BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:  

BELINDA STEWART,  
Respondent.  

OAH Docket No. 2012-EEB-0006  
EEB No. 2011-015  
FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
FINAL ORDER

I. PROCEDURAL HISTORY

1.1 The Executive Ethics Board (Board) staff received three complaints on February 16, 2011, March 1, 2011, and March 21, 2011 alleging that Belinda Stewart, Communications and Outreach Director for the Department of Corrections (DOC), may have violated the Ethics in Public Service Act, chapter 42.52 RCW, by using state resources to promote and support non-profit organizations and may have used her position to secure special privileges for herself or other persons.

1.2 On September 9, 2011, the Board found reasonable cause to believe that a violation of the Ethics in Public Service Act occurred.

1.3 A prehearing conference, in which all parties participated, was held on May 21, 2012 with an Administrative Law Judge (ALJ) presiding pursuant to RCW 42.52.500.

1.4 After due and proper notice, a two-day hearing was held before the Board. The hearing was held at the Board offices at Bristol Court in Olympia, Washington, convening on January 9, 2013 at 9:00 AM. ALJ Alice L. Haenle from the Office of Administrative Hearings
conducted the proceedings, and Board Chair Lisa Marsh, Vice Chair Anna Dudek Ross, and members Michael Bahn, Matthew Williams III, and Samantha Simmons were present. Also present was Bruce L. Turcott, Assistant Attorney General, legal advisor to the Board.

1.5 Board staff was represented by Chad Standifer, Assistant Attorney General. The Board’s Executive Director Melanie de Leon and other Board staff members were present.

1.6 Respondent Belinda Stewart was present and represented by G. Saxon Rogers, attorney at law.

1.7 Board Staff offered Exhibits 1-38, which included Exhibits 24a and 27a. All were admitted into evidence. The Board was provided copies of documents that were admitted as exhibits.

1. Belinda Stewart Department of Corrections (DOC) Employment History (1 page);

2. Belinda Stewart DOC “Communications and Outreach Director” Position Description dated July 27, 2010 (6 pages);

3. Belinda Stewart DOC “Communications and Outreach Director” Position Description dated May 18, 2009 (7 pages);

4. DOC Communications Department Organization Chart dated April 22, 2010 (1 page);

5. E-mail from Benjamin McDonald (DOC) regarding “Reentry Program Manager” job duties dated April 30, 2008 (2 pages);

6. Washington Secretary of State Certification of Existence of *National Association of Women in Criminal Justice* dated July 26, 2011, and related documents filed with Secretary of State (10 pages);

7. Washington Secretary of State Certificate of Delinquency of *Faith Based Reentry Coalition of Washington State* dated July 26, 2011, and related documents filed with Secretary of State (6 pages);

8. Washington Secretary of State information regarding the *Washington Chapter of the National Association of Blacks in Criminal Justice* (3 pages);

9. Washington Department of Licensing information regarding Belinda Stewart as a sole proprietor dated August 19, 2011 (1 page);
10. DOC Policy Number 860.200, Employment/Volunteering of Relatives/Household Members dated November 20, 2008 and December 28, 2009 (4 pages);

11. Belinda Stewart Outlook Calendars, January 2008 to June 2011 (42 pages);

12. Summary of Tanya Nozawa’s work and Outlook Calendars (72 pages);

13. Rowlanda Cawthon’s Outlook Calendars, January 2008 to June 2011 (42 pages);

14. Maria Peterson’s Outlook Calendars, January 2008 to June 2011 (42 pages);

15. Melissa Johnson’s Outlook Calendars, January 2008 to June 2011 (42 pages);

16. Fax from Thomas DeLong to DOC Secretary Eldon Vail dated February 8, 2011 (2 pages);

17. Miscellaneous Documents regarding NAWCJ (23 pages);

18. Email from Melissa Johnson dated February 19, 2010 regarding the NAWCJ Conference (2 pages);

19. Miscellaneous documents regarding NAWCJ (39 pages);

20. Miscellaneous documents regarding NAWCJ events (13 pages);

21. DOC Travel and Expense Management System TVS History Report regarding travel by Belinda Stewart for NABCJ (9 pages);

22. Miscellaneous documents regarding Faith Based Reentry Coalition (39 pages);

23. Miscellaneous documents relating to the National Institute of Corrections (NIC) New Warden training (18 pages);

24. DOC Policy Number 850.025, Outside Employment/Volunteer Activities dated March 1, 2010 (4 pages);

24a. DOC Policy Number 850.025, Outside Employment/Volunteer Activities dated November 19, 2007 (4 pages);

