

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION  
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

CITY OF CAMDEN,

Public Employer,

-and-

TEAMSTERS LOCAL 676, IBT,

DOCKET NO. RO-77-45

Petitioner,

-and-

CAMDEN COUNCIL NO. 10, NJCSA,

Intervenor.

SYNOPSIS

The Director of Representation in agreement with the Hearing Officer's Report and Recommendations, determines that a Petition seeking to represent certain employees of the City of Camden should be dismissed inasmuch as the employees sought to be represented are currently represented in an appropriate unit and the record reflects that the incumbent organization has met its statutory obligation regarding the provision of responsible representation to the petitioned-for employees.

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Intervenor.

Appearances:

For the Public Employer  
Murray, Meagher & Granello  
(Robert M. Tosti, Of Counsel)

For the Petitioner  
Tomar, Parks, Seliger, Simonoff & Adourian  
(Steven K. Kudatsky, Of Counsel)

For the Intervenor  
Joseph A. Carmen, Esq.

DECISION

Pursuant to a Notice of Hearing to resolve a question concerning the representation of certain employees of the City of Camden described in a Petition for Certification of Public Employee Representative timely filed by Teamsters Local Union No. 676, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America ("Local 676"), a hearing was held before Joan Kane Josephson, on May 3, 1977. At this hearing all parties were given an opportunity to examine and cross-examine witnesses, present evidence and argue orally. A post-hearing brief was filed on behalf of the Petitioner on July 13, 1977. Subsequently, the

Hearing Officer issued her Report and Recommendations on September 28, 1977. A copy is annexed hereto and made a part hereof. No exceptions to the Hearing Officer's Report have been filed.

The undersigned has considered the entire record and the Hearing Officer's Report and Recommendations and on the facts in this case finds and determines as follows:

1. The City of Camden (the "City") is a Public Employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., as amended (the "Act"), is the employer of the employees involved herein, and is subject to the Act's provisions.

2. Teamsters Local 676, IBT is an employee representative within the meaning of the Act and is subject to its provisions.

3. Camden Council No. 10, New Jersey Civil Service Association ("Council 10") is an employee representative within the meaning of the Act and is subject to its provisions.

4. Council 10 is the exclusive collective negotiations representative of a unit of all blue collar employees employed by the City of Camden. It was certified by the Commission pursuant to a Certification of Representative dated May 2, 1974. <sup>1/</sup> The Certification of Representative contains a list of titles including ambulance driver and police and fire alarm operator. <sup>2/</sup>

The collective negotiations agreement between the City and Council 10, which the parties executed on July 26, 1974 and which contained an expiration date of December 31, 1976, recognized Council 10 as the representative of the employees designated in the aforementioned Certification of Representative.

<sup>1/</sup> Docket No. RO-708.

<sup>2/</sup> Police and fire alarm operator is the official title of the police dispatchers petitioned for herein.

It further provided that, "upon the creation of any new titles, if it is agreed that they conform to the certificate, shall be covered by this agreement." An ambulance squad was organized by the City on November 11, 1974 and ambulance squad employees became part of the above-mentioned blue collar collective negotiations unit.

5. On September 27, 1976, Local 676 filed the instant Petition with the Public Employment Relations Commission (the "Commission") seeking to represent ambulance squad personnel <sup>3/</sup> and police dispatchers employed by the City; and requested recognition from the City as the majority representative for those employees. The City has declined to grant such recognition. Additionally, on October 16, 1976, Council 10 objected to Local 676's requested representation of such employees and was subsequently granted intervenor status in this matter. Accordingly, a Petition for Certification of Public Employee Representative has been filed, there exists a dispute, and the matter is appropriately before the undersigned for determination.

6. The Hearing Officer found, after consideration of the qualifications, duties and conditions of employment of the ambulance squad personnel and dispatchers vis-a-vis the other blue collar employees in the Council 10 collective negotiations unit, that the existing unit is the most appropriate and should not be disturbed unless the incumbent representative has not provided responsible representation to the employees in question. This finding was predicated upon the Commission's duty to make a determination as to the quality of representation afforded the petitioned-for employees in the existing collective negotiations unit. In this regard, the Hearing Officer relied upon

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<sup>3/</sup> More precisely, Local 676's Petition described the petitioned-for fire department personnel as "all emergency personnel, medical technicians and mechanics." At hearing, Local 676 was permitted to amend its Petition to exclude mechanics from the proposed unit.

