STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

YAKIMA POLICE PATROLMANS ASSOCIATION, Complainant, vs. CITY OF YAKIMA, Respondent.	CASE 21562-U-08-5494 DECISION 10270-A - PECB DECISION OF COMMISSION

Cline and Associates, by *Reba Weiss*, Attorney at Law, for the union.

Menke Jackson Beyer Elofson Ehlis & Harper, LLP, by *Kirk A. Ehlis*, Attorney at Law, for the employer.

On February 29, 2008, the Yakima Police Patrolmans Association (union) filed an unfair labor practice complaint alleging that the City of Yakima (employer) committed an unfair labor practice by: (1) discriminating against bargaining unit employee Elaine Gonzalez for exercising protected activity; (2) unilaterally changing a mandatory subject of bargaining, and (3) interfering with protected employee rights arising from Chief Sam Granato's decision to add "negative comments" to employee evaluations after those evaluations had been reviewed and finalized by the employee and the employee's supervisor. The union also alleged that the employer refused to provide relevant collective bargaining information regarding an investigation of harassment allegations against Officer Ben Hittle, a bargaining unit employee. Examiner Sally B. Carpenter issued a decision finding the employer committed each of the alleged unfair labor practices, and the employer appeals. [1]

[1] *City of Yakima*, Decision 10270 (PECB, 2011). The employer has not appealed the Examiner's conclusion that the employer committed an unfair labor practice unilaterally changing the duration of the training period for the detective sergeant position.

ISSUES PRESENTED

1. When Granato added written comments to Gonzalez's evaluation, did the employer discriminate against Gonzalez in retaliation for her exercise of protected employee rights?

2. Did the employer unilaterally change a mandatory subject of bargaining without bargaining when Granato added written comments to Gonzalez's evaluation?

3. Did the employer fail to provide the union with necessary and relevant collective bargaining information by withholding all the reports released to the media, all interviews, statements and conclusions of the two investigations and other materials relied upon in the reports related to an investigation of harassment against Officer Ben Hittle?

For the reasons set forth below, we reverse the Examiner's findings that the employer discriminated against and interfered with protected employee rights when Granato added written comments to employee evaluations. The union failed to establish a prima facie case that Granato's written comment was related to Gonzalez's union activities and actually caused the employee to suffer any negative consequences, including discipline or a loss of benefit. We also reverse the Examiner's conclusion that the employer unlawfully unilaterally changed working conditions and discriminated against Gonzalez by adding written comments to her performance evaluation. In this case, the union failed to demonstrate how Granato's additional comments actually impacted terms and conditions of Gonzalez's employment. Finally, we affirm the Examiner's conclusion that the employer failed to provide the union with necessary collective bargaining information.

DISCUSSION

There are several sequences of events that are important to this case, and therefore a brief recitation of certain facts is necessary to place the issues before us in their proper context. The

union represents a bargaining unit of uniformed personnel in the employer's workforce. Granato was Chief of Police at all times during events leading up to these proceedings.

Facts Related to Gonzalez's Discrimination Allegation

At the time of the pertinent events of this case, Officer Gonzalez had been employed with the Yakima Police Department for twenty-one years. In 2002, she was assigned as a detective. During her time as a detective, she received satisfactory or above average ratings on her performance evaluations. In January 2006, she was assigned to the department's Major Crimes unit.

On September 19, 2006, Gonzalez participated in a meeting with the city council regarding Granato and his insistence on implementing a random drug testing policy. Also present at that meeting were Sergeant Bob Hester and the Mayor of Yakima.

On September 21, 2006, Sergeant Scott Lenovo informed Gonzalez that she was being transferred back to the Patrol Division. Gonzalez testified that Lenovo stated to her that it was Chief Granato's decision. Captain Jeff Schneider testified that he had made the decision in June of 2006, after having discussions with Lenovo. On September 21, 2006, the union filed a grievance about Gonzalez's transfer. During a November 2, 2006 meeting between Schneider and Gonzalez, Schneider stated he had made the decision to transfer Gonzalez. On January 1, 2007, Gonzalez was transferred to the Patrol Division.

Between May and June 2007, Gonzalez participated in three negotiating sessions with the employer regarding a successor collective bargaining agreement. The only issue the parties were unable to agree upon was the employer's random drug testing proposal. An interest arbitration hearing was held on that issue in June 2007. Gonzalez testified at that hearing on behalf the union.

