

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

In the Matter of

CITY OF NEWARK,

Public Employer-Petitioner,

-and-

DOCKET NO. CU-80-63

NEWARK SUPERIOR OFFICERS' ASSOCIATION,

Employee Organization.

SYNOPSIS

The Director of Representation determines that the Chief and Assistant Chief Identification Officers render police services and are entitled to utilize impasse procedures under the Police and Fire Compulsory Arbitration Act. He further determines that the Chief Communications Officer, Police Signal System Superintendent, Civilian Activities Officer, and Supervisor and Assistant Supervisor of Tabulating Machine Operations are not engaged in rendering police services and are not entitled to interest arbitration.

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Appearances:

For the Public Employer-Petitioner  
Rosalind Bressler, Assistant Corporation Counsel

For the Employee Representative  
Whipple, Schneider & Ross  
(Lawrence A. Whipple, Jr. of Counsel)

DECISION AND ORDER

On March 13, 1980, a Clarification of Unit Petition was filed with the Public Employment Relations Commission (the "Commission") by the City of Newark (the "City"). The City states that it has recognized the Newark Superior Officers' Association (the "Association") as the exclusive representative of all Superior Officers employed in the following positions: Chief Identification Officer, Assistant Chief Identification Officer, Civilian Activities Officer, Supervisor of Tabulating Machine Operations, Assistant Supervisor of Tabulating Machine Operations, Chief Communications

Officer, and Police Signal System Superintendent. 1/ On or about March 1, 1980, the Association sought to initiate compulsory interest arbitration pursuant to the Police and Fire Compulsory Arbitration Act (the "Arbitration Act") N.J.S.A. 34:13A-14 et seq. on behalf of these employees. The City responded with the instant petition requesting a declaration that these employees are not entitled to compulsory interest arbitration under the above statutory provisions. 2/

On January 20, 1981, after several conferences, the City and the Association entered into Stipulations of Fact, which are attached hereto and made part hereof. 3/ The parties agreed to waive a Hearing Officer's report and to submit this dispute directly to the Director of Representation for a decision based on the stipulated facts. On March 31 and April 30, 1981, the Association and the City, respectively, filed briefs.

1/ The complete unit description in the Recognition Clause of the last collective agreement was "...all Superior Officers employed as Chief Identification Officer, Assistant Chief Identification Officer, Coordinator of Criminal Reports, Civilian Activities Coordinator, Supervisor of Tabulating Machine Operations, Assistant Supervisor of Tabulating Machine Operations, Chief Police Telephone and Teletype Operator and Police Signal System Superintendent, employed by the Newark Police Department, but excluding all police officers, clerical and professional employees, craft employees, managerial executives and all others." The present Chief Communications Officer position is the former Chief Police Telephone and Teletype Operator position.

2/ See In re City of Newark and PBA, Local No. 3, D.R. No. 81-18, 7 NJPER 3 (¶12002, 1980).

3/ By letter of April 28, 1981, the City asserted that the last sentence of paragraph 16 of the Stipulations of Fact should read: "These employees are required to prepare and submit to their immediate superiors (B) and (G) above."

Upon the entire record of this proceeding, the undersigned finds and determines as follows:

1. The City of Newark is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act") is the employer of the employees who are the subject of this Petition, and is subject to the provisions of the Act.

2. The Newark Superior Officers' Association is an employee representative within the meaning of the Act and is subject to its provisions.

3. The Association currently represents a recognized collective negotiations unit which includes the titles of Chief and Assistant Chief Identification Officer, Civilian Activities Officer, Supervisor and Assistant Supervisor of Tabulating Machine Operations, Chief Communications Officer, and Police Signal System Superintendent.

