

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Christopher Marr
Respondent.

No. 2021-026

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, Christopher Marr and Board Staff of the WASHINGTON STATE EXECUTIVE ETHICS BOARD (Board) through KATE REYNOLDS, Executive Director, pursuant to chapter 42.52 RCW, chapter 34.05 RCW, and WAC 292-100-090(1). The following stipulated facts, conclusions of law, and agreed order will be binding upon the parties if fully executed, and if accepted by the Board without modification(s), and will not be binding if rejected by the Board, or if the Respondent does not accept the Board's proposed modification(s), if any, to the stipulation. This stipulation is based on the following:

A. STIPULATED FACTS

1. On June 17, 2021, the Executive Ethics Board (Board) received a complaint alleging that Christopher Marr (Mr. Marr) a Correctional Sergeant at the Monroe Correctional Complex (MCC) Washington State Reformatory Unit (WSRU) with the Department of Corrections (DOC), may have violated the Ethics in Public Service Act by using state resources for private benefit or gain.

2. According to the complainant, they have witnessed Mr. Marr use the computer in the Main Control Sergeant's Computer Station at MCC to browse the internet for the past five

years. The complainant alleges he does this an excessive amount of time during work hours for non-work related purposes.

3. According to DOC, Mr. Marr was originally hired on November 5, 2012 as a Non-Permanent Corrections Officer 2 (CO2). On January 10, 2016, he was promoted to the permanent position of CO3/Correctional Sergeant and he is presently assigned to MCC/WSRU.

4. In a written response from Mr. Marr, he said he serves as the Watch 3¹ Main Control Sergeant for the Washington State Reformatory Unit (WSRU). He said he supervises two Correctional Officers (CO), as well as assisting the Shift Lieutenant and Shift Sergeant supervise the shift and the staff that work Watch 3.

5. According to Mr. Marr, he has used the internet for various reasons during his workday. He said that he does not believe that he has intentionally or otherwise abused the state's de minimis usage policy.

6. According to Mr. Marr, while at work, he has used the internet for both work and non-work related purposes. He said he has utilized the internet to research topics such as how to better supervise and communicate with a multi-generational work force. He said that includes better teaching and learning techniques for adult learners, tracking and learning about issues that face a correctional facility to include such topics and "Correctional Fatigue," "Correctional Burnout," workplace stress, pre/post-traumatic stress indicators, workplace violence/active shooter and active killer, use of force case studies from around the world, and information about new ways to compromise the safety and security of a correctional institution.

¹ 2pm to 10pm shift.

7. Mr. Marr said he has also utilized the internet for personal reasons. He said he has checked on the score of sporting events, used the internet to fact check topics of conversation that occurred at work, checked the news and weather, and even bought coffee and other items that were used at work. He said that at no time does he believe that he “willfully or inadvertently abused the internet.”

8. According to Mr. Marr, his supervisory file will show that he has never had any written form of discipline about his internet usage. He said his Direct Supervisory conferences and yearly Performance and Development Plan and evaluations, which are maintained and kept in his personnel file with the human resources office, will show glowing reviews and remarks pertaining to his performance not only as a Main Control Sergeant but as a first line supervisor as well.

9. A review of Mr. Marr’s work email history by Board staff found the following examples of Mr. Marr appearing to be using his work email address at cmarr@doc1.wa.gov for personal use.

10. Between September 22, 2020 and August 12, 2021, Mr. Marr sent and received 411 emails from Peggy Marr Johnson at Peggy Marr Johnson@gmail.com from his work email address. The majority of those emails appear unrelated to Mr. Marr’s job duties at the DOC and appear personal in nature. Some examples of these emails include:

- September 22, 2020, Mr. Marr sent an email youtube link for a video of blues guitarist Muddy Waters.
- Multiple emails from October 5, 2020 and October 6, 2020 between regarding the will of Donald Wallace.
- November 30, 2020, multiple emails regarding gardening.
- There were also a great deal of emails discussing Ms. Marr Johnson’s health, checking accounts, Mr. Marr’s shifts at DOC and other personal subjects.

11. Between July 26, 2021 and August 12, 2021, Mr. Marr sent and received 147 emails from Allison Bradshaw at Allison@future.com² from his work email address at clmarr@doc1.wa.gov. The majority of those emails appear unrelated to Mr. Marr's job duties at the DOC and appear personal in nature. Some examples of these emails include:

- July 28, 2021, an email from Mr. Marr and Ms. Bradshaw discussing Ms. Bradshaw's workout.
- August 3, 2021, an email from Mr. Marr to Ms. Bradshaw with photographs of what appear to be a resort attached and discussing staying at that location.
- August 4, 2021, an email from Ms. Bradshaw to Mr. Marr with a photograph of a female attached.
- There were several emails in which Mr. Marr and Ms. Bradshaw discussed work related items such as Mr. Marr's shifts at DOC, including him having to work overtime.