25. DOC Policy Number 290.400, Fundraising to Support Charities dated September 18, 2007 (3 pages);

26. DOC Policy Number 800.020, Use of State Resources dated March 4, 2011 (6 pages);

27. DOC Policy Number 800.010, Ethics dated December 11, 2006 (5 pages);
27a. DOC Policy Number 800.010, Ethics dated March 8, 2008, April 17, 2009, and August 6, 2010 (16 pages);

28a. E-mail from Dell-Autumn Witten to Kathy Smith dated October 4, 2010, with attached draft of Use of State Resources policy (6 pages);

b. E-mail from Dell-Autumn Witten to Kathy Smith dated October 15, 2010 with attached draft of Use of State Resources policy; and E-mail from E-mail from Dell-Autumn Witten to Belinda Stewart and Secretary Eldon Vail dated October 15, 2010 with attached draft of Use of State Resources policy (14 pages);

c. E-mail from Belinda Stewart to Secretary Eldon Vail and Kathy Smith dated October 18, 2010 (1 page);

d. E-mail from Kathy Smith to Dell-Autumn Witten dated November 9, 2010 with attached draft of Use of State Resources policy (7 pages);

e. E-mail from Belinda Stewart to Dell-Autumn Witten dated December 9, 2010, and e-mail from Kathy Smith dated November 17, 2010 to DOC Leadership Team (2 pages);

29. Memorandum of Understanding between DOC and NAWCJ dated March 10, 2011 and miscellaneous documents (10 pages);

30. Documents regarding Gozart retirement party (7 pages);

31. Belinda Stewart DOC Training Record dated August 18, 2011 (5 pages);

32. DOC Policy Number 830.100, Leave dated October 30, 2008 (12 pages);

33. Belinda Stewart Leave History (5 pages);

34. DOC Internal Investigative Report (559 pages);

35. Preliminary Investigation and Board Determination in Case No. 2011-015, Belinda Stewart, dated September 9, 2011 (26 pages);

36. Response to Reasonable Cause Determination dated September 28, 2011 (79 pages);

37. Deposition Transcript of Belinda Stewart dated November 14, 2012 (74 pages); and

38. Complaints filed with Executive Ethics Board by Michael Hanbey on February 16, 2011 (2 pages), Senator Mike Carrell on March 21, 2011 (151 pages), and Anonymous Complainant on March 1, 2011 (114 pages).
1.8 Respondent offered Exhibits A-K. All were admitted into evidence. The Board was provided copies of documents that were admitted as exhibits.

A. Written response of Belinda Stewart, with exhibits, to accusations from EEB dated October 6, 2011 (pages A-1 through A-63);
B. Deposition transcript of Melanie de Leon dated October 19, 2012 (pages B-1 through B-95);
C. Notification from Secretary Vail regarding appointment of Belinda Stewart as Communications Director dated May 6, 2008 (pages C-1 through C-3);
D. Letter from NABCJ acknowledging Secretary Vail’s authorization of attendance at the National Conference dated August 23, 2000 (pages D-1 through D-2);
E. Directives to the deputies group from Superintendent Belinda Stewart regarding attendance of NABCJ and WCA annual conference dated June 16, 2003 (pages E-1 and E-2);
F. Letter from Belinda Stewart to Secretary Vail regarding participation in NAWCJ dated July 28, 2012 (pages F-1 and F-2);
G. Memorandum of Understanding between DOC and NAWCJ dated March 11, 2011, pages G-1 through G-3;
H. Memorandum of Understanding between DOC and WCA, dated March 11, 2011 (pages H-1 through H-3);
I. Email from Kathy Smith to Belinda Stewart re: Ethics Board review and Safe Harbor policies dated September 10, 2010 (pages I-1 through I-3);
J. Memo from Belinda Stewart seeking authorization for State reimbursement to attend NABCJ conference dated May 30, 2001 (page J-1);
K. Membership card of Scott Blonien for NABCJ dated expiration January 17, 2010 (page K-1).

