STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 521, Charging Party, v. COUNTY OF SANTA CLARA, Respondent.	Case No. SF-CE-1428-M PERB Decision No. 2680-M October 31, 2019

Appearances: Weinberg, Roger & Rosenfeld, by Anthony Tucci, Attorney, for Service Employees International Union Local 521; Nancy J. Clark, Deputy County Counsel, for County of Santa Clara.

Before Banks, Shiners, and Krantz, Members.

DECISION

BANKS, Member: This case is before the Public Employment Relations Board (PERB or Board) on exceptions by Service Employees International Union, Local 521 (SEIU) and cross-exceptions by the County of Santa Clara (County) to a proposed decision of an administrative law judge (ALJ). The complaint alleged that the County unilaterally removed bargaining unit work from SEIU by staffing the Valley Health Center Downtown clinic (VHCD) with a deputy sheriff during the swing shift, rather than a Protective Service Officer (PSO), in violation of the Meyers-Milias-Brown Act (MMBA)[1] and PERB Regulations.[2] The

[1] The MMBA is codified at Government Code section 3500 et seq. Unless otherwise specified, all statutory references herein are to the Government Code.

[2] PERB Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

ALJ concluded that the County's action was outside the scope of representation and dismissed the complaint and underlying unfair practice charge.

We have reviewed the entire record in this matter and considered the parties' arguments in light of applicable law. Based on this review, we affirm the ALJ's conclusion that the County had no obligation to meet and confer with SEIU over its staffing decision, but reverse the dismissal of the complaint because the County was obligated to meet and confer with SEIU over the foreseeable negotiable effects of its staffing decision.

FACTUAL BACKGROUND[3]

SEIU is an employee organization within the meaning of section 3501, subdivision (a), and the exclusive representative of a bargaining unit of public employees within the meaning of PERB Regulation 32016, subdivision (b). The County is a public agency within the meaning of section 3501, subdivision (c).

The County operates a comprehensive public health delivery system that includes primary care clinics, mental health inpatient and outpatient facilities, and a level one trauma center hospital. The hospital, Santa Clara Valley Medical Center, sits on a large campus of facilities in San Jose adjacent to the streets of Bascom and Moorpark. The primary care clinics are located throughout the county, including in San Jose, Gilroy, Milpitas, and Sunnyvale.

At the time of the formal hearing in this matter, the County employed approximately 50 PSOs. PSOs work in the Department of Protective Services and are included in SEIU's bargaining unit. As non-sworn officers, PSOs do not carry firearms. They wear uniforms similar to peace officers, but instead of peace officer badges, the uniforms display identifying patches. To carry out their security duties, PSOs possess handcuffs, pepper spray, a radio, and

[3] Since neither party excepted to the ALJ's factual findings, we incorporate them here largely undisturbed.

a collapsible baton weapon. Some are assigned to patrol cars. PSOs receive a limited eight hours of total training on violent incident intervention. They only have the right to make a citizen's arrest, viz., for probable cause for felonies, or misdemeanors committed in their presence. PSOs are instructed to call the security department's dispatcher to request peace officer assistance in the event of a potentially violent incident.

At various times over the last 30 years, the County has employed PSOs to provide security services at the clinics and the hospital. At the hospital, the County schedules PSOs in three shifts so as to maintain around-the-clock coverage. In general, the day shift is 6:00 a.m. to 2:30 p.m., the swing shift is 2:00 p.m. to 10:30 p.m., and the night shift is 10:00 p.m. to 6:30 a.m. Assignments at the hospital are differentiated between beats and posts. A PSO with a beat patrols an area of the campus, sometimes in a patrol car, covering parking structures and streets. A PSO with a post is assigned to a desk or work area in a building.

The County operates 15 clinics, five of which have a day and swing shift, with the remainder having only a day shift. A biannual, seniority-based shift bid allows PSOs to choose their shifts and locations.

