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GENERAL TEAMSTERS LOCAL 959,)
INTERNATIONAL BROTHERHOOD OF)
TEAMSTERS (Police Dept.),)
)
Petitioner,)
vs.)
)
CITY OF KODIAK,)
)
Respondent.)
)

CASE NO. 16-1697-RC

DECISION AND ORDER NO. 312

We heard this petition, by the General Teamsters Local 959, to represent a bargaining unit of employees at the City of Kodiak's Police Department, on March 7, 8, and 9, 2017 in Anchorage.¹ Hearing Examiner Mark Torgerson presided. The parties filed post-hearing briefs by March 20, 2017, we completed hearing deliberations on April 6, 2017, and the record closed that day.

Digest: The petition by the General Teamsters Local 959 is granted. A law enforcement unit of approximately 35 employees at the City of Kodiak is the unit appropriate for collective bargaining under AS 23.40.090. The City of Kodiak's request that the board panel include one of the management members who recused themselves is denied.

Appearances: Nancy Shaw, attorney for General Teamsters Local 959; William Mede, attorney for the City of Kodiak.

Board Panel: Jean Ward, Board Chair; and Matthew McSorley, Board Member.²

¹ The hearing for this case was consolidated with Case No. 16-1699-RC, a petition also filed by the Teamsters, to represent the City of Kodiak's Public Works Department employees. We are issuing a separate decision and order for Case No. 16-1699-RC.

² Management member Tyler Andrews was appointed to hear this case, but recused himself. Management member Elizabeth Pierce was then appointed to hear the case, but likewise recused herself. The remaining two-member panel proceeded under the authority of AS 23.05.370(b).

DECISION

Statement of the Case

On November 4, 2016, the General Teamsters Local 959 (Teamsters) filed a petition to represent a bargaining unit comprised of employees who work for the City of Kodiak's Police Department. On December 14, 2016, the City of Kodiak (City) filed an objection. The City argues that the community of interest supports a wall-to-wall unit comprised of all non-excluded city employees. The City contends, among other things, that a wall-to-wall unit is required because AS 23.40.090 requires that unnecessary fragmenting shall be avoided.

Issues

1. Should the board panel that decides this matter include one of the management members on the agency Board, despite the fact both management members recused themselves from the matter?
2. Is the Teamsters' proposed bargaining unit at the City's Police Department the unit appropriate for collective bargaining under AS 23.40.090?
3. If the Teamsters' proposed bargaining unit is not appropriate, what is the unit appropriate for collective bargaining?

Findings of Fact

1. The Teamsters Local 959 is an organization under AS 23.40.250(5).
2. The City of Kodiak is a public employer under AS 23.40.250(7).
3. On November 4, 2016, the Teamsters filed a petition to represent employees at the City's police department. The petition described the proposed unit as "all employees of the City of Kodiak Police Department." It excluded the "Chief of Police, Police Lieutenant, and all other City of Kodiak employees who are not employees of the Police Department."
4. On December 14, 2016, the City filed an objection to the proposed bargaining unit. (Objection of City of Kodiak to the Appropriateness of the Proposed Bargaining Unit, December 14, 2016). The objection stated in part: "The bargaining unit proposed by Teamsters Local 959 is inappropriate because other city employees share a community of interest with employees in the police department and have similar wages, hours, and other working conditions." (City's Objection at 2).
5. The parties stipulated that the Chief of Police, Lieutenants, and Phlebotomist would be excluded from the proposed bargaining unit. (Exhibit 6).

6. The Agency scheduled a prehearing conference on January 19, 2017. At that conference, a hearing was scheduled for March 7 – 10, 2017, in Anchorage.³

7. The City of Kodiak is run by a City Council that sets policies and hires a City Manager to execute its policies. The City Manager is head of the City's administrative branch. (Exhibits A, C-2, and Exhibit 1). The City Manager must have a degree in Public Administration and at least five years' municipal government experience. The City Manager has direct supervisory responsibility over the heads of the City's departments, and "through the department heads", overall responsibility for all City personnel and functions except for the City Clerk and Deputy Clerk. (Exhibit C-2; E, pp. 13-14; Exhibit D-117). Aimee Kniazowski is the current City Manager.

