document an issue, an incident, or document a crime, we would do

10 an officer's report, which is a detailed accounting of the

11 deputy's activities and the circumstances that factored in.

12 Q So basically is it correct in saying that the deputies'

13 work day, all their contacts basically should be covered under a

14 CAD report, but not everything has an officer's report?

15 A Correct. Most everything should have a CAD report.

16 Q Looking at this one on this ED620, or actually all the

17 reports submitted under evidence item 4, there's a thing called

18 priority, and it says three in the box. Could you, for the

19 education of the commissioners, could you explain the priority,

20 what they are, and what may be different numbering system?

21 A A priority is the seriousness or the urgency involved.

22 Of course priority one is first, no messing around, get there,

23 you have got to handle it right away; for instance, a fight in

24 progress.

25 A priority two, for instance, an example could be a

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1 Q What three shifts, what are the shift times?

2 A Generally speaking you've got day, swing, and grave.

3 We break them up a little bit different, they are not typical

4 hours. Like I think we have one shift, we actually have a couple

5 of cover shifts that would be encompassing the swing shift. They

6 start midmorning and midafternoon, so it's not a true swing

7 shift.

8 Q So you have overlap?

9 A Yes, we have overlap.

10 Q How long is the normal overlap of shifts?

11 A Usually four or five hours.

12 Q Okay. Getting specifically to your meeting date, what

13 were you, what was your attire when you went into the office that

14 day?

15 A I have racked my brain over this, trying to remember,

16 but I believe I had a function in the Virginia Highlands that

17 day, so I would have been in jeans and like a polo shirt. Of

18 course I would have had my badge and gun, because I was out in

19 the Highlands in an official capacity, but I was driving my

20 personal vehicle. So it's a lot of mixing and matching. But it

21 would have been the polo shirt, and I believe I even had

22 something on over the top of that, because it was a little bit

23 breezy. I think I had like a, not a flannel shirt, but similar

24 type of, or a windbreaker or something on over the top of it.

25 Q But it would have been a civilian, basically civilian

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1 ground full medical assist. It's not something you need to get

2 there without dallying. It's not a critical issue, because in

3 that circumstance you also have fire department responding.

4 A priority three would be the lowest level, so put this

5 in the stream and get to it, you know, without, or the standing

6 is that you get to it as quickly as you can, but it's not

7 something of high priority. So if there's something of more

8 importance, then you do that first and then come back to this.

9 Q So it shouldn't be confused with what most people see

10 on TV or hear Code 3, lights and sirens; actually just the

11 opposite, correct?

12 A Correct.

13 Q On this internet safe zone, I didn't see a policy in

14 here. Where is the internet safe zone for Storey County?

15 A It's been designated at the business office and the

16 jail. After hours the jail parking lot is under video

17 surveillance, and that was one of the things in the legislation,

18 I believe, was 24-hour monitoring. So when we set it up, we

19 designated that as the 24-hour location, but invited people to

20 come to the sheriff's office and/or substation at any time to

21 take care of those transactions.

22 Q So if I understand correctly, the business office

23 during working hours, and the jail parking lot where, or the jail

24 facility during the remaining hours of the day.

25 A Correct.

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1 attire. Nothing, except for your badge, identifying you as

2 sheriff or law enforcement officer.

3 A Well, the polo shirt does have my name and everything

4 embroidered as the embroidered badge, but yes, that would have

5 been covered up with the windbreaker.

6 Q And the two deputies that were there, you said that

7 they were giving briefing to one another on their overlapping

8 shifts and really weren't there at all to, it was incidental that

9 day, or accidental, excuse me, that they were there during the

10 visitation.

11 A Well, it's my assumption that they were briefing. Like

12 I said, the one deputy had already been on for several hours. I

13 believe that the other was just coming on. Yes, it was just

14 coincidental that they were there. However, as I testified, we

15 did arrive prior to Mr. Gempel, and when I saw them there, I

16 told them if they didn't have anything going on hang around just

17 to keep an eye on things.

18 Q How many, what would be, from your experience, I forget

19 how many years you said, twelve plus years there at Storey County

20 and eight as sheriff, during a Saturday day -- I'm sorry, was

21 this Saturday or Sunday?

22 A Saturday.

23 Q Saturday day, during the day, how many deputies do you

24 have on duty assigned to the immediate Virginia City area?

25 A I believe that at that time, at that particular time, I

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1 know that the executive director had made a request for staffing
 2 levels that day. I want to say I had eight people on total
 3 during the 24-hour period. I believe at that specific time I had
 4 three people on in the Virginia City area. Being a Saturday, we
 5 generally have higher levels of coverage.

6 Q And actually more visitors and more activity within
 7 Virginia City itself, correct?

8 A Correct.

9 Q So you had two sitting at the office doing something,
 10 and one, and you asked them to stick around if they have nothing
 11 to do, and one actually doing patrol out in your community?

12 A Correct.

13 Q Do you think that's appropriate?

14 A I didn't see a problem with it. There wasn't anything
 15 going on. They knew if they did get a call they were free to go.

16 Q How do you feel about the statement lead by example?

17 A I believe that I try to do that.

18 Q Going to Exhibit 2, page, it's titled as ED325, policy
 19 472, civil disputes.

20 A What was that number again?

21 Q ED325.

22 A Okay.

23 Q It's titled civil disputes. If you go down mid page,
 24 the paragraph is identified as 472.3, general considerations. Do
 25 you see that?

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1 sheriff's office, the dispatch is going to take the information,
 2 and they are going to contact the on-duty deputy and provide them
 3 with it, and then the deputy will decide how best to handle it
 4 from that point.

5 Q Okay. So what I'm still trying to understand, though,
 6 and I would agree with what seems to be your premise, your wife
 7 has every right to any benefit of any member of your community.
 8 What I'm still struggling a little bit with is how all the
 9 members of the community knew all of the availability of the
 10 facility that somebody else like your wife or a deputy's wife or
 11 someone else may know. So just going back to the question, then,
 12 if someone calls dispatch and inquires about the availability
 13 during nonadministrative hours to use the facility for
 14 visitation, what does dispatch tell them?

15 A Well, I can only assume that if somebody called in to
 16 dispatch and said we would like to see about using the sheriff's
 17 office for visitation outside of the normal business hours, then
 18 the dispatcher is going to say you will need to contact the
 19 sheriff's office to make those arrangements. Or if it is outside
 20 of normal business hours at that point in time, they would take
 21 the person's information, give that to whoever was on duty at the
 22 time, who would then contact the person.

23 Q So if it's after hours, dispatch wouldn't be able to
 24 provide the information. They would simply take the information
 25 and then pass it along to whatever deputy is on duty. Is that

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1 A Yes.

2 Q Read me, or to the commission, the last sentence of
 3 that first paragraph. It starts out "members must."
 4 A "Members must not become personally involved in
 5 disputes and shall at all times remain impartial."

6 Q When it says members, who is it referring to?

7 A All the members of the sheriff's office.

8 Q Sworn and nonsworn?

9 A Correct.

10 COMMISSIONER O'NEILL: Thank you very much. Thank you,
 11 Madam Chair.

12 CHAIRMAN LAU: Thank you. Vice Chair Weaver.

13 BY COMMISSIONER WEAVER:

14 Q If I could get one more clarification. I think I heard
 15 you say that dispatch is independent of the sheriff's office,
 16 they don't tell you what to do, you don't tell them what to do?

17 A Correct.

18 Q Who in your office as of June 2017 was charged with the
 19 responsibility of making sure dispatch was trained with regard to
 20 telling someone who called in that the facility was available
 21 24/7 for custody exchange?

22 A No one in my office was responsible for training them
 23 for that because it's not my office, it's not my department. I
 24 work regularly with the dispatch supervisor, and the dispatch
 25 knows that when, if you call in and you need something from the

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1 how it would work?

2 A Whether it's during business hours or after business
 3 hours, 24 hours a day, that's what dispatch does, they take the
 4 information, and they pass it on to the sheriff's office. They
 5 don't make the decisions. They may choose what resources need to
 6 respond to some kind of an emergency or something, but basically
 7 they are the person that is exchanging the information back and
 8 forth.

9 COMMISSIONER WEAVER: Thank you.

10 CHAIRMAN LAU: Thank you very much. Any other
 11 questions, comments for the sheriff?

12 Thank you, sheriff.

13 MS. PRUTZMAN: I believe we can get through the next
 14 witness.

15 CHAIRMAN LAU: Before lunch.

16 MS. PARKS: Commissioner, do you think we could just
 17 have a five-minute break?

18 CHAIRMAN LAU: Yes. Why don't we take our lunch break
 19 now. And that lunch break, half an hour. So ten to one we will
 20 be back.

21 MS. PARKS: Thank you.

22 (12:17 p.m., lunch recess taken.)

23 -o0o-

24

25

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1 RENO, NEVADA, WEDNESDAY, OCTOBER 17, 2018, 12:52 P.M.
 2 -o0o-
 3
 4 CHAIRMAN LAU: We are back on the record.
 5 Counsel Prutzman, your witness.
 6 MS. PRUTZMAN: Yes. Thank you, Madam Chair. I'm going
 7 to call Dave Ballard next.
 8 CHAIRMAN LAU: Mr. Ballard, welcome. Please state your
 9 name, last name, and spell your last name.
 10 THE WITNESS: My name is Dave Ballard, B-a-l-l-a-r-d.
 11 CHAIRMAN LAU: Thank you very much.
 12 Your witness.
 13
 14 DAVE BALLARD,
 15 having been first duly sworn, testified as follows:
 16
 17 DIRECT EXAMINATION
 18 BY MS. PRUTZMAN:
 19 Q Good afternoon. Thank you for being here. So
 20 Mr. Ballard, where do you work?
 21 A I work for Storey County communications.
 22 Q And what is your job title?
 23 A Director of communications.
 24 Q And what are you responsible for in this position?
 25 A I'm in charge of dispatch, which is 911, police, fire,

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1 office is restricted to our personnel.
 2 Q Are there any private meeting rooms or areas at the
 3 detention center that could be used by the public for any kind of
 4 private matter that you are aware of?
 5 A The only room that I know of would be the attorney
 6 conference room, and I don't see that, no, it's, you know, that's
 7 used primarily with the attorneys and inmates. No, I'd say no to
 8 that.
 9 Q Have you personally witnessed any child custody or
 10 visitation matters that have occurred anywhere on the premises of
 11 the detention center, either inside, outside, in the vicinity?
 12 A Not that I'm aware of. Nothing that I have personally
 13 seen. I know they occur, I guess, but I have never seen them.
 14 Q What do you mean by they occur, I guess?
 15 A I mean people use the facilities at times to do
 16 different things. There's different things that go on. I don't
 17 have a lot of contact with the public, but I know there's people
 18 that meet and do things out in the parking lot, but they are
 19 things I don't personally, I just know it happens.
 20 Q Are cameras on the exterior of the detention center?
 21 A Yes.
 22 Q So they would have a view of what's happening in the
 23 parking lot?
 24 A Yes.
 25 Q Okay.

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1 medical, and pretty much all communications to the county,
 2 phones, radios, FCC licensing, all that kind of stuff.
 3 Q So when you say dispatch, what kind of calls do you,
 4 does dispatch respond to?
 5 A We respond to everything, but we primarily receive
 6 emergency and nonemergency calls from the public.
 7 Q So who is your direct supervisor?
 8 A My direct supervisor, well, it's, I report to Pat
 9 Whitten, county manager Pat Whitten, and I also report to a
 10 board, which consists of the sheriff and the fire chief.
 11 Q Okay. And so what department, are you your own
 12 division?
 13 A I am my own department, yes.
 14 Q Does anybody from the sheriff's office ever supervise
 15 or train you or any of your dispatchers in any way?
 16 A There's no supervision from them. We work together
 17 with them. We provide I guess technical support. Basically we
 18 provide support, so no.
 19 Q Where is the dispatch center located where your
 20 dispatchers work and where you work as well?
 21 A It's at 911 State Route 341, which is the Storey County
 22 detention facility.
 23 Q When is this particular facility open to the public?
 24 A Well, it's a public building, it houses inmates, so
 25 it's primarily opening 24/7 to the public. My office is not. My

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1 A Not my office, but detention facility would have that,
 2 yeah.
 3 Q So I'd like to take a look at what's called the
 4 executive director's Exhibit 3. We will hand you a copy of that.
 5 MS. PRUTZMAN: For the commissioners, I think you
 6 should be able to find this at ED558 is the page it should begin
 7 on.
 8 BY MS. PRUTZMAN:
 9 Q This is the dispatcher training manual; is that
 10 correct, Mr. Ballard?
 11 A Yes, that's correct.
 12 Q Who developed this training manual?
 13 A Something we all kind of developed ourselves over the
 14 last several years, but it was developed primarily by our office,
 15 by my staff over the years.
 16 Q And who provides training to the dispatchers?
 17 A I have two or three different other dispatchers that
 18 are training officers, if you will.
 19 Q How many dispatchers are there in your office?
 20 A There's eight.
 21 Q Is there anything in that training manual that
 22 addresses calls from the members of the public requesting to use
 23 sheriff's office facilities for a child visitation appointment or
 24 other similar personal matters during nonbusiness hours or over
 25 the weekend?

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1 A No. We don't handle our calls that way. Our calls are
 2 primarily, everything we teach is just, we are taking the calls,
 3 we are not doing policies or procedures on how they handle the
 4 calls. We are just taking the information. If somebody calls
 5 and said they want to report a reckless driver, or whatever it
 6 is, that's the information we are taking, we are just processing
 7 the information of the callers and dispatching it accordingly.
 8 We don't have any procedures on how that type of stuff is
 9 handled.

10 Q So how are your dispatchers trained to handle a call
 11 from a member of the public who would like to schedule a time to
 12 use the sheriff's office for something like a child visitation
 13 for a period of time over the weekend?

14 A Well, we don't schedule calls, because we don't know
 15 what's going to happen. We can't, you know, we can't predict the
 16 future. It's kind of hard to do that. I'd hate to have someone
 17 schedule to come up Saturday morning at the Lockwood substation
 18 at ten o'clock, and we don't know what's going to be happening.
 19 We don't know if we are going to have officers available.
 20 Generally what we will do is we will have those people call us
 21 when they are on their way up, say okay, you are ready, now call
 22 us when you need it, we can do it then. We don't usually
 23 schedule ahead, we just can't do it.

24 Q When you say you don't schedule ahead, in other words,
 25 if a member of the public had contacted you on Friday and said

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1 CROSS-EXAMINATION

2 BY MS. PARKS:

3 Q So Mr. Ballard, if I understand your testimony
 4 correctly, you are not an employee of the sheriff's office,
 5 correct?

6 A No, I'm not.

7 Q And your office is located in the same building as the
 8 detention center is located?

9 A Yeah. We are on just the other side of the wall.

10 Q So you would not have occasion in your job to be
 11 physically present at the Storey County Sheriff's Office on main
 12 street, the main office?

13 A Unless I have some sort of business there, I'm running
 14 paperwork or I'm up, you know, seeing the sheriff or something,
 15 no, I really don't have any, I don't have really any business to
 16 be there.

17 Q Right. On a day-to-day basis, whether it be Monday
 18 through Friday, nine to five, or on the weekends, you wouldn't
 19 know what did or did not go on at the sheriff's office, correct?

20 A No, I don't know.

21 Q With respect to whether or not private citizens might
 22 be allowed in or out of the sheriff's office, that's not part of
 23 your job.

24 A No, that's correct.

25 Q In terms of your testimony, you said you are the

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1 I'd like to get in the sheriff's office tomorrow at some point
 2 and hold a meeting with my ex-husband who is visiting with my
 3 child, you would or would not be able to accommodate that.

4 A We would probably in that situation, again this is kind
 5 of just me pulling off my head, in that situation I would think
 6 that okay, this is something that's coming on here that, would
 7 probably reach out to a supervisor and say hey, can you call
 8 these people, they want to schedule this.

9 I mean, again, that's out of our scope of stuff. We
 10 are taking the information on something like this. If they want
 11 to schedule, we would probably look at that, you need to speak
 12 with the sergeant or something.

13 Q When you say supervisor, you don't mean your
 14 supervisor.

15 A No, no. I'm talking, yeah, yeah.

16 Q The supervisor on duty at the sheriff's office.

17 A Just for the record, you know, when I say that, we do
 18 talk to the sheriff's office, the sergeants, everything, on a
 19 regular basis, as much as we talk to the fire chiefs, the
 20 battalion chiefs, the captains, whoever, we talk to their
 21 supervisors. Again, like I say, we are just providing a service
 22 for them. We are the conduit, I guess, from the public to them.

23 MS. PRUTZMAN: I have no further questions.

24 CHAIRMAN LAU: Thank you very much. Your witness.
 25 //

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1 conduit, you guys take information, you get calls, you take
 2 information, and you pass that along, correct?

3 A Yeah, that's correct.

4 Q So if you had a member of the public that called and
 5 said I need help, I need to speak with somebody about a civil
 6 matter, you would take the information from that person and pass
 7 it along. Is that what I understand?

8 A Yes, correct.

9 Q All right.

10 MS. PARKS: Thank you.

11 CHAIRMAN LAU: Redirect?

12 MS. PRUTZMAN: I have no redirect, Madam Chair.

13 CHAIRMAN LAU: Thank you very much. My fellow
 14 commissioners, questions or comments for Mr. Ballard?

15 Vice Chair Weaver.

16 COMMISSIONER WEAVER: Thanks.

17 EXAMINATION BY THE COMMISSION

18 BY COMMISSIONER WEAVER:

19 Q Are you the, did you say you are the supervisor of
 20 dispatch?

21 A Yes, sir.

22 Q Do you have also responsibilities for training?

23 A It's all done in our office, yes.

24 Q Is the after hours dispatch number for the Storey
 25 County Sheriff's Department 847-0950?

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1 A That's correct.

2 Q So I think I understand the answer to this. I just
 3 want to be sure. So if a person calls after hours and asks a
 4 question about the sheriff's office being available for custody
 5 or visitation, your workers are trained to not give any answer
 6 about availability. They simply say we will pass this
 7 information along to the sheriff's department?

8 A What would happen, like I said, in that situation is
 9 they would probably, yeah, they would say well -- again, if they
 10 want to schedule an appointment, we are not going to schedule
 11 one, because we can't predict the future, so we are not going to
 12 do that. If it's a question we can't answer on something like
 13 that, they are going to take that information, and they are going
 14 to give it to a supervisor to contact that person.

15 Q Taking out of the picture whether they are calling to
 16 schedule an appointment, which would imply their acknowledgment
 17 they knew that they could schedule an appointment, what if
 18 somebody just calls and says I need a safe place for a
 19 visitation. Does that information just simply get received and
 20 passed along to the sheriff's department after hours?

21 A An incident would be created on it, what they would do
 22 on that. Especially, there's key words to dispatchers, they are
 23 trained to know that stuff. If someone was calling asking for
 24 weather, they are not going to create an incident, they are going
 25 to go answer their questions. But if there's certain things that

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1 A If someone wants to pay me to sit and listen to tape
 2 24/7, yes. That's a lot of tape. Like I said, if it's an
 3 incident that requires some sort of response, yes, it will be
 4 documented. And more than likely that situation, what you
 5 described, I would like to think that my people would document
 6 that, and it would be, you know, available in the CAD system.

7 COMMISSIONER WEAVER: Thank you.

8 CHAIRMAN LAU: Thank you very much. Any other
 9 questions, comments?

10 Commissioner O'Neill.

11 COMMISSIONER O'NEILL: Thank you, Madam Chair.

12 BY COMMISSIONER O'NEILL:

13 Q I know Storey County, particularly Virginia City area,
 14 is a small population, everybody basically is friends or knows
 15 somebody. Are any of your dispatchers married to any of the
 16 deputies or dating, even have any kind of, quote, close relation,
 17 anything like that?

18 A You know, I don't think so.

19 Q Do you have a policy, let's just say you did, you had a
 20 dispatcher married to a deputy. Would the dispatcher be allowed,
 21 or is there a policy, be allowed to work the same shifts as the
 22 deputy?

23 A That would be a question for human resources on that as
 24 far as what policies and stuff that are out there. But I know I
 25 have had one in the past that was married to one, and I don't

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1 are coming up like that, okay, this is something that's going to
 2 come back to play later on, needs to be documented, they are
 3 going to create an incident. And with that information,
 4 especially on that, they would probably give that to a
 5 supervisor, say hey, we got this gentleman or lady just called,
 6 said they need a safe place to meet, to do whatever you said, a
 7 child visitation or exchange or whatever, they want to use the
 8 sheriff's office, they give them that information and have the
 9 supervisor call them.

10 Q Does that happen immediately?

11 A It probably would, depending on the situation, it would
 12 happen within a few minutes, I guess, depending on what they are
 13 doing. If they are in the middle of a call and they are busy, it
 14 might not happen right away, but it would generally happen. They
 15 would reach out to that supervisor or whatever, have them call,
 16 or call them and say we have got a call and give it to them. It
 17 wouldn't sit forever, if that's what you are asking. It would
 18 sit as long as they are at a time they can give it to them.

19 Q Is every call logged?

20 A Everything is recorded, so most of the stuff is logged,
 21 yes, it's audio logged.

22 Q Would you have a way of determining say in a one-month
 23 period, six-month period, one-year period how many times a member
 24 of the public called to ask if the, after hours the sheriff's
 25 department was available for visitation?

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1 recall them ever working together. I don't, we are talking years
 2 ago when that happened, and I don't ever recall that happening.
 3 I mean I don't recall them ever working together.

4 Q Do you have a policy or a practice that a dispatcher is
 5 good friends with somebody who is working, and they are seriously
 6 injured, is the dispatcher taken off, or is she allowed to handle
 7 any calls related to that incident?

8 A You know, all I can say right now, I'm real thankful I
 9 haven't had to deal with life and health experiences yet. So I'm
 10 not sure. If that situation happened, we would have to deal with
 11 it. I don't have a policy in play. That would be dealt
 12 accordingly at that time. And that's a tough one, because the
 13 dispatchers get along with well with all of them, and they are
 14 very tight with the firemen, they are very tight with the
 15 deputies. So that's a tough call there.

16 I mean we have had situations before potentially could
 17 have been bad and we kind of debriefed. I do have someone on
 18 staff that is actually one of those, I guess grievance counselor
 19 with the state, so I actually have one on staff, and I have been
 20 fortunate that I haven't had to use her yet for that.

21 Q How many dispatchers do you have at any one time?

22 A In a perfect world I have two on 24/7, and that's kind
 23 of what I'm at right now. We try to keep it two on. Obviously
 24 in the middle of the night we can't always, but we try. But
 25 that's what we try to run it.

