



**PUBLIC EMPLOYMENT RELATIONS COMMISSION**

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**COMPLAINT CHARGING UNFAIR LABOR PRACTICES**

Form U-1 (9/2010)

Amended Complaint in Case 24391-U-11-6252

Filing instructions: [www.perc.wa.gov/Forms/U-1-inst.pdf](http://www.perc.wa.gov/Forms/U-1-inst.pdf)

Applicable Rules: Chapters 10-08, 391-08 and 391-45 WAC

**1. PARTIES** The complainant alleges the respondent has committed unfair labor practices in violation of state law.

**COMPLAINANT** Teamsters Local Union No. 117

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**RESPONDENT** State of Washington - University of Washington

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**EMPLOYER** State of Washington - University of Washington

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**6. AUTHORIZED SIGNATURE FOR COMPLAINANT**

Print Name James V. Smith II

Title Dir. of Corrections&Law Enforcement/Staff Attorney

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Signature  Date 12-13-2011

**2. ALLEGED VIOLATION** *Indicate all that apply.*

**Against Employer:**

- Employer Interference with Employee Rights
- Employer Domination
  - Unlawful Assistance to Union
  - Unlawful Interference with Internal Union Affairs
- Employer Discrimination
- Employer Discrimination for Filing Charges with or Giving Testimony before PERC
- Employer Refusal to Bargain

**Against Union:**

- Union Interference with Employee Rights
- Union Inducing Employer to Commit Violation
- Union Discrimination for Filing Charges with or Giving Testimony before PERC
- Union Refusal to Bargain

**3. BARGAINING UNIT**

Department or Division: Police Department

Number of employees in unit: ~30

**Current or Most Recent Collective Bargaining Agreement**  
*Indicate one:*

- The parties have never had a collective bargaining agreement;
- The collective bargaining agreement is attached; OR
- The collective bargaining agreement is on file with PERC.

**4. STATEMENT OF FACTS and REMEDY REQUESTED**

*Attach separate sheets of paper setting forth clear and concise statements of the facts constituting the alleged unfair labor practices (including times, dates, places and participants) in numbered paragraphs, and setting forth the remedies requested for the claimed unfair labor practices.*

**5. GRIEVANCE PROCEEDINGS** *Indicate one.*

- No grievance has been filed on the dispute involved in this unfair labor practice complaint.
- A grievance on the dispute involved in this complaint is being processed under a contractual grievance procedure.
- An arbitration award has been issued on a grievance related to this unfair labor practice complaint.

## AMENDED STATEMENT OF FACTS

Upon information and belief, the Union submits the following amended statement of facts for PERC Case No. 24391-U-11-6252:

### **1. Background Information**

1.01 The State of Washington (“State”), including the University of Washington (“University”), hereinafter referred to collectively as the “Employer,” is an Employer within the meaning of RCW 41.80.005(8) and RCW 41.80.010(4)(a)(i).

1.02 The University of Washington Police Officers Association (“UWPOA”) is an employee organization within the meaning of RCW 41.80.005(7). Officer Raymond Wilson served as the UWPOA’s President. Officer Mark Hackett served as the UWPOA’s Vice-President.

1.03 Teamsters Local Union No. 117 (“Local 117” or “Union”) is an employee organization within the meaning of RCW 41.80.005(7). Officer Wilson and Officer Hackett have been selected by their peers to serve as Shop Stewards for Local 117, thus seamlessly continuing their union representation duties of the bargaining unit.

1.04 Prior to October 3, 2011, the UWPOA was the exclusive collective bargaining representative of the Police Officers bargaining unit at the University’s Police Department (“Department”).

1.05 On September 2, 2011, Local 117 filed a Question Concerning Representation (“QCR”) petition with the Public Employment Relations Commission (“PERC”) concerning the Police Officers bargaining unit (*see*, PERC Case No. 24217-E-11-3665). The UWPOA disclaimed representation of the bargaining unit, allowing for a cross-check by agreement of Local 117 and the Employer.

1.06 On October 3, 2011, Local 117 became the certified collective bargaining representative of the Police Officers bargaining unit at the Department (*see, University of Washington, Decision 11185 (PSRA, 2011)*).

1.07 The UWPOA and the Employer were parties to a Collective Bargaining Agreement (“CBA”), dated July 1, 2009 through June 30, 2011, that was negotiated under the provisions of RCW 41.80. A true and correct copy of this expired CBA is attached hereto.

