



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

FRANKLIN POLICE DEPARTMENT,
STATE EMPLOYEES' ASSOCIATION OF
NEW HAMPSHIRE, INC.

Petitioner

and

CITY OF FRANKLIN, N.H.

Respondent

CASE NO. S-0313:9

DECISION NO. 83-09

APPEARANCES

Representing Franklin Police Department

Ward Freeman

Representing City of Franklin, N.H.

Paul T. Fitzgerald, Esq.

Also in Attendance

Frank P. Edmunds
John E. Sims, Jr.
Sylvia Kelton
Suzanne Marceau

Gerald Gauthier
Michael Cheney
James Ryba

BACKGROUND

The State Employees' Association of New Hampshire, Inc. filed a modification petition for Local #49 made up of the Franklin Police Department, of which they were the exclusive bargaining agent.

The modification petition asked that the positions of dispatcher, clerk-secretary and prosecutor be added to the existing police unit.

A hearing was held at the Board offices in Concord on February 22, 1983 and continued on February 28, 1983.

The existing unit was "grandfathered" under RSA 273-A and the dispatcher and prosecutor positions have been created since. The clerk-secretary position has existed throughout but was not part of the original unit.

The city stipulated that it had no opposition to three of the four dispatchers but opposed the inclusion of the fourth on the grounds that this position was supervisory. The city further argued that the prosecutor, formerly a lieutenant in the department and now a "sworn police officer without rank", did not have a community of interest with the other police officers and further that the position was simply a recognition of the duties as they had evolved with administrative tasks removed. In addition, the City argued, the clerk-secretary had no community of interest since the person was not a police officer, never did police work, wore no uniform, etc.

FINDINGS OF FACT

(Dispatch Supervisor) Testimony centering on the "Supervisor" (corporal) dispatcher revealed some lack of mutual understanding about the nature of discipline but it was established that the corporal dispatcher had certain supervisory functions in particular areas and did in some way participate in disciplinary actions as well as evaluations, hiring procedures and the departments budget process but did not have power to hire or fire employees nor to suspend them.

(Clerk-Secretary) Testimony on the clerk-secretary revealed that this person was responsible directly to the chief for all types of secretarial work and had no police duties per se.

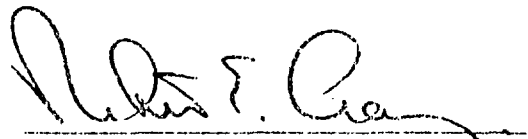
(Prosecutor) The prosecutor position evolved from a combined lieutenant-prosecutor role within the department's administrative chain of command to a full-time prosecutor essentially outside the working chain of command, without rank but still a sworn police officer, at the call of the chief with essentially no supervisory duties in police work but with some responsibility for court appearances of police officers and for discretion in the prosecution of cases.

RULINGS OF LAW

- a. The "dispatcher-supervisor" does not have "...authority involving the significant exercise of discretion..." (RSA 273-A:8, II) required to define the position as supervisory under the law;
- b. the clerk-secretary, in this particular instance, lacks the necessary community of interest with the rest of the unit since this position is essentially not police work per se;
- c. the new position of prosecutor is a sufficiently professional and unique position, independent of the main organization of the department so as to preclude the necessary community of interest under the law.

DECISION

1. The dispatch-corporal-"supervisor" are included in the unit along with all other dispatchers;
2. the clerk-secretary and the prosecutor are excluded from the unit.


ROBERT E. CRAIG, Chairman

Signed this 5th day of April 1983.

By unanimous vote. Chairman Craig presiding, members Russell Hilliard and Robert Steele present and voting. Also present, Executive Director, Evelyn C. LeBrun.