

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

In Re the Ethics Complaint of MONTANA REPUBLICAN STATE CENTRAL COMMITTEE v. GOVERNOR STEVE BULLOCK	Cause No. COPP-2019-ETH-002 SUMMARY DECISION Ethics Complaint Not Accepted for Filing Rejected as Frivolous and for Failing to State a Potential Violation of the Code of Ethics
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At the present time the State of Montana has two federal elected officials, seven state and local elected officials, nine state legislators, and two state employees running for federal and state office for the 2020 election cycle. Each category of public servant has their own distinct obligations under Federal laws¹ and rules ² and the Montana Code of Ethics. The public is mindful and watching closely to see if public resources are being used to support or oppose candidacies for office.

¹ Federal Election Commission, [Travel on behalf of campaigns](#). See also, [AO 1984-48](#), Hunt, Superseded in part by 68 FR 69583, 69588 (Dec 15, 2003); and [AO 2002-05](#), Hutchinson. Last accessed August 5, 2019.

² U.S. House of Representatives, Committee on Ethics, [Campaign Activity](#) and U.S. Senate Select Committee on Ethics, [Ethics Rules](#), [Campaign Activity](#) (last accessed August 5, 2019).

JURISDICTION AND AUTHORITY

The Commissioner of Political Practices has jurisdiction to hear and decide complaints filed under Montana's Code of Ethics against state officers, legislators, state employees and county attorneys. Mont. Code Ann. § 2-2-136.

Mr. Bullock is an elected official and serves as the Governor of State of Montana. The Code of Ethics defines a public officer as "any state officer," Mont. Code Ann. § 2-2-102(8)(a). A state officer "includes all elected officers and directors of the executive branch of state government," Mont. Code Ann. § 2-2-102(11). The Governor is an officer of the executive branch of Montana State government (Mont. Const. Art. VI, sec. 1). Governor Bullock therefore is a public officer of the state and subject to the Montana Code of Ethics.

Although the complaint did not allege a violation of the Code of Ethics by the members of the Department of Justice, Montana Highway Patrol, Executive Protection Detail (EPD), the Detail Commander and the Detail Agents are full-time state employees. The Department of Justice is an executive branch agency, Title 2, Chapter 15, part 20 of Montana Code Annotated. The Department of Justice exercises control and supervision over the Montana Highway Patrol, Mont. Code Ann. §44-1-101. An employee of the state is a "public employee", Mont. Code Ann. § 2-2-102(7)(a). The Detail Commander and the Detail Agents are subject to the Montana Code of Ethics.

PROCEDURAL BACKGROUND

On July 15, 2019, the Office of the Commissioner of Political Practices (COPP) received an ethics complaint from the Montana Republican State Central Committee alleging violations of the Code of Ethics by Governor Steve Bullock. That same day the COPP provided notice to the MRSCC both to inform them that the complaint was in a provisionally lodged status and seeking additional information to support its allegations, Mont. Code Ann. § 2-2-136(1)(a). The COPP also provided notice to the Governor that the complaint was lodged, and later that afternoon the Commissioner received a response alleging that the Governor was not a proper party to the Complaint. On July 17, 2019, the COPP and the Governor received a letter from the MRSCC standing by the allegations of their complaint.

On July 18, 2019, the COPP and the MRSCC received further information from the Governor moving the Commissioner to dismiss the complaint. That same day, the MRSCC sent an email acknowledging the Commissioner's request for additional information and requesting an extension of time to provide the information to the Commissioner. On July 22, 2019, the Commissioner received a spreadsheet from the MRSCC that was provided to them by the Department of Justice detailing the month, year, city and state and expenditure totals incurred by the DOJ in providing the Executive Protection Detail to the Governor from July 2018 through June 2019. The MRSCC also provided a pdf of events, dates and locations of Governor Bullock from September of 2017 through July 2019.

On July 23, 2019, the Commissioner requested additional information from the Governor to respond to the complaint, and to make any arguments that would assist in determining whether or not the ethics complaint "contains sufficient allegations to enable to commissioner to determine whether the complaint states a potential violation" of the Code of Ethics, Mont. Code Ann. § 2-2-136(1)(b). On July 30, 2019, the COPP received the Governor's additional information, and the issue is now ready for the Commissioner's determination³.

