



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN RE COMPLIANCE
WITH RCW 42.17

Bob Heuer

Respondent.

PDC Case No. 12-125

REPORT OF INVESTIGATION

I.

Background

- 1.1 Bob Heuer is the Chief of Police for the City of Castle Rock, and has been since 2001. Prior to accepting that position, Chief Heuer was a commissioned officer with the City of Kalama, Washington, dating back to 1992.
- 1.2 Dave Grumboyd is a local Castle Rock businessman who is active in local politics, and was also an active participant with the No on I-1183 campaign. He asked Chief Heuer to participate in the videotaping of a political advertisement for television broadcast by speaking against Initiative 1183 (I-1183), a statewide initiative concerning public retail sales of liquor, beer, wine, and spirits.
- 1.3 On August 30, 2011, Chief Heuer participated in the taping of a video in which he spoke against I-1183. During the taping, Chief Heuer wore a City of Castle Rock police uniform with a city-issued police department badge. He stood in front of a City of Castle Rock Police Department patrol vehicle with its emergency lights flashing as he was videotaped speaking against I-1183.

II. Allegations

- 2.1 On September 21, 2011, Phil Barberg filed a complaint with the Public Disclosure Commission (PDC) alleging that Protect Our Communities (also known as the No on 1183 campaign or as No on I-1183) had violated RCW 42.17.130 in recent television advertisements by sponsoring ads featuring public officials and employees, specifically a county sheriff and an employee of a police department, *“wearing their public uniforms and using public police vehicles (with blue lights) in the background.”* Mr. Barberg alleged that the uniforms and

vehicles were paid for with public funds and should not have been used to promote an opinion on an initiative. **(Exhibit 1)**

- 2.2 After an initial review, PDC staff asked Mr. Barberg to amend his complaint to direct his allegations toward the actions of the two individuals featured in the ads. Mr. Barberg had mistakenly listed himself as the "Respondent" on the complaint form.
- 2.3 On October 10, 2011, Mr. Barberg re-submitted his complaint alleging that two individuals, Mark Nelson, Cowlitz County Sheriff, and Bob Heuer, City of Castle Rock Police Chief, had violated RCW 42.17.130 by using the public facilities of their respective agencies, including uniforms, equipment, and vehicles, to oppose I-1183. **(Exhibit 2)**

III. Findings

- 3.1 On or around October 12, 2011, PDC staff visited the Protect Our Communities (No on I-1183 campaign) website, at protectourcommunities.com, and reviewed a video posted to the website, as described below. Also on or around October 12, 2011, PDC staff visited the website, youtube.com, and reviewed the same video. The video included images of Bob Heuer, Chief of Castle Rock Police Department, making statements in opposition to I-1183.
- 3.2 According to Beth Shugert of Argo Strategies, the company that produced the videos, the video featuring Sheriff Nelson and Chief Heuer was part of a package of videos produced for Protect Our Communities that aired statewide on several television stations. Ms. Shugert stated that in the Seattle area, the ads aired from September 6, 2011 through September 26, 2011. In the Spokane and Yakima areas, the ads aired from September 27, 2011 through October 2, 2011.
- 3.3 The videotaping took place on August 30, 2011 behind Castle Rock Middle School, in an area accessible to the public.
- 3.4 The advertisement/video showed Chief Heuer wearing what appeared to be a class "A" or dress uniform with a badge pinned in the upper left chest area of the shirt. In the political advertisement/video, a portion of the left shoulder patch was visible so that the viewer could only read the word "Castle." The badge was visible in the advertisement, but not readable.
- 3.5 Chief Heuer was standing in front of a white patrol vehicle, which was later determined to be a City of Castle Rock Police Department vehicle assigned to Officer Brandon McNew, who was observing the videotaping. The red and blue roof lights of the vehicle were flashing while the advertisement was being videotaped. **(Exhibit 3)**
- 3.6 The video was 31 seconds in length. Chief Heuer appeared in the third segment of the video for four seconds and stated, *"Including mini-marts and gas stations*

who sell alcohol to one out of four minors.” Chief Heuer appeared again in the last segment of the video for two seconds saying, “That’s still too risky for our kids.”

3.7 PDC staff described this video to Mr. Barberg, who confirmed that it is the video/ad he referred to in his complaint. Mr. Barberg stated that he viewed the ad on one of the Seattle television stations.

3.8 On October 25, 2011, Frank Randolph, Castle Rock City Attorney, submitted a letter on behalf of Chief Heuer addressing the allegations listed in the complaint. **(Exhibit 4)** Mr. Randolph said he had previously investigated a similar complaint made to the Mayor of Castle Rock by another individual. Mr. Randolph stated the following:

- Chief Heuer was wearing a City of Castle Rock Police Department uniform in the No on I-1183 advertisement, that had been purchased in 2001, and a badge issued to him by the city in 2003;
- Chief Heuer was not on duty when he was featured in the No on I-1183 advertisement;
- Chief Heuer drove his personal car to the videotaping location for the No on I-1183 advertisement;
- The Castle Rock Police vehicle featured in the No on 1183 advertisement was parked in the area and was not requested for the commercial;
- The film crew working on the No on 1183 advertisement moved the location to where the City of Castle Rock vehicle was located; and
- No City of Castle Rock facilities were used in the No on 1183 advertisement, or the value of public facilities used was de minimis.

