

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Enrico Carver

Respondent.

No. 2023-049

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, Enrico Carver 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 May 25, 2023, the Executive Ethics Board (Board) received a complaint alleging that Enrico Carver, an employee of the Washington State Department of Corrections (DOC), may have violated the Ethics in Public Service Act. The complaint alleged that Enrico Carver violated RCW Chapter 42.52, by using state resources for non-work-related activities.

2. According to the complaint, Enrico Carver allegedly uses DOC computers to visit personal websites and watch videos.

3. According to DOC, Enrico Carver was hired on December 1, 2019 as a Corrections and Custody Officer 2 (CO2) and still remains in that position.

4. As part of this investigation, Board staff requested a forensic copy of Enrico Carver's DOC user profile. Upon review of the provided forensic image, Board staff discovered zero usage by Enrico Carver. However, Board staff noted usage by some DOC usernames, including IT employees.

5. Board staff contacted David Harper, DOC Cyber Security Operations Supervisor, to inquire. According to David Harper, when they double checked their work, they noted that they did not include Enrico Carver's user profile when creating the forensic image. When they attempted to recreate the forensic image, they learned that Enrico Carver's hard drive had been wiped. DOC further informed Board staff that moving forward, they will be wiping all DOC computers on a daily basis. However, they indicated they would be able to track user web browsing and retain it in what they referred to as a "webform."

6. DOC provided Board staff with a "webform" of Enrico Carver's web history. Upon review, the "webform" is an Excel spreadsheet which tracks date, time, and basic website information, e.g. "komonews.com." However; it did not track or report additional information typically found when Board staff processes forensic images through Magnet Forensics, such as: time spent on website, specific details such as specific news stories viewed, frequency of visits per day, associated download cache images, etc. There are no hyperlinks in the Excel spreadsheet that Board staff could click and be taken to the exact webpage viewed, as they are not listed/tracked as normal/exact website viewed, as Magnet Forensics would show when processing a forensic image. Lastly, a large portion of the spreadsheet provides URL's which appear invalid, such as: https://static.chartbeat.com:443/js/chartbeat_mab.js.

7. When Board staff copied and pasted the above link into a web browser, it did not show any form of valid website, instead it listed unreadable script (programming) type language.

8. Upon further review of Enrico Carver's DOC provided Excel spreadsheet web usage, Board staff noted the following examples of websites which appeared personal in nature:

- May 21, 2023: kiro7.com
- May 21, 2023: fox13seattle.com
- May 22, 2023: sportpirate.com
- May 22, 2023: cbsnews.com
- May 22, 2023: cnn.com
- May 29, 2023: komonews.com
- May 29, 2023: abcnews.com
- June 3, 2023: cnn.com
- June 3, 2023: youtube.com
- June 3, 2023: nytimes.com
- June 3, 2023: Aljazeera.com
- June 3, 2023: newsweek.com
- June 3, 2023: abcnews.com
- June 10, 2023: newsweek.com
- June 10, 2023: cbsnews.com
- June 12, 2023: cbsnews.com
- June 12, 2023: understandingwar.org
- June 12, 2023: foreignaffairs.com
- June 13, 2023: abcnews.com
- June 13, 2023: nbcnews.com
- June 13, 2023: newsweek.com
- June 14, 2023: king5.com
- June 14, 2023: foxnews.com
- June 14, 2023: murphyauction.com
- June 14, 2023: abcnews.com
- June 14, 2023: cbsnews.com
- June 26, 2023: newsweek.com
- June 26, 2023: abcnews.com
- June 27, 2023: abcnews.com
- July 2, 2023: newsweek.com
- July 2, 2023: abcnews.com
- July 2, 2023: cbsnews.com
- July 2, 2023: nbcnews.com
- July 2, 2023: cnn.com
- July 2, 2023: espn.com
- July 2, 2023: komonews.com

- July 2, 2023: king5.com
- July 2, 2023: Aljazeera.com
- July 3, 2023: youtube.com
- July 3, 2023: msn.com
- July 3, 2023: abcnews.com
- July, 3, 2023: komonews.com

9. Board staff emailed a copy of the above web usage to Enrico Carver and provided them the opportunity to provide an explanation. According to Enrico Carver, inmates often ask them questions, news related, that they do not know the answer so they will sometimes check news websites to find an answer on news related inmate inquiries.

10. Enrico Carver maintains that they disagree with some of the browsing being categorized as personal browsing but that they do not want to spend any more time or energy on this matter and just want to move past it.

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. 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 Enrico Carver 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. Enrico Carver 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. Enrico Carver 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. Enrico Carver 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. Enrico Carver 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 Enrico Carver 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 Enrico Carver 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 Enrico Carver 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, Enrico Carver 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. Enrico Carver agrees to pay a civil penalty in the amount of five hundred dollars (\$500) associated with violations of RCW 42.52. The Board agrees to suspend two hundred dollars (\$200) on the condition that Enrico Carver complies with all terms and conditions of this Stipulation and Order and commits no further violations of RCW 42.52 for a period of two years from the date this agreement is executed.

12. The civil penalty in the amount of three hundred dollars (\$300) 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, Enrico Carver, 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.



Enrico Carver
Respondent

10-15-2024

Date

Presented by:

K. Reynolds
KATE REYNOLDS
Executive Director

10/29/24
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 8th day of November 2024.

Approved Verbally
Kelli Hooke, Chair

Megan Abel
Megan Abel, Vice Chair

Jan M Jutte
Jan Jutte, Member

Approved Verbally
Cam Comfort, Member

David Hankins
David Hankins, Member

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

Enrico Carver 10/15/2024
Enrico Carver, Respondent Date