

In the Matter of BOARD OF TRUSTEES, UNIVERSITY OF
MASSACHUSETTS/LOWELL

and

INTERNATIONAL ASSOCIATION OF UNIVERSITY
POLICE OFFICERS

and

INTERNATIONAL BROTHERHOOD OF POLICE
OFFICERS, LOCAL 631

Case No. SCR-2226

34.2	<i>community of interest</i>
34.8	<i>similarity of work (interchangeability)</i>
34.91	<i>accretion</i>
34.93	<i>severance</i>
35.8	<i>uniformed services general</i>
93.3	<i>petition for certification</i>

June 16, 1997

Robert C. Dumont, Chairman
William J. Dalton, Commissioner
Claudia T. Centomini, Commissioner

Richard Ong, Esq. *Representing the Board of Trustees,*
University of Massachusetts

Matthew Dwyer, Esq. *Representing the International*
Association of University
Police Officers

Joseph Donnellan, Esq. *Representing the IBPO and NAGE*

DECISION AND DIRECTION OF ELECTION

Statement of the Case

On August 14, 1996, the International Association of University Police Officers (Association) filed a petition with the Labor Relations Commission (Commission) seeking to represent a bargaining unit of university police officers, institutional security officers, resident hall security officers, and dispatchers employed by the police department at University of Massachusetts/Lowell (Employer). Some of the employees the Association sought to represent are currently represented by Local 631, International Brotherhood of Police Officers (IBPO) and others are represented by Local R1-245, National Association of Government Employees (NAGE).

A hearing was conducted on December 6, 1996 by Diane M. Drapeau, a duly designated administrative law judge of the Commission. All parties were afforded a full and fair opportunity to present testimonial and documentary evidence. In addition, the IBPO and the Association filed post-hearing briefs on January 16,

1997. The administrative law judge issued her recommended findings of fact on January 24, 1997. None of the parties filed challenges to the recommended findings of fact.

FINDINGS OF FACT

The IBPO represents a bargaining unit of police officers,¹ including university police officers, university police sergeants, and university police lieutenants.² In 1994, by agreement of the Employer and the IBPO, the titles of institution security officer (ISO) I, II, and III were added to the IBPO's bargaining unit. The agreement provided that:

...all unit members classified as [university] police officers or sergeants on the date of execution of this agreement and who voluntarily accept the position of ISO (I, II, III) or who fails to meet any of their minimum training and/or certification requirements of the position of [university] police officer or sergeant shall be grandfathered in their current job grade and salary of [university] police officer or sergeant so long as they continue to be employed by the University of Massachusetts Lowell as such or are reallocated or promoted to an equal or higher graded position in the bargaining unit. Whenever a unit member fails to meet the (re)training or (re)certification programs established by the University of Massachusetts Lowell for the position of [university] police officer or sergeant, that individual shall be classified as ISO until such time as the individual meets all training and certification requirements....

NAGE represents a maintenance bargaining unit that also includes institutional security officers and communication dispatchers. Other titles in NAGE's bargaining unit are: carpenter, trades worker, electrician I, electrician II, maintainer I, carpenter II, maintainer II, storekeeper IV, maintenance equipment operator, facilities service worker I, facilities service worker II, locksmith, maintenance working foreman, mason, motor equipment mechanic I, motor equipment mechanic III, painter I, plumber & steamfitter I, plumber & steamfitter foreman, storekeeper III, HVAC & refrigerator mechanic, second class engineer, skilled laborer, steam fireman, storekeeper II, maintainer III, and third class engineer.

Resident hall security officers have been employed by the Employer's police department since 1990. They wear uniforms³ and are assigned by the police chief to a resident hall to provide security at the check-in desk in the main lobby of the resident hall. They also oversee an electronic monitoring system that includes cable TV cameras, door alarm system, card access system, and voice intervention intercoms. In addition, the resident hall security officers file incident reports with either the police department's shift commander or the police chief. Like the university police officers, the resident hall security officers work three shifts: 7 a.m. to 3 p.m., 3 p.m. to 11 p.m., and 11 p.m. to 7 a.m. There have been occasions when university police officers have substituted for resident hall security officers when they were not available.

1. The Commission certified the IBPO as the exclusive bargaining representative on April 25, 1986 for a bargaining unit of: "All campus police officers employed by the University of Lowell, excluding the Chief of Police and all managerial and confidential employees."

2. During the course of the hearing, the parties agreed to a separate bargaining unit for the sergeants and lieutenants, and agreed to exclude the captains and the police chief.

3. The uniform is a different design than that worn by the university police officers.

The duties of the communications dispatcher include: transmitting messages from a radio communications base station in accordance with the rules and regulations of the Federal Communications Commission; monitoring various radio frequencies to receive, evaluate and forward information; operating radio transmitting and receiving equipment comprising a system of fixed stations and mobile units; maintaining records and logs of information such as all messages received and transmitted, weather conditions and individuals or authorities to contact in emergency situations; searching files to obtain information in response to inquiries; coordinating all radio communications including emergency systems, relaying messages and instructions to mobile or fixed stations concerned and operating public address systems and paging devices; and checking operating condition of equipment and reporting malfunctions to proper authority. They also do warrant and driver's license checks for the police officers. The dispatchers are supervised by the university police officer shift commander. In addition, police officers have been assigned to dispatching duties if there is no dispatcher available.

