



August 15, 2011

CITY OF
TUCSON
STEVE KOZACHIK
COUNCIL MEMBER

Re: Public Safety Dispatchers

Early in the summer, City Management instructed Public Safety Dispatchers that they were not to speak to anybody outside of the General Services chain of command relative to the on-going issues surrounding the cut-over to the new 911 Vesta Meridian system.

That instruction was inappropriate, and in conflict with the rights of the employees.

In 1968, the U.S. Supreme Court spoke to the issue in *Pickering v. Board of Education*, 391 U.S. 563 (1968). In reaching a decision, the court came up with a method of analyzing public employee free-speech cases "... to arrive at a balance between the interests of the ... citizen in commenting on matters of public concern and the interest of the ... [public] employer in promoting the efficiency of the public services it performs through its employees." In its decision the Court established the *Pickering* test. That test includes the following three elements:

A) A public employee has a protected right under the First Amendment to comment on "matters of public concern," no matter what the employer thinks.

B) If the employee's comments aren't on a "matter of public concern," those comments are not protected.

(Note: Most often when the court determines that speech isn't a matter of public concern, it's because the court has found that the employee has taken a private grievance public.)

C) If the employee's comments are on a matter of public concern, then the employer must demonstrate that the speech would "potentially interfere with or disrupt the government's activities, and can persuade the court that the potential disruptiveness" outweighs the employee's First Amendment rights.

The instruction to avoid speaking to the press or others on the 911-system change cannot survive the *Pickering* Test.

Since the media began to pursue this as a story, reports of disparaging and harassing

comments directed at workers 'suspected' of speaking out have begun to come from supervisors and management.

Such behavior is also a violation of the employees' rights.

From the U.S. EEOC website:

"Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964."

Harassment is unwelcome conduct that is pervasive enough to create a work environment that a reasonable person would consider "intimidating, hostile, or abusive."

The site states that "offensive conduct may include, but is not limited to, ...ridicule or mockery, insults or put-downs, and interference with work performance."

We are here today to deliver a strong message to those in management and supervisory capacities at the Communications Center that their reaction to the media interest in this story is crossing significant lines of propriety - knock it off immediately and begin to rally together to find the solutions to the problems that have been identified by the dispatch team, other agencies and ultimately by callers who have experienced problems accessing the system.

Sincerely,

Steve Kozachik
Council Member, Ward 6
City of Tucson

Linda Hatfield, President
Communications Workers of America
Local 7000