1.9 The proceedings were recorded and open to the public.

1.10 The Board heard the testimony of Melanie de Leon, Belinda Stewart, Scott Blonien, and Eldon Vail.

1.11 The hearing was adjourned on January 10, 2013.

Based on the evidence presented, the Board enters the following Findings of Fact, Conclusions of Law and Final Order:
II. FINDINGS OF FACT

2.1 At all times pertinent to this matter, Belinda Stewart was employed by DOC. In May 2008, Ms. Stewart became the agency’s Communications and Outreach Director. The objective of this position is to develop, coordinate and implement strategies for responding to the press and communicating newsworthy items and to educate the public about the DOC and its purpose and mission. The position also develops, coordinates, and implements communication between DOC leadership and employees and develops relationships with the community.

2.2 National Association of Women in Criminal Justice (NAWCJ). The purpose of NAWCJ is identified as to “focus on providing a professional association for individuals and organizations with the common goal of enhancing the criminal justice profession for women.”

Ms. Stewart incorporated NAWCJ in September 2007. She is listed as the registered agent and President. Her direct report, Maria Peterson, is listed on the 2009 Application for Reinstatement of a Domestic Nonprofit Corporation form as the NAWCJ’s Secretary. Both Ms. Stewart and Ms. Peterson list their addresses on this form as 7345 Linderson Way, Tumwater [DOC Headquarters]. On the October 2010 renewal form, both Ms. Stewart and Ms. Peterson are listed in the same manner. In the June 2010 NAWCJ Newsletter, Rowlanda Cawthon and Ms. Peterson are listed as Board members. Ms. Peterson is the Board Secretary and Ms. Cawthon is Chair of the Membership Committee. Evidence indicates that all of the NAWCJ Board members are DOC employees.

A review of Ms. Stewart’s Outlook calendars from January 2008-June 2011 indicated that she spent 42.5 state hours on matters related to NAWCJ. A review of her hard drive revealed a folder entitled "Nat'l assoc. Women in Criminal Justice" containing 906 emails dating back to August 2006. These emails were both ones sent and received by Ms. Stewart. Many of the emails concerned planning for annual conferences and conversing with vendors about conference details or to solicit vendors to attend.
A review of Tanya Nozawa's project log (a graphic designer who worked for Ms. Stewart during this time) indicated that between May 2008 and September 2010, the designer spent 90.8 hours designing brochures and recruitment documents for this organization using state time, state computers, and state paper/ink. Rowlanda Cawthon's Outlook calendar identified eight hours for NAWCJ, Maria Peterson's Outlook calendar indicated eight hours for NAWCJ, and Melissa Johnson's calendar indicated that she had spent 11 hours for NAWCJ.

A review of documents provided by Ms. Peterson indicated that she, Ms. Stewart, Ms. Cawthon, and Ms. Johnson sent and received dozens of emails regarding the NAWCJ annual conferences, including agendas, brochures, programs, guest speakers, and other conference information. A review of documents provided by Ms. Johnson indicated that she kept an Excel spreadsheet "checkbook" for NAWCJ and self-identified that she was also very involved with the 2010 and 2011 NAWCJ conferences.

A review of documents provided by Ms. Cawthon indicates that Ms. Stewart's direct reports sent out NAWCJ meeting minutes using the state email system as well as information about the 2010 NAWCJ conference including the membership roster, conference budget, and conference T-Shirt information.

In 2009, Ms. Peterson wrote an article for DOC's newsletter, *The Daily Communique*, entitled, "Washington DOC Leaders Create National Association for Women in Criminal Justice." The article states,

NAWCJ was born from the vision of Communications Director Belinda D. Stewart, who started a Women's Conference when she was Superintendent at McNeil Island Corrections Center in 1996. . . . With several charter members, the NAWCJ is ready to open its membership to women worldwide. New member Rowlanda Cawthon hopes to gain professional and personal benefits from NAWCJ. . . . The association plans to host a conference in Olympia in March.

The NAWCJ sponsored several workshops and events. On March 24, 2010, it held an all-day conference in Tumwater. Flyers indicated that Ms. Stewart was one of the conference points of
contact and the flyer provided people with Ms. Stewart's DOC phone number to call for information. Conference flyers and brochures soliciting membership and to sign up for the conference were found on Ms. Stewart's hard drive.

