

Leonard Crouch
Secretary/Treasurer

GENERAL TEAMSTERS, FOOD PROCESSING EMPLOYEES, PUBLIC EMPLOYEES, WAREHOUSEMEN and HELPERS



LOCAL UNION NO. 760

Affiliated with

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

GENERAL OFFICE: 1211 WEST LINCOLN • (509) 452-7194 • FAX (509) 452-7354 • YAKIMA, WASHINGTON 98902

AREA OFFICES: 1737 N. WENATCHEE AVE., STE. F • (509) 667-7760 • WENATCHEE, WASHINGTON 98801
514 WEST THIRD • (509) 765-7460 • MOSES LAKE, WASHINGTON 98837

July 31, 2020

Mayor Raymond
City of Selah

RE: Concerns on Behalf of the Officers of the Selah Police Department

Dear Mayor Raymond:

Teamsters Local 760, as you know, is the legal representative of the officers of the Selah Police Department. Those officers hold their oath to protect the constitutional rights of people within the City of Selah as their highest duty.

The officers and staff of the Selah Police Department have a deep appreciation for the Citizens on both sides of the issues currently embroiling the city. As a group, the staff of the police department has worked hard to establish and maintain a strong relationship with the citizens of the community. This relationship has been built on trust and communication between both sides. The current situation has stressed that relationship and made the jobs of officers much more difficult.

As I expressed to you and the City Attorney in our meeting on July 16, 2020, the actions and provocations by the City Administrator concerning protesters have inflamed a volatile situation which we fear places the citizenry and officers at risk. We want you to understand the difficulty that causes police officers, who work in an environment that is based on following directions and lawful orders. The current situation is causing officers to consider leaving the Selah Police Department and has had a negative impact on the officer's morale.

This letter will also memorialize our concerns over the position adopted by the City regarding the criminality of an individuals' use of chalk as communication on public walkways within city limits. As I am sure that you know, chalk art on walkways has been a mode of communication within the City of Selah over the years on a variety of topics. Until recently, individuals were able to engage in expressing speech on walkways without direction to the police officers from the city to take enforcement action in any way. Now, however, the city has directed police officers to take action against those who use chalk art in support of a particular political view under the theory that such an act now constitutes a criminal act. For reasons described herein, the city's divergent application of what constitutes criminal activity is deeply concerning to the Union on behalf of the represented employees.

As part of the Union's investigation into whether the City's directive constitutes a lawful order, I have attached a copy of an Order issued by the Chief Judge of the United States District Court for the Eastern District of Washington in *Bledsoe v. Ferry County* Case No. 2:19-CV-227-RMP. This is the division of the U.S. District Court that includes the City of Selah.

As explained therein, the Court concluded that the criminal reach of the malicious mischief statute, RCW 9A.48.090, did not extend to an individual's use of chalk on public walkways. Most significant for purposes of this letter, is the Court's analysis concerning subsection (b) of the malicious mischief statute which allows for prosecution in cases involving federal buildings even without a showing of property damage. The District Court specifically noted that the plain language of this subsection made clear that it did not apply to public walkways.

Because of the potential of individual liability to officers for a constitutional violation in the course of employment, the Union requests that the city provide an explanation as to how it would constitutionally and statutorily distinguish its directive to criminally investigate and report individuals who use chalk on public walkways within the city limits to express speech from the scope of the Order of the U.S. District Court in *Bledsoe v. Ferry County* which notes that such conduct does not constitute criminal activity. This request is made pursuant to RCW Chapter 41.56.

Given the gravity of the moment, I ask that you give this matter your immediate attention. Please contact me with any questions.

Sincerely,



David Simmons
Business Representative

Cc: Councilmember Wickenhagen
Councilmember Matson
Councilmember Vargas
Councilmember Peterson
Councilmember Bell
Councilmember Lantz
Councilmember Carlson