History of Placing Deputy Sheriffs at the County Hospital

In the 1980s, the County contracted with the Santa Clara County Office of the Sheriff to have deputy sheriffs perform security detail at the hospital. That contract ended in 1995, at which time the County assigned PSOs in three shifts to cover the Emergency Department. At the time of the formal hearing in this matter, there was one PSO per shift assigned to the Emergency Department. He is stationed at a desk in the triage or intake area. His principal function is to control access to the treatment area, allowing patients and visitors to pass

through a secured door. He is also responsible for escorting patients, maintaining valuables, and responding to incidents.

In 2013 or 2014, the County decided to contract with the Sheriff's Office to have a deputy sheriff assigned to the Emergency Department.[4] The decision was based on an overall rise in the number of violent incidents in the Emergency Department. County Director of Clinical and Support Services Gilbert Gutierrez (Gutierrez), who serves as the executive manager over the Department of Protective Services and other ancillary hospital departments, presented the recommendation to his superior, Chief Executive Officer Paul Lorenz (Lorenz). Lorenz approved the plan, citing safety as the primary rationale and accepting the additional cost as justified. The County solicited input from the nurses' union, the managers' union, and SEIU regarding its proposal to place a deputy sheriff in the Emergency Department. SEIU did not oppose the decision.

The deputy sheriff placement at the Emergency Department began with five-day coverage (Friday through Tuesday) from 6:00 p.m. to 2:00 a.m.[5] The addition of the deputy augmented and did not supplant the work of the PSO. A PSO remained assigned to the intake area. The deputy did not have an assigned location. After two successive violent incidents—the second involving an attack on an intake worker after a plexi-glass barrier had been removed—the County expanded coverage to every day during peak hours. Following the change, the number of incidents dropped by 44 percent.

[4] The record contains conflicting testimony about when the decision was made. Because the date of the decision is not material to any of the issues before us, we need not resolve the conflict.

[5] The evening and weekend hours logically correspond to times when trauma incidents increase due to drinking, drug use, and domestic violence.

Deputy sheriffs wear the force's standard uniform and carry a firearm. They complete peace officer academy training and undergo the stringent peace officer background check prior to employment. The academy training includes training on use of force and identification of criminal offenses. Unlike PSOs, deputy sheriffs have full authority to make arrests based on probable cause and to detain citizens based on reasonable suspicion. Deputy sheriffs have access to the same communication channel as the PSOs. Despite conflicting testimony about the deterrence impact of PSOs on one hand and deputy sheriffs on the other, the evidence of the drop in incidents after the 2013/2014 change at the Emergency Department supports the County's testimony that the presence of a deputy sheriff offers a greater deterrence effect.

Decision on Security Staffing at VHCD

The County acquired a site at 777 East Santa Clara Street in San Jose for a new primary care clinic, which would become known as VHCD. Construction was completed in March 2016, but the facility did not open for service until June 2016. The clinic was located adjacent to the Recovery Assessment and Intake Center (RAIC), a County social services agency facility for at-risk children, which eventually closed. A deputy sheriff had been assigned to provide security services at RAIC, though like the Emergency Department this was supplemental to a PSO.

During the construction period, the County assigned a PSO to guard VHCD because of the need to protect the site's fixtures and equipment as construction was completed. Sheriff Department Lieutenant Erick Bourassa (Bourassa), the County's Director of Protective Services, assessed the security staffing that would be appropriate once VHCD opened. Based on a crime statistics report covering a quarter-mile radius around the clinic, Bourassa recommended assigning a deputy sheriff to the clinic for the swing shift from 2:00 p.m. to

10:30 p.m.[6] The area is within the jurisdiction of the San Jose Police Department (SJPD), but based on his experience Bourassa believed SJPD would not respond quickly to incidents at VHCD. He was particularly concerned about SJPD's limited patrolling in the area despite the high level of crime. The clinic was scheduled to be open during evening and weekend hours, owing to its urgent care services. Bourassa attended a town-hall meeting where members of the community requested a higher level of security. Gutierrez and Lorenz adopted Bourassa's recommendation. The County decided to proceed with staffing the swing shift with a deputy sheriff, without a PSO. Gutierrez did not provide SEIU with notice of the staffing decision because he did not believe the deputy sheriff would be performing bargaining unit work.[7]