On August 28, 2007, Gonzalez received her June 1, 2005 to May 31, 2007 evaluation. The evaluation was prepared by Lenovo and Sergeant Tim Bardwell, who both supervised Gonzalez during that period. Lenovo gave Gonzalez average ratings, and Bardwell gave her above average

ratings. The two evaluators met and conferred with Gonzalez about the evaluation and, although Gonzalez challenged Lenovo about critical comments he gave her, she signed her evaluation.

On September 24, 2007, Bardwell was informed by Lieutenant Mike Merryman that Granato had added hand-written comments to Gonzalez's otherwise completed evaluation. Merryman also instructed Bardwell to show those comments to Gonzalez. Granato's comments stated that he "did not concur [with the evaluations] in the area of civilian contacts. There is a pattern of rudeness to citizens." Granato signed the evaluation. The employer presented evidence demonstrating that between April 7, 2007 and September 22, 2007, Gonzalez was the subject of eight citizen's complaints regarding her demeanor towards the public.

Although supervisors had in the past written encouraging compliments on employee evaluations, there was no evidence presented demonstrating that the chief of police had previously written comments similar to those that Granato wrote on Gonzalez's evaluation after the employee had received and signed the evaluation. Additionally, there was no evidence demonstrating that the chief's comments had any impact on Gonzalez or her terms and conditions of employment.

Facts Related to the Refusal to Provide Information Allegation

The Yakima Police Athletic League (YPAL or program) is a community policing program that is run by a non-profit community board. Members of the police department participate in the operation of the program. During the period relevant to this case, Crystal Dodge (Dodge), who was not a uniformed officer and was not employed by the employer, was the program's only permanent employee.

In 2006, Sergeant Brenda George (George) was assigned to the program. In early 2006, Dodge informed George that another police officer, Ben Hittle (Hittle), had been harassing her by making fun of her speech impediment. George testified that she instructed Hittle to stop harassing Dodge. On March 1, 2006, George, Hittle, and other members of the police force who participated in the program met with Granato to discuss the harassment allegations.

In May 2006, George was informed that she was being transferred out of the program. Also in May 2006, Dodge resigned from the program. Following Dodge's resignation, the employer hired Carolyn Cairns to investigate allegations that Dodge had been harassed by city employees due to her speech impediment. On December 1, 2006, Cairns issued a preliminary report regarding her findings. Cairns's contract with the employer was terminated shortly thereafter. On February 17, 2007, George filed a complaint with the Equal Employment Opportunity Commission (EEOC) alleging the employer retaliated against her for attempting to correct Hittle's actions.

On February 28, 2007, the union requested a copy of Cairns's report. The union subsequently withdrew its request on March 2, 2007. Despite the cancellation of the request, on March 7 the employer informed the union that it was denying the request for the report based upon the ongoing investigation. On March 13, the union made a second request for the Cairns report. The union specifically stated that it was making its request under Chapter 41.56 RCW. The employer did not produce Cairns's report, and did not respond to the March 13 request.

On May 17, 2007, Kris Cappel (Cappel), a second investigator hired by the employer to look into Dodge's allegations, issued a new report. On September 11, 2007, Granato sent Dodge a letter of apology. In that letter, he stated that "command staff supervisors were appropriately disciplined."

On December 4, 2007, the union made a second request for Cairns's report, and also made a request for Cappel's report. As part of its request, the union also asked for a summary of all the reports released to the media, all interviews, statements and conclusions of the two investigations and other materials relied upon in the reports. On December 13, 2007, the employer produced some, but not all, of the requested material. However, according to the union, the employer did not produce witness statements, un-redacted copies of the investigative reports, and other materials that were relied upon in the two reports.

ISSUE 1 – Discrimination for Exercising Protected Rights

Statute of Limitations

The statute of limitations for filing an unfair labor practice complaint under the Public Employees' Collective Bargaining Act is six months from the date of occurrence. RCW 41.56.160(1). The six-month statute of limitations begins to run when the complainant knows or should have known of the violation. *City of Bellevue*, Decision 9343-A (PECB, 2007), *citing City of Bremerton*, Decision 7739-A (PECB, 2003). Events that occur outside the six-month statute of limitations cannot support a violation but can provide context regarding a certain factual situation, "even if evidence of one or more previous unfair labor practice violations might be admitted to establish some material fact in a current case (*e.g.*, to show a strained bargaining relationship or repetitive pattern of unlawful conduct), evidence of a foregone unfair labor practice claim is not probative in a later case." *City of Fircrest*, Decision 5094 (PECB, 1995).

