

[Labor Relations Agency Stationery]

IN THE MATTER OF THE UNIT)
CLARIFICATION OF COURT SERVICES)
OFFICER POSITIONS)
)
PUBLIC SAFETY EMPLOYEES')
ASSOCIATION,)
)
 Petitioner,)
)
 vs.)
)
STATE OF ALASKA and THE ALASKA,)
PUBLIC EMPLOYEES' ASSOCIATION,)
)
 Respondents.)
)
_____)

UC 87-1

ORDER AND DECISION NO. 111

SUBJECT:UNIT CLARIFICATION CONCERNING PLACEMENT OF COURT SERVICES OFFICERS, A NEWLY CREATED CLASSIFICATION

The State Labor Relations Agency (the "Agency") convened a hearing to consider the matter of unit placement for a new State job series called Court Services Officer. Court Services Officers are presently represented by Alaska Public Employees' Association - General Government Unit (APEA-GGU), but the duties are arguably those of employees properly represented by the Public Safety Employees' Association (PSEA). A hearing was conducted in Anchorage, Alaska on October 26, 1987, and all members of the Agency were present and therefore constituted a quorum. The APEA was represented by Counsel John Gaguine, PSEA was represented by Counsel William K. Jermain, and the State of Alaska was represented by the Director of Personnel Diana DiSimone. The parties presented arguments and witnesses, and upon stipulation of the parties, APEA and PSEA submitted post-hearing briefs. The Agency, having considered the arguments and evidence, renders the following order and

decision placing the positions in the Court Services Officer series in the PSEA-represented bargaining unit.

Findings of Fact

1. Effective March 23, 1987, the State of Alaska at the request of the Department of Public Safety, established a new job classification for non-commissioned officers with duties limited primarily to prisoner transport and process service. Approximately 30 employees would be classified or hired as Court Services Officers. The State Division of Personnel has included the Court Services Officer classification within the General Government Bargaining Unit represented by APEA-GGU.

2. APEA-GGU represents the broad base of non-supervisory government employees of the State of Alaska. PSEA represents the collective bargaining unit called the Regularly Commissioned Public Safety Officer's Unit (RCPSOU).

3. On July 3, 1987, Robert Piazza, business representative for PSEA, wrote to the Director of Personnel to protest the assignment of Court Services Officers to APEA-GGU. By implication, Piazza sought placement of the Court Services Officers in the RCPSOU, represented by PSEA. His objection was submitted prior to the filling of the Court Services Officer positions, and the State, APEA, and PSEA agreed to submit the dispute as a unit clarification request to the Agency. A hearing originally scheduled to consider the matter prior to filling of the positions was delayed at the request of various parties, such that as of the date of the hearing some of the positions had been filled.

4. The Regularly Commissioned Public Safety Officer's Unit was created in 1977 when certain certificated employees were severed from GGU by the Agency's Order and Decision No. 28. That decision and subsequent decisions focused upon certification of officers as a key factor in segregating the RCPSOU from GGU. In 1987, the Agency issued Order and Decision No. 106 pursuant to which Airport Safety Officers were severed from GGU and placed within the PSEA represented bargaining unit, despite the fact that Airport Safety Officers were not certificated police officers. The Agency determined that other factors justified severance of that group including commonality of interests, functions, and other aspects, and that certification alone was not the controlling criterion.

5. Prior to 1977, there existed a State classification of employees called Judicial Services Officers. Judicial Services Officers, according to testimony by Bob Piazza and of former holders of JSO-positions, were for all intents and

purposes Alaska State Troopers and their functions were assumed by Troopers after the original unit certification of PSEA. PSEA maintains that the Court Services Officer series is identical to the Judicial Services Officer's classification which no longer exists with the State.

6. The State categorized the Court Services Officers as police and fire protection employees under the Public Employees' Retirement System. Police represented by PSEA are similarly covered; most GGU employees are not. All RCPSOU employees represented by PSEA are Class I employees without exception, and the State has classified Court Services Officers as Class I employees. Only a minority of GGU employees are Class I employees. See AS 23.040.200(b).

7. Unlike severance of Airport Safety Officers from the GGU Unit into the PSEA's represented unit, the Agency declined in Order and Decision No. 105 to sever Corrections Officers from GGU. APEA contends that the Court Services Officers are akin to Correction Officers II, a classification specifically sought to be severed from APEA-GGU, but which the Agency has kept within the GGU collective bargaining unit. Court Services Officers are specifically not certificated as Public Safety Officers unlike Alaska State Troopers; similarly Correction Officers are not certificated police officers.