SEIU presented documentary evidence that PSOs covered some swing shifts at VHCD even after it opened, if no deputy sheriff was available. This evidence does not change the fact that, as a matter of policy, the County made a firm decision to assign a deputy sheriff as the regular swing shift security presence, in lieu of a PSO, once the clinic opened. According to testimonial evidence, the security work of PSOs and deputy sheriffs at VHCD is the same in

[6] Although Bourassa did not review a similar neighborhood crime statistics report for other clinics as a basis for comparison, he was confident that the other clinics were not situated in areas with a similar crime problem. The record demonstrates, for example, that during or about the period relevant to this matter, there were a number of nearby parking lot crimes involving stolen vehicles and an incident when several minors were locked in a car at VHCD.

[7] Likewise, SEIU Representative Andrea Hightower testified that she did not receive advance notice of the County's decision to contract for deputy sheriff services at VHCD. Steward Wally Lawton (Lawton) learned of the County's decision from PSOs who were staffed at VHCD. Shortly after VHCD opened, PSOs complained to Lawton that the County had taken one of their two positions and assigned it to a deputy sheriff. Lawton, in turn, communicated this information to his worksite organizer, who attempted to arrange a meet and confer with the County. A meet and confer never took place.

most key respects—checking on clinic staff, securing the premises, and preventing and deterring crimes.[8]

DISCUSSION

The Board reviews exceptions to a proposed decision de novo and is free to reach different factual and legal conclusions than those of the ALJ. (*City of Milpitas* (2015) PERB Decision No. 2443-M, p. 12.) Both SEIU and the County excepted to the ALJ's application of the three-prong test from *Claremont Police Officers Assn v. City of Claremont* (2006) 39 Cal.4th 623 (*Claremont*), arguing different reasons why the proposed decision misapplied the test. SEIU also excepted to the ALJ's finding that the management decision at issue was outside the scope of representation. The County asserts this finding was correct.

1. The County's Decision to Staff the Swing Shift with a Deputy Sheriff

The MMBA requires public employers to meet and confer in good faith with recognized employee organizations on matters that fall within the "scope of representation." (§§ 3504, 3505.) An employer commits a per se violation of its duty to bargain if it fails to afford its employees' representative reasonable advance notice and a meaningful opportunity to bargain before reaching a firm decision to create or change a policy affecting a negotiable subject. (*County of Kern* (2018) PERB Decision No. 2615-M, pp. 4-5.)

To demonstrate an unlawful unilateral change, the charging party must show: (1) the employer took action to change policy; (2) the action had a generalized effect or continuing impact on terms and conditions of employment; (3) the action was taken without giving the

[8] The record demonstrates one limited distinction between the PSOs and deputy sheriff assigned to VHCD. PSOs are generally stationed at the front entrance of the clinic but patrol the perimeter and escort staff to their cars. Deputy sheriffs oversee the premises while focusing more on the parking lot. This minimal difference pales in comparison with the numerous similarities between the classifications' security work itself.

exclusive representative notice or opportunity to bargain over the change; and (4) the change in policy concerned a matter within the scope of representation. (*Fairfield-Suisun Unified School District* (2012) PERB Decision No. 2262, p. 9.)

