

## ADVISORY OPINION

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REFERENCES: RCW 42.52.180

SUMMARY OF CHANGES: Amended to update statutory references and to clarify the questions presented.

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### Use of Resources for Political Campaigns

#### QUESTIONS

1. Would the Washington State Patrol be in violation of Chapter 42.52.180 RCW, if a Governor or Lieutenant Governor are attending a political event for a ballot issue or another political candidate and they are travelling in the Executive Protection Vehicle designated for the transportation of the Governor or Lieutenant Governor?

2. Would it be a violation of Chapter 42.52.180 RCW, if the Washington State Patrol transported the Governor or Lieutenant Governor in the Executive Protection Vehicle to specific campaign activities during their reelection, where the sole purpose of the travel is for campaign activities and no other state business is to be conducted?

3. Would it be a violation of Chapter 42.52.180 RCW, if the Washington State Patrol transported the Governor or Lieutenant Governor in the Executive Protection Vehicle where the Governor or Lieutenant Governor are attending state events or meetings in the normal course of their duties and mixed in with those events is a political event as mentioned in questions one or two?

#### ANSWERS

1. No. The WSP has a statutory responsibility to provide security and protection services under RCW 43.43.035, and the Chief of the Washington State Patrol has established an Executive Protection Unit to provide 24-hour protection for the occupants of both offices. It is therefore reasonable to conclude that protecting the Governor and Lieutenant Governor, regardless of whether they are participating in political activities is within “the normal and regular conduct” of the WSP.

2. No. There is no exception to the requirement that the WSP provide protection for the Governor and Lieutenant Governor if they are running for reelection and participating in campaign activities.

3. No. In the narrow context of WSP protection for the Governor and Lieutenant Governor, RCW 42.52.180(2)(d) applies regardless of whether the officeholder is conducting state business or participating in political events. In either case, protection constitutes “normal and regular conduct” for the WSP.

## ANALYSIS

The Washington State Patrol (WSP) is charged with the protection of the Governor and the Lieutenant Governor pursuant to RCW 43.43.035, which states:

The chief of the Washington state patrol is directed to provide security and protection for the governor, the governor’s family, and the lieutenant governor to the extent and in the manner the governor and the chief of the Washington state patrol deem adequate and appropriate.

In the same manner the chief of the Washington state patrol is directed to provide security and protection for the governor-elect from the time of the November election.

The WSP has established protocols for protection based on recommendations from the United States Secret Service, and its Executive Protection Unit provides security 24 hours a day to the governor, lieutenant governor, and the governor-elect, if applicable. The Chief of the WSP has asked the Board to determine whether troopers assigned to the WSP would violate RCW 42.52.180 under circumstances when the governor and lieutenant governor are engaged in political activities. RCW 42.52.180(1) provides that

No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section. 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. [Emphasis added]

An allowable exception to the prohibitions in this subsection is found in RCW 42.52.180(2)(d), and applies to “Activities that are part of the normal and regular conduct of the office or agency.” This exception is directly relevant to the questions posed by the WSP.

*1. Would the Washington State Patrol be in violation of Chapter 42.52.180 RCW, if a Governor or Lieutenant Governor are attending a political event for a ballot issue or another political candidate and they are travelling in the Executive Protection Vehicle designated for the transportation of the Governor or Lieutenant Governor?*

The WSP would not violate Chapter 42.52.180 by providing protection and escort services to the Governor or Lieutenant Governor during attendance at political events related to ballot issues or a political candidate. The WSP has a statutory responsibility to provide security and protection services under RCW 43.43.035, and the Chief of the Washington State Patrol has established an Executive Protection Unit to provide 24-hour protection for the occupants of both offices. It is

therefore reasonable to conclude that the use of any WSP resource, if for the purposes of protecting the Governor and Lieutenant Governor and regardless of whether they are participating in political activities, is within “the normal and regular conduct” of the WSP.

2. *Would it be a violation of Chapter 42.52.180 RCW, if the Washington State Patrol transported the Governor or Lieutenant Governor in the Executive Protection Vehicle to specific campaign activities during their reelection, where the sole purpose of the travel is for campaign activities and no other state business is to be conducted?*

The same analysis applies to protection and security of the Governor or Lieutenant Governor in circumstances where they may be running for reelection. The fact that RCW 43.35.035 extends protection to the Governor-elect from the time of the November election indicates that the intent of this provision was for the WSP to protect the officeholder. There is no exception to this requirement if the officeholder is running for reelection and participating in campaign activities.

3. *Would it be a violation of Chapter 42.52.180 RCW, if the Washington State Patrol transported the Governor or Lieutenant Governor in the Executive Protection Vehicle where the Governor or Lieutenant Governor are attending state events or meetings in the normal course of their duties and mixed in with those events is a political event as mentioned in questions one or two?*

In the narrow context of WSP protection for the Governor and Lieutenant Governor, RCW 42.52.180(2)(d) applies regardless of whether the officeholder is conducting state business or participating in political events. In either case, the use of WSP resources to protect the Governor and Lieutenant Governor constitutes “normal and regular conduct” for the WSP.