

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF ATLANTIC

Public Employer

and

Docket No. R-115

ATLANTIC COUNTY DETECTIVES AND
INVESTIGATORS ASSOCIATION

Petitioner

DECISION

Pursuant to a Notice of Hearing to resolve a question concerning the representation of certain employees of the County of Atlantic, a hearing was held on September 25, 1969 before ad hoc Hearing Officer Leonard S. Kimmell at which all parties were given an opportunity to examine and cross-examine witnesses, present evidence and to argue orally. Thereafter, on November 5, 1969, the ad hoc Hearing Officer issued a Report and Recommendations. Exceptions have not been filed to the Hearing Officer's Report and Recommendations. The Commission has considered the record and the Hearing Officer's Report and Recommendations and on the basis of the facts in this case finds:

1. The County of Atlantic is a public employer within the meaning of the Act and is subject to the provisions of the Act.
2. The Atlantic County Detectives and Investigators Association is an employee representative within the meaning of the Act.
3. The public employer having refused to recognize the employee representative as the exclusive representative of certain employees, a

question concerning the representation of public employees exists and the matter is appropriately before the Commission for determination.

4. In the absence of Exceptions to the Hearing Officer's Report and Recommendations, attached hereto and made a part hereof, the Commission adopts the Hearing Officer's findings and recommendations pro forma.^{1/}
5. Accordingly, the petition is hereby dismissed.

BY ORDER OF THE COMMISSION



WALTER F. PEASE
CHAIRMAN

DATED: February 4, 1970
Trenton, New Jersey

^{1/} The absence of Exceptions to the Report and Recommendations of the Hearing Officer is interpreted by the Commission to indicate agreement by the parties with his findings. Because of the emphasis on voluntarism in the Act, the Commission is reluctant to go behind the agreement of the parties unless the findings of the Hearing Officer clearly contravene the Act or violate Commission policy or decisional doctrine.

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF ATLANTIC,

Public Employer

and

Docket No. R 115

ATLANTIC COUNTY DETECTIVES AND INVESTIGATORS
ASSOCIATION,

Petitioner

HEARING OFFICER'S REPORT AND RECOMMENDATIONS

Appearances:

For the Public Employer:

John P. Miraglia, Esq.

For the Petitioner:

Arkus & Cooper, Esqs.
By: James L. Cooper, Esq.

PRELIMINARY STATEMENT:

Pursuant to a Petition for Representation of Public Employees, a representation hearing was held on September 25, 1969 in Trenton, New Jersey before the undersigned Hearing Officer duly appointed by the State of New Jersey Public Employment Relations Commission. Both the Petitioner and the Public Employer appeared by counsel and were afforded full opportunity to adduce proofs in support of their positions. On the basis of the transcript of testimony taken at the hearing, the following findings, conclusions and recommendations are made.

THE PUBLIC EMPLOYER:

The County of Atlantic, the Public Employer herein,

[is a subdivision of the State of New Jersey. Among its various departments, the Public Employer maintains the Atlantic County Prosecutor's Office headquartered in Atlantic City, and the Office of the Sheriff of Atlantic County situated in Mays Landing, the county seat, about eighteen miles distant from Atlantic City.

The County Prosecutor's Office:

The Prosecutor's office is, as its name implies, responsible for the enforcement of applicable criminal statutes. In performing this function, the Prosecutor's office employs a staff of five investigators and three detectives who are paid an annual salary of \$5,360.00 for investigators and \$6,000.00 for detectives. The primary duty of these persons is to conduct criminal investigations and report their findings to the County Prosecutor for possible law enforcement action. On special occasions they may also be called upon to assist other law enforcement agencies such as the State Police in maintaining public order as, for example, at the Pop Music Festival held in August, 1969 at Atlantic City.

Persons are appointed to these two positions in accordance with specific requirements for the jobs promulgated by the Civil Service Commission. They operate in plain clothes and are qualified on firearms. They have the authority to make arrests in appropriate situations.

These detectives and investigators are apparently members of both a state-wide and county-wide organization which limit their membership to investigator and detectives.

The Office of the Sheriff:

The County Sheriff maintains a staff of four Under-Sheriffs and nineteen Deputy Sheriffs. One Under-Sheriff is responsible for the Deputy Sheriffs assigned to maintain order and administer the oath to witnesses and jurors in the courts located in Atlantic City. Another Under-Sheriff supervises the Deputies assigned to the Mays Landing courts. The number of Deputy Sheriffs so assigned is usually three for each location, but more will be assigned when needed as in the case of a murder trial. The third Under-Sheriff is responsible for the administration of the County Jail in Mays Landing which is staffed by approximately thirty Correction Officers. The final Under-Sheriff supervises the work of the remaining thirteen Deputies not assigned to the courts. These assignments, it should be noted, are not necessarily permanent so that personnel are, from time to time, rotated in their assignments.

These thirteen Deputy Sheriffs spend the greater part of their time serving civil summonses and other court process. They also perform other routine functions such as the investigation of applications for firearm permits. In addition, they perform certain law enforcement work of a criminal nature from time to time as the occasion demands. They recently conducted a criminal investigation into suspected drug abuse at a local community college and also helped to maintain public order at the Pop Festival referred to above. In appropriate cases, the Deputies are empowered to make arrests. The results of any criminal investigation would be reported to the County Prosecutor who would also, where warranted, process arrests made by a

Deputy Sheriff.