4. The question presented in this Clarification of Unit Petition is whether the Chief and Assistant Chief Identification Officer, Civilian Activities Officer, Supervisor and Assistant Supervisor of Tabulating Machine Operations, Chief Communications Officer, and Police Signal System Superintendent are police personnel entitled to interest arbitration under the Police and Fire Compulsory Interest Arbitration Act. 4/ As in In re City of Newark, supra, n. 1,

4/ The Act covers public fire and police departments. A public police department is defined as: "any police department or organization of a municipality, county or park, or the State, or any agency thereof having employees engaged in performing police services including but not necessarily limited to units composed of State troopers, police officers, detectives and investigators of counties, county parks and park commissions, grades of sheriff's officers and investigators; State motor vehicle officers, inspectors and investigators of the Alcoholic Beverage Commission, conservation officers in Fish, Game and Shell Fisheries, rangers in parks, marine patrolmen; correction officers, keepers, cottage officers, interstate escort officers, juvenile officers in the Department of Corrections and patrolmen of the Human Services and Corrections Departments; patrolmen of Capitol police and patrolmen of the Palisades Interstate Park Commission."

(hereinafter "Newark PBA"), a determination is required as to whether these employees "...are engaged in performing police services..." within the meaning of N.J.S.A. 34:13A-15. In Newark PBA, the undersigned set forth the test for determining which employees are engaged in performing police services: Only "...those employees of a police department who perform...law enforcement duties which are integral elements of the total process of detecting, apprehending and arresting criminal offenders..." are entitled to compulsory arbitration (Slip Opin. at 9). Once again, the undersigned stresses that "...the application of this standard involves a factual determination and evaluation, on a case-by-case basis, of the specific duties and responsibilities of the title(s) in question." Newark PBA, supra, (Slip Opin. at 12-13). The parties' briefs, virtually identical to the briefs filed in Newark PBA, do not dispute the standard adopted by the undersigned as set forth in Newark PBA.

Accordingly, the disputed employment titles are examined below in order to determine whether employees functioning in these titles perform duties which are integral elements of the total process of detecting, apprehending, and arresting criminal offenders. Preliminarily, the undersigned notes the parties' stipulation that "t/here is no statute empowering these employees to act as officers for the detection, apprehension, arrest and conviction of offenders against the law."

Chief and Assistant Chief Identification Officer,  
Chief Communications Officer, Police Signal  
System Superintendent

In Newark PBA, the undersigned considered whether identification officers, communications officers, and linemen were engaged in

performing police services. Based upon a review of their duties, the undersigned concluded that identification officers, but not communications officers or linemen, were performing such duties. The instant case involves, inter alia, the supervisors of these employees: The Chief and Assistant Chief Identification Officers supervise the identification officers, the Chief Communications Officer supervises the communications officers, and the Police Signal Superintendent supervises the linemen.

The Chief and Assistant Chief Identification Officers supervise employees whose duties were found to constitute the performance of police services in Newark PBA. These supervisors also engage in the performance of the same duties, in a supervisory capacity. For the reasons stated in Newark PBA, the undersigned concludes that the Chief and the Assistant Chief Identification Officers are entitled to compulsory interest arbitration. The Chief Communications Officer and the Police Signal System Superintendent do not supervise employees who were found in Newark PBA to perform duties constituting police services and themselves do not engage in such duties. The undersigned concludes, therefore, that the Chief Communications Officer and the Police Signal System Superintendent are not entitled to compulsory interest arbitration.

#### Civilian Activities Officer

The parties' stipulations detail the following duties performed by the Civilian Activities Officer, the person in charge of the Police Business Office: (1) keeping of all financial records pertaining to salary, overtime, and fringe benefits for police department personnel, (2) handling civilian personnel matters, (3) working

on applications for State and Federally funded programs, (4) formulating the Police Department budget, (5) expending department funds, (6) advising the Police Director concerning the fiscal planning of actual operations, (7) assisting in the planning and maintenance of a unified record system by civilian personnel, (8) assisting in stocking inventories, (9) keeping statistical records, and (10) conducting auction sales. The Civilian Activities Officer is required to have five years of clerical experience and works only during normal business hours.

