



Denver Board Of Ethics

Webb Municipal Building
201 West Colfax, 2nd Floor - (2.H-13)
Department 703 (for U.S. Mail)
Denver, CO 80202-5330
p: 720.865.8412
f: 720.865.8419
Email: michael.henry@denvergov.org
www.denvergov.org/ethics

February 26, 2018

Mr. Reid Elkus
Attorney at Law
501 South Cherry Street #920
Denver, CO 80246

RE: Cases 17-30 and 17-31 – your complaints on behalf of the Fraternal Order of Police concerning Connie Coyle and Bryan Moore

Dear Mr. Elkus:

On February 21, 2018 the Denver Board of Ethics considered the complaints that you filed on November 9, 2017.

The facts as the Board understands them are as follows. You are the attorney for the Fraternal Order of Police, the union representing most of the Denver deputy sheriffs. Bryan Moore is a major in the Denver Sheriff Department (DSD). Connie Coyle is an assistant chief in DSD.

In summary, the complaints allege that:

- DSD organized a promotional process for sergeants who wished to compete for promotion to captain.
- Chief Coyle organized and oversaw the department's four majors "as a workgroup to develop test content" for the promotional process.
- "All of the majors in the agency participated in meetings, discussions and communications for the purpose of developing the test material...Major Moore was engaged in the process of developing test content for this promotional process.
- Major Moore is married to a Denver Sheriff Sergeant who tested for the position of captain. Major Moore's brother-in-law...also participated in the promotional process for the rank of captain.
- After the examinations, which occurred on August 9, 2017, Major Moore's spouse finished in the number 2 position for promotion and his brother-in-law finished in the number 3 position for promotion.
- Chief Coyle should have kept Major Moore from participating in developing the test content for the promotional process.

Executive Director
L. Michael Henry

Board Members
Patrick D. Tooley – Chair
Julia C. Yeckes – Vice Chair
Roy V. Wood
Andrew S. Armatas
Sylvia Smith

If it could be proven that Major Moore communicated the content of the promotional examination, that could constitute use of public office for private gain, which is prohibited by Section 2-67 of the Code of Ethics:

Sec. 2-67. Use of public office for private gain.

No officer, official or employee shall use his or her public office or position or disclose or use confidential information in order to obtain private gain for himself or herself, for his or her immediate family, for any business entity with which he or she is affiliated or for any person or entity with whom the officer, official or employee is negotiating or has any arrangement concerning prospective employment. (emphasis added)

Both Major Moore's sister and his brother-in-law are members of his immediate family, as defined in Section 2-52(c) of the Code of Ethics.

Such conduct could also violate Section 2-68 of the Code of Ethics:

Sec. 2-68. Use of confidential records

No officer, official or employee may disclose any information or records that are not available to the public, which were acquired in the course of official duties, except in the performance of official duties or as required by law or court order.

Chief Coyle's alleged awareness and involvement, if proven, could be a violation of Section 2-69:

Sec. 2-69. Aiding others

No officer, official or employee may knowingly aid or assist any officer, official or employee in the violation of any provision of this code of ethics.

The Board of Ethics reviewed a confidential investigative report prepared by an outside investigator, which was submitted to the Sheriff Department. According to the Deputy Director of Safety:

We are closing the matter with findings of no policy violations. We are going to address the question of policy or protocol changes to get in front of issues like those raised in this investigation.

In summary, the investigative report concluded that it could not be proven by the "preponderance of the evidence" standard of proof used in DSD disciplinary matters that there was any violation of DSD policies by either Chief Coyle or Major Moore.

The standard of proof required for the Board of Ethics to find a violation of the Code of Ethics is the higher standard of "clear and convincing evidence."

The Board of Ethics dismissed both complaints based on (a) the Board's independent review of the investigative report and (b) the Board's determination that a violation of the Code of Ethics could not be proven by clear and convincing evidence based on the facts as the Board understands them, particularly

in light of DSD's determination that a finding of wrongdoing was not supported by a preponderance of evidence.

By copy of this letter, the Board will also communicate to the Manager of Safety, the Deputy Manager of Safety and the Sheriff that the Sheriff Department should consider protocol or policy changes to address potential conflicts of interest regarding promotional examinations and examinations to enter the Sheriff Academy. The facts as the Board understands them creates a strong appearance of impropriety which potentially undermines the confidence of the members of DSD and the public in the fairness and integrity of the promotional process, all of which could be avoided if DSD had better safeguards in place.

The Board thanks you for submitting these complaints.

For the Board of Ethics:

A handwritten signature in black ink, appearing to read "Patrick D. Tooley". The signature is written in a cursive style with a large initial "P" and "T".

Patrick D. Tooley
Chair

Copies: Chief Connie Coyle
Major Bryan Moore
Assistant City Attorney Karla Pierce
Assistant City Attorney Jennifer Jacobson
Sheriff Patrick Firman
Executive Director of Safety Troy Riggs
Deputy Director of Safety Jess Vigil