In re Jefferson Township Board of Education, P.E.R.C. No. 61 (1971), which sets forth the Commission's standards applicable to Petitions seeking severance of employees from an existing appropriate collective negotiations unit.

7. The Hearing Officer further found that the record does not show that Council 10 has not responsibly represented the employees in question either in negotiations or with respect to grievance handling or contract administration. Accordingly, the Hearing Officer found that the petitioned-for unit is inappropriate and recommended that the Petition in the instant matter be dismissed.

The undersigned, pursuant to an independent review of the record, and noting the absence of any exceptions to the Hearing Officer's Report and Recommendations adopts the Hearing Officer's findings and conclusions. The undersigned finds that there is ample record evidence to support the Hearing Officer's findings. Moreover, the Hearing Officer's conclusion and recommendation that the petitioned-for unit is inappropriate is consistent with and in accordance with prior standards enumerated by the Commission in previous decisions. <sup>4/</sup>

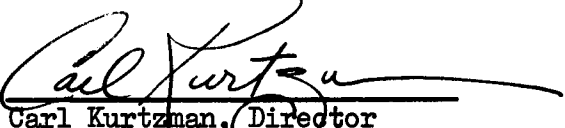
The record reveals, in both testimonial and documentary evidence, that Council 10 has made efforts to process grievances on behalf of the petitioned-for employees. In addition, the record shows that the collective negotiations agreement covering the existing unit allowed for an individual to process his or her own grievance through the grievance procedure. It further shows that the aforementioned agreement between the City and Council 10, in major substantive terms and conditions of employment, is applicable

<sup>4/</sup> See also In re Board of Education of the Township of West Milford, P.E.R.C. No. 56 (1971); In re Board of Education of the Township of Cranford, E.D. No. 74 (1975).

to the petitioned-for employees in the same manner as it is for other unit members.

Accordingly, the undersigned finds that the petitioned-for unit is inappropriate and the instant Petition is hereby dismissed.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Carl Kurtzman, Director  
of Representation

DATED: November 29, 1977  
Trenton, New Jersey

STATE OF NEW JERSEY  
BEFORE A HEARING OFFICER OF THE  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF CAMDEN,

Public Employer,

-and-

TEAMSTERS LOCAL 676, AFFILIATED WITH INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN  
& HELPERS OF AMERICA,

Docket No. RO-77-45

Petitioner,

-and-

CAMDEN COUNCIL NO. 10, N.J.C.S.A.

Intervenor.

SYNOPSIS

A Commission Hearing Officer in a representation proceeding recommends dismissal of a petition to sever ambulance squad personnel and police dispatchers from an existing overall blue-collar unit.

The Hearing Officer concludes after a review of the record, that ambulance unit personnel and dispatchers do not share a unique community of interest that would justify severance from an existing unit, and that the existing overall unit is appropriate. Additionally, the Hearing Officer finds that the incumbent organization has met its statutory obligation regarding the provision of responsible representation to the employees sought.

A Hearing Officer's Report and Recommendations is not a final administrative determination of the Public Employment Relations Commission. The Report is submitted to the Director of Representation Proceedings who reviews the Report, any exceptions thereto filed by the parties and the record, and issues a decision which may adopt, reject or modify the Hearing Officer's findings of fact and/or conclusions of law. The Director's decision is binding upon the parties unless a request for review is filed before the Commission.

STATE OF NEW JERSEY  
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TEAMSTERS LOCAL 676, AFFILIATED WITH INTERNATIONAL  
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CAMDEN COUNCIL NO. 10,  
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Intervenor.

Appearances:

For the Public Employer, Murray, Meagher and Granello  
(Robert M. Tosti of Counsel)

For the Petitioner, Tomar, Parks, Seliger, Simonoff  
& Adourian (Steven K. Kudatzky of Counsel)

For the Intervenor, Joseph A. Carmen, Esq.

HEARING OFFICER'S REPORT AND RECOMMENDATIONS

A petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission on September 27, 1976 by Teamsters Local Union No. 676 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America seeking certification as the exclusive representative for the purposes of collective negotiations of "All emergency personnel, medical technicians and mechanics<sup>1/</sup> of the Camden Fire Department Ambulance Squad <sup>2/</sup> All dispatchers of the Camden Police Department Communications."

