

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

TEAMSTERS LOCAL 760

For clarification of an existing bargaining
unit of employees of:

BENTON COUNTY

CASE 129394-C-17

DECISION 12793 - PECB

ORDER CLARIFYING
BARGAINING UNIT

Steve Bruchman, Business Agent, for Teamsters Local 760.

Russell Shjerven, Secretary-Treasurer, for Teamsters Local 839.

Steven Hallstrom, Senior Deputy Prosecuting Attorney, for the employer, Benton County.

On June 20, 2017, Teamsters Local 760 (Local 760) filed a unit clarification petition seeking clarification of a bargaining unit of corrections officers at Benton County Sheriff's Office (employer). The bargaining unit in question is currently represented by Teamsters Local 839 (Local 839) and includes rank-and-file corrections officers as well as corrections officers holding the rank of corporal, sergeant, and lieutenant. Local 760's petition seeks to remove the corporals and sergeants from the existing bargaining unit and to place those employees in a separate bargaining unit represented by Local 760. The petition also seeks to remove the lieutenants from the bargaining unit and place those employees in their own separate bargaining unit. Local 760 and Local 839 jointly assert that the corporals, sergeants, and lieutenants no longer share a community of interest with the rank-and-file bargaining unit because the duties of the corporals, sergeants, and lieutenants bring those positions into conflict with the rank-and-file employees. The employer supports the outcome of the petition.

The issue to be decided is whether the parties' stipulations to remove the corporals, sergeants, and lieutenants from the bargaining unit because those employees no longer share a community of interest with the remaining bargaining unit should be accepted. The Executive Director accepts the parties' stipulations and clarifies the bargaining unit to remove the corporals, sergeants, and

lieutenants from the existing bargaining unit and to place those employees in their own separate bargaining units.

BACKGROUND

Local 839 represents the corrections officers at Benton County. *Benton County*, Decision 6513 (PECB, 1998). When the bargaining unit was originally created, all of the corrections officers were included in the unit, including employees holding the rank of sergeant. Over time, the employer has added different additional ranks, including corporals and lieutenants. The corporals and lieutenants are currently included in the corrections officer's bargaining unit.

The corporals and sergeants are responsible for directing and coordinating the activities of the rank-and-file officers. The corporals report to the sergeants. Both positions recommend and implement approved policies and procedures to ensure that the corrections facility is operating efficiently and within the departmental and legal standards. The corporals and sergeants assign and evaluate the work of the rank-and-file corrections officers. They also train new employees and have the independent authority to schedule employee, grant employee leave, and approve employee overtime.

The lieutenants are responsible for the planning and organization of the corrections department and supervise the sergeants. They develop and maintain records that provide for proper evaluation, control and documentation of their assigned areas. The lieutenants develop the budget for their area of responsibility and monitor operating expenses to meet the budgetary objectives. Like the corporals and sergeants, the lieutenants and are also responsible for enforcing departmental rules and for investigating officer misconduct.

The rank-and-file corrections officers take direction from the corporals and sergeants and are required to follow their directions. They do not participate in the development of department policies and are not responsible for the implementation of those policies. The rank-and-file officers have no role in the disciplinary process and are not responsible for training new employees.

ANALYSIS

Applicable Legal Standards

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*, *International Association of Fire Fighters, Local 1052 v. Public Employment Relations Commission*, 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).

A petition to sever employees from an existing bargaining unit seeks to disrupt the status quo of the existing bargaining unit. *State – Social and Health Services*, Decision 12542-B (PSRA, 2016). To obtain severance, the petitioner must overcome the stability and maturity of relationships usually present in established bargaining units that lead to sound labor relations. *Id.* To do so, the petitioner must establish either that (1) the petitioned-for employees no longer share a community of interest with the existing bargaining unit or (2) the incumbent bargaining representative has inadequately represented the petitioned-for employees. *Id.*

The petitioner must show that a change in the community of interest has occurred to make the existing bargaining unit inappropriate. This is usually demonstrated by substantial changes to the job duties or working conditions of the petitioned-for employees or substantial changes in the employer's operations. *King County*, Decision 11441-A (PECB, 2013).

