

VERMONT LABOR RELATIONS BOARD

LOCAL 200, SERVICE EMPLOYEES')	
INTERNATIONAL UNION, AFL-CIO)	
)	DOCKET NO. 86-37
and)	
)	
TOWN OF WILMINGTON POLICE)	
DEPARTMENT)	

FINDINGS OF FACT, OPINION AND ORDER

Statement of Case

On June 20, 1986, Local 200, Service Employees' International Union, AFL-CIO ("Union") filed a Petition for Election of Collective Bargaining Representative. The Union requested an election among all police officers and dispatchers employed by the Town of Wilmington Police Department ("Employer").

The Employer filed a response to the petition on July 7, 1986, contending that it was inappropriate to include police officers and dispatchers in the same bargaining unit. A hearing on this issue was held before Board Members Kimberly B. Cheney, Chairman; William G. Kemsley, Sr. and Catherine L. Frank on July 31, 1986. Carmine Ruberto represented the Union. Attorney Richard Hayes represented the Employer. The Union and the Employer filed briefs on August 18, 1986.

FINDINGS OF FACT

1. The Town Police Department employs a Chief, three full-time police officers, three part-time police officers, two full-time dispatchers and one part-time dispatcher.

2. The Union and the Employer agree the three part-time police officers and the one part-time dispatcher are not eligible for

inclusion in the bargaining unit. One of the full-time police officers holds the rank of sergeant, but there is no contention this employee would not properly be included in the bargaining unit.

3. In addition to employees of the Police Department, the Town employs the following employees: Town Manager, secretary to the Manager, financial officer and nine employees of the Road Department (Commissioner, landfill operator, sewer treatment plant operators and laborers).

4. Two shifts exist for police officers; a day shift from 7:00 a.m. to 5:30 p.m. and a night shift from 5:00 p.m. to 3:30 a.m. An officer (either the officer going off shift or the officer coming on shift) are on call from 3:30 a.m. to 7:00 a.m. Police officers work shifts on four successive days and then have three days off. Officers rotate shifts every three months.

5. Police officers have law enforcement powers, are uniformed and carry firearms. They respond to requests for police assistance, enforce criminal and motor vehicle laws, control traffic, arrest suspects and perform other related tasks. Police officers spend most of their time out of the police station, on patrol. Police officers may be called into work during their off-duty hours. Police officers are subject to a police manual, which proscribes both on-duty and off-duty conduct (Employer Exhibit 2)

6. At the beginning of their employment, police officers must attend and graduate from a 15-week training course at the Vermont Police Academy as mandated by the Vermont Criminal Justice Training Council. They are required to maintain their certification annually

through additional training of 25 hours per year mandated by the Training Council. The Chief requires each full-time officer to acquire 100 hours of law enforcement training per year, four times the minimum amount required for recertification.

7. Police officers are required to live within the Town, although with permission of the Chief they may live as much as five miles outside Town limits.

8. The two full-time dispatchers have the following schedule: one dispatcher works 40 hours per week, working 8:00 a.m. to 6:00 p.m., Monday through Thursday. The other dispatcher works from 8:00 a.m. to 6:00 p.m., Friday through Sunday, for a total of 30 hours per week. Dispatchers do not rotate shifts. During the hours a dispatcher is not on duty, dispatching is done by the Vermont State Police.

9. Dispatchers dispatch police officers via radio, dispatch fire and rescue personnel, answer the telephone, greet the public, provide general information to the public, type police reports, maintain files and perform general clerical work. Dispatchers follow a detailed procedures manual in the conduct of their duties. It is important dispatchers take information accurately and relay it to police officers in an accurate and timely manner. If information is inaccurate, the response of the police officers could be delayed or aborted. Dispatchers have no law enforcement powers, are not uniformed and do not carry firearms. If a woman is arrested and a search is necessary, a female dispatcher is asked, but not required, to assist. Dispatchers are not called into work during their off-duty hours (Employer Exhibit 1).

10. The Chief trains dispatchers with the assistance of the senior dispatcher. The training takes place on the job and lasts approximately two weeks.

11. No residency requirements exist for dispatchers.

12. When a dispatcher is absent and a replacement is needed, another dispatcher or a police officer is used.

13. The Chief supervises the work of both the police officers and dispatchers. Dispatchers grieve first to the Chief, then to the Town Manager, to resolve any grievances. The Chief makes the final decision on grievances of police officers, except that officers may appeal to the Town Manager if they believe the decision is illegal.

14. Police officers are paid on a salaried basis, the dispatchers on an hourly basis. The Chief prepares the Police Department budget and makes recommendations as to salary adjustments for both groups of workers.

