

Response Regarding PDC Case Number 105472

Allegation Two: Violation of RCW 42.17A.635(2) for indirect lobbying. (See attached RCW)

This allegation is in reference to portions of the video in question in which I state:

1. "Sheriff, who should we be talking to about getting you the tools and the ability to take care of these issues?"
2. "passed, sponsored reforms... that damaged our ability to keep you safe."

It is alleged that quote number one is "potentially problematic", because the answer I give highlights "the three legislators who passed and sponsored a bill that adversely affected your job as a law enforcement professional".

I would first point out that while I am a law enforcement professional, I am also an elected official in the State of Washington. As the elected Sheriff I have a duty and responsibility to communicate with the public. In this video I simply state a question that I am often asked by citizens. This is no different than if I had been asked the same question during a press conference. I might add, I have been asked these same questions during press conferences and have given the same answers. The Sheriff's Office uses social media as an information link to the public just the same as we do when conducting a press conference. We tape the majority of our press conferences and post them on social media in the same manner as this public address to the public was posted.

The next portion of the alleged violation concerns my identification of those responsible for the current policies and laws being set and passed which are destroying the quality of life for my constituents and killing young people within our community. At no time in the video do I request, nor was it my direct or indirect intent, for anyone to contact those identified as being responsible for the current crime cataclysm facing the State of Washington.

As stated above I did not request anyone to contact those identified in the video and this is evidenced not only by the lack of such request, but also by the fact that I invited those listed in the video to meet with me so we could work together in order to find common ground to resolve these issues. To this date only Senator Billig and Representative Riccelli have taken the time to meet with me. The nature of the meeting was to ask me for an apology and to inform me that my mentioning members of the African American community in the video was akin to a white supremacist tactic used to divide the black community. Neither of these State officials have taken the time to meet with me and the citizens group which has formed as a result of my challenge to those listed to meet with me every Friday at 9AM.

Readdressing the alleged violation of RCW 42.17A.555:

RCW 42.17A.555 is very clear in its language:

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. This video was not produced to aid any campaign, directly or indirectly. RCW 42.17A.555 clearly

states that one must have intent to: “use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition.”

RCW. 42.17A.555 also states: (See attached RCW)

“However, this does not apply to the following activities:

(3) Activities which are part of the normal and regular conduct of the office or agency.”. This video was produced to inform the public about the extreme increase of violence within our community. Violence that has taken the lives of several young people. It was done as part of my responsibility and duty to inform the public as to the cause of this increase in crime and educate them as to why their law enforcement agencies can no longer keep them safe. It was not done to help any candidate nor was it done to lobby anyone. It was done to invite those listed to come to the table before another young person dies. All of this falls within the confines of subsection (3) “Activities which are part of the normal and regular conduct of the of or agency.”.

As stated before we have used this method of communication with the public for these purposes for nearly a decade. The only difference now is that Mr. Dillion wants to silence any voice that points out the truth of why young people are being shot down on our streets and in their homes. Why young people are dying from drug overdoses and why crime has hit historic levels within our community. Despite Mr. Dillion’s objections, it is my responsibility to inform the public concerning these matters.

Mr. Dillion’s candidate Ms. Waldref made false comments concerning the Sheriff’s Office budget, comments that were made publicly on social media. As Sheriff, I have a duty to defend the practices of my agency and set the record straight concerning such matters in order to maintain public confidence in the Office of the Sheriff. Ms. Waldref’s comments were such that left unaddressed could have led to the public believing that we were reckless in our expenditure of public funds, and as such her comments became fair game in my explaining to the public the false nature of her comments and her extreme record of supporting policies and laws that weaken the public’s safety.

This was in no way an effort to promote her opponent nor hurt her campaign. It was simply a statement of fact. In sum, there was no intent to aid her opponent nor hurt her campaign. This matter would have faded quickly from the public’s view, however now due to Mr. Dillion’s attempt to silence an elected official on Ms. Waldref’s behalf, this matter will see several more news cycles based on the public disclosure requests this investigation will surly spawn. Public disclosure request which will result in more press conferences concerning this investigation and its findings. All of which, in my opinion, was Mr. Dillion’s overall intent in filing this erroneous complaint.

RCW 42.17A.555

Use of public office or agency facilities in campaigns—Prohibition—Exceptions.

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition.

Facilities of a public office or agency include, but are not limited to, use of stationery, postage,

machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. **However, this does not apply to the following activities:**

(1) Action taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

(4) This section does not apply to any person who is a state officer or state employee as defined in RCW [42.52.010](#).

RCW [42.17A.635](#)

Legislative activities of state agencies, other units of government, elective officials, employees.

(1) The house of representatives and the senate shall report annually: The total budget; the portion of the total attributed to staff; and the number of full-time and part-time staff positions by assignment, with dollar figures as well as number of positions.

