



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

David Giles, City of Prosser Police Chief

Respondent.

PDC Case 16070

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. Allegation

2. PDC staff alleges that David Giles, City of Prosser Police Chief, violated RCW 42.17A.555 by using City of Prosser facilities by appearing in his City of Prosser Police Chief uniform at a May 13, 2014 press conference in support of an August 5, 2014, local Benton County Law and Justice ballot measure, and driving to the press conference in his official City of Prosser Police Department vehicle.

III. Facts

3. David Giles was appointed City of Prosser Police Chief in March of 2013.
4. 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.

5. The May 13, 2014 noon press conference, was held at a Sun Pacific Energy facility in Kennewick, in a privately-owned building. Five local law enforcement officials appeared in uniform at the press conference which included David Giles, Prosser Police Chief; Ken Hohenberg, City of Kennewick Police Chief; Steven Keane, Benton County Sheriff; Brian McElroy, West Richland 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 Giles attended the May 13, 2013 press conference, wore his City of Prosser uniform and drove in his City of Prosser patrol car to the event.

IV. Law, Rule and Interpretation

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.”

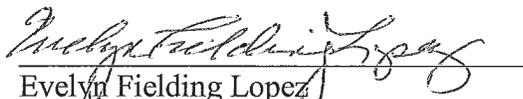
WAC 390-05-273 defines the “normal and regular conduct” of a public office or agency as “conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means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

- 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 30th day of March, 2017.


Evelyn Fielding Lopez
PDC Executive Director