Applicable Legal Standard - Discrimination

An employer unlawfully discriminates against an employee when it takes action in reprisal for the employee's exercise of rights protected by the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. *Educational Service District 114*, Decision 4361-A (PECB, 1994). The employee maintains the burden of proof in such discrimination cases. To prove discrimination, the employee must first set forth a prima facie case by establishing the following:

1. The employee participated in an activity protected by the collective bargaining statute, or communicated to the employer an intent to do so;

2. The employer deprived the employee of some ascertainable right, benefit, or status; and

3. A causal connection exists between the employee's exercise of a protected activity and the employer's action.

Ordinarily, an employee may use circumstantial evidence to establish a *prima facie* case of discrimination because parties do not typically announce a discriminatory motive for their actions. *Clark County*, Decision 9127-A (PECB, 2007).

In response to an employee's *prima facie* case of discrimination, the employer need only articulate its non-discriminatory reasons for acting in such a manner. The employer does not bear the burden of proof to establish those reasons. *Port of Tacoma*, Decision 4626-A (PECB, 1995). Instead, the burden remains on the employee to prove by a preponderance of the evidence that the disputed action was in retaliation for the employee's exercise of statutory rights. *Clark County*, Decision 9127-A. The employee meets this burden by proving either that the employer's reasons were pretextual, or that union animus was a substantial motivating factor behind the employer's actions. *Port of Tacoma*, Decision 4626-A.

To prove discriminatory motivation, the employee must establish that the employer had knowledge of the employee's union activity. An examiner may base such a finding on an inference drawn from circumstantial evidence although such an inference cannot be entirely speculative or improbable. Circumstantial evidence consists of proof of facts or circumstances which, according to the common experience, gives rise to a reasonable inference of the truth of the fact sought to be proved.

Applicable Legal Standard - Interference

Generally, the burden of proving unlawful interference with the exercise of rights protected by Chapter 41.56 RCW rests with the complaining party or individual. An interference violation exists when an employee could reasonably perceive the employer's actions as a threat of reprisal or force, or promise of benefit, associated with the union activity of that employee or of other employees. *Kennewick School District*, Decision 5632-A (PECB, 1996). The complainant is not required to demonstrate the employer intended or was motivated to interfere with employees' protected collective bargaining rights. *See City of Tacoma*, Decision 6793-A (PECB, 2000). Nor is it necessary to show that the employee involved was actually coerced by the employer or that the employer had union animus for an interference charge to prevail. *City of Tacoma*, Decision 6793-A. However, an independent interference violation cannot be found under the

same set of facts that fail to constitute a discrimination violation. *See Reardan-Edwall School District*, Decision 6205-A (PECB, 1998).

Application of Standards

The Examiner found the employer discriminated against Gonzalez when Granato added his written comments to her already completed evaluation. In reaching her conclusion that the union established its prima facie case, the Examiner detailed Gonzalez's history of involvement with the union's negotiating team as evidence that Gonzalez participated in protected activity. For example, the Examiner found that shortly after Gonzalez met with the city council about the state of negotiations in September 2006, Gonzalez was transferred out of the detective's unit. The Examiner also found the employer presented no credible defense to Gonzalez's reassignment and specifically found that her performance warranted retention in the detective's unit, particularly in light of the fact that the employer had spent considerable time and resources training her. Finally, the Examiner relied upon the fact that shortly before Granato added his written comments to her evaluation, Gonzalez had testified at an interest arbitration hearing on behalf of the union.

In establishing a prima facie case under the facts presented in this case, we find that it was improper for the Examiner to infer any discriminatory motive on the part of the employer as it related to Gonzalez's September 2006 transfer from the detective's unit and Gonzalez's participation at the September 2006 meeting with the city council. That event occurred well outside the six-month statute of limitation, the union did not file a timely complaint regarding those facts, and the employer should not have been placed in a position to defend against a "stale allegation" in the instant matter. *See City of Fircrest*, Decision 5094. Without a finding from this agency or a court of competent jurisdiction that the facts relating to Gonzalez's transfer were made in violation of Chapter 41.56 RCW, no inferences regarding the employer's motive as it related to that transfer should have been made or used against the respondent as demonstrating a pattern of retaliatory conduct against the employee.

