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In the Matter of SHERIFF OF WORCESTER COUNTY<sup>1</sup>

and

MASSACHUSETTS CORRECTION OFFICERS  
FEDERATED UNION

Case No. MUP-1910

28.	<i>Relationship Between c. 150E and Other Statutes Not Enforced by Commission</i>
54.588	<i>dress and grooming standards</i>
54.8	<i>mandatory subjects</i>
65.23	<i>wearing buttons</i>
67.16	<i>other defenses</i>
67.162	<i>preemption by other legislation</i>
67.8	<i>unilateral change by employer</i>
82.3	<i>status quo ante</i>
92.6	<i>time limits</i>

January 11, 2001

Helen A. Moreschi, Chairwoman  
Mark A. Preble, Commissioner

Richard C. Van Nostrand, Esq. *Representing the Sheriff of  
Worcester County*

Joseph S. Fair, Esq. *Representing the Massachusetts  
Correction Officers  
Federated Union*

## DECISION<sup>2</sup>

### STATEMENT OF THE CASE

On July 14, 1997, the Massachusetts Correction Officers Federated Union (Union) filed a charge of prohibited practice with the Labor Relations Commission (Commission) alleging that the Sheriff of Worcester County (Sheriff) had violated Sections 10(a)(1) and (5) of M.G.L. c. 150E (the Law). Pursuant to Section 11 of the Law and Section 15.04 of the Commission's Rules, the Commission investigated the charge and, on June 9, 1998, issued its own Complaint of Prohibited Practice, alleging that, by prohibiting uniformed personnel from wearing non-regulation insignia, including union insignia, the Sheriff: 1) failed to bargain in good faith by unilaterally implementing a policy prohibiting the wearing of pins, in violation of Section 10(a)(5) and, derivatively, Section 10(a)(1) of the Law; and, 2) interfered with, restrained, and coerced its employees in the exercise of their rights under the Law, in violation of Section 10(a)(1) of the Law.

Pursuant to notice, Hearing Officer Ann T. Moriarty, Esq. conducted an evidentiary hearing on April 5, 1999. Both parties had a full opportunity to be heard, to examine and cross-examine

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1. This case was filed under the name *Worcester County*. Chapter 48 of the Acts of 1997 abolished the government of Worcester County as of July 1, 1998, or earlier if certain requirements were satisfied. Section 2 of Chapter 55 of the Acts of 1998 amended Chapter 48 of the Acts of 1997 by inserting after section 13, section 13A that provides in relevant part that: "An employee of a sheriff of an abolished county shall be an 'employee' or 'public employee' as defined in section 1 of chapter 150E

of the General Laws and the sheriff of such county shall be an 'employer' or 'public employer' as defined in said section 1 of said chapter 150E." The case is renamed to reflect the current employer within the meaning of the Law.

2. Pursuant to 456 CMR 13.02(1), the Commission has designated this case as one in which the Commission issues a decision in the first instance. 456 CMR 13.02(2).

witnesses, and to introduce evidence. The Commission received both parties' briefs on June 7, 1999. In accordance with Section 13.02(2) of the Commission's rules, the hearing officer issued recommended findings of fact on April 19, 2000. Neither party filed challenges to the hearing officer's recommended findings of fact. The Commission has reviewed the record and adopts the hearing officer's findings of fact.

### FINDINGS OF FACT<sup>3</sup>

The Worcester County House of Correction houses persons sentenced to not more than 2.5 years on a single count. The Worcester County Jail houses persons awaiting trial in Worcester County. The house of correction and the jail are located in the same geographic location. This combined correction facility has four designated security areas, maximum security, two medium security areas, and minimum security. The maximum security area, located in the main jail facility, houses detainees who are awaiting trial for murder, armed robbery, rape, and other serious crimes who are determined by the facility's classification system to be at maximum security risk. The medium security A area, also located in the main facility, houses both pre-trial detainees who are classified as posing a lesser security risk, and sentenced persons. Adjacent to the main facility is the medium security B area, known as the modular housing units, that were designed to house about 300 inmates, but now house about 560 inmates. One of these modular housing units is the "J" building that serves as the facility's segregation unit for about 90 inmates who are either disciplinary lock-ins, or classified as administrative lock-ins for suicide watch and other reasons. The minimum security area is located in an old converted nurses residence, separate from the main facility. It houses eighty (80) inmates and the work release unit. An annex houses 30-40 inmates who are employed in the community during the day and return to the facility at night.