8. The City's departments include engineering, finance, fire, harbor and cargo, library, parks and recreation, police, and public works. (Exhibits 1 and A). The heads of each city department are directors under the city's class specification titles. (Exhibit D-1). Incumbents in these positions are given broad responsibility "for overall objectives, staffing and resource allocation." (*Id.* at 1-3). They direct the activities of their assigned department and oversee professional and managerial staff. (*Id.*).

9. With the exception of the library director, each department director must have a special licensure related to their area managed. (Exhibit D-4). The Police Chief, for example, must have an "Advanced Police Certification" and a certificate from an "Administrative Officer Course." (*Id.*).

10. All city employees are currently subject to the same city personnel rules and regulations contained in a 122-page manual. (Exhibit E). However, police department employees are also bound by an internal police department-specific policies and procedures manual. (Exhibit 8). This manual contains more than 700 pages of orders and regulations applicable only to police department employees. These regulations cover a wide variety of issues. They include, for example, expectations that department personnel maintain high standards of appearance and conduct (Exhibit 8-8), defining the authority and mechanism for making arrests (Exhibit 8-150), procedures for guided tours to educate the public about the challenges facing dispatchers (Exhibit 8-542), and revised operating procedures for the Kodiak Police Department Community Jail (KPDCJ) (Exhibit 8-607).

11. The police department employees are paid on the same wage scale and with the same frequency as other city employees. All city employees are paid an hourly rate that is based on their position title. (Exhibit E, pp. 19, 106-108; Exhibit O).

12. There is no common thread for hours of work among City employees. The hours of employment and work weeks of police department employees are similar in some respects to

³ The hearing testimony was completed on March 9, 2017.

those of other city employees, but they are substantially different in other respects. Generally, the hours of work for city employees are 8:00 a.m. to 5:00 p.m., Monday through Friday. (Exhibit E at 22).

13. The Police Department employees' hours of work and operations differ substantially from most other City departments because the Police Department operates twenty four hours per day, every day all year round. Patrol officers, dispatchers, and corrections employees work eight-hour and 12-hour (corrections) shifts to keep the department open continuously. These employees comprise approximately 75 percent of the Police Department's personnel.

14. Patrol officers, patrol sergeants, and dispatchers generally work eight-hour shifts (day – 8:00 a.m. to 4:00 p.m., swing- 4:00 p.m. to 12:00 p.m, and graveyard – 12:00 p.m. to 8:00 a.m.). However, the police department's corrections personnel work twelve-hour shifts, from 6:00 a.m. to 6:00 p.m., or 6:00 p.m. to 6:00 a.m. Corrections officer Alex Alvarado testified he works approximately seven to ten shifts every two weeks. He also testified the corrections area is always short-staffed. Detective David Duncan, works a split shift, 10:00 a.m. to 6:00 p.m.

15. The Fire Department is staffed on a 24-hour basis, but employees do not work eight-hour shifts. The Public Works Department's employees work varying shifts and are also on a call-out list if needed on the weekends. During the winter, two Public Works employees work a 3:30 a.m. to 12:00 p.m. shift for snow removal. The Harbor Department works on a 24-hour schedule. (Exhibit 4).

16. The Police Department has its own building, separate and away from all other city buildings. This building includes a public lobby connected to dispatch operations, a squad room and administrative offices, and the community jail which is accessible by a separate entrance. (Exhibit 3; testimony of Sergeant Michael Barrett).

17. No other city employees are located in the police department building. Other city employees visit the police department, as necessary, to service or repair vehicles (public works) and maintain or repair computers and other electronic devices (information technology).

18. There are 35 employees in the proposed Police Department unit, all under the supervision and direction of Police Chief Ronda Wallace. (Exhibit 5). Under Chief Wallace are two lieutenants who directly supervise the department's employees. The job titles and number of employees in the department include the following: administrative assistant (1); administrative specialist (1); police sergeant (4); police specialist/detective (1); police officer (10); police services specialist (1); public safety dispatcher supervisor (1); public safety dispatchers (7); corrections corporal (1); corrections sergeant (1); and corrections officer (7). (Exhibit 5).

