

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL

International Brotherhood of Teamsters,)	
Local 700,)	
)	
Charging Party)	
)	
and)	Case No. L-CA-10-076
)	
County of Cook and Sheriff of Cook County,)	
)	
Respondent)	

ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER

On June 22, 2010, the International Brotherhood of Teamsters, Local 700 (Charging Party) filed an unfair labor practice charge in the above-captioned case with the Local Panel of the Illinois Labor Relations Board (Board) pursuant to Section 11 of the Illinois Public Labor Relations Act, 5 ILCS 315 (2010) as amended (Act), and the Rules and Regulations of the Illinois Labor Relations Board, 80 Ill. Admin. Code, Parts 1200 through 1240 (Rules) alleging that the County of Cook and Cook County Sheriff (Respondent) had violated Section 10(a)(1) of the Act by denying named employees union representation pursuant to NLRB v. Weingarten, Inc., 420 U.S. 251 (1975). The charges were investigated in accordance with Section 11 of the Act, and on August 26, 2010 the Executive Director of the Illinois Labor Relations Board issued a Complaint for Hearing.

A hearing was held on September 28, 2011 in Chicago, Illinois, at which time all parties appeared and were given a full opportunity to participate, present evidence, examine witnesses, argue orally and file written briefs. After full consideration of the parties' stipulations, evidence, arguments and briefs, and upon the entire record of the case, I recommend the following:

I. PRELIMINARY FINDINGS

1. At all times material, the Respondent has been a public employer within the meaning of Section 3(o) of the Act.
2. At all times material, the Respondent has been subject to the jurisdiction of the Local Panel of the Board pursuant to Section 5(b) of the Act.
3. At all times material, the Respondent has been subject to the Act pursuant to Section 20(b) of the Act.
4. At all times material, the Charging Party has been a labor organization within the meaning of Section 3(i) of the Act.
5. At all times material, the Charging Party has been the exclusive representative of a bargaining unit composed of the Respondent's employees in the position of correctional officer, and, also of a bargaining unit composed of the Respondent's employees in the position of deputy sheriff.
6. At all times material, the Respondent has maintained an Office of Professional Review (OPR) to investigate the alleged misconduct of Respondent's employees, including members of the bargaining unit of correctional officers and that of deputy sheriffs.

As a preliminary matter, the instant Complaint is amended, pursuant to 80 Ill. Admin. Code §1220.50(f), to include the allegations that Respondent violated the Act by denying the requests of Catherine Galas and Ada Liddell for union representation at their respective May 18, 2010 and late September 2010 interviews by investigators from OPR. See 80 Ill. Admin. Code §1220.50(f); Service Employees International Union, Local 73, and Illinois State Toll Highway Authority, 25 PERI ¶76 (IL LRB-SP 2009). While neither Galas nor Liddell were named in the Complaint, the denial of their respective requests for union representation arose out the same

series of occurrences set forth in the Complaint. Further, Liddell was listed as a witness on the parties' Joint Pre-Hearing Memorandum, and the Respondent did not object to her testimony at hearing. Although Galas was not listed as a witness in that document, the Respondent was aware that the Board had issued a subpoena to the Charging Party naming her as a witness. I note that at the hearing the Charging Party was allowed to put on its case with respect to both Galas and Liddell, and that the Respondent had an opportunity and did cross-examine both of them.

II. ISSUES AND CONTENTIONS

At issue in this case is whether the Respondent violated Section 10(a)(1) of the Act by denying the respective requests of Brian Davenport, Catherine Galas, Thomas Wilcox and/or Ala Liddell for union representation when OPR investigators called them each to interviews as witnesses, and then continued to question them.

III. FINDINGS OF FACT

A. OPR's Investigation of Alleged Employee Misconduct

The Respondent's Office of Professional Review (OPR) investigates the alleged misconduct of the Respondent's employees, including correctional officers and deputy sheriffs. An employee may be called to OPR as an accused in the investigation of charges alleging his/her own misconduct, or as a witness in an investigation of another employee's alleged misconduct. The interview takes place at OPR's office in the jail complex. Before entering the area, the employee goes through scanning equipment and must surrender his/her weapon.

In the event that an employee is called before OPR as an accused, he/she is presented with a form entitled "Notification of Allegations." The form lists the name of the accused, the date/time of the incident, its location, where the employee is to report and when, and includes a

line that reads “Nature of the Allegation(s).” At the bottom of the form, there is a line for the accused employee to sign and date when the document is received.

An accused who must appear before OPR is also presented with a form outlining his/her administrative rights. An additional form entitled “Waiver of Counsel/Request to Secure Counsel” is presented to the accused. The bottom portion of that form indicates whether the accused appeared with counsel or a union representative.

After the accused provides a statement at an OPR interview, he/she is allowed to review it before signing. When OPR was first established, this review occurred the same day that the accused employee gave his statement. More recently, it may be weeks or months before an accused employee can review his witness statement.

As Joseph Ways, Sr., Executive Director of OPR, confirmed, when OPR believes that an employee has no involvement in any wrongdoing but could have information about the alleged misconduct of another, the employee is called as a “witness” to OPR. In such a case, he/she is not presented with a document stating the nature of the investigation, enumerating his/her administrative rights, or giving the option of having legal counsel or a union representative at his/her OPR interview. Instead, the employee witness is given a verbal order by his superior ordering him/her to report to OPR immediately. If the witness employee appears at OPR with a union representative, the latter is denied entry on the basis that the employee is only being called as a witness. Additionally, the witness employee’s request for a union representative during the course of his/her OPR statement is denied on the same basis. The witness employee is also not given the opportunity to review the statement which he/she makes to the OPR investigators.

Further, Ways testified that OPR investigators “should not be asking them [witness employees] about their own specific bad acts.” The following exchange took place between Ways and Respondent’s attorney:

Q: Has there been any instance that an individual that has given information as a witness employee has been charged with that information?

A: Not directly, no.

Pursuant to Section VI.(C)(1) of the Respondent’s General Order 3401.1 regarding “Rules of Conduct,” a witness employee may be compelled to give a statement to OPR investigators. Section VI.(C)(3)(a) of that General Order, a witness employee is required to truthfully answer the questions which OPR investigators ask him/her. If the witness employee fails to obey an order from an OPR investigator to give a statement or does not give truthful responses, he/she is subject to discipline.

In addition, Respondent’s General Order 7000.1 on Complaint and Disciplinary Procedures, Section VI.(C)(4) provides, in part, when misconduct is observed by Department members, the employee will immediately notify his/her supervisor. Failure to comply with this directive may subject the member to discipline.