CONTENTIONS

The Montana Republican State Central Committee (MRSCC), through its Chairman Don "K" Kaltschmidt, asserts that Governor Bullock is a state official who is subject to the Code of Ethics. That "[a]s the Governor, Bullock has an Executive Protection detail assigned to him". The MRSCC also alleges that the "officers are paid to protect the Governor and travel with him on official state business within and outside of Montana". By having the EPD's protection travel with him while considering running for office and since declaring that he was seeking the democratic nomination, the

³ The Commissioner used the information in the Complaint and as additionally supplied and incorporated by the parties to reach the Summary Dismissal made in this matter.

MRSCC contents that the Governor is violating the Code of Ethics while campaigning for elective office.

(a) Except as provided in subsection (3)(b), a public officer or public employee may not use public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is:

(i) authorized by law; or

(ii) properly incidental to another activity required or authorized by law, such as the function of an elected public officer, the officer's staff, or the legislative staff in the normal course of duties.

(b) As used in this subsection (3), "properly incidental to another activity required or authorized by law" does not include any activities related to solicitation of support for or opposition to the nomination or election of a person to public office or political committees organized to support or oppose a candidate or candidates for public office....

(c) This subsection (3) is not intended to restrict the right of a public officer or public employee to express personal political views.

Mont. Code Ann. § 2-2-121(3). (Emphasis added).

The Governor responds that Governor Bullock is not a proper party to the Complaint. The Governor states that the EPD makes decisions about the deployment of its own officers based on the nature of the public official's schedule, actual or perceived threats, and that the Detail Commander is ultimately responsible for the safety and welfare of the Governor. The Governor contents that the MOU⁴ and the Letter of Agreement⁵ states that the Montana EPD provides "security to the Governor on a full time basis and protect[] the Governor as officeholder regardless of his physical location or the nature of his activities...including . . . during times that he is engaged in political activities".

⁴ Governor of Montana and Attorney General of Montana, "Executive Protection Memorandum of Understanding", dated August 24, 2017, Exhibit A (MOU).

⁵ State of Montana Department of Justice, Governor's Office, Montana Highway Patrol Division, "Letter of Agreement Re: Executive Protection Detail Reimbursement", dated July 2, 2019, Exhibit B (Letter of Agreement).

The Governor also asserts that because the MRSCC complaint fails to allege a member of the EPD engaged in campaign activity supporting Governor Bullock's candidacy, and that the complaint fails to allege that the Governor directed members of the EPD to engage in that activity that the complaint is without merit, fails to state a potential violation of the Code of Ethics and must be summarily dismissed.

FINDINGS OF FACT

In order to apply the law to MSRCC's and Governor Bullock's contentions, the following Findings of Fact are necessary:

Finding of Fact 1: Governor Bullock is an elected state official who declared his candidacy for the democratic nomination for President of the United States on May 14, 2019. (Complaint).

Finding of Fact 2: The Executive Protection Detail is a division of the Montana Highway Patrol in the Department of Justice for the State of Montana (Ex. A, MOU and Ex. B, Letter of Agreement). The members of the EPD are full time employees of the State. (Ex. A and Governor's Response, July 15, 2019).

Finding of Fact 3: The Executive Protection Detail is led by a Detail Commander, who directs the Detail Agents, to provide a full-time security detail to the Governor for the purpose of providing executive protection to the Governor's Office. (Ex. A).

Finding of Fact 4: The EPD operates under a Memorandum of Understanding dated August 24, 2017, and agreed to by the Governor's Office, the Attorney General's Office and the Montana Highway Patrol (Ex. A). The MOU states that the EPD's "salaries, including benefits, travel and operating expenses will be provided by the [Highway] Patrol, unless otherwise negotiated."

Finding of Fact 5: The Detail Commander "will determine what activities the Detail Agents will become involved in". The Detail Commander also determines the coverage provided to "protected dignitaries at a level that is deemed appropriate based on the nature of the schedule, events or venues, or in response to actual or perceived threats based on protective intelligence. (Ex. A, p. 2).