(2) Unless authorized by subsection (3) of this section or otherwise expressly authorized by law, no public funds may be used directly or indirectly for lobbying. However, this does not prevent officers or employees of an agency from communicating with a member of the legislature on the request of that member; or communicating to the legislature, through the proper official channels, requests for legislative action or appropriations that are deemed necessary for the efficient conduct of the public business or actually made in the proper performance of their official duties. This subsection does not apply to the legislative branch.

(3) Any agency, not otherwise expressly authorized by law, may expend public funds for lobbying, but such lobbying activity shall be limited to (a) providing information or communicating on matters pertaining to official agency business to any elected official or officer or employee of any agency or (b) advocating the official position or interests of the agency to any elected official or officer or employee of any agency. Public funds may not be expended as a direct or indirect gift or campaign contribution to any elected official or officer or employee of any agency. For the purposes of this subsection, "gift" means a voluntary transfer of any thing of value without consideration of equal or greater value, but does not include informational material transferred for the sole purpose of informing the recipient about matters pertaining to official agency business. This section does not permit the printing of a state publication that has been otherwise prohibited by law.

(4) No elective official or any employee of his or her office or any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, in any effort to support or oppose an initiative to

the legislature. "Facilities of a public office or agency" has the same meaning as in RCW [42.17A.555](#) and [42.52.180](#). The provisions of this subsection shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose an initiative to the legislature so long as (i) any required notice of the meeting includes the title and number of the initiative to the legislature, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any initiative to the legislature at an open press conference or in response to a specific inquiry;

(c) Activities that are part of the normal and regular conduct of the office or agency;

(d) Activities conducted regarding an initiative to the legislature that would be permitted under RCW [42.17A.555](#) and [42.52.180](#) if conducted regarding other ballot measures.

(5) Each state agency, county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district that expends public funds for lobbying shall file with the commission, except as exempted by (d) of this subsection, quarterly statements providing the following information for the quarter just completed:

(a) The name of the agency filing the statement;

(b) The name, title, and job description and salary of each elected official, officer, or employee who lobbied, a general description of the nature of the lobbying, and the proportionate amount of time spent on the lobbying;

(c) A listing of expenditures incurred by the agency for lobbying including but not limited to travel, consultant or other special contractual services, and brochures and other publications, the principal purpose of which is to influence legislation;

(d) For purposes of this subsection, "lobbying" does not include:

(i) Requests for appropriations by a state agency to the office of financial management pursuant to chapter [43.88](#) RCW nor requests by the office of financial management to the legislature for appropriations other than its own agency budget requests;

(ii) Recommendations or reports to the legislature in response to a legislative request expressly requesting or directing a specific study, recommendation, or report by an agency on a particular subject;

(iii) Official reports including recommendations submitted to the legislature on an annual or biennial basis by a state agency as required by law;

(iv) Requests, recommendations, or other communication between or within state agencies or between or within local agencies;

(v) Any other lobbying to the extent that it includes:

(A) Telephone conversations or preparation of written correspondence;

(B) In-person lobbying on behalf of an agency of no more than four days or parts thereof during any three-month period by officers or employees of that agency and in-person lobbying by any elected official of such agency on behalf of such agency or in connection with the powers, duties, or compensation of such official. The total expenditures of nonpublic funds made in connection with such lobbying for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington may not exceed fifteen dollars for any three-month period. The exemption under this subsection (5)(d)(v)(B) is in addition to the exemption provided in (d)(v)(A) of this subsection;

(C) Preparation or adoption of policy positions.

The statements shall be in the form and the manner prescribed by the commission and shall be filed within one month after the end of the quarter covered by the report.

(6) In lieu of reporting under subsection (5) of this section, any county, city, town, municipal corporation, quasi municipal corporation, or special purpose district may determine and so notify the public disclosure commission that elected officials, officers, or employees who, on behalf of any such local agency, engage in lobbying reportable under subsection (5) of this section shall register and report such reportable lobbying in the same manner as a lobbyist who is required to register and report under RCW [42.17A.600](#) and [42.17A.615](#). Each such local agency shall report as a lobbyist employer pursuant to RCW [42.17A.630](#).

(7) The provisions of this section do not relieve any elected official or officer or employee of an agency from complying with other provisions of this chapter, if such elected official, officer, or employee is not otherwise exempted.

(8) The purpose of this section is to require each state agency and certain local agencies to report the identities of those persons who lobby on behalf of the agency for compensation, together with certain separately identifiable and measurable expenditures of an agency's funds for that purpose. This section shall be reasonably construed to accomplish that purpose and not to require any agency to report any of its general overhead cost or any other costs that relate only indirectly or incidentally to lobbying or that are equally attributable to or inseparable from nonlobbying activities of the agency.

The public disclosure commission may adopt rules clarifying and implementing this legislative interpretation and policy.