A memorandum dated January 15, 2010 from Ways to all OPR personnel, sets forth Respondent’s policy concerning representation of employees appearing before OPR. Respondent distinguishes between accused employees who are the subject of an investigation and witness employees who are interviewed during the investigation of another. Based on this January 2010 memorandum, only the accused employee is given written notice of the allegations against him/her, a form summarizing administrative proceeding rights, and a document to waive counsel/request to secure counsel. Respondent’s policy permits an accused employee to have

one legal counsel or one union representative present during his/her OPR interview, while explicitly providing that a witness employee has no right to either.

Further, the January 2010 memorandum indicates that a witness employee before OPR may become an accused:

OPR investigators must be aware of the course that a witness employee statement is taking, whether it is voluntary or compelled, and immediately cease the interview if it appears that the witness employee is beginning to provide information that may lead to them becoming an accused. At that point, all the rights . . . of the accused employee take effect.

The OPR investigator is responsible for determining if and when an employee witness has become an accused. Terrence Hake, Director of Unit 8 at OPR, testified that the investigator “may want to hear everything the witness has to say” before making that decision.

B. Respondent’s Alleged Violations of Witness Employees’ Weingarten Rights

The Charging Party alleges that the Respondent violated the Weingarten rights of the following employees when it denied their respective requests for union representation during interviews as witness employees before OPR:

1. Brian Davenport

i. May 14, 2010

On May 14, 2010 Brian Davenport, a deputy sheriff in the Warrants, Levies and Evictions Unit, was called as a witness before OPR in the investigation of the alleged misconduct of a superior officer—the Assistant Chief of his unit.¹ Davenport thought the superior’s alleged

¹ Davenport was the first employee to be interviewed pursuant to the investigation of the superior’s alleged misconduct.

misconduct “had something to do with . . . the Shakman suit.”² Davenport believes that OPR’s function is to get people fired. When Davenport walked to OPR for his interview, he was accompanied by a union representative. Upon arrival at OPR, Davenport asked that the union representative be allowed in the interview with him, but the OPR investigators denied this request on the basis that Davenport was being called as a witness.

The interview consisted of Davenport and two investigators from OPR, Director Terrence Hake and Assistant Director Miriam Rentas. Most of the questions which the OPR investigators asked were about an incident in 2008 when Davenport was allegedly sleeping on duty, a disciplinable offense. When the OPR investigators began questioning Davenport about the 2008 incident, he told them, “I think I should have my union rep here.” The OPR investigators replied, “Well, we’re not here to do any harm to you. We’re just here to ask questions. You’re still a witness” and “You aren’t being disciplined for the 2008 incident.” At that point, Davenport proceeded with the interview, telling the OPR investigators that he fell asleep in his truck back in 2008. Davenport acknowledged that the OPR investigators assured him during the interview that he could not be disciplined since he was being called as a witness.

Investigator Rentas memorialized the interview in a document entitled “Memorandum of Investigation” which she signed and dated May 14, 2010. The document is marked OPR case number 2010-0451 at the top and has the subject line “Confidential Investigation.” The first paragraph identifies the time and date of the interview, the two OPR investigators, the interviewee (Davenport), and introduces the next five paragraphs as a summary of the facts that Davenport related to them. The second paragraph contains information about Davenport’s

² The Shakman Consent Decree, issued by a federal court about 40 years ago, prohibited Respondent from engaging in political hiring and firing of its employees. As a result of an anonymous letter, OPR began an investigation of political favoritism in the Warrants, Levies and Evictions Unit.

employment history, including when he began working for the superior officer being investigated.

The third paragraph of the summary contains Davenport's admission that he fell asleep in his vehicle on September 11, 2008. Further, the fourth paragraph of the memorandum documents Davenport's statement that in September 2008 he had to meet with the superior officer in question, and was not disciplined for that incident but was docked six and a half hours that day. This same passage also relates that Davenport had planned "to take his truck to a tire repair shop to fix a slow leak but changed his mind."

The fifth and sixth paragraphs concern information which Davenport provided about his working relationship with the superior officer under investigation. Davenport was not given an opportunity to review the OPR investigators' summary of his May 14, 2010 interview.

Davenport was called into OPR as a witness that day in the investigation of his superior based on two anonymous letters dated in late 2007 and June 2009, respectively, alleging abuses of power committed by that superior. The letters alleged that Davenport's superior engaged in political favoritism in violation of the Shakman Decree. The second letter specifically referred to the incident of Davenport sleeping in his vehicle. Davenport's interview of May 14, 2010 was one of the first interviews of an estimated 100 concerning the investigation of his superior.

Hake maintains that when Davenport was told on May 14, 2010 that he was a witness in the investigation of a superior, he was also told that he would not be disciplined as long as he was truthful. According to Hake, on October 1, 2010 when preparing a summary report on the investigation of the superior officer's alleged misconduct, he first realized that the memorandum of Davenport's May 14 interview was inaccurate in that it lacked a statement which OPR investigators made at that time: that Davenport would not be disciplined as long as he was

truthful. As a consequence, Hake contends that he and Investigator Rentas signed and dated that day, October 1, 2010, a memorandum which provided the following:

Director Terrence Hake reviewed the D/S Davenport MOI concerning his interview on October 1, 2010, to enable him (Hake) to write a report. In reviewing the MOI, Director Hake noticed that the MOI did not contain the following language which was said to Davenport before that interview began.

D/S Davenport you are here as a witness, not an accused, today. Pursuant to the instructions of the Executive Director of OPR, nothing you say today as a witness can be used against you for disciplinary purposes, as long as you are fully truthful.

The memorandum above referenced OPR Case No. 2010-0451 and Davenport's May 14, 2010 statement. Consistent with Hake's testimony, Ways explained that he directed the OPR investigators to assure Davenport at his May 14 interview, that as long as he was truthful, nothing would be held against him. Further, Hake testified that at the conclusion of Davenport's May 14, 2010 interview, he was not yet aware that Davenport had provided false information.

Davenport's Attendance Record for September 11, 2008 shows that he was docked 6.5 hours of pay on the day he admitted falling asleep in his vehicle. In the following exchange between Ways and Respondent's attorney, he describes the consequences which Davenport experienced due to his conduct on September 11, 2008:

Q: In your opinion, had Deputy Davenport already been disciplined for his sleeping on the job?

