

*Snohomish County*, Decision 12217 (PECB, 2014)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

SNOHOMISH COUNTY JUVENILE  
COURT SUPERVISORS ASSOCIATION

Involving certain employees of:

SNOHOMISH COUNTY

CASE 26516-E-14-3874

DECISION 12217 - PECB

ORDER OF DISMISSAL

Law Offices of Jared Karstetter, by *Jared Karstetter*, Attorney at Law, for the Snohomish County Juvenile Court Supervisors Association.

*Audrey Eide*, General Counsel, for the Washington State Council of County and City Employees.

Mark K. Roe, Snohomish County Prosecuting Attorney, by *Steven J. Bladek*, Deputy Prosecuting Attorney, and *Douglas J. Morrill*, Deputy Prosecuting Attorney, for the County.

On June 5, 2014, the Snohomish County Juvenile Court Supervisors Association (Association) filed a petition to represent a bargaining unit configuration that included the employees in the Juvenile Correction Officer Supervisors (JCO Supervisor), the Juvenile Community Corrections Officer Supervisor (JCCO Supervisor), and the Kitchen Coordinator job classes working in the Denny Juvenile Justice Center (Justice Center) at Snohomish County (employer). The Association previously filed a petition to represent these employees as part of a larger bargaining unit configuration. That bargaining unit configuration was deemed inappropriate. *Snohomish County*, Decision 12071 (PECB, 2014).

On June 25, 2014, the Washington State Council of County and City Employees (WSCCCE) filed a motion to intervene in these proceedings. The WSCCCE asserted that the petitioned-for positions are not supervisors and belong in its non-supervisory juvenile detention bargaining unit. The Association and employer both opposed the WSCCCE's motion for intervention. Those

motions were denied, and the WSCCCE was permitted to participate in this proceeding. Because a lengthy record had already been developed from the Association's earlier attempt to organize these employees, the parties agreed to brief the issues on the established record.

As a threshold issue, the WSCCCE argued that the Association was not a qualified labor organization that should be permitted to represent employees for the purposes of collective bargaining. With respect to the positions themselves, the WSCCCE argued that the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator job classes do not meet this agency's supervisory definition and also claimed that those positions only share a community of interest with its non-supervisory juvenile detention bargaining unit.

In its brief, the Association argued that it is a qualified labor organization. The Association agreed that the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator job classes did not meet this agency's supervisory definition. The Association argued that those positions do not share a community of interest with the WSCCCE's non-supervisory bargaining unit and should be excluded from that unit. The employer argued that the bargaining unit configuration proposed by the Association is appropriate under the statute.<sup>1</sup>

The first issue to be decided is whether the Association is a qualified labor organization. If the Association is a qualified labor organization, then the question to be answered is whether the petitioned-for employees are supervisors. If the petitioned-for employees are supervisors, then they must be automatically be excluded from the WSCCCE's non-supervisory juvenile detention bargaining unit as required by WAC 391-35-340. In that case, the Association's petition can continue to be processed without the WSCCCE's involvement because the WSCCCE has not demonstrated that it has the support of at least ten percent of the petitioned-for employees to gain intervenor status. If the petitioned-for employees are not supervisors, then the question to be answered is whether those employees only share a community of interest with the WSCCCE's

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<sup>1</sup> Briefing in this matter was due October 10, 2014. On October 13, 2014, the WSCCCE filed a motion with the Hearing Officer to strike the employer's brief because the WSCCCE alleges that it was not timely served with that brief. The certificate of service clearly indicates the employer filed its brief with this agency and served the parties of record on the October 10, 2014 due date. Additionally, the cover letter accompanying the employer's brief clearly indicates that the employer is relying on its brief from the previous proceeding, which was filed on February 28, 2014. The WSCCCE's motion to strike the employer's brief is denied.

non-supervisory juvenile detention bargaining unit or if they could be an appropriate stand alone bargaining unit.

The Association is a qualified labor organization under the statute. The petitioned-for employees are not supervisors and only share a community of interest with the employees in the WSCCCE's non-supervisory juvenile detention bargaining unit. Accordingly, the Association's proposed bargaining unit configuration is therefore inappropriate and its petition must be dismissed.