Finding of Fact 6: The 2019 Legislature proposed a new law, House Bill 693, which would have required reimbursement of certain expenditures by elected officials. (Complaint⁶).. As introduced, the bill would have required elected officials who traveled "outside of the state" for political fundraising or "electioneering activities" to reimburse the state for any taxpayer-funded

⁶ <https://leg.mt.gov/bills/2019/billpdf/HBO693.pdf>

expenses. The bill also had a retroactive applicability date to January 1, 2017. The bill was later amended by the House State Administration Committee to remove the retroactive applicability date, and to specifically exclude the expenses incurred by “sworn peace officer acting in an official capacity to provide security”. The bill passed second reading on the House floor of the Legislature but was referred to the Appropriations Committee where it was tabled and did not become law.

Finding of Fact 7: The Complaint alleges that the fiscal note⁷ for House Bill 693 identified “approximately \$309,420 [spent on EPD] since January 1, 2017” for out of state travel by the Governor. The fiscal note discloses a total budget for the EPD for fiscal year 2018 of \$728,399, and \$780,000 for fiscal year 2019.

Finding of Fact 8: The MRSCC later obtained the EPD’s costs for salary, incidentals and travel expended for out of state travel from July 2018 through June 2019, amounting to \$153,745.81. The amount expended in May 2019 was \$33,344.66, and there were no expenditures in June of 2019 (MSRCC Supplemental Information, July 22, 2019).

Finding of Fact 9: The MRSCC also submitted additional information in support of its Complaint alleging roughly one hundred events outside of the State of Montana from September 2017 through July 20, 2019. Travel occurred on May 15 through 19, and May 28 through 29 to New York, Iowa and Washington D.C. The EPD expended \$33,244.66 in providing protection to the Governor in May. (MSRCC Supplemental Information, July 22, 2019).

Finding of Fact 10: In June 2019, the Governor traveled on the 4, 9-11, 19-23, 25-26, and 28 to California, Iowa, New Hampshire, Florida and North Carolina. The EPD did not accompany Gov. Bullock while traveling in June 2019. (MSRCC Supplemental Information, July 22, 2019).

Finding of Fact 11: The 2017 and 2019 Legislature did pass House Bill 2⁸⁹, which each included funding for the Executive Protection Detail as a part of the Department of Justice’s budget for the Montana Highway Patrol and the bill became law. There was no limitation on how the Highway Patrol was to spend the appropriation for the Executive Protection Detail expressed by the legislature. (Legislative Records).

Finding of Fact 12: On July 2, 2019, the Governor’s Office, the Department of Justice and the Montana Highway Patrol executed a Letter of Agreement, stating “the parties have agreed that the incidental expenses incurred, on or after the

⁷ <https://leg.mt.gov/bills/2019/billpdf/HB0002.pdf>

⁸ <https://leg.mt.gov/bills/2017/billpdf/HB0002.pdf>

⁹ <https://leg.mt.gov/bills/2019/billpdf/HB0002.pdf> at 19.

effective date of this letter, by the Executive Detail members in connection with out-of-state travel for presidential campaign activities will be reimbursed to the Patrol by the Governor's campaign. The incidental expenses to be reimbursed are the travel, lodging and meal expenses incurred by the Detail attendant to such travel activities." (Ex. B).

DISCUSSION

The Montana Legislature adopted the Code of Ethics for Montana state and local officers and employees and legislators "prohibiting conflict between public duty and private interest," Mont. Constitution, Article XIII, § 4. "The holding of public office or employment is a public trust, created by the confidence that the electorate reposes in the integrity of public officer, legislators, and public employees...[who] shall carry out the individual's duties for the benefit of the people of the state," Mont. Code Ann. § 2-2-103(1). "A public officer ... or public employee whose conduct departs from the person's public duty is liable to the people of the state and is subject to the penalties provided ... for abuse of the public's trust." *id.* (2).

ANALYSIS

1. Statute of Limitations

The Montana Code of Ethics has a two-year statute of limitations within which to file a complaint alleging violations of the Code of Ethics by a public official or employee, Mont. Admin. R. 44.10.604(1)(b), Mont. Code Ann. § 27-2-111(1)(a). The statute of limitations to file a complaint regarding Gov. Bullock's alleged violations before July 16, 2017 has expired. The alleged violations occurring January 1, 2017 through July 15, 2017, are hereby dismissed as untimely and therefore frivolous allegations, Mont. Code Ann. §2-2-136(1)(b).