19. The police officers must successfully complete specialized law enforcement training. After doing so, they are certified by the Alaska Police Standards Council. No other city employees get this specific training or are required to get it.

20. The police officers serve on patrol and perform other customary law enforcement duties. They face the risks of injury and assault associated with those duties.

21. Corrections officers must complete a training course unique to all correctional officers in the state. The course, located in Wasilla, is three weeks in length.

22. Like police officers, corrections officers face the risks of injury and assault associated with their duties as city jailers. The corrections officers work within the police department building, which houses the jail.

23. Police officers and two corrections officers (the sergeant and the corporal) are the only city employees empowered to carry firearms. They must take and successfully pass firearms training, both initially and periodically.

24. Police officers are the only city employees who have the statutory power to arrest the citizenry.

25. All employees in the police department must wear uniforms. The type of uniform worn is distinct and is related to an employee's specific job functions (patrol, dispatch, corrections, detective). The city detective does not wear a uniform but carries a weapon.

26. Police officers wear badges, body armor and a utility belt. Additionally, they carry weapons, including a firearm, a Taser, and a baton. They wear distinct uniforms. The detective does not normally wear body armor but will do so when circumstances require.

27. Police officers and corrections officers work together with the handling of prisoners. Police officers bring prisoners to the jail, and corrections officers process them into the jail. When a prisoner becomes rambunctious, the corrections officers sometimes call police officers for assistance to control the prisoners.

28. Dispatchers sometimes work with corrections personnel. They help in the processing of female prisoners regarding searches. For example, if there is no female corrections officer available when a female inmate is admitted into the corrections facility, jail personnel contact a female dispatcher or a female police officer to conduct the search.

29. Dispatchers are the only city employees who have operating authority to access the Alaska Public Safety Information Network (APSIN). All police officers must have clearance to be in the dispatch area, where APSIN is accessed. (Barnett testimony).

30. In addition to their own duties, dispatchers provide multiple support functions for other employees in the police and other departments. These include providing dispatch services to police, fire, and public works employees. They also provide primary clerical support to police

officers by looking up criminal records on the APSIN system, and by typing reports for police officers.

31. Dispatchers are also linked to police officers in a unique way. The dispatchers' "number one job is to know where our officers are." (Christina Beaver testimony). Dispatchers contact police officers every three to five minutes.

32. Dispatchers contact the fire department when necessary to report fires and accidents that require fire department employees. In addition, dispatchers contact the public works department on occasion to report conditions that require response from the public works employees. For example, they may call a public works employee from a call-out list, after regular work hours, if an alarm goes off at the water plant. However, the bulk of dispatchers' work is related to police department matters.

33. Police officers sometimes train fire department employees, and vice versa. Police department employees also attend training with other city employees. However, this training consumes a relatively small percentage of their time on the job.

34. The Police Department's employees interact with other city employees when circumstances require it. For example, a city library employee may call the police to remove an intoxicated person from the library. The Public Works Department maintains and repairs Police Department vehicles. Public Works employees may come to the Police Department and repair a vehicle on Police Department premises, or they may take the vehicle to their shop for the repair.

35. Police officers and Fire Department personnel often get dispatched to the same accidents or fires. They work side-by-side, but there is no sharing of duties per se. They each perform the duties for which they are trained, and that are attached to their specific jobs.

36. The police department employees, who testified at the hearing, expressed a desire to be represented exclusively by the Teamsters, in a bargaining unit separate from other city employees. Officer Barnett testified that he "wholeheartedly" supports representation by the Teamsters, and everyone in the police department, with whom he spoke, likewise supports such representation.

ANALYSIS

1. Should the board panel that decides this matter include one of the management members on the agency Board, despite the fact both management members recused themselves from the matter?