The jail and house of correction facility was designed to house about 780 persons. Today, this combined correction facility houses twice its capacity, or between 1,260 to 1,300 persons, the majority of which have prior criminal records. The staff at the facility encounter and deal with serious security situations that may involve contraband items like cigarettes, illegal drug possession and use,

and gang related activity, including physical assaults, inside the facility.

The facility has a defined organization command structure, with the elected sheriff serving as the facility's superintendent. Next in line of authority is the deputy superintendent, followed by three first assistant deputy superintendents, several assistant deputy superintendents, captains, lieutenants, sergeants, permanent correction officers, and temporary correction officers. There are about 600 persons who work at the correction facility. Of these, about 350 correction officers are assigned to the housing units on three shifts, averaging about 56 to 58 correction officers on each shift who oversee an inmate population of about 1,250 prisoners.

Not all correction officers have regular inmate contact. Rather, correction officers experience different levels of inmate contact depending on their assigned work area. For example, correction officers assigned to perimeter patrol and outer control areas have no inmate contact. Correction officers assigned to the transportation unit have contact with the inmates only when they are transferred from one facility to another. Those assigned to the kitchen and housing units have the highest level of inmate contact.

Correction officers wear uniforms that are identical in color and style, except for temporary correction officers who are issued khaki uniforms.<sup>4</sup> Officers are subject to inspection by superior officers, and officers have been sent home if they were not in the proper uniform. In First Assistant Deputy Superintendent John Gabriel's<sup>5</sup> opinion, prisoners watch correction officers continually and closely to pick up any differences or tension between and among correction officers on the same or different shifts, and between correction officers and their supervisors. The prisoners then use these differences, however small, to attempt to create divisiveness between the correction officers, or to gain an advantage in small issues, like a slightly larger canteen. Further, according to First Assistant Deputy Superintendent Gabriel, any differences between correction officers that are identified by inmates, including wearing pins, whether union, ethnic, religious, or political, may be used by the inmates to manipulate correction officer conduct to their advantage.

On March 14, 1997, the Commission certified the Union as the exclusive representative of all correction officers and sergeants.<sup>6</sup>

3. The Commission's jurisdiction is uncontested.

4. The uniform worn by permanent correction officers, sergeants, lieutenants, captains, assistant deputy superintendents and first assistant deputy superintendents is a dark brown shirt, light brown pants with a dark brown stripe running down the outside pant seam, a beige necktie, a name plate on the right side of the shirt, a gold badge on the left side of the shirt, a pin denoting rank structure on both sides of the shirt collar, and a patch reading Sheriff's Department, Worcester County on both shirt sleeves just below the shoulder. Temporary correction officers' uniforms are all khaki in color, no pant leg strip, no tie, a name plate on the right hand side of the shirt, a silver badge, and the same shirt patch as permanent correction officers. There is no standard shoe for any correction officer. Some officers wear a black or brown dress shoe, other officers wear a black or brown jump boot about 8" high. Temporary correction officers work under the direction of permanent correction officers, but unlike permanent officers, they have no authority to make decisions in their assigned area. For the first 90 days of their employment, temporary correction officers are not alone at any time. After these first 90 days they may be alone in an area, but they are working under the supervision of a permanent officer.

The different uniform distinguishes a temporary officer from a permanent officer for inmates and all other personnel.

5. First Assistant Deputy Superintendent Gabriel oversees certain daily operations of the correction facility, including command of the correction officers assigned to the housing units, the transportation unit, and the receiving unit. Generally, he works in his office Monday through Friday, 8:30 a.m. to 4:30 p.m. Four of the about 13 assistant deputy superintendents report directly to him. First Assistant Deputy Superintendent Gabriel started as a correction officer in 1970. Over the years the Sheriff has promoted him through the ranks, lieutenant in 1973, captain in 1981, assistant deputy superintendent in 1987, and first assistant deputy superintendent in 1990. For about 17 years prior to his promotion to the non-bargaining unit position of assistant deputy superintendent, First Assistant Deputy Superintendent Gabriel actively participated in union activities. His activity ranged from participating in the correction officers first union organizing campaign, to holding a series of elected union offices including secretary, vice-president, and president.