2. Governor Bullock's Time

Like other state elected officials, Governor Bullock may pursue a nomination even while on public time without violating the code of Ethics. "To avoid absurdity and constitutional problems, we construe § 2-2-121(3), MCA, to permit an elected official to use his or her time to pursue election related activities so long as the official does not use 'public facilities, equipment, supplies or funds'", *Fox v. Molnar*, 2013 MT 132, ¶39, 370 Mont. 238, 301 P.3d 824. As the law has been applied to other elected officials by

the Montana Supreme Court, Governor Bullock's time spent campaigning is dismissed from consideration under the complaint as frivolous as well as a failure to allege a potential violation of the Code of Ethics, Mont. Code Ann. § 2-2-136(1)(b).

3. Governor Bullock's Candidacy

The term candidate is not defined by the Code of Ethics, however when the term is used the Code refers to a candidate "as defined in 13-1-101(8)(a)" under Montana's election laws. "Candidate" means: an individual who has filed a declaration or petition for nomination ... as a candidate for public office as required by law..." Mont. Code Ann. §§ 13-1-101(8)(a) and 1-2-107.

The Montana Republican State Central Committee (MRSCC) asserts as fact in their complaint that Mr. Bullock did not become a candidate for federal office until May 14, 2019. The MRSCC also alleges as fact that Governor Bullock engaged in candidate like actions occurring as early as January 1, 2017 and that there was "rampant speculation" and "thousands of articles" mentioning the Governor and a potential candidacy prior to May 14, 2019. The MRSCC asks the Commissioner to hold the Governor to account for all costs of the Executive Protection Detail that were incurred from January 1, 2017, to the present time for approximately \$309,420.00. The supplemental information provided by the MRSCC lowered that amount for EPD services from July 2018 through June 2019 to \$153,745.81 and does not distinguish between the Governor's travel for official or personal business.

Montana law does not define candidacy based on the perception on the part of others. Montana law requires that an individual takes action to become a candidate: by soliciting or retaining contributions for public office, declaring themselves a candidate for public office, or making expenditures to campaign for public office. The Commissioner's office has a long history of applying the definition of a "candidate" exactly as the legislature defined it, [*LaBreche v. Gianforte*](#), COPP-2015-CFP-010. Here, the legislature specifically incorporated the campaign finance definition of candidacy into the Code of Ethics.

In this matter Mr. Bullock did not become a candidate for presidential office until he announced his intention to run for office and registered with the Federal Election

Commission as a candidate on May 14, 2019¹⁰. Therefore, any alleged violation before May 14, 2019, will not be further considered and is dismissed from deliberation under the complaint as failing to state a potential violation of the Code of Ethics, Mont. Code Ann. § 2-2-136(1)(b).

4. History of the Executive Protection Detail

In November of 2001, in response to the events of September 11, former Governor Martz and the Montana Highway Patrol entered into an “Executive Protection Memorandum of Understanding” providing for two Montana Highway Patrol members to provide an Executive Protection to the Governor’s office and Governor. In 2004 and 2005, the Legislature approved funding in the Governor’s budget for payment of the Executive Protection Contract with the Montana Highway Patrol. In 2007 the Legislature moved funding for the EPD from the Governor’s budget into the Department of Justice’s budget to pay for the services of the Montana Highway Patrol. Since that time the Governor’s Office and the Department of Justice have executed periodic Memorandums of Understanding about responsibilities, duties and payments for the provision of the EPD to the office of the Governor.

The “normal course of dut[y]” for the EPD is “to provide for the overall safety and security of the Office of the Governor; including the Governor, First Lady, First Family, Lieutenant Governor, and visiting dignitaries” while engaging in official and private activities, Mont. Code Ann. § 2-2-121(3)(a)(ii). The EPD is lead by a Detail Commander, who directs Detail Agents in the provision of protection, and determines what activities the EPD will become involved in, based on “a level that is deemed appropriate based on the nature of the schedule, events or venues, or in response to actual or perceived threats based on protective intelligence”. (Ex. A). The current MOU states that the EPD’s salaries, travel, operating expenses, uniforms, firearms, equipment and vehicles would be furnished by the Department of Justice from their budgetary appropriation by the Legislature “unless otherwise negotiated”.

¹⁰ As the MRSCC factually alleged in its Complaint.

