

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
SPOKANE COUNTY and WASHINGTON)	
STATE COUNCIL OF COUNTY AND)	CASE 10801-C-93-645
CITY EMPLOYEES)	
)	DECISION 5019 - PECB
For clarification of an existing)	
bargaining unit of employees of:)	ORDER CLARIFYING
)	BARGAINING UNIT
SPOKANE COUNTY)	
)	
<hr/>)	
In the matter of the petition of:)	
)	
SHERIFF SUPPORT PERSONNEL)	CASE 11187-E-94-1843
ASSOCIATION)	
)	DECISION 5020 - PECB
Involving certain employees of:)	
)	DIRECTION OF ELECTION
SPOKANE COUNTY)	
)	
<hr/>)	

James R. Sweetser, Prosecuting Attorney, by Ronald P. Arkills, Deputy Prosecuting Attorney, appeared on behalf of the employer.

John F. Cole, Deputy Director, appeared on behalf of the Washington State Council of County and City Employees.

Heidi L. Works, Representative, appeared on behalf of Sheriff Support Personnel Association.

On November 24, 1993, Spokane County and the Washington State Council of County and City Employees filed a petition for clarification of an existing bargaining unit. Those parties agreed that their existing bargaining unit of Spokane County Sheriff's Department employees had to be divided to implement Chapter 397, Laws of 1993,¹ but were unable to agree on the proper unit placement of the jail cooks. [Case 10801-C-93-645.]

¹ That statute made the "interest arbitration" procedure available for Spokane County corrections personnel.

On June 16, 1994, the Sheriff Support Personnel Association filed a petition for investigation of a question concerning representation, seeking certification as the exclusive bargaining representative of certain office-clerical employees, mechanics, and communications technicians employed in the Spokane Sheriff's Department. [Case 11187-E-94-1843]. A pre-hearing conference was held in that matter on September 1, 1994, and issues were framed at that time concerning: (1) The description of the bargaining unit; and (2) identification of a correct voter eligibility list.²

As filed, these petitions did not overlap in terms of affected employees, but the cases together raised questions about the appropriate structure of bargaining units in the Sheriff's Department. Therefore, the cases were consolidated for purposes of a hearing held on October 17, 1994, before Hearing Officer Walter M. Stuteville. The parties filed briefs by January 30, 1995.

BACKGROUND

Spokane County is one of the larger counties in the state of Washington, having a population in excess of 70,000. Its Sheriff's Department is a major part of the county government operation, and encompasses the operation of the county jail.

The Washington State Council of County and City Employees (WSCCCE), is a state-wide labor organization affiliated with the American Federation of State, County and Municipal Employees, AFL-CIO.

² The parties stipulated: That the Commission has jurisdiction in the matter; that the Sheriff Support Personnel Association is a lawful organization qualified to act as a bargaining representative under RCW 41.56.030(3); that a question concerning representation currently exists among the employees involved; that the petition was timely filed; and that no unfair labor practice charges would block those proceedings.

The Sheriff Support Personnel Association (SSPA) is a recently-formed organization which seeks to represent certain employees of the Spokane County Sheriff's Department for the purposes of collective bargaining under Chapter 41.56 RCW.

The employer has had long-standing collective bargaining relationships with several employee organizations. There are seven organized bargaining units outside of the Sheriff's Department.³

According to Charles (Skip) Wright, human resources director for Spokane County, most of the employees in the Sheriff's Department were in a single bargaining unit represented by the WSCCCE until that unit was split prior to 1972. For a decade after 1972, the employer's commissioned law enforcement officers, along with clerical employees and mechanics in the Sheriff's Department, were treated as a separate bargaining unit represented by the WSCCCE.⁴ A second unit consisting of corrections officers, jail cooks, communications officers, and identification officers was represented by the WSCCCE at that time, and continued under representation by WSCCCE Local 492 at the onset of these proceedings.⁵

³ Courthouse employees, courthouse supervisors, prosecuting attorneys, engineering and utilities employees, operating engineers, road crew employees, and security employees at the "Geiger" facility. Some of those bargaining units are represented by the WSCCCE.

⁴ Chapter 41.56 RCW was administered by the Department of Labor and Industries until December 31, 1975. The Commission's docket records indicate that a mediation case for a separate "law enforcement" bargaining unit was pending when the Commission commenced operations on January 1, 1976. The docket records for Case 491-M-76-152 indicate another mediation request was filed for the "law enforcement" bargaining unit on September 16, 1976.

⁵ The first reference to the "jail" bargaining unit found in the Commission's docket records is for Case 518-M-76-170, which was a mediation request filed in September of 1976.

In 1982, the employer's commissioned law enforcement officers formed their own organization.⁶ The clerical employees and mechanics became unrepresented at that time,⁷ and Wright testified that they have not been represented since that time.

The employer began hiring nurses to staff a medical services unit when a new jail facility was opened in 1986,⁸ and those employees were included for a time in the jail bargaining unit represented by the WSCCCE. Wright testified, however, that the WSCCCE and the employer agreed to remove the nurses from the jail unit in 1989, and that the nurses have remained unrepresented since that time.

