



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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June 13, 2017

David Giles, Police Chief, City of Prosser
Sent Electronically to Howard Saxton at "hsaxton@saxtonriley.com"

Subject: Final Order, David Giles, PDC Case 16070

Dear Mr. Saxton:

Enclosed is a copy of the Public Disclosure Commission's Final Order for PDC Case 16070 concerning David Giles.

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

Thank Chief Giles 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.

Sincerely,

Kurt Young
Compliance Officer

Enclosure

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

In re the Matter of Enforcement Action
Against:

David Giles, Police Chief, City of Prosser,

Respondent.

PDC CASE NO. 16070

FINAL ORDER

I. INTRODUCTION

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

Commissioners Anne Levinson, Chair, John Bridges, Vice Chair, Katrina Asay, Jack Johnson and David Ammons were present. Kurt Young, Compliance Officer, presented the matter on behalf of Public Disclosure Commission Staff (Staff). Chad Standifer, Assistant Attorney General, was also present on behalf of Staff. Respondent David Giles was not present but was represented by Howard Saxton, Prosser City Attorney, who appeared by phone. Also present during the hearing was Penny Allen, Assistant Attorney General, on behalf of the Commission, and Heather Kintzley, Richland City Attorney, Bronson Brown, West Richland City Attorney, Lisa Beaton, Kennewick City Attorney, and Josie Delvin who all 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. David Giles was appointed City of Prosser Police Chief in 2013.

9 2. Chief Giles prior employer was an out-of-state Federal Agency.

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

14 4, On May 13, 2014, a press conference was held at noon at the Sun Pacific Energy
15 facility in Kennewick, a privately-owned building.

16 5. Five local law enforcement officials appeared in uniform at the press conference
17 which included Chief Giles; Steven Keane, Benton County Sheriff; Ken Hohenberg, Kennewick
18 Police Chief; Brian McElroy, West Richland Police Chief, and Chris Skinner, Richland Police
19 Chief.

20 6. On May 13, 2014, Chief Giles was in the Tri-Cities on official City of Prosser
21 business and was unaware that a press conference had been scheduled regarding the criminal
22 justice ballot measure, until an hour before the press conference was scheduled to begin.

23 7. Chief Giles did not speak at the press conference.

24 8. In order to have changed into civilian clothes and drive his own vehicle to the
25 press conference Chief Giles would have had to return to Prosser and then drive back to the Tri-
26 Cities to attend the press conference which would have taken a minimum of 90 minutes.

1 necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized
2 in or by some extraordinary means or manner.”

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

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

16 5. Respondent David Giles violated RCW 42.17A.555 by using the facilities of the
17 City of Prosser by appearing in his Prosser police uniform at a May 13, 2014 press conference
18 in support of an August 5, 2014, local Benton County Law and Justice ballot measure, and
19 driving to the press conference in his official City of Prosser Police vehicle.

20 IV. ORDER

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

22 1. Respondent David Giles is assessed a total civil penalty of \$750.00, of which \$750.00 is
23 suspended on the following condition:

- 24 a. Respondent David Giles commits no further violations of RCW 42.17A or WAC
25 390 for four years from the date of the Order.
- 26 b. In the event Respondent David Giles fails to meet any of the above terms of this
Order, the entire penalty of \$750.00 will become immediately due without any

further intervention of the Commission, and PDC Staff will refer any outstanding
debt to the Department of Enterprise Services (DES) for collection.

1 The Executive Director is authorized to enter this order on behalf of the Commission.

2 So ORDERED this 12th day of June, 2017.

3 WASHINGTON STATE PUBLIC
4 DISCLOSURE COMMISSION

5 FOR THE COMMISSION:

6 
7 Peter Lavalley
8 Executive Director

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

10 Howard Saxton, attorney for Respondent (hsaxton@saxton@saxtonriley.com)
11 Kurt Young, PDC Staff (kurt.young@pdc.wa.gov)

12 I, Kurt Young, certify that I mailed a
13 copy of this order to the Respondent/ Applicant at his/her
14 respective ^{email} address postage-pre-paid on the date stated
herein. Kurt Young 6/12/17
Signed _____ Date _____

15 NOTICE: RECONSIDERATION

16 PURSUANT TO THE PROVISIONS OF RCW 34.05.470 AND WAC 390-37-150 YOU MAY
17 FILE A PETITION FOR RECONSIDERATION WITH THE PDC WITHIN TWENTY-ONE
18 (21) DAYS FROM THE DATE THIS FINAL ORDER IS SERVED UPON YOU. ANY
19 REQUEST FOR RECONSIDERATION MUST STATE THE SPECIFIC GROUNDS FOR
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.

20 NOTICE: PETITION FOR JUDICIAL REVIEW

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