### BACKGROUND

The Snohomish County Superior Court provides juvenile justice services to Snohomish County, including detention and detention alternative services, probation services, drug treatment court services, health services, and food services. Those services are provided through the Justice Center. The primary operation of the Justice Center is the juvenile detention facility. The facility is where juvenile detainees are housed and monitored during their term of incarceration. The Juvenile Justice Center is broken into five main departments: 1) Administrative/Management, 2) Administrative and Support Services, 3) Juvenile Detention Service Programs, 4) Juvenile Detention Services Residential, and 5) the Juvenile Probation Services. Employees in the Superior Court's Drug Court program also provide drug treatment and evaluation services for the juvenile participants in the drug court program. The seven petitioned-for employees work in two different departments at the Justice Center: Juvenile Detention Services Residential and Juvenile Detention Service programs.

#### *Juvenile Detention Services Residential -*

The Juvenile Detention Services Residential Department is responsible for the operation of the juvenile housing facility. The JCO Supervisors job class is part of the Residential Custody unit.

- *Residential Custody*

The employees in the Residential Custody unit are in the Juvenile Correction Officer (JCO) and JCO Supervisor job classes. JCOs provide oversight, care and direction to juveniles in custody

and are included in the non-supervisory bargaining unit represented by the WSCCCE. The Association is seeking to represent the five employees in the JCO Supervisor job class.

The JCO Supervisors address juvenile detainee's behavioral problems or other unique circumstances and enforce the juvenile detainee's behavioral compliance with established policies and procedures. The JCO Supervisors work closely with the JCOs and monitor juvenile offenders. The JCO Supervisors provide and schedule training for new hires and ensure that they have received the proper certifications. The JCO Supervisors are also responsible for planning, scheduling and evaluating the work of the JCOs and for directing the JCOs' actions during emergencies. The JCO Supervisors may, if necessary, provide a verbal warning to a JCO if that employee has violated a policy or procedure.

The JCO Supervisors do not work standard shifts. Because the Residential Facility is operating at all times, the JCO Supervisors are required to work shifts to ensure that at least one JCO Supervisor is working at all times. The JCO Supervisors are eligible for overtime.

*Juvenile Detention Services Programs –*

The Juvenile Detention Services Programs support the Residential Facility. The JCCO Supervisor job class is part of the Detention Alternatives program and the Kitchen Coordinator job class is part of the Kitchen Unit.

- *Detention Alternatives*

The juvenile offenders in the Detention Alternatives program are technically ordered to serve their sentence in the Residential Facility but are instead placed in alternative non-secure detention due to the juvenile's assessment. Examples of non-secure detention are electronic home monitoring and day-reporting. The employees in the Detention Alternatives program are in the Juvenile Community Corrections Officer (JCCO) and JCCO Supervisor job classes. The JCCOs are currently included in the WSCCCE's non-supervisory bargaining unit. The Association is seeking to represent the one employee in the JCCO Supervisor job class.



The JCCOs in the Detention Alternatives program are responsible for monitoring and evaluating the juveniles in the program. This includes developing an agenda or curriculum that the juvenile detainee is required to follow. The JCCOs counsel the juvenile and make recommendations as to how the juvenile will be reintroduced into the community. The JCCO Supervisor coordinates the training for the JCCOs and plans and schedules their working hours. The JCCO Supervisor may issue written warnings to JCCOs they direct. The JCCO Supervisor also reviews the detention logs to ensure that the JCCOs are complying with procedures. The JCCO Supervisor may fill in for and perform the same work as JCCOs and may also fill in for the JCCOs in the Residential unit. The JCCO Supervisor regularly interacts with the JCO Supervisor but has only occasional interaction with the Health Services Director. The JCCO Supervisor position job class is eligible for overtime.

- *Kitchen*

The Kitchen feeds the juvenile detainees at the Residential Facility. The employees in the Kitchen are in the Kitchen Coordinator and Cook job classes. The Kitchen Coordinator is responsible for ordering food, planning meals, and ensuring smooth operation of the kitchen. The Cooks are responsible for preparing the food for meals. The Cooks are currently included in WSCCCE's non-supervisory bargaining unit. The Association is seeking to represent the one employee in the Kitchen Coordinator position.

