

# Legislative Ethics Board

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## COMPLAINT 2024 – NO. 11

*In re Jeff Wilson*  
December 16, 2024

### NO REASONABLE CAUSE – ORDER OF DISMISSAL

#### I. NATURE OF COMPLAINT

The Complaint alleges that Respondent violated the Ethics Act by, in response to a public disclosure request, not providing texts from his personal phone that were responsive to the public disclosure request. Although the complaint does not cite a specific section of the Act to have been violated, the complaint was investigated under RCW 42.52.050(4).

#### II. BACKGROUND

Complaint 2024 – No. 11 was received on August 22, 2024, and discussed at the Board's regularly scheduled meeting on November 4, 2024.

#### III. JURISDICTION

The Board has personal and subject matter jurisdiction. RCW 42.52.320.

#### IV. FINDINGS OF FACT

1. Respondent is a current member of the Senate representing the 19<sup>th</sup> legislative district. He assumed office in 2021.
2. Complainant is a constituent of Respondent's.
3. On February 9, 2024, the Senate received a public disclosure request from the Complainant.
4. The request asked for the following: *“any and all forms of communication (emails, texts, phone logs, paper correspondence, in-person meetings etc.) between current 19th District Senator Stephen “Jeff” Wilson and current Longview City Council members Spencer Boudreau, Kalei LaFave, Keith Young and Erik Halvorson, as well as former Longview Police Chief Jim Duscha, from November 7, 2023 to February 9, 2024 specifically regarding any mention of; City of Longview legislative funding requests for HOPE Village, Severe Weather Shelters (and other programs assisting homeless individuals), the Washington Open Public Meetings Act, and any mention of Longview City Manager Kris Swanson, and Longview Community Development Director Ann Rivers. “*

5. On February 9, 2024, Tim Ford sent an email to the Respondent notifying him of the above public records request. This email contains the following language: *“you are receiving this email because we believe that you may have responsive records. If any potentially responsive records are in your possession, you must now retain these records and suspend all ordinary destruction or recycling procedures of the potentially responsive records. This includes email, voicemail, any other electronic media, handwritten notes, and drafts of documents related to or referring to the subject of the request.”*
6. The public records office does not have the authority to search a member’s personal devices, but they do ask the member to sign a declaration stating that the member has searched their devices.
7. If the member finds a potentially responsive record on a personal device, the member must send the document to the Senate public records office which decides whether the record should be released and, if so, whether any part of it should be redacted.
8. On March 5, 2024, Michelle Brown sent Respondent a link that contained the Senate Search Declaration verifying whether Respondent used any of his personal devices or accounts for legislative business. The declaration was to be completed by March 18, 2024.
9. On March 5, 2024, Respondent completed the Declaration. The Declaration asks a number of questions. To the question of whether he uses a personal device and/or account for legislative business, Respondent replied no.
10. Respondent offered no response to the questions asking what date the device or account was searched and what search terms and/or search method was used.
11. In the last question, Respondent was asked to certify that he had completed a thorough search of his personal devices and/or accounts used for legislative business as well as his desktop, local drives and any paper records. Respondent indicated that he had completed a thorough search.
12. On March 6, 2024, Complainant was informed by the Senate Public Records office that the office was unable to locate any records responsive to his request made on February 9, 2024.
13. In March, 2024, Complainant and others filed a lawsuit against several members of the Longview City Council alleging violations of the Open Public Meetings Act.
14. As a result of a public disclosure request Complainant made to the city of Longview, copies of text messages between Respondent and Kalei LaFave, a Longview City Council member, were released.
15. On January 24, 2024 at 8:50 am, Respondent sent a text from his personal phone to Kalei LaFave which states: *“confirming you want 3,000,000 for Hope V.”* He attached a screenshot of the 2024 Senate Operating Budget Request Form.
16. Kalei LaFave responded that the amount was supposed to be for homeless housing programs, more general than Hope village.

17. Respondent responded: "This was not general ... it was 100 percent for hope village." Kalei LaFave responds: "Nooooo!"
18. Respondent then texted "I need only the truth. This is for Hope Village only. If council wants this item I will consider . . . this seems contradictory for what we're expecting .. same ole confusion between management, delegation and council. "
19. On January 25, 2024, Respondent texted Kalei LaFave as follows: "Got this new one in today ... Hope Village request... council wants 3 million for Hope Village?" Respondent attached a screen shot of a new Budget Request form to the text.
20. Respondent indicated that he could not respond to the public disclosure request because he no longer had the phone that would have contained the texts. When asked when he got a new phone, Respondent replied that it was sometime in March of 2024. When asked what happened to his old phone, he indicated that he threw it in the garbage.

#### V. ANALYSIS AND CONCLUSIONS OF LAW

RCW 42.52.050(4) provides as follows: "No state officer or state employee may intentionally conceal a record if the officer or employee knew the record was required to be released under chapter 42.56 RCW, was under a personal obligation to release the record, and failed to do so. This subsection does not apply where the decision to withhold the record was made in good faith."

Agencies are required to conduct an adequate search in response to a public disclosure request. *Neighborhood Alliance of Spokane v. County of Spokane*, 172 Wn.2d 702 (2011). An employee's good faith search for public records on his or her personal device can satisfy an agency's obligation under the Public Records Act (PRA). *Id.* Agency employees are responsible for searching their files, devices, and accounts for records responsive to a relevant PRA request. Employees are also responsible for producing any public records (emails, text messages, and any other type of data) to the employer agency. *Id.*

Text messages sent and received by a public employee in the employee's official capacity are public records of the employer, even if the employee uses a private cell phone. *Nissen v. Pierce County*, 183 Wn.2d 863 (2015).

To find a violation of RCW 42.52.050(4), Respondent must have known that, under the PDA, the requested record was required to be released, that he was under a personal obligation to release the record and that he failed to do so. In addition, it must be shown that Respondent intentionally concealed the record.

Respondent received notice about the public disclosure request on February 9, 2024. Part of the notice indicates that he was to search personal devices for any responsive material. He indicated in the Declaration that he made an adequate search of his devices and found nothing that was responsive to the public disclosure request. He also indicated in the Declaration that he did not use his personal devices for legislative work, yet the text messages between Respondent and LaFave indicate that, at least on one occasion, he did use his personal device to conduct legislative business.

In addition, at the time he received notice of the public disclosure request, he was still in possession of the phone that would have contained those messages. He did not receive the Declaration form to complete until March 5, 2024, almost a month after first being informed of the public disclosure request. By that time, he could have already disposed of his old phone.

The term “intentional” is defined as “a thing done with reason and purpose.” BLACK’S LAW DICTIONARY. There is no evidence of an intent to conceal that has been brought to the Board. Complainant has other remedies pursuant to the Public Disclosure Act. Although the Board did not find reasonable cause for a violation of the Ethics Act in this matter, the Board cautions members that they are prohibited from disposing of a phone to avoid complying with the requirements of the PDA.

VI. ORDER

IT IS HEREBY ORDERED that: there is no reasonable cause to believe the Respondent violated RCW 42.52.180(2)(c)(ii) and the complaint is dismissed.



Tom Hoemann, Chair

Date: 12/16/24