6. Prior to March 14, 1997, the International Brotherhood of Correctional Officers (IBCO) represented these officers.

By letter dated October 31, 1995, the Union, through its statewide vice-president, informed the Sheriff that it was aware of an order that no employees were allowed to wear union pins, and asked if this order applied to only Union pins or all union pins. Further, the Union informed the Sheriff that it had instructed its supporters to continue to wear their Union pins until they received a direct order to the contrary, at which point the officers would obey the order and the Union would seek relief from the Commission. By letter dated November 8, 1995, Deputy Superintendent William E. Frisch responded in relevant part as follows:

... Under the terms of the existing collective bargaining agreement, all uniformed personnel are prohibited from wearing nonregulation clothing or insignia. Therefore, your request that supporters of MCOFU be allowed to wear union pins on their uniforms is denied.

...

This dress code has been in effect since 1987, and all personnel received an updated copy in February 1994. The no insignia policy applies to all pins, union or nonunion, and to all unions equally. Superior Officers are required to prohibit anyone not in compliance from commencing their duties until they are in proper uniform.

...

Between October 1995 and early 1997, no incidents of correction officers wearing union pins, were either reported to, or seen by, First Assistant Deputy Superintendent Gabriel. In or about early April 1997, First Assistant Deputy Superintendent Gabriel informed Deputy Superintendent Frisch that he had observed correction officers wearing Union pins, and that he had received similar reports from other officers. On April 18, 1997, the Sheriff's counsel sent the following letter to the Union's counsel:

On October 31, 1995, MCOFU sent the attached letter to the Sheriff of Worcester County regarding the wearing of Union pins. On November 8, 1995, the Deputy Superintendent responded to the letter (see attached). The policy of the Jail remains the same as expressed in the letter of November 8, 1995. Recently, the Command Staff has received information that some officers are wearing pins while in uniform. Such activity, if true, is against the policy of the Jail. The Jail will continue to enforce this policy.

The Worcester County Jail and House of Correction requests the cooperation of MCOFU regarding this policy.

On April 22, 1997, Deputy Superintendent Frisch issued the below memorandum to all First Assistant Deputy Superintendents and all Assistant Deputy Superintendents.

In accordance with the Worcester County Sheriff's Office Dress Code, the wearing of any pins or other accouterments, not specifically authorized, are forbidden to be worn on the prescribed uniform of the Worcester County Sheriff's Office.

Kindly notify your command staff to vigorously enforce this policy.

For at least fourteen years prior to April 22, 1997, certain correction officers, sergeants, lieutenants, and captains have regularly worn a

variety of pins, including Union and IBCO pins, on their shirts, and a variety of tie clips on their ties.<sup>7</sup> Before April 22, 1997, no supervisor asked an officer to remove any pin or tie clip, including Union pins and IBCO pins.<sup>8</sup>

- ◆ Sergeant Michael Haley periodically wore a claddagh pin from 1991 forward. In addition to this pin, Sergeant Haley regularly wore a Union and/or IBCO pin from November 1995 forward. Prior to April 22, 1997, no supervisor instructed Sergeant Haley to remove the pins, or not to wear pins.
- ◆ Officer Michael Martin has worn, and continues to wear, a guardian angel pin every day since September 1993. In early fall 1995, Officer Martin started to wear a Union pin every day with the guardian angel pin. Prior to April 22, 1997, no supervisor instructed Officer Martin to remove either pin.
- ◆ Sergeant Lawrence Vigeant wore a Union pin for about one month prior to April 22, 1997, and no supervisor instructed him to remove it.
- ◆ Officer Kevin E. Hartnett regularly wore both a guardian angel pin and a claddagh pin on his uniform for about two years prior to April 22, 1997. Just prior to April 23, 1997, Officer Hartnett began to wear a Union pin as well. Before April 23, 1997, no supervisor instructed Officer Hartnett to remove the pins.