<sup>1/</sup> At an informal conference held on December 21, 1976 Petitioner orally amended the petition to exclude mechanics from the petitioned-for unit. On February 24, 1977 petitioner formally amended the petition to exclude the "Mechanics of the City's Fire Department." At the hearing held on May 3, 1977 Petitioner's motion to amend the petition to exclude the mechanics was approved by the Hearing Officer with the consent of all parties.

<sup>2/</sup> Since the filing of the petition the ambulance squad personnel have been removed from the Fire Department and made an independent unit within the Department of Public Health.



On October 16, 1976 Camden Council No. 10 N.J.C.S.A., the majority representative of the petitioned for employees, requested by letter to intervene.

Pursuant to a Notice of Hearing dated March 18, 1977 and Order Rescheduling Hearing dated April 28, 1977, a hearing was held before the undersigned Hearing Officer on May 3, 1977 in Trenton, New Jersey, at which time all parties were given an opportunity to examine witnesses, present evidence and argue orally. Pursuant to requests from petitioner the time for filing briefs were extended and on July 13, 1977 the Petitioner filed a brief. No other briefs were filed. Upon the entire record in the proceeding the Hearing Officer finds:

(1) The City of Camden (the "City") is a Public Employer within the meaning of the New Jersey Employer-Employee Relations Act (the "Act"), is subject to its provisions and is the employer of the employees who are the subject of this proceeding.

(2) Teamsters Local 676, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America ("Local 676") is an employee representative within the meaning of the Act and is subject to its provisions.

(3) Camden Council No. 10, N.J.C.S.A. ("Council 10") is an employee representative within the meaning of the Act and is subject to its provisions.

(4) Local 676 requested recognition from the City as majority representative of the petitioned-for employees and the City declined to grant recognition. On October 16, 1976 Council 10 objected to Local 676's requested representation of the petitioned-for employees. Accordingly, there is a question concerning representation of public employees and the matter is appropriately before the Hearing Officer for a Report and Recommendations.

Local 676 seeks to represent for collective negotiations a unit of ambulance squad personnel and police dispatchers employed by the City of Camden.<sup>3/</sup> These

<sup>3/</sup> At the hearing Local 676 took an alternate unit position. In the event the Commission found a unit comprised of Ambulance Squad members and Dispatchers not appropriate. Local 676 requested alternatively to amend its petition for a collective negotiations unit comprised of Ambulance Squad members only. (Tr. 222-223)

employees are represented for collective negotiations by Council 10 in a unit that consists of all blue collar employees employed by the City of Camden.

This unit was certified by the Public Employment Relations Commission on May 2, 1974.<sup>4/</sup> The certification included a list of some 60 job titles that were included in the unit. Among the titles listed were the following: Ambulance driver, Police and Fire Alarm Operator,<sup>5/</sup> Radio Dispatcher (Public Works), Police and Fire System Repairman.

On July 26, 1974 Council 10 and the City entered into a collective negotiations agreement which recognized "Council 10 as the bargaining agent for the purposes of establishing salaries, wages, hours and other conditions in the Certification of the Public Employment Relations Commission..." The expiration date contained in the contract was December 31, 1976.<sup>6/</sup>

The Council 10 blue-collar unit that was certified on May 2, 1974 included the police dispatchers that are petitioned for herein. The ambulance squad petitioned for herein was organized by the City on November 11, 1974.<sup>7/</sup> Prior to that time there was an ambulance system within the Camden Police Department.<sup>8/</sup>

The recognition clause of the collective negotiations agreement between the City and Council 10 states:

"It is agreed that upon the creation of any new title, if it is agreed that they conform to the certificate, shall be covered by this agreement."

When the ambulance squad was organized it became part of the Council 10's collective negotiations unit.<sup>9/</sup>

<sup>4/</sup> C-3 in Evidence

<sup>5/</sup> Police and Fire Alarm Operator is the official title of the police dispatchers petitioned-for herein (See Tr. p. 172) C-5 in Evidence.

<sup>6/</sup> It should be noted that the instant petition was timely filed under the contract bar provisions contained in N.J.A.C. 19:11-2.8(c)(2).