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1 COMMISSIONER O'NEILL: Thank you.
 2 CHAIRMAN LAU: Other questions, comments for
 3 Mr. Ballard?
 4 Seeing none, thank you very much, Mr. Ballard.
 5 THE WITNESS: Thank you.
 6 CHAIRMAN LAU: You may call your next witness.
 7 MS. PRUTZMAN: Madam Chair, my next witness will be
 8 Becky, Rebecca Parsons.
 9 CHAIRMAN LAU: Miss Parsons, welcome.
 10 THE WITNESS: Thank you.
 11 CHAIRMAN LAU: Please state your name and spell your
 12 last name.
 13 THE WITNESS: Rebecca Parsons, P-a-r-s-o-n-s.
 14 CHAIRMAN LAU: Your witness.
 15 MS. PRUTZMAN: Thank you, Madam Chair.
 16
 17 REBECCA PARSONS,
 18 having been first duly sworn, testified as follows:
 19
 20 DIRECT EXAMINATION
 21 BY MS. PRUTZMAN:
 22 Q Good afternoon. Thank you for being here, Miss
 23 Parsons. Can you tell the commissioners where you work, please.
 24 A I work for Storey County communications in the dispatch
 25 center.

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1 Q Okay. Have you worked this shift for a while?
 2 A For, well, for the day shift, I have worked for the
 3 last two years, I believe, and then before that I was graveyard
 4 on this side of the week.
 5 Q Where is the dispatch center located? Where is the
 6 office where you work?
 7 A The address is 911 State Route 341 up at the detention
 8 center.
 9 Q When is this facility open to the public?
 10 A It's not necessarily open to the public. I mean we
 11 have a deputy there 24 hours, but they would come to the office,
 12 and they would have to go through the main doors.
 13 Q Okay. Are there any private meetings rooms or areas at
 14 the detention center that could be used by the public?
 15 A For like visitation, but that's the only one I know.
 16 Q Visitation, you have inmates there?
 17 A Inmates, uh-huh.
 18 Q Have you personally in the, did you say ten years you
 19 have been there?
 20 A Yes.
 21 Q Have you witnessed any child custody or visitation
 22 matters that occurred at the detention center?
 23 A The only thing I have ever observed is like the
 24 exchange out in the parking lot of children. So parental
 25 exchanges of children.

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1 Q What is your title?
 2 A I'm a senior communications specialist.
 3 Q Is that another word for dispatcher?
 4 A It is. That's just the legal term.
 5 Q So how long have you worked as a dispatcher with Storey
 6 County?
 7 A A little over ten years.
 8 Q Ten years. Who is you a direct supervisor?
 9 A Dave Ballard.
 10 Q And who have you received your dispatcher training
 11 from?
 12 A I went through training through the communications
 13 center, where I had a training officer, and then we get our
 14 training through communications.
 15 Q Okay. Did anyone from the sheriff's office train you
 16 in any way?
 17 A No.
 18 Q Does anyone from the sheriff's office supervise you in
 19 any way?
 20 A No.
 21 Q What dispatch shift, real technical term there, do you
 22 normally work?
 23 A I work from six in the morning to six in the evening
 24 every other Wednesday, and then I work Thursday, Friday,
 25 Saturday.

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1 Q In the parking lot?
 2 A In the parking lot.
 3 Q Are there cameras in the parking lot?
 4 A As far as I know, yes.
 5 Q So I'm going to show you the executive director's
 6 Exhibit 6.
 7 MS. PRUTZMAN: Commissioners, I'm looking at page ED655
 8 and ED656.
 9 BY MS. PRUTZMAN:
 10 Q These are photos of the front doors of the main
 11 sheriff's office building. There's a number on the door for
 12 dispatch after hours, 847-0950.
 13 A Yes.
 14 Q So what happens when this number is called?
 15 A It would come directly to our nonemergency line in for
 16 dispatch.
 17 Q Nonemergency, meaning --
 18 A So if there was an emergency, they should be calling
 19 911. It will come on a different I guess trunk. So you got your
 20 emergency phone number, and you have your nonemergency phone
 21 numbers. So we have like four different numbers that it will
 22 come into. So if we received a 911 call, it's going, you can see
 23 it's going to be a different aspect, so we would answer the phone
 24 just a little bit differently than if it was a nonemergency.
 25 Q So if a call were to come to dispatch on this number

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1 during a time other than those hours posted on the door, and you
 2 were asked is the sheriff's office open, what would you say?
 3 A I would say, the business office is what we would call
 4 it, is closed Monday, or it's open Monday through Friday from
 5 eight to five. And I would refer them, if it's a nonemergency,
 6 they want records or something to that effect. If they need a
 7 response, then of course I'd take an incident and send a deputy.
 8 Q Okay. So in the ten years that you have been working
 9 as a dispatcher, have you ever received calls from members of the
 10 public requesting to use the sheriff's office facilities for a
 11 child visitation appointment during nonbusiness hours or over the
 12 weekend?
 13 A No.
 14 Q No? If you did get that kind of call, how would you
 15 handle it?
 16 A If they wanted to use the facilities or they wanted to
 17 like have a deputy respond for like --
 18 Q Okay. Let me, I'm sorry, let me clarify. I said
 19 facilities. Let's focus on the business office, the main
 20 business office up on C Street, which has the posted business
 21 hours Monday through Friday eight to five. If a member of the
 22 public called say on a Friday and requested access to space in
 23 the business office so they could conduct some private matter,
 24 specifically a child visitation, how would you handle that call?
 25 A For after hours, I mean if they were asking for during

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1 A No.
 2 Q Would you expect that such a matter would be reported
 3 to dispatch?
 4 MS. PARKS: Objection. Calls for speculation.
 5 CHAIRMAN LAU: Miss Prutzman.
 6 BY MS. PRUTZMAN:
 7 Q Has it been your experience that any type of deputy
 8 assistance is provided to a member of public is called in to
 9 dispatch?
 10 MS. PARKS: Objection. Calls for speculation on the
 11 part of this witness. That's what a deputy would deal with.
 12 CHAIRMAN LAU: Objection overruled.
 13 THE WITNESS: Okay.
 14 BY MS. PRUTZMAN:
 15 Q You can answer the question.
 16 A If I received the original, your original question, if
 17 I got the phone call requesting that, I would have already made
 18 an incident on it stating that they wanted this and then I gave
 19 that message to the deputy. So if it didn't go through me, I
 20 would want to clear that out, so I should have a, I put him on
 21 it, and then sometimes I do have to call and get a clarification
 22 of how to close out the incident, you know, whether they called
 23 them back or what not.
 24 Q So would an incident report be created just by the very
 25 fact that the request call came into the dispatch center?

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1 business hours, I would refer them back to the business office.
 2 A lot of times you get a lot of people who are like well, why
 3 can't I. You know, you talk to a deputy. I don't give them
 4 anything. I'm just there to take calls and get them out. But if
 5 it is after hours, I would probably say, you know, we don't do
 6 that, but I can have a supervisor call you and see if there's
 7 something we could do. So I would usually take the information,
 8 and then I would have a deputy call them or supervisor call them.
 9 Q Would you expect, when a matter like that is referred
 10 to a deputy or a supervisor to handle, would you expect that such
 11 matters would then be reported back to dispatch if there was
 12 going to be a deputy involved?
 13 A Yes.
 14 MS. PARKS: Objection. Calls for speculation on the
 15 part of this witness.
 16 CHAIRMAN LAU: Miss Prutzman.
 17 MS. PRUTZMAN: Well, as a dispatcher she's in a
 18 position to speak to -- I mean I can rephrase the question. I'll
 19 rephrase the question.
 20 CHAIRMAN LAU: Please.
 21 BY MS. PRUTZMAN:
 22 Q Let me ask you this. If a deputy were to get involved,
 23 have you been notified during the ten years that you have worked
 24 as a dispatcher of situations where deputies have been assigned
 25 to accommodate a child visitation at the main business office?

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1 A Yes.
 2 Q Why is it important, in your experience as a
 3 dispatcher, why do deputies notify dispatch that they are
 4 providing assistance to members of the public?
 5 A For safety, for documentation, so we know that they are
 6 doing something. And if we don't hear from them in a while, we
 7 can check and get their status, make sure that they are okay.
 8 Q So during your shift, is it typical for you to know
 9 generally where the on-duty deputies are located and what they
 10 are doing?
 11 A Yes.
 12 Q Okay. So now I'd like to look at the executive
 13 director's Exhibit 5.
 14 MS. PRUTZMAN: And for the commissioners, you can find
 15 this on page ED635.
 16 BY MS. PRUTZMAN:
 17 Q Miss Parsons, can you please describe what this is.
 18 A This is an incident log for, it looks like a specific
 19 date for May 20. So it just shows all the incidents that were
 20 created for that day.
 21 Q So when you say all incidents created for that day,
 22 does that log include all activity that maybe did not involve an
 23 incident?
 24 A No. That would be an actual log. This just shows the
 25 incidents on it.

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1 Q I think, actually there's more to it. Maybe, sorry,
2 the rest of that.

3 A So this would be a log report.

4 Q Okay.

5 A A log for a specific date. This just shows the
6 incidents.

7 Q So the first --

8 A Page.

9 Q -- page is the reported incidents for the day. And the
10 following pages in that exhibit --

11 A Is any kind of log that we had. So whether it was into
12 an incident or logged as a note, it's, that's what that is.

13 Q Okay. So that tells you the whereabouts of --

14 A Correct, the deputies.

15 Q The deputies. Okay. Can you tell if you were working
16 on this date?

17 A Hold on one second. (Reviewing document.)
18 Yes, I was. I logged on at 5:53:19. My number is
19 S066.

20 Q Okay. Can you please look at pages ED642 and ED643.
21 And those pages cover the morning hours into the early afternoon,
22 I believe. Can you just take a moment, please, and take a look
23 at the log and tell me if you can tell if there were any, I don't
24 know what you call those, entries, data entries that indicate any
25 on-duty sheriff's office personnel were at the main office on C

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1 for that.

2 CHAIRMAN LAU: Please continue.

3 MS. PRUTZMAN: Okay.

4 THE WITNESS: So at 10:40, S209 into position 22.
5 BY MS. PRUTZMAN:

6 Q And that would be a deputy?

7 A I would assume so. There's, it's closed, so my
8 assumption would be the business office is closed, and there's
9 only two dispatchers in there from six to six, so process of
10 elimination says that's a deputy. Without seeing my list of who
11 is who I couldn't tell you who it is.

12 Then at 11:17 S037 into position 12, and they signed
13 on, and 11:18 they signed off. I think that's it.

14 Q Okay. Thank you.

15 A On those pages.

16 Q Is there anything that you just looked at over those
17 two pages to indicate that any members of the public were
18 assisted in any way at the business office?

19 A At the 7:55 somebody went into 205. I don't know if
20 that was assisting anybody.

21 Q No. Okay. Thank you.

22 A Uh-huh.

23 Q Next we are going to move to Exhibit 4 at page ED623.
24 Can you describe what this is?

25 A It's an incident report, a printout of it.

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1 Street, business office, during this time period. Just on those
2 two pages.

3 A So I don't know where position 12 is, but you have
4 somebody logged on there. I have a deputy out at 205 at 7:55.

5 Q 7:55 a.m.?

6 A Uh-huh. Then somebody signed off at 8:12. And I don't
7 know where position 12 is. That could be in detention.

8 COMMISSIONER O'NEILL: Can I just ask a quick question
9 to clarify?

10 CHAIRMAN LAU: Commissioner O'Neill.

11 COMMISSIONER O'NEILL: I apologize for the
12 interruption. But what is, can you translate into English the
13 S107, S22?

14 THE WITNESS: Those are different people's sheriff's
15 numbers. So when I log into a computer, my sheriff's number is
16 S066.

17 COMMISSIONER O'NEILL: So a deputy.

18 THE WITNESS: A deputy, it could be. I don't know who
19 S107 is.

20 COMMISSIONER O'NEILL: So there isn't anything that a
21 identifies a deputy versus a sergeant versus a lieutenant.

22 THE WITNESS: There is in the computers. We have a
23 list in the computer. On the log it does not, but in the
24 computer it identifies who everybody is.

25 COMMISSIONER O'NEILL: I apologize for that. Thank you

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1 Q Okay.

2 A For a civil matter.

3 Q So those notes at the bottom of the report, where do
4 those come from, the notes in the bottom half of the report?

5 A Under the event?

6 Q Uh-huh.

7 A Those are either initiated from the computer when we
8 put them en route or when we dispatch a unit. It looks like we
9 have a comment and then dispatched and then cleared them.

10 Q Okay. So those notes are generated through contact
11 with the dispatch center.

12 A Yes.

13 Q So according to the event notes at the bottom of the
14 report, can you just briefly describe what it looks like happened
15 with regard to this particular incident?

16 A It looks like somebody from, it looks like Sam 3 from
17 205 called, said they were sending somebody down to 901, the
18 detention facility, for assistance. And then it looks like we
19 put Charles 2 on the incident. So he would have been the jail
20 deputy. And then it looks like we cleared them off, but it
21 doesn't say what kind of assistance except for in the comments
22 where it's civil standby custody agreement. It doesn't really
23 have any notes on it.

24 Q Where was that call originated?

25 A At 205. So that's --

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1 Q The business center?

2 A That's an assumption on me. Usually if 205 calls,

3 that's where we initiate an incident at is 205. If they are

4 calling, if somebody from 205 is calling us, that's where we

5 would initiate it. I would assume Sam 3 was at 205.

6 Q Can you tell from that report what time this incident

7 was originated?

8 A At 1839.

9 Q Which is?

10 A Is when we received it. At 1844 is when it was

11 created.

12 Q So that would have been after the business hours of the

13 office.

14 A Correct.

15 Q Okay.

16 MS. PRUTZMAN: I think no further questions.

17 CHAIRMAN LAU: Thank you very much. Your witness.

18 MS. PARKS: Thank you.

19 CROSS-EXAMINATION

20 BY MS. PARKS:

21 Q Hi, Miss Parsons.

22 A Hi.

23 Q So that I understand, you are an employee of Storey

24 County; is that correct?

25 A Yes.

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1 eastbound Orchard. Right below that it says closed, and it says

2 disposition UT. Do you see that there?

3 A Uh-huh.

4 Q Does the term closed, does that just refer to the

5 closing of whatever that call was that you are talking about?

6 A The incident, yes.

7 Q Very good.

8 A And UT would be the disposition. So we have different

9 codes that we would use on how to close the incident. So that

10 would mean UTL, unable to locate.

11 Q So your job working for Storey County for dispatch, you

12 guys take calls and you pass along information, you take care of

13 the flow of that information, correct?

14 A Correct.

15 Q And you indicated that you will receive 911 calls is

16 one of the main things you do, right?

17 A Right.

18 Q And then if there's a 911 call, then I have taken a

19 look at your policy, you are trained to figure out what you do

20 next in the event of an emergency, correct?

21 A Correct.

22 Q Contact, whether it be the fire department, police

23 department, whatever agency is responsive to the call that you

24 get, correct?

25 A Correct.

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1 Q And as an employee of Storey County, as a dispatcher,

2 you would not have reason to work on a day-to-day basis, for

3 example, at the sheriff's office, main office in Virginia City,

4 correct?

5 A At the 205 address? No.

6 Q At the 205 address or at the Lockwood substation.

7 A No.

8 Q I want to take a quick look, if we could, Miss Parsons,

9 at some of these exhibits that were referenced during your direct

10 examination. This would include Exhibit 5. And if you look at

11 Exhibit 5, about four pages in, starting at EB638, this is the,

12 it says log search results at the top. Are you with me?

13 A Yes.

14 Q Okay. Thanks. Do you have any personal knowledge,

15 Miss Parsons, of how many deputies may have been assigned to work

16 on May 20, 2017?

17 A We don't get the, a normal day would be I would have at

18 least one in Lockwood and one in Virginia City.

19 Q But you yourself, I mean you are documenting in your

20 logs here events that happened, calls that come in to you,

21 correct?

22 A Correct.

23 Q So let me ask you a question. If we look at that first

24 page there where it says ED638. And occasionally there will be a

25 reference, for example, 5/20/17, 1:57 p.m. It says 10-8 for I-80

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1 Q I know you were asked questions about whether in the

2 history of ten years you had ever received a call from anybody

3 that specifically said I would like to make an appointment after

4 hours at the sheriff's office for a custody issue, and I believe

5 you testified in the negative, correct?

6 A Correct.

7 Q And so the calls that you receive that are not 911

8 emergency calls, they come in through a different number, you

9 were testifying to that, too, right?

10 A Correct.

11 Q I imagine you get a lot of calls on all kinds of

12 different subjects, correct?

13 A Correct.

14 Q That considering that calls that go to the nonemergency

15 line for the sheriff's office, or even there's been testimony

16 here today to the regular business office of the sheriff's

17 department, they go straight to dispatch after hours, correct,

18 after regular business hours?

19 A Correct.

20 Q So I would imagine, then, that you get a lot of, a

21 variety of calls, correct?

22 A Correct.

23 Q And you have to decide what to do with those calls when

24 you get them, correct?

25 A Correct.

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1 Q So if you have a nonemergency call that appears to be
 2 something that is within the realm of the sheriff's department to
 3 respond to, do you take that information then, and you indicated
 4 you would pass it along to a supervisor or a sergeant; is that
 5 correct?
 6 A Or it depends on what it is.
 7 Q Sure.
 8 A Obviously if it's a barking dog, I'm not going to give
 9 that to a supervisor. But if I have a senior deputy that's on,
 10 that's what I'm going to give it to, whether it's a sergeant or,
 11 you know, or whatever area it's in. So if I don't have any
 12 supervisors on, I'm going to give it to the deputy on whatever
 13 area that it's in.
 14 Q Sure. And by area, you are talking about physical
 15 location, correct?
 16 A Correct.
 17 Q So there is always a deputy, at least, or a sergeant
 18 that's available that you will pass that information on to,
 19 correct?
 20 A Correct. Unless they are on something.
 21 Q Sure. And when you say on something --
 22 A On another incident.
 23 Q But there are law enforcement officers with Storey
 24 County that are on duty 24 hours a day, seven days a week to take
 25 emergency calls or otherwise.

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1 standby, I would definitely send to the suspicious person versus
 2 the civil standby.
 3 Q If you received a call for a civil standby at any time
 4 at any location in Storey County, and you knew that your on-duty
 5 deputies were assigned to let's say a fire, how would you handle
 6 that call?
 7 A I would tell them okay, I can't guarantee I'm going to
 8 have a deputy there, he is on another call right now, but as soon
 9 as I have somebody available, they will either call you back or I
 10 will call you back.
 11 MS. PRUTZMAN: Thank you. I have no more questions.
 12 CHAIRMAN LAU: Thank you very much.
 13 Do we have any questions for Miss Parsons?
 14 Vice Chair Weaver.
 15 EXAMINATION BY THE COMMISSION
 16 BY COMMISSIONER WEAVER:
 17 Q Good afternoon, Miss Parsons. I just need a couple
 18 clarifications if I might. You got asked by both sides about how
 19 you would handle a call that requested an appointment, if after
 20 hours you got a call requesting to make an appointment in the
 21 business office for visitation, right?
 22 A Right.
 23 Q What if in the ten years, and you have worked both six
 24 a.m. to six p.m. and six p.m. to six a.m.; is that right?
 25 A Correct.

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1 A Correct.
 2 Q And as a dispatcher, then, you are taking that
 3 information that you receive, a call comes in, you determine what
 4 to do with it. You would not simply make a decision and say no,
 5 this doesn't sound important, have a nice day, correct?
 6 A I will be honest, I probably have done that, and, but I
 7 usually cover myself and I pass it on, hey, this is what I did.
 8 Q So you would pass that on?
 9 A Yes.
 10 MS. PARKS: Thank you.
 11 THE WITNESS: You're welcome.
 12 CHAIRMAN LAU: Thank you very much. Redirect?
 13 MS. PRUTZMAN: I just have a couple of quick questions.
 14 CHAIRMAN LAU: Yes, please.
 15 REDIRECT EXAMINATION
 16 BY MS. PRUTZMAN:
 17 Q So Miss Parsons, is it true that the types of calls
 18 that you get at the dispatch center have different, I don't know,
 19 priority levels or --
 20 A Correct.
 21 Q So where would something like a civil standby, you know
 22 what is a civil standby is?
 23 A Correct. It would be in the bottom.
 24 Q Bottom priority?
 25 A Yeah. So if I had a suspicious person or a civil

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1 Q In the ten years when you have worked both those
 2 shifts, did you ever get a call after hours where somebody wasn't
 3 seeking to make an appointment for visitation but said something
 4 along the lines I'm at the sheriff's office, it's closed, but I'd
 5 like to use this facility, or can I use this facility for
 6 visitation basically now or on demand or in the next 30 minutes?
 7 A I have never had a call like that.
 8 Q In your professional capacity as a dispatcher, do you
 9 know whether it's the policy and practice of the Storey County
 10 Sheriff's Department to make the business office available after
 11 hours on demand for visitation?
 12 A I do not know their policies.
 13 Q But in your professional capacity, do you know whether
 14 or not that's what they do?
 15 A I don't know that.
 16 Q Okay. How about in your, are you a Storey County
 17 resident?
 18 A No.
 19 Q Do you know in your personal capacity if that's what
 20 they do?
 21 A I do not know that.
 22 Q Has anybody trained you or told you or advised you that
 23 that that's one of the goals of the Storey County Sheriff's
 24 Department to make the business office, the facility, available
 25 after hours for that type of reason, including for security

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1 purposes for visitation?
 2 A No.
 3 Q Has anybody ever trained you -- we have heard
 4 testimony, not today but previously, that there's really no such
 5 thing as after hours for purposes of the Storey County Sheriff's
 6 Department business office. Have you ever been trained with
 7 regard to that?
 8 A No. I have told people, you know, if you call here, we
 9 are open 24/7, but as far as like the business office, it's
 10 Monday through Friday.
 11 Q If somebody, what have you been trained to tell
 12 somebody if, for example, they call and say I'm standing outside,
 13 say it's a Saturday morning or a Sunday afternoon, and they say
 14 I'm standing outside the business office or the Storey County
 15 Sheriff's Department, I'm dialing this number that says after
 16 hours, I'd like to use this office in 30 minutes or right now for
 17 visitation with a child, what have you been told to tell that
 18 person?
 19 A I have never really been told to tell anybody anything.
 20 But in that case, of course it hasn't occurred, it hasn't
 21 happened to me, but I would probably say you know, I don't know
 22 if we are available to do that or if we can do that, but you know
 23 what, I'll send you a deputy or I'll have a deputy call you back.
 24 But since they are standing in front of 205, I would send a
 25 deputy and let them tell them yes or no.