After Deputy Superintendent Frisch issued his April 22, 1997 memorandum, supervisory correction officers began to ask officers to remove pins.

- ◆ On or about May 21, 1997, a supervisory correction officer handed Sergeant Haley a copy of Deputy Superintendent Frisch's memorandum, and asked him to remove the Union pin. Sergeant Haley removed the pin, and has stopped wearing any pins on his uniform. Further, as a supervisory correction officer, Sergeant Haley has requested correction officers to remove Union pins only. He has not requested the officers to remove any other pins. Before receiving Deputy Superintendent Frisch's memorandum, Sergeant Haley was not aware of any policy prohibiting the wearing of pins.
- ◆ On or about April 22, 1997, a supervisory officer instructed Officer Martin to remove the Union pin, and he did so. The captain-in-charge did not instruct Officer Martin to remove the guardian angel pin, and he continues to wear it every day in the presence of supervisory personnel and management. No one has instructed Officer Martin to remove the guardian angel pin as of April 5, 1999.
- ◆ On April 22, 1997, a supervisory officer instructed Sergeant Vigeant to remove the Union pin, and he did so. Since April 22, 1997, Sergeant Vigeant has observed correction officers wearing a variety of pins, but not Union pins. As a supervisory officer, Sergeant Vigeant has asked correction officers to remove pins, mostly guardian angel pins. Prior to April 22, 1997,

7. This finding is based on the credible, un rebutted testimony of Sergeant Lawrence F. Vigeant, a correction officer since March 1983, and Sergeant Michael Haley, a correction officer since February 1991. Both officers testified that they observed officers of various ranks wearing a variety of pins, including Union and IBCO pins throughout the course of their employment.

8. This finding is based on the credible, un rebutted testimony of Sergeant Michael Haley, Sergeant Lawrence F. Vigeant, Officer Michael Martin, and Officer Kevin E. Hartnett, as summarized.

Sergeant Vigeant was not aware of any policy prohibiting the wearing of pins.

- ◆ On April 23, 1997, a correction officer asked Officer Hartnett to remove all three pins that he was wearing, a Union pin, a claddagh pin, and a guardian angel pin.

Shortly after April 22, 1997, correction officers and sergeants stopped wearing Union pins, but continued to wear guardian angel pins and other pins in most areas of the correction facility, and in the presence of supervisory correction officers. Generally, supervisors did not instruct the officers to remove the pins. Although lieutenants and captains wore pins on their uniforms prior to April 22, 1997, a substantial majority of officers at these ranks no longer wear any pins.

After the Union was certified in March 1997, Sergeant Haley assumed the duties of Union chief steward at the facility, and he became a member of the Union's negotiating team. Before April 22, 1997, no agent of the Sheriff contacted Sergeant Haley about a policy addressing the wearing of pins, or offered to bargain with the Union about a policy. The parties' collective bargaining agreement describes the mandatory uniform and provides for a uniform allowance. However, the collective bargaining agreement does not address or identify any items that are prohibited from being worn, including pins on uniforms.

In addition to the collective bargaining agreement, Deputy Superintendent Frisch's November 8, 1995 letter referenced a dress code in effect since 1987, and indicated that all personnel received an updated copy of the dress code in February 1994. However, no witness testified about these documents, and they were not offered into evidence. Further, there is credible testimony from correction officers that, with the exception of rumors about not wearing Union pins in late 1995, they were unaware of any written or unwritten policy or dress code prohibiting the wearing of pins. Rather, these correction officers observed all ranks of officers below Assistant Deputy Superintendent wearing a variety of pins, including Union pins, and the officers wore pins themselves, including MCOFU and IBCO pins, without being asked to remove them, or disciplined for wearing them before April 22, 1997.

Based on the record, there is insufficient reliable evidence to find that: 1) the collective bargaining agreement expressly prohibited the wearing of pins; or, 2) there existed a policy or practice that expressly prohibited the wearing of pins, prior to April 1997. After April 22, 1997, all correction officers have removed any pin when requested to do so by a supervisory officer, and no officer has been disciplined for wearing any pins, including Union and IBCO pins.

