

**STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION  
LABOR RELATIONS DIVISION**

In the Matter of:

CITY OF DETROIT (POLICE DEP'T),  
Public Employer,

Case No. UC98 C-14

-and-

AMERICAN FEDERATION OF STATE,  
COUNTY AND MUNICIPAL EMPLOYEES,  
COUNCIL 25 AND LOCAL 1023,  
Labor Organization-Petitioner.

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**APPEARANCES:**

David J. Masson, Esq., City of Detroit Law Department, for the Employer

Miller Cohen P.L.C., by Gail M. Wilson, Esq., for the Labor Organization

**DECISION AND ORDER**

This case was heard at Detroit, Michigan on July 2, 1999, before Julia C. Stern, Administrative Law Judge for the Michigan Employment Relations Commission. Pursuant to Section 13 of the Public Employment Relations Act (hereafter "PERA"), 1965 PA 379, as amended, MCL 423.213, MSA 17.455(13), and based on the record, including briefs filed by the parties on or before August 25, 1999, the Commission finds as follows:

**The Petition and Positions of the Parties:**

The petition was filed by the American Federation of State, County and Municipal Employees, Council 25, and its Local 1023, on March 9, 1998. Petitioner represents a bargaining unit which includes employees of the City of Detroit's Police Department classified as telecommunications operators, or TCOs. The petition, as originally filed, sought a determination that the TCOs were "emergency telephone operators" within the meaning of 1969 PA 312 (Act 312), Section 2, MCL 423.232, MSA 17.455(32). The petition was amended on September 16, 1998. The petition, as amended, seeks to have the TCOs removed from their existing unit and placed in another bargaining unit of employees of the City of Detroit Police Department. This bargaining unit, which is also represented by Petitioner, consists of Act 312-eligible employees. Among the classifications in this

unit is emergency service operator, or ESO. Petitioner argues that the TCOs now regularly perform the duties of an ESO, that TCOs have become “emergency telephone operators” covered by Act 312, and that the TCOs should, therefore, be moved from their existing bargaining unit to the unit consisting of Act 312-eligible employees. The Employer, however, contends that TCOs are not covered by Act 312 because emergency telephone operator duties are not a “regular and significant” part of the duties of their position. The Employer also opposes removing the TCOs from their existing bargaining unit.

Facts:

Emergency calls for police, fire and emergency medical services within the City of Detroit are handled by the City of Detroit Police Department. The term “emergency” is defined by the police department to refer to any situation requiring a police, fire or medical services unit to be sent to the scene. Citizens are directed to call the number “911” whenever they have an emergency. The City’s “911 center” is located in the police department’s downtown headquarters building. ESOs and their supervisors work in the 911 center, along with police and fire dispatchers and their supervisors. The City has what is known as an “enhanced emergency 911 network.” When the 911 number is dialed, a switching system identifies the calling number and address and relays the call to an ESO along with the number and address information. The ESO questions the caller and determines whether an emergency response is required and, if so, what type of response and what priority should be assigned to the call. The ESO verifies the information and inputs it into a computer, and the computer-aided dispatch system (hereafter “CAD”) relays the information to police and fire dispatchers. The ESO may give medical instructions to the caller while the caller awaits the arrival of a dispatched emergency medical service (hereafter “EMS”) unit. If the ESO determines that an emergency response is not needed, the ESO may refer the caller to another body for assistance, i.e., a mental health crisis center. New ESOs receive 268 hours of classroom training and two weeks of on-the-job training. ESOs are provided manuals and detailed flip-charts to assist them in providing prearrival medical assistance.

In December of 1998, the City of Detroit Police Department employed 51 nonsupervisory TCOs. The TCOs work in the telephone crime reporting unit (hereafter “TCRU”). The primary function of this unit is to take telephone reports from police officers and citizens regarding crimes not in progress, requests for information on prisoners in custody, and other calls made to the police department of a non-emergency nature. Calls made to a variety of police department numbers are routinely routed to the TCRU. The ESOs have been instructed to transfer all 911 calls of a non-emergency nature to the TCRU. In addition to answering non-emergency calls, the TCOs serve as backup for the 911 system. If a 911 call comes into the system when all of the ESOs are occupied with callers, it is shuttled to one of thirty 911 trunk lines where it waits until it can be answered by an available ESO. These trunk lines have the capacity to hold a total of 160 calls. When the 911 trunk lines fill up, 911 calls automatically transfer to the TCRU, where they bump out calls made on the TCRU numbers. TSOs can tell when they are answering a 911 call because the number and address of the caller will come up on a positron at their work station.