Evidence indicates that Ms. Stewart tasked her direct reports with working on the NAWCJ annual conference on state time, using state resources. In a February 19, 2010 email, Ms. Johnson wrote:

Greetings Ladies, I hope this finds each of you well and ready for this weekend! As Belinda Stewart's Administrative Assistant she has tasked me with obtaining a short bio from each of you for the upcoming NAWCJ conference. If you could please send me one along with a photo of yourselves, by Wednesday of next week, I would be most grateful.

A review of Ms. Stewart’s direct reports’ emails indicates that Ms. Stewart used state resources to design the 2010 NAWCJ conference brochure and conference letter that was sent to all participants.

Ms. Stewart attended the March 2010 conference (scheduled from 8 a.m. to 4:15 p.m.) without taking annual leave. One hundred forty-four DOC employees attended this conference, making up almost 80 percent of the audience. The NAWCJ website stated that DOC had approved taking administrative leave to attend NAWCJ functions. DOC’s Leave Policy 830.100 (revised 10/30/08), Section 1, General Requirements, describes twelve kinds of leave employees may take that requires a leave form and prior approval; administrative leave is not one of them. The only reference to administrative leave is found in Section XIII, Professional Development: “The Department will encourage and provide administrative leave for employees to attend professional meetings, conferences, seminars and workshops. Employees will be responsible for his/her own expenses when state funds are unavailable.”

DOC employees are not required to complete a leave form to request administrative leave nor is it tracked in any system.

Ms. Stewart was one of two presenters of a course entitled, “The Politics of Moving Up,” provided by the NAWCJ at Mission Creek Corrections Center on August 25, 2010. She
signed state vehicle license #18048E out at 10:20 a.m. and returned it at 8:30 p.m. for this function. She did not take annual leave to attend this event.

On September 20, 2010, Ms. Stewart checked out another state vehicle and drove to Eastern Washington to present this same course on behalf of NAWCJ at Airway Heights Corrections Center on September 21st and the same half-day workshop at Coyote Ridge Corrections Center on September 22nd. She did not take annual leave for these events.

On May 5, 2011, documents indicate that Ms. Stewart attended a NAWCJ event at the “CCD Parkland office” between 8:30 a.m. and 10:30 am. She did not take annual leave to attend this event.

Ms. Stewart attended the June 16, 2011 NAWCJ conference held at the Thurston County Fairgrounds from 8 a.m. to 4:30 p.m. She did not take annual leave to attend this event. Over 100 people attended this conference; 87 percent of the attendees were DOC personnel.

Meetings of the NAWCJ Board were routinely held in DOC facilities—usually the DOC Headquarters in Tumwater. All of the NAWCJ Board members are DOC employees. Evidence indicates that the minutes of these meetings were prepared on state computers, using state time, and sent via the state email system to all board members. The NAWCJ’s newsletter was also distributed using the state system as was a DOC all-staff invitation to the 2011 NAWCJ conference. In fact, evidence indicates that a substantial portion of the 2010 and 2011 conferences were designed, advertised, promoted, and tracked using state time; state computers, and state personnel.

2.3 National Association of Blacks in Criminal Justice (NABCJ). Ms. Stewart incorporated the Washington Chapter of the National Association of Blacks in Criminal Justice in October 2001 as a nonprofit organization. WA-NABCJ went inactive as of February 2004. In February 2009, Angelian Morton incorporated the WA State Chapter of the National Association of Blacks in Criminal Justice as a nonprofit organization.
Ms. Stewart is not listed on the second incorporation documents, but she was WA-NABCJ's treasurer between 2008 and 2010. At the national level, she served as a Regional Representative for two years and Conference Committee Chair for three years. According to Ms. Stewart, she has not been active in NABCJ since 2009 and has not attended a meeting in the last 8 months (as of June 2011). In July 2008, all but one WA-NABCJ Board member was a DOC employee. Since October 2010, all WA-NABCJ Board members have been DOC employees.