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1 be able to go the sheriff's office, but let's say they are just
 2 calling a member of the public to ask if this is available. Is
 3 that one of the circumstances where you said you would say
 4 something along the lines of we usually don't do that?
 5 A I would probably, I don't know if that's available. I
 6 could have a deputy call you back, and then he can decide if
 7 that's something that we do. I would probably tell them I don't
 8 know if we can, because we have never done it before. So that's
 9 probably what I would tell them, I don't know if this is
 10 something that we can accommodate.
 11 COMMISSIONER WEAVER: Thank you.
 12 CHAIRMAN LAU: Thank you very much. Any other
 13 questions, comments?
 14 Commissioner O'Neill.
 15 COMMISSIONER O'NEILL: Thank you, Madam Chair.
 16 BY COMMISSIONER O'NEILL:
 17 Q Miss Parsons, in your ten years you have worked
 18 Saturdays, six a.m. to six p.m. shift, correct?
 19 A Correct.
 20 Q You said you normally only have one deputy on duty in
 21 Virginia City area?
 22 A I said we would have at least a minimum of one deputy.
 23 I mean it wouldn't be normal to, we would have at least one
 24 deputy in each area.
 25 Q What, when you have been dispatching over the ten

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1 Q When you say you would send a deputy, what do you mean
 2 by that?
 3 A I would make an incident report, and then I would
 4 dispatch them to speak with somebody regarding a civil matter at
 5 205.
 6 Q When you say you would dispatch them, do you consider
 7 that you are just passing along the information from the caller
 8 to the deputy for the deputy to decide what to do?
 9 A Correct.
 10 Q Or would you say to the deputy there's somebody there,
 11 go there?
 12 A I would tell them to respond, since there's somebody
 13 there and they are requesting a deputy. That's something we have
 14 been told, if they request a deputy, they get a deputy.
 15 Q What if they are not specifically asking for a deputy
 16 or standby. Let's just say they are at a park and they want it
 17 to be, the visitation to be somewhere else, say at the sheriff's
 18 department office, what would you say and do?
 19 A I would do pretty much the same thing. I would create
 20 an incident, because somebody is calling in requesting something
 21 from the deputies, and I would dispatch them to probably the
 22 park, because that's where they are currently at, and say they
 23 would like to speak with a deputy regarding a custody matter.
 24 Q One more question if I might. So let's say they are
 25 not asking specifically for something to be done like to go, to

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1 years, what do you normally have, do you recall, for deputies
 2 available at Virginia City area?
 3 A How many -- wait. I'm sorry. Rephrase your question.
 4 Q What's your normal, you normally have on duty there in
 5 Virginia City when you have worked on Saturdays during day shift?
 6 A Over the period of ten years schedules have changed.
 7 They used to work a twelve-hour shift and now they are working
 8 ten-hour shifts, so we do have them coming and going in and out
 9 at different intervals. But sometimes, right now if you ask me
 10 what I think the schedule is going to be Saturday --
 11 Q Let me help you. Say from ten a.m. until, or nine
 12 thirty a.m. until one p.m., how many deputies do you normally
 13 have, in your experience, do you normally have available to you
 14 in Virginia City?
 15 A I believe we have -- so I have to, because right now
 16 there's deputies that are on until eight o'clock.
 17 Q Eight a.m. or p.m.?
 18 A Eight a.m. So they come on on the graveyard shift,
 19 they get off of at eight. I come on at six, so I sometimes have,
 20 and then another deputy comes on. So from six to eight I'll have
 21 three deputies in Virginia City. Then two of them will go home,
 22 and if nobody's on vacation, I believe it might be two, but I
 23 believe they have been on vacation, so if somebody's gone I'll
 24 only have one. If they are not, I'll have two. And then at
 25 twelve o'clock another person comes on, so it's kind of, it's

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1 sporadic.

2 Q So one to three during that period.

3 This next question you may curse at me, so I apologize.

4 Going to item 5, pages ED643 and ED644, I'm going to ask you to

5 help me understand and translate some of the entries here.

6 Starting on 5/20/2017 at 09:37:01 hours there's a search

7 incident, type being with dog. And it goes on to give, does that

8 mean you are searching for someone with dogs?

9 A So the, earlier I said on the incidents there's certain

10 types and we close it out with certain dispositions. So a type

11 code is going to be, so if I named, see where it ALT SENT, so

12 those are alternative sentencing incidents that were created. If

13 you, at the very top it says INC type, so that's asking what

14 type. So in every incident it will have a type. So at 9:37, and

15 this is of course an assumption, somebody probably called and

16 said I'm missing my dog.

17 Q Oh, missing a dog?

18 A So anything that has regarded to a dog. So what we

19 would do is we would go into search, and I would look for all of

20 the incidents that were created for a dog call, and I would

21 search that, and I would tell them do we have your dog or not.

22 So that's what that is.

23 Q Thank you for explaining that, because I thought just

24 the opposite, somebody was missing.

25 Continuing on say from that 9:37 a.m. until 12:01 on

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1 not on our screen all day. But then we would search for it if

2 somebody else called in.

3 So then the property checks, usually those are created

4 by the deputies. It looks like they did a property check on the

5 boardwalk. And we had a dog.

6 Q Is that the one at 11:19:48?

7 A So all the property checks are usually initiated by the

8 deputies.

9 Q Okay.

10 A So at 1517 David 6 was on. So he came on at 1437. And

11 it says 10-8 on duty, beats 1, 2 and 3.

12 Q So you are beyond that 12:00 o'clock or noontime?

13 A Did I pass it? Sorry.

14 Q That's fine. I appreciate the information. Let's just

15 go back, one last question if I may. 1:11:84 it says came in

16 with a 911 prefix, unable to recontact.

17 Would you translate? That's on 8643. I'm sorry.

18 A 11:18?

19 Q 11:18:24. It's in bold letters, or all in caps.

20 A It's closed out with a 911 hang-up. That's, the 911

21 hang-up is how it was initiated. So it came in.

22 Q So that's an emergency call?

23 A Yeah. So we received a call at 11:17. That's when it

24 was received. And they typed a note in there saying came in with

25 a 911 prefix. So what that means is that, when a cell phone

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1 the next page on ED644, are you able to tell how many officers

2 you have on duty there in VC, and -- first I'll ask you that.

3 A I'll be honest with you, I cannot off the log unless I

4 go back and look at the times of when people logged in and see if

5 they have logged out. On my dispatch screen it's all there for

6 me.

7 Q Can you tell from this how many calls were dispatched

8 to deputies in Virginia City during that time period? Just from

9 say 9:37 when the dog went missing to 12:01, when it says 10-8 on

10 duty, B123 Gaunt, Dan.

11 A So he came on at 12:01, D5, which is Dan Gaunt, that's

12 saying he's on duty, and we assigned him to 1, 2, and 3.

13 Q Which is where or what?

14 A That's going to be Virginia City area.

15 Q Okay.

16 A And then he was 10-8. So Charles units are the jail.

17 I probably had, just looking at this, two deputies on, and that

18 would be David 14 and David 5.

19 Q Were there, how many calls, are you able to tell what

20 calls were dispatched or how many calls were dispatched?

21 A I can tell you how many were created. So the dog

22 incident was opened, but it was dispatched to a deputy, or it

23 would be on the side where it would say like D5. So it was

24 probably a missing dog, we checked to see if we had it, and we

25 created an incident, and then we closed it out. That way it's

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1 calls in to 911, you can use your cell phone whether it's

2 connected to a provider. So if it's not connected to a provider,

3 you can still call 911, and it will come in with that 911 prefix

4 on there. So there's no way to recontact them, but there's only

5 a way for them to contact us. There's no way to trace them or

6 anything like that.

7 Q So there's not really any more additional information

8 as to where that was.

9 A Right.

10 Q Or what part of the county, et cetera.

11 A Yes.

12 COMMISSIONER O'NEILL: That's all I needed

13 clarification on. Thank you.

14 Thank you, Madam Chair.

15 CHAIRMAN LAU: Any other comments, questions for Miss

16 Parsons?

17 Seeing none, thank you very much for your testimony.

18 THE WITNESS: Thank you.

19 CHAIRMAN LAU: Miss Prutzman.

20 MS. PRUTZMAN: Madam Chair, we are done presenting our

21 witnesses at this time. I would like to request, if it's okay

22 with our opposing counsel, that we be allowed to release the

23 executive director's witnesses, with the exception of respondent,

24 of course.

25 MS. PARKS: I have no objection.

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1 CHAIRMAN LAU: Please. You may release the witnesses.
 2 MS. PRUTZMAN: Thank you.
 3 CHAIRMAN LAU: Miss Parks.
 4 MS. PARKS: Thank you. My client and I's first witness
 5 is Laura Antinoro.
 6 CHAIRMAN LAU: Mrs. Antinoro. Welcome.
 7 THE WITNESS: Thank you.
 8 CHAIRMAN LAU: Please state your full name and spell
 9 your last name.
 10 THE WITNESS: My name is -- is this on?
 11 My name is Laura Antinoro. And you wanted me to spell
 12 my name?
 13 CHAIRMAN LAU: Yes.
 14 THE WITNESS: My last name is spelled A-n-t-i-n-o-r-o.
 15 CHAIRMAN LAU: Thank you very much.
 16 THE WITNESS: You're welcome.
 17 CHAIRMAN LAU: Your witness.
 18
 19 LAURA ANTINORO,,
 20 having been first duly sworn, testified as follows:
 21
 22 DIRECT EXAMINATION
 23 BY MS. PARKS:
 24 Q Good afternoon, Mrs. Antinoro. How are you doing.
 25 A Doing well, thank you. How are you?

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1 Q Just very briefly, can you explain to the commission
 2 the arrangement in place based upon your divorce for visitation
 3 between Mr. Gempel and the minor child.
 4 A Yes. We had supervised visitation. I had requested
 5 supervised visitation at the time of our divorce. And that was
 6 to take place approximately every other week for a number of
 7 hours. And it was pretty simple. He never took advantage of
 8 that during, for a very long time. But that was our arrangement.
 9 Q And when was your divorce decree entered into, what
 10 year?
 11 A 2011.
 12 Q In terms of this visit that we are here to talk about
 13 on May 20 of 2017, can you tell the commission when it is that
 14 Mr. Gempel contacted you prior to that visit to discuss seeing
 15 the minor child?
 16 A Yes. He initially contacted my on May 5, and he, it
 17 was the day after we returned home from our honeymoon, and he
 18 started the conversation by saying that he had questions about my
 19 ex-husband, or about my current husband.
 20 Q And so after he contacted you on May 5, were
 21 arrangements subsequently made to allow Mr. Gempel to visit the
 22 minor?
 23 A Of course. I never at any time said no. I would
 24 always, he would say that to me on an occasional basis over the
 25 six-year period of time where he never saw my daughter, but he

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1 Q I am doing fine. Thank you.
 2 Mrs. Antinoro, you are currently married?
 3 A Yes.
 4 Q To whom you are you married?
 5 A Gerald Antinoro.
 6 Q How long have you been married?
 7 A About 18 months. We were married in April of 2017.
 8 Q Mrs. Antinoro, as it's getting late in the day, we are
 9 here to talk about the incident that occurred on May 20, 2017, at
 10 the sheriff's office. Are you familiar with that incident?
 11 A Yes.
 12 Q Can you please tell the commission, this incident
 13 involved your ex-husband; is that correct?
 14 A Correct.
 15 Q Who is your ex-husband?
 16 A Clarence Gempel.
 17 Q And for how long were you married to Mr. Gempel?
 18 A Just over nine years.
 19 Q And you and Mr. Gempel have a daughter, correct, whose
 20 name we are not going to use for purposes of these proceedings.
 21 A Yes.
 22 Q And how old was your daughter on or about May 20, 2017?
 23 A She would have been nine.
 24 Q And when were you divorced from Mr. Gempel?
 25 A November 30, 2011.

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1 never followed through with anything. So as usual I told him
 2 that I would be more than happy to meet with him wherever he
 3 wanted, and he never showed up in the past.
 4 Q Okay. So on or about May 5 he gets in touch with you
 5 about seeing the minor. At some point in time were arrangements
 6 made for you to meet with Mr. Gempel in a public park?
 7 A Yes.
 8 Q And initially I mean was that your idea in terms of
 9 where this visit should take place?
 10 A Yes.
 11 Q And at the time of this May 20, 2017, visit, or around
 12 that time frame, Mr. Gempel had not seen the minor in how many
 13 years?
 14 A Six years.
 15 Q And so how did you communicate to Mr. Gempel how it
 16 was or where the visit would take place?
 17 A He texted me on the 14th of May, and that's when I
 18 initially suggested the park. He did not respond to that
 19 suggestion. And so within ten minutes, I had a few minutes to
 20 think about it, and I had become concerned with this particular
 21 possible visit just because of, he had been in contact with
 22 somebody that I believed to be a very deranged individual, and so
 23 I felt a little bit concerned about that, and I suggested that we
 24 meet they sheriff's office. And he responded positively. He
 25 said okay.

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1 Q Okay. So in terms of your communication with him about
 2 initially we will have it at the park, you then thought the
 3 better of that for safety reasons; is that correct?
 4 A Correct.
 5 Q Is that something that you then immediately
 6 communicated to Mr. Gempel?
 7 A Yes, within ten minutes, suggesting the park, to which
 8 again he did not respond, I suggested that we meet at the
 9 sheriff's office.
 10 Q All right. And he didn't express any reservations or
 11 objections or concerns about that?
 12 A No. None at all.
 13 Q And so the visitation took place at the sheriff's
 14 office on main in Virginia City, correct?
 15 A Correct.
 16 Q And were there other persons present at the sheriff's
 17 office during the time of this visit?
 18 A His wife, to whom -- well, his wife was there, I was
 19 there, and, you know, he met my husband, and we all introduced
 20 ourselves, and my daughter of course was there.
 21 Q Were there other law enforcement officers there?
 22 A I believe that they had come in and out and they were
 23 working.
 24 Q And how long did this visit last?
 25 A I think it was about an hour. I didn't time it. But I

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1 CHAIRMAN LAU: Thank you. Your witness.
 2 CROSS-EXAMINATION
 3 BY MS. PRUTZMAN:
 4 Q Good afternoon.
 5 A Hello.
 6 Q You understand that you are still under oath, correct?
 7 A Yes.
 8 Q Thank you. Do you know -- well, I guess I should ask
 9 first, I assume you are aware there was an ethics complaint filed
 10 against your husband, Sheriff Antinoro?
 11 A Yes.
 12 Q Do you know who filed this ethics complaint?
 13 A Yes.
 14 Q Who was that?
 15 A It was written by Susan Stubbs. It was signed by
 16 Clarence Gempel.
 17 Q Okay. So have you discussed this ethics complaint with
 18 either Clarence Gempel or his wife, Susan Stubbs?
 19 A Well, we are friends now, so yes.
 20 Q So you have discussed it since the complaint was filed?
 21 A Oh, yes.
 22 Q Did you ever ask Mr. Gempel to attempt to withdraw the
 23 complaint?
 24 A No.
 25 Q Did you ever ask Mr. Gempel to lie about what really

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1 believe it was around an hour.
 2 Q Your husband had not met Mr. Gempel prior to that
 3 date, correct?
 4 A That's correct.
 5 Q And at the time that this visit took place, did your
 6 husband introduce himself to Mr. Gempel?
 7 A Yes. They shook hands.
 8 Q And did he introduce himself to Susan, Mr. Gempel's
 9 wife, Susan Stubbs?
 10 A I believe so. I mean it was an introduction.
 11 Q Quick?
 12 A Yeah. Yes.
 13 Q Did your husband make a comment to Mr. Gempel along
 14 with the lines of welcome to my house?
 15 A No.
 16 Q Did Sheriff Antinoro, your husband, interfere in any
 17 way with this visit between Mr. Gempel and the minor child?
 18 A No.
 19 Q Did Sheriff Antinoro participate or insert himself into
 20 this visit with Mr. Gempel in any way?
 21 A No. I mean other than the general small talk that took
 22 place at the very beginning of the introduction as we were
 23 introducing each other, but no, there was no, he was not
 24 involved.
 25 MS. PARKS: Thank you.

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1 happened on May 20?
 2 A No.
 3 Q So did your divorce decree allow you to choose anyone
 4 to supervise the visits between your daughter and her father?
 5 A Yes.
 6 Q So was your husband, the sheriff, was he planning to
 7 join you for the meeting --
 8 A Yes.
 9 Q -- on May 20? So whether it was at the park or the
 10 library, or ultimately the sheriff's office, you knew that he
 11 would be joining you.
 12 A I could have chosen anyone, or as many as I wanted, and
 13 I chose my husband.
 14 Q Okay. So why did the sheriff's office seem like a
 15 better place to meet with Mr. Gempel than the park?
 16 A Because I felt concerned. I felt concerned about who
 17 he was connected with, my ex-husband, who he was connected with.
 18 There was an element of, my ex-husband was an unpredictable
 19 person anyway.
 20 Q Stick to the answer to my question, please.
 21 A Well --
 22 Q Why the sheriff's office in particular was better than
 23 the park.
 24 A I was concerned for my safety and for my daughter's
 25 safety. I didn't know what to expect.

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1 Q Okay. And what made you, what about the sheriff's
 2 office made it seem like a more safe place to you than the park?
 3 A It was an enclosed room rather than the park. I was
 4 concerned about it being open. We had an event in town that
 5 weekend, I was concerned about there being lots of people, you
 6 know, in town that I just, it felt insecure to me, and I wanted
 7 to feel more secure.
 8 Q Did any one of your friends stop by the sheriff's
 9 office while you were meeting with Mr. Gempel?
 10 A I don't remember that.
 11 Q You don't remember? Was there anyone else at the
 12 office that day besides you, Mr. Gempel, Susan Stubbs, your
 13 daughter, your husband, and the two deputies?
 14 A There may have been. I was focused mostly on my
 15 daughter and Clay and Susan.
 16 Q So when you say there may have been, you didn't notice
 17 any other deputies or members of the sheriff's office stop by?
 18 A I wasn't paying that close attention to what was
 19 happening outside of the few people that I was focused on.
 20 Q Okay.
 21 MS. PRUTZMAN: Thank you.
 22 CHAIRMAN LAU: Thank you very much. Redirect?
 23 MS. PARKS: I have nothing further. Thank you.
 24 CHAIRMAN LAU: Thank you. Any comments or questions
 25 from the commissioners for Mrs. Antinoro?

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1 Vice Chair Weaver.
 2 BY COMMISSIONER WEAVER:
 3 Q Good afternoon, Mrs. Antinoro. Did you suggest to your
 4 ex-husband to meet at the sheriff's department because that's
 5 what Sheriff Antinoro recommended you tell him?
 6 A I don't know if he made the recommendation. I think
 7 that we had a few words, conversation about it before I made that
 8 recommendation. I figured it was an option just as a taxpaying
 9 resident of Storey County, being a public office. But I don't
 10 remember how the conversation came about or who began it or if
 11 that's what you are asking.
 12 Q It is what I'm asking.
 13 A I don't remember.
 14 Q We have some information. I'm just asking if it's
 15 correct or not that the suggestion to meet at the sheriff's
 16 department office was your husband's and that you relayed that.
 17 Is that correct?
 18 A I can't say that it's correct or not correct. I don't
 19 remember how the conversation went.
 20 Q When did you learn that the sheriff's department is
 21 open and available after hours for child visitation? Was it --
 22 A I assumed that it was just because I figured that was
 23 part of the public service that the office provides to the
 24 community. So I don't know that I had any specific knowledge
 25 that it was open for these kinds of visitations. I didn't ask.

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1 Yes, Commissioner O'Neill.
 2 EXAMINATION BY THE COMMISSION
 3 BY COMMISSIONER O'NEILL:
 4 Q Miss Antinoro, what was your husband wearing that day?
 5 A I don't remember, quiet honestly. It was cold that
 6 whole week leading up to it, so -- that's all I can tell you. I
 7 don't remember what he was wearing.
 8 Q If I understand correctly, you said you felt safer in
 9 an enclosed building, enclosed room with limited access, than in
 10 an open park with a person that you felt could be threatening to
 11 you?
 12 A Well, I didn't feel like I had, I had a lot less
 13 control over the environment in a park, but yes, in an enclosed
 14 room I felt safer.
 15 Q Could you explain that to me, why?
 16 A I guess because, again, I felt like my husband was
 17 associated with some dangerous people, and I wasn't sure if this
 18 could have been an ambush. I didn't know what to expect. I
 19 hadn't seen him in a number of years, and the fact that he was
 20 associating with people who have made threats against my family,
 21 I just wasn't sure what to expect.
 22 COMMISSIONER O'NEILL: Thank you.
 23 Thank you, Madam Chair.
 24 CHAIRMAN LAU: Thank you very much. Any other
 25 questions?

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1 I just assumed that it was available.
 2 COMMISSIONER WEAVER: Thank you.
 3 THE WITNESS: You're welcome.
 4 CHAIRMAN LAU: Thank you very much. Any other comments
 5 or questions for Mrs. Antinoro?
 6 Thank you very much, Mrs. Antinoro.
 7 THE WITNESS: You're welcome.
 8 MS. PARKS: Thank you. I'd like to call Eric Kern,
 9 please.
 10 CHAIRMAN LAU: Welcome, Mr. Kern.
 11 THE WITNESS: Hello.
 12 CHAIRMAN LAU: Please sit. State your full name and
 13 spell your last name, please.
 14 THE WITNESS: It's Eric Michael Kern, K-e-r-n.
 15 CHAIRMAN LAU: Thank you very much. Your witness.
 16
 17 ERIC KERN,
 18 having been first duly sworn, testified as follows:
 19
 20 DIRECT EXAMINATION
 21 BY MS. PARKS:
 22 Q Mr. Kern, who is your current employer?
 23 A Storey County. Storey County Sheriff's Office.
 24 Q And do you have a rank?
 25 A Sergeant.

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1 Q How long have you been with the Storey County Sheriff's
 2 Office?
 3 A Since 2009, so almost, it's nine years.
 4 Q And what shift do you work?
 5 A Currently I work a swing shift from noon until ten p.m.
 6 Q And what days of the week?
 7 A Wednesday, Thursday, Friday, Saturday.
 8 Q So you work on days at the sheriff's office that are
 9 outside of regular business hours of eight to five; is that
 10 correct?
 11 A That's correct.
 12 Q And is that true with respect to the time that you have
 13 been with the sheriff's office, you have worked shifts that
 14 include weekends and after hours?
 15 A That's correct.
 16 Q And what is your current, what are your current duties?
 17 A Patrol supervisor for the Virginia City and Mark Twain
 18 Highlands, Gold Hill area.
 19 Q Do you work out of the main office in Virginia City,
 20 then?
 21 A Yes, I do.
 22 Q And on Saturdays, you work on Saturdays, correct?
 23 A Yes.
 24 Q Generally how many deputies are on duty in Virginia
 25 City?