The Deputies are normally uniformed and qualified on firearms. Their pay is approximately \$1,000.00 per year greater than that received by the detectives.

Added Considerations:

Although both the Deputy Sheriffs on the one hand, and the Detectives and Investigators on the other, are covered by Civil Service regulations, they are each appointed by separate examinations and from separate registers. The qualifications for all three posts, however, do require some previous experience in some type of investigatory work. As noted above, the Deputy Sheriffs are supervised by the County Sheriff and the Detectives and Investigators are supervised by the County Prosecutor. Employee grievances and complaints, accordingly, are handled separately for each group. There is no evidence of any interchange of personnel between the Sheriff's office and the Prosecutor's office.

Both groups are, of course, subject to the overall supervision of the Board of Freeholders of the County. Fringe benefits such as hospitalization, holidays and vacations are the same for both groups as well as for all other county employees.

THE CONTENTIONS OF THE PARTIES:

The Petitioner seeks a representation unit limited to the County Prosecutor's Detectives and Investigators. The Public Employer contends that this unit is inappropriate and urges a larger single unit consisting of the Deputy Sheriffs in addition to the Detectives and Investigators. The Petitioner would

apparently not be prepared to represent this larger single group in the event it is deemed appropriate and the small unit declared inappropriate.

FINDINGS AND CONCLUSIONS:

Weighing all of the relevant factors set forth above, the Hearing Officer is of the conclusion that the representation unit sought by the Petitioner is inappropriate and that the larger single unit of Deputy Sheriffs, Detectives and Investigators is alone appropriate.

We think it clearly established that the customary duties of the Deputy Sheriffs on the one hand, and the Detectives and Investigators on the other hand, are not entirely similar. The Detectives and Investigators are directly involved in the enforcement of criminal statutes while the Deputy Sheriffs are basically either court attendants or process servers. In this connection, we are not persuaded that such infrequent unusual law enforcement work performed by Deputy Sheriffs as in the case of the Pop Festival or the college drug investigation effectively makes them into law enforcement officers of the same class as the Detectives and Investigators. On the other hand, the duties of both groups are involved generally in the administration of justice. They both perform functions which are ancillary to this greater purpose.

We are, furthermore, persuaded that a single overall unit is appropriate because of the similarity of pay, fringe benefits and working conditions of each group. We also note that the Civil Service qualifications for each group, while different in certain respects, are still basically similar. It

appears to us that essentially the same sort of person would be recruited for either the post of Deputy Sheriff or for the Detective and Investigator positions.

Drawing upon an analogy from appropriate unit determinations by the National Labor Relations Board in the private sector, we note that the customary industrial unit consists of all factory employees. Such units usually bracket together production line employees with maintenance employees and with shipping and receiving employees despite the fact that each group is doing a different type of work. The rationale for such single units is that all the included employees are essentially similar people who share a community of interest in their wages, hours, fringe benefits and working conditions. Under the same rationale, office clerical employees are excluded from a factory wide unit because they are basically unlike factory workers and their interests are different from plant employees. For a factory worker job security is often of overriding importance while for an office employee more interesting work or a longer lunch hour may be of greater importance. The National Labor Relations Board has, accordingly, found more persuasive the concept of shared community of interest rather than the exact nature of the work performed. We consider this rationale equally applicable to this case since we believe that the Deputy Sheriffs, Detectives and Investigators, notwithstanding certain minor differences, share such a community of interest in their jobs.

We also deem the Petitioner's unit inappropriate because it would, in our opinion, unnecessarily lead to fragmentation of negotiations between the County and its employees. The

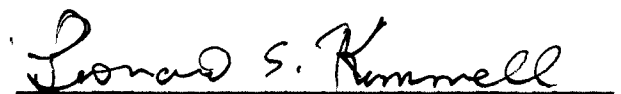
Public Employer should not have to first negotiate with its Detectives and Investigators and thereafter with its Deputy Sheriffs, possibly exposing itself in the process to a dangerous "whipsawing" technique by either group. Public negotiations are too time consuming and costly to the public to permit them to take place more frequently than is really necessary. Where, as here, there is a sufficient community of interest between the three categories of employees, a single negotiation unit would seem to best suit the public need.

We feel constrained to point out that although the Public Employer and the Petitioner agreed to exclude the Sheriff's Correction Officers employed in the County Jail from either representation unit, we are not entirely convinced that such exclusion is proper. These employees are also involved in the general field of law enforcement work, albeit a different aspect of the same, and we believe that the same considerations outlined above are applicable to them. Had the Public Employer urged it, we would have recommended a further expansion of the appropriate unit to include these Correction Officers.

RECOMMENDATION:

For the reasons set forth above, it is the recommendation of the undersigned Hearing Officer that the representation petition herein involved be dismissed on the grounds that an inappropriate negotiation unit is sought.

Dated: November 5, 1969



Hearing Officer