1.08 To date, no successor CBA has been negotiated between Local 117 and the University, although the Employer is honoring the tentative agreement reached with the UWPOA. The parties held an initial negotiation session on December 12, 2011. The Employer and Local 117 are honoring the terms and conditions of the expired CBA between the UWPOA and the Employer while negotiations commence during the one-year status quo period outlined in RCW 41.80.010(7).

1.09 Officer Wilson and Officer Hackett served, at all times, on the UWPOA’s negotiations team while engaged in collective bargaining with the Employer over the successor CBA and the resulting tentative agreement.

1.10 Officer Wilson and Officer Hackett, as both the former UWPOA leadership and current Shop Stewards for Local 117, have been actively involved in the transition of pending negotiations, grievances, and legal disputes from the UWPOA to Local 117.

1.11 RCW 41.80.110(1)(a) prohibits the Employer from interfering with, restraining, or coercing any employee in the exercise of the rights guaranteed in RCW 41.80, including engaging in lawfully protected Union activity.

1.12 RCW 41.80.110(1)(c) prohibits the Employer from discriminating against any employee in regard to hire, tenure of employment, or any term or condition of employment for exercising their rights under RCW 41.80 and/or engaging in lawful Union activity.

1.13 RCW 41.80.110(1)(e) prohibits the Employer from failing and/or refusing to bargain collectively and/or in good faith with the representatives of its employees, including changing the status quo under RCW 41.80.010(7) and/or WAC 391-25-140(2).

1.14 The Employer and UWPOA recognized the collective bargaining requirements of RCW 41.80 by agreeing to a provision in the CBA that acknowledges the UWPOA's right to compel bargaining prior to changes in any mandatory subject of bargaining in accordance with law, rules, and precedent (Section 3.2 of the CBA).

1.15 The totality of the circumstances, as described herein, demonstrate that the Employer has interfered with, restrained, and/or coerced Local 117 bargaining unit members, including but not limited to Officer Ray Wilson, Officer Mark Hackett, and Officer Lynell Ray, for exercising their rights under RCW 41.80 and/or engaging in lawful Union activity.

1.16 The totality of the circumstances, as described herein, demonstrate that the Employer has discriminated against Local 117 bargaining unit members, including but not limited to Officer Lynell Ray, by depriving members of their right to the benefit of shift trades, in reprisal for Officer Ray exercising her contractual right of sick leave use under RCW 41.80.

1.17 The totality of the circumstances, as described herein, demonstrate that the Employer has failed and/or refused to bargain collectively and/or in good faith with

representatives of the UWPOA and Local 117 (as its successor in interest), including making unilateral changes during the post-expiration one-year status quo period and/or during the pendency of a representation petition before PERC, over material changes in the following wages, hours, or working conditions: installation and use of workplace surveillance cameras, use of holding cells, work schedules, paid uniform/equipment doffing practices, shift trades, leave usage, and paid release time/shift adjustments to attend contract negotiations meetings. As a result, the UWPOA and Local 117 (successor in interest) were faced with a *fait accompli* by the actions of the Employer.

## **2. Unilateral Use of Workplace Surveillance Cameras; Changes In Holding Cell Use**

2.01 In January of 2011, during negotiations over the successor CBA, the Employer informed the UWPOA of its intention to install approximately fifteen (15) surveillance cameras in the Police Department for employee safety. The Department's management team indicated that it was developing policies and procedures over the use of such surveillance cameras. The Employer and UWPOA mutually agreed to wait and see what the Department's proposed policies would be before commencing negotiations, as the UWPOA had concerns over the surveillance cameras' use for disciplinary purposes of bargaining unit members.

2.02 Accordingly, the Employer and UWPOA "tabled" (stayed) the negotiations on this issue, and agreed to draft a Memorandum of Understanding ("MOU") over the use of such surveillance cameras in the Department once the proposed policies were drafted. The MOU was to contain terms and conditions on the acceptable use of the surveillance cameras, especially the use of the surveillance cameras for disciplinary purposes against bargaining unit members.

2.03 On January 7, 2011, in preparation for negotiations over the MOU, the UWPOA's attorney, Syd Vinnedge, emailed the University's Assistant Vice-President of Human Resources, Peter Denis, an information request relating to the surveillance cameras that were being installed. The Employer did not provide a response to the UWPOA's request for information.

