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COMPLAINT 2012 – NO. 4

In Re Hunt

DETERMINATION OF NO REASONABLE CAUSE – ORDER OF DISMISSAL
December, 2012

1. Nature of the Complaint

The complaint was received on November 10, 2012. It alleges that Rep. Sam Hunt (Respondent) violated the Ethics in Public Service Act (Act) when he participated in a rally in the rotunda area of the Capitol Building on October 12, 2012. The rally was held in support of a pending ballot measure (I-502, Marijuana). Complainants allege this participation violated RCW 42.52.180. This statute prohibits, with exceptions, the use of public facilities to assist a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. It also defines "facilities."

"Facilities of an agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency."
RCW 42.52.180(1)

The allegations may be summarized as follows:

- a. Rep. Hunt used state facilities to engage in campaigning on behalf of a ballot measure.
- b. Rep. Hunt used his influence to recruit and direct the Washington State Patrol (WSP) to threaten and assault the initiative opponents who were present at the rally.
- c. Rep. Hunt engaged in physical and verbal abuse of those opponents.

2. Conclusion

Based upon a review of the complaint, Board precedent and the Board's investigation, we conclude there is no reasonable cause to believe that the Respondent's participation in the rally violated RCW 42.52.180. Absent any facts to suggest otherwise, there is no reasonable cause to believe that the WSP was recruited by the Respondent and directed by him to threaten or assault rally opponents. Allegations of physical and verbal abuse perpetrated by Respondent at this rally were investigated by the WSP and referred to the Thurston County Prosecutor. Civil or criminal claims associated with these allegations are beyond the jurisdiction of the Ethics Board.

3. Determinations of Fact

Based upon the Board's investigation, there is reasonable cause to believe that the following are the pertinent facts in this case.

- a. Respondent was invited to attend the rally. His role was to introduce the subject matter and the main speaker, Rick Steves.
- b. The rally sponsors had paid for and obtained the necessary permit to hold the rally in the rotunda.
- c. The permit was issued by the Department of Enterprise Services (DES).
- d. DES is authorized by law and rule to approve or deny permit applications to hold events on the capitol campus.
- e. The WSP contracts with DES to provide security on the capitol campus, including the rotunda area of the Capitol Building.
- f. Respondent had no prior contact with the WSP about this rally.

4. Determinations of Law

- a. Public places on the capitol campus, not under the control of the Legislature and permitted by the State for political events, may be used by legislators for events related to ballot issues provided those places are available to any other person or group on an equal access basis.

In Advisory Opinion 1997 – No. 5, a legislator who was the primary sponsor of an initiative asked several questions related to his role in the initiative campaign. The statute in question was RCW 42.52.180. One of the questions was whether the legislator could make campaign use of parts of the capitol buildings outside the legislative hallways, offices and the legislative chambers. The Board said yes, with conditions.

The Board does not find that such public use areas are covered by the prohibition (RCW 42.52.180) if such areas may be used for campaign purposes by any member of the public on an equal access basis. The capitol steps, for example, are often used for political rallies without violating the prohibition. If a rental fee is charged, it must be charged equally and consistently.

Therefore it would not be a violation to conduct such activities in a public use area (page 4 of the opinion).

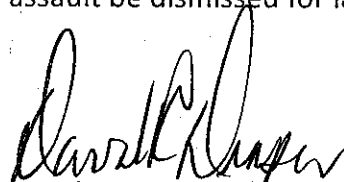
This advisory opinion, with comment, has been cited in every Legislative Ethics Manual published since 1997. The question is presented as follows: **Does the definition of "facilities" extend to the entire capitol campus?** The response is "No. Hallways and other public use areas outside the offices and legislative chambers are not covered by the prohibition, if they are available to members of the public for such use. For example, the capitol steps are often used for political rallies without violating the prohibition."

A review of the DES policy and the permits issued for the rally in this case clearly establishes that the rotunda is a public use area which is permitted to be used for campaign purposes and may be used for those purposes by the public on an equal access basis.

- b. In this case, the allegations of assault levied by the Complainants against the Respondent are beyond the jurisdiction of the Board.

The jurisdiction of the Board is limited by statute to the enforcement of chapter RCW 42.52 and rules adopted under it (RCW 42.52.320 – Authority of the legislative ethics board). There are no provisions in the chapter or the rules which confer jurisdiction on the Board to resolve the assault allegations presented in this case.

IT IS HEREBY ORDERED that the complaint be dismissed for lack of reasonable cause to believe that Respondent violated RCW 42.52.180. IT IS FURTHER ORDERED that the allegations of assault be dismissed for lack of jurisdiction.


David R. Draper, Chair
Date; 12/27/12