The proposed decision correctly found that the County's actions satisfied the first three elements of the inquiry. First, the County's decision to staff the swing shift at VHCD with a deputy sheriff constituted a change in policy. Until VHCD opened in June 2016, the County had never employed a deputy sheriff in a security capacity at any of its community clinics; instead, it exclusively employed PSOs to perform this security work.[9]

Second, the County's decision to place a deputy sheriff on the swing shift at VHCD necessarily displaced a PSO who would have been assigned to that shift. Although no PSO in particular was displaced because VHCD had newly opened, the County's action had a generalized effect and continuing impact on terms and conditions of employment inasmuch as the bargaining unit suffered the ongoing loss of work opportunities and collective strength. (See, e.g., *Arcohe Union School District* (1983) PERB Decision No. 360, pp. 5-6 [diminution of unit work impacts collective strength of employees in the unit].) Third, operating on the belief that the matter was not negotiable, the County failed to provide notice to SEIU before deciding to staff the swing shift with a deputy sheriff. SEIU learned of the County's change only when PSOs assigned to VHCD observed a deputy sheriff performing security duties there. Where an exclusive representative becomes aware of an employer's proposed policy change

[9] Prior to VHCD's opening, the sole instance in which the County assigned deputy sheriffs to provide security services was at the Emergency Department. The deputy sheriff's duties at the hospital, however, are supplemental to and distinct from those of PSOs. The addition of a deputy sheriff to the Emergency Department did not displace any PSOs, and the County continued to assign PSOs to work alongside the deputy sheriffs. We thus agree with the proposed decision that security staffing at VHCD was not the same as security staffing at the Emergency Department.

after implementation of that change, by definition, there has been inadequate notice. (*City of Sacramento* (2013) PERB Decision No. 2351-M, p. 33.)

We depart from the proposed decision's analysis of the final prong, albeit not from its conclusion. In considering whether the County's staffing decision was within the scope of representation, the ALJ relied upon *Claremont*. (*Claremont, supra*, 39 Cal.4th 623.) *Claremont* extended the applicability of the balancing test for negotiability of fundamental managerial or policy decisions—derived from the U.S. Supreme Court's balancing test in *First National Maintenance Corp. v. NLRB* (1981) 452 U.S. 666 (*First National Maintenance*)—to circumstances where the "implementation of a fundamental managerial or policy decision significantly and adversely affects a bargaining unit's wages, hours, or working conditions." (*Claremont, supra*, 39 Cal.4th at p. 637.) Under these circumstances, a managerial action would be "within the scope of representation only if the employer's need for unencumbered decisionmaking in managing its operations is outweighed by the benefit to employer-employee relations of bargaining about the action in question." (*Id*. at p. 638.)

The California Supreme Court subsequently clarified the applicability of the balancing test in *International Association of Firefighters, Local 188, AFL-CIO v. Public Employment Relations Bd.* (2011) 51 Cal.4th 259 (*Richmond Firefighters*). There, the court delineated three categories of managerial decisions: (1) "decisions that 'have only an indirect and attenuated impact on the employment relationship' and thus are not mandatory subjects of bargaining" such as advertising, product design, and financing; (2) "decisions directly defining the employment relationship, such as wages, workplace rules, and the order of succession of layoffs and recalls . . . [which] are always mandatory subjects of bargaining"; and (3) "management decisions that directly affect employment, such as eliminating jobs, but nonetheless may not be

mandatory subjects of bargaining because they involve 'a change in the scope and direction of the enterprise' or, in other words, the employer's 'retained freedom to manage its affairs unrelated to employment.'" (*Id*. at pp. 272-273.) The *First National Maintenance* balancing test applies only to the third category of managerial decisions. (*Id*. at p. 273.)

In *County of Orange* (2018) PERB Decision No. 2594-M, we adopted the *Richmond Firefighters* framework for determining whether a managerial decision is subject to a meet and confer obligation under the MMBA. (*Id.* at pp. 17-20.) Applying that test, we find the County's decision to install a deputy sheriff instead of a PSO on the swing shift directly affected employment because it diminished the number of PSO jobs in the unit.[10] Such diminution impacts the unit as a whole. (*Building Material & Construction Teamsters' Union v. Farrell* (1986) 41 Cal.3d 651, 664 (*Farrell*); *Arcohe Union School District*, *supra*, PERB Decision No. 360, pp. 5-6.)[11] As discussed below, however, we also find that the decision involved the County's freedom to manage its affairs unrelated to any employment-specific concerns. Under the above-described test, bargaining would be required only if the benefit for labor-management relations and the collective bargaining process outweighs the burden placed on the County.