15. All employees of the Town receive similar benefits (i.e. health and life insurance, vacations, holidays, personal days, leaves of absence and pensions).

OPINION

At issue is whether the full-time dispatchers and police officers should be included in the same bargaining unit.

In two previous decisions, the Board has ruled that dispatchers and police officers be included in the same bargaining unit. AFSCME and Town of Manchester, 9 VLRB 5 (1986). AFSCME and Town of Middlebury, 6 VLRB 227 (1983). Nonetheless, the Employer contends a different result is warranted here, not only because of the factual differences

existing in this case, but also because of the Town's uncontested evidence that it treats its police officers as professionals and wishes them to regard and conduct themselves as professional employees.

Based on the criteria provided in §1724(c) of the Municipal Employee Relations Act (MERA) for the Board to take into consideration in determining the appropriateness of units, the Board's primary concerns are to group together only employees who share a similar "community of interest", while at the same time guarding against overfragmentation of units and allowing individuals to exercise rights guaranteed them under MERA. Middlebury, supra, at 231. A group of employees must at least be a readily identifiable and homogenous group apart from other employees to be an appropriate unit. Id.

The following factors are relevant in determining whether a community of interest exists among employees: differences and similarities in method of compensation, hours of work, employment benefits, supervision, qualifications, training, job functions and job sites; and whether employees have frequent contact with each other and have an integration of work functions. Middlebury, supra, at 232.

In applying these factors here, our analysis in Manchester, supra, at 11, also applies in this case:

...(W)e believe the dispatchers and police officers share a community of interest. While it is obvious the two groups of employees have dissimilar qualifications, training and job functions, the very nature of their job requires they interact frequently and a high degree of integration of work functions exists. The safety of police officers and competent performance of their duties depends on the dispatchers soliciting relevant information on phone complaints and relaying the information to officers in a timely manner... It is evident dispatchers share a greater community of interest with police officers than with any other group of Town employees.

Placing dispatchers and police officers in the same unit also guards against overfragmentation of units which may result if they are placed in separate units. It is Board policy that public rights are protected by larger units. Teamsters Local 597 and Champlain Valley Union High School Board of Directors, 7 VLRB 1 (1984). Champlain Valley Union High School Staff Association, VEA/NEA Local 325 and Champlain Valley Union High School Board of Directors, 3 VLRB 426 (1980). Placing three employees of one department in a separate unit from two other employees of the same department, as the Employer requests, would result in undesirable fragmentation of units, particularly where the employees share a community of interest.

We reject the Employer's claim the "professional" nature of the police officers' work mandates they be placed in a separate bargaining unit from the dispatchers, who perform non-professional work.

In distinguishing between professional and non-professional employees, MERA provides in §1724(c)(1):

No bargaining unit shall include both professional employees and other municipal employees unless a majority of such professional employees vote for inclusion in such unit.

While MERA nowhere defines "professional employee", it is recognized elsewhere in statute that professional employee means an employee engaged in work "requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning". 21 VSA §1502 (11). Wilmington police officers do not meet this definition. Required educational

attainment to be hired as a police officer is graduation from high school. While further training is required through the Vermont Police Academy and elsewhere, this clearly is insufficient to attain professional status as defined.

At the hearing, Wilmington Police Chief Thomas Donnelly indicated the dignity and importance of the police officers would perhaps be diminished if they were included in the same unit with dispatchers. In placing them in the same unit, we in no way intend to depreciate the police officer position or downplay the significant difference in qualifications, training and job functions between the two jobs. We simply have concluded that, given the community of interest and overfragmentation considerations evident here, the grouping of police officers and dispatchers is appropriate.

Although in no way do we consider it a controlling factor, we are also influenced by the fact the dispatchers and the police officers have petitioned to be grouped together for collective bargaining purposes. Given the other considerations discussed above, we believe the extent to which the employees have organized themselves here is appropriate.

ORDER

Now therefore, based on the foregoing findings of fact and for the foregoing reasons, it is hereby ORDERED:

1. The full-time dispatchers of the Town of Wilmington Police Department shall be included in a bargaining unit with the Department's full-time police officers; and
2. A secret ballot election shall be conducted by this Board pursuant to 21 VSA §1724(e) on such date as the Board shall order to determine whether the employees in the above bargaining unit

desire to be represented for exclusive bargaining purposes by Local
200, Service Employees' International Union, AFL-CIO or no union.

Dated this 11th day of September, 1986, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

Kimberly B. Cheney
Kimberly B. Cheney, Chairman

William G. Kinsley, Sr.
William G. Kinsley, Sr.

Catherine L. Frank
Catherine L. Frank