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STATE OF OREGON
EMPLOYMENT RELATIONS BOARD

JUN 20 2016

Case No. UP-017-16

UNFAIR LABOR PRACTICE
COMPLAINT
Public Employment

EMPLOYMENT
RELATIONS BOARD

Date Filed 6/20/16

<p>COMPLAINANT Name, address, phone number, and e-mail address</p> <p>Klamath County Peace Officers' Association C/O Becky Gallagher. 245 West 5th Avenue Eugene, Oregon 97401 <u>Becky@FGLaborlaw.com</u> (541) 342-7820</p>	<p>COMPLAINANT'S REPRESENTATIVE Name, address, phone number, and e-mail address, if applicable</p> <p>Becky Gallagher 245 West 5th Avenue Eugene, Oregon 97401 <u>Becky@FGLaborlaw.com</u> (541) 342-7820</p>
<p>RESPONDENT Name, address, phone number, and e-mail address</p> <p>Klamath County Daneen Dale, Human Resources Director 05 Main Street, Government Center #216 Klamath Falls OR 97601-6332 <u>ddail@co.klamath.or.us</u> (541)883-4296</p>	<p>RESPONDENT'S REPRESENTATIVE Name, address, phone number, and e-mail address, if applicable</p> <p>Adam Collier, Esq. 200 SW Market St., Suite 1900 Portland, Oregon 97201 <u>acollier@bullardlaw.com</u> 503.248.1134</p>

Complainant alleges that Respondent has committed an unfair labor practice under ORS 243.672(1) (A), and ORS 243.672(1) (B) of the Public Employee Collective Bargaining Act. The following is a clear and concise statement of the facts involved in each alleged violation, followed by a specific reference to the section and subsection of the law allegedly violated. (For each claim, specific dates, names, places, and actions. Attach copies of main supporting documents referred to in the statement of claims.)

SEE ATTACHED.

I certify that the statements in this complaint are true to the best of my knowledge and information.

By: *Becky Gallagher*
Signature of Complainant or Complainant's Representative

attorney *6/17/16*
Title Date

1 based on observations and complaints relating to use of excessive force and misconduct. Sheriff Skrah
2 continued in his duties as Sheriff and the complaint was referred to an investigator at the Oregon
3 Department of Justice. On or about August of 2015, seven KCPOA deputies were placed on
4 administrative leave during the course of the investigation because these deputies felt that the Sheriff
5 had created a hostile work environment. See Ex. 1.

6 5.

7 On or about May 21, 2015, KCPOA filed an Unfair Labor Practice Complaint (ULP) alleging
8 that Sheriff Skrah's actions in May 2015 interfered with KCPOA President Krag's ability to represent
9 the KCPOA members and enforce the CBA between the parties. Sheriff Skrah's actions included
10 changing Cpl. Krag's shift (start and stop times), initiating an IA on Cpl. Krag and issuing letters of
11 instruction all after Cpl. Krag filed complaints about the Sheriff. Sheriff Skrah issued a letter to Cpl.
12 Krag that he didn't understand his "approach to being President of KCPOA." See Ex. 2.

13 6.

14 KCPOA's ULP resulted in the County stipulating to the allegations that an unfair labor practice
15 was committed and the County transferred supervisory duties to Chief Deputy Rowley. See Ex. 3.

16 7.

17 On or about September of 2015, nine misdemeanor counts were filed against Sheriff Skrah,
18 including harassment, attempted assault in the fourth degree, assault in the fourth degree, official
19 misconduct, and strangulation. See Ex. 4. This indictment was the result of the investigation prompted
20 by KCPOA President Krag's complaint against Sheriff Skrah's actions.

21 8.