[10] We do not find the County's action to be one that directly *defined* the employment relationship. Such decisions are defined by their nature as "an aspect of the relationship," like work rules, the order of succession of layoffs, or promotional procedures and criteria. (See *First National Maintenance*, *supra*, 452 U.S. at p. 677; *County of Orange* (2019) PERB Decision No. 2663-M, p. 7.)

[11] In its sole cross-exception, the County argues that the decision to staff the swing shift at VHCD with a deputy sheriff had no effect on SEIU's bargaining unit because deputies do not perform the same duties as PSOs. The record demonstrates, however, that the deputy sheriff assigned to VHCD performed the same duties a PSO would, and that on numerous occasions PSOs worked the swing shift when a deputy was unavailable. We thus agree with the proposed decision that assignment of a deputy sheriff to that shift displaced a PSO position.

The ALJ found that the County demonstrated a legitimate concern for the health and safety of its employees and the public, given VHCD's location in an area with a high level of crime and the potential lag time before SJPD officers might respond to a call for assistance. Unlike PSOs, deputy sheriffs carry firearms and possess full authority to make arrests. The County's experience with the decline in security incidents at the Emergency Department after placing a deputy sheriff on the swing shift supported the theory that a peace officer's presence created a deterrence effect. We agree with the ALJ that the County's concern for employee and patient safety outweighed the benefits of bargaining in this instance. (See *Farrell*, *supra*, 41 Cal.3d at p. 664, citing *San Jose Police Officer's Assn. v. City of San Jose* (1978) 76 Cal.App.3d 935, 948-949 [a city need not bargain over a decision to change its police department's policy on deadly force, because the public safety aspects of the decision outweigh the employment-related aspects of the decision].) Accordingly, the County did not violate its duty to meet and confer by failing to bargain with SEIU over the decision to staff the swing shift at VHCD with a deputy sheriff rather than a PSO.

2. Effects of the County's Decision to Staff the Swing Shift with a Deputy Sheriff

Our conclusion that the County's staffing decision was not negotiable does not end our inquiry, however.[12] We have long held that the MMBA's duty to bargain extends to the

[12] Although the complaint alleged, inter alia, that the County failed to meet and confer with SEIU over the effects of the decision to staff the swing shift at VHCD with a deputy sheriff instead of a PSO, the proposed decision did not address SEIU's effects bargaining claim and SEIU did not specifically except to that omission. Nonetheless, SEIU's exceptions repeatedly reference the alleged loss of bargaining unit work resulting from the County's staffing decision. Typically, an issue to which neither party excepts is not before the Board on appeal. (*County of Orange* (2018) PERB Decision No. 2611-M, p. 2, fn. 2.) The Board, however, may exercise its discretion to review matters not excepted to when an erroneously decided issue is closely intertwined with the issues raised in a party's exceptions. (*City of Davis* (2018) PERB Decision No. 2582-M, p. 10, fn. 4.) We thus exercise our discretion to

implementation and effects of a decision that has a foreseeable effect on matters within the scope of representation, even where the decision itself is not negotiable.[13] (*City of Sacramento*, *supra*, PERB Decision No. 2351-M, p. 17; *County of Santa Clara* (2013) PERB Decision No. 2321-M, pp. 21-22; *South Bay Union School District* (1982) PERB Decision No. 207a, p. 2; see also *Richmond Firefighters*, *supra*, 51 Cal.4th at p. 277.) In both contexts—a decision involving a negotiable subject or a negotiable effect of a non-negotiable decision—the employer's obligations are the same. Thus, an employer must provide notice and a meaningful opportunity to bargain over the reasonably foreseeable effects of its decision before implementation, just as it would be required to do before making a decision on a mandatory subject of bargaining. (*City of Sacramento*, *supra*, PERB Decision No. 2351-M, p. 17; *County of Santa Clara*, *supra*, PERB Decision No. 2321-M, p. 22.) By the same token, a union is not required to demand to bargain effects where, as here, the employer has failed in its duty to provide notice prior to implementing the change. (*County of Santa Clara*, *supra*, PERB Decision No. 2321-M, pp. 21, 30; *Bellflower Unified School District* (2017) PERB Decision No. 2544, adopting proposed decision at p. 22; *Claremont*, *supra*, 39 Cal.4th at p. 633.)

