

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
: :
: PERA-U-15-255-W
: (PERA-R-07-187-W)
CRAWFORD COUNTY :

PROPOSED ORDER OF UNIT CLARIFICATION

On September 1, 2015, Crawford County (County or Employer) filed a Petition for Unit Clarification with the Pennsylvania Labor Relations Board (Board) seeking to exclude all full-time and regular part-time Deputy Sheriffs from a unit of non-professional employes, certified by the Board at Case No. PERA-R-07-187-W.

On September 16, 2015, the Secretary of the Board issued an Order and Notice of Hearing, assigning the matter to conciliation, and designating January 5, 2016, in Pittsburgh, as the time and place of hearing, if necessary.

The hearing was not necessary. On January 11, 2016, the parties submitted a jointly stipulated record (S.R.) in lieu of a hearing. The County declined to file a brief in support of its position. SEIU Local 668, PSSU (Union) also declined to file a brief.

The Hearing Examiner, on the basis of the stipulated record, and from all other matters and documents of record, makes the following:

FINDINGS OF FACT

1. Crawford County is a public employer pursuant to PERA. (S.R. 1).
2. The Union is an employe organization pursuant to PERA. (S.R. 2).
3. On August 20, 2015, the Crawford County Commissioners executed a Strike Prevention and Contingency Plan which designates employes classified as Deputy Sheriffs to guard facilities and property, control demonstrations, ensure safe access to and from County property during labor unrest, and to patrol and maintain security on County property during labor unrest. (S.R. 6).
4. According to adopted County Plan:

In the event of a strike or labor unrest, the Deputy Sheriffs of the Crawford County Sheriff's Office will be responsible for enforcing the County's rules to protect the safety of individuals on County premises and the Safety of County property. Deputy Sheriffs will enforce such County rules and applicable state and local laws against County employees and others. Deputy Sheriffs will guard County facilities and property, control demonstrations, ensure safe access to and from County property during labor unrest, and will patrol and maintain security on County property during labor picketing, work stoppages and other forms of unrest.

(Crawford County Strike Contingency Plan, dated August 2015, page 3).

DISCUSSION

The County seeks to exclude all full-time and regular part-time Deputy Sheriffs from a non-professional Court Related Unit as "guards" pursuant to PERA. Section 604(3) of PERA provides, in part:

The [B]oard shall determine the appropriateness of a unit which shall be the public employer unit or a subdivision thereof. In

determining the appropriateness of the unit, the [B]oard shall:

. . .
(3) Not permit guards at prisons and mental hospitals, employes directly involved with and necessary to the functioning of the courts of this Commonwealth, or any individual employed as a guard to enforce against employes and other persons, rules to protect property of the employer or to protect the safety of persons on the employer's premises to be included in any unit with other public employes, each may form separate homogenous employe organizations with the proviso that organizations of the latter designated employe group may not be affiliated with any other organization representing or including as members, persons outside of the organization's classification.

43 P.S. § 1101.604(3). This section has been interpreted by the Board and our Courts to require that when an employer supports a petition for representation, as is the case in this matter, the employer need only show a mere possibility that the employees would be used as guards during labor unrest to be classified as guards pursuant to PERA. **Butler County v. PLRB**, 911 A.2d 218, 224 (Pa. Commw. Ct. 2006); **Erie County Area Vocational-Technical School v. PRLB**, 417 A2d 796 (Pa. Commw. Ct. 1980); **In re Employees of the County of Berks**, 46 PPER 6 (Proposed Decision and Order 2014).

The record in this matter shows that, in the event of a strike or other labor unrest, the County has adopted plans that Deputy Sheriffs will enforce rules to protect the property of the County and the safety of individuals on the County's premises from strikers, protestors, picketers and demonstrators, including other employes in the Deputy Sheriffs' current bargaining unit. Since Deputy Sheriffs may be required to perform these functions during labor unrest, their inclusion in the non-professional Court Related Unit is not appropriate pursuant to Section 604(3) of PERA and the related case law discussed above.

CONCLUSION

The Examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds:

1. The County is a public employer within the meaning of Section 301(1) of PERA.
2. The Union is an employe organization within the meaning of Section 301(3) of PERA.
3. The Board has jurisdiction over the parties.
4. The positions of full-time and regular part-time Deputy Sheriffs are guards pursuant to PERA and therefore are properly excluded from the bargaining unit.

ORDER

In view of the foregoing and in order to effectuate the policies of PERA, the Hearing Examiner

HEREBY ORDERS AND DIRECTS

that the bargaining unit of employes certified by the Board at PERA-R-07-187-W is amended to exclude the full-time and regular part-time Deputy Sheriffs as guards.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty (20) days of the date hereof, this order shall be and become absolute and final.

SIGNED, DATED and MAILED at Harrisburg, Pennsylvania, this 14th day of January,
2016.

PENNSYLVANIA LABOR RELATIONS BOARD

STEPHEN A. HELMERICH, Hearing Examiner