3.9 On November 9, 2011, Chief Heuer was interviewed under oath by PDC staff. He stated that he was asked by Dave Grumbold to appear in a political advertisement/video opposing I-1183. Chief Heuer said that he believed that any increase in alcohol sales to the public would also increase the accessibility of alcohol to minors, and he agreed to appear in the political advertisement and video against I-1183.

Alleged Use of City of Castle Rock Police Department Uniform and Equipment in Political Ad

3.10 During an interview on November 1, 2011, Chief Heuer stated that he appeared in the political advertisement wearing a full, short-sleeved, class “A” uniform. He said the uniform was purchased by the City of Castle Rock 11 years earlier when he became the Chief of Police for the city.

3.11 Chief Heuer stated that police uniforms have a life expectancy of between one and two years. He said the department has now transitioned to a “soft-wear” uniform consisting of a polo shirt with the department identified on the left side in the chest area of the shirt. Chief Heuer does not routinely wear his class “A”

uniform. Chief Heuer explained that when a uniform is no longer serviceable, it is either destroyed or becomes the personal property of the individual officer. He said the officer must remove the shoulder patches before it leaves his possession.

- 3.12 Chief Heuer said the badge worn on his uniform shirt during the taping of the advertisement was issued by the city, and is considered to be City of Castle Rock property. He stated that a typical police badge has a life expectancy of approximately five years, and the badge was purchased for him by the City of Castle Rock in 2003.
- 3.13 Chief Heuer stated that his typical work week consists of working four-ten hour shifts. He said he was on his regular day off, and drove his personal car to the videotaping of the political advertisement/video.

Alleged Use of City of Castle Rock Police Department Patrol Vehicle

- 3.14 On the morning of the videotaping, the production company asked Chief Heuer to provide a patrol car for the video background. Chief Heuer called Officer Brandon McNew and asked him to wash his patrol vehicle, and then bring it to the middle school. Officer McNew was sitting in his patrol vehicle at the middle school writing reports when the production company asked him to turn on the vehicle's emergency lights, which he activated. Prior to the videotaping, he moved to another police department vehicle that was brought to the scene by a police clerk, and continued working on reports.
- 3.15 Chief Heuer said he drove his personal vehicle to the videotaping. At the request of the production company, he agreed to stand in front of a City of Castle Rock Police Department marked patrol vehicle which he had requested officer McNew to bring to the site. The car's emergency red and blue flashing roof lights were the only parts of the vehicle visible in the political advertisement/video. The patrol car could not be identified as a City of Castle Rock Police Department vehicle to a viewer of the advertisement.
- 3.16 Chief Heuer stated that he appeared in the political advertisement/video after he had consulted with the mayor of the City of Castle Rock. Chief Heuer said the mayor told him the CARE coalition of Castle Rock had taken a stand against liquor privatization during the 2010 initiative campaign, which is why the mayor did not see an issue with taking a stand against I-1183 in 2011. Chief Heuer said he felt the statements he made against I-1183 during the videotaping were consistent with his views, and the position of the City of Castle Rock and the CARE coalition.
- 3.17 Chief Heuer stated that he was unaware of RCW 42.17.130 and the prohibitions against using the facilities of a public agency to support or oppose a candidate or ballot proposition.

- 3.18 Chief Heuer stated that he accepts full responsibility for the use of the City of Castle Rock equipment while he appeared in the political advertisement/video for the No on 1183 committee. He also said that he believed the production company producing the ad should have known the rules, since they had previously videotaped a segment of the ad in which City of Renton Fire Department firefighters appeared in union IAFF T-shirts and were featured in a private ambulance that was rented.

Summary

- 3.19 City of Castle Rock Police Chief Bob Heuer acknowledges that he participated in the taping of a video that was used as political advertising to oppose I-1183. Chief Heuer wore a City of Castle Rock Police Department issued uniform and badge that had been purchased with City of Castle Rock funds; however, Chief Heuer stated that both items were beyond their life expectancy. Chief Heuer also authorized the use of a City of Castle Rock Police Department patrol vehicle as a background scene for a portion of the ad.

IV. Scope

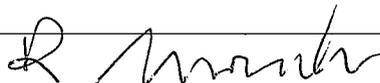
- 4.1 Staff reviewed the complaint received from Phil Barberg on September 21, 2011, and amended on October 10, 2011, and the video link for the political advertisement in opposition to I-1183.
- 4.2 Staff spoke with City of Castle Rock Police Chief Bob Heuer and officer Brandon McNew by telephone.
- 4.3 Staff reviewed a written response received on October 25, 2011 from Frank Randolph, Castle Rock City Attorney, on behalf of Police Chief Bob Heuer.
- 4.4 Staff interviewed Chief Heuer on November 9, 2011.
- 4.5 PDC staff spoke with Frank Randolph, Castle Rock City Attorney on January 25, 2012.

V. Law

- 5.1 RCW 42.17.130 states: "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.”

Respectfully submitted this 1st day of March 2012.



Randall Unruh
Political Finance Specialist

List of Exhibits

- Exhibit 1** Original Complaint received from Phil Barberg on September 21, 2011.
- Exhibit 2** Amended complaint received from Phil Barberg on October 10, 2011.
- Exhibit 3** A screen shot of the Protect Our Communities No I-1183 video as it appears on the website, protectourcommunities.com, and as uploaded to YouTube.
- Exhibit 4** Response on behalf of Police Chief Bob Heuer from Frank Randolph, Castle Rock City Attorney, received October 25, 2011.