With respect to those facts that are germane to this case, we find the Examiner properly concluded that Gonzalez's testimony at the June 2007 interest arbitration hearing was protected

activity. Accordingly, we agree with the Examiner's conclusion that the union satisfied the first component of the prima facie test with respect to this fact only.

Turning to the second component of the prima facie test, the Examiner concluded that when Granato added additional comments to Gonzalez's evaluation, he deprived her of a right. According to the Examiner, even if the evaluation scores remained the same, the employer could not rebut the presumption that Granato's written comments would negatively impact Gonzalez's employment in the future. We do not concur with the Examiner that the union demonstrated that Gonzalez was deprived of a right through Granato's actions. There is no evidence in this record demonstrating that Granato's comments constituted discipline or in any other meaningful way deprived Gonzalez of a right, benefit or status.

Furthermore, even if the union had established its prima facie case, Granato's written comments simply point out a fact that is backed up by the evidence in this record, that Gonzalez received a high number of citizen's complaints in a short period of time, and therefore the employer demonstrated a non-discriminatory reason for Granato's act. Although the timing of his comments could be viewed as being closely associated with Gonzalez's testimony in the interest arbitration hearing, this record does not support a finding that a causal connection can be inferred from the employer's act because the timing of the pertinent events (Gonzalez's evaluation, her testimony, and Granato's comments) all occurred within roughly the same time period, and the Examiner also improperly relied upon an assumption that Gonzalez's September 2006 transfer was discriminatory.

With respect to the Examiner's conclusion that Granato's written comments also independently interfered with protected employee rights, that conclusion must also be reversed. The facts that supported the union's discrimination allegation are the same facts that supported the union's interference violation. Because the discrimination allegation has been dismissed, so must the interference violation be dismissed.

Although we have determined that the employer did not discriminate against or interfere with Gonzalez's protected rights when Granato added his written comments to her evaluation, we

must still determine whether Granato's act constituted a unilateral change to the employee's terms and conditions of employment.

ISSUE 2 – Refusal to Bargain Change to Employee Evaluations

Applicable Legal Standard

A public employer covered by Chapter 41.56 RCW, has a duty to bargain with the exclusive bargaining representative of its employees. RCW 41.56.100(1); "[P]ersonnel matters, including wages, hours, and working conditions" of bargaining unit employees are characterized as mandatory subjects of bargaining. *Federal Way School District*, Decision 232-A (EDUC, 1977), *citing NLRB v. Borg-Warner Corp.*, 356 U.S. 342 (1958). The parties' collective bargaining obligations require that the status quo be maintained regarding all mandatory subjects of bargaining, except where such changes are made in conformity with the statutory collective bargaining obligation or the terms of a collective bargaining agreement. *See City of Yakima*, Decision 3501-A (PECB, 1998), *aff'd*, 117 Wn.2d 655 (1991).

Commission and judicial precedents interpreting that definition identify three broad categories of bargaining: mandatory subjects, permissive subjects, and illegal subjects. *NLRB v. Wooster Division Borg-Warner*, 356 U.S. 342 (1958); *Pasco Police Association v. City of Pasco*, 132 Wn.2d 450 (1997)(*City of Pasco*); *Federal Way School District*, Decision 232-A (EDUC, 1977). Employee "wages, hours and working conditions" are generally "mandatory" subjects over which the parties must bargain in good faith. An employer or exclusive bargaining representative that fails or refuses to bargain in good faith on a mandatory subject of bargaining commits an unfair labor practice. RCW 41.56.140(4) and (1); RCW 41.56.150(4). Management and union prerogatives, along with procedures for bargaining mandatory subjects, are "permissive" subjects over which the parties may negotiate, but are not obliged to do so. *City of Pasco*, 132 Wn.2d at 460 (holding that as to permissive subjects, each party is free to bargain or not to bargain, and to agree or not to agree). Pursuing a permissive subject to impasse is an unfair labor practice. *See State – Office of Financial Management*, Decision 8761-A (PECB, 2006), *citing Klauder v. San Juan County Deputy Sheriffs' Guild*, 107 Wn.2d 338, 342 (1986).