On June 16, 2011, DOC reviewed Ms. Stewart's DOC Outlook mailbox, which contained over 43,000 emails. DOC found 2,920 e-mails in a folder entitled “NABCJ.” The primary folder contained 1,791 items including 448 sent by Ms. Stewart. The most recent email was dated 11-29-10; others date back to 2006. There is almost no activity after 2008, with Ms. Stewart only sending seven emails in 2009 and 2010, none in 2011. A sub-folder entitled “NABCJ 2008 Conference” contained 925 of the emails; 111 sent by Ms. Stewart who was the conference chair. Another sub-folder entitled “Membership applications” contained four emails sent by Ms. Stewart.

The DOC Travel and Expense Management System indicates:

a. DOC paid $486.54 in per diem, lodging, mileage, and other travel expenses for Ms. Stewart to attend a NABCJ Board meeting in Dallas, TX, September 28-October 1, 2006.

b. DOC paid $246.00 in per diem costs for Ms. Stewart to attend the 34th Annual NABCJ conference in Buffalo, NY, July 19-27, 2007. The voucher indicates that since Ms. Stewart was a National Board Member, as well as the Chief of Conference Planning & Operations, then-DOC Secretary Harold Clarke authorized reimbursement of meals when the travel was paid from a non-state source.

c. DOC paid $648.94 in per diem and mileage for Ms. Stewart to attend the 2007 Criminal Justice Conference in Vancouver, WA, a conference and training event hosted through a

Secretary Harold Clarke authorized reimbursement of mileage (the voucher states that there was no state car available), lodging, and per diem for four days.

A review of Ms. Stewart's Outlook calendars from January 2008-June 2011 indicated that she spent 50.1 state hours on matters for NABCJ. Her calendar also indicated that she attended a NABCJ Board Meeting in Orlando, Florida, April 3-4, 2008. She did not take annual leave to attend this event.

Ms. Stewart attended a NABCJ conference in Orlando between July 17 and July 25, 2008. She did not take annual leave to attend this event. Ms. Stewart was the Chair of the National Conference in 2008.

A review of the graphic designer's project log indicated that between May 2008 and September 2010, the designer spent less than one hour doing any kind of work for NABCJ. Ms. Cawthon's Outlook calendar identified 22.5 hours for NABCJ; Ms. Peterson's Outlook calendar indicated no hours for NABCJ.

Ms. Johnson's calendar indicated that she had spent no work time for NABCJ, although her calendar indicated that she attended monthly meetings in the evening for NABCJ that were held in DOC facilities. Ms. Johnson stated that she became a member of NABCJ and assisted Ms. Stewart with the conference in 2006, attended the conference in Buffalo, NY in 2007, and was very involved during her workdays with helping with the 2008 conference. She stated that her "hands were all over" the 2008 conference. A review of documents she provided indicate that she had hundreds of documents for the 2008 conference including seating charts, name tags, program designs, agendas, signs, and menus. She kept spreadsheets on the conference budget, travel arrangements, and expense reimbursements.

NABCJ meetings were routinely held after normal work hours in DOC facilities (the Tacoma Community Justice Center). Between July 2008 and October 2010, NABCJ met after
normal work hours twelve times in DOC facilities; Ms. Stewart only attended four of those meetings. Evidence indicates that state employees used state resources to participate in NABCJ conference calls during normal work hours.

Information regarding NABCJ meetings was sent via the state system, including information about the national conferences, meeting agendas, and invitations to attend a birthday BBQ and fundraiser in 2009. In March 2010, one of Ms. Stewart's direct reports emailed an ad for the WA-NABCJ to the NABCJ for addition in the national conference program.

Evidence also indicates that Ms. Stewart used the state email system to recruit members for the NABCJ, or at least solicit their membership. Ms. Stewart and several of her direct reports used state time and the state system to design/edit conference programs/booklets, provide ads to the National chapter for inclusion in conference programs, develop menus for conference dinners, solicit presenters for conference dinners, and solicit presenters for conference workshops. It appears that most of the 2008 NABCJ conference was designed and executed using state time, state personnel, and state systems.

Ms. Stewart used her direct reports to gather travel information for Orlando NABCJ conference attendees. Further, a file of the 2008 NABCJ conference program was physically delivered to the Mission Creek Corrections Center for Women where two of Ms. Stewart's direct reports were at the time because the .pdf file was too big to send electronically. Her staff also designed the bid sheets for the 2008 conference silent auction.

