



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AFSCME LOCAL 3657

Complainant

v.

TOWN OF PETERBOROUGH

Respondent

CASE NO. M-0578

DECISION NO. 96-063

APPEARANCES

Representing AFSCME:

James C. Anderson, Staff Representative

Representing Town of Peterborough:

Joseph J. Byk, Esq.

Also appearing:

Raymond T. Dodge, Peterborough Police Department

Bruce H. McCall, Peterborough Police Department

Scott Guinard, Peterborough Police Department

BACKGROUND

On March 29, 1996, AFSCME Local 3657, hereinafter Union, filed a petition for the certification of a twenty-one member bargaining unit of seven positions held by full-time and part-time police department employees. The composition of the unit requested is as follows: sergeant (2), corporal (1), detective (1), patrol officer (13), clerk/dispatcher (2), crossing guard (1), diversion coordinator (1). On April 12, 1996, the Town of Peterborough, hereinafter Town, answered with objections to the inclusion of the positions of sergeant and corporal for

supervisory and confidentiality reasons. A hearing was held before the undersigned hearing officer on May 22, 1996.

FINDINGS OF FACT

1. The Town of Peterborough employs personnel in the operation of its police department and thereby is a "public employer" within the meaning of RSA 273-A:1 X.
2. Day to day supervision is performed by two sergeants and a corporal because Chief Estey is frequently out of the office on other police business. Sergeant Guinard is second in command. Sergeant McCall and Corporal Dodge are third and fourth in command. (Town No. 1)
3. The two sergeants, the corporal and Chief Estey attend staff meetings at which policy decisions, labor matters, discipline and decisions regarding hiring and firing are topics.
4. Members of the supervisory team, consisting of the two sergeants and the corporal, have authority to issue written warnings, though Corporal Dodge would seek ratification from Sergeant Guinard. The three supervisors, are in charge of evaluating a group of patrol officers every six or seven months on a rotating basis. (Town No. 2)
5. Sergeant Guinard is involved in the hiring process. He does pre-employment checks and sits on oral boards then makes recommendations regarding hiring. He also makes recommendations on retaining or terminating officers. The Board of Selectmen has final authority over such decisions.
6. The second sergeant's position serves as the department's recruitment officer and head prosecutor. This position provides direct supervision over patrol officers, disciplines or makes recommendations of serious discipline to Chief Estey and, on one occasion, to the Board of Selectmen.

DECISION AND ORDER

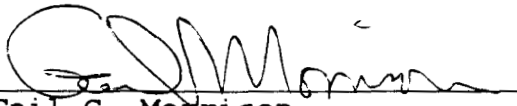
RSA 273-A:8 places authority for determining the composition of bargaining units with the Public Employee Labor Relations Board. RSA 273-A:8 II prohibits the inclusion of supervisors in bargaining units of rank and file personnel which they supervise.

The two sergeant and the corporal positions exercise significant supervisory discretion over other employees who seek the formation of a bargaining unit. They evaluate and discipline those whom they supervise. Therefore, the positions of sergeant and corporal are excluded from the unit.

The appropriate unit for the Town of Peterborough Police Department consists of the following positions: patrol officers (13), clerk/dispatcher (2), crossing guard (1) and diversion coordinator (1).

So ordered.

Signed this 24th day of July, 1996.



Gail C. Morrison
Hearing Officer