



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
WISCONSIN CAPITOL POLICE



Chief David M. Erwin

August 30, 2012

Senator Mark Miller
211 South
State Capitol
HAND DELIVERED

Dear Senator Miller,

Thank you for contacting me to share your concerns. We share a common goal of ensuring that everyone has access to the Capitol and can enjoy its beauty and tradition for years to come. A rich part of Wisconsin's history is its freedom of speech, which is a fundamental right that I strongly support and our Capitol Police officers uphold.

Your letter refers to new permitting plans for the Capitol. As you may be aware, the permitting process is not new. It has been part of Wisconsin's Administrative Code since March 1, 1979. The 72 hour requirement to request a permit dates back to April 1, 1998. This legislature has granted authority of the Department of Administration to manage all areas of the Capitol building, except for the rooms reserved for use by the legislature. The permitting process does not apply to the areas under the control of the Assembly and the Senate – the policy directs people who wish to use those areas to those respective offices.

The permit process is used for a variety of reasons. It helps the Capitol Police know how many people are in the building at any given time. That is crucial information in the event of an emergency, such as a tornado, fire or dangerous person in the building, as it would help the officers respond appropriately in evacuating individuals or moving them to safety.

It also allows for proper staffing levels and allows the Capitol Police to coordinate multiple users. We need to know how many people are expected at an event. We have different staffing needs for an event where 25 people will be present versus a 1,000 or more. The Capitol Police have a responsibility and duty to protect all individuals who visit and work in the Capitol, and knowing what events are taking place is a critical piece of the puzzle.

Many other states require a permit to hold events in their capitol building including Michigan, Minnesota, Iowa, Indiana, Nebraska, Oklahoma, Utah, Idaho, California and many others. However, other states have a much longer request requirement ranging from five days to one month. A permit is also required to use the City County Building here in Madison. By contrast, the United States Capitol does not allow events inside its building, even through a permit process.

I share this with you to demonstrate how Wisconsin's permit process, that has been in place for more than three decades, helps make our capitol building more accessible than many other counterparts across the country. In addition, the permitting instructions which had been shared verbally for 22 years were documented this past December, prior to my joining the Capitol Police as its Chief. That is what has changed in the permitting process in the past year.

Our Executive Staff Assistant has been in her role for 22 years, answering questions and providing information about the permit process because it was difficult for people to find and use the Administrative Code. Now that information has been documented in an easy-to-understand manner and is available online, which helps reassure all citizens they are all receiving the same information about the permit process. The instructions include helpful information as to what to expect at the Capitol, as well as where to park and other items related to events at the building.

As you will see noted below, hundreds of people apply for and receive permits from the Capitol each year. This includes events ranging from weddings to union protests, from the celebration of Black History Month to the Frostiball, and permit requests from people on the political right, the political left and everywhere in between.

Permits Issued

2012 355 signed permits as of 8.20.12
2 denied

- City permit was needed because the location was on city property, not Capitol property
- Date/time already booked

2011 431 signed permits
23 denied

- 11 date/time already booked
- 3 city permits
- 3 commercial business requests (commercial businesses cannot do business on state property)
- 3 that did not provide 72 hour notice
- 1 vehicle too large (semi)
- 1 door on wrong side of vehicle (door opened into lane of traffic)
- 1 safety issue – archery (wanted to demonstrate archery, which posed a safety issue)

2010 545 signed permits
3 denied

- Date/time already booked
- Time frame requested
- Location requested

Clearly, the Capitol Police department has a history of issuing permits and protecting the access and safety of the Capitol. This is something I will continue to preserve as my time as a civil servant for the state.

My remarks in the media have centered around fairness in the permit process. Hundreds of other organizations and individuals request a permit each year, and the process helps ensure that all citizens of our state have access to the building, not a select few who dominate a key time period during the day. Many organizations like to use the Capitol during the lunch hour, and we need to ensure that we are giving all members of the public ample opportunity to use the building. Asking individuals and organizations to follow the permit process is a reasonable request.

There seems to be a sense that the Capitol Police should not require the noon protestors to get a permit because they have been meeting regularly for a number of months. My concern is that all individuals and organizations who want to use the Capitol to exercise their freedom of speech have the opportunity to do so on an equal basis. If there was a group that met at the Capitol daily to yell hateful or discriminatory words, my sense is that I would be asked why the Capitol Police have not enforced the permit process, even though those words would also be protected under freedom of speech.

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While the noon protest singers have remained peaceful for the most part, my responsibility is to ensure the laws and procedures that have been enacted are upheld by the Capitol Police. My officers have encouraged members of the noon protestors to apply for a permit. We are hopeful they will do so and have been confused as to their reasons for not wanting to get a permit. The Capitol Police protect freedom of speech, has a history of granting permits for protests, and will continue to do so in the future. I cannot imagine a reason why a valid permit would be denied, as long as the space is available. Once they receive a valid permit for their activity, it would guarantee the space for their demonstrations if an event scheduling conflict were to arise.

Perhaps your office can also encourage protestors to apply for permits so that we have a sense of events taking place in the building each day and can staff appropriately. I am encouraged that one individual who has regularly protested during the noon hour has recently applied for a permit, which I signed on August 29.

One issue that has been brought to my attention by a number of legislative staff, but has not been openly discussed, is the harassment by several regular protestors. Legislative staff have pulled me aside to share their personal stories of having individuals go behind the desk of female employees in a threatening manner, screaming in the face of those who work in the Capitol, and following women out of the building as they try to leave while screaming profanities. My officers have heard the same complaints, yet people are hesitant to come forward because they do not want to be perceived as anti-freedom of speech.

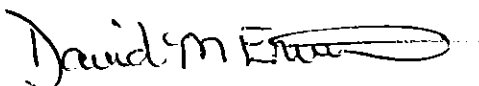
This type of harassment has also been directed at members of the Capitol press corp, as many recently confirmed when I met with them for "get to know the chief" interviews on August 27. We have received information that a regular protestor has walked past the office of the Capitol press corp yelling things such as "yellow journalism" and "Wisconsin State urinal."

The taunting reached a low point when a protestor began to sing songs about the passing of a reporter's loved one outside the office. The song focused on being glad that their father had passed, and was heard by members of the press corp. The harassment has risen to the level that this individual has left the State Capitol building. This news organization has been part of the press corp for 40 years, and it seems unfortunate that the harassment has risen to a level where they can no longer conduct routine business in the Capitol. This incident will be moving through the legal system in the near future, and I expect you will hear more about the case once it has been filed.

We would both agree that screaming at someone, coming behind their desk, and yelling profanities while following someone to their car is not free speech. Instead, it is behavior that anyone in any setting would find threatening in their workplace. The Capitol is a place to freely express our opinion and petition the government, but it also a place of business. No mother, daughter, sister, son, brother or husband should be treated in this manner at their workplace. It is harassment and it will be cited.

Thank you again for the opportunity to address your concerns. We share a common goal of keeping the Capitol a place that everyone can be proud of and share their voice.

Sincerely,



David M. Erwin
Chief of Wisconsin Capitol Police