A: Not necessarily disciplined, but the misconduct that he engaged in on the date in question had already been addressed by management in Court Services and Warrants, Levies, and Evictions in that they deducted his time for the period of time that was in question.

ii. June 4, 2010

On June 4, 2010, Davenport was called as an accused before OPR Investigators Carl Singletary and Sheryl Collins. That interview was memorialized in a to/from report which

Investigator Collins wrote to the “Case File” referencing “File #2009-0451.” The first paragraph of the statement includes the following:

The purpose of the Statement/Interview was to obtain information from Brian Davenport regarding a Complaint/Allegations filed by Executive Director Joseph C. Ways, Sr. with the Office of Professional Review alleging that DS Davenport was sleeping on duty.

The summary of Davenport’s June 4 interview as an accused contains the information similar to that which Davenport provided in his May 14, 2010 interview about the September 11, 2008 incident. The memorandum provided that Davenport acknowledged falling asleep in his vehicle on September 11, 2008, and he stated that “he never went to a tire shop for any tire repairs” that day. Nowhere in the two and a half page memorandum documenting Davenport’s statement to OPR investigators on June 4, 2010 does it make any reference to the statement he gave on May 14. Davenport signed the June 4 memorandum to verify the accuracy and completeness of the information it contained.

The summary of the June 4 interview refers to the Notification of Allegations form which Davenport was given before the interview was conducted. That form states that file “OPR #2009-0451” is being initiated against Davenport, lists the complainant, and describes the nature of the allegations as “sleeping on duty.” Davenport also signed forms setting forth Administrative Proceeding Rights and indicating Waiver of Counsel/Request to Secure Counsel. The latter provided that Davenport appeared at the June 4, 2010 interview with a union representative, a fact which Davenport acknowledges.

This form—the to/from report summarizing Davenport’s June 4 interview—was included in a document entitled “Report of Investigation” which was dated October 4, 2010 and referenced case number 2010-0863. The page that follows the cover is the “Summary Report of

Investigation” with the same date and case number. That document lists Davenport as the accused, Ways as the complainant and the Sheriff’s Office as the victim.

The next page in the Report of Investigation is entitled “Synopsis” and describes the offense for which Davenport received a seven-day suspension as follows:

The investigation was initiated based on a request to investigate the Cook County Sheriff’s Warrant, Levy and Eviction Unit for Shakman violations under Office of professional [sic] Review number OPR 2010-0451. That investigation revealed an allegation that Cook County Sheriff [sic] Office, Court Services Department, Deputy Sheriff Brian Davenport provided a false statement to the Office of Professional Review during his interview on June 4, 2010. The investigation sustained that DS Davenport gave a false statement to the Office of Professional Review, when he denied to the investigators that he took a flat tire to a tire repair shop on county time. The disciplinary action against Deputy Sheriff Davenport will be handled under this case number, [2010-0863]. It is recommended that DS Davenport receive a seven day suspension (without pay/without options) for his actions.

The Report of Investigation continues with a page entitled “Details of Investigation.” That document again states that the investigation was initiated based on an allegation that Davenport provided a false statement to OPR during his interview of June 4, 2010.

Further, the Details of Investigation indicate that the false oral report allegation against Davenport was sustained. The Details of Investigation state this sustained finding was reached after comparing the statement which Davenport’s partner, Deputy Sheriff William Mak, gave to OPR investigators on May 14, 2010 with that of Davenport on June 4, 2010.³ This section of the Report of Investigation provides that in Mak’s May 14 interview he stated that on September 11, 2008 he helped Davenport change a flat tire on his personal vehicle and transported him to a tire

³ Mak was interviewed as a witness by OPR investigators on May 14, 2010 in OPR case number 2010-0451. The first paragraph of the Memorandum of Investigation which Investigator Carl Singletary signed memorializing Mak’s May 14, 2010 statement provides that the purpose of the interview/statement was to obtain information about the allegations that the superior officer who manages the Warrants, Levies and Evictions Unit engaged in discrimination based on sex, race and political affiliations and sexually harassed employees under her supervision.

shop. The Details of Investigation explains that, by contrast, Davenport's interview of June 4 provides that Davenport never went to a tire shop on September 11, 2008 with Mak. This portion of the Details of Investigation continues with the following:

Based on the inappropriate actions of DS Davenport on the morning of September 11, 2008, the preponderance of evidence shows that DS Davenport falsified information to OPR during his interview. DS Mak had nothing to gain by providing false information to OPR.

Citing General Order 3401.1, Rules of Conduct, this part of the Details of Investigation states that the actions of Davenport violate Section VI(C-3c) which requires Department members to truthfully answer questions posed to them in a department personnel investigation.

After consideration of Davenport's disciplinary/complimentary history, as well as the aggravating factors for his offense, the Details of Investigation concludes with the recommendation that he receive a seven day suspension (without pay/without options) for his offense.⁴ It is signed by Director Edward Dyner and Executive Director Joseph Ways, both of OPR. The signature line for Investigator Singletary indicated that he was unable to sign due to injury-on-duty (IOD) status.

Contrary to the Synopsis in the Report of Investigation, Hake testified that Davenport's falsification occurred in the statement of May 14, 2010 rather than that of June 4. In addition, Hake maintains that OPR learned of this falsification after interviewing more than one witness other than Davenport, not merely from the statement of a single witness, that of Mak on May 14, 2010.

On June 4, 2010, the same day that Davenport was called to OPR to give the statement described above as an accused, Ways signed a Complaint Register to initiate an investigation of Davenport for sleeping on the job on September 11, 2008, and swore that this allegation was true

⁴ The Details of Investigation provides that Davenport had no mitigating factors for his conduct.

and correct to the best of his knowledge. The Complaint Register refers to no offense other than sleeping on duty. It lists Ways as the Complainant, and it does not include a case number.⁵

Although Ways acknowledged that the Complaint Register dated June 4, 2010 *states* that it was initiated to investigate the allegation that Davenport was sleeping on duty September 11, 2008, he denies asking OPR to investigate Davenport for that offense. Instead, Ways maintains that OPR began an investigation that day of Davenport's alleged falsification in his May 14, 2010 interview. At the hearing when the Administrative Law Judge asked what was the "false statement" referenced in the Synopsis of the Report of Investigation in case number 2010-0863, Ways testified as follows:

We were aware from other interviews of the circumstances surrounding the incident with the flat tire, him sleeping in the car.

One version of it was that he was out the night before. He was in his car sleeping.

The other version of it was that he had a flat tire on his way in to work, that another deputy actually took him and the damaged tire to a repair shop to be fixed, rushed back, put that back onto his personal vehicle.

