

STATE OF DELAWARE

PUBLIC EMPLOYMENT RELATIONS BOARD

Fraternal Order of Police, Lodge 7)
Petitioner.)
)
v.) ULP No. 00-10-292
)
University of Delaware, Department of Public Safety)
Respondent.)

BACKGROUND

The University of Delaware (“University”) is a public employer within the meaning of § 1602(l) of the Police Officers and Firefighters Employment Relations Act (19 Del.C. Chapter 13, “POFERA”). The Fraternal Order of Police, Lodge 7 (“FOP”) is an employee organization within the meaning of 19 Del.C. § 1602(g).

On October 18, 2000, the FOP filed a certification petition with the Public Employment Relations Board (“PERB”) seeking to represent a new bargaining unit comprised of “all University of Delaware Police Officers at and below the rank of Sergeant.” The University objected to the appropriateness of the proposed bargaining unit, claiming separate bargaining units should be created for the Lewes and Newark campuses.

A hearing was held on December 13, 2000. The record closed with the filing of letter memoranda. On March 13, 2001, Deborah L. Murray-Sheppard, Hearing Officer, issued her decision which provides:

“Based upon the record created by the parties and for the reasons set forth herein, the appropriate bargaining unit, considering the criteria set forth in 19 Del. C. § 1610(d), is determined to be:

ALL UNIVERSITY OF DELAWARE POLICE
OFFICERS AT AND BELOW THE RANK
OF SERGEANT.”

On March 19, 2001, the University of Delaware filed a “Request for Review” of the Hearing Officer’s Decision with the matter then being heard by the Public Employment Relations Board in its session of May 1, 2001.

DISCUSSION

The “Positions of the Parties” contained in the Hearing Officer’s decision presents the essential arguments in this case. When determining an appropriate bargaining unit, the statute mandates that PERB consider the following:

- The similarity of duties, skills and working conditions of the employees involved;
- The history and extent of employee organization;
- The recommendations of the parties involved;
- The effect of overfragmentation on the efficient administration of government; and
- Such other factors as the Board may deem appropriate.

The petition concerns police officers who are basically assigned to two work locations - the Newark, or “main” campus of the University of Delaware with approximately 20,000 students, located within the municipality of Newark and the Lewes campus, a small graduate research facility located in Lewes, Delaware, approximately 90 miles from Newark. The University employs between twenty (20) and thirty (30) police officers and twelve (12) security officers at its Newark campus. There are four (4) police

officers at the Lewes campus. There is a single job description for each of the four existing ranks in issue here and those job descriptions apply to all officers in those ranks, regardless of their work location or assignments. All of the officers are required to possess an Associate's degree or equivalent credits (a minimum of 60) and at least one year's experience as a security or law enforcement officer.

The Lewes campus has had Police Officers for at least twenty (20) years according to the testimony and record in this case. Although they do not have nearly the crime or law enforcement activities the Newark campus experiences, they nevertheless must possess the same qualifications as the Newark Police Officers and on occasion are assigned to the Newark campus for special events or overtime. No additional or supplemental training is required for the Lewes officers to perform assigned responsibilities in Newark. Officers assigned to both the Lewes and Newark campuses are covered by the same wages, benefits, and promotional procedures. This condition has existed for many years.

The University relies heavily upon the argument that the Lewes campus officers perform primarily security functions, but it is significant that those functions are included within both the Police Officer and Master Police Officer job descriptions. Security Officers at the Newark campus have traditionally received a lower rate of pay than the Police Officers. The Lewes campus, however, has not utilized the Security Officer classification, even though they arguably do perform many of the same job duties as Security Officers at the Newark campus. The Newark campus Security Officers do not possess the Law Enforcement and Weapons Certification required of the Police Officers nor do they normally perform the specific duties required of the Police Officer

classification. Moreover, Security Officers are **not** permitted to carry weapons – a significant fact in the Board’s opinion.

An additional consideration contributing to the Board’s decision is the question of overfragmentation. The PERB has established a policy favoring creation of the fewest possible bargaining units. As the Hearing Officer stated, “. . . Where, as here, the unit proposed by the Union is for a single unit of unrepresented employees, overfragmentation does not impact the finding of appropriateness.”

The statute does not require that all members of a bargaining unit perform identical functions. However, all bargaining unit positions must share a community of interest premised upon a similarity of duties, skills and working conditions. The Board adopts the Hearing Officer’s conclusion that based upon the totality of the record, the differences in duties, skills and working conditions of the officers at the Newark and Lewes campuses are not sufficient to establish these employees do not share a community of interests within the meaning of the Act.

DECISION

The Board agrees with the Hearing Officer’s conclusion that the unit proposed by the FOP is appropriate within the meaning of 19 Del.C. § 1610(d).

Accordingly, the Board adopts the Hearing Officer’s determination of the appropriate bargaining unit as:

“All University of Delaware Police Officers at and below the rank of Sergeant.”

IT IS SO ORDERED.

/s/Henry E.Kressman
Henry E. Kressman, Chairman

/s/ R. Robert Currie, Jr.
R. Robert Currie, Jr., Member

/s/Elizabeth D. Maron
Elizabeth Daniello Maron, Esquire, Member

Dated: May 24, 2001