2.04 As per the agreement between the Employer and UWPOA to stay negotiations over this issue, there were no further discussions between January 2011 and August 2011 regarding the use of surveillance cameras in the Department. An MOU was never negotiated.

2.05 On August 23, 2011—without prior notice to the UWPOA—Police Chief John Vinson issued a Memorandum to all bargaining unit employees, entitled, "General Order No. 11-07 New Policy & Procedure 91.1.8 Security Cameras," regarding the use of surveillance cameras in the Department. As indicated in the first paragraph of the new policy, "This procedure sets forth guidelines for establishing a video monitoring system in and around the University of Washington Police Department." The new policy does not prohibit the surveillance cameras from being used to monitor bargaining unit member performance and/or for disciplinary purposes.

2.06 Chief Vinson required UWPOA bargaining unit members to sign the new policy, however many bargaining unit members refused in protest to the unilateral implementation of this new policy.

2.07 On September 10, 2011, Officer Hackett discovered that the surveillance cameras had been activated by the Department without prior notice to the UWPOA or Local 117.

2.08 Consistent with the UWPOA's concerns over the use of the surveillance cameras for disciplinary purposes, the Police Chief, Deputy Police Chief, and Commander have remote access to monitor the surveillance cameras at any time. A surveillance camera was even installed in the Officers' report writing room.

2.09 Since the issuance of the new policy on August 23, 2011, and activation of the surveillance cameras on or about September 10, 2011, Chief Vinson and his management team have been using the surveillance cameras to monitor bargaining unit members' work performance, including making comments about bargaining unit members congregating at the Department's main office in violation of Department directives, especially after roll-call.

2.10 Despite the Department's contention that the workplace surveillance cameras were installed for employee safety, including installing surveillance cameras in the Department's two (2) holding cells, Lieutenant Chris Jaross verbally notified Officers at a day shift roll-call briefing on or about September 29, 2011, that the Department faced too much liability to bring criminal suspects into the holding cells. Lieutenant Jaross told Officers *not* to use the holding cells, to keep criminal suspects in their patrol cars and process them in the field (book them online with in-car computers), and take them directly to the King County Jail. When asked by Detective Warren Bresko about the missing in-car cameras and officer safety issues created by processing suspects in their patrol cars, Lieutenant Jaross replied that in-car cameras were a budget issue and that Officers needed to be aware of their safety. This change poses a significant safety issue for Officers facing potentially violent or dangerous suspects, and is a material change in

working conditions related to safety, yet this unilateral change was made without notice to or negotiations with the UWPOA or Local 117.

2.11 Bargaining unit members are concerned that the workplace surveillance cameras were installed for disciplinary purposes under the pretext of employee safety. For example, two surveillance cameras are pointed at the women's restroom that female employees use, and one camera was installed in the Officers' report writing room. These are clearly employee only areas. Also, as stated above, bargaining unit members are not supposed to bring criminal suspects into the Department's holding cells any longer, which bargaining unit members feel negates the Department's reasoning for installing surveillance cameras for workplace and employee safety.

2.12 The Employer's issuance of the new policy on the use of surveillance cameras, as well as the activation of the surveillance cameras, was done without prior notice to or negotiations with the UWPOA or Local 117.

### **3. Unilateral Changes to Shift Schedules**

3.01 On May 25, 2011, Chief Vinson proposed three (3) shift schedules to the UWPOA for consideration by the bargaining unit. One of those proposals had the shift start times as 0630 hours (6:30 a.m.) for day shift, 1600 hours (4:00 p.m.) for swing shift, and 2100 hours (9:00 p.m.) for graveyard shift.

3.02 In June of 2011, the UWPOA leadership, specifically Officer Wilson and Officer Hackett, presented the three proposals to the bargaining unit membership. The majority of the members did not want to change from their existing shift schedule. Nevertheless, in order to assist Chief Vinson, Officer Wilson and Officer Hackett urged the bargaining unit membership to adopt one of the three proposed schedules. The



membership reluctantly agreed to adopt one of Chief Vinson's proposed schedules, as listed in paragraph 3.01 above.

3.03 On June 29, 2011, the UWPOA officially agreed to the proposed schedule as listed in paragraph 3.01 above. Chief Vinson memorialized the schedule at a Labor-Management Committee meeting on the same date. Again, the agreed-upon schedule had Squads 3 and 4 beginning their shifts at 1600 hours (4:00 p.m.). The UWPOA also agreed with Chief Vinson's request to delay the shift bidding process until August of 2011, so that the new shifts could take effect on or about August 29, 2011.

