

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

In the Matter of

TOWNSHIP OF MOORESTOWN,

Public Employer,

-and-

DOCKET NO. CU-78-33

MOORESTOWN POLICE ASSOCIATION,

Petitioner.

SYNOPSIS

In a clarification of unit proceeding, the Director of Representation determines that the inclusion of civilian personnel in a unit of police is inappropriate. The factual record did not establish that exceptional circumstances existed which would permit such inclusion.

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Appearances:

For the Public Employer  
Gerald L. Dorf, P. A.  
(David A. Wallace, of Counsel)

For the Petitioner  
Tomar, Parks, Seliger, Simonoff & Adourian, Esqs.  
(Robert F. O'Brien, of Counsel)

DECISION

On February 9, 1978, a Petition for Clarification of Unit was filed with the Public Employment Relations Commission (the "Commission") seeking a clarification regarding the composition of a unit of employees represented by the Moorestown Police Association (the "Association") employed by the Township of Moorestown. 1/

1/ On May 23, 1977, a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was filed with the Public Employment Relations Commission by the Association. This case was docketed as RO-77-178. The Association sought certification as the exclusive negotiations representative of a unit of employees described as including all lieutenants, sergeants, dispatchers, secretaries, patrolmen and detectives employed by the Township of Moorestown and excluding the Chief of Police. The Association generally asserted in the certification petition that

(Cont'd.)

On the basis of the administrative investigation herein, the undersigned finds and determines as follows:

1. The Township of Moorestown 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 who are the subject of this Petition, and is subject to the Act's provisions.

2. Moorestown Police Association is an employee representative within the meaning of the Act and is subject to its provisions.

3. The stipulated issue before the undersigned is the appropriateness of the inclusion of civilian personnel in a unit of police.

The Act establishes the standards for resolving questions concerning the appropriateness of a unit composed of police and civilian personnel.

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1/ Cont'd.

the Township had informally recognized the Moorestown Police Association in the past for all persons employed in the Police Department. In response to the Petition, the Township expressed reservation as to the appropriateness of including civilian personnel in a unit with policemen. Thereafter, the parties jointly agreed to resolve the question as to the majority status of the Association through a recognition agreement and to submit the question as to appropriate unit definition before the undersigned in the instant forum. Accordingly, the matter involving the Petition for Certification of Public Employee Representative has been closed. The sole issue presented before the undersigned in the instant clarification of unit proceeding is the propriety of including civilian personnel in a unit of police. The parties have requested that the undersigned, in deciding this matter, consider their previous submissions in the certification proceeding.

N.J.S.A. 34:13A-5.3 provides in pertinent part:

"...except where established practice, prior agreement, or special circumstances dictate to the contrary, no policeman shall have the right to join an employee organization that admits employees other than policemen to membership."

It is clear that a unit which includes police and civilian personnel absent circumstances which indicate the applicability of one of the statutory exceptions of N.J.S.A. 34:13A-5.3 is prima facie inappropriate. The Commission in In re West Paterson Board of Education and West Paterson Education Association, P.E.R.C. No. 77 and No. 79 (1973), described the circumstances in which the statutory standard with regard to the exceptions of established practice and prior agreement would exist. In order to find one of these two statutory exceptions it is necessary to show circumstances indicating an "established practice" or a "prior agreement" between the parties which existed prior to the enactment of the Act (Chapter 303, Laws of 1968). <sup>2/</sup> Here, the Association has failed to allege facts indicating the existence of one of these statutory exceptions. <sup>3/</sup> Nor, has the

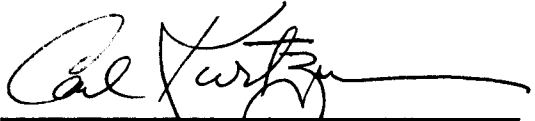
<sup>2/</sup> What is necessary for a finding of "established practice" is a pre-1968 relationship containing these requisite ingredients: "an organization regularly speaking on behalf of a reasonably well-defined group of employees seeking improvement of employee conditions and resolution of differences through dialogue (now called negotiations) with an employer who engaged in the process with an intent to reach agreement." In re West Paterson Bd. of Ed. and West Paterson Education Ass'n, P.E.R.C. No. 77 at p. 10.

<sup>3/</sup> The Association alleges merely that, "...the Township has informally recognized the Moorestown Police Association in the past for all persons employed by the Police Department..."

Association alleged any facts to convince the undersigned that there exist "special circumstances" which warrant the inclusion of non-police in a unit of police.

Accordingly, for the reasons stated above, the undersigned finds and determines herein that the inclusion of civilian personnel in the unit of police is inappropriate.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION



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Carl Kurtzman, Director

DATED: April 10, 1978  
Trenton, New Jersey