Prior to the onset of the proceedings in Case 10801-C-93-645, the jail unit encompassed about 145 employees, of which 8 work as cooks within the jail facility. Identification officers and communications officers traditionally included in the jail unit work in the basement of the adjacent Public Safety Building. The employer and the WSCCCE agreed that at least the identification officers and communications officers should be separated from the jail unit once

⁶ Notice is taken of the Commission's docket records for Case 4007-E-82-754, which was initiated by a representation petition filed on March 18, 1982. The WSCCCE was listed as the incumbent exclusive bargaining representative. The Spokane County Deputy Sheriffs Association was certified as exclusive bargaining representative on June 18, 1982, based on a cross-check.

⁷ Apart from the law enforcement officers implementing a separate community of interest, the removal of the office-clerical employees from WSCCCE representation appears to have been hastened by the employees themselves. Notice is taken of the Commission's docket records for Case 4099-E-82-764, which was a decertification petition involving 16 office-clerical employees filed on June 1, 1982. The WSCCCE filed a disclaimer in that proceeding, which was then dismissed on August 5, 1982. Spokane County, Decision 1489 (PECB, 1982).

⁸ The term "nurses" is used by the parties and throughout this decision to mean both registered nurses and licensed practical nurses.

corrections personnel became eligible for interest arbitration under a new state law.

As of the date of the hearing, the unrepresented employees in the Sheriff's Department included approximately 45 office-clerical employees, 3 communications technicians, 2 mechanics, and 7 nurses. The SSPA seeks to represent all of the unrepresented employees working in the Sheriff's Department, except for the nurses.

POSITIONS OF THE PARTIES

The employer argues that the cooks employed in the jail do not exercise sufficient "control and custody" over inmates to warrant their classification as uniformed personnel under the legislation passed in 1993. It contends that the cooks are primarily responsible for the production and serving of meals, and that the corrections officers are primarily responsible for inmate security. The employer further argues that the cooks deal only with a select group of inmates, in contrast to the broader responsibilities of the corrections officers in dealing with the general jail population. The employer supports the inclusion of the cooks (along with the communications officers and identification officers) in a separate unit or in the unit being sought by the SSPA. The employer does not oppose the bargaining unit proposed by the SSPA, as its broad definition of "support personnel" includes the two mechanics who work in the Sheriff's Department garage and the communications technicians.

The WSCCCE claims the cooks are trained to maintain "control and custody" over the jail inmates assigned to work in the food services unit, and that they in fact perform those functions in addition to being responsible for food preparation. It therefore contends they should be included in the corrections bargaining unit which is eligible for interest arbitration. The WSCCCE proposes to

continue its representation of the remaining communication officers and identification officers as a separate bargaining unit.

The SSPA contends that the unit it seeks, consisting of office-clerical employees, communication technicians and mechanics, is an appropriate unit for the purposes of collective bargaining. It argues that the nurses, communications officers and identification officers have a different mission than the "technical support" responsibilities of the employees it seeks to represent.

DISCUSSION

General Unit Determination Principles

The Legislature has delegated authority to the Public Employment Relations Commission to determine the appropriate unit(s) for the purposes of collective bargaining:

RCW 41.56.060. DETERMINATION OF BARGAINING UNIT -- BARGAINING REPRESENTATIVE. The commission, after hearing upon reasonable notice, shall decide in each application for certification as an exclusive bargaining representative, the unit appropriate for the purpose of collective bargaining. In determining, modifying, or combining the bargaining unit, **the commission shall 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. ...**

[Emphasis by **bold** supplied.]

The Commission has described the purpose of the unit determination function as being:

[T]o group together employees who have sufficient similarities (community of interest) to

indicate that they will be able to bargain collectively with their employer. The statute does not require determination of the "most" appropriate bargaining unit. It is only necessary that the petitioned-for unit be an appropriate unit. Thus, the fact that there may be other groupings of employees which would also be appropriate, or even more appropriate, does not require setting aside a unit determination.

City of Winslow, Decision 3520-A (PECB, 1990) [emphasis by underlining in original].

The Commission has found units consisting of "all employees of the employer" to be appropriate,⁹ but has also given general affirmation to the propriety of dividing an employer's workforce into two or more bargaining units:

Units smaller than employer-wide may also be appropriate, especially in larger work forces. The employees in a separate department or division may share a community of interest separate and apart from other employees of the employer, based upon their commonality of function, duties, skills and supervision. Consequently, **departmental (vertical) units have sometimes been found appropriate** when sought by a petitioning union. [Footnote omitted.] Alternately, employees of a separate occupational type may share a community of interest based on their commonality of duties and skills, without regard to the employer's organizational structure. Thus, **occupational (horizontal) bargaining units have also been found appropriate**, on occasion, when sought by a petitioning union. ...

City of Centralia, Decision 3495-A (PECB, 1990) [emphasis by **bold** supplied].