AS 23.05.360(f) provides:

For purposes of holding hearings, the members of the board sit in panels of three members. The chair designates the panel that will consider a matter. Each panel must include a representative of management, a representative of labor, and a representative from the general public. A member of one panel may serve on the other panel when the chair considers it necessary for the prompt administration of AS 23.40.070—23.40.260

In this case, the Board Chair, in accordance with AS 23.05.360(f), appointed three members to the panel to hear this matter, including a public member, a labor member, and a management member. However, the management member, Tyler Andrews, recused himself from hearing the case. The Chair then appointed Elizabeth Pierce, the Board's other management member, to sit on the panel. Pierce also recused herself.

When notified that the Agency panel would consist of a public member and a labor member, the City asked for clarification. The hearing examiner notified the parties via email that both management members had recused themselves, and the Agency would hold the hearing under the authority of AS 23.05.370(b), which provides in pertinent part: "Two members of a panel constitute a quorum for hearing cases. Action taken by a quorum of a panel in a case is considered the action of the full board." The Agency then proceeded to hear the case with the remaining two appointed panel members.

At the hearing, the City renewed its request – despite the recusals – that the Agency nevertheless appoint one of the recused management members to listen to the hearing recording, review the evidence, and deliberate with the two remaining board members. The City indicates the Agency must do this in order "to fulfill the requirements of AS 23.05.360(f)," even if one of the three board members recuses himself or herself for a conflict of interest or other reason.

We find this makes little sense. As shown above, AS 23.05.370(b) provides clear guidance and authority to proceed, in situations such as this, when recusal prevents hearing a case by a three-member panel. It would be inconsistent with the fair hearing process to hear a case with a board member who has recused themselves when AS 23.05.370(b) grants the Board authority to hear a case with a two-member panel.

We have on occasion looked to the Alaska Administrative Procedure Act (APA) for guidance. The APA provides for recusal of agency members when they "cannot accord a fair and impartial hearing or consideration." AS 44.62.450(c). This subsection further provides that, "[a]n agency member may not withdraw voluntarily or be disqualified if the disqualification would prevent the existence of a quorum qualified to act in the particular case." Applying this provision here, we need not force one of the recused board members to hear the case, because their absence does not prevent the existence of a valid quorum in this case.

The City's request that we require one of the recused management members to hear and deliberate this matter is denied.

2. Is the Teamsters' proposed bargaining unit at the City's Police Department the unit appropriate for collective bargaining under AS 23.40.090?

The Teamsters have petitioned to represent a bargaining unit consisting of all police department employees except the Chief of Police, the two lieutenants, and the phlebotomist. The Teamsters contend:

The petitioned-for employees have a unified command structure, occupy a single building, meet jointly every day, wear uniforms identifying them as police department employees, and assist one another in the performing [of] the city's criminal justice functions. No other city employees can perform their responsibilities, and no other city employees are housed at their location. Police department employees are governed by multiple policies and procedures that are unique to them.

(Teamsters March 17, 2017, Post-Hearing Brief at 4).

The City, on the other hand, argues that a wall-to-wall bargaining unit, consisting of all city employees, is the appropriate unit at the City. The City maintains that the evidence presented "makes it clear that unnecessary fragmenting would result if employees in the City's police and public works departments were placed into their own, separate bargaining units, apart from the other approximately 60 City employees." (City's March 20, 2017 Post Hearing Brief at 44).

In this petition, the Teamsters has the burden of proving "the truth of each element" of their case by a preponderance of the evidence. 8 AAC 97.350(f). To determine the appropriateness of a proposed bargaining unit, the Agency considers the factors listed AS 23.40.090, which provides:

The labor relations agency shall decide in each case, in order to assure to employees the fullest freedom in exercising the rights guaranteed by AS 23.40.070 – 23.40.260, the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours, and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided.

In *Alaska Nurses Association v. Wrangell Medical Center*, Decision and Order No. 296 (November 30, 2011) (D&O 296), we stated:

We have previously concluded that in applying the factors and in determining the unit appropriate under AS 23.40.090, "[t]his statute does not require we give more weight to any one factor over other factors. Our responsibility is to insure that employees are placed in a unit that results in a community of interest based on the case's particular facts, and the factors outlined in AS 23.40.090." *Public Safety Employees Association v. City of Wasilla*, Decision and Order No.

