



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Unit Determination Hearing
AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, AFL-CIO

Petitioner

v.

TOWN OF HOOKSETT, NEW HAMPSHIRE
POLICE COMMISSION

Respondent

CASE NO. A-0519

DECISION NO. 85-54

APPEARANCES

Representing the American Federation of State, County and Municipal Employees:

James C. Anderson, Council Representative
Jack Keller, Patrolman
Donald Stout, Patrolman
Frank Beliveau, Sergeant
Michael Jodoin, Detective

Representing the Police Commission, Town of Hooksett:

David W. Hess, Esq., Town Counsel
James Oliver, Chief
George H. Lindh, Commissioner
George Longfellow, Commissioner
Harrison Rollins, Commission Chairman

BACKGROUND

The American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) filed in accordance with RSA 273-A:10 a petition for certification of a proposed unit of employees of the Hooksett Police Department which includes all patrol officers, sergeants, detective, prosecutor/patrolman and the humane officer/patrolmen employed on a full or part time basis.

The petition filed consisted of separate forms from over thirty percent of the employees who wished to be represented by AFSCME for the purpose of collective bargaining.

Counsel for the Town took exception to and objected to the proposed unit; particularly to the positions of probationary officers, part-time patrol and humane officers, the prosecutor, sergeants and detective on the basis of either supervisory, confidential or temporary nature of their employment.

A hearing on the merits was held in the Board's office on June 25, 1985; evidence and testimony was presented by all parties.

FINDINGS OF FACT

PROBATIONARY EMPLOYEES

Everyone agreed that in accordance with RSA 273-A:8, I(d), probationary employees are counted to satisfy the ten (10) employee minimum requirement; however, such probationary employees cannot in any case vote in any election conducted under the provisions of the statute.

PART-TIME EMPLOYEES

All part-time employees must pass an oral, written, physical fitness and psychiatric exams prior to review by the Commission and employment in the Department.

After acceptance, all are sworn police officers who are required to attend a part-time Police Academy and who are hired on a yearly warrant. After satisfactory performance are renewed from year to year.

After completion of the first year of employment, all receive a clothing or uniform allowance.

The part-time officers work a regular schedule, basically nights and weekends, and are required to work a minimum of thirty-two (32) hours per month. In addition, these officers cover for other patrol officers who might be out sick, on vacation or away for other reasons. Testimony further revealed that at least two of the part-time officers were, and have been for some time, working a 40-hour week.

The "HUMANE OFFICER/PATROLMAN", although considered by the Town as a part-time employee, has been employed for a period of over fifteen (15) years and responds to animal complaints during the hours of 8:00 a.m. and 10:00 p.m. He is also called to do outside detail in traffic, is a sworn police officer, wears the police uniform and his certification is the same as other sworn police officers. When the Human Officer/Patrolman is unavailable, other regular patrol officers respond to his calls.

PROSECUTOR

A sworn police officer whose duties although different is often called upon and required to perform patrol functions. When unavailable, other patrol officers assume his duties.

Like the Prosecutor, regular patrol officers perform investigative functions. Every officer (including the Prosecutor/Detective) works a total of five (5) tours in order to comply with the 2,080-hour requirement per year. There are but two (2) days out of the six (6) weeks that there is not an open tour. On those days, the officers are assigned to floating and are on "plain clothes detail" necessitating investigatory work.

Based on manpower availability, the Sunday, Monday and Tuesday shifts, from midnite to 7:00 a.m., has but one patrol officer on duty who serves as the

officer-in-charge. This same arrangement can occur during the day shifts and weekends.

The Prosecutor has no supervisory capacity and no disciplinary powers. Every five weeks, he performs as a uniform patrol officer on regular patrol duty and is presently scheduled from 5 to 1 on Fridays and Saturdays and from 4 to midnite on Sundays. He works alone and is therefore the officer-in-charge.

SERGEANTS

Although Sergeants do supervise, the degree of supervision is minimal. Due to the size of the Department, sergeants, as well as patrol officers, often work a shift alone and consequently are the officers-in-charge with no one under their supervision.

Sergeants are on a 5-week schedule, rotating every five weeks; i.e., one sergeant is on Monday thru Friday from 7:30 a.m. to 3:30 p.m., the other sergeant is on Wednesdays from 2:00 p.m. to 10:00 p.m., Thursdays, Fridays and Saturdays from 5:00 p.m. to 1:00 a.m. and Sundays from 4:00 p.m. to 12:00 a.m.

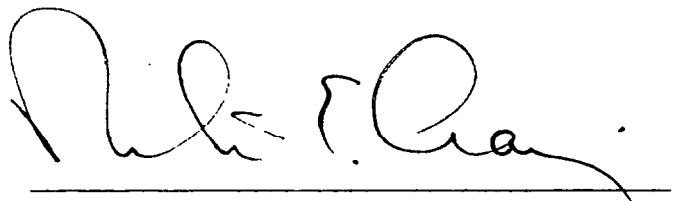
Based on the Department's Rules and Regulations, sergeants can issue oral reprimands only. Written reprimands and suspensions are reserved for the Chief, subject to review by the Police Commission. Sergeants have no disciplinary powers.

Although sergeants do make initial evaluations, these evaluations are submitted first to the Lieutenant for his comments, then reviewed by the Chief for additional comments. The original evaluations may be changed by comments from either the Lieutenant, Chief or the Commission.

DECISION AND ORDER

After considering all the evidence presented, the Board finds that there is statutory interest on the part of the petitioner and the employees of the Police Department in that the required number of members of the proposed unit have signed interest cards in support of the petition and requesting an election; and, that a community of interest does exist between the members of the Department.

NOW THEREFORE, it is hereby ORDERED that pursuant to RSA 273-A:8 a bargaining unit composed of all full-time and permanent part-time employees of the Hooksett Police Department; i.e., patrolmen, sergeants, prosecutor, detective, and humane officer is appropriate and that a secret ballot election be held as expeditiously as possible.



ROBERT E. CRAIG, Chairman

Signed this 9th day of July, 1985.

By unanimous vote. Chairman Robert E. Craig presiding. Members Richard W. Roulx, Seymour Osman and Russell J. Verney present and voting. Also present, Executive Director, Evelyn C. LeBrun.