The starting point for any unit determination analysis is the unit description sought by the petitioning union. There have been cases in which petitioned-for bargaining units have been rejected as inappropriate, particularly where they would have the effect of stranding employees in units too small for them to ever implement

⁹ E.g., City of Winslow, supra.

their statutory bargaining rights.¹⁰ When confronted with an inappropriate unit that cannot be rehabilitated by a minor adjustment, the Commission must dismiss the petition.

Separation of "Uniformed Personnel"

Commission precedent has consistently required that employees eligible for interest arbitration under RCW 41.56.430, et seq., not be mixed into bargaining units with employees that lack eligibility for that dispute resolution procedure. Thus, mixed units have been divided into two or more units represented by the same organization, in the absence of a petition raising a question concerning representation. City of Yakima, Decision 837 (PECB, 1980).¹¹

The "department-wide" unit which apparently existed in the Spokane County Sheriff's Department prior to 1972 appears to have been a "vertical" bargaining unit that would have drawn its community of interest from including all of the employees working under common supervision in one major department of the employer. Had the commissioned law enforcement officers not separated themselves by means of the representation proceeding conducted in 1982, they certainly would have needed to achieve such a separation after the Legislature extended the interest arbitration process to them by Chapter 150, Laws of 1984.¹²

¹⁰ See, City of Vancouver, Decision 3160 (PECB, 1989); Forks Community Hospital, Decision 4187 (PECB, 1992); Port of Seattle, Decision 890 (PECB, 1980).

¹¹ See, also, City of Marysville, Decision 4854, 4855, 4856, (PECB, 1994), separating commissioned police officers from a previously appropriate department-wide public safety bargaining unit.

¹² Apart from the "department/vertical" and "interest arbitration eligible" unit configurations which appear to have been appropriate on their face, the status of the office-clerical employees, communications technicians, mechanics and nurses is not easily explained other than as a product of history and extent of organization.

Legislative History -

In 1993, the Legislature expanded the definition of "uniformed personnel" in Chapter 41.56 RCW, to cover employees of certain county correctional facilities. Previously, only commissioned law enforcement officers had such access in those counties. The legislation set off a new round of unit clarification cases to separate employees eligible for interest arbitration from other employees.

RCW 41.56.030(7)(c) sets forth a test consisting of five elements used in the conjunctive, so that all five must be met to qualify under the statute. They must be first:

... **correctional employees who are** uniformed and non-uniformed, commissioned and non-commissioned **security personnel**

and second:

employed in a jail as defined in RCW 70.48.020,

and third:

by a county with a **population of seventy thousand** or more,

and fourth:

and who are **trained for ... controlling and maintaining custody of inmates**

and fifth:

charged with the **responsibility of controlling and maintaining custody of inmates** in the jail and safeguarding inmates from other inmates

The following analysis of that statutory amendment was set forth in Pierce County, Decision 4788 (PECB, 1994):

While the parties produced evidence concerning the clothing worn by employees in various classifications, the juxtaposition of "uniformed and non-uniformed" in the statute makes that irrelevant in deciding this case. Similarly, the juxtaposition of "commissioned and non-commissioned" in the statute makes it irrelevant whether any employee has or lacks the power to arrest. The focus of the statutory definition is on the functions performed.

The employees in the disputed positions might well qualify as "corrections personnel" under the expansive definition found in the statute concerning criminal justice training, at RCW 43.101.010(5):

The term "correctional personnel" means any employee or volunteer who by state, county, municipal or combination thereof, statute has the **responsibility for the confinement, care, management, training, treatment, education, supervision, or counseling** of those individuals whose civil rights have been limited in some way by legal sanction.

[Emphasis by **bold** supplied.]

The legislature has chosen to make statutory cross-references to effect certain parallels between Chapter 41.56 RCW and other statutes governing public employees or institutions. Particularly relevant here are the cross-references in the "uniformed personnel" definition to: (1) the definitions of law enforcement officer and fire fighter in the LEOFF Retirement System Law; and (2) the definition of jail in the corrections law. The legislature could easily have cross-referenced the already-existing definition of corrections personnel found in Chapter 43.101 RCW, but did not do so. In the case of [RCW 41.56.030(7), footnote omitted] the draftspersons used specific terms:

... security personnel ... who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates.

Comparison of the two statutes readily indicates that the legislature used narrower terms in Chapter 41.56 RCW than in Chapter 43.101 RCW. There is no reference in the collective bargaining statute to the "care", "training", "treatment", "education", "supervision", or "counseling" of inmates. Indeed, the entire focus of the definition in RCW 41.56 030(7) is on the "confinement" aspect of the criminal justice training statute.

The cooks employed in the Spokane County corrections facility clearly meet the second and third of the conjunctive criteria

detailed above. They work in kitchen and pantry areas that are within the "secured perimeter" of the jail,¹³ and Spokane County has a population greater than 70,000. The employer and WSCCCE correctly took steps to place the jail employees meeting the "uniformed personnel" definition in a separate bargaining unit.¹⁴

Training -

The employer acknowledges that the training given to its cooks is more extensive than was given to the cooks in Pierce County, supra, but the analysis cannot end there. The evidence indicates there are still substantial differences between the training given to the cooks and the training given to corrections officers.