In addition to planning and preparing meals, the Kitchen Coordinator prepares draft evaluations for the Cooks in the Kitchen unit for the Program Manager. The Program Manager has the authority to make changes to any evaluation. The Kitchen Coordinator also has the authority to issue verbal coaching and counseling. The Kitchen Coordinator is eligible for overtime.

*Bargaining History for the Petitioned-for Employees*

Prior to 2002, the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator job classes were included in the WSCCCE's non-supervisory juvenile detention bargaining unit. In 2002, the employer and the WSCCCE agreed to remove these employees from that bargaining unit due to perceived conflicts of interest between the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator job classes and the other employees in the bargaining unit. The employer and

WSCCCE also removed the Health Services Director, Juvenile Probation Counselor – Supervisor, Court Services Supervisor, and Drug Treatment Court Supervisor job classes from the non-supervisory bargaining unit. *Snohomish County*, Decision 12071. The parties agreed to place these positions in a voluntarily recognized “supervisory” bargaining unit.

From 2002 until 2013, the WSCCCE represented a bargaining unit of 12 positions providing detention and detention alternative services, probation services, drug treatment court services, health services and food services in the employer’s Justice Center. That bargaining unit, which was voluntarily recognized by the employer, was considered by the employer and WSCCCE to contain supervisory employees. From 2002 to 2010, the WSCCCE successfully negotiated agreements for the bargaining unit. After 2010, the bargaining unit rejected two different proposed contracts that the WSCCCE negotiated on the employees’ behalf. The membership was split on the contract, with seven employees rejecting the negotiated agreement and five employees accepting the agreement. Because of the divergent interests and deep division within the bargaining unit, the WSCCCE disclaimed interest in the bargaining unit in May 2013.

Following the disclaimer, the Association filed a petition to represent the same 12 detention and detention alternative services, probation services, drug treatment court services, health services and food services positions at the Justice Center. The WSCCCE also filed a petition to represent just the five positions performing probation services, drug treatment court services, and health service. Because the two petitions overlapped, a hearing was held to determine the appropriateness of each petition.

The WSCCCE proposed a unit configuration of the five positions was determined to be appropriate and the Association’s proposed unit configuration was not appropriate. *Snohomish County*, Decision 12071. The Association did not appeal the decision to dismiss its petition but instead filed this new petition seeking only the seven detention and probation services positions in the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator job classes.

DISCUSSION*Is the Association a Qualified Labor Organization?*

The WSCCCE has questioned whether the Association qualifies as a "bargaining representative" under Chapter 41.56 RCW. The Association has met the minimum standards to qualify as a labor organization under the statute.

A bargaining representative is "any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers." RCW 41.56.030(2). This agency has previously rejected formal requirements for adoption of formal by-laws or constitutions to qualify as a labor organization. *King County*, Decision 5910-A (PECB, 1997), *citing Kitsap County*, Decision 2116 (PECB, 1984). As long as the organization allows employee participation, is established to represent employees, and intends to carry out its representation function, it is a bargaining representative even if it has not created by-laws or collected dues. *Southwest Washington Health District*, Decision 1304 (PECB, 1981).

An organization was found to be qualified where it had where it had held organizational meetings, was working on amending its existing bylaws, had filed the petitions to initiate the representative proceedings, and had engaged legal counsel to represent it in the hearing process. *Kitsap County*, Decision 2116 (PECB, 1984). An organization without any constitution or bylaws was found qualified where it had held meetings, elected officers, and engaged in collective bargaining with the employer. *Edmunds School District*, Decision 3167 (PECB, 1989).

To support its argument that the Association is not a qualified labor organization, the WSCCCE points out that testimony from the hearing demonstrates that the Association has not elected officers, held meetings, or engaged in bargaining with the employer. The WSCCCE also asserts that the Association has never engaged in bargaining with any employer. These arguments are not persuasive.

For this proceeding, the Association has demonstrated that it has created an interim constitution, filed articles of incorporation with the Secretary of State's office, and elected at least two officers,

a president and a secretary/treasurer. Additionally, the Association's constitution clearly indicates that it has been established for the purpose of representing employees in collective bargaining with their employer. Finally, the Association has taken steps to represent employees by filing this petition. The Association has met the minimum standards to qualify as a labor organization under the statute.