<sup>7/</sup> Tr. p. 148

<sup>8/</sup> Ambulance driver title listed in the May 2, 1974 Certification covered employees who drove ambulances for the police department. On November 11, 1974 ambulance squads were created as a Division of the Department of Public Safety. The Squads consist of drivers, emergency medical technicians, shift supervisors and there is a chief of the Division. In November 1975, the Ambulance Squad Division was transferred to the Department of Health (Tr. p. 10-19).

<sup>9/</sup> Tr. p. 105.

Local 676 contends that the ambulance squads and the police dispatchers should be severed from the existing Council 10 unit <sup>10/</sup> because of their "functional distinctness and their unique community of interest not shared with the other employees in the overall unit and (2) that these employees have not received responsible representation from Intervenor."<sup>11/</sup>

Council 10 argues that these employees do share a community of interest with other employees in the blue-collar unit and that the representation has been adequate.<sup>12/</sup> Council 10 further argues that severance of this unit will open the door to the possibility of many fragmented units organized along departmental or occupational lines.<sup>13/</sup>

The City's position was that this was a matter between the two unions and that the City would consent to an agreement entered into between the unions or if no agreement is reached, will accept the Commission's decision.<sup>14/</sup>

#### Appropriateness of the Unit

Under the Act of the Commission is directed to determine appropriate collective negotiations units giving "due regard" for community of interest.<sup>15/</sup> The petitioner, Local 676, seeks to sever these employees from the existing unit asserting that it is an appropriate unit in that the employees in question share a unique community of interest. The Supreme Court has noted, however, that "due regard" for community of interest does not require exclusive reliance thereon.<sup>16/</sup>

<sup>10/</sup> See footnote 3 above

<sup>11/</sup> Post-Hearing Brief on Behalf of Petitioner p.1

<sup>12/</sup> Tr. pp. 12, 13

<sup>13/</sup> Tr. p. 224

<sup>14/</sup> Tr. p. 13-14

<sup>15/</sup> N.J.S.A. 34:13A-5.3 provides that "the negotiating unit shall be defined with due regard for the community of interest among the employees concerned,..."

<sup>16/</sup> In re State of New Jersey and Professional Association of N.J. Department of Education, 64 N.J. 231, 257 (1974), aff'g PERC No. 68 (The "State Professional Cases")

Unit determination must be made within the general legislative intent and statutory purposes in order to promote permanent employer-employee peace,<sup>17/</sup> and establish and promote "fair and harmonious employer-employee relations in the public service."<sup>18/</sup> Therefore, assuming arguendo that the unit sought might be appropriate in a de novo situation, that in itself might not be sufficient to disturb an existing relationship. The Commission has refused to grant severance in an existing appropriate unit without establishing that the incumbent organization has not provided responsible representation.<sup>19/</sup>

Before considering the issue of responsible representation, I shall examine the appropriateness of the petitioned-for unit in relationship to the existing unit.

The Commission has the responsibility to determine the "most appropriate unit" in disputed matters. In the State Professional Case the Court said at p. 257:

"Whatever may be correct rule under the federal act, we have no doubt that under our act PERC was under a duty to make a determination as to the most appropriate unit."

In the State Professional Case the Court upheld PERC's dismissal of petitions seeking units of separate groups of professionals employed by the State in preference for one statewide unit of all professionals.

The Court noted that it was in the public interest to avoid undue fragmentation of negotiating units.<sup>20/</sup> The Commission has a clear policy of finding broad-based units to be appropriate, rejecting claims of particular occupations of departmental groupings.<sup>21/</sup>

<sup>17/</sup> N.J.S.A. 34:13A-2

<sup>18/</sup> Board of Education of the Township of West Orange v. Elizabeth Wilton, 57 N.J. 404 (1971)

<sup>19/</sup> See Jefferson Township Board of Education, et al. PERC No. 61 (Oct. 21, 1971)

<sup>20/</sup> State Professional Case at 250

<sup>21/</sup> See for example, In re Borough of New Milford E.D. 76-42; In re State of New Jersey PERC No. 68; In re South Plainfield Board of Education PERC No. 69 (1972); In re Union County Board of Chosen Freeholders E.D. No. 49 (1974).

Local 676 maintains that the police dispatchers and the ambulance units should constitute a separate collective negotiations unit<sup>22/</sup> and be an exception to the commission policy favoring broad-based units, because they share a unique community of interest and therefore have collective negotiations needs having to do with terms and conditions of employment that are not met by the current majority representative of the overall blue-collar unit, Council 10.<sup>23/</sup>

Any occupational group may have a community of interest among themselves; however, the Commission has denied severance absent a showing that interests were so distinct from those in an overall unit as to negate a community of interest.<sup>24/</sup> In any broad-based bargaining unit certain differences are inevitable.