286 (June 3, 2008) (D&O 286), at 18, citing *Alaska Correctional Officers Association v. State of Alaska*, Decision and Order No. 284, at 22 (February 28, 2008) (D&O 284).

Put another way:

There are no per se rules to include or exclude any classification of employees in any unit. Rather, we examine the community of interest of the particular employees involved, considering their skills, duties, and working conditions, the Employer's organization and supervision, and bargaining history, if any, but no one factor has controlling weight. (citations omitted).

D&O 286 at 18, citing D&O 284 at 22, and *Airco, Inc. and Chauffeurs & Sales Drivers, Local Union No. 402*, 273 NLRB No. 348, 118 L.R.R.M. (BNA) 1052 (1984). We make unit decisions on a case-by-case basis.

(D&O 296 at 13).

In addition, we have previously recognized the characteristics that support a separate, segregated unit of law enforcement personnel. In *Public Safety Employees Association (Aircraft Rescue and Fire Fighting Specialists) v. State of Alaska, Department of Veterans and Military Affairs, and Alaska State Employees Association, AFSCME Local 52, AFL-CIO*, Decision and Order No. 187 (April 24, 1995) (D&O 187), we stated in part:

There is a tradition under [the Public Employment Relations Act] and in labor relations generally of separate units for law enforcement personnel. Public Employees Local 71 v. Bristol Bay Borough, Decision & Order No. 181 (Dec. 16, 1994); Public Safety Employee Ass'n and Alaska Public Employees Ass'n, SLRA Order & Decision No. 106, at 4 (May 17, 1987); Pertaining to a Unit Authorization Petition by the Public Safety Employees Ass'n, SLRA Order & Decision No. 28 (Jan. 3, 1977); National Labor Relations Act § 9(b)(3), 29 U.S.C. § 159(b)(3) (prohibiting units mixing plant guards with other employees). These units, however, have not included fire safety personnel in the law enforcement unit.⁴ Law enforcement duties have been the common thread tying the members of the RCPSO [regularly commissioned public safety officers] unit together.

(D&O 187 at 12, Conclusion of Law number 17).

⁴ In D&O 187, we also noted that "[t]here is a tradition in labor relations for separate representation of fire fighters and there are fire fighter units certified under PERA [Public Employment Relations Act]." (D&O 187 at 14, Conclusion of Law number 18.) If we denied the Teamsters' petition and found a wall-to-wall unit of city employees appropriate here, we would be combining police and fire employees along with other city employees, thus breaking with traditional agency precedent.

In D&O 187, we also concluded in pertinent part:

Public safety personnel do have interests different in many respects from other public employees. Their work schedule, strike classification, training, and the hazards they face, do distinguish them from the majority of the members of the general government unit. Units of fire fighters are common in the public sector, probably for these reasons. But we do not believe a unit that combines law enforcement officers with other employees best serves the interest of the unit and the State. One of the reasons for segregating law enforcement personnel is the conflict of interest with other employees inherent in their duties and the importance of undivided loyalty to the employer.

(D&O 187 at 12, Conclusion of Law number 8).

We find that the facts of this case, combined with the strong tradition of providing for separate law enforcement units, support a separate bargaining unit of Police Department employees. There is a strong community of interest among all Police Department employees. Although they train on infrequent occasions with primarily fire department employees, the amount of time spent training with fire department and other city employees is relatively small and infrequent. It amounts to a small percentage of police department employees' total work time. Although they also have some contact with public works employees, the police department employees' working conditions necessitate working mainly with each other in the pursuit of their department mission "to coordinate and lead efforts within the community to preserve the public peace, protect the rights of persons and property, prevent crime, and generally provide assistance to persons in urgent situations." (Exhibit 8 at 4).

The City contends that a wall-to-wall unit is warranted in part because all city employees are subject to the same personnel policies and procedures, and police department employees train with other city personnel. It is true that all city employees are subject to the city's personnel policies and procedures. However, the police department employees have an additional policy and procedure manual totaling more than 700 pages that is specific to law enforcement.