3.04 On July 27, 2011, a Labor-Management Committee meeting was held with Deputy Chief Randy West, Commander Steve Rittreiser, Officer Hackett (UWPOA Vice-President), and possibly Officer Wendy Matsuyama, in attendance. At that meeting, Deputy Chief West announced to the UWPOA that the Department was reneging on the shift start times that had been agreed to by Chief Vinson on June 29. When the UWPOA objected, Deputy Chief West informed the UWPOA that the Department was unilaterally changing Squads 3 and 4 to begin their shifts at 1630 hours (4:30 p.m.), instead of the previously agreed to start time of 1600 hours (4:00 p.m.), beginning the end of August 2011. This shift was different than the proposal that the Department asked the bargaining unit members to vote on, and that the UWPOA membership officially agreed to. Deputy Chief West told Officer Hackett that the UWPOA had twenty-four (24) hours to offer an argument why the Department should not change the swing shift hours to 1630 (4:30 p.m.).

3.05 In response, on July 28, 2011, Officer Hackett responded via email to Chief Vinson, Deputy Chief West, and Commander Rittreiser, objecting to the

Department renegeing of the prior shift schedule agreement, and as requested, giving the Department seven (7) reasons for not changing the swing shift hours to 1630 (4:30 p.m.). Officer Hackett also put the Department on notice that if it made the unilateral change in hours, such would “constitute bad faith bargaining and an unfair labor practice.” Officer Hackett also stated that the UWPOA “wish[es] to bargain with you in good faith.”

3.06 Despite the UWPOA’s objections to both the renegeing on the prior agreement and the unilateral change, along with its request the bargain in good faith, the Department insisted on implementing its schedule change at the end of August 2011.

3.07 On August 24, 2011, the UWPOA’s attorney, Mr. Vinnedge, emailed the Employer’s representative, Mr. Denis, outlining the facts regarding a potential unfair labor practice on this scheduling issue. Mr. Vinnedge entitled the email, “uw uwpoa failure to bargain and bad faith.” Despite the threat of an unfair labor practice complaint, the Department continued with its planned implementation by August 31, 2011.

3.08 On August 29, 2011, the Department implemented its shift schedule with the unilateral change of Squads 3 and 4 starting their shift at 1630 hours (4:30 p.m.), instead of 1600 hours (4:00 p.m.) as previously voted on and agreed to.

#### **4. Unilateral Changes to the Paid Doffing of Uniforms and Equipment**

4.01 The UWPOA bargaining unit members had a prior long-standing practice (for at least 22 years per Officer Woodard) of being able to go out-of-service ten (10) to fifteen (15) minutes before the end of their work shift, in order to doff their police uniforms and equipment in the locker room while on paid time. Thus, bargaining unit members arrived to work ten (10) to fifteen (15) minutes prior to their work shift to don their police uniforms and equipment on unpaid time, in exchange for being able to doff

their police uniforms and equipment ten (10) to fifteen (15) minutes prior to the end of their work shift on paid time. This allowed bargaining unit members to leave work precisely at the end of their work shift.

4.02 On March 25, 2010, the Ninth Circuit Court of Appeals held, in *Bamonte v. City of Mesa*, 598 F.3d 1217 (9<sup>th</sup> Cir. 2010), that employers did not have to compensate police officers under the Fair Labor Standards Act for the donning and doffing of their uniforms and accompanying gear if those police officers had the option of donning and doffing their uniforms and gear at home.

4.03 In December of 2010, as a result of the *Bamonte* case, the Department informed the UWPOA that it was now requiring bargaining unit members to stay in uniform for the entire duration of their work shift, and to remove their uniforms and equipment on unpaid time after their shift is concluded, thereby ending the past practice of going out-of-service ten (10) to fifteen (15) minutes early.

4.04 On January 8, 2011, the UWPOA's attorney, Mr. Vinnedge, sent a "Cease and Desist" letter to the Employer's representative, Mr. Denis, objecting to the unilateral change in the paid doffing of uniforms and equipment, and thereby demanding the Department return to the *status quo ante*. As a result, the Employer rescinded its unilateral change and restored the *status quo ante* relating to the ten (10) to fifteen (15) minutes of paid doffing time.

4.05 Between January 8, 2011, and June 28, 2011, during the course of negotiations over the successor CBA, the UWPOA presented the Department with two (2) proposals regarding the doffing of uniforms on paid time. No agreement was reached between the parties.