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1 but just property disputes issues, family issues, any number of
 2 things. You know, I can't think of them off the top of my head,
 3 but the majority of the stuff that we deal with is, at least in
 4 my experience, is generally more wrapped up in a civil aspect.
 5 It might be, their initial interpretation might be that it's
 6 criminal in nature, but when you look at it a little bit further,
 7 it a lot of times comes to be civil.
 8 Q Do part of your duties, sergeant, include, for example,
 9 patrolling up and down main street in Virginia City?
 10 A Yes.
 11 Q Sort of walking up and down main street and going on
 12 patrol. Would that be accurate?
 13 A Yes.
 14 Q Are you aware, sergeant, of the main office of the
 15 Storey County Sheriff's Department admitting members of the
 16 public after regular business hours and on the weekends?
 17 A Yes. With another like an employee or as in like
 18 giving them access, yes, with another deputy or employee is
 19 there.
 20 Q Right. I mean not by themselves.
 21 A Right, no.
 22 Q Not by themselves, probably understood. But sir, you
 23 are aware or you have had experience with allowing access to
 24 members of the public to the main office of the sheriff's
 25 department there in Virginia City after regular eight to five

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1 A A total for the whole day of Saturday or just --
 2 Q No. Let's do --
 3 A On average there's two deputies on on Saturdays.
 4 Q And sergeant, where is the jail located with respect to
 5 the main office in Virginia City?
 6 A It's approximately a mile away from it. It's down the
 7 truck route a little outside of town.
 8 Q So sir, would it be appropriate and fair to say that
 9 there are law enforcement officers, deputies with Storey County
 10 Sheriff's Office that are on duty 24 hours a day, seven days a
 11 week?
 12 A Yes, that's correct.
 13 Q And in the course of your law enforcement duties, sir,
 14 do you have occasion to deal with citizens of Storey County or
 15 otherwise, members of the public, on matters that are not
 16 strictly criminal matters?
 17 A Yes.
 18 Q And so that would be civil type disputes that might
 19 arise with people. Do you deal with those sorts of things?
 20 A Yes, all the time.
 21 Q Can you give an idea of what sort of civil disputes
 22 that you might encounter in a typical week or typical couple of
 23 weeks?
 24 A Generally you'll run into a lot, I mean civil issues
 25 are more common, more than the criminal that we see, honestly,

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1 business hours Monday through Friday.
 2 A Yes.
 3 Q Is that an unusual occurrence?
 4 A No.
 5 Q And sir, are you aware of, in connection with your work
 6 at the sheriff's office, then, of the main office of the
 7 sheriff's office having been opened up for child custody visits
 8 and exchanges on weekends and after regular business hours?
 9 A Yes.
 10 Q In terms of your experience in dealing with the public,
 11 do all of your experiences or your, what instigates something
 12 that you might be doing with a member of the public, do all of
 13 those issues, are they all instigated by dispatch?
 14 A No.
 15 Q How are some of the other ways or manners in which
 16 people in the community might communicate with you or might a
 17 civil issue come to your attention?
 18 A Well, we can be flagged down by people, people can come
 19 knock on the door. On occasion I have answered the telephone
 20 after hours in the squad room and had somebody that needed
 21 assistance and helped them. A lot of times we get court
 22 documents or other things of that nature through the court that
 23 specify a date and time. It doesn't necessarily go through the
 24 communications center, but we are aware of it.
 25 Q So you have had occasion working after the regular

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1 business office is closed and on the weekends, you have had
 2 occasion to answer the regular phone line when it rings at the
 3 sheriff's office?
 4 A Yes.
 5 Q And you do that if you are there?
 6 A Yeah.
 7 Q Okay. And you have had occasion where citizens have
 8 actually walked up to the sheriff's office and knocked on the
 9 door and instigated a conversation with you?
 10 A Yes.
 11 Q And when that has happened, then, you have responded
 12 and addressed them and dealt with them.
 13 A Yes.
 14 Q And that would include allowing people access to the
 15 office; is that correct?
 16 A Yeah. I mean depending on the circumstances.
 17 Q Sure. I guess that is really a good point, sergeant.
 18 You deal with a multitude of different types of calls and
 19 incidents, correct?
 20 A Yes.
 21 Q As a law enforcement officer in Storey County, are you
 22 trained and do you consider it part of your duty to assist
 23 members of the public not just with criminal issues, but civil
 24 disputes?
 25 A Yes.

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1 might prepare to document certain incidents, correct?
 2 A Yes.
 3 Q Sir, would it be fair to say that not every interaction
 4 you might have with a member of the public on a civil issue, not
 5 every one of those civil actions would ultimately be created or
 6 documented in a report, would that be fair to say?
 7 A That would be, yes.
 8 Q And if someone suggested to you, sir, that the main
 9 office of the Storey County Sheriff's Department was closed at
 10 five p.m. and on the weekends, how would you respond to that?
 11 A Well, sheriff's office is open 24 hours a day, seven
 12 days a week. The office itself, that would be the administrative
 13 staff that does like the licensing and what not, the civil
 14 process, Brandy Gavenda, the employees that work up front there,
 15 those are what the hours mean.
 16 Q But otherwise you consider the sheriff's office itself
 17 to be open beyond those business hours?
 18 A Yes, the sheriff's office is open 24/7.
 19 Q I'm going to show you an exhibit, but unfortunately I
 20 have to find wherever they went, the public's version of these.
 21 Actually, I'm going to show you mine. Showing you,
 22 sergeant, what is part of Exhibit 4. It is ED620 for purposes of
 23 reference. Do you recognize generally what sort of document that
 24 is, sir?
 25 A Yeah. It's an incident report from our RIMS system.

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1 Q And in terms of the manner in which people might come
 2 into contact with you on civil issues, in terms of child custody
 3 and child visitation type issues, do you know, sergeant, whether
 4 the court itself refers people to the sheriff's office to assist
 5 them with child custody exchanges?
 6 A Yeah, at times they do. When they have issues, you
 7 know, between the parents or however it might be for their
 8 protection or what not, they will direct them to contact the
 9 sheriff's office.
 10 Q So that's not an unusual occurrence that people will
 11 find their way to members of the sheriff's office because they
 12 were referred by other agencies.
 13 A Yes.
 14 Q Like the courts.
 15 A Yeah.
 16 Q Sir, when you have interactions with members of the
 17 public on civil issues, you have indicated it doesn't always come
 18 through dispatch, correct?
 19 A Correct.
 20 Q And you as a member, a sergeant with the Storey County
 21 Sheriff's Office, you yourself don't prepare CAD reports
 22 specifically, correct?
 23 A I do not prepare CAD incident reports. I would create,
 24 I can do case narratives, though.
 25 Q So you would have a different sort of a report that you

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1 Q Sir, if you look at, what's the date of that?
 2 A It's January 15, 2017.
 3 Q All right. And we have done this before, but just for
 4 purposes of being consistent, may I hand you my 2017 calendar.
 5 Certainly not evidence. And could you please turn to that
 6 particular date in my calendar. Do you find that date in there,
 7 sir?
 8 A I'm finding it. Yes.
 9 Q Okay. And what day of the week was that?
 10 A It's a Sunday.
 11 Q And according to that exhibit, what took place on a
 12 Sunday?
 13 By the way, what time did that incident occur?
 14 A It looks like the call was received at 1800 hours, and
 15 the incident was created 1802, and a deputy was dispatched at
 16 18:32:01.
 17 Q What sort of incident is referred to in the description
 18 there?
 19 A They have it as a citizen's assist.
 20 Q But does that also refer to child custody issue there?
 21 A Generally it's kind of a generic entrance that they put
 22 in, but it's, a citizen is requesting.
 23 Q Does that incident report indicate that something
 24 occurred at the Lockwood substation?
 25 A It's civil standby, child custody exchange.

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1 Q I'll take that back from you. Thanks.
 2 Sergeant, if you were assisting a member of the public
 3 at the main office of the sheriff's department with a child visit
 4 or a custody exchange, and you were called off on another matter,
 5 on an emergency, would you have some recourse or option about how
 6 to continue to help the folks other than just taking off and
 7 leaving?
 8 A I'd look for an alternative option and have somebody,
 9 another deputy or corrections staff or somebody come assist them
 10 or relocate it.
 11 Q And so if you received a call or some information from
 12 dispatch, and they indicated that there was a citizen that was
 13 wanting to speak to you about possibly using the sheriff's office
 14 for something like a child custody exchange or property type
 15 issue or exchange, would you make every effort to help that
 16 individual despite what time of day it was or what day of the
 17 week it was?
 18 A Yes.
 19 Q If you were not called off addressing another
 20 emergency, you would help that individual with a civil matter
 21 despite the date being a weekend or being after hours?
 22 A Yes. As long as it's reasonable what they are asking.
 23 Q Sure. I'm sure as a member of the sheriff's office,
 24 you know, all kinds of requests are made of you. But in fact you
 25 are aware of and you have assisted members of the public on

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1 A The patrol deputies, the corrections officers, the
 2 sheriff's administration, public works, those are pretty much the
 3 people that have keys for it.
 4 Q Okay. So if a member of the public requested access to
 5 that building during a time when it was not open for business,
 6 would that member of the public let him or herself in?
 7 A No.
 8 Q So that members of the public would need to request
 9 assistance.
 10 A That is correct.
 11 Q It could go through dispatch, perhaps they happen to
 12 know your direct cell phone number, perhaps they know the
 13 sheriff's number. But would you agree that somebody from the
 14 sheriff's office would need to show up to open those doors?
 15 A Absolutely, yes.
 16 Q How many deputies do you supervise?
 17 A Let's see. I'll have to count first. It changes
 18 sometimes. I have eight that I directly supervise.
 19 Q Okay. So if a deputy who was on duty under your
 20 supervision was assigned to open the sheriff's office for a
 21 matter, let's say a child visitation with a member of the public
 22 involved, after hours, over the weekend, would you expect this
 23 deputy to report this incident or not?
 24 A When you say report it, what do you mean?
 25 Q Well, would you expect this deputy to report his or her

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1 weekends and after hours at the main office of the Storey County
 2 Sheriff's Department.
 3 A That is correct.
 4 MS. PARKS: Thank you.
 5 CHAIRMAN LAU: Thank you very much. Cross-examine.
 6 CROSS-EXAMINATION
 7 BY MS. PRUTZMAN:
 8 Q Good afternoon.
 9 A Good afternoon.
 10 Q So I think I heard you say that the sheriff's office is
 11 open 24/7.
 12 A Our operations are 24/7.
 13 Q So what you really mean is law enforcement services are
 14 available 24 hours a day, seven days a week.
 15 A Law enforcement, yeah, and the other things that we do.
 16 Q Okay. So, but when we are talking about access to a
 17 particular facility such as the business office, the main office
 18 of the sheriff's office, is that open 24 hours a day, seven days
 19 a week?
 20 A It's not open to the public where they can just walk in
 21 to it, no.
 22 Q So those doors would be locked outside normal business
 23 hours?
 24 A That would be correct.
 25 Q So who has the keys to access this building?

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1 whereabouts to dispatch, would you expect this deputy to notify
 2 you when he or she is no longer assisting that member of the
 3 public? What would your expectations be as a supervisor of a
 4 deputy who was assigned to assist with what, I'm not sure what
 5 you would call it, maybe a civil standby situation?
 6 A I wouldn't necessarily expect them to notify me or
 7 require that from them. Every situation that you deal with is a
 8 little bit different. I have full confidence in the deputies
 9 that I supervise that if they need my assistance, they will ask
 10 me. But I mean that's really kind of at their discretion. It
 11 depends on the situation that they are dealing with as to whether
 12 or not they are, as to how far they are going to go with
 13 contacting people or getting involved with it. It could be
 14 something that's very simple, it could be something that's
 15 bigger.
 16 Q So on a Saturday I think you said you have maybe two or
 17 three deputies who are typically on duty?
 18 A Yes, I have -- yeah.
 19 Q So if you had a deputy who was assigned to assist a
 20 member of the public who wanted access to the business office for
 21 approximately an hour, would you want to know when that deputy
 22 would be available?
 23 A It all depends on the circumstances of why they are
 24 there. I have had deputies, I have personally assisted with
 25 civil issues inside of the sheriff's office. I have other

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1 deputies that have assisted with civil issues outside of the
 2 sheriff's office that are not necessarily reporting that directly
 3 to me or seeking my approval. The sheriff's office itself is
 4 where we do our work, it's where we write our reports, we
 5 facilitate all kinds of things with people.

6 I have had people come in and done transfer of property
 7 to them after hours, and, you know, set up, civil, has nothing to
 8 do with us as a criminal nature, it's just you have two people
 9 don't get along. One wants to drop of property for the other
 10 one, they drop it off, the other person comes at a certain time,
 11 knocks on the door, and picks up it. I'm not necessarily going
 12 to make a case over that if I'm exchanging their property. Or
 13 really tell dispatch anything about it if it was something that
 14 was brokered outside of the communications center.

15 Q If a deputy was requested to assist a member of the
 16 public who did express that he or she had a concern about meeting
 17 with, for example, an ex-spouse for a family matter because that
 18 member of the public expressed a concern about the safety or the
 19 possible motives of the ex-spouse coming to visit, would that be
 20 a concern to you, placing a deputy in that situation?

21 A Well, of course it would be a concern to me. But are
 22 you just saying as in like a visitation between two parties, and
 23 the one person is concerned that the other one might act out?

24 Q Right.

25 A Our safety is the number one, so is the public, so of

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1 Q So can you just take a minute to look at this incident
 2 report, please. Can you tell me what type of incident this
 3 involves.

4 A It's a civil problem, and then down in the comments
 5 it's civil standby custody agreement.

6 Q So this says here the incident was initiated at the
 7 Storey County Sheriff's administrative office, the business
 8 office at 205 South C Street. Do you know what that means, if it
 9 was initiated there?

10 And I just want to point out the hours here. It's
 11 8:44, which would be after the office closes.

12 A This wasn't, unless it was by one of our deputies,
 13 this, which it doesn't look like it is, because we don't have,
 14 there's a Mary obviously in the caller. This, we wouldn't have
 15 had anybody at the office that would have initiated this. That's
 16 just dispatch adding in the administrative office. It looks like
 17 Sam 3, that could have been me at the time or Sergeant Gaunt,
 18 indicated saying that they need to go to -- or maybe they did
 19 call the office, and the sergeant there told them to go to the
 20 jail, because it says go to 911 for assistance, which is our jail
 21 address.

22 Q Okay. So as far as we can tell here, this person was
 23 not accommodated for a civil standby custody situation at the
 24 business office.

25 A No. It looks like they had them go to the jail to do

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1 course that would be a concern. I would want to make sure
 2 everybody was safe and there wasn't a potential for a bigger
 3 problem.

4 Q So in that situation would it be within normal protocol
 5 for the deputy to report to dispatch that they were meeting with
 6 a member of the public who had a safety concern?

7 A Would it be normal protocol? Yes, I could say that it
 8 probably would be normal. But a lot of that is in the discretion
 9 of the deputy, whoever is dealing with it, and the circumstances
 10 surrounding it. I mean if we have two or three deputies or, you
 11 know, I have the swing shift, I come on at noon, my shift works
 12 until four in the afternoon. If I have, there's two of them in
 13 doing paperwork, and I'm out on the road, and there's two of them
 14 in there and I'm in the other office, and it's a Saturday or a
 15 Sunday, or whatever, I wouldn't, you know, our people are good at
 16 maintaining their safety and knowing what's going on. Just their
 17 discretion and what they determine whether or not they feel that
 18 this needs to be something that there should be an incident
 19 report or case report on.

20 Q I'd like to direct your attention to Exhibit 4 again.

21 MS. PRUTZMAN: Commissioners, I'm going to be talking
 22 about page ED623.

23 BY MS. PRUTZMAN:

24 Q If you could turn to page, please, sergeant, ED623.

25 A I'm here.

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1 it at the jail.

2 Q And the jail is open 24/7?

3 A The jail is open 24/7. The front lobby area is open to
 4 the public 24/7 as well.

5 Q Are you aware of any space in the jail that would be
 6 appropriate for members of the public to meet privately for
 7 something like a child visitation?

8 A Privately, not so much at the jail, just because it's,
 9 the way that it's set up. It's an open lobby. If the
 10 corrections officer or supervisor that was there determined that
 11 they could bring someone back into the sergeant's office that's
 12 right there in that area, you are still open to the, you could
 13 have dispatchers and/or corrections officers entering that area
 14 at any time.

15 Q Okay. So you worked for the sheriff's office for about
 16 nine years. I know this is a generalization. When you are
 17 talking about a civil standby for any kind of family matter,
 18 what's the average duration of a civil standby type of call would
 19 you say?

20 A In a perfect world I would say that the average
 21 duration for your normal civil standby shouldn't be any more than
 22 15 to 30 minutes. But civil standby encompasses a broad spectrum
 23 of people that are like picking up their property after being
 24 arrested for a crime, and they are no longer allowed to stay at
 25 the house, so they have to go get their toothbrush and what not.

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1 I have had civil standbys that I have been on for people to pick
 2 up property where I have been there more than an hour or two
 3 waiting for them to load up their stuff.
 4 It's really along the officer's discretion, of course
 5 our call volume, what's going on. We want to help everybody get
 6 everything they can, because it breaks lines of communication
 7 between them and the victim and communications down the road, so
 8 if we can sit for a period of time to get that accomplished, then
 9 we will do that. But in a perfect world, I would say 15 to 30
 10 minutes for civil standby for property.
 11 **Q So would it be fair to say that a civil standby**
 12 **contemplates a fairly quick exchange of either property or a**
 13 **child?**
 14 A Yeah. I would say a child exchange, if there's
 15 something that place that's already there that makes it for
 16 whatever reason the two parties aren't communicating, they are
 17 looking to us, or the court has directed them to go to the
 18 sheriff's office to do a custody exchange, there's obviously an
 19 underlying issue there already, so I would say they are probably,
 20 for something like that, they are not looking for a large amount
 21 of time. But, you know, a child exchange versus like a
 22 visitation or other issues, that would be a little different.
 23 **Q What would be a little different? The child**
 24 **visitation?**
 25 A Well, yeah. That's not just so much that you are

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1 A There is a way to tell, to say the person wasn't, they
 2 were accommodated, just not -- it looks like a Charles unit,
 3 which is one of our corrections units, took over from here and
 4 accommodated it.
 5 **Q Right.**
 6 A And it looks like at the jail. But that's, what I get
 7 out of it, just with my experience and my knowledge, is that
 8 dispatch was looking to do it at the sheriff's office, whether me
 9 or Sergeant Gaunt or whoever Sam 3 was at the time, something was
 10 happening to where it wasn't going to work out at the sheriff's
 11 office, so they redirected them to go to the jail.
 12 **Q Right. That's what I mean. I mean what this report**
 13 **doesn't say is what you may have been doing or Gaunt or whoever**
 14 **else was on duty so you couldn't accommodate this request, right?**
 15 A Right.
 16 **Q And had someone been available when this call came in**
 17 **after regular business hours on Friday, and someone was**
 18 **available, the request would have been accommodated, correct?**
 19 A Yeah. If the deputy wasn't busy, I mean generally we
 20 try to handle everything on our end and not to put it on the
 21 jail. If it's coming into our dispatch center, dispatch is
 22 reaching out to the sergeant, and he's determining how to handle
 23 it.
 24 **Q All right.**
 25 A But yeah, stuff like this we would do it at the

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1 handing, you know, one parent is giving the child off to someone
 2 else to take them.
 3 **Q So would you expect a deputy's assistance with a child**
 4 **visitation would probably take longer than a civil standby**
 5 **assistance?**
 6 A Yes.
 7 **Q Okay.**
 8 MS. PRUTZMAN: Nothing further. Thank you.
 9 CHAIRMAN LAU: Thank you very much. Redirect?
 10 MS. PARKS: Thank you.
 11 REDIRECT EXAMINATION
 12 BY MS. PARKS:
 13 **Q Are you still on ED623 there, sergeant?**
 14 A Yes, I am.
 15 **Q Now, by looking simply at ED623, you can't tell by this**
 16 **document what was going on specifically at the main office of the**
 17 **Storey County Sheriff's Department when this came in, correct? I**
 18 **mean it's just a report of an incident, correct?**
 19 A That is correct. I'd have to see the actual activity
 20 log for this date.
 21 **Q Right. So when the question is asked and posed to you**
 22 **that, and the question is along the lines of this person wasn't**
 23 **accommodated in terms of meeting at the sheriff's office, there's**
 24 **no way to tell that from this report one way or the other,**
 25 **correct?**

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1 sheriff's office.
 2 **Q If you were available to do so?**
 3 A Yes.
 4 MS. PARKS: Thank you.
 5 CHAIRMAN LAU: Thank you very much. Any questions or
 6 concerns for Sergeant Kern?
 7 Vice Chair Weaver.
 8 EXAMINATION BY THE COMMISSION
 9 BY COMMISSIONER WEAVER:
 10 **Q Good afternoon, sergeant. Thank you for being here.**
 11 A Thank you.
 12 **Q As your capacity as a supervisor of a deputy, do you**
 13 **also train them?**
 14 A Yes.
 15 **Q Do you train them one of the services that the Storey**
 16 **County Sheriff's Department provides to members of the public is**
 17 **that on demand or an appointment in three days, give or take, the**
 18 **sheriff's department facility on main street will be open with a**
 19 **deputy present for child visitation for say an hour, give or**
 20 **take, if someone is concerned about a safety setting?**
 21 A Something where I would have advance notice to assign a
 22 deputy to do it?
 23 **Q Either way. Let's take both instances. Let's say**
 24 **somebody calls the after hours number that says dispatch, the**
 25 **847, whatever number that is, says I'm not comfortable, I'm**

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1 supposed to meet somebody in 30 minutes, and I'm not really
 2 comfortable with my child being alone with that person, or even
 3 me there, what do you train your deputies that they should do in
 4 that circumstance if contacted by dispatch?
 5 A Well, if it's reasonable, then facilitate it. I mean
 6 they would do it at the sheriff's business office. It wouldn't
 7 necessarily need to be at the jail. The jail would be our last
 8 resource. I would say yes, you can do that.
 9 Q I want to take out the jail discussion. Do you tell
 10 members of the public, or promote to members of the public that
 11 the sheriff's office is available for those type of visitations
 12 for an hour or however long is necessary after hours?
 13 A No, I don't push it out to the public, or, you know,
 14 like as in tell anybody that comes in contact with me. That's
 15 more a situational kind of thing where somebody, if they come to
 16 me asking me, if one of the deputies asks me, of course I'll tell
 17 them. But no, that's not something that everybody, you know, if
 18 I came in contact with somebody, said yeah, we do this after
 19 hours all the time.
 20 Q And I think it's a great idea. I'm just wondering if
 21 it should be an idea that the public in your community should
 22 know about. I'm just wondering how the general public does know
 23 that after hours the sheriff's department facility, the office
 24 itself, after hours is available to them, including if they feel
 25 the importance of security for a deputy to be there for an hour

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1 or an appointment in three days where there will be a deputy
 2 available during that visitation time if warranted?
 3 A Somebody would have had to tell them that, or they
 4 would have had to reach out to somebody to get that information.
 5 Q But that's what I'm trying to get to. How does the
 6 sheriff's department make that information available to the
 7 public, as opposed to the public just asking a favor of the
 8 deputy they might go to the gym with, play softball with, go to
 9 church with?
 10 A It wouldn't be, it's their situation, it's what they
 11 are needing. They call our dispatch center, they call the
 12 sheriff's office. I mean it's not something that, I don't think
 13 is like on Facebook or on something that they know they have that
 14 service, but I think that if they are a need for it, either a
 15 court or family court or somebody has directed them to get ahold
 16 of the sheriff's office. And as ever for the after hours things,
 17 that's just the situation.
 18 If I'm directed to or I get somebody contacts me and
 19 says hey, I need to pick up my daughter from my ex-husband, I
 20 don't want to do it out here, can I pick her up at your office
 21 where there's somebody else there in case something happens, but
 22 I can't do it until six thirty tonight, then that's where it
 23 comes from. It's not, I'm not personally promoting it. I don't
 24 know if the sheriff tells people that he comes into contact with
 25 that if that's something they needed that is an option, but I

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1 or so.
 2 A I think that more so, I mean it's happened as long as I
 3 have worked there, you know, on and off situations that are like
 4 that. I know a lot of people reach out to the sheriff directly,
 5 I know a lot of people reach out to the chief deputy directly. I
 6 have had calls transferred to me with people asking. It's more
 7 so of somebody that's seeking it out, and then I'll tell them
 8 yeah. And I have arranged to have other people be at certain
 9 places at certain times if I couldn't do it or if it wasn't
 10 within my shift.
 11 It's more so, we are in a small town, so a lot of times
 12 they will ask the deputy or they will call the office or they
 13 will call dispatch or they will call or email the sheriff or the
 14 chief deputy, and they will tell them hey, just call, and we can
 15 get it handled. So that's how they know about it. I think it's
 16 actually them reaching out or the court telling them to get ahold
 17 of them.
 18 As for the after hours thing, I think it's more based
 19 on their situations. A lot of times you don't have, there's a
 20 lot of uncertainty with a lot of people. Do we do a lot of child
 21 visitations or custody exchanges after hours at our sheriff's
 22 office? No, we don't. We don't.
 23 Q I didn't ask my question very well. I'm only talking
 24 about after hours. So how do members of the public know that
 25 after hours the sheriff's office is available for them on demand

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1 know it's something that happens, and it's something we have
 2 done. I would be under the impression that they reached out to
 3 dispatch or to our office itself to know to get ahold of us to
 4 make such a request.
 5 Q Have you known of a circumstance with any frequency
 6 where actual visitations occur after hours, as opposed to
 7 transferring children, or whatever the right term is?
 8 A In my recollection I can remember a husband/wife,
 9 boyfriend/girlfriend, I can't remember exactly how their
 10 relationship was, but they had a child in common, and they would
 11 have visitations in our squad room in the sheriff's office. I
 12 wasn't actively involved in those, so I can't say for sure, you
 13 know. I know it was daylight, but I can't say for sure if it was
 14 a weekday or a weekend. But that would be the only one of like
 15 that nature that I was ever, that I ever was aware of, other than
 16 like the child exchanges or property exchanges.
 17 Q So just one more question if I may. Do you train your
 18 officers to make the facility available after hours, absent an
 19 emergency for a visitation say for an hour?
 20 A That's not something that's generally in our training,
 21 no. It's not part of our FTO protocol.
 22 Q Whether it's formal or not, do you train your officers
 23 to do that?
 24 A I don't train them to do that, no. If my officers face
 25 a situation that was similar to that, and they asked me, I would

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1 tell them how to accommodate it.