In deciding whether an issue of bargaining is mandatory or permissive, this Commission examines two principal considerations: (1) the extent to which managerial action impacts the wages, hours and working conditions of employees, and (2) the extent to which a managerial action is deemed to be an essential management prerogative. *International Association of Fire Fighters, Local 1052 v. PERC*, 113 Wn.2d 197, 200 (1989)(*City of Richland*). The Supreme Court held in *City of Richland* that "the scope of mandatory bargaining is limited to matters of direct concern to employees" and that "managerial decisions that only remotely affect 'personnel matters' and decisions that are predominantly 'managerial prerogatives,' are classified as non-mandatory subjects." *City of Richland*, 113 Wn.2d at 200. The scope of bargaining is a question of law and fact for the Commission to determine on a case-by-case basis. *City of Richland*, 113 Wn.2d at 203; WAC 391-45-550.

Application of Standards

The Examiner found that the employer unilaterally changed terms and conditions of employment without satisfying its Chapter 41.56 RCW bargaining obligation by changing employee evaluation practices. In reaching this conclusion, the Examiner held that employee evaluations are a working condition because an evaluation can impact an employee's ability to get specialty assignments and promotions for the remainder of the employee's career. The Examiner also concluded that Granato's comments impacted conditions of employment because the employer had not investigated whether the citizen's complaints against Gonzalez had any merit. We disagree with the Examiner's conclusion.

There is no evidence in this record demonstrating that Granato's written comment had any impact on the terms and conditions of employment, such as employee discipline. Furthermore, employers have the right to evaluate employees. *See Spokane Fire District 9*, Decision 3661-A (PECB, 1991). If there are questions as to "whether the conduct set forth in the evaluation is accurately described, and whether any action taken by the employer relative to such conduct is appropriate," the proper forum for resolution of such subjects is the grievance and arbitration process set forth in the parties' collective bargaining agreement. *Spokane County*, Decision 6073-A (PECB, 1998).

ISSUE 3 – Failure to Provide Information

Applicable Legal Standard

Chapter 41.56 RCW governs the relationship between these parties. Under RCW 41.56.030(4), the parties have an obligation to negotiate in good faith. Under both federal and state law, this duty to bargain includes a duty to provide relevant information needed by the opposite party for the proper performance of its duties in the collective bargaining process. *National Labor Relations Board v. Acme Industrial Co.*, 385 U.S. 432 (1967); *City of Bellevue*, Decision 3085-A (PECB, 1989), *aff'd, City of Bellevue v. International Association of Fire Fighters, Local 1604*, 119 Wn.2d 373 (1992). The obligation extends not only to information that is useful and relevant to the collective bargaining process, but also encompasses information necessary to the administration of the parties' collective bargaining agreement. *King County*, Decision 6772-A (PECB, 1999). "Requested information necessary for arguing grievances under a collective bargaining agreement, including that necessary to decide whether to proceed with a grievance or arbitration, must be provided by an employer." *King County*, Decision 6772-A.

In *King County*, Decision 6772-A, this Commission embraced the "discovery-type" standard used by the National Labor Relations Board to determine relevancy of requested information. Under this standard, as explained in *Maben Energy Corp.*, 295 NLRB 152 (1989):

> [A]n employer is obligated to provide a union with requested information if there is a probability that such data is relevant and will be of use to the union in fulfilling its statutory duties and responsibilities as the employees' exclusive bargaining representative. The issue in such a case is 'whether the requested information had probable and potential relevance to the union's statutory obligation to represent employees within the contractual units'; '[T]he fact the requested information may relate to employers and employees outside the represented bargaining unit does not by itself negate its relevance'; for, whatever the eventual merits of the union's claim that their contracts are being violated and their bargaining units unlawfully diminished, they are entitled to the requested information under the discovery type standard announced in *NLRB v. Acme Industrial Co.*, 385 U.S. 432, 437 (1967), to judge for themselves whether to press their claims in the contractual grievance procedure or before the Board or Courts. Citing *Associated General Contractors of California*, 242 NLRB 891 (1979), enfd. as modified 633 F.2d 766 (9th Cir. 1980) and *Electrical Energy Services*, 288 NLRB 925 (1988)."

A party that receives an information request has an obligation to respond and has the duty to explain any objection to the request. As the Commission explained in *Port of Seattle*, Decision 7000-A (PECB, 2000):

> The Commission expects that parties will negotiate solutions to any difficulties they encounter in connection with information requests. This is consistent with viewing the duty to provide information as part of an ongoing and continuous obligation to bargain. Although an employer may initially reply to an information request by claiming that compliance is difficult or not warranted, it must also explain its concerns to the union and make a good faith effort to reach a resolution that will satisfy its concerns and yet provide maximum information to the union. *City of Pullman*, Decision 7126 (PECB, 2000).