4.06 On June 29, 2011, the Department informed the UWPOA that after checking with the University's Labor Relations staff, it was going to make a change in the Department's policy relating to Personal Equipment (No. 41.3.4), but would provide notice to the UWPOA. The Department stated the policy change was required to end the long-standing past practice related to doffing uniforms and equipment on ten (10) to fifteen (15) minutes of paid time, and that it would now require bargaining unit members to stay in uniform for the entire duration of their work shift, and to remove their uniforms and equipment on unpaid time after their shift is concluded. The UWPOA objected to the proposed unilateral change in practice.

4.07 Nevertheless, on July 1, 2011, Mr. Vinnedge emailed Chief Vinson a "modified doffing proposal" in an attempt to negotiate in good faith with the Employer despite the proposed unilateral change in practice.

4.08 On July 26, 2011, Chief Vinson emailed Mr. Vinnedge. Chief Vinson stated, "[W]e discussed your counter proposal extensively," and, "After further review, we don't think it's in the departments [sic] best interest to sign an MOU specifically with the UWPOA since this affects/impacts other members of the department."

4.09 On August 24, 2011, Mr. Vinnedge sent an email to the Employer's representative, Mr. Denis. In that email, entitled, "uw uwpoa failure to bargain and bad faith," Mr. Vinnedge informed Mr. Denis that "the Deputy Chief announced that the Department was unilaterally eliminating the doffing practice," and that "[h]e announced this in the middle of negotiations with several proposals on the table." The UWPOA intended to move forward with filing unfair labor practice charges.

4.10 On August 31, 2011, at a Labor-Management Committee meeting, Deputy Chief West and Commander Rittereiser provided the UWPOA with revisions to Personal Equipment Policy No. 41.3.4, along with a notation that such “clarifying language will be adopted on Monday, October 3, 2011.” The new policy required that “[e]very officer of the department shall report for duty attired in a complete and proper uniform at their assigned starting time and will remain so until the end of their assigned shift.” Further, the new policy stated, “Officers may dress for their shift at the Department or arrive for their shift dressed ready to begin work,” and, “Officers may, but are not required to, change into street clothes at the Department after the end of their assigned shifts.”

4.11 Officer Wilson immediately objected to the new policy, citing to officer safety concerns of traveling to/from work in uniform (particularly when riding public transit or on a motorcycle), as well as to the material change in wages, hours, and/or working conditions. Deputy Chief West and Commander Rittereiser stated the new policy would be implemented on October 3, 2011, regardless of the UWPOA’s objection, and that the Department did not feel it needed to bargain over this change in practice due to the *Bamonte* case. Officer Hackett told the Department that the UWPOA would be contacting their legal representative to challenge this unilateral change.

4.12 The UWPOA then contacted Mr. Vinnedge to file unfair labor practice charges. However, as a result of Local 117’s QCR petition (filed September 2, 2011) pending before the PERC, Mr. Vinnedge was not responsive to the UWPOA’s request for assistance. Accordingly, Officer Wilson and Officer Hackett turned to Local 117, as prospective Local 117 members, for assistance with filing unfair labor practice charges.

4.13 On September 28, 2011, Commander Rittereiser emailed all bargaining unit members, stating that the Department presented a change in policy to the UWPOA on August 31, 2011, and included a copy of the changed policy. Commander Rittereiser affirmed “[t]he policy will go into effect on Monday [sic] October 3, 2011,” and further stated, “Today’s email is intended to provide official advanced notice for all commissioned personnel.”

4.14 On September 30, 2011, Local 117’s Director of Corrections & Law Enforcement/Staff Attorney, James V. Smith II, emailed the Employer’s representative, Mr. Denis, reiterating the UWPOA’s previous demand to bargain and objection to the unilateral change that would be effective October 3, 2011. Although already faced with the *fait accompli*, Local 117 expressed that the bargaining unit members were demanding the Department cease and desist with its implementation and bargain in good faith.

4.15 On September 30, 2011, Mr. Denis responded to Mr. Smith’s email. Mr. Denis recalled discussions occurring with the UWPOA about the paid doffing issue in the Spring and Summer of 2011, as well as the concerns raised by the UWPOA’s attorney, Mr. Vinnedge, in July of 2011. However, the University felt that bargaining had been concluded on the issue, and that there was “really no discernible reason to not proceed with what amounts to a very minor change in practice.” The University offered to arrange a meeting for Local 117 to hear and understand the Department’s concerns (with respect to public safety, resource utilization, risk management, and appropriate stewardship of State resources), but did not agree to negotiate the Department’s change prior to implementation.