8. APEA has contended that Judicial Services Officers are not the same as Court Services Officers, distinguishing between Exhibit 11 relating to Judicial Services Officers and Exhibit 2 relating to Court Services Officers. APEA contends that Judicial Services Officers was a description which related to police activities but the Court Services Officer job description specifically exclude those roles. State Troopers Director Colonel Robert Jent issued a directive that Court Services Officers are limited in their powers of arrest to incidents that may occur in their presence in court facilities in incidents arising in connection with prisoner transports such as escape attempts. The Court Services Officers have no investigative authority or responsibility outside these areas, and the Court Services Officer series within the Department of Public Safety does not constitute a backdoor to becoming a Trooper.

9. Witnesses presented by PSEA and evaluation of the Court Services Officer job description established the following elements of job duties and personal qualifications relating to the performance of those duties:

- (a) presence of law enforcement background for the candidate;

(b) completion of the background application and submission to a polygraph examination, an examination which pursuant to AS 23.10 can be administered to no persons except police department employees;

(c) work is assigned out of the State Troopers' judicial services office located in the Courthouse;

(d) immediate supervisor is an Alaska State Trooper with a hierarchy of supervisory personnel comprised of Alaska State Troopers, with continual daily contact and work with other State Troopers;

(e) operating procedures are the same as those governing State Troopers;

(f) employment with the Department of Public Safety;

(g) the on-going training for a two-week period is conducted primarily by State Troopers focusing on law enforcement subjects and weapons familiarization;

(h) requirement to wear a uniform which in most respects is similar to that of a State Trooper and the carrying of a sidearm in performance of official duties;

(i) responsibility for transporting prisoners in an environment outside a correctional institution with transportation of prisoners in handcuffs and where transportation responsibility rests with that of the attendant Court Services Officer;

(j) responsibility for service of process upon assignment by State Troopers with respect to subpoenas, executions, commitments to Alaska Psychiatric Institute, child in need of assistance documents, and related paperwork (but excluding criminal service documents);

(k) responsibility for courthouse security including responses to emergencies in the court office;

(l) completion of training and swearing into office with an oath to follow Trooper guidelines;

(m) an obligation for two days of a week for a two hour period to assume desk duties regularly performed by State Troopers; and

(n) operation of vehicles assigned to the Department of Public Safety or the State Troopers.

Conclusions of Law

1. Placement of particular positions within a bargaining unit presumes the authority of the State to make such adjustments as an element of its inherent authority as employer. The placement, however, must be consistent with placement within units previously ascertained as appropriate, 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. The evolution and creation of the Court Services Officer indicates a greater present relationship to the unit represented by PSEA rather than that of APEA-GGU, particularly given the close proximity with previous positions held as Judicial Services Officers which were appropriately placed within the PSEA-represented collective bargaining unit.

2. The Agency has authority to ascertain and consider the proper placement of employees within appropriate bargaining units pursuant to AS 23.40.160

3. The cumulative weight of the evidence presented indicated a community of interest and working conditions virtually identical to that of the Alaska State Troopers and other employees in the RCPSOU, with little difference in community interest and working conditions from that of Alaska State Troopers formerly used to perform Judicial Services Officers' obligations.

Order and Decision

Based on the foregoing findings of fact and conclusion of law, the Agency orders and decides by a vote of 2 to 1 (Hafling dissenting) that:

1. The Court Services Officer positions, currently placed in the APEA-GGU, shall be transferred from the APEA-GGU bargaining unit into the PSEA-represented RCPSOU bargaining unit.

2. The foregoing transfer shall be accomplished with the least impact upon affected employees, and to the extent possible there shall be no duplication of dues obligations on the part of employees holding positions in the Court Services Officer classification.

3. This order and decision sets forth the determination of the Agency following review of briefs and evidence presented at the hearing on October 23, 1987, and thereafter.

DATED this 12 day of January, 1988.

STATE OF ALASKA LABOR RELATIONS
AGENCY

By _____
C. R. "Steve" Hafling,
Chairman

[Signature on File]

DISSENT TO ORDER AND DECISION NO 111

I, C. R. "Steve" Hafling, respectfully dissent from the decision reached by the majority of my colleagues on the Labor Relations Agency. I believe that Court Services Officers most closely proximate Correctional Officers which are appropriately placed in the APEA-GGU collective bargaining unit. I further believe that, to the extent that eligibility of Court Services Officers for police and fire protection employees' retirement benefits under the Public Employees' Retirement System was a factor in determining appropriate placement of these employees by my colleagues, the State's determination of eligibility of these employees for those benefits was itself an error.

DATED this 12 day of January, 1988.

By _____
C. R. "Steve" Hafling,
Chairman

[Signature on File]