On May 14, 2019 the Governor declared he was seeking the democratic nomination for the President of the United States. On July 2, 2019, the Governor's Office and the Montana Highway Patrol executed a "Letter of Reimbursement re: Executive Protection Detail Reimbursement" (Ex. B). The letter amends the August 24, 2017, MOU (Ex. A) by stating that the Governor's campaign will reimburse the Montana Highway Patrol EPD for certain costs:

The parties have agreed that the incidental expenses incurred, on or after the effective date of this letter, by the Executive Detail members in connection with out-of-state travel for presidential campaign activities will be reimbursed to the patrol by the Governor's campaign. The incidental expenses to be reimbursed are the travel, lodging and meal expenses incurred by the Detail attendant to such travel activities.

(Exhibit B).

There is no indication in the record that other state officials who receive protection from the Executive Protection Detail or the Montana Highway Patrol have entered into MOUs or agreements to reimburse the Department of Justice for the expenditures made for providing protection to officials at campaign or political rallies in the past two years. The EPD has provided protection to the President and Vice President of the United States, visiting Governors from other states, former Governors of other states, dignitaries from other countries, the Governor, the Lieutenant Governor, the Attorney General, the Commissioner of Securities and Insurance, the Secretary of State, the Superintendent of Public Instruction, legislative leaders and the Governor's family.

5. The Complaint Fails to Allege a Violation of the Code of Ethics

The Complaint does not allege facts which support a violation of the Code of Ethics. The alleged facts are that the Executive Protection Detail accompanied Governor Bullock on three out-of-state trips after May 14, 2019 that included Minneapolis, St. Paul, MN; Des Moines and Dubuque, IA; Washington D.C. and New York City. Under the MOU in place at that time, the Highway Patrol was responsible for paying for the costs of the protective detail, and there was no separate agreement that the Governor or his campaign would reimburse the state for those costs. The EPD did not travel out of

state with the Governor during June 2019. In early July 2019 the Governor's Office, the Department of Justice and the Highway Patrol agreed to reimburse the state for the costs above and beyond the EPD's normal compensated time. The Executive Detail Commander makes the determination of who will receive protective services and when they are appropriate, not the public official (in this case Governor Bullock).

The Letter of Agreement (Ex. B) is similar to the Commissioner's campaign finance determination which endorsed the Governor's reelection campaign reimbursing the state for the costs of the use of the state airplane when additional time was spent on the ground in a "hold time" status if the Governor had a campaign stop in addition to an official duty stop, [Ellsworth v. Bullock](#), COPP-2016-CFP-041, June 28, 2017. Governor Bullock's 2016 campaign is not the only campaign that reimbursed the state for additional travel costs while campaigning in 2016; another statewide candidate reimbursed their state agency for the costs of the plane ticket to Washington, DC, when a previously scheduled work trip later included a campaign fundraiser. It is appropriate for any candidate who is running for nomination or elected office to reimburse the government for additional costs incurred by campaigning¹¹.

There is no factual allegation in the Complaint that any members of the EPD actively "solicit[ed] support for ... the nomination ... of a person to public office ..." while providing protection services to the Governor, Mont. Code Ann. § 2-2-121(3)(b). In [Cooper v. Johnson](#), COPP-2016-ETH-007, PSC Chairman Johnson was found in violation of the Code of Ethics for directing a state employee to review Johnson's letter to the editor which opposed a candidate for office. In [Montana Democratic Party v. Stapleton](#), COPP-2019-ETH-001, Secretary of State Stapleton was found to be in violation of the Code of Ethics for directing state employees to place his campaign for Governor announcement on state letterhead, and to immediately release it to the press.

¹¹ *Accord Oregon Government Ethics Commission, Preliminary Review, Cause No. 18-222EDG, Nov. 8, 2018, pg. 14-15. "As explained by Sargent Bates, the DPU provides transportation and security services to the Governor at all times, whether she is conducting official or personal business. This is because potential threats to the Governor's safety are not confined to when she is conducting official business." Matter dismissed by the Oregon Government Ethics Commission on Dec. 14, 2018.*

There is no factual allegation in the Complaint that the Governor directed members of the EPD to engage in activity supporting his nomination. There is no factual allegation that the EPD did anything other than engage in their official duty of protecting the Governor at all times deemed necessary by the Detail Commander.

