



STATE OF WASHINGTON  
PUBLIC DISCLOSURE COMMISSION

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June 13, 2017

Brian McElroy, former Police Chief, City of West Richland  
Sent Electronically to Bronson Brown at "bronsonbrown@hotmail.com"

Subject: Final Order, Brian McElroy, PDC Case 16468

Dear Mr. Brown:

Enclosed is a copy of the Public Disclosure Commission's Final Order for PDC Case 16468 concerning Brian McElroy.

The Commission assessed a civil penalty of \$750 against former Chief McElroy in accordance with the Stipulated agreement, of which the entire \$750 is suspended on the condition that former Chief McElroy commits no further violations of RCW 42.17A or WAC 390 for four years from the date of the Order.

Thank former Chief McElroy and you for your participation and cooperation throughout this process.

If you have questions, please contact me at (360) 664-8854; or by email at [kurt.young@pdc.wa.gov](mailto:kurt.young@pdc.wa.gov).

Sincerely,

Kurt Young  
Compliance Officer

Enclosure

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7 **BEFORE THE PUBLIC DISCLOSURE COMMISSION**  
8 **OF THE STATE OF WASHINGTON**

9 In re the Matter of Enforcement Action  
10 Against:

PDC CASE NO. 16468

FINAL ORDER

11 Brian McElroy, Police Chief, City of West  
12 Richland,

Respondent.

13 **I. INTRODUCTION**

14 This matter was heard by the Washington State Public Disclosure Commission  
15 (Commission) on May 25, 2017 at the Public Disclosure Commission Office, 711 Capitol Way,  
16 Room 206, Olympia, Washington 98504. The hearing was held pursuant to RCW 34.05, RCW  
17 42.17A, and WAC 390-37. The proceeding was open to the public and recorded.

18 Commissioners Anne Levinson, Chair, John Bridges, Vice Chair, Katrina Asay, Jack  
19 Johnson, and David Ammons were present. Kurt Young, Compliance Officer, presented the  
20 matter on behalf of Public Disclosure Commission Staff (Staff). Chad Standifer, Assistant  
21 Attorney General, was also present on behalf of Staff. Respondent Brian McElroy was not  
22 present but was represented by Bronson Brown, West Richland City Attorney, who appeared by  
23 phone. Also present during the hearing was attorney Penny Allen, Assistant Attorney General,  
24 on behalf of the Commission and Heather Kintzley, Richland City Attorney, Howard Saxton  
25 Prosser City Attorney, Lisa Beaton, Kennewick City Attorney, and Josie Delvin who all  
26 appeared by phone.

1 The parties submitted to the Commission a proposed Stipulation as to Jurisdiction, Facts,  
2 Violation and Penalty (Stipulation). The Commission determined that the Stipulation would be  
3 accepted without modification.

4 After reviewing the record, including the Stipulation, listening to the parties'  
5 presentations, the Commission HEREBY ORDERS that the following Findings of Fact,  
6 Conclusions of Law, and Final Order of the Commission be entered:

7 **II. FINDINGS OF FACT**

8 1. Brian McElroy was appointed City of West Richland Police Chief in 2010.

9 2. On March 4, 2014, the Benton County Commissioners approved Resolution 14-  
10 5, and placed a ballot proposition on the August 5, 2014 primary election ballot, to increase the  
11 sales and use tax to fund law and justice needs throughout Benton County, including the City of  
12 West Richland.

13 3. On May 13, 2014, a press conference was held at noon at the Sun Pacific Energy  
14 facility in Kennewick, a privately-owned building. Five local law enforcement officials  
15 appeared in uniform at the press conference which included Chief McElroy; Steven Keane,  
16 Benton County Sheriff; Ken Hohenberg, Kennewick Police Chief; David Giles, Prosser Police  
17 Chief, and Chris Skinner, Richland Police Chief.

18 4. The press conference, which supported the August 5, 2014, criminal justice ballot  
19 measure, was scheduled for the noon hour to allow the law enforcement officers in attendance  
20 the opportunity to attend the event during their personal lunch hour.

21 5. Chief McElroy attended the May 13, 2014 press conference, wore his City of  
22 West Richland Police uniform and drove in his City of West Richland patrol car to the event.

23 6. Chief McElroy did not participate in the coordination of the news conference nor  
24 the content but was rather just asked to be present to answer any questions. Chief Hohenberg  
25 and Captain Wehner coordinated the news conference to be held during the lunch hour.