The duties of the institution security officers include: patrolling an assigned area by patrol car or on foot; making periodic rounds and security checks of buildings and grounds, conducting surveillance of assigned areas; determining the extent of violations; notifying appropriate authorities; taking whatever action is necessary in accordance with authorized procedures; taking steps to effectively handle or control emergency situations by administering first aid, summoning assistance, directing traffic, and participating in searches; preparing reports and logs on the occurrence of fires, disturbances, accidents, crimes and on the results of investigations; inspecting fire fighting and other safety apparatus in accordance with established agency procedures in order to safeguard the facility's property and the lives of its occupants; responding to inquiries on such matters as travel routes, parting, etc., and providing information concerning pertinent rules and regulations to new patients, residents or students, to other agencies and the general public; performing related duties such as screening persons for identification, purpose of visit, or required authorization; participating in searches for missing persons or property; operating two-way radios and/or base station address systems; locking or unlocking doors, gates, etc.; directing or controlling traffic; raising or lowering flags; assessing road conditions to determine need for emergency snow removal or sanding; and maintaining records.

OPINION

The Association argues that the Commission should create a new bargaining unit composed of security personnel that would include the university police officers, the institutional security officers, the residential hall security officers, and the police dispatchers. NAGE, however, opposes the removal of the institutional security officers and the dispatchers from its existing bargaining unit of maintenance employees.

NAGE contends that the Association has not satisfied the criteria to have these positions severed from its existing NAGE bargaining unit. Specifically, NAGE claims that the institutional security officers have more in common with the employees in NAGE's unit who maintain the campus buildings and grounds. In addition, NAGE asserts that the dispatchers do not have a community of interest with the campus police officers because the position is not a career ladder to the position of university police officer.

The Commission has held that a petitioner seeking to sever employees from an existing bargaining unit must demonstrate that petitioned-for employees constitute a functionally distinct group with special interests sufficiently distinguishable from those of other unit employees, and that those special interests could create special negotiating concerns that could cause conflicts within the bargaining unit. *City of Lynn*, 23 MLC 151,153 (1996), citing *City of Boston*, 20 MLC 1431, 1448 (1994). The facts, in the instant case, demonstrate that NAGE's bargaining unit is primarily composed of maintenance employees, laborers, and skilled tradesmen. The institutional security officers and the dispatchers do not perform any of the functions performed by the maintenance employees, laborers, and skilled tradesmen. The institutional security officers are not responsible for the physical maintenance of the Employer's property, but are instead responsible for safeguarding the Employer's property. Similarly dispatchers are not responsible for the physical maintenance of the Employer's property but perform various communications functions relating to security and emergencies. We conclude that the institutional security officers and the dispatchers form a functionally distinct group of employees with special interests unrelated to the bargaining concerns of the maintenance employees and should, therefore, be severed from the maintenance bargaining unit represented by NAGE.⁴

We must next decide whether the institutional security officers and the dispatchers have a community of interest with a bargaining unit that would include the university police officers and the resident hall security officers. Employees who share a community of interest usually share common working conditions and collective bargaining interests. *City of Malden*, 9 MLC 1073 (1982). We find that the institutional security officers share a community of interest with the university police officers and the resident hall security officers. All of the individuals holding these positions are involved with a variety of security functions that protect the Employer's property, employees, and students. Furthermore, we believe that under the facts present in this case, the dispatchers should also be included in the bargaining unit. Although we have often established separate bargaining units of dispatchers, the facts in the instant case demonstrate that the dispatchers share common supervision with the other security personnel, i.e., the university police officer shift commander. In addition, there is some interchange of job duties because police officers have sometimes been assigned to perform dispatching duties.

4. It should also be noted that the 1994 agreement between the IBPO and the Employer transferred the position of institutional security officer to the IBPO's bargaining unit composed of university police officers. However, NAGE has not

challenged the inclusion of the resident hall security officers into the police officers bargaining unit.

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DIRECTION OF ELECTION

We conclude that a question of representation has arisen concerning certain employees of the University of Massachusetts/Lowell. The following units are appropriate for collective bargaining:

Unit A. All full-time and regular part-time university police officers, institutional security officers, resident hall security officers, and dispatchers, excluding the university police sergeants, lieutenants, captains and police chief, confidential and managerial employees, and all other employees.

Unit B. All full-time and regular part-time university police sergeants and lieutenants, excluding the university police officers, captains, and police chief, institutional security officers, resident hall security officers, and dispatchers, confidential and managerial employees, and all other employees.

It is hereby directed that an election shall be held to determine whether a majority of employees in the above-described bargaining units desire to be represented by the International Association of University Police Officers or Local 631, International Brotherhood of Police Officers, or by no employee organization.

The eligible voters shall include all those persons within the above-described units whose names appear on the payroll of the University of Massachusetts/Lowell on June 6, 1997, and who have not since quit or been discharged for cause.

To ensure that all eligible voters shall have the opportunity to be informed of the issues and their statutory right to vote, all parties to this election shall have access to a list of voters and their addresses, which may be used to communicate with them.

Accordingly, it is hereby further directed that three (3) copies of an election eligibility list containing the names and addresses for all eligible voters must be filed by the University of Massachusetts/Lowell with the Executive Secretary of the Commission, Leverett Saltonstall Building, 100 Cambridge Street, Room 1604, Boston, MA 02202 immediately upon receipt of this decision.

The Executive Secretary shall make the list available to all parties to the election. Failure to make timely submission of this list may be grounds for setting aside the election should proper and timely objections be filed.

IT IS SO ORDERED.

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