

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

In the Matter of:

LEELANAU COUNTY and LEELANAU COUNTY SHERIFF,  
Public Employers,

Case No. R11 F-050

-and-

TEAMSTERS LOCAL 214,  
Labor Organization-Petitioner,

-and-

COMMAND OFFICERS ASSOCIATION OF MICHIGAN,  
Labor Organization-Incumbent.

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**APPEARANCES:**

Cohl, Stoker and Toskey, by Peter Cohl, for the Public Employer

Robert Donick, Business Representative, Teamsters Local 214, for the Petitioner

Frank A. Guido, General Counsel, and George Mertz, Assistant General Counsel,  
Command Officers Association of Michigan, for the Incumbent Union

**DECISION AND DIRECTION OF ELECTION**

On June 13, 2011, Teamsters Local 214 filed a petition for a representation election pursuant to §12 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.212, seeking to represent a bargaining unit of supervisory command officers employed by Leelanau County and the Leelanau County Sheriff. The Command Officers Association of Michigan (the Incumbent Union) currently represents this unit. The case was assigned for hearing to Julia C. Stern, Administrative Law Judge for the Michigan Administrative Hearing System. The parties have agreed that there are no issues requiring an evidentiary hearing in this case. Based on facts as set forth below, we make the following conclusions of law and direct an election as follows:

**Facts:**

As reflected in our decision in *Leelanau Co & Leelanau Co Sheriff*, 24 MPER 18 (2011), the bargaining unit represented by the Incumbent Union originally consisted of

all regular full-time sergeants employed in the law enforcement division of the Sheriff's Department. The sergeants and commander in the corrections division of the Sheriff's Department, as well as the Sheriff and the Undersheriff, are excluded from the unit. On or about May 10, 2009, the Employers created a new position, law enforcement commander. On April 20, 2009, the Incumbent Union filed a unit clarification petition seeking to clarify its unit to include the newly created position. The Employers contended that the law enforcement commander should not be in the unit because the position is executive as we have defined that term. On March 14, 2011, we issued the aforementioned Decision and Order on Petition for Unit Clarification clarifying the unit to include the position.

On or about April 5, 2011, the Incumbent Union made a demand to bargain over the terms and conditions of employment of the law enforcement commander and the impact of the position on the unit. On April 28, it demanded that the Employers remove the individual who currently holds the law enforcement commander position from that position pending the Employers' satisfaction of their obligation to bargain. In a letter dated June 6, the Incumbent Union argued that the position should remain vacant until filled through a promotional process agreed to by the parties. The Employers disagreed.

As noted above, the petition for a representation election was filed on June 13, 2011. The Incumbent Union refused to consent to an election on the grounds that no election should be held in the unit while the individual unilaterally appointed to the law enforcement commander position by the Employers remained in that position. On August 18, 2011, it filed an unfair labor practice charge against the Employers (Case No. C11 H-134). The charge alleged, in part, that the Employers' refusal to remove the individual holding the position of law enforcement commander violated their duty to bargain in good faith under §10(1)(e) of PERA. The Incumbent Union requested that the charge block the election. In a letter dated September 15, 2011, Bureau of Employment Relations Director Ruthanne Okun denied the request to have the charge block the election and indicated that an expedited hearing would be held on the petition. Both the charge and the petition were then assigned to ALJ Stern to be heard separately. The parties, however, including the Incumbent Union, agree that there are no issues of fact requiring a hearing on the petition.

#### Discussion and Conclusions of Law:

There is no dispute that a question of representation exists within the meaning of §12 of PERA based on the petition filed on June 13, 2011, or that an election should be directed pursuant to this petition. There is also no dispute over the scope of the appropriate unit in which this election should be directed. The parties agree that, pursuant to our March 24, 2011 order, the unit includes the position of law enforcement commander. Finally, it is undisputed that an individual holding a position in a bargaining unit has the right to vote in a Commission-directed election to determine the exclusive bargaining representative for that unit under §11 of PERA. We conclude that the issue of whether the individual currently filling the law enforcement commander position should

remain in that position is not a matter that can or should be decided in the context of a petition for a representation election. Therefore, we will direct an election as follows.

**ORDER DIRECTING ELECTION**

We hereby direct an election in the following unit, which we find appropriate for purposes of collective bargaining:

All regular full-time time command officers, including sergeants and commanders, in the law enforcement division of the Leelanau County Sheriff's Department, excluding the sheriff and undersheriff and excluding command officers in the corrections division of the Sheriff's Department.

Pursuant to the attached Direction of Election, the above employees above shall vote on whether they wish to be represented by Teamsters Local 214, by the Command Officers Association of Michigan, or by neither labor organization.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Edward D. Callaghan, Commission Chair

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Nino E. Green, Commission Member

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Christine A. Derdarian, Commission Member

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