

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

In the Matter of:

CITY OF GRAND RAPIDS (POLICE DEP'T),  
Public Employer,

-and-

ASSOCIATION OF PUBLIC ADMINISTRATORS,  
Petitioner-Labor Organization in Case No. R00 J-121,

-and-

TEAMSTERS LOCAL 406,  
Petitioner-Labor Organization in Case No. R00 J-129.

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APPEARANCES:

Varnum, Riddering, Schmidt & Howlett, by John Patrick White, Esq., for the Employer

Kalniz, Iorio & Feldstein, by Fillipe S. Iorio, Esq., for Petitioners

**DECISION AND DIRECTION OF ELECTION**

Pursuant to Section 12 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.212, this case was heard at Lansing, Michigan on January 10, 2001, before Julia C. Stern, Administrative Law Judge, as hearing officer for the Michigan Employment Relations Commission. Pursuant to Section 13 and 14 of PERA and based upon the record, including briefs filed by the parties on March 26, 2001, the Commission finds as follows:

The Petitions and Positions of the Parties:

Teamsters Local 406 (Teamsters) filed the petition in Case No. R00 J-129 on October 12, 2000. The Teamsters seek to represent a bargaining unit of civilian emergency communications supervisors (ECSs) employed by the Grand Rapids Police Department. The petition in Case No. R00 J-121 was filed by the Association of Public Administrators (APA) on October 2, 2000. The APA seeks to accrete the position of communications manager to its supervisory bargaining unit. The parties stipulated that both positions are supervisory. The ECSs supervise emergency communications operators (ECOs). The communications manager is in charge of the department's emergency communications operation and its technical services unit, and is the immediate supervisor of the ECSs.

Petitioners maintain that the ECSs constitute an appropriate residual unit because they are covered by 1969 PA 312 (Act 312), MCL 423.231 *et seq.*, and have been excluded from the existing unit of 312-eligible police command officers. Petitioners assert that because the communications manager position is not covered by Act 312, it may be properly accreted to the APA's unit of non 312-eligible supervisors. The Employer maintains that Act 312 covers neither position. However, according to the Employer, if the ECSs are found to be Act 312-eligible, the communications manager should also be covered by that Act.

Facts:

The Grand Rapids Police Department employs approximately 27 ECOs and four ECSs. Both of these are civilian positions. ECOs work in the police communications center answering 911 and non-emergency calls and dispatching police officers.<sup>1</sup> Both the ECOs and the ECSs are paid on an hourly basis. The communications manager, a civilian salaried employee, oversees operation of the center. The communications manager reports to a division commander, a police captain.

The communications center has two dispatch stations, five call-intake stations, and a LEIN station. There is an ECS station at the end of the room. Five or six ECOs and one ECS are assigned to each shift. The two dispatch stations, one for the north side of the city and one for the south, are manned at all times. Between two and four ECOs are assigned to the call-intake stations, depending on the time of day and day of the week, and one ECO is assigned to the LEIN station. ECOs rotate throughout the different stations. The call-intake stations receive calls from both 911 and another police department number. Calls from 911 are answered first. When a 911 call is answered, a computer-aided dispatch (CAD) system automatically displays specific information relating to the call. The ECO questions the caller to confirm that data and obtains other necessary information. The ECO then transfers the information through the CAD system to the appropriate dispatch station. The CAD system assigns a priority to the call and recommends how many units to send and whether a supervisor should also be dispatched. The ECO at the dispatch station decides which and how many units will be dispatched, and makes and monitors radio contact with the dispatched officers.

The ECSs' job description states that the position "operates computer aided dispatch and related equipment." Each ECS has two CAD screens at his or her station. The status screen indicates the availability of police units and displays dispatch information. From this screen, the ECSs also monitor the number of waiting calls, how long they have been waiting, and their importance. The ECSs transmit messages through the CAD to the call-takers and dispatchers. The ECSs also have a call-taking screen at their stations, and their job duties include answering overflow calls. When the ECSs are busy, they may choose not to answer overflow calls from non-emergency lines. However, unless they are out of the communications center, the ECSs are required to pick up all overflow calls from 911. One ECS reported that if he is out of the

