

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

ALLEGHENY COUNTY DEPUTY :
SHERIFFS' ASSOCIATION :
 :
v. : Case No. PERA-C-06-374-W
 :
SHERIFF OF ALLEGHENY COUNTY :
AND COUNTY OF ALLEGHENY :

FINAL ORDER

The Allegheny County Deputy Sheriffs' Association (Association) filed timely exceptions and a supporting brief with the Pennsylvania Labor Relations Board (Board) on September 27, 2006. The Association's exceptions challenge a September 7, 2006 decision of the Secretary of the Board declining to issue a complaint and dismissing its Charge of Unfair Practices filed against the Sheriff of Allegheny County and the County of Allegheny (Respondents).

In its Specification of Charges, the Association alleges that the Respondents began using video conferencing to conduct certain types of hearings for prisoners, the result of which is that transport of prisoners to courthouses for these hearings, previously performed by members of the Association, is no longer necessary.¹ The Association further alleges that the transport and guarding of these prisoners is now being performed by Corrections Officers. Thus, it is the Association's contention that work previously performed by its members was re-assigned and that the County did not bargain with the Association over this re-assignment of bargaining unit work. The Association alleged that this was a violation of Section 1201(a)(5) of the Public Employe Relations Act (PERA).

In the September 7, 2006 dismissal, the Secretary noted that Section 702 of PERA provides that employers are not required to bargain over the utilization of technology. Because the introduction of new video conferencing technology eliminated the need to transport the prisoners to the courthouse, the Secretary determined that the County had no duty to bargain over the implementation of the video conferencing. In support of her decision, the Secretary cited FOP, Lodge No. 5. v. City of Philadelphia, 31 PPER ¶ 31022 (Final Order, 1999). In that case, the union filed a charge of unfair labor practices after the city started using a computer software program to produce electronic crime maps, which had the effect of eliminating the need to employ bargaining unit police officers to create "pin maps", i.e. color coded pins inserted in paper maps of the city to designate the location of criminal activity, to track crime. The Board determined that the use of the computer software to produce electronic maps eliminated the need for pin maps through the employer's managerial right to introduce newer technology into the workplace.

In determining whether to issue a complaint, the Board assumes that all facts alleged are true. Issuance of a complaint on a charge of unfair practices is not a matter of right, but is within the sound discretion of the Board. 43 P.S. § 1101.1302. Generally, a complaint will be issued unless the facts alleged in the charge could not support a cause of action for an unfair practice as defined by PERA. Homer Center Education Association v. Homer Center School District, 30 PPER ¶ 30024 (Final Order, 1998).

In its exceptions to the Secretary's refusal to issue a complaint, the Association asserts that this case is different from the City of Philadelphia "pin mapping" case because, in that case, police "pin mappers" were replaced by computer software, whereas in this case Deputy Sheriffs are not being replaced by the technology (video conferencing) but are rather being replaced by other people (Corrections Officers).

¹ These hearings take place at an "Advanced Communication Technology Site", which the Pennsylvania Rules of Criminal Procedure defines as "any approved location within Pennsylvania designated by the president judge, or the president judge's designee, with advanced communication technology equipment that is available for parties in a criminal matter to communicate with others in physically separate locations as provided in these rules." Pa.R.Crim.P. 103.

Section 702 of PERA provides, in relevant part, that:

Public employers shall not be required to bargain over matters of inherent managerial policy, which shall include ... utilization of technology ... and selection and direction of personnel.

43 P.S. § 1101.702. In this case, the Respondents implemented new technology in the form of video conferencing. The effect of using this technology is that prisoners no longer need to be transported to the courthouse for certain hearings. As this Board stated in City of Philadelphia, an employer does not have to bargain over its decision to introduce automation in the workplace which results in the elimination of human labor. The charge as amended in the exceptions states that the Corrections Officers guarded prisoners at the county jail and the Deputy Sheriffs assumed custody and control of prisoners when they were transported to, from and during their presence at the courthouse.

Pursuant to Section 702 of PERA, the Respondents did not have to bargain over the utilization of this technology which, like the City of Philadelphia pin mapping case, eliminated the need for work to be performed by bargaining unit members. Further, the Corrections Officers are not performing work that used to be performed by Deputy Sheriffs because, although prisoners may be moved within the prison to a video conferencing room and guarded when they are in that room, the prisoner never leaves the prison and is thus never physically transported outside the jail, which was the work of Deputy Sheriffs. The Board does not agree with the Association's contention that the "work" allegedly removed included custody and control within the jail but it is rather the work of guarding prisoners to and from the jail and while they were in the courthouse. The latter work was eliminated by the introduction of the video conferencing and was not transferred or performed by other employes. The Association unnaturally strains the meaning of bargaining unit work by characterizing the video conferencing location within the jail as the equivalent of a courthouse, which in the Association's view would require the Deputy Sheriffs to enter the jail and provide custody and control of prisoners who never leave the jail. In our view such a practice would result in the removal of work from the Corrections Officers. Thus, there has been no removal of bargaining unit work.²

After a thorough review of the exceptions and all matters of record, there are no facts alleged warranting issuance of a complaint. Accordingly, the Board will dismiss the exceptions and sustain the Secretary's decision declining to issue a complaint.

ORDER

In view of the foregoing and in order to effectuate the policies of the Public Employee Relations Act, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions are dismissed and the Secretary's decision not to issue a complaint be and the same is hereby made absolute and final.

SIGNED, SEALED, DATED and MAILED this seventeenth day of October, 2006.

PENNSYLVANIA LABOR RELATIONS BOARD

L. DENNIS MARTIRE, CHAIRMAN

ANNE E. COVEY, MEMBER

JAMES M. DARBY, MEMBER

² It is noted that an employer may have a duty to bargain over the impact of automation. However, the Association did not allege in its charge or exceptions that the Respondents failed to engage in impact bargaining over the use of video conferencing.