

LOCAL GOVERNMENT EMPLOYEE-  
MANAGEMENT RELATIONS BOARD

STATE OF NEVADA

IN THE MATTER OF THE LAS VEGAS)  
POLICE PROTECTIVE ASSOCIATION, )  
METRO, INC., )

Appellant, )

VS. )

Case No. A1-045352

CLARK COUNTY, NEVADA, )

Respondent. )

D E C I S I O N

On March 2, 1982, the Local Government Employee-Management Relations Board held a hearing in the above-entitled matter; the hearing having been properly noticed and posted pursuant to the provisions of Nevada's Open Meeting Law.

This written decision is prepared in conformity with NRS 233B.125 which requires the final Decision contain Findings of Fact and Conclusions of law separately stated.

On December 11, 1980, the Appellant, the Las Vegas Police Protective Association, Metro, Inc. (hereinafter "PPA") notified the Respondent, Clark County (hereinafter "County") of its desire to be recognized as the bargaining agent for a bargaining unit made up of the Probation Officers employed at the Clark County Juvenile Court Services (hereinafter "Juvenile Court"). Attached to the request were copies of a petition signed by Probation Officers at the Juvenile Court.

The County responded to PPA's request on December 19, 1980 through its County Manager, denying the recognition sought. It

further delineated its position in correspondence to the PPA that the County would not recognize the PPA as the bargaining agent for the Probation Officers as the individuals sought to be represented were already represented by the Clark County Public Employees' Association (hereinafter "PEA"); that these individuals did not constitute an appropriate bargaining unit nor were they "law enforcement officers".

The PPA dissatisfied with the County's reasons for denying recognition filed an appeal before this Board on April 22, 1981, alleging that the County unlawfully refused to withdraw recognition from the PEA as the exclusive bargaining agent for the Probation Officers. It further contended that the County unlawfully refused to grant recognition to the PPA as Probation Officers are law enforcement officers and therefore, pursuant to NRS 288.140(3), must belong to an employee organization composed exclusively of law enforcement officers.

The County in its response reiterated its position as stated above and further contended that the PPA failed to comply with the provisions of NRS 288.160; that to withdraw recognition from the PEA, the currently recognized employee organization representing the Probation Officers would subject the County to adverse action before this Board. In addition, the County alleges that since Probation Officers are not law enforcement officers, the PPA is precluded from representing these individuals pursuant to NRS 288.140(3).

The primary issue in this matter before the Board is whether Probation Officers are law enforcement officers for the purposes of NRS 288.140(3).

There is no case law in Nevada defining the term "law enforcement officer" as used in NRS 288.140(3). However, the term "police officer" is defined in NRS 286.061 as one whose principal duties consist of enforcing the laws of the State or

a political subdivision thereof. In the case of Public Employees Retirement Board vs. Washoe County, 96 Nev. 718, 615 P.2d 372 (1980), the Supreme Court noted that parole and probation officers of the Department of Corrections were removed from the statutory definition of police officer. This indicated legislative intent, at least for purposes of retirement, to treat Probation Officers as non-law enforcement.

In addition, evidence and testimony presented during the hearing clearly differentiated the duties of a probation officer from those of a "law enforcement officer". The duties of Probation Officers include investigation of home situations, processing of evidence, limited arrest and booking of juveniles, counseling, care and supervision of neglected and abused children, testifying in court and writing reports. The evidence also indicated that the primary aim of Juvenile Court Probation Officers is to rehabilitate juvenile offenders. In selecting individuals to fill the positions of Probation Officers, preference is given to individuals with a background in one of the behavioral sciences. Probation Officers do not carry weapons, and if a volatile situation is expected, police back-up is requested.

The argument was raised during the hearing by the PPA that Probation Officers take an oath of office as do law enforcement officers. The Appellant cited In the Matter of the North Las Vegas Police Officers Association, Local 41, et al., vs. W.L. Tharp, Chief of Police, et al., Item #104, Case #A1-045333, in support of its position.

This case is clearly distinguishable from the present case before this Board. The employees in the North Las Vegas case took an oath of office as police officers, were commissioned as police officers and were sworn to serve as police officers. By way of contrast, Probation Officers are not commissioned and do not take the same oath as police officers. Rather, Probation Officers take the same oath of office as is taken by all employees

of Juvenile Court.

Based upon the foregoing it is the conclusion of this Board that Probation Officers are not law enforcement officers.

Turning now to the County's argument that the PPA did not fully comply with the procedures established pursuant to NRS 288.140 for seeking recognition.

NRS 288.160(2) provides that in order for an employee organization to be recognized as the exclusive bargaining agent for a particular bargaining unit, the organization must present...

"a verified membership list showing that  
it represents a majority of the employees  
in a bargaining unit... ."

The PPA presented copies of petitions signed by the Probation Officers. The testimony of witnesses showed that in signing these petitions, the Probation Officers were merely expressing interest in learning more about the PPA. None of the Probation Officers were ever asked to join the PPA or pay dues. In fact, all of the witnesses who testified in this regard, with two exceptions, stated that they were still dues-paying members of PEA.

The Board finds that such petitions do not comply with the provisions of NRS 288.160(2).