4.16 On October 3, 2011, the Department implemented its change in the paid doffing policy, despite objections and demands to bargain from both the UWPOA and Local 117.

## **5. Discrimination & Unilateral Elimination of Employee Shift Trades**

5.01 Prior to August of 2011, shift trades between Officers had been the accepted, long-standing practice between the UWPOA and the Department.

5.02 For the week of August 21, 2011 through August 27, 2011, Officer Christopher Ellrodt and Officer Lynell Ray received prior approval from Lieutenant Ralph Robinson to trade their forty (40) hour work shifts with each other. Officer Ellrodt worked (or used approved leave for) for Officer Ray's 40-hour work week. Officer Ray then worked (or used approved leave for) for Officer Ellrodt's 40-hour work week.

5.03 On August 26, 2011, Deputy Chief West sent an email to all Department personnel that included the statement, "Shift trades may be authorized." This was consistent with the long-standing practice between the UWPOA and the Department.

5.04 However, on August 27, 2011, Officer Ray phoned-in to request the use of ten (10) hours of sick leave for that day (the last day of her shift trading period). Approximately one (1) hour later, Deputy Chief West sent an email to all Department personnel (as a follow-up to his email of August 26) that now stated, "Shift trades are not permitted." This was a unilateral change in the past practice without notice to or negotiation with the UWPOA, thereby depriving bargaining unit members of their right to shift trade, in reprisal for Officer Ray exercising her contractual benefit of sick leave use.

5.05 Also on August 27, 2011, Deputy Chief West sent a separate email to UWPOA leadership stating that by Officer Ray calling-in sick during a shift trade, it “will most likely require overtime.” Deputy Chief West ended the email by stating, “Effective immediately, shift swaps or trades are no longer permitted.” Again, this was a unilateral change in the past practice without notice to or negotiation with the UWPOA, thereby depriving bargaining unit members of their right to shift trade, in reprisal for Officer Ray exercising her contractual benefit of sick leave use.

5.06 On September 21, 2011, Officer Ray filed an internal complaint with the Department, since it appeared that the shift trade policy had been unilaterally changed as a consequence of and in retaliation for her contractually protected use of sick leave on August 27, 2011.

5.07 On October 6, 2011, after certification of Local 117 as the new representative for the Police Officers bargaining unit, Officer Ray and Officer Wilson (the Local 117 Shop Steward and former UWPOA President) met with Chief Vinson regarding the complaint. At that meeting, Chief Vinson admitted that the shift trade policy was indeed changed as a result of Officer Ray’s use of sick leave on August 27, 2011. Chief Vinson further explained that he believed Officer Wilson and Officer Mark Hackett, as the former UWPOA President and Vice-President, respectively, had agreed that if an Officer were to call-in and use sick leave during the course of a shift trade, that shift trading would no longer be allowed at the Department. Officer Wilson immediately objected to the Chief’s claim, and stated that neither he nor Officer Hackett had ever agreed to this. Officer Ray asked Chief Vinson if this alleged agreement had been put in writing, to which Chief Vinson admitted that it had not.



5.08 As of the date of this Amended Complaint, the Department's new policy prohibiting shift trading is still in effect, thereby depriving bargaining unit members of their right to shift trade, in reprisal for Officer Ray exercising her contractual benefit of sick leave use.

5.09 Officer Ray's internal retaliation complaint with the Department is still considered an open investigation.

#### **6. Unilateral Changes In Leave Use and Leave Approval**

6.01 Prior to August of 2011, more than one (1) Officer per shift was allowed to use leave to take time off, more than one (1) Officer or Detective in the Operations Division was allowed to use leave to take time off, Officers were allowed to use more than (2) weeks of leave consecutively at one time, and the CBA for the UWPOA solely controlled how advance leave requests were handled. This was the accepted, long-standing practice between the UWPOA and the Department.

6.02 On August 26, 2011, without notice or negotiation with the UWPOA, Deputy Chief West sent an email to all Department personnel that unilaterally changed how many Officers per shift were allowed to use leave to take time off, how many Officers or Detectives were allowed leave in the Operations Division, how many consecutive weeks of leave an Officer could take at one time, and that "operational need" shall override the CBA regarding advance requests for leave. Deputy Chief West reiterated these changes by sending a follow-up email to all Department personnel on August 27, 2011.