All the employees are employed by the City of Camden and provide certain municipal services for the City and the people who live and work there.

The Police Department Communications Division (police dispatchers) are part of the Department of Public Safety. Their work location is on the 8th floor of Camden City Hall.<sup>25/</sup> They are supervised by police officers in their chain of command, specifically their direct supervisor is a police sergeant, who is supervised by a Captain, who is under the supervision of the Chief of Police.<sup>26/</sup>

They receive calls for assistance and requests to dispatch police and/or ambulances in response to calls.<sup>27/</sup> They are subject to the regulations of the police department as set out in the Police Manual.<sup>28/</sup> Dispatchers do not receive any special training.<sup>29/</sup> They do not wear uniforms.

<sup>22/</sup> See n. 3 above for petitioner's alternate unit position for ambulance squads alone.

<sup>23/</sup> Tr. p. 11

<sup>24/</sup> In the Matter of South Plainfield Board of Education, PERC No. 46 (Aug. 28, 1970) p. 6

<sup>25/</sup> Tr. p. 173

<sup>26/</sup> Id.

<sup>27/</sup> Tr. p. 174

<sup>28/</sup> Tr. p. 181

<sup>29/</sup> Tr. p. 191

Police Dispatchers work on the "platoon system" of shift scheduling which entails three shifts of work, seven days a week.<sup>30/</sup> Ambulance Squad employees work the same schedule which will be discussed below.

Police Dispatchers receive the benefits of the Council 10 contract for blue-collar employees.<sup>31/</sup>

The Ambulance Squad Division is within the Department of Health. Some of the other Divisions in that Department are Abandoned Vehicles, Municipal Welfare, Licensing and Inspectors, Office of Aging, Rosent Control.<sup>32/</sup>

The Ambulance Squad consists of drivers, emergency medical technicians (EMT's), shift supervisors and a Chief.<sup>33/</sup> EMT's must complete an 81 hour State course and must be recertified every three years.<sup>34/</sup> They transport sick and injured and render emergency care when needed. Ambulance squad personnel wear a uniform that is supplied by the City. Other City employees are supplied the same type uniform.

Ambulance Squad Headquarters is located in a building in Camden on Fifth and Federal Streets. This is a garage-type building that houses the ambulances.<sup>35/</sup> The facility is not shared by any other City employees.

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<sup>30/</sup> Tr. p. 173

<sup>31/</sup> Tr. p. 193. There was testimony that Dispatchers did not receive a shift differential that was provided for Water Department Employees. This was refuted by the City (Tr. p. 219). Apparently Water Department employees are paid overtime for work above their regularly scheduled work day but do not receive a shift differential.

<sup>32/</sup> Tr. p. 169

<sup>33/</sup> The petition does exclude supervisors. There is a question with respect to which of these employees are supervisors and should not therefore be included in any unit that includes non-supervisors; however, that question is not before the undersigned at this time. There is a mechanism available to the public employer and the majority representative to clarify an existing unit.

<sup>34/</sup> Tr. p. 15

<sup>35/</sup> Tr. p. 16

Ambulance squad personnel work the same rotating platoon system that dispatchers do. The schedule is the same as that worked by the police officers who work shift work. There was exhaustive testimony by many witnesses at the hearing to describe the mechanism of the rotating-platoon system. Because of changes in shifts employees work an extra work shift every third week.<sup>36/</sup> Actual amount of extra time worked was disputed by the City,<sup>37/</sup> but these employees regularly work more hours than other blue-collar employees covered under the Council 10 contract for which they do not receive overtime, and they do not receive a shift differential.