The Complaint does contain an allegation that the EPD accompanying the Governor on out of state travel is not “properly incidental” under the Code of Ethics, Mont. Code Ann. § 2-2-121(3)(b). Since 2001, the EPD has provided protection to the Office of the Governor. The legislature has regularly funded the protection knowing that the EPD will occasionally cover political events. This past session the Legislature proposed House Bill 693 which would have required that a campaign reimburse the state for any expenses incurred for out of state travel by state employees while specifically “excluding [expenses of] a sworn peace officer acting in an official capacity to provide security”. The bill did not become law.

House Bill 2 included funding for the EPD and did pass the 2017 and 2019 Legislature, and was therefore “authorized by law”, Mont. Code Ann. § 2-2-121(3)(a)(i). The Commissioner further determines that the provision of security to elected officials is “properly incidental” provision of security to our state’s elected officials “during the normal course of [their] duties”, Mont. Code Ann. § 2-2-121(3)(a)(ii). The outcome would be different if the complaint contained an allegation that while performing their official duties, a state employee was directed to, or actively sought support for or opposition to a candidate, political committee or ballot issue while using state resources.

CONCLUSION

If the allegations of the complaint are taken as true, and that Governor Bullock was campaigning for a presidential nomination misusing state resources since early 2017, then it was the job of the Legislature to pass laws addressing the issue. The Commissioner does not have the ability to enforce legislation which did not pass (HB 693), while ignoring legislation that did become law which authorized the Governor’s EPD to continue providing protection to the Office of the Governor and other dignitaries at the discretion of the Detail Commander (HB 2).

A lodged ethics complaint may be dismissed for filing with the COPP if the “charges [are] so insufficiently supported by allegation as to not state even a ‘potential violation’”, *Democratic Party v. Martz*, Sep. 2. 2002, at fn. 7 (Commissioner Vaughey). Alleging misuse or abuse of taxpayers resources without underlying factual or legal support is not sufficient in itself to support an informal complaint proceeding under the Code of Ethics.

As discussed above, the Complaint fails to allege that the EPD were either directed to or engaged in solicitation of support for Governor Bullock’s nomination. Accordingly, the Complaint is dismissed as so insufficiently supported by factual allegation as to not even state a potential violation of Montana’s Code of Ethics.

CONCLUSIONS OF LAW

1. The alleged violations of law which occurred from January 1, 2017 to July 15, 2017, are beyond the statute of limitations under the Code of Ethics, and are dismissed as untimely and therefore frivolous allegations, Mont. Code Ann. § 2-2-136(1)(b), 27-2-111(1)(a), and Mont. Admin. R. 44.10.604(1)(b).

2. The alleged violations of law which concern’s Governor Bullock’s use of his own public time to seek a nomination for office are dismissed as failing to allege a potential violation of the Code of Ethics, Mont. Code Ann. § 2-2-121(3) as construed by *Fox v. Molnar*, 2013 MT 132, ¶139, 370 Mont. 238, 301 P.3d 824.

3. In this matter Governor Bullock did not become a candidate for public office until he announced his candidacy on May 14, 2019, and therefore the allegations of violations in the complaint prior to that date fail to state a potential violation of the Code of Ethics, Mont. Code Ann. § 2-2-136(1)(b) and are dismissed.

4. The Commissioner determines that the provision of security to elected officials is “properly incidental” provision of security to our state’s elected officials “during the normal course of [their] duties”, Mont. Code Ann. § 2-2-121(3)(a)(ii).

5. The Complaint fails to allege facts that state a potential violation of the Code of Ethics in failing to allege that the EPD engaged in activity that solicited support for Governor Bullock’s candidacy, or alleging as fact that Governor Bullock directed the

EPD to engage in conduct supporting his candidacy while providing protective services and are therefore dismissed, Mont. Code Ann. § 2-2-136(1)(b).

ORDER

1. During these proceedings, the Office of the Governor used in house counsel to respond in defense of the Governor and the EPD, and it appears that the costs incurred would be minimal. Therefore, the Commissioner will not assess the State of Montana's costs against the Montana Republican State Central Committee, Mont. Code Ann. § 2-2-136(2)(c).