To show inadequate representation, the petitioner must demonstrate more than a short-term inability of the incumbent union to achieve the bargaining goals of the petitioned-for employees or the employees' dissatisfaction with their bargaining representative's accomplishments. Inadequate representation may be shown by factors such as lack of opportunities to participate in union affairs, lack of collective bargaining agreement provisions addressing specific concerns of the employees at issue, lack of involvement by the petitioned-for employees in negotiation processes, and lack of any formal or informal efforts by the incumbent union to resolve issues of

concern to the employees at issue. Where a bargaining relationship has been in existence, the “history of bargaining” weighs against its disruption by severing the unit into two or more components. *Cowlitz County*, Decision 4960 (PECB, 1995). These considerations should not be read as a mechanical test, as each case is fact dependent and may present different variables worthy of consideration.

If the petitioner meets its burden of proof and the conditions for severance are met, the Commission will evaluate the appropriateness of the petitioned-for bargaining unit and whether the residual unit would maintain its appropriateness. If either of the resulting bargaining units would be inappropriate under the statute, then severance shall not be granted and the original unit shall be maintained. If severance is appropriate and the petitioned-for bargaining unit is an appropriate unit, an election—which includes the incumbent union on the ballot—must be conducted among the petitioned-for employees.

Application of Standards

The request to remove the corporals, sergeants, and lieutenants from Local 839’s existing non-supervisory bargaining is granted. The proliferation of ranks since the bargaining unit’s inception has led to conflicts between the rank-and-file officers and corporals, sergeants, and lieutenants. Those conflicts now demonstrate that the corporals, sergeants, and lieutenants no longer share a community of interest with the existing non-supervisory bargaining unit. In order to minimize conflicts between the various ranks and to ensure the continued appropriateness of the bargaining unit, Local 760 and Local 839 agreed that Local 760 would petition this agency for the creation of a corporals’ and sergeants’ bargaining unit as well as a separate lieutenants’ bargaining unit both to be represented by Local 760. The employees in the corporals, sergeants, and lieutenants ranks also endorsed this move.

The duties performed by the corporals and sergeants demonstrates that those positions share their own community of interest. Both the corporals and sergeants are responsible for overseeing and monitoring the activities of subordinate employees and also play a substantial role in the disciplinary process. The corporals and sergeants are placed in their own bargaining unit separate

and apart from the existing bargaining unit and the existing bargaining unit definition shall be modified to reflect the change in circumstances. Local 760 shall represent this bargaining unit.

Similarly, the lieutenants share their own community of interest based upon their unique supervisory, investigatory, and budgetary duties. The lieutenants are placed in their own bargaining unit separate and apart from the existing bargaining unit and the existing bargaining unit definition shall be modified to reflect the change in circumstances. Local 760 shall represent this bargaining unit.

FINDINGS OF FACT

1. Benton County is a public employer within the meaning of RCW 41.56.030(12).
2. Teamsters Local 839 (Local 839) is a bargaining representative within the meaning of RCW 41.56.030(2).
3. Teamsters Local 760 (Local 760) is a bargaining representative within the meaning of RCW 41.56.030(2).
4. Local 839 currently represents the corrections officers at Benton County. *Benton County*, Decision 6513 (PECB, 1998). When the bargaining unit was originally created, all of the corrections officers were included in the unit, including employees holding the rank of sergeant.
5. Over time, the employer has added different additional ranks, including corporals and lieutenants. The corporals and lieutenants are currently included in the corrections officer's bargaining unit.
6. The corporals and sergeants are responsible for directing and coordinating the activities of the rank-and-file officers. The corporals report to the sergeants. Both positions recommend and implement approved policies and procedures to ensure that the corrections

facility is operating efficiently and within the departmental and legal standards. The corporals and sergeants assign and evaluate the work of the rank-and-file corrections officers. They also train new employees and have the independent authority to schedule employee, grant employee leave, and approve employee overtime.