In addition to its arguments that some city employees train together periodically and all city employees are subject to the same policies and procedures, the City's primary argument is that creating a separate police unit – and therefore disallowing its request for a wall-to-wall unit – would result in unnecessary fragmenting. Admittedly, in some cases wall-to-wall units are warranted because the facts support avoidance of unnecessary fragmenting. However, we do not find that to be the case here. In fact, we find that fragmenting is necessary here because of the strong tradition of separate law enforcement units and because the Kodiak Police Department operations reflect a high degree of functional integration and community of interest among its police officers, corrections officers, and dispatchers.

Police Department employees meet before the start of every shift, every day. Police, corrections, and dispatch personnel on the current shift tell those employees reporting for the

upcoming shift the events and situations they need to be aware of. This reflects substantial functional integration among Police Department employees in working together to support each other and the department's mission.

Other examples of functional integration include police officers providing assistance to corrections personnel when needed due, for example, to an obnoxious inmate; dispatch personnel providing assistance with female inmate processing when needed; and dispatch personnel contacting police officers every three to five minutes because their "number one job is to know where our officers are." (Dispatcher Christina Beaver testimony). Dispatchers also have exclusive access to the APSIN system and both relay vital information to police officers and enter arrest information, provided by police officers, into the system.

Although police department employees' skills vary according to their specific job titles, their interests, duties and working conditions all focus on the police department's mission. Dispatchers, for example, are not required to complete the law enforcement and corrections training like that of police and corrections officers, but their frequent contact, communication, and interaction with police and corrections employees warrants their inclusion in the unit. Further, they are subject to the same supervisory structure as are other department employees.

We note that in a prior decision, we denied a petition to sever 70 State of Alaska dispatchers from the State of Alaska's general government unit and place them into a separate unit. *In Public Safety Employees Association vs. State of Alaska*, Decision and Order No. 212 (February 14, 1997), this Agency denied a petition to sever this group of dispatchers from the state's general government unit. However, that case is distinguishable from the case before us. The legal requirements to establish support for a severance are different from the legal requirements to establish whether a party has met the requirements under AS 23.40.090 to determine the unit appropriate for collective bargaining. (See D&O 212 at 14).

We further note that in D&O 212, we stated that "[w]hile the radio dispatchers in the Department of Public Safety play a role in the enforcement of the law by Alaska State Troopers and interact with them on a regular basis, they do not themselves have any responsibility to enforce the law." (D&O 212 at 10). We agree that while the City of Kodiak's dispatchers do not specifically enforce the law, like the police officers do, they play a vital role in the Police Department's mission of law enforcement. They work very closely with the police officers and corrections officers and are an integral part of the Police Department. We find that under the facts in this case, they belong in the unit proposed by the Teamsters.⁵

We agree with the City that "[n]o department, including the police and public works departments, is autonomous . . ." (City's Post Hearing Brief at 36), but we disagree with its contention that "employees [do not] fulfill their daily job duties independent of other City employees." (*Id.*). The Police Department employees are for the most part independent from other City departments in going about their daily activities. There is some necessary interaction between

⁵ We further noted in D&O 212 that in some cases, radio dispatchers were part of public safety units under the Public Employment Relations Act in Alaska. See D&O 212 at 15.

departments, but each pursues its own mission while working with other departments. For example, police officers frequently work “side-by-side” with fire department employees, as Sergeant Barnett testified, but while doing so, they perform their law enforcement duties while fire department employees perform their fire department duties. Police don’t put out fires and fire department employees don’t arrest citizens. Each is working to fulfill its own unique mission.

There was some testimony that Police Department personnel also have contact with public works and library personnel, but this contact is in furtherance of their law enforcement and crime prevention mission. They get called to the library to remove individuals as needed, do security checks, and they drop off vehicles at public works for repair and maintenance. But this interaction is all in furtherance of their law enforcement mission.

