

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

ISSAQUAH POLICE COMMUNICATIONS
ASSOCIATION

Involving certain employees of:

CITY OF ISSAQUAH

CASE 134564-E-21

DECISION 13594 - PECB

ORDER OF DISMISSAL

Teresa Davenport, Representative, for the Issaquah Police Communications Association.

Tréja Miranda, Attorney at Law, Summit Law Group PLLC, for the City of Issaquah.

On October 12, 2021, the Issaquah Police Communications Association (IPCA) filed a representation petition to sever and change representation for approximately four dispatch employees at the City of Issaquah (employer).¹ The dispatch employees are currently represented by Issaquah Police Support Services Association (IPSSA). A hearing was held on May 16, June 7, and June 21, 2022. The parties filed post-hearing briefs to complete the record.² Representation Administrator Emily Whitney conducted the investigatory process and hearing.

The issue at hearing was whether it is appropriate to sever the petitioned-for dispatch employees from the existing corrections, dispatch, and records bargaining unit. Severance is not appropriate. The petitioned-for employees continue to share a community of interest with the employees in the

¹ IPCA is an employee created association. IPCA has bylaws and has the purpose to promote the general welfare of its members and negotiate salary, hours of work, schedule of work, and working conditions for its members.

² The employer did not file a post-hearing brief in this matter.

existing bargaining unit, severance would create work jurisdiction issues, and a resulting dispatch bargaining unit could not stand on its own. IPCA's representation petition is dismissed.

BACKGROUND

The City of Issaquah (employer or city) is comprised of 11 departments including the police department. The police department has four bargaining units. IPSSA is one of the four bargaining units and represents the corrections, records, and dispatch employees.³ The IPSSA bargaining unit has 25 employees, which includes 10 dispatch employees, 3 records employees, and 12 corrections employees.⁴ The bargaining unit is described as:

All full-time and regular part-time non-commissioned employees of the City of Issaquah Police Department excluding supervisors and confidential employees.

City of Issaquah (Issaquah Police Services Association), Decision 9255-A (PECB, 2006).⁵ All the employees in the bargaining unit work in the same building. The dispatchers and records employees work on the main floor, and the corrections officers work on the lower level in the police department.

The corrections employees maintain the security of the inmates in jail. Corrections employees work four 12-hour shifts with set days or nights and do not rotate. Corrections staff are paid a salary rate with Kelly time built into their salary. The bargaining unit also has a Transport Officer

³ Issaquah Police Officer's Association represents the sworn officers' guild. Teamsters 117 represents a sergeants bargaining unit and a commanders bargaining unit.

⁴ When the petition was filed there were approximately four dispatch employees. At the time of hearing there are now approximately ten dispatch employees.

⁵ During testimony a new position, Crime Analyst, was discussed. IPSSA asserts these proceedings should be used to clarify the bargaining unit to include the Crime Analyst in the bargaining unit. The inclusion or exclusion of the Crime Analyst position was not at issue in these proceedings. The parties can file a separate representation petition or unit clarification petition if necessary

position, which is different from the other corrections employees. There is only one employee in this classification.

The records employees maintain police records including entering citations provided by police officers, processing requests for copies of reports, and processing requests for 911 recordings. The Police Records Specialists work five 8-hour shifts and do not work nights, weekends, or holidays. They can work a four-day 10-hour schedule if needed. Records employees are paid at a salary rate with no overtime, holiday, or weekends included.

The dispatch employees' duties include taking 911 calls, police dispatch services, and some records work.⁶ They are hourly employees with built-in overtime, working four 12-hour rotating shifts per week.

When dispatch is fully staffed, dispatchers also complete some records work including warrant entry, no-contact orders, citations, and other records work when there is downtime at night. Over the years the warrant entry, no-contact orders, and citation work has transferred between dispatch and records staff. Currently dispatch performs the work of warrant entry, no-contact orders, and citations.

While the dispatch employees regularly perform records work, the employer is considering transferring that work back to the records employees due to the staffing issues with the dispatchers and the high volume of call-taking work for the dispatchers. If that transfer of work occurs, records work may be shifted between dispatch and records staff daily which will require more interaction between the records and dispatch employees. Because records employees do not work a 24-hour shift, and records work can be emergent, some records work has been completed by dispatch

⁶ The dispatch employee classification is called Police Communication Specialist, but the position is referenced as dispatcher or dispatch employee throughout the transcript.

employees at night when records employees were not working. This type of shared work requires more interaction between the dispatch and records employees.