The Probation Officers at Juvenile Court are presently part of an established bargaining unit represented by the PEA.

NRS 288.170(1) provides that the primary criterion for determining appropriate bargaining units shall be community of interest among the concerned employees. The evidence established that all employees of the bargaining unit operate under similar work rules, are governed by similar reduction in force procedures, are able to transfer from one department to another without loss of seniority and acquire similar benefits such as vacation, holiday pay, insurance, etc.

It is evident that the bargaining unit established by the County provided the most effective representation for the



employees and was based on significant community of interest. As this Board recognized in General Sales Drivers, Delivery Drivers and Helpers, Teamsters Local No. 14 of the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers of America vs. City of Las Vegas, EMRB Case #A1-045307, Item #64, that although there may be a community of interest among a group within the bargaining unit, a greater and overriding community of interest exists among all the employees of the bargaining unit. This is exactly the situation at hand. Although Probation Officers share a certain community of interest with the entire bargaining unit of County employees, they share a greater community of interest with the entire bargaining unit of County employees.

The community of interest shared by Probation Officers and other County employees does not exist between Probation Officers and uniformed personnel of the Las Vegas Metropolitan Police Department; the evidence established that Probation Officers who served on the PEA negotiating team were generally concerned with the same matters as other County employees. They were not concerned with the issues traditionally discussed in contract negotiations with law enforcement personnel, such issues as gun allowance, uniform allowance, shooting proficiency and occupational disease benefits.

The evidence adduced at the hearing afforded no basis for withdrawing recognition from PEA. Therefore, the County's initial recognition of PEA as the exclusive bargaining agent for Probation Officers at Juvenile Court, which was based on community of interest, and the County's continued recognition of PEA are in accordance with the Provisions of Chapter 288.

In light of all preceding facts it is evident to this Board that the County was justified in withholding recognition from the PPA as the exclusive bargaining agent for Probation Officers at Juvenile Court.

### FINDINGS OF FACT

1. That the Appellant Las Vegas Police Protective Association, Metro, Inc. is a local government employee organization.
2. That the Respondent County of Clark is a local government employer.
3. That the Public Employees Association is a local government employee organization.
4. That Probation Officers at Clark County Juvenile Court Services are a part of the bargaining unit represented by PEA.
5. That the PPA is the exclusive bargaining agent for uniformed personnel of the Las Vegas Metropolitan Police Department.
6. That on December 11, 1980, the PPA sought recognition as the exclusive bargaining agent for Probation Officers at Juvenile Court.
7. That attached to PPA's request for recognition were copies of petitions signed by Probation Officers at Juvenile Court.
8. That no verified membership list was ever presented by PPA.
9. That the individuals signing the petitions presented by PPA were merely expressing an interest in learning more about PPA.
10. That Probation Officers at Juvenile Court were never asked to join PPA nor to pay dues.
11. That the County did not recognize PPA as the exclusive bargaining agent for Probation Officers.
12. That although Probation Officers share a certain community of interest with each other, they share a greater community of interest with the entire bargaining unit represented by PEA.
13. That Probation Officers have no community of interest with police officers.
14. That Probation Officers are not law enforcement officers.

### CONCLUSIONS OF LAW

1. That pursuant to the provisions of the Nevada Revised Statutes Chapter 288, the Local Government Employee-Management Relations Board possesses original jurisdiction over the parties and subject matter of this appeal. NRS 288.110.

2. That the Appellant, Las Vegas Police Protective Association, Metro, Inc., is a local government employee organization as defined in NRS 288.040.

3. That the Respondent, Clark County, is a local government employer as defined in NRS 288.060.

4. That the Public Employees Association is a local government employee organization as defined in NRS 288.040.

5. That the PEA was recognized pursuant to NRS 288.160 to represent certain employees in an appropriate bargaining unit. NRS 288.170(1).

6. That the PPA is the exclusive bargaining agent for uniformed personnel of the Las Vegas Metropolitan Police Department. NRS 288.160, NRS 288.140(3).

7. That the PPA did not comply with the provisions of NRS 288.160(2) and present a verified membership list to the County.

8. That Probation Officers do not share a "community of interest" with police officers currently represented by the PEA. NRS 288.170(1).

9. That Probation Officers share a greater "community of interest" with the entire bargaining unit represented by the PEA. NRS 288.140(3).

10. That Probation Officers are not law enforcement officers and are therefore precluded from representation by the PPA pursuant to NRS 288.140(3).

.....

.....

.....

.....

The requested relief is denied and the Complaint dismissed.  
Each party shall bear its own costs and fees.

Dated this 22nd day of November, 1982.

LOCAL GOVERNMENT EMPLOYEE-  
MANAGEMENT RELATIONS BOARD

  
\_\_\_\_\_  
Earl L. Collins, Board Chairman

  
\_\_\_\_\_  
Elizabeth Foremaster, Bd Vice-Chrmn

  
\_\_\_\_\_  
Barbara A. Zimmer, Board Member

Distribution:

Certified Mail: Ms. Johnnie B. Rawlinson  
Aubrey Goldberg

XC: Board Members  
Interested Parties  
File