In *Kitsap County*, Decision 9326-B (PECB, 2010), the Commission further refined this obligation by stating that "if a requesting party does not believe the information provided sufficiently responds to the intent and/or purpose of the original request, the requesting party also has a duty to contact the responding party and engage in meaningful discussion about what kinds of information it is seeking so that the other party can comply with the request." *See also City of Seattle v. Public Employment Relations Commission*, ___ Wn. App. ___ (March 7, 2011, Div. 1).

Application of Standards

The Examiner found that the employer failed to comply with the union's December 13, 2007 request for information used by the two consultants in preparing their investigative reports. In reaching this conclusion, the Examiner noted that if the employer had any concerns regarding the release of information, the employer was obligated to contact the union and discuss the matter.

The employer argues that it was under no obligation to satisfy the union's information request. The employer cites *City of Bellevue*, Decision 4324-A (PECB, 1994), as standing for the proposition that a bargaining representative is not entitled to a complete investigatory file, rather the requesting party is entitled only those documents that are necessary to defend the grievance. The employer also points out that the union never demonstrated that it needed the unredacted documents as part of its defense. In the employer's opinion, it complied with the union's information request.

Here, it is clear from the record that when the union made its follow-up request for information on December 17, 2007, the employer elected to not respond. As announced in the *Port of Seattle* and *Kitsap County* decisions, the employer had the affirmative obligation to contact and discuss with the union the information request and whether that request had actually been fulfilled or not. It is not enough for the employer to rationally believe that the information being sought is not the kind of information that must be disclosed under Chapter 41.56 RCW; rather, our precedents *require* an employer to communicate with a union its disagreement regarding the obligation to disclose certain information. The employer's failure to discuss the information request with the union was an unfair labor practice.

NOW, THEREFORE, it is

ORDERED

I. The Findings of Fact issued by Examiner Sally B. Carpenter are AFFIRMED and adopted as the Findings of Fact of the Commission, except Findings of Fact 13, 14, 28, and 29 which are stricken.

II. The Conclusions of Law issued by Examiner Sally B. Carpenter are AFFIRMED and adopted as the Conclusions of Law of the Commission, except Conclusions of Law 6 and 7 which are amended as follows:

6. The employer did not discriminate against Gonzalez in violation of Chapter 41.56 RCW by adding comments to Officer Elaine Gonzalez's evaluation, as described in Findings of Fact 11, 12, and 23.

7. The employer did not interfere with protected employee rights in violation of Chapter 41.56 RCW by adding comments to Officer Elaine Gonzalez's evaluation as described in Finding of Fact 12.

III. The Order issued by Examiner Sally B. Carpenter is VACATED. The Commission issues the following remedial order:

The City of Yakima, its officers and agents, shall immediately take the following actions to remedy its unfair labor practices:

1. CEASE AND DESIST from:
   a. Refusing to meet with the union to discuss the union's information requests.

   b. Making a unilateral change in a mandatory subject of bargaining without providing prior notice to the union and an opportunity for bargaining.

   c. In any other manner interfering with, restraining or coercing its employees in the exercise of their collective bargaining rights under by the laws of the State of Washington.

2. TAKE THE FOLLOWING AFFIRMATIVE ACTION to effectuate the purposes and policies of Chapter 41.80 RCW:
   a. Restore the *status quo ante* by reinstating the wages, hours and working conditions which existed for employees in the affected bargaining unit prior to the unilateral change in the duration of the Detective Sergeant in Training position found unlawful in *City of Yakima*, Decision 10270 (PECB, 2009).

   b. Post all openings in non-Patrol Division positions in accordance with Article 23, Section 10 of the parties' collective bargaining unit.

   c. Meet and confer with the union regarding the union's December 17, 2007 information request.

   d. Post copies of the notice provided by the Compliance Officer of the Public Employment Relations Commission in conspicuous places on the employer's premises where notices to all bargaining unit members are usually posted. These

notices shall be duly signed by an authorized representative of the respondent, and shall remain posted for 60 consecutive days from the date of initial posting. The respondent shall take reasonable steps to ensure that such notices are not removed, altered, defaced, or covered by other material.

e. Read the notice provided by the Compliance Officer into the record at a regular public meeting of the city council of the City of Yakima, and permanently append a copy of the notice to the official minutes of the meeting where the notice is read as required by this paragraph.

f. Notify the complainant, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the complainant with a signed copy of the notice provided by the Compliance Officer.

g. Notify the Compliance Officer, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the Compliance Officer with a signed copy of the notice he provides.