*Are the Petitioned-for Employees Supervisors?*

Having determined that the Association is a qualified labor organization, the next question is whether the petitioned-for employees are supervisors that must be excluded from the WSCCCE's non-supervisory juvenile detention bargaining unit. The petitioned-for employees are not supervisors that must automatically be excluded from the WSCCCE's bargaining unit.

The determination and modification of bargaining units is a function delegated to the Commission by the legislature. RCW 41.56.060. *Ronald Wastewater District*, Decision 9874-C (PECB, 2009). Generally, supervisors are not included in the same bargaining units as the people they supervise. WAC 391-35-340. The exclusion of supervisors from the bargaining units of their subordinates is presumed appropriate when they exercise authority on behalf of the employer over rank-and-file subordinates, and such exclusion avoids a potential for conflicts of interest. WAC 391-35-340. Supervisors are those employees whose *preponderance* of duties include the independent authority "to hire, assign, promote, transfer, layoff, recall, suspend, discipline, or discharge other employees, or to adjust their grievances, or to recommend effectively such action." *Granite Falls School District*, Decision 7719-A (PECB, 2003); *see also* RCW 41.59.020(4)(d).

"Preponderance" can be met in two ways. An employee is a supervisor if they spend less than a preponderance of their time performing supervisory activities but perform a preponderance of the type of supervisory activities enumerated in RCW 41.59.020(4)(d). *City of East Wenatchee*, Decision 11371 (PECB, 2012); *King County*, Decision 10075 (PECB, 2008). An employee may also be a supervisor if they spend a preponderance of their time performing one or more of the statutory supervisory activities. *City of East Wenatchee*, Decision 11371; *Inchelium School District*, Decision 11178 (PECB, 2011). The determination of whether an employee possesses sufficient authority to be excluded from a rank-and-file bargaining unit as a supervisor is made by



examining the actual duties and authority exercised by that individual, not on the basis of his or her title or job description. *Rosalia School District*, Decision 11523 (PECB, 2012); *Morton General Hospital*, Decision 3521-B (PECB, 1991).

When examining supervisory indicia, the Commission places emphasis on whether a disputed position has independent authority to act in the interest of the employer and make meaningful changes in the employment relationship. *State - Office of Administrative Hearings*, Decision 11503 (PSRA,2012), *citing State - Corrections*, Decision 9024-A (PSRA, 2006). If an employee merely executes the instructions of a higher ranking employee when making meaningful changes to the workplace, that employee has not exercised independent judgment. *State - Office of Administrative Hearings*, Decision 11503, *citing City of Lynnwood*, Decision 8080-A (PECB, 2005), *aff'd*, Decision 8080-B (PECB, 2006).

A determination under the Commission's definition of supervisor does not negate or strip away any titular or other supervisory authority of that employee. Indeed, an employee may possess a lower level of supervisory authority than the statutory definition contemplates and still be deemed a "supervisor" by subordinates. The distinguishing characteristic is that the authority does not rise to the level of conflict expressed in the statute which would require separating the employee out of the bargaining unit. *Rosalia School District*, Decision 11523.

None of the parties claim that the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator job classes are supervisors. Furthermore, the evidence demonstrates that these job classes do not meet this agency's supervisory standards because they do not perform a preponderance of the supervisory duties and do not spend a preponderance of their time performing supervisory duties. The JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator do not have the authority to terminate, layoff, recall, or suspend employees. They do not have the authority to adjust a grievance that has been filed. Although the positions sit on hiring panels, they do not have the independent authority to hire a new employee. The positions conduct performance evaluations of their subordinate employees, but those evaluations are reviewed by the evaluator's supervisor. None of the positions have the independent authority to independently issue written discipline without the approval of a manager.

The JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator job classes also do not spend a preponderance of their time performing supervisory duties. Although one JCO Supervisor is primarily in charge of scheduling, the JCO Supervisors spend approximately 20 percent of their day directing employees in their daily activities, such as arranging work assignments when one or more JCOs are away from the facility for various reasons, such as transporting juvenile offenders. The JCCO Supervisor and the Kitchen Coordinator spend even less time on scheduling.