We have noted that a failure or refusal to bargain over effects of a non-negotiable change is no less harmful than a failure to bargain over a negotiable change. (*County of Santa Clara*, *supra*, PERB Decision No. 2321-M, p. 22.) In either case, the violation "disrupts and destabilizes employer-employee relations and is inconsistent with the goals of our statutes to

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consider whether the County had, and if so breached, an obligation to bargain over foreseeable effects of its non-negotiable staffing decision.

[13] The limited exceptions to this rule, such as for waiver by the union, impasse, and emergency situations, are not applicable here.

improve both employer-employee relations and communications between public employers and their employees." (*Id.* at pp. 22-23.) Because decision bargaining and effects bargaining promote the same purpose, the harm that flows from a violation of the duty to bargain either is equally odious. (*Id.* at p. 24 [effects bargaining "is just as important as bargaining over a decision to alter terms and conditions of employment"].) Chief among these harms are disrupting a union's ability to effectively represent its members and tipping the balance of power between management and employee organizations. (*Id*. at p. 23.)

Applying well-established law, we find that while the County was entitled to unilaterally decide to staff the swing shift at VHCD with a deputy sheriff rather than a PSO, it was required to provide SEIU with notice and an opportunity to bargain the reasonably foreseeable effects of its decision *before* it implemented the change. Electing to staff the swing shift with a deputy sheriff instead of a PSO had foreseeable effects on wages, hours, and other terms and conditions of employment for PSOs, specifically diminution in collective strength of the unit and the loss of hours and overtime opportunities. (See *Eureka City School District* (1985) PERB Decision No. 481, p. 17 [reduction in hours is mandatory subject of bargaining]; *Compton Unified School District* (1989) PERB Decision No. 784, p. 5 [diminution of overtime opportunity is mandatory subject of bargaining].) We also find that SEIU could not have waived its right to bargain as the County provided no advance notice to SEIU of its decision. For these reasons, we conclude that the County violated its duty under the MMBA to bargain in good faith. (*County of Santa Clara, supra*, PERB Decision No. 2321-M, p. 31.)

REMEDY

The standard remedy for an employer's unlawful unilateral change usually consists of a cease and desist order, make-whole relief for employees injured by the change, rescission of the change, and a bargaining order. (*Pasadena Area Community College District* (2015) PERB Decision No. 2444, pp. 23-24; *Solano County Community College District* (1982) PERB Decision No. 219, pp. 17-18.) Where an employer's violation involved a failure to bargain effects, make-whole relief runs from the date any impacted employee began to experience harm until the earliest of: (1) the date the parties reach an agreement as part of complying with our effects bargaining order; (2) the date the parties have reached impasse and exhausted any post-impasse procedures that may be required or agreed upon; or (3) failure by the union to bargain in good faith. (*Bellflower Unified School District* (2014) PERB Decision No. 2385, p. 14.) Here, we do not order even this limited make-whole remedy, as the record does not reflect that any SEIU-represented employee was impacted or that any non-bargaining unit deputy sheriff assigned to VHCD was compensated less generously than the PSO rate. Although a "bargaining unit can be adversely affected without any immediate adverse effect on any particular employee within that unit" (*Farrell*, *supra*, 41 Cal.3d at p. 662), SEIU requested no make-whole remedy for such harms.