Evidence shows that state resources were also used to plan and track expenses for the 2010 NABCJ conference as well as membership dues, vendor confirmations, and conference programs among other items.

2.4 Faith Based Reentry Coalition (FBRC). This organization was incorporated in May 2009. On the 2009 Articles of Incorporation, Ms. Stewart is listed as the “Incorporator” and 7345 Linderson Way, Tumwater, is listed as her business address. On the August 2010 renewal form, Ms. Stewart is listed as the Secretary, with Raymond Baribeau, from Bellingham, WA, as
the President. The purpose of FBRC states, “In conjunction with DOC and other service agencies, will develop strategies that will engage faith communities in offender reentry.”

According to information published in an article written by Rowlanda Cawthon and published on the DOC intranet on or about June 2010, the FBRC is an organization of people that seeks to develop strategies that engage faith communities in offender reentry. Working with DOC, FBRC's goal is to make face-to-face connections with offenders immediately upon release from prison. The article lists Mr. Baribeau as a Co-Chair. Ms. Stewart is the other Co-chair. Ms. Stewart states in this article, “I hope that DOC will continue to support and implement Baribeau’s Reentry Guide approach throughout Washington State.”

In late 2008 and early 2009, Ms. Stewart required her staff to design a logo for FBRC on state computers and during state office hours. Approximately 50 different logos were designed for Ms. Stewart to present to FBRC for selection.

According to Ms. Stewart's Outlook calendars, she participates in quasi-regular FBRC meetings. These meetings are usually held on a weekday morning at the Mezza Café in Seattle, approximately 65 miles from DOC Headquarters. Between November 2008 and January 2011, Ms. Stewart met 16 times either at the Mezza Café or other locations and on at least four occasions used a state vehicle for transportation to and from these meetings. Her Outlook calendar indicated 73 hours allocated to FBRC.

Ms. Stewart's Outlook calendar also indicated that the Secretary of State Nonprofit Renewal application was due, and she had assigned it to her subordinate, Ms. Johnson to complete. Ms. Johnson's Outlook calendars indicated seven hours for FBRC.

A review of the projects completed by the DOC graphic designer who reported to Ms. Stewart indicated that between December 2008 and March 2009, the designer used 15.5 work hours to design logos for FBRC on a state computer at the request of Ms. Stewart.

2.5 New Warden Training. Ms. Stewart engages in paid outside employment with the National Institute of Corrections (NIC) as an instructor for their “New Wardens” course, for which
she was paid a $2,800 fee plus $1,200 expenses per year. This training occurs in various locations throughout the United States. A review of Ms. Stewart's annual leave indicates that she took annual leave to provide this training.

DOC policy 850.025, Outside Employment/Volunteer activities (last revision was 3/1/10), requires employees to get approval from their appointing authority for all outside employment. It also prohibits the use of any DOC resources for this employment. This policy further prohibits employees from having business relationships with DOC employees in their chain of command. The policy also requires employees to complete a DOC 03-026 Outside Employment/Volunteer Activity form and submit it to their immediate supervisor. The supervisor then recommends approval or disapproval and forwards the recommendation to the appropriate appointing authority for final approval or disapproval. No written approval or DOC form 03-026 for Ms. Stewart’s New Warden training employment was found in her personnel file, and she testified that she did not complete the form.

Ms. Stewart work computer contains an e-mail folder entitled “NIC/New Warden” with 576 items dating back to October 25, 2006. It included 21 e-mails sent by Ms. Stewart. There was also a “NIC” folder, a “NIC/NIC” folder, and a “Belinda/NIC” folder in her division's shared directory. DOC policy 800.020, Use of Resources, and policy 850.025, Outside Employment, prohibit the use of state resources for outside employment.

One of the sections Ms. Stewart instructs in the New Warden Training is “Ethics and Integrity.”