He denied—he didn't deny, but he provided us a less credible version of the events that day.

2. Catherine Galas

On May 18, 2010 Deputy Sheriff Catherine Galas, then assigned to the Evictions Office, was called before OPR as a witness in the investigation of another employee. She later learned that her interview was part of the investigation of allegations against the head of the Warrants, Levies, and Evictions Unit for political favoritism in violation of the Shakman Decree.⁶ When

⁵ At the hearing, 16 joint exhibits were admitted into the record pursuant to the parties' submission. These joint exhibits do not include one complete complaint register file under a single case number initiated against Davenport on June 4, 2010.

⁶ The accused in this investigation was the same superior that was being investigated in Davenport's May 14, 2010 interview.

she reported to OPR for her interview on May 18, Galas requested union representation “because she felt that anything [she] said could be used against [her].” The OPR investigators denied that request and told her that as a witness she was not entitled to such representation. She did not reiterate the request for union representation at any point during the interview.

Galas believed that if she refused to answer the questions of the OPR investigators she could be brought up on charges of insubordination and refusal to cooperate in an investigation. She cooperated in the interview on May 18, 2010.

At first, the questions Galas was asked on May 18 were not accusatory. Initially, she was asked questions about her job duties. Then Galas became defensive when the questions turned to the subject of her sexuality and relationship with the superior under investigation. In addition, Galas was asked about her activities outside of work. Concerning the questions that Galas was asked about her receipt of overtime, she acknowledged that these questions were asked to determine whether she was a recipient of alleged favoritism by the superior.

Charges were initiated against Galas based on information which she disclosed during the May 18, 2010 interview. Specifically, Galas was charged with unauthorized use of a Cook County vehicle based on her May 18 statement that she picked up a County vehicle at the Juvenile Courthouse and drove it downtown. A 45-day suspension without pay is pending for that offense before the Merit Board.

3. Thomas Wilcox

On May 19, 2010, OPR investigators interviewed Tom Wilcox, a deputy sheriff in the Central Warrant Unit, as a witness in the investigation of a superior’s alleged misconduct.⁷ While Wilcox was at OPR, he was told that that he was a witness in the investigation of the

⁷ The superior being investigated was the same accused referenced in the May 2010 witness interviews of Davenport and Galas.

superior accused of political favoritism. He testified that “everyone knows what OPR does,” explaining that it is “basically internal affairs. They investigate the conduct of deputy sheriffs.” Wilcox’s request for a union representative was denied on the basis that he was not being questioned as an accused.⁸ He did not renew this request later in the interview.

The interview consisted of Wilcox and two OPR investigators. Wilcox testified that during the interview of an accused before OPR, there are at least two investigators. The record does not indicate the number of OPR investigators present for the interview of a witness employee.

When Wilcox first appeared for his interview, he told the OPR investigators that he was a union steward and also informed them he would not make any voluntary statements. When the OPR investigators told Wilcox that they outranked him and ordered him to respond to their questions, he began to cooperate with their investigation.

The questions which the OPR investigators asked Wilcox focused on his relationship with the superior under investigation for political favoritism. They included what Wilcox considered to be inappropriate questions such as his knowledge of the superior’s sexual orientation, whether he had kissed her, and had seen the superior kiss anyone. Additionally, the OPR investigators asked Wilcox if he knew of any employees who received language pay or if there was any preferential treatment in designating employees’ days off.

When Charging Party’s attorney started to ask Wilcox if he feared being disciplined as a result of the interview, he explained, “Well, the investigation didn’t pertain to me.” Then the Charging Party’s attorney asked Wilcox if he reasonably believed he could be disciplined for

⁸ As a Union Steward, a position which Wilcox has held since June 2009, he has not been allowed to accompany employees whom OPR investigators have interviewed as witnesses, only those who are interviewed as the accused.

giving the wrong answer. Wilcox did not testify that he had such a fear. Instead, he explained that he did not know how to respond to some questions but answered to the best of his ability. It was only after the attorney repeated this question about fear of discipline for the wrong answer that Wilcox testified he had such a fear.

The OPR investigators documented their interview with Wilcox on May 19, 2010 in a "Memorandum of Investigation" referencing OPR case number 2010-0451. The initial paragraph of this summary includes a statement that the purpose of the interview was to obtain information about the allegations made against the named superior of discrimination based on sex, race and political affiliation as well as sexual harassment. Wilcox maintains that this summary is not an accurate record of what he related on May 19, 2010. For example, Wilcox points out that the summary of his interview does not include his request for union representation or his initial refusal to cooperate. Further, the OPR investigators did not allow Wilcox to review it since he was a witness rather than an accused. It was only Charging Party's attorney who provided him with a copy in late August 2011 about a month prior to the proceeding in the instant case.

4. Ala Liddell

On September 24 or 25, 2010, two OPR investigators conducted an interview of Correctional Officer Ala Liddell after telling her that she was a witness. Before this encounter, Liddell understood if OPR investigators came to get an employee, "they usually walk [him/her] off the compound and [he/she's] charged with something." When they first escorted Liddell from her assignment at the jail to the OPR office, she asked for a union representative. The OPR investigators responded that she did not need one as a witness.

Once she arrived at OPR, the inquiry began with a question about her relationship with a named male detainee on her floor. Liddell immediately replied that she did not have a relationship with him. Because this question “didn’t sound like [one which she] should be answering,” Liddell again requested a union representative. After the OPR investigators told her that a union rep was not called for in her situation where she was being interviewed as a witness, Liddell responded that she needed an attorney. Although the investigators replied that Liddell was a witness and an attorney was unnecessary, she thought that the questions being asked her were not those characteristic of a witness interview.

Then the OPR investigators asked Liddell if she was bringing drugs into the prison. They contended that they were in possession of a “kite”—a letter from one detainee to another—which informed them that Liddell was bringing drugs into the jail. According to the investigators, a hit was put out on Liddell’s life because she did not bring in all the drugs. Eventually the investigators made a comment that Liddell might be a good officer, and then asked her if she knew of other officers bringing in contraband. Liddell was not disciplined based on that interview, and the Sheriff’s Office still employs her as a correctional officer.