2 Q Do you just otherwise leave it to discretion?

3 A Yes.

4 COMMISSIONER WEAVER: Thank you.

5 CHAIRMAN LAU: Thank you very much.

6 My fellow commissioners, any questions or comments?

7 Yes, Commissioner O'Neill.

8 BY COMMISSIONER O'NEILL:

9 Q Sergeant Kern, you have been with Storey County you

10 said for nine years.

11 A Yes.

12 Q Any law enforcement experience prior?

13 A No. This is my first job in law enforcement.

14 Q How long have you been sergeant?

15 A I was promoted in 2016.

16 Q So two years?

17 A Yes.

18 Q During the two years as sergeant, have you received any

19 training in supervision, first line supervisors?

20 A In those, prior to my promotion I went to 80-hour first

21 line supervisor class.

22 Q I'm mean I'm sure they told you some of your

23 responsibilities and you should probably set the example for your

24 deputies.

25 A That's correct.

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1 where you could see the person walking up, but there's some areas

2 hidden to the side, like where the bathroom is and what not.

3 Q In your training, particularly as a supervisor that has

4 to make decisions what's best for your personnel, what's best for

5 the citizens, is it a better place to have a visitation or child

6 custody exchange in an unmonitored area or an area that's

7 monitored and recorded?

8 A I would say that for a custody exchange, for sure it

9 should be in an area that's monitored or recorded, I would be

10 more comfortable with that.

11 Q How about a visitation?

12 A The visitation, I could see it, but with what we have

13 up in Storey County, we really don't have an area that has the

14 privacy that has that. But with the addition of the body

15 cameras, the body worn cameras, that remedies that issue for us.

16 Q Going back to December of 2017, was Storey County

17 wearing body cameras?

18 A No, sir.

19 Q So would it be fair -- the other thing is, as a

20 supervisor, you have a responsibility to keep your deputies

21 available for calls, higher priority calls, correct?

22 A I have a responsibility to, that my deputies serve the

23 community and the residents. I'm always going to have somebody

24 available for a high priority call, but the service to the

25 residents is equally as important.

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1 Q Correct? Going to what was given to you as what was

2 given as item 4, ED623. Is it a better place to have a child

3 custody exchange or visitation in an enclosed area -- well, let

4 me back up.

5 First, does the sheriff's office there on C Street, is

6 the interior, especially the squad office, does it have cameras,

7 does it have video recording capabilities?

8 A The office itself does not, no, sir.

9 Q The squad room.

10 A No, it does not.

11 Q The jail that, you said there was a lobby in front.

12 A Yes, sir.

13 Q Is that video monitored?

14 A Yes, the entrance to the jail and within the jail. The

15 lobby itself, probably not so good except for through the front

16 glass. The camera faces out from the interior, to my

17 recollection, out to the lobby through the front glass, but the

18 parking lot in that facility is recorded.

19 Q The parking lot is monitored.

20 A Yes.

21 Q You said the lobby, I'm not sure, is or isn't?

22 A The lobby has, when you walk into the main double

23 doors, there's a counter with a glass window, and then there's a

24 telephone where people would pick up to call into the inside. I

25 believe the angle of the camera faces out through those windows

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1 Q Well, let's go specifically to this CAD incident report

2 of 1 December 2017, ED623. It's in the evening hours, 6:44 in

3 the evening it's initiated, it concluded at 1908. As a

4 supervisor, to keep your, would it be better to have a deputy or

5 a jailer monitor, be able to monitor the exchange with cameras

6 and be available and keep your deputies available for other

7 calls? Which do you think would be a better choice?

8 A Well, based on the circumstances, a better choice would

9 be to have cameras for the child exchange, and for an interview,

10 too. It's better to record everything, there's no doubt on that.

11 Yes, I would say that.

12 Q Thank you. Also, as a sergeant you said that you give

13 training to your deputies?

14 A That's correct.

15 Q Do you train them on policy?

16 A Yes.

17 Q Let's go to item 4, or ED, number 4, ED526. Do you

18 have that available, or could we make that available, please.

19 It's item 2, Exhibit 2, I'm sorry, the policies.

20 Policy number 1050. It's on page ED526.

21 A I apologize. What page is it on?

22 Q ED526.

23 MS. PARKS: Is it the nepotism policy?

24 COMMISSIONER O'NEILL: Yes.

25 MS. PARKS: Why don't you assist.

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1 COMMISSIONER O'NEILL: Yes, please.
 2 BY COMMISSIONER O'NEILL:
 3 Q Are you familiar with this policy?
 4 A Yes.
 5 Q Without going through the whole policy, let's just look
 6 at under 1050.1.1, definitions, conflict of interest. Would you
 7 read that or, please.
 8 A Any actual -- do you want me to read it aloud, sir?
 9 Q Yeah, would you please.
 10 A "Any actual, perceived, or potential conflict of
 11 interest in which it is reasonably, reasonably appears that an
 12 employee's action, inaction, or decisions are or may be
 13 influenced by the employee's personal or business relationship."
 14 Q If I was a deputy, and there's an accident, a traffic
 15 accident involving my wife, would you allow me to investigate
 16 that?
 17 A No, sir.
 18 Q Would that pose a conflict of interest?
 19 A That would pose a conflict of interest.
 20 Q How about if it was just a report that she was down at
 21 a local bar and had a few too many drinks, would you allow me to
 22 respond and handle that incident?
 23 A No.
 24 Q Why not?
 25 A Because there's too much of a potential for a problem

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1 going to assume that you wouldn't let me handle a criminal
 2 investigation on her.
 3 A Correct. I would have to have another officer,
 4 somebody that's not related to it present to --
 5 COMMISSIONER O'NEILL: Thank you. That's all, Madam
 6 Chair.
 7 Thank you very much, sir.
 8 CHAIRMAN LAU: Any other comments or questions for
 9 Sergeant Kern?
 10 Thank you very much, sergeant.
 11 THE WITNESS: Thank you.
 12 CHAIRMAN LAU: Counsel Parks.
 13 MS. PARKS: Thank you. Tony Dosen.
 14 CHAIRMAN LAU: Mr. Dosen, welcome.
 15 MS. PRUTZMAN: Excuse me. I would just like to put an
 16 objection on the record to the extent that Mr. Dosen's testimony
 17 is redundant or cumulative to what we just heard from Mr. Kern in
 18 accordance with the order made in, I think it was the executive
 19 director's objections. Just for the record I want to state that.
 20 CHAIRMAN LAU: Sustained. If this is cumulative, then
 21 he should not testify.
 22 MS. PARKS: I would suggest that his testimony is not
 23 cumulative. He's the chief deputy. He will be testifying, or
 24 would testify on subjects that are similar to what Deputy Kern
 25 testified to other than as chief deputy.

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1 in that, be it special treatment or what not. I mean that has a
 2 potential for problem right out of the gate.
 3 Q How about if my wife wanted to do a child custody
 4 visitation with her ex-husband, would you allow me to supervise
 5 that?
 6 A As like my deputy, one of my deputies wanted me to?
 7 Q Yes. One of your deputies, my ex-wife wants to have a
 8 visitation with her ex-husband with that child that they have in
 9 common, and there's at least two to three deputies on duty,
 10 including myself, would you say go handle that?
 11 A I would, just for the sake of them, for their safety, I
 12 would say that they should have at least another person there.
 13 Q Another person, or somebody else entirely?
 14 A Is this at our sheriff's office?
 15 Q At your sheriff's office.
 16 A I would, if it's an employee, another deputy, and he's
 17 having a visitation with somebody that there's a potential for a
 18 problem, I would want another office member present there.
 19 Q I am not having visitation. I'm going to supervise the
 20 visitation between my wife and her ex-husband and the child that
 21 they have in common. Would you allow me to be that deputy to
 22 supervise that visitation between those parties, or do you think
 23 it would be better, and I get back to conflict of interest that
 24 you read, and you said I can't handle that she's in a bar causing
 25 a disturbance, I can't handle a simple traffic accident, I'm

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1 CHAIRMAN LAU: How long do you suppose the testimony
 2 will be?
 3 MS. PARKS: My direct examination of this witness?
 4 Five minutes, maybe.
 5 CHAIRMAN LAU: About five? Okay. And if it is
 6 cumulative, we will stop.
 7 MS. PARKS: Here's the other thing that I would beg the
 8 indulgence of the committee on. I have pared down my witness
 9 list based potentially on discussions we had at the prehearing
 10 conference, and at this time it's my intent that this would be my
 11 last witness. So I would appreciate the latitude, and I will be
 12 very brief.
 13 CHAIRMAN LAU: Please state your full name and spell
 14 your last.
 15 THE WITNESS: Anthony C. D-o-s-e-n.
 16 CHAIRMAN LAU: Please begin.
 17
 18 ANTHONY DOSEN,
 19 having been first duly sworn, testified as follows:
 20
 21 DIRECT EXAMINATION
 22 BY MS. PARKS:
 23 Q Sir, can you please tell the commission who your
 24 employer is currently.
 25 A Storey County Sheriff's Office.

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1 Q Can you tell the commission how long you have been with
2 the Storey County Sheriff's Office?
3 A Approximately 13 years.
4 Q Sir, what is your current rank?
5 A I'm assigned as the chief deputy.
6 Q As the chief deputy, do you have business cards with
7 the sheriff's office?
8 A Yes, ma'am, I do.
9 Q And is your cell phone, is it listed on your business
10 cards?
11 A Yes, ma'am, it is.
12 Q Is it unusual, chief deputy, for you to be contacted
13 directly by a member of the community on your cell phone?
14 A No, it's not.
15 Q Sir, have you been contacted directly by members of the
16 public on your cell phone to address situations that one might
17 describe as civil issues?
18 A Yes, I have.
19 Q Chief deputy, is that an unusual occurrence that one
20 contacts you on your cell phone, a member of the public?
21 A I don't consider it that. We are a small community,
22 and we are very much into community policing. So I don't see
23 that as out of the ordinary.
24 Q I'm just saying that that's not an unusual occurrence
25 when it comes to you.

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1 A No, I was not.
2 Q You weren't there at all?
3 A No.
4 Q You didn't stop by?
5 A No, ma'am.
6 MS. PRUTZMAN: That's all.
7 CHAIRMAN LAU: Thank you very much. Any redirect?
8 MS. PARKS: No.
9 CHAIRMAN LAU: Any questions or comments for Chief
10 Deputy Dosen?
11 THE WITNESS: Thank you, ma'am.
12 CHAIRMAN LAU: Thank you very much, chief deputy.
13 MS. PARKS: Thank you. I have no further witnesses.
14 CHAIRMAN LAU: Thank you very much. Is there anything
15 else, Counsel Parks?
16 MS. PARKS: No. I have no further witnesses or
17 evidence.
18 CHAIRMAN LAU: Anything else, Counsel Prutzman?
19 MS. PRUTZMAN: No, Madam Chair.
20 CHAIRMAN LAU: This is Vice Chair Weaver. And who are
21 you directing the question to?
22 COMMISSIONER WEAVER: Miss Parks.
23 MS. PARKS: Yes.
24 COMMISSIONER WEAVER: Miss Parks, what do you make of
25 dispatcher Parsons saying in ten years she doesn't recall, I want

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1 A No, it's not.
2 Q So if someone were to contact you, chief deputy, on
3 your cell phone concerning a civil issue of any kind, if you are
4 available, do you make efforts to assist them?
5 A Yes, ma'am, I do.
6 Q If someone contacted you directly on your cell phone, a
7 member of the public, this is a call then that would not go
8 through dispatch; is that correct?
9 A If it did not involve a criminal type of activity, then
10 I more or less wouldn't report it to dispatch.
11 Q Understood. And sir, in your capacity as chief deputy,
12 are you aware of circumstances or situations where the main
13 office of the Storey County Sheriff's Department has been used
14 for child custody exchanges and visitations after regular hours
15 and on weekends?
16 A The sheriff's office has in Virginia City, along with
17 the Lockwood substation, along with the jail in Storey County.
18 MS. PARKS: Thank you. No further questions.
19 CHAIRMAN LAU: Thank you. Counsel Prutzman.
20 MS. PRUTZMAN: I just have a few questions.
21 CROSS-EXAMINATION
22 BY MS. PRUTZMAN:
23 Q Chief deputy, were you at the sheriff's office, the
24 business office on May 20, 2017, the day the sheriff's wife met
25 with Mr. Gempel?

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1 to be careful, I don't think she said she was certain she never
2 got a call. I think she said she just didn't ever recall
3 receiving a call after hours inquiring into visitation, but even
4 if it had occurred or would occur, she would say something along
5 the lines of we usually don't do that.
6 MS. PARKS: Well, this is what I would make of
7 testimony of that kind coming from the folks from dispatch, who,
8 I appreciate their testimony, and they pass along information to
9 Storey County and do their jobs, here's what I would make of
10 that. When questions are asked of folks like the dispatchers,
11 even when they are asked of my witnesses, my sheriff's deputies,
12 how many times have you been called on this specific issue, on
13 this specific question, whether it's open on a weekend, whether
14 or not it's available to you, what they do, in some respects, and
15 there is not to make light of these proceedings even remotely,
16 but in some ways it's trying to beat a square peg into a round
17 hole.
18 I think the bigger picture is this, what I make of it
19 is this. We are using buzzwords here today might be what they
20 hear when somebody calls in to dispatch. We are using buzzwords
21 here that talk about things that are not, simply not how they are
22 in reality, where it's a small community, and where courts may
23 tell officers or individuals go to the sheriff's office, they
24 will assist you with an exchange. The sheriff's department gets
25 all kinds of manner of calls, and so does dispatch, and I don't

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1 think you can simply say I didn't get a call that used these
 2 buzzwords on this day, which would suggest that it didn't happen.
 3 I'm suggesting that what happens in reality is the people in
 4 Storey County know, and I think really in any community, who do
 5 you call if you have a problem and you don't know, I'm not
 6 calling about a civil custody exchange, you are calling because
 7 the sheriff's department, law enforcement, that's where you go if
 8 you need a safe place for something to happen.

9 And in this reality, and what happens on the ground, is
 10 the dispatch transfers people on to deputies, maybe they don't
 11 know in dispatch what exactly the subject matter is that the
 12 person means. What they made clear is we passed that along, you
 13 know, and sheriff's deputies in Storey County we have heard, you
 14 know, get calls on their cell phones, get reached in other ways.

15 And I'm probably going too far in response to your
 16 question, commissioner. That's what I would say about that.
 17 It's difficult to use buzzwords when it comes to dispatch and say
 18 that, you know, that's something that didn't occur.

19 COMMISSIONER WEAVER: Did you feel those questions
 20 along those lines, though, were just buzzwords?

21 MS. PARKS: Well, I think when we get, when the
 22 questions are pinpointed to has anyone called you up on the phone
 23 and said I want to make an appointment to speak to an officer, to
 24 arrange for a child custody visit on such and such a day after
 25 business hours, I do think that those are questions that don't

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1 me, don't work for the Storey County Sheriff's Office. They pass
 2 along information as they get it, and they have to provide it to
 3 another, I think what the testimony is, somebody calls after
 4 hours, you know, the nonemergency line goes to dispatch. If it
 5 is a circumstance where somebody doesn't have an emergency and
 6 says I'm being held at gunpoint and my house is burning down, and
 7 it's a 911, what happens is, is whatever the request is, you can
 8 imagine the variety of requests that law enforcement officers
 9 would get. You know, from what we talked about here today, from
 10 I lost my dog to I need some assistance in, you know, I hate so
 11 and so and he's got my, you know, card collection, can I exchange
 12 that at the sheriff's office. So I guess I'm not surprised.

13 What I think in reality the dispatchers don't make
 14 decisions on what to do with to do with those calls. There's
 15 been some talk about would you make an appointment for them or
 16 would you not. In reality they get calls. The calls come in,
 17 and what I think they have established here today is that they
 18 send those calls when they get them on to the law enforcement
 19 officers.

20 COMMISSIONER WEAVER: Thank you.

21 CHAIRMAN LAU: Thank you very much. All evidence has
 22 been received, so now we come to the closing statements.

23 How much time do you think you will need, Counsel
 24 Prutzman?

25 MS. PRUTZMAN: Madam Chair, ten minutes at most.

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1 translate well into what happens in reality, which is that
 2 somebody be calls and is thinking in their head I have got a
 3 problem and maybe I want to do a custody exchange and I'm
 4 concerned about my ex-husband or we just simply don't like each
 5 other and we need a place to do it, I'm just not sure that that
 6 language is what would translate well on the ground and how the
 7 circumstances are up there.

8 COMMISSIONER WEAVER: Fair enough. I think that that's
 9 a fair point. The only reason that I ask it in that way is
 10 because previously, and maybe we shouldn't delve too much into
 11 that, that I thought there was a lot of emphasis on the fact that
 12 when it came to after hours visitation, the sheriff's office, for
 13 all intents and purposes, was never after hours, and that all
 14 anybody ever needed to do was simply call the dispatch number and
 15 say I would like this facility to be available for me for
 16 visitation, and the dispatch person would then effectuate that
 17 through the sheriff's department. So the only reason I'm raising
 18 this issue, I was a little bit surprised by her testimony, as
 19 only one of two full-time dispatch people, having worked both
 20 shifts, she's basically in ten years never once heard of that
 21 happening.

22 MS. PARKS: And I think that, again, it's coming down
 23 to what question is posed to the dispatcher. In some respects,
 24 too, I would like to point out and have us recall her testimony,
 25 which is those dispatchers don't work for Storey County, excuse

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1 CHAIRMAN LAU: Counsel Parks.

2 MS. PARKS: I would endeavor to stay within that time,
 3 too. And I wasn't very good at our last hearing, but yes, ten
 4 minutes.

5 MS. NEVAREZ-GOODSON: Are we at a point where we are
 6 able to release the witnesses who have been waiting?

7 CHAIRMAN LAU: Yes, indeed. I don't think you will be
 8 needing the rest of the witnesses. Yes, let's release them. And
 9 in preparation for your closing statements, let's take a five-
 10 minute break.

11 MS. PARKS: I guess for the record, witnesses are
 12 allowed back in the courtroom, then, that have testified already?
 13 My client's wife, I mean the rule of exclusion is no longer.

14 CHAIRMAN LAU: Five minutes.

15 (Recess taken.)

16 CHAIRMAN LAU: Thank you very much. We are now back on
 17 the record for closing statements.

18 Counsel Prutzman.

19 MS. PRUTZMAN: Thank you, Madam Chair. I'm going to
 20 try to be brief with my closing. I'm happy to answer any
 21 questions you may have. We have been here much of the day, heard
 22 lots of testimony, we have read a lot of documentary evidence in
 23 front of you.

24 You know the ethics law seeks to secure the public
 25 trust by promoting an appropriate separation between a public

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1 officer's private interests and public duties, and that's really
 2 what we are looking at here. When a public officer like Sheriff
 3 Antinoro permits his family members to use a government facility,
 4 in this case the business office of the sheriff's office, for
 5 private purposes, he causes the type of harm to the public that
 6 the ethics law is designed to prohibit, as it creates a conflict
 7 of interest and an appearance of impropriety.

8 The executive director submits that the preponderance
 9 of evidence presented to you today demonstrates that Sheriff
 10 Antinoro secured and granted an unwarranted privilege, exemption,
 11 or advantage for his wife, and also improperly used government
 12 property for a private family matter.

13 I think that the evidence today demonstrated that
 14 there's no established policy that's communicated to the public
 15 regarding use of the business office at the sheriff's office for
 16 extended family matters, in particular child visitation such as
 17 the one that took place between Laura Antinoro and Mr. Gempel.
 18 At best, this appears to be a friend and family service that's
 19 available to those in the know. Granted it is a small community.

20 I appreciate the fact that there may be certain customs
 21 and practices in the sheriff's office that the community may be
 22 aware of that are not documented in the written policies that you
 23 have before you today. However, a custom and practice means that
 24 it actually happens. You also saw evidence today that over
 25 approximately a two-year period of time there's not a single

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1 type of conflict that is specifically prohibited by his office's
 2 own conflict of interest policy. In creating this conflict,
 3 Sheriff Antinoro creates an unwarranted privilege and an
 4 appearance of impropriety in violation of the ethics law.

5 You heard today that Laura Antinoro certainly could
 6 have requested to use the sheriff's office facilities in the way
 7 that other members of the public could. She could have contacted
 8 the dispatch center and requested civil standby assistance. But
 9 you also heard that it is not a practice to guarantee access to
 10 the sheriff's office, so therefore the type of request that she
 11 likely would have made if she didn't ask her husband for this
 12 type of assistance, it would probably not have been granted. The
 13 dispatcher would have attempted to accommodate Laura's request
 14 for assistance by working with on-duty deputies who may or may
 15 not have been available on Saturday, May 20 to stand by during a
 16 one- to two-hour child visitation that occurred at the sheriff's
 17 office.