The jail has a double-door system. In addition to the other assigned work, dispatchers monitor the control panel for the double-door system, which controls all the perimeter doors to the building. If someone wants to leave the jail or if a delivery arrives at the jail, the corrections employees will contact the dispatchers via phone, instant message chat, or doorbell to ask the dispatchers to open the perimeter door to allow people in or out of the jail. Dispatchers also monitor officers' safety via camera during operations.

In addition to the records and dispatch classifications, the employer has a classification called the Police Records Support Specialist. This classification is cross trained in records and dispatch. The position was created to be able to complete dispatch or records work. A premium pay is assigned to the position because the position transfers between dispatch and records based on staffing needs. The employee could be assigned to records and would fill in for dispatch employees during breaks. They would start court orders for the dispatchers. The position was not filled at the time of hearing and has not been filled for three to four years, but the vacant position remains in the bargaining unit.

The IPSSA bargaining unit has an executive board, which includes a President, Vice President, Secretary, and Treasurer. Historically the executive board has included at least one dispatch employee, but generally there have been two Corrections Officers and two dispatchers. At times records employees have held positions on the board. The bargaining unit also has a negotiation team, which has consistently included employees from corrections, dispatch, and records. The IPSSA has negotiated collective bargaining agreements, filed grievances, and filed unfair labor practices on behalf of the bargaining unit employees, including the dispatch employees.

The IPSSA has had some difficult negotiations, but all collective bargaining agreements have been ratified. The 2017-2020 collective bargaining agreement took three years to negotiate. During the negotiations there was disagreement among the IPSSA bargaining team. The agreement was ultimately ratified after three years. After the agreement was reached there was dissatisfaction

amongst the dispatchers regarding the wages and other employer offerings. The dispatchers did not feel their needs were being met at the bargaining table.

There have been challenges within the group since the collective bargaining agreement was ratified. There has been a history of the classifications having fundamental differences over wage increases, overtime, and two-tiered pay systems. There has also been a pattern of poor working relations between the three classifications including some of the corrections employees making statements to the dispatchers that the dispatchers should not make as much money as the corrections employees.

IPSSA entered negotiations with the employer for a one-year 2021 extension, an extension of the 2017-2020 CBA. During negotiations the corrections and records employees agreed with the employer's offer of a one percent wage increase. The dispatchers were not in agreement with the one percent wage increase. The corrections employees were above market, and the dispatchers were below market. The dispatchers met separately with the IPSSA's attorney and requested a larger wage increase and the removal of the two-tiered pay system (anyone hired after 2017 would never make the same amount as the employees who existed prior to 2017). IPSSA proposed the larger wage increase for the dispatcher. The dispatchers received a three percent wage increase and the two-tiered system was ended.

In March 2020, during the COVID-19 pandemic, the employer paused on executing the agreement for the retention incentive. As a result, IPSSA filed an unfair labor practice (ULP) against the employer on behalf of the dispatchers in the bargaining unit. The parties' settlement of the ULP was included in the contract extension negotiations and resulted in the parties entering into a retention incentive agreement to retain dispatchers in addition to the three percent pay increase.

In the fall of 2021, staffing shortages among dispatchers caused the dispatchers to work a lot of overtime. August 5, 2021, the employer notified the dispatchers that due to the staffing shortages it intended to move the dispatchers from Issaquah to Redmond under a mutual aid agreement. September 1, 2021, the employer moved the dispatchers from the employer's call center at the

police department to the City of Redmond.⁷ The IPSSA filed an unfair labor practice on behalf of the dispatchers. The employer moved the dispatchers back to the employer's call center gradually, but the official return was around February 1, 2022.

In June 2021, the employer notified IPSSA of pending COVID mandates. The dispatch employees requested IPSSA President demand to bargain the impacts of the mandates. The president did not present the request to the bargaining unit and did not file a demand to bargain with the employer.

ANALYSIS

Applicable Legal Standards

Determination of Appropriate Bargaining Unit

The determination of appropriate bargaining units is a function delegated to this agency by the legislature. *City of Richland*, Decision 279-A (PECB, 1978), *aff'd*, *International Association of Fire Fighters, Local 1052 v. Public Employment Relations Commission*, 29 Wn. App. 599 (1981), *review denied*, 96 Wn.2d 1004 (1981). The purpose of this function is to ensure there is a community of interest among the employees sufficient to enable them to bargain effectively with their employer. *Quincy School District*, Decision 3962-A (PECB, 1993). When making bargaining unit determinations, the Commission seeks to avoid fragmentation and potential work jurisdiction disputes. *King County (Amalgamated Transit Union, Local 587)*, Decision 6696 (PECB, 1999). Bargaining unit determinations are made on a case-by-case basis. *King County*, Decision 5910-A (PECB, 1997).