Petitioner, Local 676 contends that this problem of shift scheduling is applicable only to these employees and that it contributes to the unique community of interest they share which has not been adequately represented by the present majority representative.<sup>38/</sup>

It was pointed out by the City that while all police officers are in one bargaining unit not all police work shift work.<sup>39/</sup>

The extent of the interaction between ambulance squad personnel and dispatchers is limited to the latter's contacting ambulance squad personnel upon receipt of calls requiring ambulance response and coordinating this response with the police and hospitals. (Tr. 188-189)

<sup>36/</sup> Tr. p. 128

<sup>37/</sup> Tr. p. 98

<sup>38/</sup> There was testimony that only these employees and "city towing" among Council 10 employees work shift work. Whatever the number of shift workers there may be in this unit, Council 10 did contemplate this type work in contract negotiations of 1974 because the contract contains sections on shift work. (C-5 in Evidence, Article IV Work Schedules) Article V of the contract describes full time work as 260 days and these employees work approximately 277 days. The number of days worked annually was disputed by the City but they apparently do work more than 260 days. The extra days are computed by totaling extra hours worked each third week when an employer changes shifts (Tr. p.101) This does indicate that shift scheduling and overtime can be dealt with at the negotiating table by the current majority representative. The problem may be in contract administration which will be discussed below. Council 10 does admit that the rotating shift presents a problem under the current contract (Tr. p. 200).

<sup>39/</sup> Tr. p. 96

Local 676 maintains that because of regular involvement in emergency situations and the extraordinary stress and pressure created by their jobs, these employments, especially the ambulance squad personnel, possess a unique community of interest.

Petitioner argues that unique conditions of employment of these employees, particularly their frequent dealing with emergencies, make their jobs functionally distinct. While that may be so, a functionally distinct argument might be made for many other classifications of employees within the some 60 titles in this unit who could establish diversity in their working conditions and needs. This is inevitable in broad-based negotiating units in the public sector. It can be argued, e.g., that radio dispatchers in Public Works and Public Works inspectors and investigators in Public Works are functionally distinct. (Tr. p. 2-18; see C-3 in Evidence) Council 10 argues that it is the nature of municipal employment in the City of Camden that contributes to "hazardous" working conditions and stress and pressure of employment and that this cuts across many occupational lines within this certified blue-collar unit. (Tr. p. 223) Sharing identity does not necessarily create an exclusive community of interest.<sup>40/</sup>

Council 10 is a large union representing over 3,000 employees and this petition involves approximately 45 of these employees. The special problems and interests of these 45 employees do not seem sufficiently unique to the undersigned to recommend deviation from the Supreme Court's direction to find broad-based units the most appropriate for collective negotiations.

The Supreme Court said in the State Professional Case:

"More than one proposed unit may well have attributes of appropriateness, and it is essential for the functioning of the statutory scheme that a designation of a single unit be arrived at...." (64 N.J. at 257)

40/ Lullo v. IAFF, Local 1066, 552 N.J. 409 (1970)



Having carefully considered the qualifications and duties and conditions of employment of ambulance squad personnel and dispatchers when compared to other blue collar employees in the Council 10 collective negotiations unit,<sup>41/</sup> and having examined this in relationship to the Commission's clear policy to find broad-based units the most appropriate together with the act's mandate to "promote permanent employer-employee peace," the undersigned concludes that the existing unit is the most appropriate unit and should not be disturbed unless the incumbent organization has not provided responsible representation to the employees in question.

Collective bargaining needs of ambulance personnel and dispatchers or ambulance personnel alone are not so distinct as to negate a community of interest with the overall blue-collar unit. Based on the above, I also do not find Local 676's alternate unit petition - ambulance units alone -sufficiently appropriate to disturb an existing unit.

#### Responsible Representation

The Act provides:

"A majority representative of public employees in an appropriate unit shall be entitled to act for and to negotiate agreements covering all employees in the unit and shall be responsible for representing the interests of all such employees without discrimination and without regard to employee organization membership. (emphasis added) (N.J.S.A. 34:13A-5.3)

The Supreme Court examined the Act's requirement that the majority representative be the exclusive representative and noted:

"The statutory representative... cannot lawfully refuse to perform or neglect to perform fully and in complete good faith the duty which is inseparable from the power of exclusive representation, to represent the entire membership of the employees in the unit." <sup>42/</sup> (emphasis added)

In examining the Act in pari materia with the Supreme Court's interpretation thereof, the Commission set out criteria for fair (responsible) representation.

<sup>41/</sup> It should be noted that while the current contract between the City and Council 10 was negotiated prior to the establishment of the ambulance squad, its provisions do apply to all the employees petitioned-for herein. Among some of its provisions are: Seniority and longevity, work schedules, overtime, call in time, rates of pay, salaries and increments, holidays, vacations, sick leave, grievance procedure insurance and other fringe benefits, etc.