22 On or about December of 2015 Cpl. Krag suffered an off-duty accident. Prior to undergoing
23 surgery for his injury he discussed with Chief Deputy Rowley as well as Human Resources that he
24 intended to return to work after the surgery. He made this request prior to his surgery, and Chief Deputy
25 Rowley had no issue with the light duty. After his surgery, on or about January 8, 2016, he requested to
26 return to work in a light duty capacity as planned and Chief Deputy Rowley again had no issue with it.
27
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1 Human Resources requested a list of his duties and Cpl. Krag believed the return to work was approved.
2 Then, Chief Deputy Rowley informed him the request was being denied because the Sheriff was angry
3 over the marine's diversion program. On or about mid-January 2016 Sheriff Skrah denied Cpl. Krag's
4 return to work in a light duty capacity. Sheriff Skrah was not Cpl. Krag's supervisor. KCPOA filed a
5 grievance over this denial of an approved light duty schedule by Sheriff Skrah. Sheriff Skrah denied this
6 grievance on March 8, 2016. See Ex. 5.

7
8 9.

9 On or about April 7, 2016, KCPOA President Daren Krag attended a performance evaluation
10 meeting with his supervisor, Chief Deputy Marty Rowley. Cpl. Krag received an evaluation at that
11 meeting, which rated him as "needs improvement" in the areas of "serves as a role model" and
12 "contributes to good morale." This evaluation also noted "Cpl. Krag had one sustained IA during this
13 evaluation period, and three letters of instruction from the Sheriff." See Ex. 6. In this meeting Chief
14 Deputy Rowley stated that the evaluation provided was not the evaluation that he had initially prepared.
15 Chief Deputy Rowley noted that he received "orders" from Sheriff Frank Skrah to alter the evaluation
16 from what he had, which was "exceeds standard" in those two categories – they highest rating available.
17 These "orders" required Chief Deputy Rowley to reduce KCPOA President Krag's assessment to "needs
18 improvement" in the categories of being a role model and contributing to good morale, and to include
19 the reference to the prior IA and letters of instruction – both of which the County had already admitted
20 amounted to an Unfair Labor Practice and therefore should not have even been mentioned. Chief
21 Deputy Rowley's original evaluation notes at the top "My eval prior to direction from 01." See Ex. 7.

22
23 10.

24 On or about June 3, 2016 Sheriff Skrah confronted the Justice Court clerk Bonnie Murdock
25 about a life jacket diversion program Cpl. Krag had been working on since last year. Sheriff Skrah
26 alleged that the Marine Patrol was "fixing tickets" and "taking money." Sheriff Skrah claimed to know
27 nothing of the program, alleging that KCPOA President Krag was someone setting policy to take
28 money. Krag had kept Chief Deputy Rowley informed on this program as early as October 2015. Once

1 his supervisor was changed to Sgt. Frank he continued to keep him informed. Chief Deputy Rowley
2 informed the Sheriff of the program in January 2016 when Krag was to return in a light duty capacity
3 after his surgery in part to work on the program. When Sheriff Skrah denied Krag the ability to work
4 light duty in January 2016 he informed Chief Deputy Rowley it was in part to prevent him from working
5 on this program. Due to Sheriff Skrah's interference beginning June 3, 2016, the Oregon State Marine
6 Board (OSMB) now wants to pull its support for Klamath County's Marine Division for this program.
7 Prior to this most recent interference by the Sheriff, he had asked KCPOA President Krag if he could
8 attend a KCPOA membership meeting in February 2016. Krag refused and said it was not appropriate,
9 but agreed to meet with him in person to address his concerns (both labor/management issues and
10 personal issues). After the June 3, 2016 confrontation with Ms. Murdock in the morning, the Sheriff
11 ordered Krag to attend a meeting at 1500 hours that day. Krag asked for Shanna Shepherd (Human
12 Resources manager) to attend the meeting with him due to the continued retaliation and bullying by
13 Sheriff Skrah. She agreed but Sheriff Skrah refused to allow her to attend and continued with his order
14 that Krag attend alone. The Sheriff brought Sgt. Frank, yet refused to allow an HR representative at the
15 meeting where he accused Cpl. Krag of various wrongdoings with the program. On June 7, 2016 the
16 OSMB contacted Cpl. Krag and encouraged him to make sure he had the support of his Sheriff on this
17 program. They explained something must have happened over the weekend as the Director was getting
18 calls from attorneys and sheriffs about the program. This was copied to Krag's colleagues from other
19 counties working on the program, causing him embarrassment. This was all due to the Sheriff's calls
20 questioning this program, in line with his continued harassment of KCPOA President Daren Krag.
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COUNT ONE

11.