1 3. WAC 390-05-273 defines the “normal and regular conduct” of a public office or  
2 agency as “conduct which is (1) lawful, i.e., specifically authorized, either expressly or by  
3 necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized  
4 in or by some extraordinary means or manner.”

5 4. PDC Interpretation 04-02 includes a section for Uniforms and Related Equipment  
6 and discusses Permitted, Not Permitted, and General Considerations that includes the following  
7 under the Not Permitted column:

- 8 • Agency employees shall not use or wear their agency-issued, agency-purchased,  
9 agency-owned or agency-replaced uniforms to assist a campaign or to support  
10 or oppose a ballot proposition. (Note - this prohibition applies to use of any part  
11 of such a uniform including the shirt, pants, shoes, hat, etc.).
- 12 • This same prohibition also applies to related equipment including but not  
13 limited to: firearms; badges; nametags; holsters; handcuffs; jackets; belts; vests;  
14 shoes; agency patches, logos, insignias, emblems; and radios.
- 15 • Prohibited uses include but are not limited to using or wearing those uniforms at  
16 campaign functions. Exceptions exist for officials to attend campaign functions  
17 in uniform and may be made on a case-by-case basis under exigent  
18 circumstances.

19 5. Respondent Brian McElroy violated RCW 42.17A.555 by using the facilities of  
20 the City of West Richland by appearing in his West Richland police uniform at a May 13, 2014  
21 press conference in support of an August 5, 2014, local Benton County Law and Justice ballot  
22 measure, and driving to the press conference in his official City of West Richland Police vehicle.

#### 23 **IV. ORDER**

24 Based upon the findings and conclusions, the Commission orders that:

25 1. Respondent Brian McElroy is assessed a total civil penalty of \$750.00, of which  
26 \$750.00 is suspended on the following condition:

- a. Respondent Brian McElroy commits no further violations of RCW 42.17A or  
WAC 390 for four years from the date of the Order.

1 b. In the event Respondent Brian McElroy fails to meet the above term of this  
2 Order, the entire penalty of \$750.00 will become immediately due without any  
3 further intervention of the Commission, and PDC Staff will refer any  
4 outstanding debt to the Department of Enterprise Services (DES) for collection.

5 The Executive Director is authorized to enter this Order on behalf of the Commission.

6 So ORDERED this 12<sup>th</sup> day of June, 2017.

7 WASHINGTON STATE PUBLIC  
8 DISCLOSURE COMMISSION

9 FOR THE COMMISSION:

10   
11 Peter Lavallee  
12 Executive Director

13 *Copy of this Order mailed and emailed to:*

14 Bronson Brown, attorney for Respondent ([bronsonbrown@hotmail.com](mailto:bronsonbrown@hotmail.com))

15 Kurt Young, PDC Staff ([kurt.young@pdc.wa.gov](mailto:kurt.young@pdc.wa.gov))

16 I, Kurt Young, certify that I mailed a <sup>e-</sup>  
17 copy of this order to the Respondent/ Applicant at his/her  
18 respective address <sup>email</sup> postage pre-paid on the date stated  
19 herein. Kurt Young 6/13/17  
20 Signed Date

21 NOTICE: RECONSIDERATION

22 PURSUANT TO THE PROVISIONS OF RCW 34.05.470 AND WAC 390-37-150 YOU MAY  
23 FILE A PETITION FOR RECONSIDERATION WITH THE PDC WITHIN TWENTY-ONE  
24 (21) DAYS FROM THE DATE THIS FINAL ORDER IS SERVED UPON YOU. ANY  
25 REQUEST FOR RECONSIDERATION MUST STATE THE SPECIFIC GROUNDS FOR  
26 THE RELIEF REQUESTED. PETITIONS MUST BE DELIVERED OR MAILED TO THE  
WASHINGTON STATE PUBLIC DISCLOSURE COMMISSION, 711 CAPITOL WAY,  
ROOM 206, BOX 40908, OLYMPIA WA 98504-0908.

NOTICE: PETITION FOR JUDICIAL REVIEW

YOU HAVE THE RIGHT TO APPEAL THIS FINAL ORDER TO SUPERIOR COURT,  
PURSUANT TO THE PETITION FOR JUDICIAL REVIEW PROVISIONS OF  
RCW 34.05.542. ANY PETITION FOR JUDICIAL REVIEW OF THIS FINAL ORDER  
MUST BE FILED WITH THE COURT AND ALSO SERVED UPON BOTH THE  
COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL WITHIN THIRTY (30)  
DAYS AFTER THE DATE THIS FINAL ORDER IS SERVED UPON YOU.