6.03 Deputy Chief West stated in his emails, "'1 and 1 rule' will now be in effect; only one supervisor and 1 officer will be allowed off; this includes Wednesday."

Wednesdays are the weekly shift overlap day where staffing is higher. This was a unilateral change without notice to or negotiation with the UWPOA.

6.04 Deputy Chief West stated in his emails, “Only one officer or detective [sic] allowed off on leave throughout the Operations Division each 24 hour period.” This was a unilateral change without notice to or negotiation with the UWPOA.

6.05 Deputy Chief West stated in his emails, “No more than 2 weeks of leave shall be granted at one time (via one request slip) for any one commissioned employee during any 30 day period; again contractual agreements as to requests for vacation shall be followed as stipulated, however ‘Operational Need’ shall dictate appropriate patrol staffing.” This was a unilateral change without notice to or negotiation with the UWPOA.

6.06 Deputy Chief West stated in his emails, “Advanced requests for leave will follow the agreed upon process as stipulated in the collective bargaining agreements with the PMA and UWPOA, however ‘Operational Need’ shall override and take precedent [sic] to ensure staffing numbers are present.” This was a unilateral change without notice to or negotiation with the UWPOA.

**7. Unilateral Changes In Paid Release Time/Shift Adjustments To Attend Contract Negotiations Meetings**

7.01 For at least two (2) years prior to October of 2011, the Employer and UWPOA mutually agreed to the practice that bargaining unit members who were serving on the contract negotiations committee were given paid release time if working and on-duty, or alternatively were allowed to adjust (“flex”) their work shift if off-duty or on days off, in order to attend contract negotiations meetings on paid straight-time.

7.02 Officer Ray Wilson, Officer Mark Hackett, and Officer Wendy Matsuyama—on behalf of the Police Officers bargaining unit—previously attended contract negotiations meetings with the Employer, as recently as May of 2011, on either paid release time or with pay via a shift adjustment.

7.03 The process for requesting paid release time or a shift adjustment was to simply send an email request for such to the Department's Commander, formerly Jerome Solomon. In response, either paid release time or a shift adjustment was always granted prior to October of 2011, so that bargaining unit members attended contract negotiations meetings on paid time, even if on off-duty time or on one of their days off.

7.04 After Local 117 became the certified representative on October 3, 2011, the Employer and Local 117 scheduled the initial contract negotiation meeting for December 12, 2011.

7.05 On December 7, 2011, Officer Hackett (in his role as Local 117 Shop Steward) e-mailed the Department's new Commander, Steve Rittereiser, requesting paid release time and/or a shift adjustment for Officer Wilson, Officer Matsumaya, and himself to attend the Union's initial contract negotiations meeting on December 12 while on paid time. This was Officer Hackett's and Officer Wilson's day off.

7.06 On December 8, 2011, Commander Rittereiser e-mailed Officer Hackett, stating that that the CBA did not provide for bargaining unit members to have their shifts adjusted when a contract negotiations meeting falls on the member's day off. Commander Rittereiser then asked specifically, "Is this a past practice?" Officer Hackett replied that it was a contractual right and that it had "never been a problem in the past."

7.07 On December 9, 2011, Commander Rittereiser e-mailed Officer Hackett, stating that his interpretation of the CBA and “conclusion” was that paid release time is only given when an employee’s “work time is impacted.” Although the Commander stated that he could “understand how [Officer Hackett] came to the understanding that in the past [he has] received paid release time,” in this case, there was “no impact on [his] work schedule” since Officer Hackett was scheduled to be on his day off during the scheduled contract negotiation meeting on December 12.

7.08 On December 9, 2011, without notice to or negotiation with Local 117, Commander Rittereiser unilaterally changed the past practice and denied paid release time and/or shift adjustments for Officer Wilson, Officer Hackett, and Officer Matsuyama to attend the December 12 contract negotiation meeting on paid time. Further, the Commander e-mailed the members’ Sergeants “so we are clear that there is no paid release time for your meeting on Monday [December 12].”

7.09 On December 11, 2011, Local 117’s Director of Corrections & Law Enforcement/Staff Attorney, James V. Smith II, emailed the Employer’s representative, Peter Denis, reiterating the Union’s objection to the unilateral change in past practice. Although already faced with the *fait accompli*, Local 117 demanded the Employer cease and desist with its change and return to the status quo regarding paid release time and/or shift adjustments, even if on negotiations committee member’s day off.