Sheriff Skrah's actions in paragraph 8 above of refusing to allow KCPOA President Daren Krag to return in a light duty capacity after his surgery in January 2016, in spite of the Chief Deputy's prior approval, are a direct result of, and retaliation for, Krag representing his members and himself through filing grievances, a ULP, and the complaint that led to the Sheriff's indictment in September of 2015.

COUNT TWO

12.

Sheriff Skrah's actions in paragraph 9 above of giving Chief Deputy Rowley orders to alter KCPOA President Krag's evaluation on April 7, 2016 was in response to KCPOA President Krag actively representing his members through filing grievances, a ULP, and from initiating, in good faith, a complaint that eventually resulted in the criminal indictment of the Sheriff as explained above.

COUNT THREE

13.

Sheriff Skrah's actions in paragraph 10 above of disparaging KCPOA President Krag from June 3-7, 2016, accusing him of "fixing tickets" and "taking money," and refusing to allow his Marine Division program to proceed as planned, are additional acts of retaliation and intimidation in response to Cpl. Krag's representation of his members.

14.

ORS § 243.672(1)(a) makes it an unfair labor practice for a public employer to "interfere with, restrain or coerce employees in or because of the exercise of rights guaranteed by ORS 243.662." ORS § 243.672(1)(b) makes it an unfair labor practice to "dominate, interfere with or assist in the formation, existence or administration of any employee organization."

15.

1
2 The above actions in Counts 1-3 by Sheriff Skrah were taken to chill, impede, retaliate against,
3 and interfere with KCPOA Union business and KCPOA President Krag. His actions as KCPOA
4 President are what directly led to the Sheriff denying his light duty, altering his evaluation, and objecting
5 to the diversion program while alleging Krag is taking money.

6
7 16.

8 Sheriff Skrah's actions were in retaliation to KCPOA President Krag's union activity and
9 advocacy of his union member rights, as well as his own union rights. KCPOA President Krag has
10 raised concerns regarding Sheriff Skrah's fitness for duty and has pursued his and his union's rights
11 through a prior ULP and grievances. Sheriff Skrah's response has been a continuous and arbitrary
12 framing of KCPOA President Krag as negatively affecting morale for merely lawfully executing his
13 duties as KCPOA President. This response is in retaliation to KCPOA Krag's exercise of rights arising
14 both "in" and "because of" the Public Employees' Collective Bargaining Act (PECBA) and is a direct
15 violation of ORS 243.672(1)(a). Sheriff Skrah's orders were clearly meant to chill KCPOA President
16 Krag's efforts at enforcing the CBA and other statutory rights. Sheriff Skrah's orders to deny light duty,
17 alter the evaluation and attempts to stop the diversion program were a violation of the "in exercise of"
18 his protected rights.

19
20 17.

21 For the above stated reasons, Sheriff Skrah's actions also interfered with the administration of
22 the KCPOA and therefore violated ORS § 243.672(1)(b). By unilaterally ordering that a supervisor
23 change the evaluation already prepared for KCPOA President Krag by Chief Deputy Rowley, Sheriff
24 Skrah is asserting that involvement with Union activity critical of Sheriff Skrah will be responded to
25 with a poor evaluation even if a direct supervisor does not agree with such evaluation. He is also
26 warning members that light duty will be denied and programs beneficial to the department and their
27 career will be ceased, along with public embarrassment.

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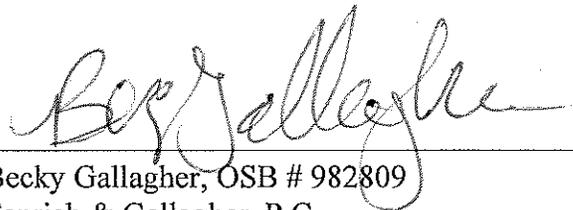
18.

Complainant KCPOA is entitled to its representation costs.

19.

WHEREFORE, the complainant KCPOA requests the Board for its order finding that the Respondent has violated ORS 243.672(1)(a) and (b) in Counts 1, 2, and 3, for the Complainant's costs of representation incurred herein, and for such other relief as will make Complainant whole in this matter.

Respectfully submitted this 17th day of June, 2016.



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