In making bargaining unit determinations, this agency is directed to consider “[t]he duties, skills, and working conditions of the employees; the history of collective bargaining; the extent of organization among the employees; the desires of the employees; and the avoidance of excessive

⁷ The employer alleges there was an immediate need due to a lack of dispatch employees compared to the amount of work. IPSSA filed a separate unfair labor practice related to the move. That issue is not determined in this present proceeding.

fragmentation.” RCW 41.56.060. The criteria are not applied on a strictly mathematical basis. *King County*, Decision 5910-A. Not all of the factors will arise in every case, and where they do exist, any one factor could be more important than another, depending on the facts. *Renton School District*, Decision 379-A (EDUC, 1978), *aff’d*, *Renton Education Association v. Public Employment Relations Commission*, 101 Wn.2d 435 (1984).

This agency’s role is to determine whether there is *a* community of interest, not the *best* community of interest. Consequently, the fact that other groupings of employees may also be appropriate, or even more appropriate, does not render the proposed configuration inappropriate. *State – Secretary of State*, Decision 12442 (PSRA, 2015) (citing *Snohomish County*, Decision 12071 (PECB, 2014); *City of Winslow*, Decision 3520-A (PECB, 1990)).

Severance

A labor organization may attempt to represent a portion of an existing bargaining unit represented by a different organization by “severing” that bargaining unit into two parts. *Cowlitz County*, Decision 12115 (PECB, 2014). To attempt a severance, the petitioning labor organization must have the support of at least 30 percent of the employees that would be included in the “severed” bargaining unit. *Id.* A petition to sever employees from an existing bargaining unit seeks to disrupt the status quo of the existing bargaining unit. To obtain severance, the petitioner must overcome the stability and maturity of relationships usually present in established bargaining units that lead to sound labor relations. To do so, the petitioner must establish that either (1) the petitioned-for employees no longer share a community of interest with the existing bargaining unit or (2) the incumbent bargaining representative has inadequately represented the petitioned-for employees. *State – Social and Health Services*, Decision 12542-B (PSRA, 2016).

The petitioner must show that a change in the community of interest has occurred to make the existing bargaining unit inappropriate. This is usually demonstrated by substantial changes to the job duties or working conditions of the petitioned-for employees or substantial changes in the employer’s operations. *King County*, Decision 11441-A (PECB, 2013).

To show inadequate representation, the petitioner must demonstrate more than a short-term inability of the incumbent union to achieve the bargaining goals of the petitioned-for employees or the employees' dissatisfaction with their bargaining representative's accomplishments. *State – Social and Health Services*, Decision 12542-B. Inadequate representation may be shown by factors such as lack of opportunities to participate in union affairs, lack of collective bargaining agreement provisions addressing specific concerns of the employees at issue, lack of involvement by the petitioned-for employees in negotiation processes. Inadequate representation may also be demonstrated by a lack of any formal or informal efforts by the incumbent union to resolve issues of concern to the employees at issue. Where a bargaining relationship has been in existence, the “history of bargaining” weighs against its disruption by severing the unit into two or more components. *Cowlitz County*, Decision 4960 (PECB, 1995). These considerations should not be read as a mechanical test, as each case is fact dependent and may present different variables worthy of consideration.

If the petitioner meets its burden of proof and the conditions for severance are met, the Commission will evaluate the appropriateness of the petitioned-for bargaining unit and whether the residual unit would maintain its appropriateness. *State – Social and Health Services*, Decision 12542-B. If either of the resulting bargaining units would be inappropriate under the statute, then severance shall not be granted, and the original unit shall be maintained. *Id.*

Application of Standards

Severing the dispatch employees from the IPSSA bargaining unit is not appropriate because the existing community of interest of the bargaining unit has not been ruptured. Also, the petitioned-for bargaining unit would be inappropriate due to the work jurisdiction issues between the dispatch and records employees, thereby precluding severance.

The petitioned-for employees continue to share a community of interest with the existing IPSSA bargaining unit. The only change that has occurred recently is that the dispatch employees were moved from Issaquah to Redmond, but the dispatchers have since moved back to Issaquah. There were no changes in the job duties of the dispatchers when they were moved. The remaining

employees have continued to work in the same location and have had the same duties, skills, and working conditions.