Since 1982, RCW 43.101.220 has required corrections officers of all counties to pass a state-prescribed four-week basic training course during their first six months of full-time employment. A descriptive brochure issued by the state Criminal Justice Training Commission was stipulated in evidence by the parties. It states:

WHO SHOULD ATTEND

The Corrections Officers Academy is a 160-hour course designed to provide training for employees **whose primary job function is to provide for the custody, safety, and security** of adults in

¹³ The kitchen unit is located in the basement of the Spokane County corrections facility, while the inmates are housed in areas on its upper floors. The kitchen and housing areas are connected by an elevator operated by corrections officers from a central control room.

¹⁴ The 1993 legislation obliterated the reason why law enforcement officers were separated from jail staffs in some counties, as in Cowlitz County, Decision 2067 (PECB, 1984), and Benton County, Decision 2221 (PECB, 1985). Inasmuch as the corrections personnel and law enforcement officers in Spokane County were represented by different organizations even prior to the extension of interest arbitration to the law enforcement officers in 1984, no question arises here concerning a re-combination of those bargaining units.

jails and prisons. Representative job classes include, but are not limited to: city, county and state **corrections officers**, and psychiatric security attendants.

COURSE CONTENT

This academy provides participants with the basic knowledge and skills needed for safe, proper, and effective service. Instruction blocks include: Physical Fitness, Stress Management, Cultural Awareness, Observation Skills, Communications, Practical Law, Defensive Tactics, Report Writing, Supervision, Discipline, Dealing With Aggressive Behavior, Security Management, CPR/First Aid, Problem Solving, Drug Identification, Event Survival, Hostage Survival, Fingerprinting, Crime Scene Preservation, Booking, Mental Problems, Dealing With Inmate Manipulation, Professionalism, and Motivation and Leadership. Additional evening courses in Crime Scene Preservation and Hostage Survival are available to academy students on a voluntary basis.

[Emphasis by **bold** supplied.]

The same state agency provides a one-week academy designed for new employees holding support staff jobs at corrections facilities:

WHO SHOULD ATTEND

The Support Services Academy is a 40-hour course designed for **correctional employees who are NOT custody officers, but provide direct supervision to offenders**. This would include, but is not limited to, the following job classes: clerks, clerical staff, work crews, **kitchen staff**, grounds maintenance, recreation leaders, work crew leaders, medical staff, and volunteers who work within the adult or juvenile correctional system.

COURSE CONTENT

Instructional blocks include: Cultural Communication, Dealing with Aggressive Behavior, Security in the Workplace, Personal Safety Techniques, Supervision of Offenders, Dealing with Offender Manipulation, and Professionalism and Leadership.

[Emphasis by **bold** supplied.]

Apart from its expressed inapplicability to "custody officers", the support services academy appears to be much more in the nature of a "self defense" orientation than preparation for a career in a security/control/custody role.

The cooks at issue here attend only the one-week course. After completing their state-sponsored training, cooks at Spokane County spend two to three weeks in a new-hire program that is apparently conducted in-house by the employer. Cooks are then placed in a field training program where they work with an experienced cook for approximately 14 weeks,¹⁵ but that is not training for security work in the jail in general. Cooks also attend in-service academies of various lengths and subjects that are held yearly for all jail personnel.

Although cooks who complete training in physical restraint are authorized to use those techniques, it is clear there is no absolute requirement for cooks to be certified, and a stipulated exhibit shows that only four of the eight cooks were certified in each of five "defensive tactics" categories. As in Olympia School District, Decision 799 (PECB, 1980), possession of skills or licensure in excess of those required for the position actually held is not a basis for allocating the employee to a bargaining unit of higher-level positions which require those skills.¹⁶

¹⁵ One of the cooks is designated as the field training officer for the kitchen unit.

¹⁶ In Olympia, an employee who held a teaching certificate accepted an "aide" job which did not require educator certification. When the organization representing the district's certificated employees sought transfer of the position to its bargaining unit, the determination was based on the actual requirements for the aide job, and not on the qualifications of the individual. See, also, Castle Rock School District, Decision 4722-B, 4723-B (EDUC, 1994), determining bargaining unit assignments of employees holding school district extracurricular activities jobs on the basis of job requirements, rather than on the licensure of some or all incumbents.

The record in this case indicates that the training given to the cooks never comes up to the level required by the state (or even by the employer) for the corrections officers. The cooks thus fail to meet the fourth of the five conjunctive tests detailed above.

Nature of Work -

The evidence does not establish the cooks as "security personnel" under the first of the five conjunctive criteria noted above. The responsibilities of the Spokane County cooks are set forth in a job description published in 1988, as follows:

Definition

Has complete responsibility for preparation of all food on a shift in a jail or institution; cooks and supervises inmates in food handling, preparation, and service.