The JCO Supervisors spend the remainder of their time monitoring the JCO Officers to ensure that the juvenile offenders are making their appropriate appointments, such as schooling, medical needs, and meals. The JCO Supervisors will also direct the JCO Officers in the event of an emergency. The JCCO Supervisors spend the remainder of the day filling in for the JCCOs and doing data information technology work. The Kitchen Coordinator spends the preponderance of her time purchasing food and planning meals. The JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator do not spend a preponderance of their time performing supervisory duties.

Although the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator do have the independent authority to direct the work of employees and have independent authority to schedule and approve employee vacation and sick leave, the performance of these duties does not meet the supervisory standard. The JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator are best described as lead employees. Even through the positions exercise some supervisory authority, there still must be a sufficient preponderance of supervisory duties to warrant their separation from the rank-and-file employees they lead. *Ronald Wastewater District*, Decision 9874-C (PECB, 2009), *citing City of Lynnwood*, Decision 8080-B (PECB, 2006). That preponderance is not met in this case. Furthermore, while the JCO Supervisors monitor the work of the JCOs in the Residential Facility, monitoring the work of a fellow employee, even if done constantly, is not enough to satisfy the "preponderance of time" standard. *City of East Wenatchee*, Decision 11371, *citing Inchelium School District*, Decision 11178. The JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator are not supervisors.

*Do the Petitioned-for Employees Share a Community of Interest with the Non-supervisory Bargaining Unit?*

Having determined that the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator are not supervisory employees, the next question to be answered is whether the positions share a community of interest with the WSCCCE's non-supervisory juvenile detention bargaining unit that requires the inclusion of the positions in that bargaining unit. The Association claims that the history of bargaining and desires of employees should weigh heavily against accreting these employees back to the WSCCCE's non-supervisory juvenile detention bargaining unit. The employer supports keeping the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator separate from that bargaining unit. The WSCCCE contends that the positions only share a community of interest with its non-supervisory juvenile detention bargaining unit. The petitioned-for employees only share a community of interest with WSCCCE's non-supervisory juvenile detention bargaining unit and those positions must be included in that unit.

The implementation of the right of public employees to join and be represented by labor organizations is the intent and purpose of Chapter 41.56 RCW. *Nucleonics Alliance, Local Union No. 1-369, Oil, Chemical and Atomic Workers Intern. Union, AFL-CIO v. Washington Public Power Supply System*, 101 Wn.2d 24 (1984); RCW 41.56.010. Chapter 41.56 RCW is remedial in nature and should be liberally construed to affect its purpose. *International Ass'n of Firefighters Local 469 v. Yakima*, 91 Wn.2d 101, 109 (1978).

The determination of appropriate bargaining units is a function delegated to this agency by the Legislature. *City of Richland*, Decision 279-A (PECB, 1978), *aff'd*, *IAFF Local 1052 v. PERC*, 29 Wn. App. 599 (1981), *review denied*, 96 Wn.2d 1004 (1981). The goal in making bargaining unit determinations is to group together employees who have sufficient similarities (community of interest) to indicate that they will be able to bargain effectively with their employer. *Quincy School District*, Decision 3962-A (PECB, 1993). When making bargaining unit determinations, the Commission seeks to avoid fragmentation and potential work jurisdiction disputes. *King County*, Decision 6696 (PECB, 1999). Bargaining unit determinations are made on a case-by-case basis. *King County*, Decision 5910-A (PECB, 1997).



In making bargaining unit determinations, RCW 41.56.060(1) directs this agency to consider “the duties, skills and working conditions of the public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees.”<sup>2</sup> The criteria are not applied on a strictly mathematical basis. *King County*, Decision 5910-A (PECB, 1997). Not all of the factors will arise in every case, and where they do exist, any one factor could be more important than another, depending on the facts. *Renton School District*, Decision 379-A (EDUC, 1978), *aff’d*, *Renton Education Association v. PERC*, 101 Wn.2d 435 (1984).

Here, the duties, skills and working conditions of the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator support a conclusion that these positions logically belong only in the WSCCCE’s non-supervisory juvenile detention bargaining unit. The duties performed by the petitioned-for employees and the employees in the non-supervisory juvenile detention bargaining overlap and are part of the same continuum of duties needed to operate and support the Residential Facility. To exclude these employees from that bargaining unit would create impermissible work jurisdiction issues.

