STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

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| IN THE MATTER OF:<br>WOODBURY COUNTY,<br>Public Employer,<br><br>and<br><br>COMMUNICATIONS WORKERS OF AMERICA, LOCAL 7177,<br>Certified Employee Organization/<br>Petitioner. | ) | CASE NO. 8792 |
| WOODBURY COUNTY,<br>Public Employer,<br><br>and<br><br>AFSCME IOWA COUNCIL 61,<br>Certified Employee Organization/<br>Petitioner. | ) | CASE NOS. 8794 & 8795 |

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DECISION AND ORDER

On September 14, 2014, Communications Workers of America, Local 7177 (CWA) filed an amendment of bargaining unit petition with the Public Employment Relations Board (PERB or Board) pursuant to Iowa Code section 20.13 and PERB rule 621-4.6(20) (Case No. 8792). The petition seeks to amend an existing CWA-represented bargaining unit of Woodbury County civilian process servers and detention officers (jailers) to include "courthouse safety and security officers" (CH safety/security officers).

On October 1, 2014, the American Federation of State, County and Municipal Employees/Iowa Council 61 (AFSCME) concurrently filed two petitions with PERB pursuant to Iowa Code section 20.13 and PERB rules

621-4.6(20) and 4.7(20) (Case Nos. 8794 & 8795). The first petition seeks clarification of whether the "courthouse safety and security officers" are included in an existing AFSCME-represented bargaining unit of Woodbury County employees, including, but not limited to secretarial, clerical, technical, and custodial employees. Should it be determined that the position is not within the existing unit, the second petition alternatively seeks an amendment of that AFSCME-represented unit to specifically include "courthouse safety and security officers." The County supports the inclusion of the CH safety/security officers in the AFSCME unit.

By order, dated October 7, 2014, PERB consolidated the three petitions for hearing, which was held on November 19, 2014 before the Board. Douglas L. Phillips appeared for the County, Stanley M. Gosch for CWA, and Preston DeBoer for AFSCME. All three parties filed post-hearing briefs, the last of which was received on December 19, 2014.

Pursuant to Iowa Code section 17A.14(4), official notice was taken of the original PERB certification and bargaining unit description and all subsequent amendments for the CWA-represented unit in PERB Case Nos. 46/118/470, 470, 1955, 3586, 8018, 8034, 8050, and 8260; and for the AFSCME-represented unit in PERB Case Nos. 3337 and 3661.

## FINDINGS OF FACT

Woodbury County is a public employer within the meaning of Iowa Code section 20.3(10). The two petitioners, CWA and AFSCME, are certified employee organizations within the meaning of Iowa Code section 20.3(4) and

represent their respective units of County employees for the purposes of collective bargaining.

The County is managed by a board of supervisors. A sheriff's department is responsible for the County's law enforcement and security of County buildings, including the courthouse. The sheriff is also responsible for the security of the County's district court, which has its courtrooms on the courthouse's second floor. The board of supervisors manages the operations of the courthouse.

In August of 2014, the County changed the security for its courthouse by closing all public access entries except for a main entry on the first floor and requiring public entrance through a metal detector and item screening by way of an x-ray machine. In conjunction with the change, the County hired seven part-time employees as CH safety/security officers to man the metal detector and x-ray machine at the courthouse entrance. These employees are the subject of the respective petitions filed by CWA and AFSCME.

**CWA**

CWA currently represents a bargaining unit of County employees who are employed with the sheriff's department and is comprised of non-sworn civilian officers. CWA seeks to amend this unit of non-sworn civilian officers to include the newly hired CH safety/security officers. Originally, in 1976, this bargaining unit consisted only of the sheriff's deputies, but no civilian employees. In 1982, PERB amended the unit to include civilian officers in the job classifications of "civilian process servers" and "detention officers (jailers)"

(Case No. 1955). The unit's certified representative changed to CWA in 2008 (Case No. 8018). Later that year, the sheriff's deputies were amended out of the unit and into their own unit (Case Nos. 8034 & 8050). CWA has since been the certified representative of the unit of sworn deputies and the unit of non-sworn civilian officers. The civilian officer bargaining unit is described as follows:

> INCLUDED: All civilian process servers and detention officers (jailers).
>
> EXCLUDED: Sheriff; supervisory sheriff's deputies; jail commander; jail supervisors; first, second, third and fourth class deputy sheriffs, including the deputy clerk matron and those excluded by section 4 of the Act.