2.6 Retirement party. In 2010, Ms. Stewart was involved in the planning and execution of a retirement party for Diane Gozart. Ms. Gozart's retirement party was held on October 20, 2010 at the Schmidt mansion in Tumwater. The cost was $30 per person attending. Ms. Gozart's family attended for free. Checks for the event were made payable to Ms. Stewart. Ms. Stewart purchased food and decorations for the event. DOC employees prepared the food and decorated the venue. Evidence indicated that ticket sales, plus donations from NAWCJ, totaled $1,815. There is no evidence that any state agency funds were used for the event. The rental of the mansion was $330. Other expenses totaled $874.25, with the remaining monies going to Ms. Gozart as a cash gift. Evidence indicated that Ms.
Stewart paid four members of her church $200 to work at the event, directing attendees where to sit and helping clean up after the event.

III. CONCLUSIONS OF LAW

3.1 The Board has jurisdiction to hear this matter pursuant to RCW 42.52.360(1), which authorizes the Board to enforce the Ethics in Public Service Act, chapter 42.52 RCW, with respect to employees in the executive branch of state government. The complaint was filed in accordance with RCW 42.52.410, the Board found reasonable cause pursuant to RCW 42.52.420, and an adjudicative proceeding was conducted pursuant to RCW 42.52.430 and .500. All the required procedural notices have been provided.

3.2 The Ethics in Public Service Act governs the conduct of state officers and employees.

3.3 A state employee may not have interests that conflict with the proper discharge of her duties under RCW 42.52.020, which states:

   No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer’s or state employee’s official duties.

3.4 A state employee may not use her position to secure special privileges for herself or other persons under RCW 42.52.070, which states:

   Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.
3.5 A state employee may not use state resources for private benefit or gain under RCW 42.52.160, which states:

No state officer or state employee may employ or use any person, money, or property under the officer’s or employee’s official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

3.6 Under RCW 42.52.480, the Board may impose a civil penalty of up to $5,000 per violation or three times the economic value of anything received or sought in violation of the Ethics in Public Service Act, whichever is greater. The Board may also impose the cost of investigating the complaint and order restitution for any damages sustained by the state.

3.7 Based on the foregoing findings of fact, the Board determined that Belinda Stewart did not violate RCW 42.52.020 with respect to the charges relating to being a founder, officer, or using her direct reports to further the work of the FBRC, the National Association of Women in Criminal Justice, or the National Association of Blacks in Criminal Justice. These activities did not involve financial or other interests on the part of Ms. Stewart that conflicted with the proper discharge of her official duties.

3.8 Based on the foregoing findings of fact, the Board determined that Belinda Stewart did not violate RCW 42.52.070 with respect to the charges relating to four individuals from her church being paid to work at a DOC retirement party from non-agency funds that were donated by other employees. This activity did not involve the use of any state funds.

3.9 Based on the foregoing findings of fact, the Board determined that Belinda Stewart did not violate RCW 42.52.160 with respect to the charges relating to the National Association of Women in Criminal Justice or the National Association of Blacks in Criminal Justice. These activities did not involve the use of state resources for the private benefit or gain of Ms. Stewart or others because the purpose of the organizations was promotion of DOC employee effectiveness. It appears there was too much time spent planning or participating in activities for these professionalism non-profits, but that is an agency management
responsibility and not within the Board’s jurisdiction. The Board notes a possible violation of RCW 42.52.130, relating to the NAWCJ paying for Ms. Stewart’s hotel, but that was not charged.

3.10 Based on the foregoing findings of fact, the Board determined that Belinda Stewart violated RCW 42.52.160 with respect to the charges relating to the FBRC. These activities involved the use of state resources for the private benefit of an unrelated organization.

3.11 In determining the appropriate sanction, including the amount of any civil penalty, the Board determined under WAC 292-120-030(2) that the nature of the violations related to the FBRC:

   (a) Was continuing in nature [despite direction to the contrary];

   ... 