For example, the JCO Supervisors work in the secure facility side-by-side with the non-supervisory JCOs included in the WSCCCE’s bargaining unit. The JCO Supervisors indirectly monitor the juvenile offenders. The JCO Supervisors are often called upon to perform the same duties as the JCOs, including enforcing the juvenile detainee’s behavioral compliance with established policies and procedures. The JCO Supervisors also monitor the JCOs’ interactions with those offenders. In the event of a crisis or emergency situation, the JCO Supervisors will oversee the facility and will often work side-by-side with the JCOs. If the JCO Supervisors were in a separate bargaining unit, they would not be able to perform any of the detention activities that the JCOs regularly perform. In the event of a crisis intervention situation, this would mean that the JCO Supervisor could only direct, and not participate in that crisis

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<sup>2</sup> Although “desires of the employees” is one of the unit determination criteria listed in RCW 41.56.060, testimony under oath is an inherently coercive and inappropriate method for ascertaining the desires of employees. *Valley Communications Center*, Decision 4465-A (PECB, 1994). Unless an accretion is appropriate, the desires of employees are ascertained through the election process. *Central Washington University*, Decision 9963-B (PSRA, 2010).



situation because that work is normally performed by JCOs. The JCCO Supervisors would be prohibited from performing any detention alternatives activities that the JCCOs perform.

The JCCO Supervisor spends on the average two hours per day performing the same monitoring and evaluating duties as the JCCOs that are included in WSCCCE's non-supervisory bargaining unit. The JCCO Supervisor also regularly interacts with the JCO Supervisors to discuss the expectations that they have for the youths in the Detention Alternatives program. If an offender has not complied with the program, he or she will be returned to the Secured Detention Facility.

The Kitchen Coordinator works primarily in the kitchen, which is within the Secured Facility. The Kitchen Coordinator orders food, plans meals, and ensures smooth operation of the kitchen. Although the Kitchen Coordinator does prepare some meals, the Kitchen Coordinator does not regularly fill in for the Cooks assigned to the kitchen if a Cook cannot make his or her shift. Rather, the Kitchen Coordinator will call in a replacement Cook from the seniority list.

The extent of organization also supports a conclusion that the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator share a community of interest with the non-supervisory juvenile detention bargaining unit. The non-supervisory juvenile detention bargaining unit contains all of the employees performing detention, detention alternatives, and kitchen work. Placing detention, detention alternatives, and kitchen work in a separate bargaining unit would create work jurisdiction issues.<sup>3</sup>

The history of bargaining for the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator is not demonstrative as to whether those positions share a community of interest with the WSCCCE's non-supervisory juvenile detention bargaining unit. The Association asserts that the history of bargaining does not support the existence of a community of interest between the petitioned-for employees and the non-supervisory juvenile detention bargaining unit because the WSCCCE was unable to negotiate an acceptable agreement for the petitioned-for employees.

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<sup>3</sup> These work jurisdiction issues existed when the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator were in the separate "supervisory" bargaining unit but were managed because the WSCCCE represented both bargaining units.

Although the evidence demonstrates that the WSCCCE could not negotiate a collective bargaining agreement that was acceptable to the petitioned-for employees after 2010, no evidence was presented demonstrating that the WSCCCE was unable to bargain on behalf of the petitioned-for employees when they were previously included in the non-supervisory juvenile detention bargaining unit. No evidence suggests that including the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator would create a disruption in the non-supervisory juvenile detention bargaining unit. Furthermore, excluding the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator positions raises concerns about excessively fragmenting the employer's workforce because employees performing similar work would be under two different collective bargaining agreements.

### *Conclusion*

The bargaining unit configuration proposed by the Association is not appropriate under the statute. The JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator do not share their own community of interest that would allow them to express their desires about being represented in a stand-alone bargaining unit. Rather, those positions only share a community of interest with the employees in the WSCCCE's non-supervisory juvenile detention bargaining unit. Because the Association has proposed a bargaining unit configuration that is not appropriate, its petition must be dismissed.