18 In his private capacity as Laura's spouse and the
 19 stepfather of Laura's daughter, Sheriff Antinoro absolutely has
 20 every right to accompany Laura during her meetings with
 21 Mr. Gempel. And in fact we know that Laura Antinoro, according
 22 to her divorce decree with Mr. Gempel, has the right to insist
 23 that any visitation between Mr. Gempel and his daughter is
 24 supervised by anyone that she chooses. Quite simply, Sheriff
 25 Antinoro should not have been involved in any way in arranging

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1 incident report that documents the type of child visitation that
 2 took place on May 20 last year, not a single documented extended,
 3 and I mean extended meaning more than 20 or 30 minutes, that
 4 occurred, nothing occurred at the sheriff's office main
 5 business office. The 19 incident reports that were produced in
 6 response to a public records request seeking any reports that
 7 have to do with civil standbys for child custody or child
 8 visitation matters all demonstrate that those incidents occurred
 9 at either private residences, we have one report that shows that
 10 an individual who apparently showed up at the main office, was
 11 directed to go seek assistance at the detention center. We have
 12 also heard that the detention center does not really have an
 13 appropriate private space where a one-hour visit would take place
 14 between a father and his nine-year-old child. So I would submit
 15 that really is no policy, there really is no custom and practice.

16 Even if you do believe that Laura Antinoro was granted
 17 access to and used the sheriff's office on Saturday, May 20 in a
 18 way that's no different from the access and use of this facility
 19 that might be available to other members of the public, it is
 20 still inappropriate under the ethics law, because Sheriff
 21 Antinoro should not in any way be involved in delivering
 22 sheriff's office services to his wife and his stepdaughter. As
 23 the public officer responsible for enforcing the policies and
 24 practices of the Storey County Sheriff's Office, he should have
 25 known that his wife's use of the sheriff's office creates the

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1 for or providing his wife's access to the services that are
 2 provided by the public office that he serves.

3 This case provides the commission with an opportunity
 4 to restate and clarify the ethical boundaries applicable to a
 5 public officer's use of government property for personal
 6 purposes. The ethics law exists to confront conduct such as this
 7 that it appears that the public officer's duty to protect the
 8 public trust and separate his private interests from those of the
 9 public he serves. The use of a government facility not otherwise
 10 available to private citizens for private family matters is the
 11 type of harm to the public that the ethics law is designed to
 12 prohibit, as it creates a conflict of interest and appearance of
 13 impropriety.

14 The executive director requests that the commission
 15 find that Sheriff Antinoro committed one willful violation of the
 16 ethics law. Specifically under NRS 281A.400, subsections 2 and
 17 7, willfulness is established because Sheriff Antinoro acted
 18 voluntarily or deliberately with regard to his wife's use of the
 19 sheriff's office. There is no question that what happened was a
 20 mistake or in any way involuntary. The fact that he may have
 21 acted with the best of intentions out of concern for his wife's
 22 safety and without any intent to actually violate the ethics law
 23 does not relieve him of liability and does not relieve him of a
 24 willful violation.

25 As this would be Sheriff Antinoro's third violation of

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1 the ethics law and second willful violation if you so find, the
 2 executive director urges the commission to impose a meaningful
 3 civil penalty of \$8,000.

4 At this time I have some additional information that is
 5 confidential, so I will request a very brief closed session so I
 6 can share it with the commission.

7 CHAIRMAN LAU: That would be fine. Closed session.
 8 (Closed session.)

9 CHAIRMAN LAU: This is the continuation of your
 10 closing.

11 MS. PRUTZMAN: Thank you, Madam Chair. In closing, I
 12 just want to thank you for your time and careful consideration of
 13 all the evidence and testimony today. I have nothing further on
 14 my closing statement. I'm happy to answer any questions you may
 15 have.

16 CHAIRMAN LAU: Thank you. Any questions? All right,
 17 thank you very much.

18 Miss Parks.

19 MS. PARKS: Thank you, Madam Chair. Thank you,
 20 commission, for listening to me once again in connection with
 21 this case. And I'm going to try and be brief as well, as was
 22 Miss Prutzman, because I think we have already talked about a lot
 23 of this today.

24 But first and foremost, I know that you are very
 25 familiar with Chapter 281A, subpart 400 2, subpart 400, subpart

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1 don't know for sure what goes on with every single call.

2 But I would suggest to you this as well. You have
 3 heard the testimony of my client, you have heard the testimony of
 4 Deputy Kern, and you have heard the testimony of Chief Deputy
 5 Dosen, and what they say is that the sheriff's office has been
 6 open for visits similar to the one that took place on May 20 of
 7 2017 for other people.

8 There has been a discussion about how is it that the
 9 members of the public might be aware that they are able to
 10 utilize the sheriff's office in Storey County for these purposes.
 11 And I would submit to you that it is important that Storey County
 12 is a small town. It's important that the Storey County Sheriff's
 13 Office sits on the main drag. It's important that you heard
 14 testimony that members of the Storey County Sheriff's Department
 15 walk up and down the main drag and are approached by members of
 16 the community. It's important that you heard that sometimes
 17 people will come in the sheriff's office with child custody
 18 issues or exchanges because they have been sent by the court over
 19 there to have this sort of secure zone to do what was done on May
 20 20, 2017, and what the evidence shows has been done by other
 21 citizens in the community.

22 The evidence has shown in this case that not every
 23 interaction between a member of the public in Storey County and
 24 the members of the sheriff's office who serve them is instigated
 25 by a call to dispatch. Cell phone numbers are used, these

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1 7(a) through (d), (1) through (4). I don't need to go through
 2 that. What I want to talk about here in my closing is much more
 3 fundamental. And that is, the reason that this complaint was
 4 filed and the reason that my client and I are here is because
 5 there has been an allegation that, with respect to an unwarranted
 6 privilege granted to Mrs. Antinoro by virtue of who she's married
 7 to. And I want to talk about what the evidence actually shows
 8 and what we have seen here today.

9 It is without question, whether or not we talk about
 10 30-minute visits versus 60, it is without question, based on the
 11 documentary evidence that was submitted, along with the exhibits
 12 provided to you by the executive director's counsel, that the
 13 Lockwood substation, for instance, has been used on a Sunday in
 14 the evening after regular business hours for the purpose of
 15 assisting a citizen with a child custody issue and exchange. And
 16 whether or not we want to parse that sort of an issue, that sort
 17 of service offered to members of the public, visits versus
 18 exchanges, what it shows is it is simply not true that the Storey
 19 County Sheriff's Office complexes are closed for business after
 20 five o'clock Monday through Friday and on the weekends. That's
 21 just not the evidence here.

22 We have talked, we have had testimony from dispatchers
 23 who admit and acknowledge that what they do when they get calls
 24 on nonemergency line after hours is send them over to a deputy, a
 25 deputy, a supervisor, a sergeant. After that, the dispatchers

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1 officers are contacted on the street. You heard testimony from
 2 Deputy Kern who said I answer the phone after hours when I'm
 3 there. You heard the testimony of Deputy Kern who said people
 4 knock on the door and I open the door.

5 So again, my client and I understand the import of the
 6 ethics law and the importance of it. I think what's of
 7 particular concern here to me is the evidence that you have heard
 8 and the testimony is that what was provided to Mrs. Antinoro on
 9 May 20, 2017, in connection with what I would not call a lengthy
 10 visit, we can quibble over that, but no more than an hour is what
 11 the evidence shows, is something that members of the community in
 12 Storey County know that they are permitted to do because they
 13 call up and it happens. I would submit to you that to deny
 14 Mrs. Antinoro this sort of a right under the circumstances cannot
 15 be what the ethics laws contemplated, because in essence it would
 16 be denying her that which other members of the general public
 17 have a right to do and that the evidence shows have done in the
 18 past.

19 So I think it is critical to note that is what the
 20 evidence shows, it's what's the documentary evidence shows, you
 21 have heard the testimony of the witnesses who talked about the
 22 use of the sheriff's office in this manner. Again, it's a small
 23 community. There are a lot of ways that people get in touch with
 24 their law enforcement officers. And perhaps it's big picture
 25 doesn't translate well into I can take this report and show you

<p style="text-align: right;">Page 182</p> <p>1 on this date at this time this is what occurred.</p> <p>2 But I think what the evidence has shown is that this is</p> <p>3 absolutely not an unwarranted benefit that was granted to my</p> <p>4 client's wife. In fact I would suggest that this case is similar</p> <p>5 in nature to one that we cited in our motion for summary</p> <p>6 judgment. It's called Thomas Cunningham. It's an Advisory</p> <p>7 Opinion No. 10-52A. This was a discussion, in a different</p> <p>8 profession, didn't have anything to do with law enforcement, but</p> <p>9 I would suggest that if the commission takes a look at that case</p> <p>10 and what that talks about, it talks about NRS 281A.400, subpart</p> <p>11 2, and there not being an unwarranted preference or advantage</p> <p>12 when the opportunity at issue is available to all persons.</p> <p>13 And I believe that that is what the evidence shows here</p> <p>14 today. And I think it shows that when you look at the testimony</p> <p>15 of those people that are actually involved in law enforcement in</p> <p>16 Storey County. And I know it doesn't translate very well perhaps</p> <p>17 to black and white, because law enforcement is not. And it</p> <p>18 simply doesn't translate to show a photograph of the front door</p> <p>19 of the sheriff's office and suggest that it's not open after</p> <p>20 regular business hours, and I don't believe that's the testimony.</p> <p>21 With respect to the allegation that my client's conduct</p> <p>22 in any way violated 281A.400, subpart 7, use of government time,</p> <p>23 property, equipment, or other facility to benefit a significant</p> <p>24 person or pecuniary interest, I would again take issue with in</p> <p>25 any way categorizing what occurred on May 20, 2017, as an</p>	<p style="text-align: right;">Page 183</p> <p>1 unwarranted benefit to Mrs. Antinoro that's not provided to other</p> <p>2 members of the community. So for starters, I don't think you</p> <p>3 need to reach the exceptions that are listed thereafter. But if</p> <p>4 we do, let's certainly talk about them.</p> <p>5 The first issue with respect to the limited use under</p> <p>6 400, 281A.400, subpart 7 and 1 and policy. There is nothing in</p> <p>7 Chapter 281A .200, subpart 7(a)(1), which suggests that something</p> <p>8 has to be in writing in order for it to be subject to this</p> <p>9 limited use exception.</p> <p>10 And I would point out this, too. My client has a</p> <p>11 policy that's really long, and that was something that was</p> <p>12 pointed out by Commissioner O'Neill, who clearly recognizes the</p> <p>13 name of the company responsible for production of the -- oh, I'm</p> <p>14 sorry, wrong commissioner. Commissioner Duffrin was familiar</p> <p>15 with Lexipol. It's a long policy, it's a big policy, it's a good</p> <p>16 policy. Law enforcement offices all over the country are always</p> <p>17 trying to better their written policies. I do a lot of work for</p> <p>18 law enforcement agencies, and that is something that is always a</p> <p>19 struggle.</p> <p>20 What I would suggest is this: It's not always possible</p> <p>21 or even beneficial for a law enforcement agency to put in writing</p> <p>22 and prepare and create a policy that is going to address every</p> <p>23 circumstance with which they might face. In fact, you heard one,</p> <p>24 you heard Deputy Kern, Sergeant Kern, excuse me, talk about the</p> <p>25 need for flexibility and discretion when it comes to what these</p>
<p style="text-align: right;">Page 184</p> <p>1 officers do when they face all myriad types of calls, and I would</p> <p>2 suggest that this clearly was something understood by the members</p> <p>3 in Storey County that they can call and speak to their law</p> <p>4 enforcement officers and ask for help when they need it. And</p> <p>5 that the fact that there is not a specific policy in this policy</p> <p>6 manual that specifically addresses child custody visitations and</p> <p>7 exchanges after hours is immaterial and does not impact that</p> <p>8 particular element.</p> <p>9 With respect to the second factor, or the second</p> <p>10 element of the limited use exception, NRS 281A.400A, subpart 2,</p> <p>11 there is absolutely no evidence whatsoever in that particular use</p> <p>12 of the sheriff's office on May 20, 2017, in any way interfered</p> <p>13 with the performance of my client's duties, nor has there even</p> <p>14 been any argument as far as I can tell about that.</p> <p>15 With respect to NRS 281A.400, subpart 3, there is also</p> <p>16 zero evidence, nor have I even heard any argument that there was</p> <p>17 any financial benefit, gain, or financial impact by what occurred</p> <p>18 on May 20, 2017, with this visit. There's no indication that</p> <p>19 anybody had to pay a deputy more because this visit happened or</p> <p>20 that this in any way, shape, or form constituted something that</p> <p>21 cost anything to the county. And in fact there's no argument of</p> <p>22 that.</p> <p>23 And I would submit this as well. I would submit that</p> <p>24 what happened on May 20, 2017, given the fact that other members</p> <p>25 of the public have used the sheriff's office for child exchanges,</p>	<p style="text-align: right;">Page 185</p> <p>1 child visits, to pick up property, because of this fact I believe</p> <p>2 absolutely there is no evidence to suggest that this visit</p> <p>3 created an appearance of impropriety. There's no evidence here,</p> <p>4 and the requester is not testifying, and has not, that Sheriff</p> <p>5 Antinoro interfered in any, shape, or form with this visit that</p> <p>6 took an hour and involved a minor child whose father hadn't seen</p> <p>7 her in six years. There is no evidence that he interfered, that</p> <p>8 he did anything but introduce himself to the requester.</p> <p>9 Under the circumstances, there is zero evidence to</p> <p>10 support any finding here that there is an appearance of</p> <p>11 impropriety that was created. And this is so because this is</p> <p>12 something that the members of the public can do and have done and</p> <p>13 put the sheriff's office, Lockwood, the jail, whatever public</p> <p>14 facility we are going to talk about, been put to that use by</p> <p>15 members of the public.</p> <p>16 Now, I don't believe there's any evidence here, as I</p> <p>17 just indicated, to suggest a violation at all. So clearly my</p> <p>18 client and I believe that there is no evidence which would ever</p> <p>19 support a willful violation under these circumstances. But in</p> <p>20 order to be thorough I will address those elements very briefly.</p> <p>21 With respect to the seriousness, the nature,</p> <p>22 circumstances, and the extent and gravity of what we are talking</p> <p>23 about, again, we are talking about a one-hour visit that occurred</p> <p>24 on one occasion on May 20, 2017, and nothing else. We aren't</p> <p>25 talking about something that was repeated or allegedly</p>

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1 rerepeated, it is one single incident, and that's what we are
 2 here to talk about. It includes a one-hour visit there. I want
 3 to talk about the reasons underlying that visit, and I know that
 4 we have talked about, I mean I think the reasons, no one would
 5 dispute that the reasons are valid, that a visit that had to do
 6 with a mother's concern over safety of a minor child and the use
 7 of the sheriff's office to facilitate such a visit is a good use
 8 of the sheriff's office and something that we want them to do and
 9 not something we would ever expect them to turn someone away on.
 10 We have talked about briefly history of prior
 11 violations. I would point out this. With respect to one of the
 12 violations discussed by the executive director, executive
 13 director's counsel, there was no willful violation with respect
 14 to one that she mentioned. There was a stipulated agreement that
 15 was entered into without a finding of a willful violation.
 16 With respect to the other matter referenced by the
 17 executive director, we are fully aware of that. We would submit
 18 that it does not suggest there should be a willful violation
 19 here, and it's actually on appeal to the Nevada Supreme Court.
 20 As to the cost to the commission for the investigation
 21 and hearing, certainly we have all spent a long time here today,
 22 and there's no doubt about it, for a very important reason. I
 23 mean this is about ethics. The fact that this may have gone all
 24 the way to a hearing today certainly shouldn't weigh against my
 25 client here at. All times during the course of this he

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1 can be no finding of a violation of any section of chapter 281A.
 2 I'm going to sit down, unless anyone has any questions
 3 for me.
 4 CHAIRMAN LAU: Any questions? Yes. Vice Chair Weaver.
 5 COMMISSIONER WEAVER: Thanks, Miss Parks. As always
 6 you have made some good arguments and some persuasive ones.
 7 One thing I'm bugged by, because you keep saying it and
 8 I keep missing it, and maybe for those of us from Fallon who get
 9 accused of not being the sharpest knives in the drawer, but you
 10 keep saying in your prehearing report on page 2, line 26, you
 11 represented again in writing that the sheriff's office is open 24
 12 hours a day, seven days a week.
 13 To me this issue, you frame the issue correctly, which
 14 is whether there is an unwarranted benefit to Mrs. Antinoro based
 15 on virtue of being married to the sheriff. If the sheriff's
 16 office is open, then all of this is for naught, because I think
 17 everybody's agreed that during normal business hours it is a
 18 place that can be used for child visitation. I always thought
 19 the issue in this case was the opening of the sheriff's office
 20 after hours. And I know you say there's no such thing as after
 21 hours, but assuming for argument for a moment it was after hours,
 22 but why do you keep saying that the sheriff's office, and
 23 representing in writing, is open 24 hours a day? I get the
 24 operational part, it's operational by virtue of it's law
 25 enforcement. Which expert or, sorry, which witness today

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1 cooperated with the commission. Although we disagreed with the
 2 executive director's position, certainly there was no effort to
 3 be uncooperative.
 4 With respect to NRS 281A.475, subpart (d), mitigating
 5 factors, I believe we have already covered that, and I think that
 6 the mitigating factors are clear, and they arise out of the minor
 7 child and those circumstances that we have already discussed.
 8 With respect to NRS 281A.475, subpart (e), restitution,
 9 there is no evidence or argument that my client benefited
 10 financially from what occurred on May 20, 2017. So that element
 11 is not a factor here, and if anything weighs against a finding of
 12 a willful violation. And there's certainly no monetary impact
 13 and no restitution to be paid to anyone.
 14 NRS 281A.485, subpart (f), again, financial gain, that
 15 simply does not apply here.
 16 So again, I want to thank the commissioners for
 17 listening to me, for listening to my client, for listening to the
 18 witnesses that we have presented. And I really think that
 19 although you can really get in the weeds sometimes when it comes
 20 down to looking at law and policies, when it comes down to
 21 discussions about what is communicated to a dispatcher or
 22 otherwise, what this is about, it comes down to this, whether or
 23 not there was an unwarranted benefited here, and there wasn't.
 24 The evidence here is that the sheriff's office was used this way
 25 by members of the public, and as a result I would suggest there

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1 testified that the sheriff's office, the one in question on main
 2 street, whatever that address is, but on main street of Virginia
 3 City, is open 24 hours a day?
 4 MS. PARKS: I thank you for the question and the
 5 opportunity to clarify. I would suggest and submit that Sergeant
 6 Kern did just that. And I guess this is the difference, and if I
 7 have quibbled about this, it's true. There's I believe, and this
 8 is my argument and this is what the evidence shows, the fact that
 9 a door is locked and that regular administrative business such as
 10 getting a dog license, paying a parking ticket, any of the other
 11 administrative items that Miss Gavenda testified that she does,
 12 the fact that those things aren't occurring, the fact that the
 13 business office is closed to me is immaterial. And it does go
 14 down to, commissioner, to the operational realities of what the
 15 Storey County Sheriff's Office is, where it's located. In fact
 16 what was testified to by Sergeant Kern is that he will be sitting
 17 in the office, and people will knock on the door, and he will
 18 open it.
 19 My issue is, again, I think it, it's the realities of
 20 law enforcement that there's a difference between the door of my
 21 office being locked after five p.m. and the door to the sheriff's
 22 office business office being locked after five p.m. Somebody
 23 calls me after hours at five p.m. and I don't want to talk to
 24 them or see them or let them into my office, so be it. I'm done.
 25 The reality is that is not the case when it comes to the Storey

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1 County Sheriff's Office. The fact that the door is locked, in my
 2 estimation, and the evidence shows, simply does not mean that it
 3 is closed for business. I just think that's just, the realities
 4 of law enforcement are different.

5 COMMISSIONER WEAVER: So even though you think that the
 6 executive commissioner has done a whole lot of parsing today,
 7 your position remains it's not parsing to say the sheriff's, I
 8 get the operational part, you are saying it's not only
 9 operational 24 hours a day, you are saying the sheriff's office
 10 is open 24 hours a day to the public for whoever wants to come
 11 and use it?

12 MS. PARKS: I don't even believe I necessarily argued
 13 that.

14 COMMISSIONER WEAVER: Well, it says the sheriff's
 15 office remains open 24 hours a day, seven days a week.

16 MS. PARKS: And that is my position when we are talking
 17 about the Storey County Sheriff's Office. We are talking about
 18 the Storey County Sheriff's Office law enforcement agency. Their
 19 job is to keep the peace in Storey County, they must do that
 20 24/7. I don't equate a locked door and the fact that people
 21 would need to either knock on the door, get in touch with a
 22 deputy to gain admittance to the business office after hours as
 23 equating to the Storey County Sheriff's Office being closed after
 24 regular business hours.

25 And I would submit that the documentary evidence that

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1 RENO, NEVADA, WEDNESDAY, OCTOBER 17, 2018, 4:55 P.M.
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4 CHAIRMAN LAU: Thank you everyone for your patience.
 5 This is the continuation of the confidential hearing regarding
 6 RFO 17-21C.

7 My fellow commissioners, I will entertain a motion
 8 regarding this matter. Commissioner Duffrin.

9 COMMISSIONER DUFFRIN: I'd like to attempt a motion
 10 here on this. I would move for commission counsel to draft a
 11 final opinion based upon the record and circumstances, including
 12 consideration of applicable law with reference to the mitigating
 13 factors contained in NRS 281A.475 and preponderance of evidence
 14 standards established in NRS 281A.480, finding that Antinoro's
 15 conduct constitutes a single violation of the ethics law
 16 pertaining to NRS 281A.400, paragraph 2, but not NRS 281A.400,
 17 paragraph 7.

18 However, such violation was not willful, and no fine
 19 should be imposed, because the welfare of a child was a proper
 20 concern of the sheriff's department and the sheriff, and there is
 21 testimony that the same accommodation would have been provided to
 22 any other member of the public.

23 So that's my motion.

24 CHAIRMAN LAU: Thank you very much. Do I hear a second
 25 to the motion?

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1 we have seen, it does suggest that that occurs. For example, at
 2 the Lockwood station at six thirty in the evening on a Sunday, I
 3 mean it happened, and I think it happens, the evidence has been
 4 that it does. So to the extent I'm parsing my words, I guess,
 5 it's a difference between a locked door and what I believe to be
 6 the sheriff's office being open.

7 COMMISSIONER WEAVER: I understand. Thank you.

8 CHAIRMAN LAU: Thank you very much. Counsel Prutzman,
 9 Counsel Parks, thank you very much for your closing statements.

10 The commission will now deliberate in a closed session
 11 on whether there are any violations of 281A based on the
 12 preponderance of evidence standard. The commission will then
 13 return to the open session to render a decision. Thank you.

14 (Closed session.)
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1 MS. CHASE: Madam Chair, Commissioner Duffrin, did you
 2 mean subsection 7 is the violation, if could you clarify that?
 3 And 2 is not the violation?