12. Board staff contacted Mr. Marr and asked him about the emails sent to and from Ms. Marr Johnson and Ms. Bradshaw from his work email address. In a written response to Board staff, Mr. Marr said that Ms. Marr Johnson is his elderly mother who he has had to care for and assist over the last few years. He said that most of these emails are a way for him to periodically check up on her to make sure she is well and staying busy and active. He said that this is imperative to her health and recovery from ongoing medical issues. He said she is his only remaining parent and is currently living alone. He said he was using his work email address for brief email usage, as it was easier and more time efficient.

13. Mr. Marr said he understood that 411 emails seems to be a lot but wanted to point out that per DOC Policy 280.100 "Acceptable Use of Technology" Section IV. Subsection A (page 5): "Users may send and receive personal messages using their department email account on a

² Board staff went to the website for www.Future.com and found that it is a fitness website that connects visitors with a personal trainer.

limited basis.” He said that with that in mind, assuming that most of his personal emails are short in nature, an average personal email takes approximately sixty seconds to write and send. At an average of 60 seconds per email his 411 emails to his mother comes out to almost 6.9 hours during the time frame reviewed by Board staff. He said that during that same time frame he calculated that between his assigned work hours and overtime, a grand total of 713.9 hours, the 411 emails comes out to roughly 0.9% of his total working time.

14. In regards to Ms. Bradshaw, Mr. Marr advised Board staff that Ms. Bradshaw is his current significant other. He acknowledged that there had been personal emails between them during his working hours. Mr. Marr said that during the dates listed by Board staff, using the same rough math formula that he used previously, this means that he spent 2.45 hours of his work time sending personal emails. He said that between the 14 working days, or 112 hours and the additional 53.2 hours of worked overtime, for 165.2 total working hours, the 2.45 hours or 147 emails should come out to be 1.4% of his total time utilizing work email for personal correspondence. Mr. Marr said with this in mind, he concludes that 1.4% of his work time would fall within compliance with DOC policy.

15. Mr. Marr said that assuming that roughly an equal number of emails were sent and received his percentage of time sending emails, in his opinion one should not be held responsible for emails received, his time spent sending emails would be half of the 0.9% and 1.4% time spent sending personal emails.

16. Board staff asked for and received Mr. Marr’s internet history for his DOC user name cmarr. Once processed, Board staff found that Mr. Marr’s history only went back to July 5, 2021. Board staff contacted the DOC Chief Digital Forensics Investigator David Harper (Mr. Harper) and asked why there was no internet history for Mr. Marr prior to July 5, 2021.

17. In a written response from Mr. Harper stated, “As for the history of work recorded for DOC1ZMON1184030,³ I do not see anything in our database that would account for the missing data prior to July 2021. I don’t not see any entries related to wiping of the hard drive or it having any other service related issues.”

18. Board staff were advised by Mr. Harper that the internet activity for all users is recorded and kept on the agencies Security Information and Event Management (SIEM) system for 30 days before being stored on Network Attached Storage (NAS) for 12 months. Board staff asked that Mr. Harper review Mr. Marr’s internet history in NAS for the month of June 2021, which would be prior to Board staff notifying Mr. Marr of the complaint.

19. Mr. Harper provided Board staff with an Excel spreadsheet listing the results of his review of Mr. Marr’s use of the internet for the period of June 1, 2021 through June 25, 2021, under his user name clmarr. According to Mr. Harper, during the 17 days worked by Mr. Marr, Mr. Harper found that Mr. Marr was surfing the internet a total of 2,242 minutes, for an average of 2 hours and 11 minutes per shift.

20. Board staff reviewed Mr. Marr’s internet history for the period of July 5, 2021 to August 12, 2021.⁴ Board staff found that Mr. Marr was actively surfing on the internet for what appeared to be websites unrelated to his work, during work hours, on 22 different workdays.

21. The sites Mr. Marr was accessing during this period included: Bourbon West (restaurant bar in Port Angeles), looking at homes in Port Angeles, Fitbit Inspire (how to reset screen), camping in Joyce, Washington, Lake Crescent National Park and the Hoh River,

³ Mr. Marr’s primary work computer.