#### OPINION

##### *Section 10(a)(5) and (1) Allegation*

A public employer violates Section 10(a)(5) and, derivatively, Section 10(a)(1) of the Law when it unilaterally changes an existing condition of employment or implements a new condition of employment involving a mandatory subject of bargaining without first affording its employees' exclusive collective bargaining representative notice and an opportunity to bargain to resolution or impasse. *Commonwealth of Massachusetts v. Labor Relations*

*Commission*, 404 Mass. 124, 127 (1989); *School Committee of Newton v. Labor Relations Commission*, 388 Mass. 557, 572 (1983); *City of Boston*, 16 MLC 1429, 1434 (1989); *City of Holyoke*, 13 MLC 1336, 1343 (1986). A public employer's duty to bargain includes working conditions established through custom and practice as well as those contained in a collective bargaining agreement. *City of Boston*, 16 MLC at 1434 (1989); *Town of Wilmington*, 9 MLC 1694, 1699 (1983).

The issue here is whether the Sheriff violated Sections 10(a)(5) and, derivatively, Section 10(a)(1) of the Law when it implemented a policy on April 22, 1997 prohibiting the wearing of unauthorized pins or other accoutrements, including union insignia, on uniforms. To establish a violation, the Union must show that: 1) the Sheriff altered an existing practice or instituted a new one; 2) the change affected a mandatory subject of bargaining; and, 3) the Sheriff established the change without giving the Union prior notice and an opportunity to bargain. *See, e.g., Commonwealth of Massachusetts*, 27 MLC 1, 4, (2000) (Commonwealth unilaterally altered its practice in assessing supervisory performance.); *City of Boston*, 26 MLC 177, 181 (2000) (City unilaterally instituted compulsory training for police officers returning to work after an extended absence.)

Section 6 of the Law requires a public employer and an employee organization to negotiate in good faith about wages, hours, standards of productivity and performance, and any other terms and conditions of employment. The Commission has decided that grooming standards constitute a mandatory subject of bargaining. *Town of Winchester*, 24 MLC 44, 45 (1997), *citing, Town of Dracut*, 7 MLC 1037, *aff'd*, 7 MLC 1342 (1990). Work rules that govern appearance standards, like dress codes, are terms and conditions of employment and constitute mandatory subjects of bargaining. *See, St. Luke's Hospital*, 314 NLRB 434 (1994) (Employer unlawfully implemented a revised dress code that prohibited the wearing of buttons and pins.) Therefore, the Law requires the Sheriff to give the Union notice and an opportunity to bargain before implementing a dress code that governs wearing pins and other accoutrements on uniforms. The record contains no evidence that the Sheriff provided the Union with notice that it proposed to implement a new dress code or change the existing dress code. Therefore, the only issue remaining is whether the Sheriff changed an existing practice or instituted a new one when, on April 22, 1997, he issued a memorandum prohibiting the wearing of any unauthorized pins or other accoutrements on uniforms, and requested vigorous enforcement of this policy.

The record discloses that, for about fourteen (14) years prior to April 22, 1997, the Sheriff had an established practice of allowing bargaining unit members to wear various pins on their uniforms, including claddagh pins, guardian angel pins, and union insignia pins. The Sheriff altered this established dress code when, on April 22, 1997, he issued a memorandum to all first assistant deputy superintendents prohibiting the wearing of any unauthorized pins or other accoutrements and requested vigorous enforcement of the policy. Immediately after the Sheriff issued this memorandum, supervisory correction officers requested correction officers to remove Union pins and other pins. Therefore, the Sheriff

unilaterally changed an existing working condition on April 22, 1997.

