

D.R. NO. 86-14

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

In the Matter of

City of Vineland,

Public Employer,

-and-

P.B.A., Local #266,

Docket No. RO-86-21

Petitioner,

-and-

I.B.E.W., Local #210,

Intervenor.

Synopsis

The Director of Representation dismisses a petition filed by the Policeman's Benevolent Association which seeks to sever civilian dispatchers in the City's police department from an existing, broad-based unit of municipal employees. The Director of Representation finds that the dispatchers are presently not "police" within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., and therefore, the Policeman's Benevolent Association, as an organization having police as members, is not permitted to represent non-police personnel under the Act. Further, the Director finds that there are no facts presented herein which would warrant the severance of these employees from the existing unit.

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Appearances:

For the Public Employer  
Gruccio, Pepper, Giovinazzi,  
Butler, DeSanto & Mann, Esqs.  
(Henry Carpenter, of counsel)

For the Petitioner  
Phillip Bocelli, President

For the Intervenor  
Thomas Kinsell, President

DECISION

On September 16, 1985, the Policemen's Benevolent Association, Local 216 ("PBA") filed a timely Petition for Certification of Public Employee Representative with the Public Employment Relations Commission ("Commission"). By its Petition, the PBA seeks to represent a collective negotiations unit of "police radio dispatchers" employed by the City of Vineland ("City"). The

dispatchers are currently included in an existing city-wide unit of all blue collar and white collar employees, which is represented by Local 210, International Brotherhood of Electrical Workers ("IBEW").

The PBA claims that the dispatchers are "police employees" within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act") and therefore, should be removed from the existing unit of municipal civilian employees and placed in a separate collective negotiations unit. The City and the IBEW contend that (a) police radio dispatchers are not "police" within the meaning of the Act; (b) the PBA is not an appropriate organization to represent nonpolice employees; and (c) there is no basis to sever the dispatchers from the existing collective negotiations unit, which continues to be an appropriate unit. In the alternative, the City argues that should the dispatchers be found to be police within the meaning of the Act, then the appropriate unit for representation of the dispatchers would be the city-wide police unit, which is represented by Lodge #8, Fraternal Order of Police.

I have authorized an administrative investigation to be conducted in this matter in order to determine the facts. See N.J.A.C. 19:11-2.2 and 19:11-2.6. On the basis of the administrative investigation, I find and determine the following:

The disposition of this matter is properly based upon the administrative investigation conducted herein. We have not found any substantial and material factual disputes which would warrant

the convening of an evidentiary hearing.

The Policemen's Benevolent Association, Local 266 and the Local 210, International Brotherhood of Electrical Workers are employee representatives within the meaning of the Act, and are subject to its provisions.

The IBEW does not represent any police officers. PBA Local 266 has police officers as members, although it is not currently the majority representative of any employees of the City of Vineland. Vineland police officers are represented by the Fraternal Order of Police, Lodge #8 ("FOP").

The PBA has filed a timely <sup>1/</sup> petition which is supported by an adequate showing of interest.

The City and the IBEW are parties to a collective negotiations agreement covering the period from January 1, 1983, through December 31, 1985. The recognition clause of that agreement defines the extant unit as:

All full-time white collar and blue collar non-professional employees, including Graduate Nurse Public Health and Public Health Nurse, employed by the City of Vineland, but excluding police, employees of the Vineland Electric Utility currently represented by the I.B.E.W., confidential employees, firemen, part-time employees, managerial executives, and supervisors within the meaning of the Act. The job classifications covered hereunder shall be those listed in Exhibit 'C' attached hereto and made a part hereof.

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<sup>1/</sup> N.J.A.C. 19:11-2.8 provides that where there is a current contract in effect, a petition may be filed during a prescribed "open period" of not less than 90 days and not more than 120 days prior to the expiration of the current agreement. This Petition was filed within that "open period".

The title "Police Radio Dispatcher-Typing" is one of the titles listed in "Exhibit 'C'", appended to the agreement.