⁴ August 12, 2021 was the date Mr. Harper imaged of Mr. Marr’s internet history for his user name clmarr.

Hamilton Beach Grill, Palmento State Armory and other gun websites (looking at ammunition and firearms), videos on Tik-Tok, YouTube videos, Best Barn American Flag Cowboy Hats, UW Football, Vivid Seats (an event ticket site), Instagram, scooter for sale, things to do in Redmond, Washington and Ariat jeans (a clothing site).

22. Using Mr. Marr's browsing history for July 5, 2021 as an example, Mr. Marr first accessed the internet at 5:43 pm looking at Bourbon West, a Port Angeles restaurant and bar and throughout his shift at different times. Mr. Marr accessed 18 different websites including: Weldon Mill Creek (a barbershop), thin green line (sells flags), Fitbit Inspire (screen issues and how to reset), Military nylon band watch, Seattle news, camping at Lake Crescent National Park, on the Hoh River and in the Joyce area, Nato nylon watches and Ariat jeans. At 9:05 pm, Mr. Marr last accessed a website for Grant County, Washington.

23. Board staff spoke to Mr. Marr on the telephone and reviewed the findings by the DOC and Board staff on his internet history. Mr. Marr said he worked in the main control room so when he entered he would be in there for his most, if not all, of his shift. Mr. Marr said that he looked at the sites during his down time and while on standby. He said there were times that he would look at a site and then minimize the screen but not turn it off so it would still be running in the background. Board staff advised him that the sites being discussed were specifically queried by him. Board staff advised Mr. Marr that if he had anything else to add he could provide a written response.

24. In a written response from Mr. Marr regarding his internet use, he said as the Main Control Sergeant for the facility, he is removed from the majority of the facility and more importantly removed as much as possible from the offender population. He said this is for security purposes.

25. Mr. Marr said to ensure security, his work location is a locked and controlled environment. Once inside his work location, the door, with a limited number of reasons, is to remain locked and secured at all times. He said that only after the shift commander has given written or verbal permission can the door be opened. This means in order for him to leave to go to the shift office, or step outside for a break, he has to not only be properly relieved, but have permission to do so. Mr. Marr said that once in his shift office he has a bank of nearly 20 computer monitors that have to be on at all times and are being monitored when not responding or working on other tasks.

26. Mr. Marr said there is some down time. During this random and often short-lived downtime, while on a phone call or having an in-person conversation something will be brought up in conversation that he may want to follow-up on. Mr. Marr said by Department policy they are not allowed to bring their personal cell phone into the facility so he will pull up the internet on his work computer to follow-up on whatever topic they were briefly discussing.

27. Mr. Marr said that he admits to looking at the internet with the honest intent to keeping his time short. He said there are often times that he will have to respond to an event or incident and he will minimize or pull up other windows on his computer. He said that during those times, which happen often, he will forget to shut down the internet as his attention has been pulled away and he simply forgets to shut down his browser.

28. Mr. Marr said that during the five plus year he has been in his present position, he has fulfilled all his responsibilities with 100% accuracy. He said that is reflected in both his supervisory and personnel files and been documented as such in his yearly performance reviews.

B. CONCLUSIONS OF LAW

1. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from Use of persons, money or property for private gain. RCW 42.52.160 states:

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

WAC 292-110-010 Use of state resources, states, in part:

.....
(3) Permitted personal use of state resources. This subsection applies to any use of state resources not included in subsection (2) of this section.

(a) A state officer or employee's use of state resources is de minimis only if each of the following conditions are met:

- (i) There is little or no cost to the state;
- (ii) Any use is brief;
- (iii) Any use occurs infrequently;
- (iv) The use does not interfere with the performance of any state officer's or employee's official duties;
- (v) The use does not compromise the security or integrity of state property, information systems, or software;
- (vi) The use is not for the purpose of conducting an outside business, in furtherance of private employment, or to realize a private financial gain; and
- (vii) The use is not for supporting, promoting the interests of, or soliciting for an outside organization or group.

2. The Board is authorized to impose sanctions for violations to the Ethics Act pursuant to RCW 42.52.360. The Board has set forth criteria in WAC 292-120-030 for imposing sanctions and consideration of any mitigating or aggravating factors.

C. AGGRAVATING AND MITIGATING FACTORS

In determining the appropriateness of the civil penalty, the Board reviewed the criteria in WAC 292-120-030. In the matter at hand, it is an aggravating factor these types of violations

significantly reduce the public respect and confidence in state government employees and they were continuous in nature. In the matter at hand, there are no mitigating factors.

