State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS Petitioner and CITY OF DOVER, NEW HAMPSHIRE Respondent	CASE NO. P-0747 DECISION NO. 89-13

APPEARANCES

Representing the International Brotherhood of Police Officers:

Mark D'Aguanno, National Vice President, I.B.P.O.

Representing the City of Dover:

Chief Charles Reynolds

Representing the Dover Police Association:

John MacClellan, President

BACKGROUND

This is a Petition for Certification of the International Brotherhood of Police Officers who have petitioned the PELRB for the establishment of a unit comprised of "all patrolmen below the rank of sergeants excluding chiefs, all superior officers, meter maids, civilian employees working in the police department and all other city employees." The Dover Police Department has a grandfathered unit (one which existed prior to the adoption of RSA 273-A in 1975) composed of all employees of the police department of whatever nature. This unit is represented by the Dover Police Association, an unaffiliated union. The present application for certification of a bargaining unit seeks certification of a unit of only patrolmen who in Dover are called "police officers". Also in the police department are three captains, five sergeants (which in Dover perform work commonly performed by officers known as lieutenants in other police departments) and five supervisors (who in other departments would be known as sergeants). Also in the department are five to six permanent part-time parking enforcement officers and 20 civilians made up of clerical staff, dispatchers, custodians and mechanics.

Although no opposition was presented by any party to the petition for certification, the PELRB requested a hearing on the proposed unit under its authority set forth in RSA 273-A:8 I which states that "the Board or its designee shall determine the appropriate bargaining unit . . ." (emphasis added). A hearing was held at the offices of the PELRB in Concord, New Hampshire on January 26, 1989 at which the present union, the petitioning union and the employer were represented.

FINDINGS OF FACT AND RULINGS OF LAW

This is an awkward case in that there is no expressed opposition to the request for a unit of patrolmen only. Indeed, the employer and existing union state that the status quo works well in Dover under the grandfathered unit with the existing local union. Nevertheless, when a grandfathered unit is brought before the PELRB, the appropriateness of it under the provisions of RSA 273-A:8 and the rules of the Board must be applied by the Board to the unit. When applying those standards, the Board is required to form a unit which does not contain supervisory or confidential employees and which includes all employees who have the same conditions of employment, a history of workable and acceptable collective negotiations, in the same historic craft or profession and functioning within the same organizational unit. These are the statutory requirements as further enumerated by Board rules which include not creating a multitude of units which will undermine governmental efficiency.

In the instant case, the Board has inquired of the parties as to the employment situation in the Dover Police Department. In testimony which was uncontroverted at the hearing, it was established that there are three levels of supervisors under the chief of police. Those are captains, sergeants and supervisors. There are 31 police officer positions, five to six permanent part-time parking enforcement officers who are supervised by sergeants, who are uniformed, who work in the same location as the police officers and who have a perceived community of interest in that they are felt to be and feel themselves to be part of the police department. In addition, the civilian employees including the clerical staff supervised by uniformed supervisor; dispatchers, supervised by uniformed supervisor; custodian, supervised by uniformed supervisor and the mechanic, supervised by uniformed supervisor all consider themselves an integral part of the police department and function as such. Uncontroverted testimony also established that the chief's secretary is the only clerical, confidential employee in the department in terms of the labor or employment context. While one patrol person (police officer) works in the training bureau and may have some access to records as a portion of his or her job, that position rotates and cannot be found to be confidential. Commanding officers assign, suspend and have the responsibility to supervise others in the chain of command. Any and all of them prepare budgets and participate in staff meetings for setting policy. Therefore, the captains, sergeants and supervisors qualify under the rules of this Board as supervisory employees.

Testimony of the present union president indicates that there is a community of interest felt between the police officers, parking enforcement officers and civilian workers in the department. These are non-supervisory personnel.

Because of the obligation of this Board to apply statutory requirements and because the grandfathered unit has now been brought before the Board and the Board has the obligation to establish "the appropriate unit", the Board must establish a unit in accordance with statute. Therefore, the Board finds as follows:

ORDER

The Board issues the following order:

1. A unit in the Dover Police Department made up of police officers, parking enforcement officers and civilian employees other than the secretary to the Chief of Police is hereby established as the appropriate unit for employees of the Dover Police Department. Supervisors and the chief's secretary and the chief are excluded from said unit.

2. An election will be held in accordance with the rules of the Board, the choices before the employees to be between the International Brotherhood of Police Officers, the Dover Police Association and no representative.

3. The creation of this unit supercedes the unit grandfathered under RSA 273-A on June 7, 1977.

So ordered.

Signed this 22nd day of February, 1989.

EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine. Members Seymour Osman, James C. Anderson and Richard W. Roulx present and voting. Also present, Board Counsel Bradford E. Cook, Esq. and Executive Director, Evelyn C. LeBrun.