Examples of Duties

Supervise inmates and participate in cooking, baking and other food preparation as the only, or senior, cook on shift; preset menu as necessary; participate and perform preliminary preparation necessary for next day's meal; assure that food is of good quality and is served on time.

Perform meatcutting work; prepare and cook meat, fish and poultry.

Bake pies, cakes, and cookies and prepare other desserts.

Assist in preparing menus ...

Inspect food being prepared to insure proper quantity, quality, and handling; ...

Operate mixers, ovens, steamers, grills ...

Direct inmates in cleaning trays and utensils, cookware, kitchen and food storage areas. Maintain jail security in the kitchen operations and account for inventory of all kitchen utensils and equipment.

Supervise 8-12 trustees assigned to kitchen duties.

Participate in institutional program of inmate job training, confer with supervisor regarding

behavioral problems and progress of inmates under his supervision. ...

Requirements of Work

Knowledge of:

Food management, including the planning of menus in accordance with generally accepted standards, and the preparation and serving of large-scale food service for 400 or more inmates.

...
Skill in:

Preparation and cooking of meats, fish and poultry, baking pies, cakes, cookies and other desserts.

...
Ability to:

Perform above examples of duties.

Supervise the jail kitchen and maintain sanitation, care of equipment, and safety of personnel.

Establish and maintain control of 8 to 12 trustees according to policies established by the administrative staff. ...

...
Must be at least 21 years of age with maturity to maintain control over trustees assigned to the kitchen. May be the only cook on shift. Vision must be correctable to 20/20 in the good eye, 20/30 in the lessor eye. Normal hearing. Must not be addicted to the use of intoxicating liquor or drugs.

Experience

Two years of experience in institutional cooking. Experience as a "fry cook" or "short-order cook" is not qualifying. Completion of a course in large-scale cooking in military service, vocational school, or other institution may be substituted.

Given the minimum experience qualification for being a cook, it appears that even previous work as a corrections officer would not be sufficient. The record indicates there has been no interchange of personnel between the "corrections officer" and "cook" classifications in Spokane County.

The lieutenant in charge of support services for the department described the responsibilities of the food services unit as:

Food, preparation of our meals, and also the training and supervision of the inmate workers.

A position analysis done for the employer in 1994 on each of its employee groups indicates that 70% of the cooks' responsibilities are directly involved with food preparation. While 30% of their responsibilities are devoted to "training, safety and direction of inmate workers", that component must be further discounted under Pierce County, supra. As noted there, neither the "training" nor "supervision" of inmates is a function which qualifies the provider for status as "corrections personnel" under RCW 41.56.030(7).

Responsibility for Control and Custody -

The employer acknowledges that its cooks have, in fact, been given more responsibility for supervision of inmate workers than was given to the cooks in Pierce County. Between 2 and 18 inmates are assigned to work in the food service unit on each shift. The cooks wear body alarms, but corrections officers are not assigned to the food services unit. In the past, corrections officers would usually be in the cooks' area only if summoned by the cooks.

Limiting the cooks' responsibility for inmates, it is clear that the level of security, control and custody is significantly different, both qualitatively and quantitatively, between the corrections officers and the cooks:

Where corrections officers work with the general jail population throughout the facility, the cooks work in a physically separate area and have no occasion to enter the housing areas of the jail.

The cooks only train and supervise inmates that have been pre-selected by corrections officers, without apparent involvement by the cooks in the selection process.

The cooks perform pat-down searches of inmate workers when they are preparing to return to the housing area of the jail at the end of their shift, but that could be done by corrections officers at the other end of the inmates' elevator ride.

The cooks are not issued handcuffs or leg irons used by the corrections officers.¹⁷

While cooks escort inmate workers during trips to a warehouse outside of the secured perimeter of the facility, they are unarmed when doing so and the inmates who are permitted to go outside the jail are an even more select group than the overall list of kitchen workers.¹⁸

As to the issue of responsibility, the facts of this case do present an even closer question than was presented in Pierce County, supra. The physical arrangements in the Spokane County facility and the historical lack of a corrections officer in attendance in the kitchen do tend to support the union's claim that the cooks have, in fact, been given some role in the "control" and "custody" of the inmate workers assigned to the kitchen.

As noted above, the line of demarcation between qualifying "control and custody" functions and non-qualifying "training" and "supervision" is vague. Neither employees nor an employer should expect to have it both ways: If the employer is truly expecting its cooks to perform in a security role, it would have been consistent for it to put them through the full training required by state law for corrections officers; if employees hired for their culinary expertise are to be freed from passing the more rigorous state-prescribed course in the first six months of their employment and then enjoy limited exposure to the general jail population, it

¹⁷ Some of the cooks may, in fact, carry such devices at their own discretion.

¹⁸ Moreover, a corrections officer may be close at hand operating a van while the cook walks with the inmates.

would be consistent to exclude them from any responsibility for the control or custody of inmates.¹⁹ The potential cost of full conformity with the roles set forth in the criminal justice training statute is not, however, a basis for ignoring the terms of that statute in this case.