7.10 On December 12, 2011, the Employer and Local 117 met for negotiations. Mr. Smith, Mr. Denis, Commander Rittereiser, Officer Hackett, Officer Wilson, Local 117 Business Representative Michelle Woodrow, and others, were present. The Employer stated that its understanding of the past practice has been to only adjust a

Union representative's shift if they are working on the same day, and that it has not provided paid release time or shift adjustments if on the employees' day off. Although Mr. Denis stated he could see how the former Commander was "flexible to not put up barriers to bargaining," and acknowledged that it was possible there was a prior practice as the Union contended, he stated that it was *not* the Employer's position "that every time members show-up for bargaining that it's on paid time."

7.11 Although the Union demanded that the Employer allow Officer Hackett and Officer Wilson to attend contract negotiations that day (December 12) on paid time, the Employer was unwilling to commit one way or the other at that time. Mr. Denis said he would discuss the issue with his team and get back to the Union with a response.

7.12 As of the time of this Amended Complaint, there has been no response from the Employer. Officer Hackett and Officer Wilson did not receive paid release time or a shift adjustment to attend the contract negotiation meeting on December 12.

### **VIOLATIONS ASSERTED**

The Union alleges the following violations by the Employer based upon the aforementioned facts:

1. Violation of RCW 41.80.110(1)(a) for interfering with, restraining, or coercing bargaining unit members in the exercise of their rights protected under RCW 41.80;
2. Violation of RCW 41.80.110(1)(c) for discriminating against bargaining unit members in regard to a term, condition, or benefit of employment for exercising their rights protected under RCW 41.80;

3. Violation of RCW 41.80.110(1)(e) for failing and/or refusing to bargain collectively and/or in good faith with the UWPOA and/or Local 117 (successor in interest) as the representative for affected bargaining unit members, including changing the status quo under RCW 41.80.010(7) and/or WAC 391-25-140(2); and

4. Violation of RCW 41.80.110(1)(a) for derivative interference in relation to the aforementioned violations of RCW 41.80.110.

### **REMEDY REQUESTED**

The Union requests the following remedies for the aforementioned violations:

1. Findings of fact and conclusions of law consistent with the foregoing;
2. An order holding that the Employer has violated RCW 41.80.110(1)(a) by interfering with, restraining, or coercing bargaining unit members in the exercise of their rights protected under RCW 41.80;
3. An order holding that the Employer has violated RCW 41.80.110(1)(c) by discriminating against bargaining unit members in regard to a term, condition, or benefit of employment for exercising their rights protected under RCW 41.80;
4. An order holding that the Employer has violated RCW 41.80.110(1)(e) by failing and/or refusing to bargain collectively and/or in good faith with the UWPOA and/or Local 117 (successor in interest) as the representative for affected bargaining unit members, including changing the status quo under RCW 41.80.010(7) and/or WAC 391-25-140(2);
5. An order holding that the Employer has violated RCW 41.80.110(1)(a) by committing derivative interference for each of the violations of RCW 41.80.110 contained herein;

6. A make-whole award including, but not limited to, back pay and benefits, for any bargaining unit member(s) subject to any of the unlawful behavior alleged herein;
7. An order requiring the Employer to return to the *status quo ante* and precluding the Employer from continuing to engage in any of the unlawful behavior alleged herein;
8. An order requiring the Employer to comply with the appropriate notice, posting, publication, and reading of the findings;
9. An order to award the Union reimbursement of attorneys' fees and costs associated with bringing this action and any additional proceedings from this case; and
10. Such other relief that the Commission deems just and equitable.

RESPECTFULLY SUBMITTED this 13<sup>TH</sup> day of December, 2011.



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*Attorney for Complainant*

**CERTIFICATE OF SERVICE**

I certify that on this 13<sup>th</sup> day of December 2011, I caused the original of Teamsters Local Union No. 117's Amended Complaint Charging Unfair Labor Practices (with attachments) to be sent via email and first-class mail, postage prepaid to:

Public Employment Relations Commission  
P.O. Box 40919  
Olympia, WA 98504-0919  
[filing@perc.wa.gov](mailto:filing@perc.wa.gov)

and copies (with attachments) were sent via email and first-class mail, postage prepaid to:

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Maria N. Williams, Office Manager