The parties' current collective bargaining agreement (CBA), Article I, Definitions, describes the civilian officers who comprise this unit as follows:

> *Section 10*–The words "Civilian Officers" as used throughout this contract shall refer to court security staff, transport officers, corrections staff, electronic monitoring and civilian process servers. (The purpose of this section is to recognize the fact that certified peace officers employed by the County are no longer governed by this contract . . . )

There are two divisions of civilian officers in the sheriff's department: corrections (jail) and court security/transport. The civilian officers wear a uniform, carry a weapon while on duty, are subject to both the County and sheriff's policies and procedures, are supervised by ranking officers and have promotional opportunities within the sheriff's department. The wages, benefits and similar matters for the civilian officers are covered by the CBA negotiated between the County and CWA.

CWA alleges that the newly hired CH safety/security officers have duties and responsibilities similar to the CWA-represented court security staff known as "court security officers." Court security officers were first referenced in the 1989-1992 CBA in hours of work and wage rates sections. All subsequent CBAs have continued to reference "court security officers" as part of the CWA civilian officer unit.

Currently, there are eight full-time court security officers who work in the court security/transport division. Court security officers are not required to have law enforcement certification, but are required to have knowledge of court procedures and law enforcement. They must be able to communicate with others, write routine reports, and handle unusual situations of stress or pressure. While some civilian officers, such as those in corrections, presumably work nights, the court security officers work Monday through Friday from 8:00 a.m. to 4:30 p.m.

The court security officers' job description dates back to 1984 and in the most recent description, the duties include, in part: carry out District Court orders; escort and maintain control of prisoners for court proceedings; assist with court activities; assist with court security and inspection of courtrooms; assist judges; serve papers and arrest warrants; and transport individuals who are in the sheriff's care and custody.

The court security officers perform these duties during regular business hours in three County buildings where court proceedings take place. These buildings are located on the same city block. The Trosper-Hoyt building is

located on the north end of the block and has two courtrooms on its second floor for family law matters. The primary building, the courthouse, is on the south end of the block. The sheriff is responsible for the security of the County's district court, which is on the courthouse's second floor with five courtrooms for its civil and criminal proceedings. The courthouse's remaining floors house other County offices: building maintenance, the auditor's office, treasurer's office, recorder and registrar's offices are in the basement; the clerk of court is on the first floor; the county attorney's offices are on the third, fourth, and six floors; the city assessor's office is on the fifth floor; and human resources (HR) and the county assessor's office are on the seventh floor. The law enforcement Center (LEC) is located across the street from the courthouse and presumably houses the sheriff's office. The LEC has four courtrooms on its first floor where, typically, arrests from the prior evening are processed.

Since at least 1994, the sheriff had recommended that the County change its security at the courthouse by closing all, but the main entrance and hiring additional civilian officers to maintain a presence and security at the courthouse on a full-time basis. However, budget constraints prevented the hiring of additional security personnel. In January 2006, the sheriff dedicated a full-time court security officer to rove and patrol all three County buildings and provide security at the courthouse courtrooms as requested by judges or court administrators. Prior to this permanent assignment, the CWA-represented civilian officers took turns patrolling the three County buildings to show a security presence and assist when needed. Also, until 2014, the court

security officers performed security screening on the courthouse's second floor when requested by judges or court administration for high-profile court proceedings. As part of this screening, they set up and operated the County's mobile walk-through metal detector and x-ray machine for item screening to check for weapons or dangerous contraband. As part of the courthouse security changes made in August 2014, the metal detector and x-ray machine were moved to the first floor main entrance and are now manned by the newly hired CH safety/security officers. The civilian court security officers also respond to disturbance or assistance calls originating from any County office in the courthouse during business hours. At the request of the board of supervisors, the court security officers provide security at after-hour events such as election activities.

Kevin Horsley has been the court security officer assigned by the sheriff to provide security for the three County buildings on a full-time basis. Horsley roves and patrols the buildings, as well as all the courthouse floors to show a presence. He responds to calls for assistance from any of the courthouse offices or judges or court administrators. Since 2010, he has provided security for the board of supervisors' weekly meetings. Horsley is not certified by the Iowa Law Enforcement Academy (ILEA) and does not have arrest powers.