<sup>42/</sup> Lullo v. IAFF, Local 1066, 552 N.J. 409 (1970)

"The measure of fair representation is ultimately found at the negotiating table, in the administration of the negotiated agreement and in the processing of grievances." 43/

Local 676 maintains that Council 10 has neither met its responsibility with respect to grievance handling or contract administration nor has it represented the petitioned-for employees adequately at the negotiating table.

In In re Board of Education of the Township of Cranford, E.D. No. 74 the petitioner attempted to sever approximately 60 building service employees from a unit consisting of approximately 450 teachers and clerical employees alleging the employees had not received responsible representation. One of the reasons for dismissing the petition was that there had been a long apparently stable history of bargaining prior to the filing of the petition that the Commission felt should not be disturbed.

Local 676 distinguishes the instant case from the Cranford Board of Education case because of the brevity of the existing bargaining relationship between the ambulance unit and Council 10. In the Cranford case the Commission examined the terms of the existing contract and found that since many of the benefits of the contract applied to all unit members, the building service employees had been fairly represented at the negotiations table.

Local 676, further argues that since the creation of the ambulance units no specific items have been negotiated for these employees. While it is true that the contract covering the employees herein was negotiated prior to the appointment of ambulance squads, virtually every article of the contract provides benefits for both dispatchers and ambulance squad personnel.

While ambulance squad personnel who testified felt the incumbent had not met their needs at the negotiating table, evidence of specific negotiating needs of ambulance squad personnel (or dispatchers) concerned items that appear to be covered

43/ In re Board of Education of the Township of West Milford, PERC No. 56 July 8, 1971). See also In re Board of Education of the Township of Cranford, E.D. No. 74 (June 9, 1975).

in the contract e.g., application of the overtime provision, application of negotiated salary increase, leaves of absences, location of bulletin boards.

Petitioner's dissatisfaction with Council 10 seems to lie in the administration of the terms of the existing negotiated agreement more than in the lack of specific items for ambulance squad personnel dispatchers.

Local 676 does argue that the employees petitioned-for herein have not had grievances processed. Testimony also indicates that these employees were discouraged by the reaction of Council 10's leadership in their attempts to participate in union activities -- they have not voted in elections, have not received notices of meetings, have not had shop steward elections. They feel their specific needs have not been considered in negotiations or as grievances.

Stanley A. Wodazak, an EMT, testified he only attended one meeting of Council 10 in either the spring or summer of 1975. At this meeting, Mr. Wodazak and another EMT, Larry Leinbach, attempted to discuss grievances with Council president Mildred DiFante, but were discouraged by the leadership in their attempts (Tr. p.31 ). Neither of these men attended any other union meetings. Mr. Wodazak claimed he did not receive notices of meetings; however, on cross-examination he admitted he regularly received the Civil Service Association newspaper that contained notices of meetings. (Tr.p.53)

Witnesses testified they never voted in union elections and were never notified of the dates of elections. It was admitted that a candidate opposing the incumbent union president campaigned for office among ambulance squad personnel but never informed these employees of the date of the election. (Tr. p. 32) I do not find that testimony credible.

Mr. Wodazak testified he presented a list of items for either grievances or contract negotiations to Mildred DiFante, the President of Council 10 in late 1974 or early 1975 and that to his knowledge no action was taken on any of these requests. 44/

Leinbach also indicated he had discussed grievances with Difante and the former Vice President of Council 10, Michael Verdi (Tr. p. 114-115).

It should be noted that while the contract clearly allows for individuals to process grievances,<sup>45/</sup> and Mr. Wodazak testified that he had a copy of the contract, he also testified he never attempted to process a grievance<sup>46/</sup> himself.

One of the grievances concerned the shift differential described above and the extra number of days worked by employees on the platoons system. Another grievance concerned the condition of ambulance and the building they were in at the time.<sup>47/</sup> The witness testified that Council 10 took no action on these grievances.<sup>48/</sup>

Lawrence Leinbach agreed with Wodazak that their grievances were ignored by Council 10 although he had discussed contract problems with Mrs. Difante and Mr. Verdi many times.<sup>49/</sup>

This testimony was disputed by Joseph A. Carmen, the attorney for Council 10 who testified on Council 10's behalf and introduced certain evidence to refute the witnesses statements. Mr. Carmen introduced copies of letters of appeal sent to various city officials and to the Departments of Civil Service on the overtime worked by these shift workers.<sup>50/</sup> The appeal to Civil Service was denied and no further appeal was taken.