ORDER

Upon the foregoing findings of fact and conclusions of law, and the entire record in the case, it is found that the County of Santa Clara (County) violated the Meyers-Milias-Brown Act, Government Code sections 3503, 3505, 3506, and 3506.5, subdivisions (a), (b), and (c), and Public Employment Relations Board (PERB) Regulation 32603, subdivisions (a), (b), and (c) when it unilaterally staffed the swing shift at Valley Health Center Downtown clinic with a

deputy sheriff, rather than a Protective Service Officer (PSO), without providing the Service Employees International Union, Local 521 (SEIU) reasonable notice and an opportunity to bargain over the effects of the decision.

Pursuant to section 3509, subdivision (b) of the Government Code, it is hereby ORDERED that the County, its governing board, and its representatives shall:

A. CEASE AND DESIST FROM:

1. Failing and refusing to meet and confer in good faith with SEIU by unilaterally deciding the extent to which the County will use deputy sheriffs in lieu of PSOs, without giving SEIU reasonable notice and an opportunity to bargain over foreseeable effects of the decision.

2. Denying SEIU its right to represent employees.

3. Interfering with the right of bargaining unit employees to be represented by the employee organization of their choosing.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE ACT:

1. At the request of SEIU, bargain in good faith over the foreseeable effects of any decision to employ a deputy sheriff in lieu of a PSO to provide security services at any of the County's clinics.

2. Within ten (10) workdays following the date this decision is no longer subject to appeal, post at all work locations where notices to County employees in the bargaining units represented by SEIU are customarily posted, copies of the Notice attached hereto as an Appendix. The Notice must be signed by an authorized agent of the County, indicating that it will comply with the terms of this Order. Such posting shall be maintained for a period of thirty (30) consecutive workdays. The Notice shall also be posted by electronic message,

intranet, internet site, and other electronic means customarily used by the County to communicate with employees in the bargaining units represented by SEIU. Reasonable steps shall be taken to ensure that the Notice is not reduced in size, altered, defaced or covered with any other material.

3. Written notification of the actions taken to comply with this Order shall be made to the General Counsel of the Public Employment Relations Board, or the General Counsel's designee. The County shall provide reports, in writing, as directed by the General Counsel or his designee. All reports regarding compliance with this Order shall be concurrently served on SEIU.

Members Shiners and Krantz joined in this Decision.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD
An Agency of the State of California

After a hearing in Unfair Practice Case No. SF-CE-1428-M, *Service Employees International Union, Local 521 v. County of Santa Clara*, in which all parties had the right to participate, it has been found that the County of Santa Clara (County) violated the Meyers-Milias-Brown Act (MMBA), Government Code section 3500 et seq., and PERB Regulations when it unilaterally staffed the swing shift at Valley Health Center Downtown clinic with a deputy sheriff, rather than a Protective Service Officer (PSO), without providing the Service Employees International Union, Local 521 (SEIU) reasonable notice and an opportunity to bargain over the effects of the decision.

As a result of this conduct, we have been ordered to post this Notice and we will:

A. CEASE AND DESIST FROM:

1. Failing and refusing to meet and confer in good faith with SEIU by unilaterally deciding the extent to which the County will use deputy sheriffs in lieu of PSOs without giving SEIU reasonable notice and an opportunity to bargain over foreseeable effects of the decision.

2. Denying SEIU its right to represent employees.

3. Interfering with the right of bargaining unit employees to be represented by the employee organization of their choosing.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE MMBA:

1. At the request of SEIU, bargain in good faith over the foreseeable effects of any decision to employ a deputy sheriff rather than a PSO to provide security services at any of the County's clinics.

Dated: _____ COUNTY OF SANTA CLARA

By: _____
Authorized Agent

THIS IS AN OFFICIAL NOTICE. IT MUST REMAIN POSTED FOR AT LEAST THIRTY (30) CONSECUTIVE WORKDAYS FROM THE DATE OF POSTING AND MUST NOT BE REDUCED IN SIZE, DEFACED, ALTERED OR COVERED WITH ANY OTHER MATERIAL.