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<sup>1</sup> Uniformed fire fighters also staff call-taking and dispatch stations within the communications center. ECOs transfer all 911 calls involving fire emergencies to the fire call-taking station. The fire fighters in the communications center are not supervised by the ECSs or the communications manager.

communications center performing an administrative task when overflow calls start coming in, the ECOs will shout out for him. The record indicates that ECSs on the first and second shift answer, on the average, about 15 to 20 overflow calls per day. The ECS on the third shift averages about five to ten. ECSs spend an average of about twenty minutes a day answering overflow calls. These numbers include both 911 calls and calls from the non-emergency line. The ECSs have not been called upon to dispatch for many years. However, if an ECO receives a "crime in progress" call, an ECS will broadcast the information immediately to all police units.

In addition to their regular monitoring of communications center activity and answering overflow calls, the ECSs check and maintain the emergency communication equipment daily, keep records, prepare numerous reports, make recommendations to the watch commander regarding the assignment of overtime to police units, and have various other administrative duties. The ECSs evaluate the performance of the ECOs, initiate disciplinary action, handle scheduling, and approve routine leave requests. The ECSs supervise the training of new ECOs, although an ECO training officer does the actual training.

The communications manager heads the communications bureau, which includes both the communications unit and the technical services unit. The technical services unit installs, repairs, and maintains the two-way radio equipment for all City departments. The communications manager works regular business hours, Monday through Friday. The communications manager puts together the ECSs' work schedules, evaluates their job performance, and recommends discipline when necessary. In addition to his supervisory duties with respect to the ECSs, ECOs and radio technicians, the communications manager administers program quality control procedures for both units, maintains, reviews and updates general policies and procedures for these units, reviews program needs and accomplishments, does long range planning, including keeping abreast of new developments in radio and communications systems and reviewing and making recommendations for the purchase of new equipment, serves as a general maintenance troubleshooter, prepares statistical analyses and reports, and prepares and administers the bureau's budget. The communications manager's office is next to and overlooks the communications center; however, his duties require him to spend a certain amount of time away from the police department building where the communications center is located. His computer is connected to the CAD system, but the communications manager generally does not monitor call-taking or dispatch activity in the communications center. Neither 911 nor the non-emergency line rings in the communications manager's office, and he is not expected to answer overflow calls. The communications manager oversees the operation of the center if an ECS is absent and a replacement cannot be found. When that occurs, however, he does not sit at an ECS station or handle any of the absent employee's normal duties.

In October of 2000, the division commander directed the ECSs and the communications manager to spend some time, at their discretion, filling in while the ECOs take breaks. The purpose of the order was to ensure the ECSs and the communications manager were thoroughly familiar with the current CAD system, in preparation for the police department's upcoming move to a new building.

#### Discussion and Conclusions of Law:

The first issue to be addressed in this case is whether Act 312 covers the ECSs and/or the communications manager. Pursuant to Section 2(1) of Act 312, “an emergency telephone operator employed by a police or fire department” is entitled to compulsory interest arbitration of contract disputes under that Act. Section 2(2) defines an emergency telephone operator as a “person employed by a police or fire department for the purpose of relaying emergency calls to police, fire or emergency medical service personnel.”

The Employer argues that the ECSs and the communications manager are not covered by Act 312 because they do not regularly dispatch emergency vehicles. That is, according to the Employer, individuals who only answer emergency calls and relay the information to dispatchers are not emergency telephone operators within the meaning of the Act. In support of this contention, the Employer relies upon our decisions in *Cheboygan Co and Cheboygan Sheriff*, 1998 MERC Lab Op 647; *City of Wyandotte*, 1993 MERC Lab Op 234; and *Ingham Co*, 1987 MERC Lab Op 326. Those cases, as well as our recent decision in *City of Detroit (PD)*, 2000 MERC Lab Op 83, involved the Act 312 status of employees of police or fire departments assigned to answer phone lines designated for non-emergency calls. All of the employees occasionally received calls on their lines that required an emergency response, but none of them actually dispatched emergency vehicles. In all four cases, we held that the employees were not covered by Act 312. Contrary to the Employer’s assertion, however, our holdings were not based upon the fact that the employees did not dispatch emergency vehicles. Rather, we found that handling emergency calls was not a “continual,” “regular,” or “significant” part of the duties of the positions in dispute. See also *Montcalm Co and Sheriff*, 1997 MERC Lab Op 157, *aff’d* 235 Mich App 580 (1999); *Village of New Haven*, 1988 MERC Lab Op 601; *City of Grosse Pointe Farms*, 1979 MERC Lab Op 488. As noted, Act 312 defines an “emergency telephone operator” as a person who “relays emergency calls to police, fire or emergency medical personnel.” (Emphasis supplied.) The statute does not use the word “dispatch,” and we decline to interpret the statute so narrowly. The act of relaying an emergency call involves answering the call and obtaining the necessary information, and dispatching the appropriate personnel. We conclude that any employee who regularly performs either of these tasks is an “emergency telephone operator” within the meaning of Act 312.

