

## Formal complaint filed for Lee hearing

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**Formal complaint filed for Lee hearing** By Cameron Probert,  
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EPHRATA - The Washington State Bar Association formalized its allegations against Grant County Prosecutor Angus Lee.

Washington State Bar Association Associate Director Christine Gray filed a formal complaint July 25 concerning Lee in preparation of his case heading to a hearing. A review committee decided in April to refer the case to a hearing examiner to review.

Debra Carnes, the association's chief communication officer explained the filing of a formal complaint is part of the process in getting the case ready to go in front of a hearing officer. A public hearing has not been scheduled yet.

The hearing officer can choose to dismiss the case, issue an admonition, reprimand or recommend suspension or disbarment, said Judy Berrett, the former bar communications director. An admonition would stay on Lee's record for five years, but not prevent him from practicing law. A reprimand would stay on his permanent record, but not prevent him from practicing law.

If the hearing officer recommends removing Lee from the bar association or suspending him, then the matter would go to the state Supreme Court, she said.

Prosecutor Angus Lee called the allegations flawed legally and factually, stating they rely on bad information. He is looking forward to addressing the issue at a hearing.

"Despite these attempts by my political opponents to distract me from my work, I am committed to my work and will not allow this to distract me from prosecuting those who commit crimes in Grant County," Lee stated. "We are a more effective office than ever before, and we are doing it on a budget that has been reduced multiple times over the last three years. I am very proud of what the members of this office have been able to accomplish for the people of Grant County over the last three years."

The formal complaint includes the same information contained in a letter Gray sent to a review committee in February. The difference is it formalizes Gray's allegation, claiming he violated the bar's rules on conflict of interest three times. Lee's attorney, Leland G. Ripley sent a 26-page response to the review committee.

## **The cases**

The first case involved a Ephrata police report filed by Elisia Dalluge alleging a former prosecutor's office filed a false police report against her in November 2008.

The allegations stemmed from an anti-harassment order former Deputy Prosecutor Teddy Chow obtained against Dalluge, according to both letters.

Gray held Lee was involved in helping to obtain the order. Ripley disagreed, stating Lee "might have discussed the issue with Mr. Chow, but he had no involvement with obtaining the actual order."

In a courtroom where Chow was appearing, Neils reportedly saw Dalluge and reported the incident to the Grant County Sheriff's Office, according to an Ephrata police report. When police contacted Dalluge, she allegedly stated she hadn't been served the second order and the judge told her it would be acceptable for her to be in the courthouse.

The deputies spoke with Dalluge, presented a second copy of the order to her and forwarded the report to the prosecutor's office, which was run by Knodell, according to the police report.

Dalluge filed the false reporting case against Neils with Ephrata police in June 2009. The file was forwarded to Lee's office, and Lee forwarded the report to Lin.

What Lee expected Lin to do with the report is disputed.

Gray stated Lee expected Lin to make a charging decision, according to the letter. Ripley stated Lee asked his deputy to review the case, not make a charging decision.

Lee pointed out to bar investigators he chose Lin because Neils sued Lee personally, and he couldn't give the file to Chow because the deputy was personally involved in the case, according to Gray's letter.

Lin responded by sending a memo to Lee, stating the case represented a "clear conflict of interest for the Grant County Prosecutor's Office. We should not review this because the above mentioned person has filed a lawsuit against Grant County and is a former employee of the office."

Lin's response led to a series of memos between the two, where Lin refused to review the file and Lee continued to request a review. The memos ended after Lin told Lee and Civil Deputy Prosecutor Lee Pence about his relationship to Neils, saying she was a friend and working on his campaign for prosecutor.

The case was sent to the Washington State Attorney General's Office in September 2009, according to both letters. The office declined to review the case.

No charges were filed against Neils or Dalluge in the case.

Neils said during a previous interview, the investigation was unwarranted and she was following her responsibility as an employee of the prosecutor's office.

The second case involved a criminal complaint Dalluge filed against her ex-husband accusing him of perjury. Contained in the file was a letter from Dalluge to the FBI referring to her criminal complaint against Neils, according to Ripley's and Gray's letters.