When the TCO classification was first established in 1987, the TCOs were located one floor above the 911 center in the police headquarters building. In 1997, in the wake of the bombing of the Federal Building in Oklahoma City, the police department concluded that it needed a backup location for the 911 center in case a natural disaster or civil disturbance disrupted operations at police headquarters. The department found another building approximately six miles away from headquarters, moved the TCOs to this building, and designated this location as the 911 emergency backup location. The department installed CAD equipment at each TCO console in the new location. At the time of the move, TCOs were given copies of the manuals and other materials used by ESOs. TCOs were also given 138 hours of classroom instruction in answering and processing 911 calls and two weeks of on-the-job training with ESOs. This training included instruction on using the CAD system. In 1998, training for new TCOs consisted of 80 hours of TCO classroom instruction and 128 hours of 911 training, including 12 hours of on-the-job training.

TCOs receive emergency calls in three ways. First, a call made to a TCRU number may turn out to involve an emergency. Second, the 911 trunk lines may fill up briefly, causing a few 911 calls to bump to the TCRU. In both these circumstances, the TCOs are instructed to try to transfer the call to an ESO or an ESO supervisor. Occasionally, however, the 911 system will become so backed up that 911 calls begin bumping out all other calls on the TCRU lines. This happens most often on the afternoon shift, when the 911 call volume is highest; it is less frequent on the night shift and rarely occurs on the day shift. Since the move, TCOs have been instructed to process all emergency calls they receive when the 911 system is in this overflow mode, including giving prearrival medical advice in appropriate circumstances. If the CAD system in the TCRU is not working, as it frequently is not, the TCOs write out detailed dispatch tickets which are faxed to the 911 Center. In addition to processing emergency calls when the system is in overflow mode, TCOs have to write out dispatch tickets if their attempts to transfer a call to an ESO or ESO supervisor fail.

According to the Employer's records, during the calendar year 1998, the number of overflow calls transferred to the TCRU from the 911 system was 1,546, or an average of 155 per month.<sup>1</sup> That is, the number of overflow calls transferred to the TCOs' lines averaged about three per TCO per month.<sup>2</sup> However, a substantial number of callers hang up before their calls can be answered. The number of 911 calls actually answered by TCOs during this period was 204, an average of 20 per month or about .4 calls per month per TCO. The numbers varied substantially by month, from a low

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<sup>1</sup> These calculations exclude the months of July and August of 1998. The Employer's records show that during July of 1998, 1296 calls from the 911 system were answered in the TCRU and 3,564 calls to 911 were answered there in August of 1998. As explained below, during some part of July and/or August of 1998, the ESOs were temporarily relocated to the TCRU. The Employer also maintains that its own records from August are not accurate due to a computer glitch. In any case, there is nothing else on the record to explain the enormous disparity between the calls answered in these two months and the rest of the year.

<sup>2</sup> This figure does not include calls dropped from the system because the number of calls exceeded the combined capacity of the 911 trunk lines and the TCRU lines.

of two calls answered in September of 1998, to a high of 82 in November of 1998. By comparison, during the calendar year 1998, TCOs answered 393,367 calls from the TCRU lines, or an average of 630 per month per TSO. The figures for the first quarter of 1999, excluding February of 1999 for reasons set forth below, were roughly the same as the 1999 figures, with the average number of calls answered being 23 per month. The testimony of one ESO on the afternoon shift suggests that during the second quarter of 1999, or at least during the months of June and July of 1999, the number of calls bumped to the TCRU may have been substantially higher. This ESO testified that during this period, her equipment indicated that calls were being bumped to the TCRU for several hours every day on her shift.

On at least two occasions since 1997, the Employer has routed all 911 calls to the TCRU. During the latter part of July and early part of August, the ESOs were relocated to the TCRU while construction was taking place in their work area, and all 911 calls were routed to the TCRU. ESOs sat at the consoles in the front half of the room and handled 911 calls, while TCOs sat in the rear half of the room and handled calls from the non-emergency lines only. While the ESOs were in the TCRU, TSOs did not sign onto the 911 system and, therefore, could not receive 911 overflow calls. ESOs were also relocated to the TCRU for a period in February of 1999 when there were problems with the equipment at the 911 center.

#### Discussion and Conclusions of Law:

Since Act 312 was amended to include “emergency telephone operators,” we have had many occasions to address the eligibility of individuals who serve as emergency telephone operators, but whose other responsibilities form a larger percentage of their job duties. In *City of Grosse Pointe Farms*, 1979 MERC Lab Op 488, the position at issue was clerk-dispatcher. The clerk-dispatcher, together with a police officer, sat at the front desk at the police department during the day shift and answered the phone. Both the police officer and the clerk-dispatcher answered both non-emergency and emergency calls, and dispatched police units as needed; other police officers manned the desk and dispatched on the afternoon and night shifts. The clerk-dispatcher also handled the Law Enforcement Information Network (hereafter “LEIN”) and performed other clerical duties while at the front desk, collected violations bureau fines, and occasionally acted as a matron. Because of the low volume of emergency calls, the clerk-dispatcher spent only 10-25% of her time answering emergency calls and dispatching. We rejected the Employer’s argument that the clerk-dispatcher was not covered by Act 312 because of the small percentage of time she spent performing the duties of an emergency telephone operator. We noted that the clerk-dispatcher was required to be prepared to answer an emergency call at any time. We found that emergency telephone operator duties were a “continual” and “significant” part of the clerk-dispatcher’s job. Based on these facts, we concluded that the clerk-dispatcher was covered by Act 312.

