STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

BREMERTON PATROLMAN'S ASSOCIATION, Complainant,	)	CASE 8948-U-90-1969
vs.	)	DECISION 3843 - PECB
CITY OF BREMERTON, Respondent.	)	PRELIMINARY RULING AND PARTIAL DISMISSAL

The original complaint charging unfair labor practices was filed in the above-entitled matter on December 17, 1990. The Bremerton Patrolmen's Association therein alleged that the employer had refused to provide information having to do with a disciplinary investigation involving Robert Waldroop, an employee of the Bremerton Police Department who is also the vice president of the Bremerton Patrolmen's Association. A preliminary ruling letter issued on January 22, 1991, pursuant to WAC 391-45-110, found a cause of action to exist regarding the employer's failure and refusal to provide the union with information necessary for it to carry out its functions as exclusive bargaining representative.

The union filed amended statements of facts on March 7, 1991, March 15, 1991 and July 10, 1991. Those amendments are now before the Executive Director for preliminary ruling pursuant to WAC 391-45-110. At this stage of the proceedings, it is assumed that all of the facts alleged are true and provable. It remains to be determined whether unfair labor practice violations could be found.

The March 7 Amendment

The allegations filed on March 7, 1991, indicate that the employer supplied the requested information after the filing of the original

unfair labor practice complaint. That amendment goes on, however, to describe the employer's attitudes and actions during an interview concerning discipline of Officer Waldroop, and alleges that the employer then discharged Waldroop from employment in reprisal for his union activity. The Public Employment Relations Commission does not assert jurisdiction to resolve each and every possible employment issue through the unfair labor practice provisions of Chapter 41.56 RCW, and would not determine the merits of the discharge under a contractual or civil service "cause" standard. Rather, the Commission protects the process of collective bargaining through the unfair labor practice provisions of the act. Assuming for purposes of this preliminary ruling that the facts alleged are true and provable, it appears that unfair labor practice violations could be found with respect to the alleged "discriminatory discharge" of Officer Waldroop.

The amendment next alleges that the employer initiated disciplinary action against another bargaining unit employee, naming Officer Waldroop as the complaining party. It next recites that Waldroop asked that his name be dropped from that discussion, but it does not indicate anything further about the transaction. The preliminary ruling must be made from the four corners of the complaint, without additional "investigation" or leaps of logic by the Commission. The complainant's theory for an unfair labor practice allegation, if any, is not clear as to this subject.

The amendment continues with allegations that the employer revoked the union's "telephone privileges". In State of Washington (Washington State Patrol), Decision 2900 (PECB, 1988), it was held that an employer's removal of certain privileges from a union, including use of the employer's telephone, did not constitute an unfair labor practice. Assistance by an employer to a union is precisely the type of activity prohibited by RCW 41.56.140(2). The facts alleged in the instant case are not well developed, and are subject to interpretation that they are of the same sort involved

in the Washington State Patrol case. This allegation is not found to state a cause of action.

The March 7, 1991 amendment then alleges that a supervisor sought attendance at a closed union meeting. Surveillance of union activities by a supervisor is generally found to be unlawful, as an "interference" under RCW 41.56.140(1) and counterpart provisions of the National Labor Relations Act and similar state laws. Assuming for purposes of this preliminary ruling that the facts alleged are true and provable, it appears that unfair labor practice violations could be found with respect to the attendance request.

The amendment then alleges that the same supervisor responded to questions in a manner which implied a threat against the continued employment of the union president and acting vice-president. Assuming for purposes of this preliminary ruling that the facts alleged are true and provable, it appears that an "interference" unfair labor practice violation could also be found with respect to such threats.

The March 15, 1991 Amendment

On March 15, 1991, a second amended complaint was filed. The allegations of this amendment appear to relate back to the "refusal to provide information" issue raised by the original complaint, and assert that the employer refused to release information to the union president in February of 1991 in the absence of a written authorization from Officer Waldroop.

The authority of a union to represent bargaining unit employees is of statutory origin, inherently a part of its status as exclusive bargaining representative under RCW 41.56.080. Such authority is not dependent on particular authorization from a bargaining unit employee, and may even exist (i.e., for the good of the whole unit) in opposition to the desires of an individual employee. Assuming

for purposes of this preliminary ruling that the facts alleged are true and provable, it appears that unfair labor practice violations could be found with respect to the "refusal to recognize" that is inherent in an employer's questioning of the representative status of the exclusive bargaining representative.

The July 10, 1991 Amendment

On July 10, 1991, a third amended complaint was filed. This document relates back to the discharge of officer Waldroop that is alleged in the March 7, 1991 documents, and alleges that the employer gave incomplete advice to Waldroop by describing civil service appeal rights without mention of rights under the grievance procedure of the collective bargaining agreement.

In City of Seattle, Decision 2773 (PECB 1987), the employer was found guilty of a violation for providing incomplete advice of this type to an employee. Assuming all of the facts alleged to be true and provable, this allegation states a cause of action.

NOW, THEREFORE, it is

ORDERED

1. The matter is remanded to Examiner J. Martin Smith of the Commission staff, for further proceedings on the original complaint and, pursuant to the foregoing, with regard to:

   a. The alleged discriminatory discharge of Officer Waldroop;

   b. The alleged surveillance by the employer of internal union affairs;

   c. The alleged threats against other union officers;

d. The refusal to recognize the representative status of the union; and

e. The providing of incomplete and misleading advice concerning appeal rights following the discharge of Officer Waldroop.

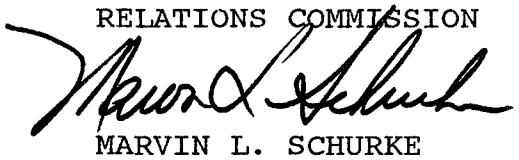
2. Found insufficient to state a cause of action, and DISMISSED, are the allegations concerning:

a. Use of Officer Waldroop's name in initiating discipline against another employee; and

b. Suspension or termination of the union's "telephone privileges".

Dated at Olympia, Washington, the 12th day of August, 1991.

PUBLIC EMPLOYMENT
RELATIONS COMMISSION



MARVIN L. SCHURKE
Executive Director

Paragraph 2 of this order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.