### FINDINGS OF FACT

1. Snohomish County is a public employer within the meaning of RCW 41.56.030(12).
2. The Snohomish County Juvenile Court Supervisors Association (Association) is a bargaining representative within the meaning of RCW 41.56.030(2).
3. The Washington State Council of County and City Employees (WSCCCE) is a bargaining representative within the meaning of RCW 41.56.030(2).

4. The WSCCCE represents a non-supervisory juvenile detention bargaining unit working in the Snohomish County Superior Court's juvenile justice program. Included in that bargaining unit are employees in the Juvenile Correction Officer, Juvenile Community Correction Officer and Cook job classes.
5. In 2002, the employer and WSCCCE agreed to remove 12 positions from the non-supervisory juvenile detention bargaining unit and placed those positions in a new voluntarily recognized "supervisory" bargaining unit. That bargaining unit included seven positions in the Juvenile Correction Officer Supervisor (JCO Supervisor), the Juvenile Community Corrections Officer Supervisor (JCCO Supervisor), and the Kitchen Coordinator job classes.
6. The WSCCCE and the employer entered into a series of collective bargaining agreements (CBAs) for the periods of 2002-2004, 2005, 2006-2008, and 2009-2010. However, after 2010, the bargaining unit membership rejected two different proposed contracts that the WSCCCE negotiated on the employees' behalf. Support for ratification of an agreement was split based on employee work hours and compensation.
7. Due to the deep division within the bargaining unit's membership, WSCCCE disclaimed interest in the bargaining unit in May 2013.
8. On June 5, 2014, the Association filed a petition to represent a bargaining unit configuration that included the employees in the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator job classes.
9. The WSCCCE filed a motion to intervene in these proceedings. The WSCCCE asserted that the petitioned-for positions are not supervisors and belonged in its non-supervisory juvenile detention bargaining unit. The Association and the employer both opposed the WSCCCE's motion for intervention. Those motions were denied and the WSCCCE was permitted to participate in this proceeding.

10. The JCO Supervisor, the JCCO Supervisor, and the Kitchen Coordinator job classes do not meet this agency's supervisory standards because they do not perform a preponderance of the supervisory duties and they do not spend a preponderance of their time performing supervisory duties.
11. The duties performed by the JCO Supervisor, the JCCO Supervisor, and the Kitchen Coordinator job classes by the petitioned-for employees and the employees in the WSCCCE's non-supervisory juvenile detention bargaining overlap and are part of the same continuum of duties needed to operate and support the Residential Facility. To exclude these employees from that bargaining unit would create impermissible work jurisdiction issues.
12. The non-supervisory juvenile corrections bargaining unit contains all of the employees performing detention, detention alternatives, and kitchen work.
13. No evidence was presented demonstrating that the WSCCCE was unable to bargain on behalf of the petitioned-for employees when they were previously included in the non-supervisory juvenile detention bargaining unit. No evidence suggesting that including the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator job classes would create a disruption in the non-supervisory juvenile detention bargaining unit.

#### CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.56 RCW and Chapter 391-25 WAC.
2. Based upon Findings of Fact 4 through 13, the employees in the JCO Supervisor, JCCO Supervisor, and Kitchen Coordinator share a community of interest with the employees in the WSCCCE's non-supervisory juvenile detention bargaining unit and the configuration sought by the Association is not an appropriate bargaining unit under RCW 41.56.060.



3. Based upon Findings of Fact 4 through 13, the bargaining unit configuration sought by the Association is not an appropriate bargaining unit under RCW 41.56.060.

ORDERED

The petition filed by the Snohomish County Juvenile Court Supervisors Association in the above entitled action is DISMISSED.

ISSUED at Olympia, Washington, this 19<sup>th</sup> day of December, 2014.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in blue ink, appearing to read "M. Sellars", is written over the printed name of the Executive Director.

MICHAEL P. SELLARS, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-25-660.



## PUBLIC EMPLOYMENT RELATIONS COMMISSION

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The attached document identified as: DECISION 12217 - 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

*Majel C. Boudia*  
BY: S/ MAJEL C. BOUDIA

CASE NUMBER: 26516-E-14-03874 FILED: 06/05/2014 FILED BY: PARTY 2  
DISPUTE: QCR UNORGANIZED  
BAR UNIT: SUPERVISORS  
DETAILS: -  
COMMENTS:

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