In *City of Birmingham*, 1986 MERC Lab Op 794, we held that both clerk-dispatchers and the police paraprofessionals who filled in for them during lunch hours, breaks and vacations were covered by Act 312. The clerk-dispatchers worked the police dispatch desk but performed clerical work when not receiving calls. Police paraprofessionals worked the dispatch desk at least two hours

per day. We held that both positions “regularly” served as emergency telephone operators for purposes of Act 312.

*Village of New Haven*, 1988 MERC Lab Op 601, involved another dispatcher/secretary in a small police department. Like the clerk-dispatcher in *Grosse Pointe Farms*, the dispatcher/secretary sat daily at the front desk of the police department where she answered and dispatched emergency police, fire, and ambulance calls. In between calls, she typed correspondence for the police chief, typed complaints and warrants, took walk-in reports from citizens, and did other paperwork. Occasionally, she left the desk to videotape crime scenes or perform matron functions. Whenever the dispatcher/secretary was not at the front desk, all calls were routed to the county sheriff’s department. The record indicated that the dispatcher/secretary handled between three and ten emergency calls per day. We found that the “primary” function of the dispatcher/secretary was to handle emergency dispatch. We also concluded that the relatively small percentage of time the dispatcher/secretary spent dispatching was not determinative of her status under Act 312, since emergency telephone operator duties were a “significant” part of her job function.

In *Charter Twp of Flint*, 1995 MERC Lab Op 50, all requests for emergency police, fire and ambulance services were supposed to be made by dialing 911. The Genesee County Central Dispatch office was set up to answer 911 calls made within the county. The communications system operators answered non-emergency calls made to the township. However, the record indicated that a significant number of emergency calls at that time continued to be made to the township, as many as 12 per day. Moreover, at the time of the hearing, the 911 dispatch center was frequently closed between 3:00 a.m. and 11:00 a.m. The communications systems operators continued to be trained in emergency dispatch procedures. They were told to take information from emergency callers and then, if the 911 center was open, tell the caller to call 911. After hanging up, however, the communications system operators also dispatched a township police officer. We found that because the communications systems operators continued to be trained in emergency dispatch procedures and dispatched emergency calls to police officers “on more than an occasional basis,” they were Act 312-eligible.

In the instant case, the Employer operates a 911 system manned by ESOs and dispatchers. The primary job function of the TCOs is to answer non-emergency phone lines. Under normal circumstances, if the TCOS receive an emergency call on these lines, they transfer the caller to the 911 system. However, the TCOs also back up the 911 system in two ways, and it is this responsibility which, according to Petitioner, makes them “emergency telephone operators” within the meaning of Act 312. First, the TCRU is equipped to receive and handle all emergency calls in the event of a major disaster or disruption occurring at police headquarters. Should the ESOs not be able to make it to the TCRU, the TCOs are equipped to take over their duties. However, no such emergency has occurred in the approximately one and one-half years since the TCRU was assigned this role. Second, the TCOs handle calls made to 911 when the number of 911 calls exceeds the 911 system’s capacity. The fact that backing up the ESOs is not supposed to be the TCOs’ primary function is not, of course, determinative of whether the TCOs are in fact “emergency telephone operators.” However, the facts indicate that at the time of the hearing, the TCOs, including those on the

afternoon shift where overflow occurs most frequently, were not handling overflow calls on a daily, “regular” or “continual” basis. For these reasons, we conclude that the TCOs are not emergency telephone operators within the scope of Act 312 at this time.

Petitioner’s argument for placing the TCOs in the same unit as the ESO unit is based on the TCOs’ claimed Act 312 eligibility. Since we have concluded that the TCOs are not covered by Act 312, we deny Petitioner’s request to remove the TCOs from their existing unit.

**ORDER**

We find that the telecommunications operators employed by the City of Detroit in its police department are not emergency telephone operators covered by Act 312. Accordingly, Petitioner’s request to move the telecommunications operators from their existing unit represented by Petitioner to another unit of Act 312-eligible employees represented by Petitioner is denied.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Maris Stella Swift, Commission Chair

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Harry W. Bishop, Commission Member

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C. Barry Ott, Commission Member

Dated: \_\_\_\_\_