The Civilian Activities Officer performs administrative and clerical duties and is not engaged in performing any police duties. The Civilian Activities Officer utilizes administrative and clerical experience, not police service skills, in doing his job. Accordingly, the undersigned concludes that the Civilian Activities Officer is not included within the coverage of the interest arbitration statute. 5/

Supervisor of Tabulating Machine Operations  
and Assistant Supervisor of Tabulating  
Machine Operations

The parties' stipulations detail the following duties performed by the Supervisor of Tabulating Machine Operations: (1) training, direction, and evaluation of personnel working in the Data Processing Section of the Records and Identification Bureau, (2) analyzing and supervising the compilation of statistics, reports, and data pertaining to crime, traffic, summons, and arrests, and (3) super-

5/ Compare, for example, the discussion in Newark PBA, supra, at p.6, concerning the essentially clerical duties and skills of the supervising police property clerk who was also not included within the coverage of the interest arbitration statute.

vising the processing of all want, warrant, and stolen property information through computer terminals. The Supervisor of Tabulating Machine Operations is required to have five years of experience in the operation of electric accounting equipment and a thorough knowledge of modern business machines; he works during normal business hours.

The Assistant Supervisor of Tabulating Machine Operations assists the Supervisor of Tabulating Machine Operations in the fulfillment of his job duties and replaces the Supervisor when the Supervisor is absent. The Assistant Supervisor is required to have three years of experience in the operation of electric accounting equipment and a thorough knowledge of modern business machines; he works during normal business hours.

The Supervisor and Assistant Supervisor of Tabulating Machine Operations perform functions comparable to those performed by the communications officers who were the subject of the Newark PBA decision. For example, communications officers enter information concerning arrests, crimes, stolen cars, and wanted persons into central computers. Personnel in the Data Processing Section, under the guidance of the Supervisor and Assistant Supervisor of Tabulating Machine Operations, help process this information and convert it into statistical compilations and reports. Thus, the work of communications officers and the work of the Supervisor and Assistant Supervisor both involve the application of technical and administrative skills rather than police service skills. Accordingly, the undersigned concludes that the Supervisor and Assistant

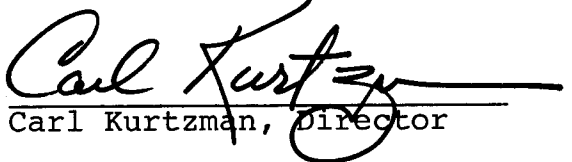


Supervisor of Tabulating Machine Operations are not engaged in providing police services and are therefore not included in the coverage of the interest arbitration statute.

Conclusion

For the above reasons, the undersigned clarifies the instant unit as follows: The Chief and Assistant Chief Identification Officers are entitled to utilize the impasse procedures under the interest arbitration statute while the Chief Communications Officer, Police Signal System Superintendent, Civilian Activities Officer, and Supervisor and Assistant Supervisor of Tabulating Machine Operations are not entitled to utilize the impasse procedures under the interest arbitration statute and are removed from the instant unit. 6/

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Carl Kurtzman, Director

DATED: May 19, 1981  
Trenton, New Jersey

6/ The unit placement of the employees removed from the unit should be addressed by the interested parties forthwith. In the event of a dispute, the matter should be filed with the Commission for an expedited determination.

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

City of Newark

- and -

Newark Superior Officers' Association

Docket No. CU-80-63

STIPULATIONS OF FACT

1. The employees who are the subject of this proceeding ("Employees") are represented by the Newark Superior Officers' Association ("NSOA") negotiating in a unit separate from a unit comprised of employees holding the titles of Police Sergeant, Police Lieutenant, Police Captain, Legal Analyst, Police Inspector and Police Deputy Chief ("Superior Officers"), and are employees of a "public police department," i.e., the Newark Police Department.

2. These employees hold the following titles of employment: Chief Identification Officer, Assistant Chief Identification Officer, Civilian Activities Officer, Supervisor of Tabulating Machine Operations, Assistant Supervisor of Tabulating Machine Operations, Chief Communications Officer, and Police Signal System Superintendent. The "Chief Communication Officer" title was formerly the title of "Chief Police Telephone and Teletype Operator".

3. As of July 31, 1980, there were nine (9) actual and authorized Assistant Chief Identification Officers, one (1) actual and authorized Chief Identification Officer, one (1) actual and authorized Supervisor of Tabulating Machine Operations, one (1) actual and authorized Assistant Supervisor of Tabulating Machine Operations, one (1) actual and authorized Chief Communications Officer, one (1) actual and authorized Police Signal System Superintendent, and one (1) actual and authorized Civilian Activities Officer.