The Sheriff attempts to defend that action by arguing that the Union's charge is untimely under the Commission's six-month rule of limitations, 456 CMR 15.03, and should be dismissed. We disagree. The facts, unchallenged by the Sheriff, establish that, prior to April 22, 1997, the Sheriff allowed bargaining unit members to wear pins, and that the Sheriff altered this practice on April 22, 1997. Because the Union filed its charge on July 14, 1997, well within the six-month rule of limitations, this defense is without merit. The Sheriff further contends that, because M.G.L. c. 126, Section 9A is not listed in Section 7 of the Law, the Sheriff has the right to determine uniform policy without first bargaining with the Union.<sup>9</sup> We reject this argument. General grants of legislative authority do not vitiate the bargaining obligation under Section 6 of the Law. *See, School Committee of Newton*, 388 Mass. at 563-567. Nor do we read M.G.L. c. 126, Section 9 to create a specific, narrow statutory mandate that controls all standards governing uniforms, including the wearing of pins. *Cf. City of Lynn v. Labor Relations Commission*, 43 Mass. App. Ct. 172 (1997) (A public employer does not violate the Law when acting pursuant to a specific, statutory mandate not listed in Section 7(d).) Therefore, we conclude that, by unilaterally prohibiting the wearing of any unauthorized pins or other accoutrements on uniforms without first giving the Union notice and an opportunity to bargain to resolution or impasse, the Sheriff violated Section 10(a)(5) and, derivatively, Section 10(a)(1) of the Law.

#### *Section 10(a)(1) allegation*

We next consider whether the Sheriff's conduct interfered with, restrained, or coerced employees in the exercise of their rights protected by Section 2 of the Law.<sup>10</sup> Generally, the right of employees to wear union pins or insignia during working hours is concerted activity protected by Section 2 of the Law. *Dighton School Committee*, 8 MLC 1303, 1305 (1981), *citing, Republic Aviation Corporation v. NLRB*, 324 U.S. 793, 16 LRRM 620 (1945); *Southern Worcester County Regional Vocational School District*, 2 MLC 1488, 1504 (1976), *aff'd. Southern Worcester County Regional Vocational School District v. Labor Relations Commission*, 377 Mass 897 (1979). However, this Section 2 right is not unlimited, and may be restricted or prohibited if an employer produces substantial evidence to show that special factors exist, like maintaining discipline in the workplace, so that the employer's interests outweigh the employee's Section 2 rights. *Dighton School Committee*, 8 MLC at 1303 and cases cited. *See, Beth Israel Hospital v. NLRB*, 437 U.S. 483, 491-492, 98 LRRM 2727, 2730 (1978), *quoting, Republic Aviation Corporation v. NLRB*, 324 U.S. at 797-798, 16 LRRM at 622; *Meijer Inc. v. NLRB*, 156 LRRM 3057 (6<sup>th</sup> Cir. 1997). Special factors are determined on a case by case basis. *Id.*

The Sheriff argues that special factors exist in a correctional facility that justify it prohibiting employees from wearing Union pins. Specifically, the Sheriff contends that, to maintain order and discipline, there must be no perceived differences between correctional officers. The Sheriff maintains that, although the Union insignia pins at issue here are small and unobtrusive, any sense of division among correctional officers by the prison population could create an unsafe and dangerous environment for the public, the officers, and the prison population. Further, the wearing of any emblem that may create tension between officers damaging morale undermines the security function at the jail. We are not unsympathetic to this argument. However, it is severely undermined by the Sheriff's fourteen (14) year practice of allowing correctional officers to wear a variety of pins, including Union and IBCO pins. Further, the record establishes that some correctional officers continue to wear non-union pins, like guardian angel pins, after the April 1997 prohibition without any superior officer requesting that they remove the pins. *See, Dighton School Committee*, 8 MLC at 1305 ("A rule which is enforced only against union buttons demonstrates the lack of any truly legitimate purpose for the rule.")

The record contains no evidence that supports the Sheriff's argument that wearing Union pins threatens order and discipline in a prison. Certainly, there need not be actual incidents of violence to support a finding of special factors. However, this record contains no evidence of any incidents or threats of discord between officers or initiated by the prisoners that supports this argument. *See, Boise Cascade Corp.*, 300 NLRB 80,82 (1990) ("General, speculative, isolated or conclusory evidence of potential disruption does not amount to special factors.") Therefore, we are not persuaded that there exist special factors that override or outweigh an employee's concerted activity protected by Section 2 of the Law. Therefore, we conclude that, by prohibiting the wearing of union insignia, the Sheriff interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed under the Law, in violation of Section 10(a)(1) of the Law.

