

SEN. LARRY E. CRAIG

Larry E. Craig (R-ID) is a third-term senator from Idaho. His ethics issues stem from his conviction for disorderly conduct in the Minneapolis-St. Paul International Airport.

Disorderly Conduct

On August 27, 2007, it was revealed that Senator Craig had pleaded guilty to disorderly conduct charges stemming from his June arrest by an undercover police officer in Minnesota.¹ On June 11, 2007, undercover officers were monitoring a men's restroom in the Minneapolis-St. Paul International Airport following complaints of sexual activity there.² According to the complaint:

Sergeant Karsnia observed an older white male, later identified as [Craig] standing outside of the stall occupied by Sergeant Karsnia. Sergeant Karsnia observed the Defendant look through the crack between the stall door and its frame into the stall that Sergeant Karsnia was occupying.

Sergeant Karsnia observed the Defendant tap his right foot, which Sergeant Karsnia recognized as a signal often used by persons communicating a desire to engage in sexual conduct. Sergeant Karsnia observed the Defendant tap his foot several more times and move his foot closer to the stall occupied by Sergeant Karsnia. Sergeant Karsnia moved his own foot up and down slowly. Sergeant Karsnia observed the Defendant move his right foot so that it touched Sergeant Karsnia's left foot, at which point the Defendant's foot was within the stall area of the stall occupied by Sergeant Karsnia.

Sergeant Karsnia then observed the Defendant swipe his hand under the stall divider for a few seconds, swiping from the front of the stall back towards the back wall, which was done with the Defendant's hand palm-up and guiding it along the stall divider. A few minutes after noon, Craig entered the restroom and sat in the stall next to him. Sergeant Karsnia observed the Defendant again swipe his hand in the same motion and manner Sergeant Karsnia observed the Defendant make the same motion for a third time.³

Sen. Craig was arrested and charged with interference with privacy and disorderly conduct.⁴ On August 8, 2007, his plea to one count of disorderly conduct was filed with the

¹ Paul Kane and Shailagh Murray, GOP Senator Pleaded Guilty After Restroom Arrest, *The Washington Post*, August 28, 2007 (Exhibit 1).

² Id.

³ State of Minnesota v. Larry Edwin Craig, Complaint, Case No. 07043231 (Minn. 4th Jud. Dist. July 7, 2007) (Exhibit 2).

⁴ Id.

Hennepin County, Minnesota court clerk.⁵ Sen. Craig was sentenced to 10 days in jail and a fine of \$1,000, but the jail time and \$500 of the fine were stayed on the condition that he not commit the same or a similar offense for one year.⁶

Minnesota Law

Under Minnesota law, a person who “engages in offensive, obscene, abusive, boisterous, or noisy conduct or in offensive, obscene, or abusive language tending reasonably to arouse alarm, anger, or resentment in others” in a public or private place, “knowing, or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct, which is a misdemeanor.”⁷

Despite his guilty plea, Sen. Craig now claims that he did not engage in any “inappropriate conduct” and that he should not have pleaded guilty.⁸

Senate Rule Prohibiting Improper Conduct

The Senate Ethics Manual provides that “[c]ertain conduct has been deemed by the Senate in prior cases to be unethical and improper even though such conduct may not necessarily have violated any written law, or Senate rule or regulation. Such conduct has been characterized as “improper conduct which may reflect upon the Senate.”⁹ This rule is intended to protect the integrity and reputation of the Senate as a whole.¹⁰ The Ethics Manual explains that “improper conduct” is given meaning by considering “generally accepted standards of conduct, the letter and spirit of laws and Rules . . .”¹¹

⁵ State of Minnesota v. Larry Edwin Craig, Petition to Enter Plea of Guilty-Misdemeanor (Minn. 4th Jud. Dist. Aug. 8, 2007) (Exhibit 3).

⁶ Id.

⁷ Minn. Stat. § 609.72(3).

⁸ Kane and Murray, *The Washington Post*, Aug. 28, 2007.

⁹ *Improper Conduct Reflecting Upon the Senate and General Principles of Public Service*, Senate Ethics Manual, Appendix E, p. 432 (108th Cong. 2003 ed.).

¹⁰ Id.

¹¹ Id. at 433; *and* fn. 10, citing a 1964 investigation into the activities of Bobby Baker, then-Secretary to the Majority of the Senate, in which the Committee on Rules and Administration issued a report stating, “It is possible for anyone to follow the ‘letter of the law’ and avoid being indicted for a criminal act, but in the case of employees of the Senate, they are expected, and rightly so, to follow not only the ‘letter’ but also the ‘spirit’ of the law.” S. Rep. No. 1175, 88th Cong., 2d Sess. 5 (1964).

Sen. Craig, by pleading guilty, has been adjudicated to have broken Minnesota criminal law. As a result, the Select Committee on Ethics should investigate the matter and consider whether Sen. Craig's conduct also violates the Senate rule prohibiting improper conduct which reflects upon the Senate.

The Senate has disciplined other members for violating this prohibition in the past. In 1967, the Select Committee on Ethics investigated the first case of improper conduct involving Senator Thomas Dodd who was censured for converting campaign funds to personal use.¹² In 1990, the Senate denounced Senator David Durenberger, in part, based on his financial arrangements in connection with a condominium he owned in Minneapolis and in 1991, Senator Alan Cranston was severely reprimanded for improperly linking fundraising and official activities.¹³ In 1995, the Committee recommended that Senator Bob Packwood be expelled for repeated sexual misconduct.¹⁴

The Select Committee on Ethics also has the option of criticizing Sen. Craig's conduct. On some occasions, the Committee has stopped short of finding that alleged conduct was "improper conduct reflecting upon the Senate," but has found "that the conduct should not be condoned or should otherwise be criticized in a public statement by the Committee."¹⁵ For example, the Committee has found that: a senator's "interven[tion] with regulators gave the appearance of being improper and was attended with insensitivity and poor judgement," that a senator "exercised poor judgment in intervening with regulators," and that another senator conducted office business "in an inappropriate manner . . ."¹⁶ Most recently, the Committee severely admonished Senator Robert Torricelli in 2002 for creating at least an appearance of impropriety by accepting gifts in violation of the gift rules.¹⁷ Therefore, even if the Committee is not persuaded that Senator Craig's conduct reaches the level of improper conduct -- though given the circumstances it appears that it does -- at the very least, the Committee should issue a public statement criticizing the Senator's conduct.

¹² Senate Ethics Manual at 434.

¹³ Id. at 434-35.

¹⁴ Id. at 435

¹⁵ Senate Ethics Manual at 435.

¹⁶ Id., fn. 19.

¹⁷ Letter from Senate Select Committee on Ethics to Senator Robert Torricelli, July 30, 2002.