7. The lieutenants are responsible for the planning and organization of the corrections department and supervise the sergeants. They develop and maintain records that provide for proper evaluation, control and documentation of their assigned areas. The lieutenants develop the budget for their area of responsibility and monitor operating expenses to meet the budgetary objectives. Like the corporals and sergeants, the lieutenants are also responsible for enforcing departmental rules and for investigating officer misconduct.
8. The rank-and-file corrections officers take direction from the corporals and sergeants and are required to follow their directions. They do not participate in the development of department policies and are not responsible for the implementation of those policies. The rank-and-file officers have no role in the disciplinary process and are not responsible for training new employees.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.56 RCW and Chapter 391-35 WAC.
2. Based upon Findings of Fact 4 through 8, the corporals and sergeants no longer share a community of interest with the rank-and-file corrections officers bargaining unit described in Finding of Fact 4.
3. Based upon Findings of Fact 4 through 8, the lieutenants no longer share a community of interest with the rank-and-file corrections officers bargaining unit described in Finding of Fact 4.

ORDER

1. The Corrections Officers bargaining unit represented by Local 839 is clarified to remove the employees holding of the rank of corporal, sergeant, and lieutenant. That bargaining unit shall now be described as “All full-time and regular part-time non-supervisory corrections officers employed by the Benton County Sheriff’s Office, excluding employees holding the rank of corporal, sergeant, lieutenant, confidential employees, and all other employees.”
2. Local 760 shall now represent a bargaining unit of corporals and sergeants. That bargaining unit shall be described as “All full-time and regular part-time corrections officers employed by the Benton County Sheriff’s Office holding the ranks of corporal and sergeant, including the security supervisor, excluding non-supervisory employees, employees holding the rank of lieutenant, confidential employees, and all other employees.”
3. Local 760 shall now represent a bargaining unit of lieutenants. That bargaining unit shall be described as “All full-time and regular part-time non-appointed corrections officers employed by the Benton County Sheriff’s Office holding the rank of lieutenant, excluding non-supervisory employees, employees holding the rank of corporal and sergeant, confidential employees, and all other employees.”

ISSUED at Olympia, Washington, this 15th day of November, 2017.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



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 391-35-210.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

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

MARILYN GLENN SAYAN, CHAIRPERSON
MARK E. BRENNAN, COMMISSIONER
MARK R. BUSTO, COMMISSIONER
MIKESELLARS, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 11/15/2017

DECISION 12793 - PECB has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

BY: DEBBIE BATES

CASE NUMBER: 129394-C-17

EMPLOYER: BENTON COUNTY

REP BY: BENTON COUNTY COMMISSIONERS
BENTON COUNTY
PO BOX 190
PROSSER, WA 99350
commissioners@co.benton.wa.us
(509) 786-5600

STEPHEN J. HALSTROM
BENTON COUNTY
7122 W OKANOGAN PLACE BLDG A
KENNEWICK, WA 99336
stephen.hallstrom@co.benton.wa.us
(509) 735-3591

PARTY 2: TEAMSTERS LOCAL 760

REP BY: LEONARD CROUCH
TEAMSTERS LOCAL 760
1211 W LINCOLN AVE
YAKIMA, WA 98902-2535
leonard@teamsters760.org
(509) 452-7194

STEVE BRUCHMAN
TEAMSTERS LOCAL 760
1211 W LINCOLN AVE
YAKIMA, WA 98902
steve@teamsters760.org
(509) 452-7194

PARTY 3: TEAMSTERS LOCAL 839

REP BY: RUSSELL SHJERVEN
TEAMSTERS LOCAL 839
1103 W SYLVESTER ST
PASCO, WA 99301
team839_rshjerven@msn.com
(509) 547-7513