4. The City of Newark and the NSOA agree that the following job information submitted by the NSOA is accurate:

4.1. The Chief Identification Officer is a uniformed, sworn employee, who takes the same oath of office as any police superior officer. He is the highest ranking uniformed employee in charge of the records and identification section as well as the tabulating machine operations. Under the supervision of his assistants, there are sworn police officers. The responsibilities of this position include: the processing, assimilation and analysis of all criminal reports, summons and arrest data and the tabulation of this information and its entry into the police computer system. He is also in charge of the fingerprinting and evidence accumulations at the scenes of crimes (fingerprint and photograph searches). Additionally he has charge over the photo room, i.e., the reference section where the public may obtain copies of certain reports and apply for different types of permits, and the data processing section. His uniform is substantially similar to that of Police Captain or Inspector of Police of the Newark Police Department. His site of operations is on the first and fourth floor of Police Headquarters.

4.2 The Assistant Chief Identification Officers are uniformed, sworn employees who wear a uniform substantially similar to that worn by the Police Sergeants and the Police Lieutenants of the Newark Police Department. They are Police Department employees. These Assistant Chief Identification Officers are the supervisors in charge of the various segments of the Records and Identification Bureau, i.e., Identification Section, Photo Room, Reference Section, Report Section and the Night Section Operations. Their function is to supervise those uniformed Identification Officers and sworn police officers in the various sections of the Identification Bureau. On occasion it is necessary for these Assistant Chiefs to respond to a crime scene, in a car bearing the Newark Police Department logo on both front doors. Additionally, they are charged with the responsibility of training, directing and evaluating all supervised personnel. They have prisoner contact and are trained in the criminal code. Their site of operations includes the first and fourth floor of Police Headquarters, as well as the field.

4.3 Civilian Activities Officer is a civilian position which has charge of the Police Business Office. This employee has civilian as well as sworn police officers under his supervisory control. The responsibilities include the keeping of all financial records pertaining to salary, overtime, and other fringe benefits pertaining to police department personnel, the formulation of the Police Department Budget, the expenditure of funds, and an advisory role to the Police Director concerning the fiscal planning of actual operations. The site of operations is an office in a city-owned building, second floor, located at 972 Broad Street. This position was formerly called "Civilian Activities Coordinator".

4.4 The Supervisor of Tabulating Machine Operations is responsible for the total operation of the Data Processing Section of the Records and Identification Bureau and the personnel assigned to two shifts of operation. He wears a uniform substantially similar to a Police Sergeant or Police Lieutenant and is a sworn employee. There is normally no field work connected with this position. His area of responsibility includes the analysis and compiling of all crime statistics, summons and arrest data and the entry and deletion of warrants, stolen property and vehicles in the police computer system, as well as compilation of the highly confidential Uniform Crime Statistics submitted to the State Police and the F.B.I. Additionally, his duties include the training, direction and evaluation of all supervised personnel. His work site is the first floor of Police Headquarters.

4.5 The Assistant Supervisor of Tabulating Machine Operations acts in concert with the Supervisor of Tabulating Machine Operations in order to fulfill the responsibilities entailed in the operations. He also acts in place of the Supervisor in the Supervisor's absence. He is a sworn, uniformed employee whose duties normally do not include any field work. His work site is the first floor of Police Headquarters.

4.6 The Chief Communication Officer (Chief Police Telephone and Teletype Operator) is a sworn, uniformed employee who bears the responsibility of all teletype traffic, all inquiries on stolen vehicles and property made by field personnel and other informational inquiries in the local, state and national

computer information systems. He has sworn civilian and police personnel under his supervision. His duties do not entail any field work. His work site is the Police Communication Center.