There are currently eight police radio dispatchers employed in the City of Vineland Police Department. Their principal function is to receive, record and transmit calls. They do not have the power to arrest, apprehend or detect offenders of the law. They are not permitted to carry firearms in the course of their duties. They do not receive police training at a police academy. They do wear uniforms, as do all civilian police personnel in the Vineland Police Department, including clerical personnel. They work on shifts which coincide with a patrol squad. At one time the City used dispatchers to frisk female prisoners and the dispatchers were sworn in pursuant to N.J.S.A. 40:14-146 as "special police" for this purpose. This function is now performed by female police officers. The City, no longer having a legitimate need to use dispatchers for this purpose, revoked the "special police" designation by formal resolution at a City Council meeting on October 22, 1985. Therefore, dispatchers now have no police powers, even reserved powers, to detect, apprehend or arrest.

\* \* \* \*

Analysis of the Issues

N.J.S.A. 34:13A-5.3 provides that:

...except where established practice, prior agreement, or special circumstances dictate the contrary, no policeman shall have the right to

join an employee organization that admits employees other than police to membership.

Accordingly, if the police radio dispatchers are found to be police within the meaning of the Act, they would then be eligible for representation only by an organization that admits solely police to membership. <sup>2/</sup>

In City of Gloucester v. Public Employment Relations Commission, 107 N.J. Super (App. Div. 1969), aff'd per curiam, 55 N.J. 333 (1970), the Court looked to the power or authority of employees to act as law enforcement officers to make detection, apprehensions, and arrests in determining whether said employees are police officers within the meaning of the Act.

The Commission has previously considered the issue of whether police radio dispatchers are "police" and whether they are appropriate for inclusion in nonpolice units. The Commission has generally held that where police dispatchers are sworn as "special police", that status gives them reserved police authority. See In re Borough of Avalon, E.D. No. 75-23, 2 NJPER 59 (1976); In re Tp.

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<sup>2/</sup> Such a determination would dictate the removal of the dispatchers from the existing blue and white collar unit represented by the IBEW. However, it would not necessarily mean that the petitioned-for unit, which is limited to dispatchers would be found appropriate. It may be that, if found to be police, dispatchers should more appropriately be added to the extant police officer unit, which is currently represented by the FOP Lodge #8.

of Ewing, D.R. No. 78-21, 3 NJPER 353 (1977), In re Tp. of Maple Shade, D.R. No. 79-10, 4 NJPER 440 (¶4199 1978), req. for review den. P.E.R.C. No. 79-32, 5 NJPER 26 (¶10017 1978).

In the Maple Shade matter, the Maple Shade PBA filed a petition to sever the four police dispatchers from the municipal blue and white collar employee unit and include them in the police unit, which was represented by the PBA. Of the four dispatchers, one full-time dispatcher also served as a part-time police officer. Citing Avalon, supra, and Ewing, supra, the Director held that:

...since the dispatcher/special police officer employed by the Township has reserved authority and the power to detect, apprehend and arrest, his duties come within the New Jersey Supreme Court's definition of police powers as set forth in Gloucester, supra, and he, therefore, should be included in the [existing] PBA unit. In the event of a non-reappointment as a special officer, the police powers would be removed and the dispatcher would thereafter belong in the unit represented by AFSCME [in the non-police blue and white collar unit.] 4 NJPER 441.

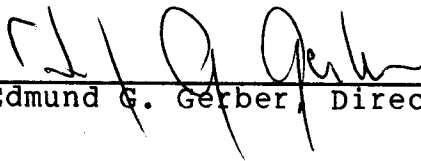
The dispatchers in the instant case are no longer sworn as part-time special police officers and therefore, have no power, even reserved, to detect, apprehend and arrest.

On the basis of the foregoing, I determine that police radio dispatchers are not police within the meaning of the Act. No

other reasons have been proffered which would warrant the severance of dispatchers from the existing collective negotiations unit.<sup>3/</sup>

Accordingly, for the reasons set forth above, I hereby dismiss the Petition.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Edmund G. Gerber, Director

DATED: March 10, 1986  
Trenton, New Jersey

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<sup>3/</sup> See, In re Jefferson Township, P.E.R.C. No. 61 (1971). Given that dispatchers in Vineland are not police officers, Local 266 would not be a proper employee organization under N.J.S.A. 34:13A-5.3 to represent these employees, since it admits police personnel to membership. See In re Cty. of Warren, D.R. No. 86-3, 11 NJPER 646 (¶16225 1985), req. for review pending.