#### CONCLUSION

For the reasons stated above, we conclude that the Sheriff failed to bargain in good faith by unilaterally implementing a policy prohibiting officers from wearing of pins, including union insignia, without giving the Union prior notice and an opportunity to bargain to resolution or impasse, in violation of Section 10(a)(5) and, derivatively, Section 10(a)(1) of the M.G.L. c. 150E (the Law). Further, the Sheriff interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed under the Law by prohibiting the wearing of union insignia, in violation of Section 10(a)(1) of the Law.

9. M.G.L. c. 126, Section 9A provides:

Officers and employees of each county penal institution required to wear uniforms shall wear while on duty uniforms prescribed by the sheriff of the county, which shall be furnished at the expense of said county; provided, that expenditures for the same are authorized by the county commissioners.

10. Section 2 of the Law guarantees employees the right to form, join or assist any employee organization, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection.

ORDER

WHEREFORE, on the basis of the foregoing, it is hereby ordered that the Sheriff of Worcester County shall:

1. Cease and desist from:

- a. Failing and refusing to bargain in good faith with the Massachusetts Correction Officers Federated Union over a policy governing the wearing of pins, including union insignia pins;
- b. Promulgating, maintaining, and enforcing any rules prohibiting the wearing of any pins or other accoutrements, not authorized by the Sheriff of Worcester County, on uniforms, including union insignia pins, without giving the Massachusetts Correction Officers Federated Union prior notice and an opportunity to bargain to resolution or impasse;
- c. Interfering with, restraining, or coercing employees in the exercise of their rights guaranteed under the Law by prohibiting the wearing of union insignia pins;
- d. In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights guaranteed under the Law.

2. Take the following affirmative action which will effectuate the policies of the Law:

- a. Refrain from prohibiting employees from wearing pins, including union insignia pins;
- b. Upon request by the Massachusetts Correction Officers Federated Union, bargain collectively in good faith prior to changing any mandatory subject of bargaining, including the wearing of pins, including union insignia pins;
- c. Post in conspicuous places where employees represented by the Massachusetts Correction Officers Federated Union usually congregate, or where notices are usually posted, and display for a period of thirty (30) days thereafter, signed copies of the attached Notice to Employees.
- d. Notify the Commission within ten (10) days of receipt of this decision and order of the steps taken to comply with this order.

**NOTICE TO EMPLOYEES**

The Labor Relations Commission has issued a decision finding that the Sheriff of Worcester County committed a prohibited practice in violation of Sections 10(a)(5) and (1) of the Massachusetts General Laws, Chapter 150E (Chapter 150E), the Public Employee Collective Bargaining Law, by implementing a policy prohibiting the wearing of pins, including union insignia pins, without first giving the Massachusetts Correction Officers Federated Union notice and an opportunity to bargain to resolution or impasse. Further, the Labor Relations Commission has decided that the Sheriff of Worcester County interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed under the Law by prohibiting the wearing of union insignia, in violation of Section 10(a)(1) of the Law. In compliance with the Labor Relations Commission's order,

WE WILL NOT fail or refuse to bargain in good faith with the Massachusetts Correction Officers Federated Union over a policy governing the wearing of pins, including union insignia pins.

WE WILL NOT promulgate, maintain or enforce any rules prohibiting the wearing of any pins or other accoutrements, not authorized by the Sheriff of Worcester County, on uniforms, including union insignia pins, without giving the Massachusetts Correction Officers Federated Union prior notice and an opportunity to bargain to resolution or impasse;

WE WILL NOT interfere with, restrain, or coerce employees in the exercise of their rights guaranteed under the Law by prohibiting the wearing of union insignia pins;

WE WILL upon request by the Massachusetts Correction Officers Federated Union, bargain collectively in good faith prior to changing any mandatory subject of bargaining, including the wearing of pins, including union insignia pins.

[signed]  
Sheriff of Worcester County

\* \* \* \* \*