ISSUED at Olympia, Washington, this 12th day of April, 2011.

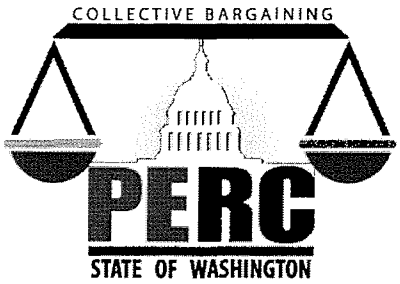
PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARILYN GLENN SAYAN, Chairperson

PAMELA G. BRADBURN, Commissioner

THOMAS W. McLANE, Commissioner

CASE 21562-U-08-5494
DECISION 10270-A - PECB



PUBLIC EMPLOYMENT RELATIONS COMMISSION

NOTICE

THE WASHINGTON PUBLIC EMPLOYMENT RELATIONS COMMISSION CONDUCTED A LEGAL PROCEEDING IN WHICH ALL PARTIES HAD THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT. THE COMMISSION RULED THAT THE *CITY OF YAKIMA* COMMITTED UNFAIR LABOR PRACTICES IN VIOLATION OF STATE COLLECTIVE BARGAINING LAWS, AND ORDERED US TO POST THIS NOTICE TO EMPLOYEES:

WE UNLAWFULLY refused to bargain in good faith with the Yakima Police Patrolmans Association changes in the duration of the Detective Sergeant in Training.

WE UNLAWFULLY failed to request a meeting to confer with the Yakima Police Patrolmans Association about disagreements regarding the completion of an information request made by the Association.

TO REMEDY OUR UNFAIR LABOR PRACTICES:

WE WILL restore the status quo ante by reinstating the wages, hours and working conditions which existed for employees in the affected bargaining unit prior to the unilateral change in duration of the Detective Sergeant in Training position.

WE WILL post all openings in non-Patrol Division positions in accord with Article 23, Section 10 of the parties' collective bargaining agreement.

WE WILL request a meeting and confer with the Yakima Police Patrolmans Association about disagreements regarding the completion of an information request made by the Association.

WE WILL NOT, in any other manner, interfere with, restrain, or coerce our employees in the exercise of their collective bargaining rights under the laws of the State of Washington.

DO NOT POST OR PUBLICLY READ THIS NOTICE.

AN OFFICIAL NOTICE FOR POSTING AND READING WILL BE PROVIDED BY THE COMPLIANCE OFFICER.

The full decision is published on PERC's website, www.perc.wa.gov.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

112 HENRY STREET NE SUITE 300
PO BOX 40919
OLYMPIA, WASHINGTON 98504-0919

RECORD OF SERVICE - ISSUED 04/12/2011

The attached document identified as: DECISION 10270-A - PECB has been served by the Public Employment Relations Commission by deposit in the United States mail, on the date issued indicated above, postage prepaid, addressed to the parties and their representatives listed in the docket records of the Commission as indicated below:

PUBLIC EMPLOYMENT RELATIONS COMMISSION

BY /S/ ROBBIE DUFFIELD

CASE NUMBER:	21562-U-08-05494	FILED:	03/03/2008	FILED BY:	PARTY 2
DISPUTE:	ER MULTIPLE ULP				
BAR UNIT:	LAW ENFORCE				
DETAILS;	-				
COMMENTS:					

EMPLOYER: CITY OF YAKIMA
ATTN: MICAH CAWLEY
129 N 2ND ST
YAKIMA, WA 98901
Ph1: 509-901-9114 Ph2: 509-575-6000

REP BY: RICHARD A ZAIS JR
CITY OF YAKIMA
129 N 2ND ST
YAKIMA, WA 98901
Ph1: 509-575-6040 Ph2: 509-575-6000

REP BY: KIRK EHLIS
MENKE JACKSON BEYER EHLIS HARPER
807 N 39TH AVE
YAKIMA, WA 98902
Ph1: 509-575-0313

PARTY 2: YAKIMA POLICE PATROLMANS ASSN
ATTN: MIKE COSTELLO
200 S 3RD ST
YAKIMA, WA 98901
Ph1: 509-575-6200

REP BY: REBA WEISS
CLINE & ASSOCIATES
2003 WESTERN AVE STE 550
SEATTLE, WA 98121
Ph1: 206-838-8770