



WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

September 12, 2012

David Erwin, Chief
Wisconsin Capitol Police
B2N, State Capitol
Madison, WI 53702

Dear Chief Erwin,

As you know, the legislature is a co-equal branch of Wisconsin's government. We work in the Capitol every day, our constituents visit our offices here, and we have legitimate concerns about policies governing conduct in the Capitol.

We reiterate Representative Taylor's previous request for an explanation of what conduct and actions you deem to be unlawful in the Capitol. Refusing to delineate which specific behaviors are subject to arrest or citation, and saying the determination whether or not to arrest or cite people is made on a "case-by-case basis", seems to suggest that you are simply making things up as you go along. The lack of a clearly outlined policy, and failing to communicate that policy to Capitol visitors, opens the door to claims of selective, arbitrary, and capricious enforcement, and gives the impression that people who do receive tickets are singled out and targeted by the police.

Lately, the type of prohibited conduct seems to change on a daily basis. Last week, people were arrested and ticketed for holding signs (including t-shirts and red heart balloons) in the Capitol rotunda. After a Dane County judge ruled Wednesday that merely holding a sign did not meet the Administrative Code definition of "displayed", and therefore did not require a permit, you shifted tactics again.

Earlier this week people were ticketed under different Administrative Code sections dealing with access/passage and holding signs over railings. These actions have not resulted in tickets in the previous year and a half of demonstrations at the Capitol. The people who received tickets were not given warnings or asked to stop their actions. We are especially concerned that instead of addressing the behavior while it was happening, Capitol police officers issued tickets to people at their homes and work places several hours after-the-fact.

The vast majority of the citations previously given to demonstrators have been dismissed. Have any of the tickets already issued to people for displaying signs, assembling in the Capitol, or otherwise peacefully exercising their free-speech rights in the rotunda been upheld by the courts? Continuing to give out such constitutionally-questionable citations is definitely a waste of court resources and could well verge into the territory of police

harassment. At the very least, it leads people to believe the administration is using the force of government to silence dissent.

Former Chief Tubbs was quite visible in the Capitol during the demonstrations over the past year and a half. He met formally and informally with people on an almost daily basis. He clearly communicated his expectations, provided information, worked in a collaborative and inclusive manner, and kept many potentially volatile situations from getting out of hand.

While it may not be your intent, the change of tone regarding policing and the current tactics you are employing are serving to provoke and escalate. It certainly did not help matters when you said the demonstrators were “terrorizing people at this Capitol” in an interview with the *Wisconsin Reporter*.

The Capitol has a very special, constitutionally-protected role as a forum for people to exercise their rights to speak freely and petition their government. Civility does not mean that those who disagree with the government should sit down, be quiet, and let the administration do whatever it wants. The Administrative Code and the *Wisconsin State Facilities Access Policy* **cannot** supersede the state and federal constitutions.

We look forward to your response.

Sincerely,

Rep. Terese Berceau
76th Assembly District

Rep. Mark Pocan
78th Assembly District

Rep. Bret Hulseby
77th Assembly District

Rep. Chris Taylor
48th Assembly District

Rep. Sondy Pope-Roberts
79th Assembly District

Rep. Kelda Roys
81st Assembly District

Rep. Gary Hebl
46th Assembly District