IV. DISCUSSION AND ANALYSIS

The Charging Party contends that the Respondent violated the Act when it denied union representation to Brian Davenport, Catharine Galas, Thomas Wilcox and Ala Liddell, respectively, during their OPR interviews where each of them was called as a witness in the investigation of another’s misconduct. By contrast, the Respondent maintains that it had no obligation under the Act to provide union representation to these employees when each was called as a witness before OPR. A determination of their respective rights under the Act does not rest on the label—witness or accused—that the Respondent gives them when they are called to

be interviewed by OPR. Instead, a review of the circumstances in the case of each employee is necessary to determine whether the employee reasonably believed that his/her interview might result in discipline. While neither Galas nor Wilcox had such a reasonable belief, the record establishes that the Respondent violated Section 10(a)(1) of the Act when OPR investigators continued to question Davenport and Liddell after denying their respective requests for union representation.

It is well established that the Act grants a public employee in Illinois the right to union representation during an investigatory interview if the employee reasonably believes the interview might result in discipline. Illinois Nurses Ass'n and State of Illinois, Dep't of Cent. Mgmt Servs (Dep't of Corrections), 16 PERI ¶ 2023 (IL SLRB 2000); Teamsters, Local 714 and City of Highland Park, 15 PERI ¶ 2004 (IL SLRB 1999); Hubbard and Village of Streamwood, 12 PERI ¶ 2021 (IL SLRB 1996); McClendon and City of Chicago (Dep't of Bldgs.), 15 PERI ¶ 3012 (IL LLRB 1999); Int'l Bhd. of Electrical Workers, Local 134 and City of Chicago (Dep't of Aviation), 13 PERI ¶ 3014 (IL LLRB 1997); Porter and City of Chicago (Dep't of Police), 5 PERI ¶ 3025 (IL LLRB 1989); see also, NLRB v. Weingarten, 420 U.S. 251 (1975). The right to union representation, also known as the Weingarten right, arises only when three circumstances are present: 1) the meeting is investigatory, 2) the employee reasonably believes that disciplinary action may result; and 3) the employee requests union representation.⁹ State of Illinois, 16 PERI ¶2023; City of Highland Park, 15 PERI ¶2004; City of Chicago, 15 PERI ¶3012; see also, 420 U.S. 251.

Once an employee requests union representation at a meeting where Weingarten rights apply, an employer has the following options: 1) grant the request; 2) dispense with or

⁹ It is undisputed that each of the four employees at issue—Davenport, Galas, Wilcox and Liddell—made at least one request for union representation during their respective interviews with OPR.

discontinue the interview, or 3) offer the employee the choice of continuing the interview unaccompanied by a union representative or having no interview at all. City of Chicago (Dep't of Aviation), 13 PERI ¶ 3014; Kostro and City of Chicago (Dep't of Police), 3 PERI ¶ 3028 (IL LLRB 1987); State of Illinois (Dep'ts of Cent. Mngmt. Servs. and Corrections), 1 PERI ¶ 2020 (IL SLRB 1985). If the employer continues the interview without permitting the requested union representation or disciplines the employee for refusing to continue with the interview absent that representation, the employer violates Section 10(a)(1) of the Act. Hinchey and City of Chicago (Dep't of Pub. Health), 17 PERI ¶ 3006 (IL LRB-LP 2001).

In the case at bar, it is critical to ascertain whether any of the named employees reasonably believed that discipline might result from his/her OPR interview.¹⁰ The Board has established that this determination is based on an objective standard which considers all of the circumstances of the case. Eisenberg and Chicago Transit Auth., 17 PERI ¶3018 (IL LRB-LP 2001); Vaughn and State of Illinois (Dep'ts of Cent. Mgmt. Servs. and Emp't Security), 4 PERI ¶2005 (IL SLRB 1988).

Although the analysis below indicates that Davenport and Liddell had a reasonable fear that discipline might result from their witness interviews in May and September, respectively, I reject the contention that any of three characteristics of witness interviews—1) that the employee witness must tell the truth; 2) that he/she can be compelled to give a statement; and 3) an employee who observes misconduct must immediately notify his/her supervisor—contributed to this reasonable belief. The mere existence of a rule requiring the Respondent's employees to tell the truth, cooperate with OPR, or immediately report observed misconduct to his/her supervisor, without a showing of more, does not establish that an employee has a reasonable belief that his

¹⁰ In the instant case, it is undisputed that the named employees each made at least one request for union representation and their interviews were investigatory. See Respondent's Brief at pp. 2-3.

interview may lead to discipline. See Fraternal Order of Police E. B. Jermyn Lodge 2 v. City of Scranton, 40 PPER ¶136 (2009)(employee has reasonable fear that discipline might result from interview *after* tenor of interview changes, and investigator becomes accusatory, repeating his questions and suggesting that employee was being uncooperative and less than forthright); Amalgamated Transit Union, Local 85 v. Port Authority of Allegheny County, 22 PPER ¶22010 (1990)(employee lacks reasonable fear of discipline during interview investigating her discrimination complaint where she may conceivably be subjected to discipline for lodging false complaint to harass supervisor).

The opinion of the United States Supreme Court in NLRB v. Weingarten, 420 U.S. 251 provides guidance on this point. In that decision, the High Court observed that the right to union representation does not extend to “such run-of-the-mill shop-floor conversation as, for example, the giving of instructions or training or needed corrections of work techniques” where an employee does not have a reasonable fear that discipline will result. Weingarten, 420 U.S. at 257-58 (quoting Quality Manufacturing, 195 NLRB 197, 199 (1972)). The Supreme Court made this determination although a charge of insubordination might eventually result from an employee’s failure to follow the instructions or training he/she received from a supervisor.

Similarly, a charge of insubordination might follow, for example, if an employee of Respondent fails to cooperate with OPR investigators during an interview concerning the alleged misconduct of another. While the employee who allegedly failed to cooperate would have a reasonable belief that discipline may result from a *subsequent* OPR interview once charges of wrongdoing were filed against him/her, that same employee would not have such a belief in the initial interview where another employee was facing charges.

A. Brian Davenport

The evidence demonstrates that the Respondent violated the Act when it denied Davenport's renewed request for union representation at his May 14, 2010 interview once the OPR investigators began questioning him about his own misconduct. At that point, the interview became investigatory within the meaning of Weingarten, and Davenport had a reasonable fear that discipline would result despite statements of the OPR investigators that their purpose was not to harm him.¹¹ The Respondent ignored Davenport's request and continued the interview without the presence of a union representative.

