



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

In the Matter of Enforcement Action
Against

Brian McElroy, City of West Richland
Police Chief

Respondent.

PDC Case 16468

Notice of Administrative Charges

I. JURISDICTION

1. The Public Disclosure Commission (PDC) has jurisdiction over this proceeding pursuant to Chapter 42.17A RCW, the state campaign finance and disclosure laws; Chapter 34.05 RCW, the Administrative Procedure Act; and Title 390 WAC. These charges incorporate the Report of Investigation and all related exhibits by reference.

II. ALLEGATIONS

2. PDC staff alleges that Brian McElroy, City of West Richland Police Chief, violated RCW 42.17A.555 by using the facilities of the City of West Richland when he appeared in uniform at a May 13, 2014 press conference in support of a local Benton County Law and Justice ballot measure, and driving to the press conference in his official City of West Richland police vehicle.

III. FACTS

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

4. Brian McElroy was appointed City of West Richland Police Chief in June of 2010. Chief McElroy announced his leaving the force at the end of August 2016.
5. The May 13, 2014 noon press conference, was held at a Sun Pacific Energy facility in Kennewick, in a privately-owned building, and that five local law enforcement officials appeared at the press conference which included Chief McElroy; Steven Keane, Benton County Sheriff; David Giles, Prosser Police Chief; Ken Hohenberg, City of Kennewick Police Chief; and Chris Skinner, Richland Police Chief.
6. The press conference, which supported the August 5, 2014, criminal justice ballot measure, was scheduled for the noon hour to allow the law enforcement officers in attendance the opportunity to attend the event during their personal lunch hour.
7. Chief McElroy attended the May 13, 2013 press conference, wore his City of West Richland Police uniform and drove in his City of West Richland patrol car to the event.

IV. LAW

RCW 42.17A.555 states, in part: “No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition.

Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does not apply to the following activities: ... (3) Activities which are part of the normal and regular conduct of the office or agency.”

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

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

- Agency employees shall not use or wear their agency issued, agency-purchased, agency-owned or agency replaced uniforms to assist a campaign or to support or oppose a ballot proposition. (Note - this prohibition applies to use of any part of such a uniform including the shirt, pants, shoes, hat, etc.).

Brian McElroy, City of West Richland Police Chief
PDC Case 16468
Notice of Administrative Charges
Page 3

- This same prohibition also applies to related equipment including but not limited to: firearms; badges; nametags; holsters; handcuffs; jackets; belts; vests; shoes; agency patches, logos, insignias, emblems; and radios.
- Prohibited uses include but are not limited to using or wearing those uniforms at campaign functions. Exceptions exist for officials to attend campaign functions in uniform and may be made on a case-by case basis under exigent circumstances.

RESPECTFULLY SUBMITTED this 10th day of April, 2017.



Evelyn Fielding Lopez
PDC Executive Director