It is undisputed that the ambulance squad received new vehicles and a new building. Council 10's role in obtaining the new vehicles was disputed. Witnesses were aware of a campaign in the media for new equipment.<sup>51/</sup>

45/ Tr. p. 86

46/ Tr. p. 87

47/ Tr. p. 34

48/ Tr. p. 35

49/ Tr. p. 114

50/ I-1, I-2, I-3, I-4, and I-5 in Evidence

51/ Tr. p. 60 Mrs. Difante was unavailable the day of the hearing and therefore the testimony was not refuted.

While the ambulance squad personnel have been unsuccessful in having a shop steward elected or appointed by the union to represent them, there appears to be a shop steward who represents dispatchers. Police dispatcher, John Edwards, testified (Tr. p. 185) that Allen Boring acted as shop steward and handled all union matters for the dispatchers. (Tr. p. 193). Mr. Edwards testified he was aware that Council 10 had filed a grievance on overtime worked by dispatcher Allen Boring but was uncertain of the results. Mr. Wodazak also testified he was aware that this grievance had been filed by the dispatchers and that if the grievant had been successful, the ambulance squad would have benefited (tr. p. 97). Mr. Leinbach also testified he knew of Allen Boring (Tr. p. 115).

Mr. Carmen testified that the union played a role in ascertaining new ambulances and new headquarters for these employees,<sup>52/</sup> representing employees at a Civil Service hearing,<sup>53/</sup> attempted to get a shift differential ("some type of stipend payment")<sup>54/</sup> and he also testified as to contract demands being made by Council 10 for these employees for the forthcoming contract.<sup>55/</sup>

While there appears to be a lack of communication between the union leadership and the witnesses that testified, that is no sufficient for the undersigned to recommend severance particularly since I find the existing unit to be appropriate.

<sup>52/</sup> Tr. p. 41, 94, 156, 110. There was considerable testimony concerning of City's threat to eliminate the ambulance squad or to terminate employment of certain employees because of increased insurance costs due to the driving record of certain employees. Council 10 represented some of these employees at a hearing and they were retained. Witnesses criticized Council 10's role as to the provisional employees who were terminated. Because of the lack of appeal rights of provisional employees to the State Department of Civil Service, Council 10 decided not to pursue the dismissal beyond the City hearing level.

<sup>53/</sup> Tr. p. 203

<sup>54/</sup> Tr. p. 206

<sup>55/</sup> The witness testified that a grievance concerning a maternity leave for a dispatcher was not satisfactorily resolved but had insufficient knowledge of the facts to testify as to Council 10's role therein or the reason for the outcome. The grievant was not called to testify.

There is insufficient evidence to find that Council 10 has not responsibly represented the dispatchers with respect to grievance handling or contract administration or with respect to representation at the negotiations table.

Similarly, the evidence is not sufficient that Council 10 failed to represent the interests of ambulance squad personnel with respect to grievance handling or contract administration or with respect to representation at the negotiations table.

It cannot be concluded, as petitioner, Local 676 maintains, that special interests of these employees are being ignored by the negotiating agent.

Since I do not find that special interests of these employees are sufficiently unique to warrant severance from the overall unit and I do not find that representation by the incumbent has been sufficiently unfair to recommend severing, I cannot recommend a unit comprised of ambulance units and dispatchers or ambulance units alone.

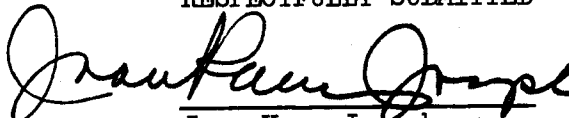
The employees have expressed dissatisfaction and frustration with their majority representative but they are not without recourse. The internal union election process is available to them. Obviously they can ascertain information on internal election procedures and dates and locations of election.

Furthermore, if employees are dissatisfied with the majority representative, representation proceedings before the Public Employment Relations Commission may be utilized, or, in the alternative they may file an unfair practice charge.

RECOMMENDATION

The undersigned respectfully concludes that the unit petitioned for is inappropriate and recommends that the Petition in this instant matter be dismissed.

RESPECTFULLY SUBMITTED



Joan Kane Josephson  
Assistant to Director  
of Representation

DATED: September 28, 1977  
Trenton, New Jersey