The ECSs at issue here regularly answer overflow calls. Moreover, they are responsible for making sure that the communications center functions effectively on a day-to-day basis. Although the ECSs do not regularly fill in for ECOs, it is their responsibility to ensure that emergency calls are properly handles whenever an ECO fails or is unable to perform his or her job. On these facts, we conclude that the ECSs have a continuing responsibility for relaying emergency calls to police officers, and that as emergency telephone operators they are covered by Act 312. See e.g. *City of Southfield (Public Safety)*, 1993 MERC Lab Op 36 (public safety supervisors eligible for Act 312 because they spent a substantial amount of time performing actual dispatching duties, and because their authority over the dispatch staff on the shift made them responsible for the overall dispatching function). The communications manager, however, does not answer overflow calls or perform dispatching duties, and he is not normally present in the communications center itself. Although he is part of the chain of supervision over the communications operation, we conclude that the communications manager is not an “emergency telephone operator” within the meaning of the Act.

The second issue in this case is whether the ECSs and the communications manager should be in separate units because one position is Act 312-eligible while the other is not. The Employer asserts that the ECSs and the communications manager share a community of interest and should not be separated. However, we have consistently expressed our reluctance to combine such employees on the ground that that Act 312 eligibility alone gives rise to a separate and distinct community of interest. *City of Grosse Pte Public Safety Dept*, 1994 MERC Lab Op 588; *Montcalm Co, supra*; *City of Wyandotte*, 1993 MERC Lab Op 234. Cf. *Wayne County Airport*, 2001 MERC Lab Op \_\_\_ (Case No. R00 H-102, issued July 3, 2001). We conclude that the ECSs and the communications manager should not be in the same unit, that a unit of ECSs constitutes an appropriate residual unit, and that the communications manager can appropriately be included in the supervisory unit currently represented by the APA. Accordingly we will direct elections as described below.

**ORDER DIRECTING ELECTIONS**

Based on the above, we conclude that the unit requested by Petitioner in Case No. R00 J-129 is an appropriate unit under Section 13 of PERA, and that a question of representation exists under Section 12 of PERA in the following bargaining unit:

All full-time and regular part-time emergency communication supervisors employed by the City of Grand Rapids Police Department; excluding all other employees.

The above employees shall vote pursuant to the attached direction of election whether they wish to be represented for purposes of collective bargaining by Teamsters Local 406.

We also conclude, based on the above, that a question of representation exists in Case No. R00 J-121, and that it is appropriate to include the communications manager in the unit currently represented by Petitioner APA. Therefore, we will direct an election in the voting group described as follows:

All communications managers employed by the City of Grand Rapids, excluding all other employees.

The above employee shall vote pursuant to the attached direction of election whether he wishes to be represented by the APA. A vote for this labor organization shall indicate a desire to be included in the existing unit of supervisory employees represented by the APA.

In view of the fact that there is presently only one employee in the voting unit, and this employee has signed an authorization card, withdrawal of the petition will be permitted should the Employer agree to voluntarily recognize the APA as the collective bargaining representative for the position. See *Portage PS*, 1983 MERC Lab Op 698; *Chassell Twp Schools*, 1979 MERC Lab Op 644.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION<sup>2</sup>

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Maris Stella Swift, Commission Chair

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Harry Bishop, Commission Member

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

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<sup>2</sup> Commissioner Ott did not participate in this decision.