4 COMMISSIONER DUFFRIN: Yes, that's my amended motion.
 5 Sorry. A lot of numbers involved there.

6 CHAIRMAN LAU: Thank you for the amended motion.
 7 Is there a second to the motion?

8 Hearing none, I am entertaining a motion on this
 9 matter.

10 Hearing none --

11 COMMISSIONER WEAVER: I'll make a motion.

12 CHAIRMAN LAU: Okay.

13 COMMISSIONER WEAVER: I move that there's not a
 14 violation at all of NRS 400.2 or 400.7.

15 CHAIRMAN LAU: Do I have a second on that motion?

16 Hearing none, I will entertain another motion on this
 17 matter.

18 COMMISSIONER LOWRY: Madam Chair.

19 CHAIRMAN LAU: Yes.

20 COMMISSIONER LOWRY: I would move that there is no
 21 violation on 281A.400, sub 2, that there is a violation on
 22 281A.400, sub 7, that it was willful, and that there be a fine of
 23 \$500.

24 CHAIRMAN LAU: Do I hear a second on this?

25 COMMISSIONER WALLIN: Second.

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1 CHAIRMAN LAU: Thank you very much. It has been moved
 2 and seconded. Any discussion?
 3 COMMISSIONER O'NEILL: Madam Chair.
 4 CHAIRMAN LAU: Yes.
 5 COMMISSIONER O'NEILL: I can support the motion.
 6 However, I feel that the fine is insufficient since there's
 7 already been a prior fine with a fine of \$1,000. And prior to
 8 the discussion under the violation for willfulness is mitigating
 9 factors, cooperation, self-reporting, correction of violations,
 10 et cetera. Since there's already been prior findings, I question
 11 if there's been corrections made, and that the fine, I do
 12 believe, or I do feel that the \$8,000 fine is excessive. I would
 13 rather see a \$2,500 fine, and could support that motion with a
 14 correction to \$2,500.
 15 CHAIRMAN LAU: Commissioner Lowry.
 16 COMMISSIONER LOWRY: I can support that, Madam Chair.
 17 CHAIRMAN LAU: So you are changing that violation to
 18 \$2,500.
 19 COMMISSIONER WEAVER: I support the amount.
 20 CHAIRMAN LAU: There's been a second to that. Any
 21 other discussion?
 22 Hearing none, I'll call for the question. All those in
 23 favor say aye. All those opposed. There are two oppositions.
 24 MS. CHASE: Madam Chair, can I have for the record who
 25 voted ayes and who voted nays.

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1 STATE OF NEVADA,)
 2)
 3 COUNTY OF WASHOE.)
 4)
 5 I, LESLEY A. CLARKSON, Certified Court Reporter for the
 6 State of Nevada, do hereby certify:
 7 That on Wednesday, October 17, 2018, I was present and
 8 took stenotype notes of the proceedings entitled herein, and
 9 thereafter transcribed the same into typewriting as herein
 10 appears;
 11 That the foregoing transcript is a full, true and
 12 correct transcript of my stenotype notes of said proceedings.
 13 Dated at Reno, Nevada, this 16th day of
 14 March, 2019.
 15 
 16 Lesley A. Clarkson, CCR #182
 17
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1 CHAIRMAN LAU: Commissioner Wallin.
 2 COMMISSIONER WALLIN: Aye.
 3 CHAIRMAN LAU: Commissioner Lowry.
 4 COMMISSIONER LOWRY: Aye.
 5 CHAIRMAN LAU: Commissioner Weaver.
 6 COMMISSIONER WEAVER: Nay.
 7 CHAIRMAN LAU: Commissioner Lau aye.
 8 Commissioner O'Neill.
 9 COMMISSIONER O'NEILL: Aye.
 10 CHAIRMAN LAU: Commissioner Duffrin.
 11 COMMISSIONER DUFFRIN: Nay.
 12 CHAIRMAN LAU: It carries. All right. Thank you very
 13 much.
 14 (The motion was put to a vote and passed
 15 as indicated below:)
 16 MR. WEAVER: Nay.
 17 MR. O'NEILL: Aye.
 18 MR. DUFFRIN: Nay.
 19 MS. LOWRY: Aye.
 20 MS. WALLIN: Aye.
 21 MS. LAU: Aye.
 22 MS. PARKS: Thank you for your time.
 23 -o0o-
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 25

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Agenda Item 5

RFO No.	Date Filed	Jurisdiction	Subject of RFO	Requester	Status
19-016A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Pending Review by Submission
19-015C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Pending Jurisdictional Review
19-014C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Pending Jurisdictional Review
19-013C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Pending Jurisdictional Review
19-012C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Pending Jurisdictional Review
19-011C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Pending Jurisdictional Review
19-010C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Pending Jurisdictional Review
19-009A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Pending Review by Submission
19-008A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Withdrawn
19-007A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Withdrawn
19-006C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
19-005A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Opinion issued 2/19/19; Abstract Opinion Pending
19-004C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Investigation Pending
19-003A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Opinion issued 2/27/19; Confidentiality waived
19-002C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn (see 19-001C Duplicate)
19-001C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
18-145A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Stayed by Order of the Commission pending related Ethics Complaint Matter
18-144C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
18-143C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Ltr of Caution (No Jurisdiction)
18-142C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
18-141C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Ltr of Caution (No Jurisdiction)

18-140C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-139C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Investigation Pending
18-138C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
18-137A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Opinion issued 1/29/19; Abstract Opinion Pending
18-136A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Opinion issued 12/18/18; No Abstract Opinion
18-135C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-134C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-133C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-132C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-131A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Dismissed (No Jurisdiction)
18-130C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Investigation Pending
18-129A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Pending Add'l Info from Subject
18-128A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Pending Add'l Info from Subject
18-127C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-126C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-125C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-124C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-123A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Withdrawn
18-122A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Withdrawn
18-121C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Investigation Pending

18-120C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-119C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-118A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Opinion issued 12/18/18; confidentiality waived
18-117C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-116A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Opinion issued 11/1/18; Abstract Opinion issued 11/28/18
18-115C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
18-114C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Investigation Pending
18-113C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
18-112C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Investigation Pending
18-111C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Caution (Jurisdiction; No Investigation)
18-110C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn
18-109C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-108A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Withdrawn (see 18-107A Duplicate)
18-107A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Opinion issued 11/1/18; confidentiality waived
18-106C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Investigation Pending
18-105C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-104C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-103C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-102C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)

18-101C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-100C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-099C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-098C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-097C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-096C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-095C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-094C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-093C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-092C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-091C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-090C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-089C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-088C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-087C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-086C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-085C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)

18-084C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn (see 18-085C Duplicate)
18-083C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn (see 18-082C Duplicate)
18-082C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-081C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Caution (Jurisdiction; No Investigation)
18-080A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Opinion issued 11/21/18; Abstract Opinion issued 1/29/19
18-079C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-078A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Opinion issued 10/10/18; Abstract Opinion issued 11/7/18
18-077C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Investigation Pending
18-076C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn (see 18-075C Duplicate)
18-075C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Caution (Jurisdiction; No Investigation)
18-074C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed by Panel
18-073C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn (see 18-072C Duplicate)
18-072C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Deferral Agreement 1/16/19
18-071C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-070C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-069C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-068C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-067C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-066C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn (see 18-065C Duplicate)
18-065C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-064C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Investigation Pending

18-063C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-062C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Stipulated Agreement 1/16/19
18-061C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Investigation Pending
18-060C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Investigation Pending
18-059C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Caution (Jurisdiction; No Investigation)
18-058C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn (see 18-057C Duplicate)
18-057C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Deferral Agreement Pending 3/20/19
18-056C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-055C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn (see 18-056C Duplicate)
18-054C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-053C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-052C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Investigation Pending
18-051C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Instruction (Jurisdiction; No Investigation)
18-050C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Instruction (Jurisdiction; No Investigation)
18-049C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Investigation Pending
18-048C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
18-047C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn (see 18-046C Duplicate)
18-046C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-045C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn (see 18-046C Duplicate)
18-044C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Withdrawn (see 18-046C Duplicate)
18-043C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed in Part by Panel 2/20/19 with Letter of Caution; Deferral Agreement Pending 3/20/19

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18-042C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-041C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-040C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-039C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Review Panel Pending 3/20/19
18-038C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-037C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Caution (Jurisdiction; No Investigation)
18-036C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-035A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Withdrawn
18-034C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)
18-033A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Withdrawn (see 18-032C Duplicate)
18-032A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Opinion issued 7/18/18; Abstract Opinion issued 7/26/18
18-031C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Pending Adjudicatory Hearing
18-030C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation; Improper Filing)
18-029A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Opinion issued 7/18/18; Abstract Opinion issued 8/9/18
18-028C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed by Panel with Letter of Caution 2/20/19
18-027A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Opinion issued 7/18/18; Abstract Opinion issued 10/10/18
18-026C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (No Jurisdiction; No Investigation)

18-025C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
18-024C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed by Panel with Letter of Instruction 12/4/18
18-023C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Instruction (Jurisdiction; No Investigation)
18-022C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
18-021A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Opinion issued 6/1/18; Abstract Opinion issued 7/26/18
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 (Jurisdiction; No Investigation)
18-016C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
18-015C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Opinion issued 5/30/18; Abstract Opinion issued 7/30/18
18-014C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed with Letter of Caution (Jurisdiction; No Investigation)
18-013A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Withdrawn
18-012A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Withdrawn
18-011C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Investigation Pending
18-010C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
18-009A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Closed with Notice of Jurisdiction
18-008A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Withdrawn
18-007A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Closed with Notice of Jurisdiction
18-006A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Opinion issued 4/26/18; Abstract Opinion issued 6/27/18
18-005C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Review Panel Pending 3/20/19

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)
17-49A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Dismissed (No Jurisdiction; No Investigation)
17-48C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Opinion issued 12/19/17; Abstract Opinion issued 2/13/18
17-47A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	Opinion issued 12/5/17; confidentiality waived
17-46C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed (Jurisdiction; No Investigation)
17-45C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Dismissed 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	Self	Opinion issued 12/14/17; Abstract Opinion issued 2/13/18
17-41A	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	Self	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	Self	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	Stipulated Agreement 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
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	Self	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	Stipulated Agreement 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	Opinion issued 2/27/19; Pending Potential Reconsideration/ Judicial Review

↑ FISCAL YEAR 2016-2017 ↑

16-54C	XXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	Pending Litigation
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↑ FISCAL YEAR 2015-2016 ↑



STATE OF NEVADA COMMISSION ON ETHICS

Meeting Dates for 2019 (3rd Wednesday of Each Month)*

January 16th

February 20th

March 20th

April 17th

May 22nd

June 19th

July 17th

August 21st

September 18th

October 16th

November 13^{th*} (2nd Wed.)

December 11^{th*} (2nd Wed.)

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March 13, 2019

Senate Bill 129: Proposed Amendments

Section 7: Include any “legally protected right” along with “any privilege or immunity,” such as the Constitutional Right against self-incrimination. Also include the opportunity to consult with legal counsel.

1. *Every public officer or employee of the State or one of its political subdivisions, regardless of whether he or she is otherwise subject to the provisions of this chapter, shall cooperate with the Commission in any lawful investigations or proceedings of the Commission and furnish information and reasonable assistance to the Commission or its authorized representative, except to the extent that the public officer or employee is entitled to:*
 - (a) *Any legally recognized right, privilege or immunity, other than any common-law privilege or immunity abrogated pursuant to NRS 281A.185; or*
 - (b) *Any confidentiality or other protection recognized by law.*
2. *If a public officer or employee is entitled to any protection pursuant to paragraph (a) or (b) of subsection 1, that protection extends only to matters within the scope of the protection, and the public officer or employee shall comply with the provisions of subsection 1 to the fullest extent possible regarding all matters outside of the scope of the protection.*
3. *A public officer or employee subject to this section may consult with legal counsel, including, without limitation, the official attorney of the state agency or local agency before being required to cooperate as required by subsection 1.*

Possibly define official attorney for entire chapter as we define it in Sections 13 and 46?

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Section 11, Subsection 1: Delete broad/ambiguous language: “that undermines the people’s faith in the integrity or impartiality of public officers and employees.”

1. *A public officer or employee shall not use the public officer’s or employee’s position or power in government to take any actions or compel a subordinate to take any actions that a reasonable person would find, based on the given set of facts and circumstances, to be a gross or unconscionable abuse of official position or power that undermines ~~the people’s faith in the~~ his or her integrity or impartiality. ~~of public officers and employees.~~*
2. *The provisions of this section must not be interpreted to apply to any allegations claiming only bias, error or abuse of discretion in any findings, decisions, policy-making or other actions taken by a public officer or employee within the normal course and scope of his or her position or power in government.*

Sections 12 and 36 (NRS 281A.500): Bill seeks to eliminate failure to file form as an Ethics Violation subject to penalties and instead impose automatic administrative fines consistent with the fines issued by the Secretary of State for Financial Disclosure Statements. As a result of fiscal impact to Commission (State) to implement, this Amendment would delete Section 12 which imposes the new administrative fines and return Section 36 (NRS 281A.500) to its existing language (Minus Willfulness) creating a violation of the Ethics Law for failure to file. The amendment would replace section 12 or otherwise include a new subsection in Section 36 (NRS 281A.500), with new language consistent with NRS 281.574 – requiring list of public officers to be sent to the Commission each year as follows:

NRS 281A.500 Notice and acknowledgment of statutory ethical standards: Distribution of information regarding standards; duty to file acknowledgment; contents; form; retention; penalty for willful refusal to file.

1. On or before the date on which a public officer swears or affirms the oath of office, the public officer must be informed of the statutory ethical standards and the duty to file an acknowledgment of the statutory ethical standards in accordance with this section by:

(a) For an appointed public officer, the appointing authority of the public officer; and

(b) For an elected public officer of:

(1) The county and other political subdivisions within the county except cities, the county clerk;

(2) The city, the city clerk;

(3) The Legislative Department of the State Government, the Director of the Legislative Counsel Bureau; and

(4) The Executive Department of the State Government, the Director of the Department of Administration, or his or her designee.

2. Within 30 days after a public employee begins employment:

(a) The Director of the Department of Administration, or his or her designee, shall provide each new public employee of a state agency with the information prepared by the Commission concerning the statutory ethical standards; and

(b) The manager of each local agency, or his or her designee, shall provide each new public employee of the local agency with the information prepared by the Commission concerning the statutory ethical standards.

3. Each public officer shall acknowledge that the public officer:

(a) Has received, read and understands the statutory ethical standards; and

(b) Has a responsibility to inform himself or herself of any amendments to the statutory ethical standards as soon as reasonably practicable after each session of the Legislature.

4. The acknowledgment must be executed on a form prescribed by the Commission and must be filed with the Commission:

(a) If the public officer is elected to office at the general election, on or before January 15 of the year following the public officer's election.

(b) If the public officer is elected to office at an election other than the general election or is appointed to office, on or before the 30th day following the date on which the public officer swears or affirms the oath of office.

5. Except as otherwise provided in this subsection, a public officer shall execute and file the acknowledgment once for each term of office. If the public officer serves at the pleasure of the appointing authority and does not have a definite term of office, the public officer, in addition to executing and filing the acknowledgment after the public officer swears or affirms the oath of office in accordance with subsection 4, shall execute and file the acknowledgment on or before January 15 of each even-numbered year while the public officer holds that office.

6. For the purposes of this section, the acknowledgment is timely filed if, on or before the last day for filing, the acknowledgment is filed in one of the following ways:

(a) Delivered in person to the principal office of the Commission in Carson City.

(b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid. Filing by mail is complete upon timely depositing the acknowledgment with the United States Postal Service.

(c) Dispatched to a third-party commercial carrier for delivery to the Commission within 3 calendar days. Filing by third-party commercial carrier is complete upon timely depositing the acknowledgment with the third-party commercial carrier.

(d) Transmitted to the Commission by facsimile machine or other electronic means authorized by the Commission. Filing by facsimile machine or other electronic means is complete upon receipt of the transmission by the Commission.

7. If a public officer is serving in a public office and executes and files the acknowledgment for that office as required by the applicable provisions of this section, the public officer shall be deemed to have satisfied the requirements of this section for any other office held concurrently by him or her.

8. The form for making the acknowledgment must contain:

(a) The address of the Internet website of the Commission where a public officer may view the statutory ethical standards and print a copy of the standards; and

(b) The telephone number and mailing address of the Commission where a public officer may make a request to obtain a printed copy of the statutory ethical standards from the Commission.

9. Whenever the Commission, or any public officer or employee as part of the public officer's or employee's official duties, provides a public officer with a

printed copy of the form for making the acknowledgment, a printed copy of the statutory ethical standards must be included with the form.

10. The Commission shall retain each acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

11. ~~Willful~~ refusal to execute and file the acknowledgment required by this section shall be deemed to be:

~~—(a) A willful violation of this chapter for the purposes of NRS 281A.785 and 281A.790; and~~

~~—(b) Nonfeasance in office for the purposes of NRS 283.440 and, if the public officer is removable from office pursuant to NRS 283.440, the Commission may file a complaint in the appropriate court for removal of the public officer pursuant to that section. This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation of this section.~~

12. As used in this section, “general election” has the meaning ascribed to it in NRS 293.060.

Add following language (Similar to NRS 281.574):

A list of each public officer who is required to file an acknowledgment must be submitted electronically to the Commission, in a form prescribed by the Commission, on or before December 1 of each year by:

- 1. For an appointed public officer, the appointing authority of the public officer, including, without limitation:***
 - a. The Director of the Department of Administration, or his or her designee, for a public officer of the Executive Department of the State Government;***
 - b. The manager of each local agency for a public officer of a local agency; and***
 - c. The Director of the Legislative Counsel Bureau for a public officer of the Legislative Department of the State Government; and***
- 2. For an elected public officer of:***
 - (a) The county and other political subdivisions within the county except cities, the county clerk;***
 - (b) The city, the city clerk;***
 - (c) The Legislative Department of the State Government, the Director of the Legislative Counsel Bureau; and***
 - (d) The Executive Department of the State Government, the Director of the Department of Administration, or his or her designee.***

NRS 281.574 Certain public officers required to submit electronically to Secretary of State list of public officers required to file statement and candidates.

1. A list of each public officer who is required to file a financial disclosure statement must be submitted electronically to the Secretary of State, in a form prescribed by the Secretary of State, on or before December 1 of each year by:

- (a) Each county clerk for all public officers of the county and other local governments within the county other than cities;
- (b) Each city clerk for all public officers of the city;
- (c) The Director of the Legislative Counsel Bureau for all public officers of the Legislative Branch; and
- (d) The Director of the Department of Administration for all public officers of the Executive Branch.

2. Each county clerk, or the registrar of voters of the county if one was appointed pursuant to [NRS 244.164](#), and each city clerk shall submit electronically to the Secretary of State, in a form prescribed by the Secretary of State, a list of each candidate who filed a declaration of candidacy or acceptance of candidacy with that officer within 10 days after the last day to qualify as a candidate for the applicable office.

Sec. 13: - Eliminate Requirement for official attorney to create a written record to provide legal representation to public officers and employees for Advisory Opinion at state and local level; exceptions; consistent with language in NRS Chapter 41 for legal representation of public officers and employees.

1. Except as otherwise provided in this section, if a current public officer or employee of a state or local agency intends to file a request for an advisory opinion, the official attorney of the state or local agency, as applicable, shall represent the public officer or employee in proceedings concerning the request for an advisory opinion if:

(a) Within a reasonable period before filing the request for an advisory opinion, as determined by the official attorney, the public officer or employee submits a written request for legal representation to the official attorney; and

(b) Based on the given set of facts and circumstances that the public officer or employee intends to submit with the request for an advisory opinion, the official attorney determines that the past, present or future conduct on which the request for an advisory opinion will be based:

(1) Appears to be within the course and scope of the public duties or employment of the public officer or employee, including, without limitation, that the act or omission relates to the public duties of the public officer or employee and is not based solely upon the exercise of independent judgment unrelated to a public duty; and

(2) Appears to have been or will be performed or omitted in good faith.

~~*2. The official attorney shall create a written record setting forth the basis for the official attorney's determination of whether to represent the public officer or employee pursuant to paragraph (b) of subsection 1. The written record is not admissible in evidence at trial or in any other judicial or administrative proceedings in which the public officer or employee is a party, except in connection with an application to withdraw as the attorney of record.*~~

3. The official attorney is not required to represent or may, upon written notification to the Commission, withdraw representation of the public officer or employee pursuant to this section if:

- (a) *The public officer or employee employs or retains his or her own legal counsel or represents himself or herself in the matter;*
- (b) *The official attorney employs or retains special counsel to represent the public officer or employee in the matter; ~~or~~*
- (c) *The official attorney tenders the representation of the public officer or employee to an insurer who, pursuant to a contract of insurance, is authorized to represent the public officer or employee in the matter; or*
- (d) *The public officer or employee fails to cooperate in the representation of the matter or misrepresents or omits facts relevant to the request for advisory opinion to the official attorney.*
- (e) *The official attorney determines that:*
 - (i) *It is impracticable, uneconomical or could constitute a conflict of interest for the legal representation to be rendered by the official attorney; or*
 - (ii) *Becomes aware of information that the public officer or employee, in bad faith:*
 - (1) *Acted or will act outside the scope of public duties; or*
 - (2) *Failed to act or will fail to act, outside the scope of public duties.*
- (f) *The public officer or employee:*
 - (i) *Fails to cooperate in the representation of the matter;*
 - (ii) *Misrepresents or omits facts or information relevant to the allegations in the ethics complaint to the official attorney; or*
 - (iii) *If applicable, acts in contravention of any prior legal advice issued by the official attorney on the matter.*

4. Unless a public officer or employee retains his or her own legal counsel, if the official attorney of a state or local agency declines to defend a public officer or employee based solely upon the determination set forth in subparagraph (i) of paragraph (e) of subsection 3, the official attorney shall tender the representation to:

- (a) *Other appropriate legal counsel within the agency, if applicable;*
- (b) *Special counsel retained by the agency; or*
- (c) *An insurer, pursuant to a contract of insurance, who is authorized to represent the public officer or employee in the matter.*

4. 5. As used in this section, "official attorney" means:

- (a) *The Attorney General, if the proceedings involve a public officer or employee of a state agency that is represented by the Attorney General.*
- (b) *The chief legal officer or other authorized legal representative of a state agency that is authorized by a specific statute to employ or retain legal counsel other than the Attorney General, if the proceedings involve a public officer or employee of that state agency.*
- (c) *The chief legal officer or other authorized legal representative of a local agency, if the proceedings involve a public officer or employee of that local agency.*

Section 18, Subsection 7(NRS 281A.065): Eliminate any interpretation that volunteer service for example to a soup kitchen every holiday could equate to a commitment in a private capacity to that charity.