Conclusions -

Taken as a whole, the record indicates that the pre-hire qualifications and the ongoing duties, skills and working conditions of the cooks are primarily directed towards the preparation of meals, not "security". The cooks are not trained for a "custody" role. Their responsibilities regarding inmate workers are a minor component of their own job description, and are not sufficient to overcome their training and basic job function. The cooks working in the Spokane County corrections facility do not meet the requirements for status as uniformed personnel under RCW 41.56.030(7).

The Remaining WSCCCE-Represented Classifications -

The employer and the WSCCCE determined that the communications officers and identification officers should be removed from the unit which contains the corrections officers, because they will **not** have statutory access to interest arbitration. To those classes must be added the cooks, for the reasons indicated above. While the record suggests that those three classifications are not closely tied to one another by reason of their duties, skills or working conditions, it is clear that they share a common history of bargaining which dates back more than 20 years.

Case 10801-C-93-645 was initiated by a joint petition of the employer and WSCCCE, based on the change of circumstances triggered by the new legislation. No question concerning representation has been properly raised by either a "decertification" effort among the

¹⁹ Thus, it could be necessary in the future for the employer to provide appropriate security personnel in the food services unit.

employees in the three classifications to be excluded from the corrections bargaining unit or by the employer, under WAC 391-25-090(3).²⁰ The representation petition and showing of interest filed by the SSPA do not involve those classifications. It suffices, therefore, to merely divide the historical jail unit into two units, and to leave bargaining relationships in place between the employer and the WSCCCE for both of those units.

The "Residual" Corrections Unit

The classifications sought by the SSPA are currently unrepresented, having been split away at some time in the past from bargaining units which historically existed within the Sheriff's Department.

The Office-Clericals -

Approximately 45 employees of the Sheriff's Department are classified as secretaries, clerical assistants, or civil assistants.²¹ These employees perform the usual variety of office-clerical roles, and are assigned throughout the department. In the course of their responsibilities, members of this group may work with the communications officers, the identification officers, the mechanics, the commissioned law enforcement officers, and the jail administrative staff. According to the Team Analysis Report,²² the office-clerical employees perform the following selected responsibilities within the Sheriff's Department:

²⁰ To raise a question concerning representation, the employer would have needed to file affidavits or other documentation to show a good faith doubt as to the union's majority status.

²¹ Civil assistants work in the civil department of the operations division of the Sheriff's Department.

²² The responsibilities of each employee were analyzed and reported according to percentage of time spent. The paragraphs quoted here both demonstrate the range of their responsibilities and illustrate their integration with other department employees.

Responsible for performing fingerprinting for concealed weapon permits, city & county employees, arrested juveniles, private security guards and detectives, cab drivers, immigration, liquor licenses, etc.

...
Responsible for typing difficult handwritten reports, transcribing dictation from tape, using dictaphone, taking confidential reports.

...
Compute and submit Sheriff Dept. and Communications Dept. preliminary and final annual budgets of approximately \$17 million. Includes forecasting estimates.

...
Manage all Sheriff Dept. (including Jail and Communications) payroll functions for 402 permanent employees plus temporary help including record management, maintenance and control.

...
Order supplies & pay all bills for supplies; pay all regular monthly billings involving Sheriff Department (Includes bills for Admin., Patrol, Detectives, Civil, Ident, Sheriff's Garage, Planning, Crime Analysis, DARE, Drug Task Force etc. [sic])

...
Responsible for computing and reporting of daily and monthly accumulated overtime and comp time.
Responsible for production of the highly-confidential daily Intelligence bulletin.

...
Responsible for accounting functions for the 9-1-1 Emergency Communications and Sheriff's Communications i.e., payroll, leave accounting, accounts payable and receivable and personnel records.

...
Responsible for inmate and administrative records research and verification of jail documents via microfilm, microfiche and computer terminal.

...
Support officer's investigations by using memory and organizational skills, search female informants, take anonymous tip information, file intelligence relevant to task force.

...
Responsible for receiving/processing confidential legal documents; independently performing varied complex legal support duties requiring specialized experience and training using considerable initiative and judgement.

...
Responsible for analyzing special court orders to ensure accuracy by checking RCWs for compliance and then coordinating the appropriate course of action (some of which are very complex).

...
Responsible for coordinating the day-to-day operation of the Administrative Services Section with the Custody Operations and the Support Services Sections of the jail and with other criminal justice agencies.

...
Responsible for release of approx. 1,610 inmates/mo. Must be state cert, on WA Crime Info. Center-WACIC & National Crime Info. Center-ART & proficient at The Inland Empire Police Info. Network-TIEPIN comp. system.

...
Balance inmate money accounts for the previous 24-hour period. These are the records of all jail money transactions during that period, Money comes from inmates at time of booking, left by others, from cash bonds, mail, all \$ rec'd.

...
Responsible for the computer and paperwork needed to release an inmate from jail.

Those employees constitute the vast majority of the employees being sought by the SSPA.