D. STIPULATION AND AGREED ORDER

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Christopher Marr and over the subject matter of this complaint.
2. Under RCW 34.05.060, the Board can establish procedures for attempting and executing informal settlement of matters in lieu of more formal proceedings under the Administrative Procedures Act, including adjudicative hearings. The Board has established such procedures under WAC 292-100-090.
3. Pursuant to WAC 292-100-090(1), the parties have the authority to resolve this matter under the terms contained herein, subject to Board approval.
4. Christopher Marr agrees that if any or all of the alleged violations were proven at a hearing, the Board may impose sanctions, including a civil penalty under RCW 42.52.480(1)(b) of up to \$5,000, or the greater of three times the economic value of anything received or sought in violation of chapter 42.52 RCW, for each violation found. The Board may also order the payment of costs, including reasonable investigative costs, under RCW 42.52.480(1)(c).
5. Christopher Marr further agrees that the evidence available to the Board is such that the Board may conclude they violated the Ethics in Public Service Act. Therefore, in the interest of seeking an informal and expeditious resolution of this matter, the parties agree to entry of the stipulated findings of fact, conclusions of law and agreed order.
6. Christopher Marr waives the opportunity for a hearing, contingent upon acceptance of this stipulation by the Board, or their acceptance of any modification(s) proposed by the Board, pursuant to the provisions of WAC 292-100-090(2).

7. If the Board accepts this stipulation, the Board agrees to release and discharge from all further ethics proceedings under chapter 42.52 RCW for any allegations arising out of the facts in this matter, subject to payment of the full amount of the civil penalty due and owing, any other costs imposed, and compliance with all other terms and conditions of the stipulation. Christopher Marr in turn agrees to release and discharge the Board, its officers, agents and employees from all claims, damages, and causes of action arising out of this complaint and this stipulation.

8. If the Board accepts this stipulation, it does not purport to settle any other claims between Christopher Marr and the Washington State Executive Ethics Board, the State of Washington, or other third party, which may be filed in the future. No other claims of alleged violations are pending against Christopher Marr at this time.

9. If the Board accepts this stipulation, it is enforceable under RCW 34.05.578 and any other applicable statutes or rules.

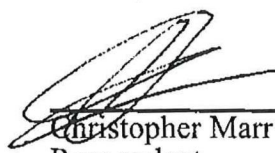
10. If the Board rejects this stipulation, or if Christopher Marr does not accept the Board's proposed modification(s), if any, this matter will be scheduled for an administrative hearing before the Board. If an administrative hearing is scheduled before the Board, waives any objection to participation by any Board member at the hearing to whom this stipulation was presented for approval under WAC 292-100-090(2). Further, Christopher Marr understands and agrees that this stipulation as well as information obtained during any settlement discussions between the parties shall not be admitted into evidence during the administrative hearing, unless otherwise agreed by the parties.

11. Christopher Marr agrees to pay a civil penalty in the amount of two thousand five hundred dollars (\$2,500) associated with violations of RCW 42.52.

12. The civil penalty in the amount of two thousand five hundred dollars (\$2,500) is payable in full to the Washington State Executive Ethics Board within forty-five (45) days after this stipulation is signed and accepted by the Board, or as otherwise agreed to by the parties.

I. CERTIFICATION

I, Christopher Marr, hereby certify that I have read this stipulation in its entirety, that my counsel of record, if any, has fully explained the legal significance and consequence of it. I further certify that I fully understand and agree to all of it, and that it may be presented to the Board without my appearance. I knowingly and voluntarily waive my right to a hearing in this matter and if the Board accepts the stipulation, I understand that I will receive a signed copy.


Christopher Marr
Respondent

Christopher Marr 4/27/22
Date

Presented by:


KATE REYNOLDS
Executive Director

KATE REYNOLDS 5/3/2022
Date

II. ORDER

Having reviewed the proposed stipulation, WE, THE STATE OF WASHINGTON EXECUTIVE ETHICS BOARD, pursuant to WAC 292-100-090, HEREBY ORDER that the Stipulation is

- ✓ ACCEPTED in its entirety;
- _____ REJECTED in its entirety;
- _____ MODIFIED. This stipulation will become the order of the Board if the Respondent approves* the following modification(s):

DATED this 13th day of May 2022.

Approved via Zoom

Shirley Battan, Chair

Approved via Zoom

Jan Jutte, Vice Chair

Absent

Gerri Davis, Member

Approved via Zoom

Earl Key, Member

* I, Christopher Marr, accept/do not accept (circle one) the proposed modification(s).

Christopher Marr, Respondent Date