4.7 The Police Signal System Superintendent is a sworn, uniformed employee who bears the responsibility of servicing, maintaining and installing telephone and telegraph call boxes, closed circuit television cameras and monitors, burglar alarms, intercoms and data processing communications lines (police department only). The individual holding this position supervises uniformed civilian personnel who are primarily engaged in field work. The uniform is substantially similar to the uniform worn by a Captain of Police. His work site office is located in the East District Police Station.

5. The City of Newark and the NSOA agree that the following job information submitted by the City of Newark is accurate:

5.1 The Chief Identification Officer performs his/her duties indoors in the Records and Identification Bureau, Police Headquarters. He/she is responsible for: processing, filing and safekeeping department records, court documents and other agency documents; preparing Uniform Crime Reports for the State and the F.B.I.; developing Crime Analysis Reports; processing all prisoners received for fingerprinting and photographing; filing and classifying fingerprints; preparing fingerprints, photographs, documents and special displays for court presentation; coordinating the activities of personnel and the use of equipment, facilities and material under his/her supervision.

5.2 The Assistant Chief Identification Officers perform their duties indoors in the Records and Identification Bureau, Police Headquarters although occasionally some duties may be performed in the field. Under the direction of the Chief Identification Officer, they are responsible for the supervision and performance of all records and identification responsibilities, including the following: taking, classifying, filing and searching fingerprints; collecting and assembling criminal records for court and other agency use; taking, developing, cutting and filing photographs; preparing copies of documents; using and safeguarding photographic and identification equipment, materials and supplies.

5.3 The Civilian Activities Officer performs his/her duties indoors in the Business Office, 972 Broad Street, Newark. He/she is responsible for: acting as a liaison between the Director, Chief and Staff Officers in matters relating to planning, organization, contractual obligations, employee claims, purchasing, and applications for State and Federally funded programs; following up actions and recommendations in civilian personnel matters concerning employment, benefits, status, claims, death and character references; engaging in confidential research for the Director, Chief, and Staff on special personnel matters; assisting in the planning and maintenance of a unified record system by civilian personnel; assisting the Police Property Room Supervisor in stocking inventories, keeping statistical records and conducting auction sales.

5.4 The Supervisor of Tabulating Machine Operations performs his/her duties indoors in the Records and Identification Bureau, Police Headquarters. He/she is responsible for supervising the processing of all want and warrant information through computer terminals and providing and correlating the

statistics for computer-produced Uniform Crime Report for the New Jersey State Police and the Federal Bureau of Investigation; developing management information reports and statistical crime and traffic reports; supervising and training personnel in data processing requirements and in the operation of computer terminals; providing special information as required.

5.5 The Assistant Supervisor of Tabulating Machine Operations performs his/her duties indoors in the Records and Identification Bureau, Police Headquarters. He/she is responsible for: assisting and substituting for the Supervisor of Tabulating Machine Operations; generating management information reports; compiling statistics for the computer processing of Uniform Crime Reports; supervising personnel in the performance of their tasks; training personnel in the manual and terminal processing of data.

5.6 The Chief Communications Officer performs his/her duties indoors in the Communications Bureau, 31 Green Street, Newark. He/she is responsible for: supervising the teletype section of the Police Communications Bureau which processes want and wanted vehicle/person information over telewriters and computer terminals with access to local, state and federal systems; maintaining file records of all teletype and computer printouts received or initiated in the Communications Bureau; supervising and training personnel in the procedures and use of telewriters, computer terminals, tape devices and alarm signal devices; testing the City's air raid warning sirens and caring for and testing alarm equipment which is part of the local, County and State Systems; verifying all data filed in the State's information system and purging aged data from the State's validation lists several times each year.

5.7 The Police Signal System Superintendent performs his/her duties both indoors and outdoors. He/she is responsible for: operating the Department's telephone and telegraph call box system, closed circuit television security systems, burglar alarms and intercommunications equipment serving department organizational units, and citywide data processing cabling and telephone circuits connected to the police communications computer aided dispatching systems; selecting and purchasing parts, materials and supplies in accordance with system specification; developing and designing special circuits; maintaining and testing all systems to assure their continuous working order and good condition; training and supervising subordinate linemen in circuitry maintenance, cable installation, wiring, and use of testing instruments and devices; instructing department members in the use and care of systems equipment and devices.