Communications Technicians -

Three persons employed in the Spokane County Sheriff's Department are classified as communications technicians. One of them is assigned to maintain and service dispatch equipment for the Sheriff's Department itself; the other two service and maintain the equipment used by an emergency communications (911) center located in the

employer's building complex and administered by the Sheriff's Department.²³ Select duties which illustrate their functions were documented in the TEAM Analysis Report:

Responsible for the further development, upgrade and implementation of the communication system while insuring non-interference with other communications systems.

...
Responsible for the operation of the County paging system, terminal, access and personal pagers to include maintenance, development of a data base management system [sic]. This includes the dispatch console system, its update and maintenance.

...
Responsible for the proper operation and maintenance of County mobile radios and cellular telephones to include programming, configuring and retrieval [sic] methods using [sic] automated methods and methodology.

...
Responsible for the alarm, security, and public address systems throughout the Public Safety Building County Courthouse and County Jail to include both audio and video equipment and the City/County recording system for the radio channels.

These employees are more "technical" than "office-clerical", but would find themselves stranded unless included, as in City of Vancouver, supra, in the residual unit being sought by the SSPA.

Mechanics -

Two mechanics work in a garage attached to the corrections facility, where they service vehicles assigned to the Sheriff's Department. The TEAM Analysis Report lists the following tasks for employees in this classification:

²³ The emergency communications center is operated under the auspices of the elected Sheriff, but is technically not a part of the Sheriff's Department.

Responsible for the maintenance and repair of 122 vehicles (automobile, trucks, vans, boats and miscellaneous equipment) the average over 8 million total miles a year.

These employees would also find themselves virtually stranded unless included in the residual unit being sought by the SSPA.

Medical Services Unit Employees -

The bargaining unit sought by the SSPA falls short of providing universal coverage of the currently-unrepresented non-supervisory employees, by reason of its exclusion of the nurses. The nurses were included in the jail unit at one time, but were excluded from that unit by an agreement signed by the employer WSCCCE in 1989. That agreement made at the instigation of the employer provided:

Spokane County has proposed to Local 492 during contract negotiations that job classification #4048, Jail Nurse be excluded from the Bargaining Unit represented by Local 492. Spokane County and Local 492, American Federation of State, County and Municipal Employees, Council 2, Washington State Council of County and City Employees do hereby agree that all positions in classification 4048, (Jail Nurses) are excluded from said Bargaining Unit effective March 27, 1989.

Apart from their unique history of bargaining, the nurses can also be distinguished from the unit sought by the SSPA on the basis of their separate duties, skills and working conditions.²⁴ The job description of the nurses states their responsibilities as follows:

Under the authority and direction of the jail physician and the Jail Nurse Supervisor (JNS),

²⁴ Chapter 41.56 RCW does not explicitly require separate unit treatment of "professionals", as does the National Labor Relations Act, but the unique duties and skills of professional employees can still be considered as a basis for a separate unit under RCW 41.56.060.

the Jail Nurse is responsible for providing health care access for all inmates incarcerated in the Spokane County Jail. This care involves screening and initiating treatment of newly presented conditions and ongoing care of chronic conditions. The nurse may assess and provide care within the scope of licensure and training, as delegated by the jail physician, and in compliance with departmental policy and procedure guidelines.

Among the listed duties, the following examples illustrate how the nurses work with other employees of the jail:

Infection control. This involves isolation or containment at the level necessary to protect staff and inmates from unnecessary risk in accordance with current infection control guidelines. It also includes instruction of staff and inmates on protective measures.

...
Teaching staff and inmates on jail medical care and personal health maintenance. This may involve both scheduled classes and individualized instruction. ...

The employer also utilizes licensed practical nurses on its jail medical staff. Their responsibilities are summarized in their job description, as follows:

Under the direction of the jail physician the jail nurse screens medical complaints of inmates and presents them to the physician for review and further treatment if necessary.

Although licensed practical nurses are not considered "professionals" under the definition set forth in the NLRA, it is clear that their duties in Spokane County align closely with the medical unit personnel who are registered nurses. There is no apparent basis to divide the medical unit at this time.

FINDINGS OF FACT

1. Spokane County is a political subdivision of the state of Washington with a population in excess of 70,000, and is a public employer under RCW 41.56.020. Among other services, the employer operates the Spokane County Corrections Facility, which is a jail as defined in RCW 70.48.020(5).
2. The Washington State Council of County and City Employees, a bargaining representative within the meaning of RCW 41.56-.030(3), has been the exclusive bargaining representative of certain employees of Spokane County. The employee classifications represented by WSCCCE include correction officers, cooks, identification officers, and communication officers working in the county jail.
3. The Sheriff Support Personnel Association is a prospective bargaining representative within the meaning of RCW 41.56.070 and RCW 41.56.030(3), which has filed a timely and properly supported petition for investigation of a question concerning representation, seeking certification as exclusive bargaining representative of office-clerical employees, communication technicians and mechanics employed in the Spokane County Sheriff's Department.
4. Corrections officers employed by Spokane County within the bargaining unit represented by the WSCCCE are security personnel who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates.
5. The employer and the WSCCCE agree and acknowledge that the communications officers and identification officers within the bargaining unit represented by the WSCCCE are not security personnel.