**AFSCME**

In its petition, AFSCME seeks clarification whether the newly hired CH safety/security officers are a part of an existing unit of secretarial, clerical, technical, custodial, and other administrative-type County employees who

AFSCME has represented since 1987. Alternatively, AFSCME seeks to amend the unit to include the CH safety/security officers. The mixed unit was originally determined in PERB Case No. 3337 and was amended in 1988, PERB Case No. 3661, to include additional positions. The AFSCME-represented unit is described as:

> INCLUDED: Secretarial, clerical, technical, and custodial employees; Safety Officer, Administrative Assistant to Zoning Administrator, Mail Room Clerk, Clerk/Typist-General Relief, Bookkeeper-Sheriff's Department, Secretary-Sheriff's Department, and Clerical/Dictaphone Operator-Sheriff's Department.
>
> EXCLUDED: Board Secretary, Secretary-Veterans Affairs, Secretary-Engineering Department, Bookkeeper Systems Analyst, Deputy Commissioner of Elections, Data Systems Analyst, First Deputy Treasurer-Motor Vehicle, First Deputy Recorder, Social Worker, Day Foreman, Night Foreman, First Deputy Auditor, all employees included in the Fraternal Order of Police bargaining unit, all employees included in the Communication Workers of America bargaining unit, supervisors, elected officials, and all others excluded by th Act.

AFSCME contends that employees in this unit have provided courthouse security since 1987 when the first CBA was negotiated between AFSCME and the County. Specifically, AFSCME alleges that the safety officer, night security guard and custodian have all provided courthouse security. However, the County's HR director testified that none of the AFSCME positions listed in the parties' CBA perform security. Additional evidence consists of position descriptions that show the essential duties and responsibilities of the night security guard and the custodian. The record is absent of evidence reflecting the duties of the safety officer.

Although the night security guard is not listed in the unit description, the parties do not dispute its inclusion in the AFSCME unit. The basic function of the night security guard is "[r]esponsib[ility] and accountab[ility] for the security inspection of the County Courthouse including electrical or plumbing emergencies as well as protection against break-ins and light janitorial duties." This position was initially under the supervision of the County auditor, but is now under the supervision of the building superintendent. The night security guard's specific security-related duty is to "[check] to see that all windows are closed and all doors are locked."

The custodian's primary duties are janitorial and maintenance. The custodian is supervised by the building superintendent and assistant superintendent. Since the position's creation in 1989, the custodian's duties parallel the County's "objectives for cleanliness, image and health." The custodian cleans the County's buildings, operates cleaning machinery, maintains adequate supply of paper and soap in the restrooms, and checks that all lights and electrical pots are turned off. The specific security-related duty of the custodian is "[responsibility] for leaving offices and buildings properly locked and secured." Since 2007, the custodian also has a duty to assure "windows are closed and locked and all areas are secure from outside intrusion." The minimum education and experience requirements for the custodian are tied to knowledge of janitorial procedures, the ability to operate various cleaning machines, and ability to read and understand labels on various cleaning chemicals. There are no obvious security-related educational

or experience requirements for this position. While presumably AFSCME's focus is on the custodian who works at the courthouse, it is logical to assume that there are other unit custodians who clean the other County buildings and work various shifts.

The AFSCME bargaining unit consists of classifications that report to several different departments or administrators, including the sheriff's department, building services superintendent, the zoning administrator and the board of supervisors. Some unit employees work a standard workweek, 8 a.m. to 4:30 p.m., in various offices in the courthouse. Yet other unit employees presumably work at other County buildings, such as the sheriff's office. They are all subject to the County's employee handbook and presumably supervised by managers and administrators at their respective offices. Their wages, benefits and other similar matters are covered under the County and AFSCME's CBA.

**New CH Safety/Security Officers**

When the County contemplated its change of security measures for the courthouse and hiring of CH safety/security officers, there was an internal disagreement as to whether the officers would report to the sheriff or to the board of supervisors. For reasons unknown and whether it was tied to unit placement, the latter option was $70,000 cheaper. Based primarily on cost consideration, the board of supervisors determined that the newly hired CH safety/security officers would report to them and be included in the AFSCME-represented bargaining unit. The board of supervisors did not notify or attempt

to bargain with CWA regarding the new employees. The County negotiated a letter of agreement (LOA) with AFSCME on behalf of the new CH safety/security officers. The LOA outlines the job classification, pay grade, wages, paydays, and seniority for the new officers until the parties negotiate a successive CBA and include the new officers in it.

The County hired a new courthouse safety/security supervisor in July of 2014 and hired the seven part-time CH safety/security officers on or about August 15, 2014. According to the job description, these officers are responsible for "the safekeeping and welfare of all citizens and employees within the Woodbury County Courthouse including safety and security of all those entering and assisting in other responsibilities as necessary." Essential duties include providing security for the entrance of the courthouse, working with scanners and other security related equipment and tools, and performing searches of employees or visitors to locate any contraband or unlawful items. They use the same x-ray machine and metal detector previously utilized by the court security officers. They respond to calls for assistance from any of the offices in the courthouse.