"The 225-page report consists of many documents submitted by Ms. Dalluge," Ripley wrote. "She and her ex-husband have been involved in lengthy proceedings involving reciprocal allegations of custodial interference, failure to pay child support and other issues involving their two children."

Gray pointed out Dalluge criticized the police report involving her ex-husband, and said it was the same officer who "mishandled the Neils/Dalluge matter."

Ripley pointed out the letter was the only time Neils was mentioned in the file, and she wasn't mentioned in the police report.

Lin declined to review the case based on the letter, which prompted Lee to ask Lin to explain the nature of the conflict, according to Ripley's letter.

Lee asked Lin to review the matter twice more, and when Lin refused Lee told him "his continued refusal to review the Doe/Dalluge matter would be considered insubordination."

Lin continued to decline to review the case and had his personal attorney send a letter to Lee stating his opinion that it was a conflict of interest for the deputy to review the case.

"Since this report did not mean that Mr. Lin was asked to make a decision that might involve Ms. Neils, his analysis was incorrect," Ripley wrote. "Mr. Lee did provide written discipline and written coaching because of Mr. Lin's insubordinate refusal to review this report."

No charges were filed in the case.

The final case involved a 2009 collision where Richard Fitterer, a Grant County District Court judge, allegedly collided with a car near Quincy, according to Gray's letter. The judge was stopped and claimed he didn't know about scraping a pickup truck where the road narrows. He later traded information with the other driver. Fitterer was not arrested or charged.

Gray's issue came after a October 2009 candidate forum, when former state Sen. Harold Hochstatter questioned why Lee's office hadn't done anything concerning the collision, according to the letter.

Following the candidate forum, Lee gave a copy of the police report to Lin, who claims he was requested to make a charging decision.

Lee stated that he didn't ask Lin to make a charging decision, he only wanted the file reviewed.

Lin again contacted his attorney, who sent a letter stating it was his opinion that the office's relationship with the district court judge created a conflict of interest.

### **Conflict of interest**

Ripley's and Gray's letters diverge on how they interpret a section of the rules of professional conduct governing conflicts of interest. The rule cited by Lin, Ripley and Gray states a conflict exists if "there is a significant risk the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer."

Gray pointed out several issues with Lee handling cases involving Neils. She pointed out Neils filed a lawsuit against the office and Lee, she publicly opposed Lee's appointment, Lee filed a criminal report against Neils, and the prosecutor's office filed the initial anti-harassment order against Dalluge.

Lee accused Neils of lying about the amount of time she worked while at the prosecutor's office. She denies the accusation. No criminal charges have been filed against her for theft.

Gray noted in Fitterer's case, prosecutors routinely appeared before the judge, Lee was publicly accused by Hochstatter at the forum, and Lin was Lee's political opponent, according to the letter.

Gray suggested Lee had a personal bias in the cases, citing a bar opinion, she stated Lee's client, the State of Washington, "is entitled to representation by a prosecuting attorney, unhampered by conflicts of interest."

Ripley disagreed, first pointing out several court cases holding private attorneys are different than attorneys working in the public sector. He noted Neils' federal lawsuit was unsuccessful.

"The fact that Mr. Lee fired Ms. Neils, standing alone, does not adversely impact Mr. Lee's ability to represent the state," according to his letter.

Ripley argued Lee acted as a county official when he asked the Ephrata police to investigate Neils, according to his letter. He pointed out Lee didn't have an personal investment in the outcome of the police report.

In the case of Dalluge's ex-husband, Ripley pointed out Neils wasn't the victim, witness or complaintant.

In Fitterer's case, Ripley stated Gray's letter claims "that a conflict of interest exists if the Grant County prosecutor determines where the Fitterer minor fender bender should result in criminal charges."

Ripley stated the standard for judges and prosecutors to appear fair is different. He pointed out a list of cases where judges were victims and the county prosecutor brought the charges and defended the appeal.

"There has never been a Washington case that stated that a defendant judge may not be prosecuted by the county prosecutor," he wrote.

Ripley pointed out several issues with applying a rule stating Lee needed to appear fair would create problems.

"Applying the appearance of fairness doctrine to a prosecutor's charging decisions would mean that a prosecutor could not make a charging decision based upon a law enforcement report when the law enforcement agency had either supported or opposed a prosecutor's candidacy," he wrote.