6. The primary function of cooks employed by Spokane County to work within the secured area of the county jail is the preparation of meals, and they are not given the training required by state law for custody officers.
7. The responsibilities of cooks employed by Spokane County to work within the secured area of the county jail with regard to the training and supervision of inmate workers in the kitchen and pantry areas of the facility are insufficient to base a conclusion that they are, in fact, security personnel who are responsible for controlling and maintaining custody of inmates in the jail and for safeguarding inmates from other inmates.
8. The office-clerical employees, mechanics and communications technicians in the bargaining unit sought by the SSPA are treated by the employer as a class of support personnel. The employees in these classifications interact with one another in the normal course of their duties. Any subdivision of the bargaining unit sought by the SSPA would tend to strand employees in units too small to effectively implement their rights under Chapter 41.56 RCW.
9. The office-clerical employees, mechanics and communications technicians in the bargaining unit sought by the SSPA were organized for purposes of collective bargaining at one time, but have been unrepresented for more than 10 years.
10. The registered nurses and licensed practical nurses employed by Spokane County in its jail have duties and skills which are different from all other classifications working in the Sheriff's Department. Although they were represented at one time in the jail unit represented by the WSCCCE, the registered nurses and licensed practical nurses were excluded from that bargaining unit by agreement of the employer and WSCCCE, and have been unrepresented for more than 5 years. No

organization is currently petitioning to represent the nurses for the purposes of collective bargaining.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in these matters under Chapter 41.56 RCW, Chapter 391-25 WAC, and Chapter 391-35 WAC.
2. The cooks employed by Spokane County in its jail are not "uniformed personnel" within the meaning of RCW 41.56.030(7) as amended by Chapter 397, Laws of 1993.
3. A bargaining unit consisting of all employees of Spokane County in the classification of corrections officer is an appropriate unit for the purposes of collective bargaining under RCW 41.56.060, based on the status of those employees as uniformed personnel under RCW 41.56.030(7), and no question concerning representation has been raised under RCW 41.56.050 to disturb the status of the Washington State Council of County and City Employees as the exclusive bargaining representative of that bargaining unit under RCW 41.56.080.
4. A bargaining unit consisting of all employees of Spokane County in the classification of communications officer, identification officer and jail cook is an appropriate unit for the purposes of collective bargaining under RCW 41.56.060, based on the history of bargaining, and no question concerning representation has been raised under RCW 41.56.050 to disturb the status of the Washington State Council of County and City Employees as the exclusive bargaining representative of that bargaining unit under RCW 41.56.080.
5. A bargaining unit consisting of all employees of Spokane County employed in communications technician, office-clerical,

and vehicle mechanic functions in the Sheriff's Department is an appropriate unit for the purposes of collective bargaining under RCW 41.56.060, based on the duties, skills and working conditions of the employees and the extent of organization, and a question concerning representation presently exists in that bargaining unit under RCW 41.56.070.

NOW, THEREFORE, the Executive Director makes and enters the following:

ORDER CLARIFYING BARGAINING UNIT - Decision 5019-PECB

The bargaining unit formerly comprised of corrections officers, communications officers, identification officers, and jail cooks is clarified to constitute two separate bargaining units, as follows:

1. All full-time and regular part-time corrections officers employed by Spokane County in its jail operated pursuant to Chapter 70.48 RCW, excluding elected officials, confidential employees, supervisors, commissioned law enforcement personnel, and all other employees of the employer.
2. All full-time and regular part-time communications officers, identification officers, and jail cooks employed by Spokane County in its Sheriff's Department, excluding elected officials, confidential employees, supervisors, commissioned law enforcement personnel, corrections officers qualifying as "uniformed personnel", and all other employees of the employer.

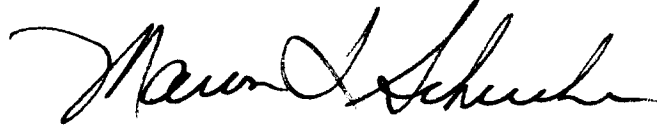
DIRECTION OF ELECTION - Decision 5020-PECB

A representation election shall be conducted by secret ballot, under the direction of the Public Employment Relations Commission, in the appropriate bargaining unit described in paragraph 5 of the

foregoing conclusions of law, for the purpose of determining whether a majority of the employees in that unit desire to be represented for the purposes of collective bargaining by the Sheriff Support Personnel Association or by no representative.

Issued at Olympia, Washington, on the 5th day of April, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

The order identified as Decision 5019 - PECB (Case 10801-C-93-645) may be appealed by filing a petition for review with the Commission pursuant WAC 391-35-210.

The order identified as Decision 5020 - PECB (Case 11187-E-94-1843) may be appealed by filing timely objections with the Commission pursuant to WAC 391-25-590.