2. The Commissioner's office did incur costs in dealing with this matter, through the use of in-house legal counsel, personnel, time, equipment, facilities and supplies. Given the ability to dismiss this Complaint at the earliest stages as without factual or legal support, and for failing to allege a violation of the Code of Ethics, the Commissioner will not assess COPP's costs against Montana Republican State Central Committee for this Summary Decision proceeding.

NOTICE

The Commissioner provides notice to the parties that this summary decision is a final agency order, and either party may seek judicial review of the Commissioner's determination pursuant to Montana Code Annotated, Title 2, Chapter 4, part 7. Mont. Code Ann. § 2-2-136(3). The parties are further informed that the Complaint, record established, and Decision are available for public inspection. Mont. Code Ann. § 2-2-136(4).

ORDERED this 5th day of August, 2019.



Jeffrey Mangan
Commissioner of Political Practices
P.O. Box 202401
Helena, MT 59620-2401

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing to be emailed and send by first class US mail to:

Montana Republican State
Central Committee
PO Box 935
Helena, MT 59624

Steve Bullock
State Capital, Room 204
Helena, MT 59601

DATED this 5th day of August, 2019.





MONTANA HIGHWAY PATROL EXECUTIVE PROTECTION DETAIL

118 North Roberts • Helena, Montana 59601-0801



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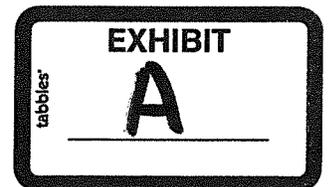
**GOVERNOR OF MONTANA
AND
ATTORNEY GENERAL OF MONTANA**

EXECUTIVE PROTECTION MEMORANDUM OF UNDERSTANDING

The Governor's Office [Office] of the State of Montana agrees to have the Montana Highway Patrol Division of The Montana Department of Justice [Patrol] continue to provide an Executive Protection Detail [Detail]. This Memorandum of Understanding [MOU] addresses the operational and budgetary issues surrounding the provisions of Executive Protection. The following paragraphs constitute the general terms of this MOU between the two agencies.

The mission of the Patrol in relation to Executive Protection is to vigilantly provide for the overall safety and security of the Office of Governor; including the Governor, First Lady, First Family, Lieutenant Governor, and visiting dignitaries; while maintaining openness and access to government, while practicing sound fiscal management. As such:

1. The Patrol will provide a dedicated full-time security detail consisting of a Detail Commander and a sufficient number of Detail Agents holding at least the rank of Trooper, for the purpose of providing Executive Protection to the Governor's Office. **This protection will include direct protection of the Governor, First Lady, First Family, Lieutenant Governor, and visiting dignitaries; the collection and preservation of protective intelligence; the assessment and investigation of threats to the Governor's office, and all duties associated with protection and protective intelligence. Protection for the Lieutenant Governor and visiting dignitaries will be based on need, availability of resources, and an agreement between the parties, i.e. Governor's Chief of Staff or requesting agency in the case of visiting dignitaries.**
2. Detail Agents will be under the direct supervision of the Detail Commander and will serve at the pleasure of the Governor and /or the Detail Commander. The Detail Commander will liaison with the Chief of Staff, who will be the point of contact for the Office. The Detail Commander will serve as the point of contact between the Office and the Patrol for day-to-day and administrative issues. The Detail Commander and Chief of Staff will meet as necessary to discuss or assess operational concerns.