Davenport's fear of discipline as a result of his May 14, 2010 interview by OPR investigators was reasonable because the investigators from OPR, a body that investigates employee misconduct, began asking him about his own misconduct. The investigators' statement that he was a witness—not the subject of an investigation—failed to dispel this reasonable fear. Earlier this year the Board recognized that an employee may maintain a reasonable expectation of discipline where the employer merely informs him that he is not the subject of the investigation. Int'l Bhd. of Teamsters, Local 700 and State of Illinois, Dep' of Cent. Mgmt. Servs., 28 PERI ¶157 (IL LRB-SP 2012) (citing Policemen's Benevolent Labor Comm. and City of Ottawa, 25 PERI ¶43 (IL LRB-SP 2009), *rev'd in part on other grounds in non-precedential decision*, City of Ottawa v. Ill. Labor Relations Bd., No. 3-09-0365, 27 PERI ¶39 (Ill. App. Ct., 3d Dist., Jan. 6, 2011)). In City of Ottawa, 25 PERI ¶43, the Board ruled that an employee had a reasonable expectation of discipline although superiors told him there were no charges against him and he was being interviewed as a witness in the investigation of another employee.

¹¹ Davenport's subjective belief of fear is not relevant to this finding.

Applying the Board precedent in City of Ottawa, 25 PERI ¶43 to Davenport's May 14, 2010 interview, Respondent cannot escape its obligations under the Act by merely labeling Davenport a witness in the investigation of his superior's actions. Regardless of the OPR investigators' statements to Davenport that he was a witness, he had a reasonable belief that discipline would result when they began questioning him about his own misconduct—a 2008 incident of sleeping on duty. The evidence shows that sleeping on duty is a disciplinable offense.

While the Board recognizes an employee may lack a reasonable belief when the employer gives him/her assurances that the interview will not lead to discipline, earlier this year it reversed the Executive Director's dismissal of a charge and directed that a complaint be issued for hearing so that the parameters of this defense could be better defined. See Int'l Bhd. of Teamsters, Local 700 and State of Illinois, Dep't of Cent. Mgmt. Servs., 28 PERI ¶157 (IL LRB-SP 2012). A review of the case law of the National Labor Relations Board and public sector labor relations boards outside of Illinois provides guidance as to the legal affect of employer assurances that an interview will not result in discipline.

Several labor boards have found that despite employer assurances, an employee may still have a reasonable belief that an interview might lead to discipline. See Kent County and UAW Local 2600, 21 MPER ¶61 (MI LRB 2008); Lake Elsinore Teachers Ass'n, CTA/NEA v. Lake Elsinore United School District, 28 PERC ¶185 (CA LRB 2004); Southwestern Bell Telephone Co. and Communications Workers of America, Local 6333, 338 NLRB 552 (ALJ 2002). In Kent County, 21 MERC ¶61, the Michigan Employment Relations Commission (MERC) rejected the respondent's argument that the employee did not have a reasonable expectation that the meeting would result in discipline because at the beginning of the meeting she was told she

had done nothing wrong. Instead, MERC ruled that such a belief was objectively reasonable: “[i]nterrogation by two supervisors regarding a client complaint would cause the average employee in those circumstances to fear that discipline was a possibility. Id. Further, MERC observed that the investigators had “repeatedly and falsely” assured the employee at issue that union representation was unnecessary.” Id.

Likewise, the California Public Employment Relations Board (PERB) declined to follow the respondent’s contention in Lake Elsinore, 28 PERC ¶185 that the employee could not have reasonably believed that discipline would result from the interview since the district superintendent told the employee that the interview would not result in disciplinary action. Despite the superintendent’s statement, PERC concluded the employee could reasonably believe that discipline could result from the interview due to “the highly charged atmosphere” and the formal nature of the investigation.

An ALJ of the National Labor Relations Board (NLRB) also discounted the impact of an employer’s assurances that an interview would not lead to discipline. See Southwestern Bell Telephone Co., 338 NLRB 552. In Southwestern Bell, the ALJ ruled that the supervisor’s assurances to the employee that the meeting would not affect his job security had to be discounted because the supervisor told the employee that he did not know the reason for the meeting. Id. While the NLRB adopted the ALJ’s recommended decision that no statutory violation had occurred, the NLRB’s award specifically provided that it “did not pass on” the ALJ’s rejection of the following argument made by the respondent: that the supervisor’s assurances the employee did not need a union representative because the meeting would not affect his job security precluded a finding that the employee reasonably believed that the meeting would result in discipline. Id.

Recognizing that an employee may still have reasonable belief that discipline will result from his interview despite the employer's statements to the contrary, I conclude that Davenport had such a belief when he asked the OPR investigators for a union representative during the May 14, 2010 interview. Although Davenport acknowledged that he was called in to OPR due to the investigation of a superior and the investigation might have had "something to do with" Shakman violations, the record does not establish that the OPR investigators told him the nature of the allegations. Further, the evidence fails to demonstrate that the OPR investigators told him how the alleged misconduct of the superior under investigation related to their questions about the September 2008 incident when Davenport admitted to sleeping on the job. The evidence does not show that Hake or Investigator Rentas informed Davenport that a superior was being investigated for alleged Shakman violations, and, more importantly, how such an investigation of his superior related to the incident involving his behavior in September 2008 when he admitted to sleeping on the job. Given that context, Davenport had a reasonable belief that he might face discipline as a result of the May 14 interview where the questions of the OPR investigators focused on his own misconduct.

A comparison of the statement which an OPR investigator wrote memorializing Davenport's May 14, 2010 interview with those documenting the statements of Mak and Wilcox during the investigation of the same superior supports the finding that Davenport was unaware of the nature of the superior's alleged wrongdoing and how it was connected to the incident of September 2008 involving his own conduct. Only the summaries of the respective OPR interviews of Mak and Wilcox include language that these deputy sheriffs were being interviewed as witnesses in the investigation of the superior alleged to have engaged in discrimination based on sex, race and political affiliations, as well as sexual harassment. By

contrast, the documentation of Davenport's May 14, 2010 interview contains no such language limiting the purpose of his interview.

Although the Respondent contends that Davenport's seven-day suspension was due to his false report at a June 4, 2010 interview, the evidence demonstrates that this reason was pretextual—he was actually disciplined for his admission during the May 14, 2010 interview that he had been sleeping on the job in 2008. First, multiple documents created during the inquiry leading to Davenport's seven-day suspension expressly state that he is being investigated for sleeping on the job, not the making of a false report.¹² For example, on June 4, 2010, Ways signed a complaint register to initiate an investigation of Davenport for sleeping on the job in September 2008. Then, the notification of allegations form dated that same day describes his alleged offense as sleeping on the job. Further, the memorandum documenting Davenport's June 4, 2010 statement indicates that he was being interviewed pursuant to Ways' complaint against him for sleeping on the job. Consistent with this finding that Davenport was actually suspended for his admission during his May 14, 2010 interview of sleeping on the job, Ways disclosed his belief that the docking of Davenport's pay for sleeping on the job September 11, 2008 was not "necessarily discipline."

