

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

COWLITZ COUNTY

For clarification of an existing bargaining unit
represented by:

COWLITZ COUNTY EMERGENCY
SERVICES ASSOCIATION

CASE 132433-C-19

DECISION 13215 - PECB

ORDER CLARIFYING BARGAINING
UNIT

Daryl S. Garrettson, Attorney at Law, for Cowlitz County Emergency Services Association.

Ursula A. Kienbaum, Attorney at Law, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., for Cowlitz County.

Elizabeth R. Lemoine, Attorney at Law, Public Safety Labor Group, LLP, for the Sheriff Support Specialists' Guild.

The Sheriff Support Specialists' Guild (Guild) represents a bargaining unit of nonuniformed staff working for Cowlitz County Sheriff's Department (employer). *Cowlitz County*, Decision 6510 (PECB, 1998). The bargaining unit includes employees in the Administrative Secretary, Accounting Clerk, Civil Clerk, Property/Evidence Clerk, Case Management Clerk, Task Force Clerk, and Sex Offender Registration Clerk job classes. These nonuniformed clerk positions are responsible for processing and maintaining sheriff's department records, such as civil case information, evidence, and sex offender information.

The Cowlitz County Emergency Services Association (Association) represents a bargaining unit of Records Specialists and Dispatchers working for the employer. *Cowlitz County*, Decision 5915 (PECB, 1997). Prior to 2019, the Records Specialists were assigned to the employer's corrections department and the Dispatchers fell under the responsibility of the Cowlitz County Board of

Commissioners. Despite these differences in reporting structures, the bargaining unit employees maintained a community of interest. *Cowlitz County*, Decision 12115 (PECB, 2014) (rejecting an attempt to sever the Records Specialists from the Dispatchers). The Records Specialists are responsible for validating and entering police reports, warrants, and protective orders as well as completing public records requests.

In January 2019, the employer created a new agency, Cowlitz 911. The employer transferred the Dispatchers represented by the Association to Cowlitz 911. Although the Association continued to represent the Dispatchers, the Association and Cowlitz 911 negotiated a separate agreement that covered just the Dispatchers.

In July 2019, the employer transferred the Records Specialists to the sheriff's department. The employer made this change following a Washington Association of Sheriffs and Police Chiefs Loaned Executive Management report that raised concerns about the sheriff's department maintaining two separate groups of employees who maintained law enforcement records. Following the change, the employer filed the instant petition to add the Records Specialists to the Guild's bargaining unit asserting that all of these employees now share a community of interest. The Association and Guild support the employer's petition.

The Records Specialists share a community of interest with the nonuniformed clerks. All of the employees manage case files, perform bookkeeping tasks, and respond to records requests. All of the employees share common supervision and maintaining the existing separation between the two groups of employees would create work jurisdiction issues. The Guild's bargaining unit shall be clarified to include the records specialists.

ANALYSIS

Applicable Legal Standards

The determination of appropriate bargaining units is a function delegated to this agency by the Legislature. RCW 41.80.070. The goal in making 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. *Central Washington University*, Decision 9963-B (PSRA, 2010); *Quincy School District*, Decision 3962-A (PECB, 1993).

Included in this agency's authority to determine an appropriate bargaining unit is the power to modify that unit, upon request, through a unit clarification proceeding. *University of Washington*, Decision 11590 (PSRA, 2012), *aff'd*, Decision 11590-A (PSRA, 2013); *see also Pierce County*, Decision 7018-A (PECB, 2001). Unit clarification cases are governed by the provisions of chapter 391-35 WAC. The general purpose of the unit clarification process is to provide this agency as well as the parties to a collective bargaining relationship a mechanism to make changes to an existing bargaining unit based upon a change in circumstances to ensure its continued appropriateness. *See, e.g., Toppenish School District*, Decision 1143-A (PECB, 1981) (outlining the procedures to remove supervisors from existing bargaining units).

The change in circumstances that leads to the filing of a unit clarification petition must be a meaningful change in an employee's duties, responsibilities, or working conditions. *University of Washington*, Decision 10496-A (PSRA, 2011), *citing City of Richland*, Decision 279-A (PECB, 1978). A mere change in job titles is not necessarily a material change in working conditions that would qualify under chapter 391-35 WAC to alter the composition of a bargaining unit through the unit clarification process. *See University of Washington*, Decision 10496-A. Other types of changes to the workplace environment, such as a reorganization of an employer's workforce, are occurrences that could warrant the filing of a unit clarification petition. *See Lewis County (Teamsters Local 252)*, Decision 6750 (PECB, 1999). Absent a recent change in circumstances, a unit clarification petition will be dismissed as untimely. *University of Washington*, Decision 11590.

WAC 391-35-020 only states that a unit clarification petition must be filed within a reasonable period of time following a change in circumstances and does not set forth a particular time frame in which the change must have occurred. *Id.* Timeliness is determined by the factual circumstances of each particular case. Reorganizations and reassignments of duties are events that do not occur overnight, and some deference must be granted to allow an employer to make midstream changes

to any reorganization that might be occurring. *King County*, Decision 11828 (PECB, 2013), *aff'd*, Decision 11828-A (PECB, 2013). The defining event is a material change to duties or working conditions that necessitates the employer's review and possible reallocation of the affected employees or positions. *University of Washington*, Decision 11590.