The IPSSA has adequately represented the dispatchers. Dispatchers have consistently held positions on both the executive board and negotiations team. The IPSSA has negotiated for specific concerns of the dispatchers including retention incentives and wage increases. Additionally, IPSSA has filed unfair labor practices and grievances on the employees' behalf.

IPCA alleges that the history of discord between the dispatchers and the other employees in the bargaining unit and the substantially divergent interests have ruptured the community of interest. The record does show a history of discord between the employees within the bargaining unit and a history of divergent interests at the bargaining table. However, the evidence demonstrates that the discord has not precluded the union from representing the dispatchers and that the union has accommodated the dispatchers' divergent interests at the bargaining table.

Severing the petitioned-for employees from the existing bargaining unit is inappropriate regardless of any alleged disruption of the community of interest. Severance can occur only when there is a disruption of the community of interest and the petitioned-for unit is appropriate. *State – Social and Health Services*, Decision 12542-B. Severing the dispatchers from the existing bargaining unit would create work jurisdiction issues with the records employees.

The transfer of the records work creates the work jurisdiction issues. Currently the dispatchers take 911 calls and dispatch police to incidents, but the dispatchers also perform records work. The dispatchers engage in warrant entry work, no-contact orders, citations, and other records work when there is downtime. This work currently remains with the dispatchers but may be transferred back to records employees due to the dispatchers' current call volumes. Historically, the records work moved back and forth between the dispatchers and records employees. Because records employees do not work during the night, the dispatch employees who are a 24/7 operation, would complete emergent records work. Records employees also process requests for 911 recordings. These are recordings of the 911 calls the dispatchers receive. Finally, there is a classification where

employees are certified to complete both dispatch and records work. While that position is currently vacant, the employer may fill the position in the future.

CONCLUSION

Severance is not appropriate. The petitioned-for employees continue to share a community of interest with the employees in the existing bargaining unit, severance would create work jurisdiction issues, and a resulting dispatch bargaining unit could not stand on its own. IPCA's representation petition is dismissed.

FINDINGS OF FACT

1. The City of Issaquah is a public employer within the meaning of RCW 41.56.030(13).
2. The Issaquah Police Support Services Association (IPSSA) is a bargaining representative within the meaning of RCW 41.56.030(2).
3. The Issaquah Police Communication Association (IPCA) is a bargaining representative within the meaning of RCW 41.56.030(2).
4. The City of Issaquah (employer or city) is comprised of 11 departments including the police department. The police department has four bargaining units. IPSSA is one of the four bargaining units and represents the corrections, records, and dispatch employees. The IPSSA bargaining unit has 25 employees, which includes 10 dispatch employees, 3 records employees, and 12 corrections employees. The bargaining unit is described as:

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City of Issaquah (Issaquah Police Services Association), Decision 9255-A (PECB, 2006). All the employees in the bargaining unit work in the same building. The dispatchers and

records employees work on the main floor, and the corrections officers work on the lower level in the police department.

5. The corrections employees maintain the security of the inmates in jail. Corrections employees work four 12-hour shifts with set days or nights and do not rotate. Corrections staff are paid a salary rate with Kelly time built into their salary. The bargaining unit also has a Transport Officer position, which is different from the other corrections employees. There is only one employee in this classification.
6. The records employees maintain police records including entering citations provided by Police Officers, processing requests for copies of reports, and processing requests for 911 recordings. The Police Records Specialists work five 8-hour shifts and do not work nights, weekends, or holidays. They can work a four-day 10-hour schedule if needed. Records employees are paid at a salary rate with no overtime, holiday, or weekends included.
7. The dispatch employees' duties include taking 911 calls, police dispatch services, and some records work. They are hourly employees with built-in overtime, working four 12-hour rotating shifts per week.
8. When dispatch is fully staffed, dispatchers also complete some records work including warrant entry, no-contact orders, citations, and other records work when there is downtime at night. Over the years the warrant entry, no-contact orders, and citation work has transferred between dispatch and records staff. Currently dispatch performs the work of warrant entry, no-contact orders, and citations.
9. While the dispatch employees regularly perform records work, the employer is considering transferring that work back to the records employees due to the staffing issues with the dispatchers and the high volume of call-taking work for the dispatchers. If that transfer of work occurs, records work may be shifted between dispatch and records staff daily which will require more interaction between the records and dispatch employees. Because records employees do not work a 24-hour shift, and records work can be emergent, some records

work has been completed by dispatch employees at night when records employees were not working. This type of shared work requires more interaction between the dispatch and records employees.