6. The employees in question are not issued nor required to purchase the same equipment and paraphernalia, e.g., firearms, billy club, handcuffs, flash lights, etc. as are issued to or required of Superior Officers.

7. These employees are not issued firearms, do not carry firearms, are not trained in the use of firearms, and are not required to annually qualify in the use of firearms as are Superior Officers. The present policy of the Newark Police Department prohibits these Employees from carrying firearms while on duty. In the early 1930's, the Newark Police Department required the Chief and Assistant Chief Identification Officers to carry firearms.

8. The tests and qualifications for the positions which these Employees hold are different from the tests and qualifications for Superior Officers.

9. Superior Officers are and have been required to receive basic training at the Newark Police Academy as a prerequisite to assuming their duties as police officers. For the past five or six years, the duration of this basic training has been 13 weeks. Prior thereto, the duration of basic training was approximately 10 weeks. These Employees are not required to and do not receive this basic training. Chief and Assistant Chief Identification Officers were recently required to attend the Newark Police Academy to receive the same training in the new criminal code as did Superior Officers.

10. These Employees are subject to and required to abide by the Rules and Regulations and Manual of Procedures of the Newark Police Department as are employees holding the various ranks of Superior Officers and all other employees of the Newark Police Department. Copies of the Rules and Regulations and Manual of Procedures are on file in the case of City of Newark and PBA, Local No. 3, Docket No. CU-79-14 and are incorporated as exhibits herein.

11. All of these employees with the exception of some of the Assistant Chief Identification Officers work an administrative tour of duty from Monday through Friday during normal business hours. Some of the Assistant Chief Identification Officers work 4 p.m. to 12 p.m. and 12 p.m. to 8 a.m. on a rotating basis. The Police Signal System Superintendent is on emergency call during off hours.

The Chief Identification Officer works on an administrative tour of duty, subject to emergency recall. Some of the Assistant Chief Identification Officers work during normal business hours and others are assigned to squad designation as are employees holding various ranks of Superior Officers, which designates hours and days of work in round-the-clock tours of duty, seven days a week. All of these Employees are on call 24 hours a day for emergencies,

12. These Employees have never been transferred out of their specialized functions and assigned to perform police supervisory duties.

13. The promotional opportunities for these Employees are totally distinct and separate from the promotional opportunities for Police Superior Officers. The chain of command for these Employees is set forth in the attached organizational structure which is an accurate representation as to these Employees. (Exhibit A).

14. These Employees are not required to hold the position of "special" or "auxiliary police officer."

15. During the 1967 civil disorders which occurred in the City of Newark, Employees holding the titles of Chief Identification Officer and Assistant Chief Identification Officer were issued weapons and assigned security duties in and about the Police Headquarters complex.

16. Superior Officers within the Police Department are required to prepare and submit to their immediate superiors the following reports: (A) daily activity reports, i.e., log sheets; (B) administrative reports for subjects not covered by Police Department standard forms; (C) arrest reports; (D) incident reports; (E) continuation reports to supplement arrest and incident reports; (F) accident reports; and (G) special and temporary reports as may be required from time to time. These Employees are required to prepare and submit to their immediate superiors all of the above reports except (B) and (G).

17. There is no statute empowering these Employees to act as officers for the detection, apprehension, arrest and conviction of offenders against the law.

18. The job description for each of these Employees and employees holding the title of police officer are attached as (Exhibits B through H). These job descriptions are an accurate statement of what these Employees do on a daily basis except as may be specifically stipulated to hereinabove.

19. There are no other facts in dispute relating to the titles of these Employees or their working conditions and job responsibilities.

20. The parties agree to waive a Hearing Officer's Report and to submit this dispute directly to the Director of Representations for a decision. Both parties will submit briefs on or before February 13, 1981.

/S/

Lawrence A. Whipple, Jr., Attorney for SOA  
Newark Superior Officers' Association

/S/

Rosalind L. Bressler  
City of Newark

/S/

Robert E. Anderson, Jr.  
Public Employment Relations Commission

January 20, 1981