Application of Standard

The Records Specialists and nonuniformed clerks in the sheriff's office share a community of interest and must be placed in the same bargaining unit. The recent reorganization disrupted the communities of interest that existed for the employees and now demonstrates that all of these positions now have common supervision and work at the same office. All of these positions maintain sheriff department records and are responsible for providing staff and other interested parties copies of employer held reports. Additionally, all of these positions now provide administrative services for the sheriff's office, including civil processes, budget and finance management, evidence management, court services, permitting, public disclosure, and emergency management. Work jurisdiction issues would be created if these employees were in separate bargaining units.

FINDINGS OF FACT

1. Cowlitz County is a public employer within the meaning of RCW 41.56.030(12).
2. The Sheriff Support Specialists' Guild (Guild) is a bargaining representative within the meaning of RCW 41.56.030(2).
3. Cowlitz County Emergency Services Association (Association) is a bargaining representative within the meaning of RCW 41.56.030(2).
4. The Guild represents a bargaining unit of nonuniformed staff working for the Cowlitz County (employer) Sheriff's Department. The bargaining unit includes employees in the Administrative Secretary, Accounting Clerk, Civil Clerk, Property/Evidence Clerk, Case

Management Clerk, Task Force Clerk, and Sex Offender Registration Clerk job classes. These nonuniformed clerk positions are responsible for processing and maintaining sheriff's department records, such as civil case information, evidence, and sex offender information.

5. The Association represents a bargaining unit of Records Specialists and Dispatchers working for the employer. Prior to 2019, the Records Specialists were assigned to the employer's corrections department and the dispatchers fell under the responsibility of the Cowlitz County Board of Commissioners. Despite these differences in reporting structures, the bargaining unit employees maintained a community of interest. The Records Specialists are responsible for validating and entering police reports, warrants, and protective orders as well as completing public records requests.
6. In January 2019, the employer created a new agency, Cowlitz 911. The employer transferred the Dispatchers described in finding of fact 4 to Cowlitz 911. Although the Association continued to represent the Dispatchers, the Association and Cowlitz 911 negotiated a separate agreement that covered just the Dispatchers.
7. In July 2019, the employer transferred the Records Specialists to the sheriff's department. The employer made this change following a Washington Association of Sheriffs and Police Chiefs Loaned Executive Management report that raised concerns about the sheriff's department maintaining two separate groups of employees who maintained law enforcement records.
8. The nonuniformed clerks described in finding of fact 4 and Records Specialists described in finding of fact 5 maintain sheriff department records and are responsible for providing staff and other interested parties copies of employer held reports. Additionally, all of these positions now provide administrative services for the sheriff's office, including civil processes, budget and finance management, evidence management, court services, permitting, public disclosure, and emergency management. Work jurisdiction issues would be created if these employees were in separate bargaining units.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to chapter 41.56 RCW and chapter 391-35 WAC.
2. Based upon findings of fact 4 through 8, the employees in the nonuniformed clerk job classes described in finding of fact 4 only share a community of interest with the Records Specialists described in finding of fact 5.

ORDER

1. The Records Specialists described in finding of fact 5 shall be added to the bargaining unit of nonuniformed Records Specialists described in finding of fact 4. That bargaining unit shall be described as follows:

All full-time and regular part-time support employees and Records Specialists employed by the Cowlitz County Sheriffs' Office, excluding supervisors, confidential employees, and all other employees.

2. The Sheriff Support Specialists' Guild continues to represent the modified bargaining unit described in paragraph 1 of this order.

ISSUED at Olympia, Washington, this 21st day of July, 2020.

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.



RECORD OF SERVICE

ISSUED ON 07/21/2020

DECISION 13215 - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: DEBBIE BATES

CASE 132433-C-19

EMPLOYER: COWLITZ COUNTY

REP BY: JIM ZDILAR
COWLITZ COUNTY
COUNTY ADMINISTRATIVE BUILDING
207 4TH AVE N RM 306
KELSO, WA 98626
zdilarj@co.cowlitz.wa.us

URSULA A. KIENBAUM
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
222 SW COLUMBIA ST STE 1500
PORTLAND, WA 97201
ursula.kienbaum@ogletreedeakins.com

PARTY 2: COWLITZ COUNTY EMERGENCY SERVICES ASSOCIATION

REP BY: JULIE HARRIS
COWLITZ COUNTY EMERGENCY SERVICES ASSOCIATION
312 SW 1ST AVE
KELSO, WA 98626
juliebrentharris@comcast.net

DARYL S. GARRETTSON
ATTORNEY AT LAW
PO BOX 8
LAFAYETTE, OR 97127
daryl@onlinenw.com

PARTY 3: SHERIFF SUPPORT SPECIALISTS' GUILD

REP BY: KRISTINE TAFF
SHERIFF SUPPORT SPECIALISTS' GUILD
312 SW 1ST AVE
KELSO, WA 98626
taffk@co.cowlitz.wa.us

ELIZABETH R. LEMOINE
PUBLIC SAFETY LABOR GROUP, LLP
3021 NE BROADWAY
PORTLAND, OR 97232
elizabeth@pslglawyers.com