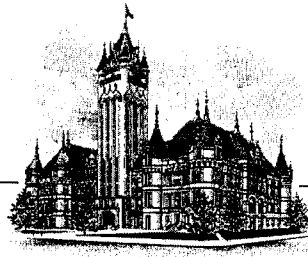


S P O K A N E



C O U N T Y

RECEIVED
JUN 18 2008

STEVEN J. TUCKER
PROSECUTING ATTORNEY

OFFICE OF PROSECUTING ATTORNEY

MAIL TO:
Civil Division
1115 W. Broadway Avenue
Spokane, WA 99260-0270
(509) 477-5764 FAX: 477-3672

June 18, 2008

Ms. Bonne W. Beavers
Attorney At Law
35 West Main Avenue #300
Spokane, Washington 99201

Re: *Correspondence dated May 25, 2008 with Regard to Video-Taping/Recording of Public Meetings*

Dear Ms. Beavers:

The Board of County Commissioners has forwarded the above-referenced correspondence to my attention for response.

In your correspondence, you request "...further clarification as to what policy was initiated by Commissioner Richard and how it is being implemented today..." with regard to video or audio recording of public meetings.

I have attached a *working draft* policy that I prepared between March 23 and March 27, 2006, with regard to video-taping or recording open public meetings, workshops, study sessions, and individual meetings between County employees and members of the public. I do not have any record indicating I provided a copy to the Board or any other County staff. I do recall having verbal discussions with County staff on the topic.

To the best of my recollection, there have not been any incidences, other than those referenced in your correspondence, wherein video-taping or recording was or may have been an issue. To the contrary, there have been many instances where individuals have video-taped or recorded County meetings where I have been personally present without incident. Frankly, I am reluctant to recommend the adoption of a policy of this topic. If you are aware of any other County issues with regard to this topic, I would appreciate your sharing them with me. I will be glad to review them and if necessary revisit my view that a policy on the topic is not warranted.

Sincerely,


JAMES P. EMACIO
Chief Civil Deputy Prosecuting Attorney

cc: Senator Lisa Brown

Enclosure

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(509) 835-4500 FAX:835-4552

Drug/Property Department
721 N. Jefferson
Spokane, WA 99260-0270
(509) 477-6416 FAX: 477-6450

Juvenile Department
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POLICY REGARDING RECORDING OF EMPLOYEE'S CONVERSATIONS

I. PURPOSE

Chapter 9.73 RCW sets forth the Washington State law with respect to an individual's right to privacy in conjunction with private conversations. Summarily speaking, that statute makes it unlawful to intercept and record a "**private conversation**" between or among individuals without their consent.

The statute does not prohibit video taping of private conversations without anyone's permission so long as there is no voice recording.

The statute also sets forth various exceptions. For example, it is not unlawful to intercept and record emergency calls; extortion, blackmail, and bodily harm calls; or anonymous or repeated calls at extremely inconvenient hours. Additionally, it is not unlawful for an employee of a regularly published newspaper, magazine, radio station or television station, acting in the course of bona fide news gathering duties, to record and divulge private conversations if (i) the recording or transmitting device is readily apparent or obvious to the speaker, or (ii) consent is expressly given by the speaker.

The state statute does not define the terminology "**private conversation**".

It is the intent of this policy to clarify that any conversation by an employee of the Board of County Commissioners and/or an employee of any department or agency established by the Board of County Commissioners, in their official capacity, shall **not** be considered a "private conversation," if that conversation is made at an open public meeting or at any other advertised meeting, workshop, study session or similar gathering at which the public is invited to attend. As such, the employee's conversation may be recorded or recorded without their permission.

II. SCOPE

This policy applies **only** to employees under the direct supervision and control of the Board of County Commissioners of Spokane County. Elected Officials of Spokane County are encouraged to recognize this policy and discuss it with their employees.

III. POLICY

The following shall not be considered "private conversations" and as such can be recorded without the consent of an employee:

1. Conversations of an employee at an open public meeting when the employee is acting in his/her official capacity. Open public meeting for the purpose of this policy shall have the same meaning as set forth in the Open Public Meetings Act found in chapter 42.30 RCW.

Generally speaking, they include all regularly or specially scheduled public meetings by any public agency at which the public is invited to attend and/or at which a majority of the governing body is present.

2. Conversations of an employee at any meeting, workshop, study session or similar gathering at which the public is invited to attend and when the employee is acting in his/her official capacity.

An employee shall be considered as acting with his/her official capacity when they are attending any meeting as addressed in (1) or (2) above as an employee of the Board of County Commissioners as opposed to acting or attending in a personal capacity.

Numerous conversations occur between employees other than addressed in (1) and (2). For example, Public Works employees may hold meetings with developers to share information or the Human Resources Department may hold meeting with other employees or member of the public in conjunction with performing an investigation. This policy does not address such one-on-one conversations. Each conversation needs to be examined on its own merits as to whether it is a "private conversation". As a general practice, such conversations should be considered a "private conversation" and as such the employee must consent to it being recorded.

Employees are encouraged to discuss with their supervisor any concerns or questions with respect to this policy prior to the attendance or participation in any activity in their official capacity where recording their conversation may be an issue.

It is not the intent of this policy to provide guidance for employees in a somewhat complex matter not to establish a performance standard that could form the basis for potential discipline.