10. The jail has a double-door system. In addition to the other assigned work, dispatchers monitor the control panel for the double-door system, which controls all the perimeter doors to the building. If someone wants to leave the jail or if a delivery arrives at the jail, the corrections employees will contact the dispatchers via phone, instant message chat, or doorbell to ask the dispatchers to open the perimeter door to allow people in or out of the jail. Dispatchers also monitor officers' safety via camera during operations.
11. In addition to the records and dispatch classifications, the employer has a classification called the Police Records Support Specialist. This classification is cross trained in records and dispatch. The position was created to be able to complete dispatch or records work. A premium pay is assigned to the position because the position transfers between dispatch and records based on staffing needs. The employee could be assigned to records and would fill in for dispatch employees during breaks. They would start court orders for the dispatchers. The position was not filled at the time of hearing and has not been filled for three to four years, but the vacant position remains in the bargaining unit.
12. The IPSSA bargaining unit has an executive board, which includes a President, Vice President, Secretary, and Treasurer. Historically the executive board has included at least one dispatch employee, but generally there have been two Corrections Officers and two dispatchers. At times records employees have held positions on the board. The bargaining unit also has a negotiation team, which has consistently included employees from corrections, dispatch, and records. The IPSSA has negotiated collective bargaining agreements, filed grievances, and filed unfair labor practices on behalf of the bargaining unit employees, including the dispatch employees.
13. The IPSSA has had some difficult negotiations, but all collective bargaining agreements have been ratified. The 2017-2020 collective bargaining agreement took three years to

negotiate. During the negotiations there was disagreement among the IPSSA bargaining team. The agreement was ultimately ratified after three years. After the agreement was reached there was dissatisfaction amongst the dispatchers regarding the wages and other employer offerings. The dispatchers did not feel their needs were being met at the bargaining table.

14. There have been challenges within the group since the collective bargaining agreement was ratified. There has been a history of the classifications having fundamental differences over wage increases, overtime, and two-tiered pay systems. There has also been a pattern of poor working relations between the three classifications including some of the corrections employees making statements to the dispatchers that the dispatchers should not make as much money as the corrections employees.
15. IPSSA entered negotiations with the employer for a one-year 2021 extension, an extension of the 2017-2020 CBA. During negotiations the corrections and records employees agreed with the employer's offer of a one percent wage increase. The dispatchers were not in agreement with the one percent wage increase. The corrections employees were above market, and the dispatchers were below market. The dispatchers met separately with the IPSSA's attorney and requested a larger wage increase and the removal of the two-tiered pay system (anyone hired after 2017 would never make the same amount as the employees who existed prior to 2017). IPSSA proposed the larger wage increase for the dispatcher. The dispatchers received a three percent wage increase and the two-tiered system was ended.
16. In March 2020, during the COVID-19 pandemic, the employer paused on executing the agreement for the retention incentive. As a result, IPSSA filed an unfair labor practice (ULP) against the employer on behalf of the dispatchers in the bargaining unit. The parties' settlement of the ULP was included in the contract extension negotiations and resulted in the parties entering into a retention incentive agreement to retain dispatchers in addition to the three percent pay increase.

17. In the fall of 2021, staffing shortages among dispatchers caused the dispatchers to work a lot of overtime. August 5, 2021, the employer notified the dispatchers that due to the staffing shortages it intended to move the dispatchers from Issaquah to Redmond under a mutual aid agreement. September 1, 2021, the employer moved the dispatchers from the employer's call center at the police department to the City of Redmond. The IPSSA filed an unfair labor practice on behalf of the dispatchers. The employer moved the dispatchers back to the employer's call center gradually, but the official return was around February 1, 2022.
18. In June 2021, the employer notified IPSSA of pending COVID mandates. The dispatch employees requested IPSSA President demand to bargain the impacts of the mandates. The president did not present the request to the bargaining unit and did not file a demand to bargain with the employer.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under chapter 41.56 RCW and chapter 391-25 WAC.
2. Based upon findings of fact 4 through 18, the petitioned-for employees continue to share a community of interest with the existing bargaining unit, have been adequately represented by the incumbent union described in finding of fact 2, and a resulting dispatch bargaining unit would be inappropriate because it could not stand on its own.

ORDER

The representation petition filed by the Issaquah Police Communications Association in the above-captioned matter is DISMISSED.

ISSUED at Olympia, Washington, this 14th day of November, 2022.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MICHAEL P. SELLARS, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-25-660.



RECORD OF SERVICE

ISSUED ON 11/14/2022

DECISION 13594 - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: DEBBIE BATES

CASE 134564-E-21

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