   (e) Tended to significantly reduce public respect for or confidence in state government or state government officers or employees;

3.12 In determining the appropriate sanction, including the amount of any civil penalty, the Board considered as an aggravating circumstance in relation to the FBRC, under WAC 292-120-030(3), that Ms. Stewart:

   (d) Had significant official, management, or supervisory responsibility;

3.13 In determining the appropriate sanction, including the amount of any civil penalty, the Board considered, as a mitigating factor in relation to the FBRC, under WAC 292-120-030(4), that:

   (d) The violation was unintentional;

3.14 Based on the foregoing findings of fact, the Board determined that Belinda Stewart violated RCW 42.52.160 with respect to the charges relating to the New Warden Training. These activities involved the use of state resources for the private benefit or gain of Ms. Stewart. The Board notes violations of RCW 42.52.020 and 42.52.070 as well, related to the New Warden Training, but those were not charged.
3.15 In determining the appropriate sanction, including the amount of any civil penalty, the Board determined under WAC 292-120-030(2) that the nature of the violations related to the New Warden Training:

(a) Was continuing in nature [despite direction to the contrary];
(b) Was motivated by financial gain;

(e) Tended to significantly reduce public respect for or confidence in state government or state government officers or employees;
(f) Involved potential personal gain or special privilege to the violator;

3.16 In determining the appropriate sanction, including the amount of any civil penalty, the Board considered as an aggravating circumstance in relation to the New Warden Training, under WAC 292-120-030(3), that Ms. Stewart:

(a) Intentionally committed the violation with knowledge that the conduct constituted a violation;

(d) Had significant official, management, or supervisory responsibility;

3.17 In determining the appropriate sanction, including the amount of any civil penalty, the Board found no mitigating factors, under WAC 292-120-030(4), related to the New Warden Training.

IV. ORDER

4.1 Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ordered that Belinda Stewart is assessed a total monetary civil penalty of $17,000. This amount is allocated as follows:

4.2 For the violation related to the New Warden Training, the penalty is $12,000 (calculated as $2,800 fee + $1,200 expenses = $4,000 per year x 3 years). Payment of $3,600 of this amount shall be suspended on the condition that Ms. Stewart violates no other provision
of the Ethics in Public Service Act, Board rules, or employing agency rules for a period of two years from the effective date of this Order.

4.3 For the violation related to the FBRC, the penalty is $5,000.

4.4 The balance of $13,400 (calculated as $8,400 (under 4.2) plus $5,000 (under 4.3)) is payable in full within 90 days of the effective date of this order.

DATED this 25\textsuperscript{th} day of February 2013.

WASHINGTON STATE EXECUTIVE ETHICS BOARD

\[\text{Signature}\]

Lisa Marsh, Chair
APPEAL RIGHTS

RECONSIDERATION OF FINAL ORDER – BOARD

Any party may ask the Executive Ethics Board to reconsider a Final Order. The request must be in writing and must include the specific grounds or reasons for the request. The request must be delivered to Board office within 20 days after the postmark date of this order.

The Board is deemed to have denied the request for reconsideration if, within 20 days from the date the request is filed, the Board does not either dispose of the petition or serve the parties with written notice specifying the date by which it will act on the petition. (RCW 34.05.470).

The Respondent is not required to ask the Board to reconsider the Final Order before seeking judicial review by a superior court. (RCW 34.05.470).

FURTHER APPEAL RIGHTS – SUPERIOR COURT

A Final Order issued by the Executive Ethics Board is subject to judicial review under the Administrative Procedure Act, chapter 34.05 RCW. See RCW 42.52.440. The procedures are provided in RCW 34.05.510 - .598.

The petition for judicial review must be filed with the superior court and served on the Board and any other parties within 30 days of the date that the Board serves this Final Order on the parties. (RCW 34.05.542(2)). A petition for review must set forth:

(1) The name and mailing address of the petitioner;

(2) The name and mailing address of the petitioner’s attorney, if any;

(3) The name and mailing address of the agency whose action is at issue;

(4) Identification of the agency action at issue, together with a duplicate copy, summary, or brief description of the agency action;
(5) Identification of persons who were parties in any adjudicative proceedings that led to the agency action;

(6) Facts to demonstrate that the petitioner is entitled to obtain judicial review;

(7) The petitioner’s reasons for believing that relief should be granted; and

(8) A request for relief, specifying the type and extent of relief requested.

Service is defined in RCW 34.05.010(19) as the date of mailing or personal service.

ENFORCEMENT OF FINAL ORDERS

If there is no timely request for reconsideration, this is the Final Order of the Board. The Respondent is legally obligated to pay any penalty assessed.

The Board will seek to enforce a Final Order in superior court and recover legal costs and attorney’s fees if the penalty remains unpaid and no petition for judicial review has been timely filed under chapter 34.05 RCW. This action will be taken without further order by the Board.