Second, the Respondent's asserted reason for Davenport's seven-day suspension—making a false statement during an OPR interview—has not been established. The Respondent fails to clarify when Davenport made his alleged false statement—during the May 14, 2010 interview or the subsequent interview on June 4, 2010. The Synopsis of the Investigation Report

¹² Accordingly, I do not credit Ways' denial that Davenport was disciplined for sleeping on the job in September 2008. Ways simply offered no explanation for the multiple documents, *i.e.*, the notification of allegations for Davenport's June 4, 2010 interview, and the to/from report memorializing that interview—issued after the May 14, 2010 interview which explicitly state that Davenport was being investigated for sleeping on the job.

expressly states that Davenport made this false statement during his June 4, 2010 interview. Yet, the remainder of the Investigation Report refers to Davenport's false statement made in the May 14, 2010 interview. More importantly, the record fails to show that Davenport made a false statement about a *material* fact during the May 14, 2010 interview. The Respondent maintains that Davenport was untruthful on May 14, 2010 when he denied having gone to a tire repair shop the day he fell asleep on the job in September 2008. Yet, the Respondent has not indicated the significance of this denial. Nor has it provided a sufficient basis for its sustained finding that Davenport made a false report during his May 14, 2010 interview. Finally, Ways' testimony as to what constitutes Davenport's asserted false statement is cryptic at best.

Having established that the Respondent violated Davenport's right to union representation at his May 14, 2010 interview, the evidence demonstrates that a make-whole remedy of backpay is appropriate. See American Federation of State, County, and Municipal Employees and County of Cook and Sheriff of Cook County, 28 PERI ¶155 (IL LRB-LP 2012) (citing City of Chicago (Dep't of Aviation), 13 PERI ¶ 3014). In particular, the evidence shows that Davenport's seven-day suspension was predominantly dependent upon information he provided during his unlawful May 14, 2010 interview. Id. Although Davenport subsequently provided that same information in his June 4, 2010 interview as an accused, the latter interview only took place due to the disclosures he made in his May 14, 2010 interview. Further, the evidence does not indicate that the anonymous letters leading to the investigation of Davenport's superior constitute sufficient evidence of his wrongdoing on September 11, 2008. Id.

Apart from the Respondent's violation of Davenport's right to union representation, it may not discipline Davenport based on information it acquired solely due to the May 14, 2010 interview once the OPR investigators assured him that no discipline would result from that

interview. See Lake Elsinore, 28 PERC ¶185. Otherwise, employees subjected to OPR interviews in the future would repeatedly ask for union representation. Id.

B. Catherine Galas

The record fails to establish that the Respondent violated the Act when it denied Galas' request for union representation at her May 18, 2010 interview. She did not have a reasonable fear that discipline would result from her May 18 interview, a prerequisite of finding a Weingarten violation. This conclusion that Galas lacked a reasonable belief that discipline might follow her interview is based on a consideration of all the circumstances of her case. See Eisenberg and Chicago Transit Auth., 17 PERI ¶3018 (IL LRB-LP 2001); Vaughn and State of Illinois (Dep'ts of Cent. Mgmt. Servs. and Emp't Security, 4 PERI ¶2005 (IL SLRB 1988).

When Galas was called to OPR for an interview, the investigators' questions to her included inquiries about performance of her job duties and relationship to the supervisor under investigation. Unlike Davenport, Galas was not asked about her own misconduct. Under these circumstances, the Charging Party has not established that Galas had a reasonable fear that discipline would result from her interview of May 18, 2010. See Eisenberg and Chicago Transit Auth., 17 PERI ¶3018 (IL LRB-LP 2001); Vaughn and State of Illinois (Dep'ts of Cent. Mgmt. Servs. and Emp't Security, 4 PERI ¶2005 (IL SLRB 1988). Moreover, I reject the Charging Party's implication that Galas' subsequent discipline is evidence that at the time of her interview she had a reasonable belief that discipline might result. The record fails to show for what she was subsequently disciplined, nor how it was related to the May 18, 2010 interview.

C. Thomas Wilcox

The evidence does not show that Respondent violated the Act when it denied Wilcox's request for a union representative at his May 19, 2010 interview. A review of all the

circumstances of his case fails to show that he had a reasonable belief that the interview would lead to discipline. See Eisenberg and Chicago Transit Auth., 17 PERI ¶3018 (IL LRB-LP 2001); Vaughn and State of Illinois (Dep'ts of Cent. Mgmt. Servs. and Emp't Security), 4 PERI ¶2005 (IL SLRB 1988).

Specifically, Wilcox was called as a witness in the investigation of a superior's misconduct. Although he initially refused to respond to the OPR investigators' questions, ultimately, he chose to cooperate with the investigation. As a union steward who has been present during OPR interviews, Wilcox was knowledgeable about OPR investigation procedures. Unlike Davenport, the record fails to show that he was questioned about his own misconduct. Given these circumstances, Wilcox did not have a reasonable fear that he would be disciplined as a result of his OPR interview. See Eisenberg and Chicago Transit Auth., 17 PERI ¶3018 (IL LRB-LP 2001); Vaughn and State of Illinois (Dep'ts of Cent. Mgmt. Servs. and Emp't Security), 4 PERI ¶2005 (IL SLRB 1988).

Further, the label of witness which the OPR investigators gave to Wilcox at his May 19, 2010 interview did not contribute to the finding that he lacked such a reasonable fear. The classification of an employee as a witness is not determinative of whether he/she has such a belief. See City of Ottawa, 25 PERI ¶43.

D. Ala Liddell

The record establishes that the Respondent violated the Act when it denied Liddell's repeated requests for a union representative at her September 2010 interview by OPR investigators. A review of the circumstances surrounding that interview show that Liddell had a reasonable belief that the interview might lead to discipline. See Eisenberg and Chicago Transit Auth., 17 PERI ¶3018 (IL LRB-LP 2001); Vaughn and State of Illinois (Dep'ts of Cent. Mgmt.