The City also argues that this case has similarities to *Petersburg Police Association v. City of Petersburg*, Decision and Order No. 297 (January 23, 2012) (D&O 297). The City contends that, like the police department employees at the City of Petersburg, the Kodiak Police Department employees “have a community of interest with their fellow City employees in a wall-to-wall bargaining unit proposed by the City.” (City Post Hearing Brief at 34). We disagree that the scenario in D&O 297 supports the City’s argument. In D&O 297, the police department employees had been part of the City of Petersburg’s wall-to-wall unit since its inception, for a period of 24 years. (D&O 297 at 3). The Petersburg Police Association sought to sever the police department employees from the long-established wall-to-wall unit. As we stated in D&O 297:

However, once a bargaining unit has been certified, a “petitioner seeking to sever a group of employees out of an existing unit has a heavy burden to carry under the factors established by this Agency’s predecessor and the National Labor Relations Board and applied by this Agency It is not an easy burden to satisfy” *Public Safety Employees Association v. State of Alaska*, Decision and Order No. 201, at 10 (April 4, 1996) (D&O 201).

(D&O 297 at 9).

Moreover, a party seeking to sever a proposed bargaining unit from an established unit must also meet the requirements for severance contained in 8 AAC 97.025(b). So, not only is the factual scenario in D&O 297 distinguishable from the facts before us here, but the legal analysis required is also distinguishable. In this regard, we find D&O 297 inapplicable to the scenario in this case.

We find, after reviewing all the evidence and testimony in this matter, that the preponderance of the evidence in this case supports a separate bargaining unit of all Police Department employees, as proposed by the Teamsters. Fragmentation is necessary under the facts of this case. The petition of the Teamsters is granted.⁶

⁶ Since we have concluded that the Teamsters’ proposed bargaining unit is appropriate, we need not address issue number three.

CONCLUSIONS OF LAW

1. The General Teamsters Local 959, International Brotherhood of Teamsters is an organization under AS 23.40.250(5). The City of Kodiak is a public employer under AS 23.40.250(7).
2. This Agency has jurisdiction to determine the unit appropriate for collective bargaining under AS 23.40.090.
3. As Petitioner, General Teamsters Local 959, International Brotherhood of Teamsters has the burden to prove each element of its claim by a preponderance of the evidence. 8 AAC 97.350(f).
4. General Teamsters Local 959, International Brotherhood of Teamsters proved its claim by a preponderance of the evidence.
5. Based on such factors as community of interest, wages, hours, and other working conditions of the employees involved, and also considering the factors of unnecessary fragmentation of units and desires of employees, a separate bargaining unit of Police Department employees is the unit appropriate for collective bargaining.

ORDER

1. The petition for certification of the General Teamsters Local 959, International Brotherhood of Teamsters as exclusive representative of its proposed bargaining unit of Police Department employees at the City of Kodiak is granted. The unit appropriate for collective bargaining is all police department employees except the Chief of Police and Lieutenants. The election shall proceed under AS 23.40.100 and relevant regulations.
2. The City of Kodiak is ordered to post a notice of this decision and order at all work sites where members of the bargaining unit affected by this decision and order are employed or, alternatively, serve each employee affected personally. 8 AAC 97.460.

ALASKA LABOR RELATIONS AGENCY

Jean Ward, Chair

Matthew R. McSorley, Board Member

APPEAL PROCEDURES

This order is the final decision of this Agency. Judicial review may be obtained by filing an appeal under Appellate Rule 602(a)(2). Any appeal must be taken within 30 days from the date of mailing or distribution of this decision.

CERTIFICATION

I hereby certify that the foregoing is a full, true, and correct copy of the order in the matter of *General Teamsters Local 959, International Brotherhood of Teamsters vs. City of Kodiak*, ALRA Case No. 16-1697-RC, dated and filed in the office of the Alaska Labor Relations Agency in Anchorage, Alaska, this 30th day of May, 2017.

Margie Yadlosky
Human Resource Consultant

This is to certify that on the ____ day of _____,
2017, a true and correct copy of the foregoing was mailed,
postage prepaid, to:

Nancy Shaw, General Teamsters
William Mede, City of Kodiak
William Earnhart, City of Kodiak

Signature