3. The Detail Commander will ensure that there is coverage of protected dignitaries at a level that is deemed appropriate based on nature of the schedule, events or venues, or in response to actual or perceived threats based on protective intelligence.
4. All Executive Detail members' salaries, including benefits, travel, operating expenses and incidentals will be provided by the Patrol, unless otherwise negotiated.
5. The Patrol will provide the Executive Detail members with proper attire, firearms, and all necessary equipment, to perform their duties.
6. The Patrol will provide appropriately equipped vehicles to the Detail for the exclusive purpose of Executive Protection. All vehicles used in conjunction with the Detail will be furnished with emergency medical supplies/equipment and any other supplies that may be necessary for the safety of the Governor or other protected dignitaries.
7. The Detail will maintain membership in the National Governor's Security Association, and as such Detail Agents will operate in accordance with the NGSA bylaws, as well as attend NGSA meetings and training as necessary and as the budget allows.
8. Membership in the NGSA ensures reciprocity in all U.S. states, U.S. territories, and the District of Columbia, as well as official recognition by U.S. State Department in relation to foreign travel. As such, the Detail will conduct operations worldwide in accordance with the provisions of reciprocity and local jurisdictions.
9. The Detail members will work with the Governor's Executive Assistant/Scheduler to provide for all travel arrangements. The Detail will provide automobile transportation and logistics for the Governor and staff members. If it is not feasible to transport extra staff/personnel, those staff/personnel will be responsible for their own arrangements. Other modes of transportation, such as by air, rail, water, etc. may be coordinated by the Detail. The actual cost of that transportation will be borne by the Office for its representatives, and by the Detail for its agents.
10. The Detail Commander will be ultimately responsible for the safety and welfare of the Governor and protected principles. As such he/she will personally brief the Governor on any issues that require his/her attention. The Detail members will attempt to maintain a Secret Clearance in accordance with the U.S. Department of Homeland Security to facilitate intelligence gathering and briefings with the Governor.
11. The Detail Commander will determine what activities the Detail Agents will become involved in. Detail members will not become involved in non-protective functions that may jeopardize their safety or the safety of the

protectee; or in functions that will reflect negatively on the Detail, the Patrol, or the Office.

12. The Patrol will maintain detailed Standard Operating Procedures (SOP) and/or Policies that will cover the mission and day-to-day operations in providing Executive Protection. The SOP or Policies will contain the mission description, protocols, protection expectations, operating procedures, and required training to be used in providing Executive Protection.

The undersigned representatives of their respective offices agree to participate, coordinate, and support to the best of their abilities the provisions of this Memorandum of Understanding in providing Executive Protection for the Governor of the State of Montana.

This agreement is executed this 24 day of August, 2017.



Chief of Staff
Governor's Office



Chief of Staff
Attorney General's Office



Colonel
Montana Highway Patrol

STATE OF MONTANA
DEPARTMENT OF JUSTICE

Montana Highway Patrol
2550 Prospect Ave, Helena, Montana 59601

Tim Fox
Attorney General

Telephone: (406) 465-5639
FAX: (406) 444-1887



**LETTER OF AGREEMENT RE: EXECUTIVE PROTECTION DETAIL
REIMBURSEMENT**

WHEREAS, the Governor's Office and the Montana Highway Patrol Division of the Department of Justice ("Patrol") are parties to an *Executive Protection Memorandum of Understanding* dated August 24, 2017, under which the Patrol provides a dedicated full-time security detail for the purpose of providing Executive Protection to the Governor's Office;

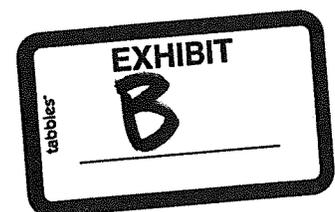
WHEREAS, under the *Memorandum of Understanding* and applicable Montana laws and authorities pertaining to elected officials, the Patrol provides security to the Governor on a full-time basis and protects the Governor as officeholder regardless of his physical location or the nature of his activities in any given period of time, including accompanying the Governor on travel out of Montana and during times that he is engaged in political activities;

WHEREAS, Paragraph 4 of that *Memorandum of Understanding* provides that "[a]ll Executive Detail members' salaries, including benefits, travel, operating expenses and incidentals will be provided by the Patrol, unless otherwise negotiated";

WHEREAS, the Governor has announced his candidacy for the office of President of the United States; and

WHEREAS, consistent with the decision of the Commissioner of Political Practices in *Ellsworth*, No. COPP 2016-CFP-041, Montana law does not prevent a campaign or political committee from reimbursing certain costs.

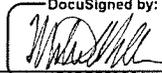
In light of that, and in accordance with Paragraph 4 of the *Memorandum of Understanding*, the parties have agreed that the incidental expenses incurred, on or after the effective date of this letter, by the Executive Detail members in connection with out-of-state travel for presidential campaign activities will be reimbursed to the Patrol by the Governor's campaign. The incidental expenses to be reimbursed are the travel, lodging and meal expenses incurred by the Detail attendant to such travel activities.



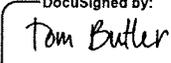
Dated this 2 day of July, 2019.



Chief of Staff, Governor's Office

DocuSigned by:


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Chief of Staff, MT Dept. of Justice

DocuSigned by:


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Colonel, Montana Highway Patrol