Servs. and Emp't Security, 4 PERI ¶2005 (IL SLRB 1988). This belief was reasonable despite the OPR investigators' statements that Liddell did not need a union representative since she was a witness. See Kent County and UAW Local 2600, 21 MPER ¶61 (MI LRB 2008); Lake Elsinore Teachers Ass'n, CTA/NEA v. Lake Elsinore United School District, 28 PERC ¶185 (CA LRB 2004); Southwestern Bell Telephone Co. and Communications Workers of America, Local 6333, 338 NLRB 552 (ALJ 2002).

In particular, Liddell's un rebutted testimony demonstrates that the OPR investigators asked her questions that might have led to her discipline. These inquiries concerned her relationship with a named detainee, as well as whether she was bringing drugs into the jail. Further, it is irrelevant to this reasonable belief whether Liddell was actually disciplined as a result of the interview. See Rock-Tenn Co. and United Paper Workers Int'l Union, AFL-CIO, Local 907, 315 NLRB 670, 683 (1994), *overruled in part on other grounds by Chelsea Industries, Inc.*, 331 NLRB 1648 (2000).

V. CONCLUSIONS OF LAW

The Respondent violated Section 10(a)(1) of the Act by taking each of the following actions: 1) on January 15, 2010 it issued a memorandum which states that witness employees being interviewed by Office of Professional Review investigators are not to be provided union representation; 2) on May 14, 2010 it denied Brian Davenport's request for union representation during an interview by investigators from the Office of Professional Review; and 3) in September 2010 it denied Ala Liddell's request for union representation during an interview by investigators from the Office of Professional Regulation.

The Respondent did not violate Section 10(a)(1) of the Act by denying the requests of employees Catherine Galas and Thomas Wilcox for union representation at their respective

interviews by investigators from the Office of Professional Review on May 18 and 19, 2010.¹³

VI. RECOMMENDED ORDER

IT IS HEREBY ORDERED that Respondent, its officers and agents, shall:

- 1) Cease and desist from:
 - a. issuing any memorandum/directive to its employees which provides that employees interviewed by Office of Professional Review investigators as witnesses have no right to union representation;
 - b. questioning Brian Davenport, Ala Liddell or any of its other employees after they have asserted their right to union representation when Weingarten has attached, until such representation has been provided; and
 - c. in any like or related manner, interfering with, restraining or coercing employees in the exercise of rights guaranteed them in the Act.
- 2) Take the following affirmative action necessary to effectuate the policies of the Act:
 - a. rescind that part of the memorandum/directive dated January 15, 2010 which provides that witness employees interviewed by investigators at the Office of Professional Review have no right to union representation;
 - b. make-whole Brian Davenport for the seven-day suspension which was predominantly dependent on unlawful May 14, 2010 interview at which investigators from the Office of Professional Review denied his request for union representation;
 - c. expunge from Respondent's files any reference to Davenport's seven-day suspension, issued and served after his May 14, 2010 interview, and notify him in writing both

¹³ Nor has the Respondent violated Section 10(a)(1) of the Act by its actions concerning employee Kevin Layton at his investigatory interview in early 2010. The Complaint referenced Layton, but at hearing the Charging Party introduced no evidence related to him.

that this action has been taken and that evidence of this unlawful suspension will not be used as the basis for future personnel actions against him;

- d. preserve, and upon request, make available to the Board or its agents for examination and copying, all records, reports and other documents necessary to analyze the amount of backpay due under the terms of this recommended decision;
- e. post signed copies of the attached notice for a period of 60 consecutive days at all places where notices to Respondent's employees are regularly posted; and
- f. notify the Board in writing, within 20 days of the date of this order, of the steps that the Respondent has taken to comply herewith.

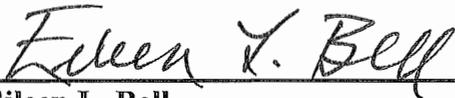
VI. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than 30 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 15 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within 7 days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions and cross-responses must be filed with the General Counsel of the Illinois Labor Relations Board, 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103 and served on all other parties. Exceptions, responses, cross-exceptions and cross-responses will not be accepted at the Board's Springfield office. The exceptions and/or cross-exceptions sent to the Board must contain a statement listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided

to them. The exceptions and/or cross exceptions will not be considered without this statement. If no exceptions have been filed within the 30 day period, the parties will be deemed to have waived their exceptions.

Issued at Chicago, Illinois this 26th day of December 2012.

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD



Eileen L. Bell
Administrative Law Judge

NOTICE TO EMPLOYEES

FROM THE ILLINOIS LABOR RELATIONS BOARD

The Illinois Labor Relations Board has found that the County of Cook and Sheriff of Cook County have violated the Illinois Public Labor Relations Act and has ordered us to post this Notice. We hereby notify you that:

The Illinois Public Labor Relations Act gives you, as an employee, these rights:

- To engage in self-organization.
- To form, join, or help unions.
- To bargain collectively through a representative of your own choosing.
- To act together with other employees to bargain collectively or for other mutual aid or protection.
- And, if you wish, not to do any of these things.

Accordingly, we assure you that:

WE WILL cease and desist from issuing any memorandum/directive to employees which provides that an employee interviewed by the Office of Professional Review investigators as a witness has no right to union representation.

WE WILL cease and desist from questioning Brian Davenport, Ala Liddell or any of our other employees after they have asserted their right to union representation when Weingarten has attached until such representation has been provided.

WE WILL cease and desist from in any like or related manner, interfering with, restraining or coercing employees in the exercise of the rights guaranteed them in the Act.

WE WILL, effective immediately rescind that part of the memorandum/directive dated January 15, 2010 which provides that witness employees interviewed by investigators at the Office of Professional Review have no right to union representation.

WE WILL, effective immediately, make-whole Brian Davenport for the seven-day suspension which was predominantly dependent on the information provided at the unlawful May 14, 2010 interview at which his request for union representation was denied, including back-pay plus interest at a rate of seven percent per annum.

WE WILL, effective immediately, expunge from our files any reference to the seven-day day suspension issued to and served by Brian Davenport after his May 14, 2010 interview, and notify him in writing that this action has been taken and that evidence of this unlawful suspension will not be used as the basis for future personnel actions against him.

Date of Posting: _____

County of Cook and Sheriff of Cook County
(Employer)

(Representative) (Title)

ILLINOIS LABOR RELATIONS BOARD
320 West Washington, Suite 500 160 North LaSalle Street, Suite S-400
Springfield, Illinois 62701 Chicago, Illinois 60601-3103
(217) 785-3155 (312) 793-6400

**THIS IS AN OFFICIAL GOVERNMENT NOTICE
AND MUST NOT BE DEFACED.**