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

1. Who is the spouse or domestic partner of the public officer or employee;
2. Who is a member of the household of the public officer or employee;
3. Who is related to the public officer or employee, or to the spouse or domestic partner of the public officer or employee, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity;
4. Who employs the public officer or employee, the spouse or domestic partner of the public officer or employee or a member of the household of the public officer or employee;
5. With whom the public officer or employee has a substantial and continuing business relationship; or
6. *For whom the public officer or employee serves in a private capacity as an officer or as a member of the board of directors or in a similar fiduciary capacity;*
7. *For whom the public officer or employee serves in a private capacity as a volunteer:*
 - ~~(a) For a substantial amount of his or her personal time; or~~
 - ~~(b) , including, without limitation, on a regular or recurring basis, regardless of the amount of his or her personal time that is devoted to such service; or~~
8. With whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in subsections 1 to 5, inclusive.

Section 32 (NRS 281A.400): Confirm that modifier “significant” applies to both pecuniary and nonpecuniary personal interests.

NRS 281A.400 General requirements; exceptions. ~~A code of ethical standards is hereby established to govern the conduct of public officers and employees:~~

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity, for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity, which would tend improperly to influence a reasonable person in the public officer’s or employee’s position to depart from the faithful and impartial discharge of the public officer’s or employee’s public duties.
2. A public officer or employee shall not use the public officer’s or employee’s position in government to secure or grant *any* unwarranted privileges, preferences, exemptions or advantages 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. As used in this subsection, “unwarranted” means without justification or adequate reason.

3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and 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.

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source, for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity, for the performance of the public officer’s or employee’s duties as a public officer or employee.

5. If a public officer or employee acquires, through the public officer’s or employee’s public duties or relationships, any information which by law or practice is not at the time available to people generally, the public officer or

employee shall not use the information to further a significant pecuniary interest of the public officer or employee or any other person or business entity.

6. A public officer or employee shall not suppress any governmental report or other official document because it might tend to affect unfavorably a significant pecuniary interest of the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity.

7. 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 **or a significant nonpecuniary personal interest** of the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity. This subsection does not prohibit:

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

(1) ~~The~~ **At the time that the use occurs, the use is:**

(I) Authorized by a written policy which was adopted before the use occurs by 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 ; or~~

(II) Necessary as a result of emergency circumstances; ~~;~~, **whether or not the use is authorized by such a written policy;**

(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.

8. A State Legislator shall not:

(a) Use governmental time, property, equipment or other facility ~~for a nongovernmental purpose or for the private~~ to benefit **a significant pecuniary interest or a significant nonpecuniary personal interest** of the State Legislator or any ~~other~~ person **to whom the State Legislator has a commitment in a private capacity**. This paragraph does not prohibit:

(1) A limited use of ~~state governmental~~ property ~~and resources~~ , **equipment or other facility** for personal purposes if:

(I) The use does not interfere with the performance of the State Legislator's public duties;

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

(III) The use does not create the appearance of impropriety;

(2) 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

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

(b) Require or authorize a legislative employee, while on duty, to perform personal services or assist in a private activity, except:

(1) In unusual and infrequent situations where the **legislative** employee's service is reasonably necessary to permit the State Legislator or legislative employee to perform that person's official duties; or

(2) Where such service has otherwise been established as legislative policy.

9. A public officer or employee shall not attempt to benefit a significant ~~personal or~~ pecuniary interest **or a significant nonpecuniary personal interest** of the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity through the influence of a subordinate.

10. A public officer or employee shall not seek other employment or contracts for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity through the use of the public officer's or employee's official position.

11. As used in this section, "appearance of impropriety" means a perception by a reasonable person that, based on the given set of facts and circumstances, a public officer's or employee's limited use of governmental property, equipment or other facility for personal purposes is inappropriate, disproportionate, excessive or unreasonable under the given set of facts and circumstances.

Section 38: Subsection 5, Paragraph (c) - (NRS 281A.550): Add modifier of "materially" before "affect or influence the awarding of the contract or its implementation, management or administration" Don't want to inadvertently capture a person who has a minor role in the administration of a contract, such as a point of contact person designated in a contract for purposes of receiving notice.

NRS 281A.550 Employment of certain former public officers and employees by regulated businesses prohibited; certain former public officers and employees prohibited from soliciting or accepting employment from certain persons contracting with State or local government; request for relief from strict application of certain provisions.

1. A former member of the Public Utilities Commission of Nevada shall not:

(a) Be employed by a public utility or parent organization or subsidiary of a public utility; or

(b) Appear before the Public Utilities Commission of Nevada to testify on behalf of a public utility or parent organization or subsidiary of a public utility,

- for 1 year after the termination of the member's service on the Public Utilities Commission of Nevada.

2. A former member of the Nevada Gaming Control Board or the Nevada Gaming Commission shall not:

(a) Appear before the Nevada Gaming Control Board or the Nevada Gaming Commission on behalf of a person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS; or

(b) Be employed by such a person,
- for 1 year after the termination of the member's service on the Nevada Gaming Control Board or the Nevada Gaming Commission.

3. In addition to the prohibitions set forth in subsections 1 and 2, and except as otherwise provided in subsections 4 and 6, a **current or** former public officer or employee of a board, commission, department, division or other agency of the Executive Department of **the** State Government, except a clerical employee, shall not solicit or accept employment from a business or industry whose activities are governed by regulations adopted **or**

administered by the board, commission, department, division or other agency, *as applicable, during the public officer's or employee's period of public service or employment or* for 1 year after the termination of ~~the former public officer's or employee's~~ *his or her period of public* service or ~~period of~~ employment, if:

(a) The ~~former~~ public officer's or employee's principal duties *include or* included the formulation of policy contained in the regulations governing the business or industry;

(b) ~~During~~ *Within* the immediately preceding year, ~~the former during the public officer's or employee's period of public service or employment or within the year immediately preceding the termination of the public officer's or employee's period of public service or employment,~~ *the* public officer or employee directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry; ~~which might, but for this section, employ the former public officer or employee;~~ or

(c) As a result of the ~~former~~ public officer's or employee's governmental service or employment, the ~~former~~ public officer or employee possesses knowledge of the trade secrets of a direct business competitor.

4. The provisions of subsection 3 do not apply to a *current or* ~~former public officer who was a~~ member of a board, commission or similar body of the State if:

(a) The ~~former public officer~~ *member* is engaged in the profession, occupation or business regulated by the board, commission or similar body;

(b) The ~~former public officer~~ *member* holds a license issued by the board, commission or similar body; and

(c) Holding a license issued by the board, commission or similar body is a requirement for membership on the board, commission or similar body.

5. Except as otherwise provided in subsection 6, a *current or* former public officer or employee of the State or a political subdivision, except a clerical employee, shall not solicit or accept employment from a person to whom a contract for supplies, materials, equipment or services was awarded by the State or political subdivision, as applicable, *or was implemented, managed or administered by the State or political subdivision, as applicable, during the public officer's or employee's period of public service or employment or* for 1 year after the termination of ~~the officer's or employee's~~ *his or her period of public* service or ~~period of~~ employment, if:

(a) The amount of the contract exceeded \$25,000;

(b) The contract was awarded *or was implemented, managed or administered by the State or political subdivision, as applicable, within the immediately preceding year during the public officer's or employee's period of public service or employment or* within the ~~12-month period~~ *year* immediately preceding the termination of the *public* officer's or employee's *period of public* service or ~~period of~~ employment; and

(c) The position held by the ~~former~~ public officer or employee at the time the contract was awarded ***or while it was implemented, managed or administered by the State or political subdivision, as applicable,*** allowed the ~~former~~ public officer or employee to affect or influence the awarding of the contract- ***or materially influence its implementation, management or administration.***

6. A current or former public officer or employee may file a request for an advisory opinion pursuant to NRS 281A.675 concerning the application of the relevant facts in that person's case to the provisions of subsection 3 or 5, as applicable, and ***the Commission may*** determine whether relief from the strict application of those provisions is proper. ***For the purposes of submitting all necessary information for the Commission to render a decision and issue an advisory opinion in the matter, a current or former public officer or employee may request information concerning potential employment from any business, industry or other person without violating the provisions of subsection 3 or 5, as applicable.*** If the Commission determines that relief from the strict application of the provisions of subsection 3 or 5, as applicable, is not contrary to:

- (a) The best interests of the public;
 - (b) The continued ethical integrity of the State Government or political subdivision, as applicable; and
 - (c) The provisions of this chapter,
- it may issue an advisory opinion to that effect and grant such relief.

7. For the purposes of subsection 6, the request for an advisory opinion, ***the decision rendered,*** the advisory opinion and all meetings, hearings and proceedings of the Commission in such a matter are governed by the provisions of NRS 281A.670 to 281A.690, inclusive- , ***and section 13 of this act.***

8. The advisory opinion does not relieve the current or former public officer or employee from the strict application of any provision of NRS 281A.410.

9. ~~For~~ ***Except as otherwise provided in subsection 6, for*** the purposes of this section:

- (a) A former member of the Public Utilities Commission of Nevada, the Nevada Gaming Control Board or the Nevada Gaming Commission; or
- (b) Any other ***current or*** former public officer or employee governed by this section,

- is employed by or is soliciting or accepting employment from a business, industry or other person described in this section if any oral or written agreement is sought, negotiated or exists during the restricted period pursuant to which the personal services of the public officer or employee are provided or will be provided to the business, industry or other person, even if such an agreement does not or will not become effective until after the restricted period.

10. As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038 and also includes regulations adopted ***or administered***

by a board, commission, department, division or other agency of the Executive Department of **the** State Government that is exempted from the requirements of chapter 233B of NRS.

Sec. 46: Eliminate Requirement for official attorney to create a written record to provide defense to public officers and employees for Ethics Complaint at state and local level; exceptions; consistent with language in NRS Chapter 41 for legal representation of public officers and employees.

NRS 281A.705 is hereby amended to read as follows:

1. ~~[(1)]~~ ***Except as otherwise provided in this section, if*** an ethics complaint is filed with or initiated by the Commission concerning a ~~[present]~~ **current** or former ~~[state]~~ **public** officer or employee ~~[, unless the state officer or employee retains his or her legal counsel or the Attorney General tenders the defense of the state officer or employee to an insurer who, pursuant to a contract of insurance, is authorized to defend the state officer or employee, the Attorney General]~~ **of a state or local agency, the official attorney of the state or local agency, as applicable,** shall defend the ~~[state]~~ **public** officer or employee ~~[or employ special counsel to defend the state officer or employee in any proceeding relating to]~~ **in proceedings concerning** the ethics complaint if:

(a) The ~~[state]~~ **public** officer or employee submits a written request for defense ~~[in the manner provided in NRS 41.0339;]~~ **to the official attorney;** and

(b) Based on the facts and allegations known to the ~~[Attorney General, the Attorney General]~~ **official attorney relating to the ethics complaint, the official attorney** determines that the act or omission on which the alleged violation is based:

(1) Appears to be within the course and scope of **the** public ~~[duty]~~ **duties** or employment of the ~~[state]~~ **public** officer or employee, **including, without limitation, that the act or omission relates to the public duties of the public officer or employee and is not based solely upon the exercise of independent judgment unrelated to a public duty;** ~~and~~

(2) Appears to have been performed or omitted in good faith; **and**

(3) **If applicable, appears to be in compliance with any prior legal advice issued to the public officer or employee by the official attorney on the matter after the public officer or employee provided all material facts to the official attorney.**

2. ~~The [Attorney General] official attorney shall create a written record setting forth the basis for the [Attorney General's] official attorney's determination of whether to defend the [state] public officer or employee pursuant to paragraph (b) of subsection 1. The written record is not admissible in evidence at trial or in any other judicial or administrative [proceeding] proceedings in which the [state] public officer or employee is a party, except in connection with an application to withdraw as the attorney of record.~~

3. ***If the facts and allegations relating to the ethics complaint concern any alleged violations that occurred after the end of the public officer's or employee's period of public service or employment with the agency, the official attorney is not required to defend the public officer or employee with regard to those alleged violations, unless the official attorney provided legal advice to the public officer or employee relating to the subject matter of those alleged***

violations before the end of the public officer's or employee's period of public service or employment with the agency.

4. The official attorney is not required to defend or may, upon written notification to the Commission, withdraw defense of the public officer or employee pursuant to this section if:

(a) The public officer or employee employs or retains his or her own legal counsel or represents himself or herself in the matter;

(b) The official attorney employs or retains special counsel to defend the public officer or employee in the matter; ~~or~~

(c) The official attorney tenders the defense of the public officer or employee to an insurer who, pursuant to a contract of insurance, is authorized to defend the public officer or employee in the matter; ~~or~~

(d) The official attorney determines that:

(i) It is impracticable, uneconomical or could constitute a conflict of interest for the legal defense to be rendered by the official attorney; or

(ii) Becomes aware of information that the public officer or employee acted outside the scope of public duties or acted or failed to act in a manner required by this chapter in bad faith.

(e) The public officer or employee:

(i) Fails to cooperate in the representation of the matter;

(ii) Misrepresents or omits facts or information relevant to the allegations in the ethics complaint to the official attorney; or

(iii) If applicable, acts in contravention of any prior legal advice issued by the official attorney on the matter.

5. Unless a public officer or employee retains his or her own legal counsel, if the official attorney of a state or local agency declines to defend a public officer or employee based solely upon the determination set forth in subparagraph (i) of paragraph (d) of subsection 4, the official attorney shall tender the defense to:

(a) Other appropriate legal counsel within the agency, if applicable;

(b) Special counsel retained by the agency; or

(c) An insurer, pursuant to a contract of insurance, who is authorized to defend the public officer or employee in the matter.

~~5.~~ 6. As used in this section, "official attorney" means:

(a) The Attorney General, if the proceedings involve a public officer or employee of a state agency that is represented by the Attorney General.

(b) The chief legal officer or other authorized legal representative of a state agency that is authorized by a specific statute to employ or retain legal counsel other than the Attorney General, if the proceedings involve a public officer or employee of that state agency.

(c) The chief legal officer or other authorized legal representative of a local agency, if the proceedings involve a public officer or employee of that local agency.

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March 13, 2019

BDR 23-191 Summary (with Amendments)

The Commission's bill addresses a multitude of administrative, procedural and substantive amendments to Nevada's Ethics in Government Law set forth in NRS Chapter 281A.

The Bill addresses the following topics:

- 1) Requests for Advisory Opinion
- 2) Ethics Complaints
- 3) Ethical Standards of Conduct
- 4) Acknowledgment Forms – List of Government Agency Public Officers
- 5) Legal Defense of Public Officers/Employees Before Commission
- 6) Open Meeting Law Exemption/Application
- 7) Jurisdiction of State Legislators
- 8) Administrative Amendments

1. Requests for Advisory Opinions

- A special or local ethics committee or agency legal counsel may now seek advisory opinions.
- Commission may seek additional information from state or local agency legal counsel regarding request for advisory opinion; must retain confidentiality of subject.
- 2-year statute of limitations for past conduct.
- Stays and dismissals upon filing of related ethics complaint.
- Clarifying scope of waivers of confidentiality to opinion, information, hearing transcript or all.
- Distinction between issuing a decision versus a written opinion; extra time to issue written opinion.
- Materials and hearing are confidential and exempt from Open Meeting Law. Commission **may** hold open hearing upon waiver of confidentiality in accordance with regulations of Commission.

2. Ethics Complaints

- Preliminary investigations before jurisdictional determination and anonymous complaint with otherwise publicly available that could have been readily discovered or is independently verified by Commission or staff as reliable and accurate.
- Commission is authorized to extend 45-day deadline to determine jurisdiction/investigation based upon showing of good cause.
- Commission may dismiss complaint initiated on its own motion with a confidential letter of caution or instruction.
- Commission will serve a "Notice of Investigation" instead of a copy of the ethics complaint.
- Clarifies that consistent with existing subpoena power, Subject of a complaint must participate in an investigation regardless of whether they file a written response to the allegations; exceptions if immunities or other privileges apply.
- Review Panel may grant an extension from 70-day timeline to investigate a case for good cause shown.
- Clarifies that the parties to adjudicatory proceedings after investigation include the Executive Director and Subject of the complaint who may each present/defend their cases to the Commission after the Commission issues a written notice of hearing and schedule for discovery.
- Distinction between issuing a decision versus a written opinion; extra time to issue written opinion.
- Written opinions must state findings of fact and conclusions of law and comply with Nevada's Administrative Procedures Act (NRS 233B).
- Clarifies the protections for confidentiality of the identity of person who files an ethics complaint, including when they otherwise serve as witnesses.
- Confirms that evidence presented at an adjudicatory hearing will become public records after the final action, as hearings are exempt from OML.
- Materials and hearings are exempt from OML (except final action). Clarifies that exemption exists even for final action, but the Commission will make its final decision in an open hearing in accordance with regulations of Commission.

- Eliminates distinction between an ethics violation versus a willful violation; instead Commission will evaluate seriousness/severity of a violation to determine penalties/sanctions.
 - o Safe Harbor protections for public officers and employees who rely in good faith upon legal determination of agency counsel will now receive full safe harbor from a violation, not just from a finding of willfulness.
 - o Removal statutes which authorize or mandate the Commission to move for removal of a public officer/employee for certain number of willful violations will now require finding of a violation and imposition of an penalty of \$5,000 or more for one violation and \$10,000 or more for more than one violation.

3. Ethical Standards of Conduct

- Clarifies scope of standards that apply to current and former public officers and employees.
- Clarifies standards are cumulative and supplement each other (separate statutory standards may apply as separate violation to same circumstances).
- Codifies Commission opinions interpreting commitment-based conflicts to include relationships to entities with which public officer or employee holds fiduciary/volunteer relationship.
 - o **AMENDMENT** – Clarify that volunteer relationships must be substantial, including on a recurring or regular basis.
- Establishes new and amends existing standards of conduct (prohibitions):
 - o Cooling Off:
 - Confirms that prohibitions apply to current and former public officers and employees.
 - Expands prohibition against a public officer/employee leaving public service to work for a vendor to which the officer or employee was involved in “awarding” a contract over \$25,000 during the preceding year to any contract in which the public officer or employee was involved in the awarding, implementation, management or administration of such a contract.
 - **AMENDMENT** – Add modifier “material” to cover those employees who materially implement, manage or administer such a contract.
 - Authorizes public officers/employees to request information from a potential employer in a business or industry without being deemed to improperly negotiate future employment.
 - o Reverse Cooling-Off:
 - Prohibits public officers and employees (for one year) from seeking or securing benefit to their personal interests or the interests of persons to whom they commitments (certain relationships) related to a matter in which they acted in an official capacity in the immediately preceding year; exceptions.

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- Abuse of Power/Authority:
 - Prohibits actions by public officers/employees that a reasonable person would find gross/unconscionable abuse of official position undermining faith, integrity or impartiality of public officer;
 - Does not include allegations of bias, error or abuse of discretion within normal scope of duties.
 - **AMENDMENT** – Take out vague language re: “people’s faith in ...”
- Misuse of Government Resources:
 - Clarifies and makes consistent prohibition of public officer/employee and State Legislator from using government resources for significant pecuniary or nonpecuniary personal interest.
 - **AMENDMENT** – Clarify that modifier “significant” applies to both pecuniary and nonpecuniary interests.
 - Clarifies 2 of the 4 requirements of the limited-use exception: 1) to allow use if there is a **written** policy allowing such use **before** the conduct; and 2) defines “appearance of impropriety” as a perception by a reasonable person that the use is inappropriate, disproportionate, excessive or unreasonable.
- Improper Influence of a Subordinate:
 - Clarifies that probation against improper influence of subordinate is tied to significant pecuniary or nonpecuniary personal interest.
- Disclosure/Abstention:
 - New limited exception from disclosing certain information for legally protected confidential relationships (i.e. attorney/client) – abstention mandatory in such circumstances.
 - Adds abstention requirement for matters that are materially affected by the nature of private representations of private clients within the preceding year.
- Prohibited Contracts with Government Agencies:
 - Limits scope of prohibited government contracts by public officers/employees to agencies which employ or interact with the public officer/employee.
 - Clarifies the exceptions to prohibited contracts by delineating distinction between open-competitive contracts and contracts not suited to competitive process.
- Prohibited Honoraria – exceptions:
 - Makes conforming change to capture domestic partners along with spouses where applicable.

4. Acknowledgment Forms – Fines

- Eliminates failure to file form or timely file form as ethics violation.
- Establishes administrative fines for failure to file or timely file form.
 - Fee structure modeled after fines attributed to failure to file Financial Disclosure Statements with Secretary of State.
 - **AMENDMENT** – Delete Section; Would require fiscal impact – Instead copy NRS 281.574 into NRS 281A.

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5. Legal Defense of Public Officers/Employees Before Commission

- Existing law requires Nevada Attorney General to provide legal defense to public officers and employees of Executive Department of State Government regarding Requests for Advisory Opinions and Ethics Complaints before Commission.
- Bill expands legal representation/defense mandate to all levels of government, state and local, by agency counsel.
- Exceptions: Agency Counsel may determine whether conduct falls outside scope of official duties and was/will be performed in good faith.
- **AMENDMENT** – Eliminate duty of attorney to create written record; Expand exceptions where representation/defense is not available/mandatory.

6. Open Meeting Law Exemption/Application

- Under current law, the Commission is exempt from OML for its proceedings regarding requests for advisory opinions, review panels and for its receipt of information and deliberations regarding ethics opinions. Final actions taken in an ethics complaint must comply with OML.
- This bill requests complete exemption from OML and instead provides that the Commission will take final action in an open meeting defined under its regulations, but that is not required to comply with the notice, agenda and supplemental materials requirements of OML for confidential documents and scheduling/noticing challenges for cases.
- OML also now requires that a public body take legal action regarding litigation in an open, public meeting under OML. This bill authorizes the Commission to delegate litigation decisions to its Chair, Executive Director or both and to allow Commission Counsel to initiate, defend, participate and appeal in legal proceedings with consent or ratification of Commission or Chair/Executive Director (if so delegated).

7. Jurisdiction of State Legislators

- Current law limits Commission's jurisdiction of State legislators to conduct that does not constitute a core legislative function or that implicates legislative privilege and immunity. Only the Legislator's own house can discipline a legislator for this conduct.
- The Commission has litigated the scope of its jurisdiction when a state legislator asserts the privilege before the Commission has conducted an investigation to determine whether the privilege applies. The Nevada Supreme Court did not reach a decision on the merits.
- This Bill authorizes the Commission to conduct preliminary investigations and direct its Executive Director to refer a matter or file a complaint against a State Legislator in the Legislator's respective House Ethics Committee for conduct determined not to be within the jurisdiction of the Commission.

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8. Administrative

- Chair's duties may be assigned to Vice-Chair or other members of the Commission. Chair/Presiding officer may administer oaths.
- Executive Director must be licensed attorney in Nevada.
- Review Panel – prepare/serve written Panel Determinations; deadlines for deferral agreements; mediate settlements.
- Requires law enforcement officers to serve process on behalf of the Commission and execute lawful orders of the Commission.
- Requires all public officers and employees to cooperate in Commission's lawful investigations or proceedings and furnish information unless limited privileges, immunities or confidentiality apply.
 - o **AMENDMENT** – Clarify exceptions for rights/privileges/immunities and right to consult legal counsel.
- Published Commission opinions will be deemed administrative, persuasive precedent for future cases and not ad hoc rule-making.