CH safety/security officers work only in the courthouse. They are managed by the courthouse safety/security supervisor, the HR director, and the board of supervisors. They are subject to the County's work policies and procedures. They work part-time, in five-hour shifts on Monday through Friday, from 7:00 a.m. to 5:00 p.m. In limited instances, they work an evening or weekend to cover special activities in the courthouse, such as Veteran's Day

celebration or planning and zoning functions. They wear a work uniform consisting of gray slacks, a white mock turtleneck and a blue blazer. The CH safety/security officers carry a gun while on duty and have hand-held wands to search people entering the courthouse. The new officers must be certified to carry a weapon, but they are not certified or sworn officers and do not have arrest powers. They do have knowledge of law enforcement procedures and applicable laws, and the ability to communicate with others, write routine reports, and handle unusual situations of stress or pressure.

## CONCLUSIONS OF LAW

AFSCME's petition in Case No. 8794 seeks clarification concerning whether the CH safety/security officers are presently included within the AFSCME-represented unit. Alternatively, in Case No. 8795, AFSCME seeks to amend the existing unit to add the CH safety/security officers if it is found that the position is not presently included in the unit. In Case No. 8792, CWA seeks to amend its civilian officer unit to include the CH safety/security officers.

The clarification and amendment proceedings have different functions. The amendment of unit proceeding facilitates prospective adjustments in the composition of the bargaining unit while the unit clarification proceeding discerns the inclusion or exclusion of job classifications or employees in the unit as presently constituted. *Hawkeye Cmty. Coll. & United Elec., Radio & Mach. Workers of Am.*, 02 PERB 6310, 6312, and 6321 at 9; *E. Iowa Cmty. Coll. Higher Educ. Ass'n & E. Iowa Cmty. Coll. Dist.*, 82 PERB 2110 at 3.

## I. Clarification of AFSCME Unit.

In a unit clarification proceeding, the first step is to determine whether the position at issue is "encompassed by the wording of the present bargaining unit description." *E. Iowa Cmty. Coll. Higher Educ. Ass'n*, 82 PERB 2110 at 3. If the description unambiguously includes or excludes a position at issue, the inquiry ends. *Id.* at 3-4. However, if the unit description is ambiguous with regard to the position's status then examination of other probative factors is required. *Id.* at 4. PERB has set forth the following guidance with respect to probative factors:

> . . . attention is turned to other factors which might be probative of whether the position falls within the determined unit, including such matters as whether it has traditionally been treated as such, whether similar positions or persons who perform similar duties are included in the unit, and like factors. But again, the focus is on those matters probative of whether the position is and has been in the bargaining unit, not whether it should be or should have been placed in the bargaining unit.

*Id.*

In the case at hand, the CH safety/security officer is not unambiguously included or excluded in the description of the AFSCME-represented unit. The text of the unit description does not include reference to "courthouse safety and security officer." Thus, the CH safety/security officer positon is not encompassed by the wording of the present bargaining unit description. Although the unit description references "Safety Officer," it is ambiguous whether that position includes the CH safety/security officer. On its face, "Safety Officer" can have multiple meanings – it can be interpreted to refer to duties related to health and safety or related to order and security. Without

further probative evidence, its ambiguous meaning precludes a determination that "safety officer" includes the CH safety/security officer. Therefore, the description of the AFSCME-represented unit does not unambiguously include or exclude CH safety/security officers and requires the examination of other probative factors.

Other probative factors indicate that the CH safety/security officers are not and have not been included in the AFSCME-represented unit. One such other factor considered is that the parties have not traditionally treated the CH safety/security officers as within the AFSCME unit. The parties have treated the CH safety/security officers as newly created positions. The position was given a new job title, different from other County positions, and the County hired new employees to fill the positions. The County and AFSCME negotiated a LOA for the new officers because they did not consider them included in their current CBA. Thus, the position of CH safety/security officer did not previously exist to have been traditionally treated as within the AFSCME unit.

Another factor considered is whether the CH safety/security officers share similarities with AFSCME-represented unit positions to such an extent that they were substantively in the unit due to the nature of their work although not specifically referenced by title or job classification in the unit description. On this basis, AFSCME alleges that its unit includes employees who perform security and as a result, would include the new officers. The CH safety/security officers' inclusion based on this theory is not persuasive. The AFSCME unit employees, specifically "custodians," "security guard" and "safety

officer," share few, if any, similar security duties as the CH safety/security officers.

With respect to the "safety officer" position, the record is absent of evidence to make any determinations. As to the other AFSCME positions alleged to be similar, the custodian and security guard do not have substantive security duties similar to the CH safety/security officers' duties. While the custodians and security guards have a specific duty to ensure the courthouse doors and windows are locked after courthouse hours, their primary functions are related to janitorial or maintenance duties, not security. Based on their position descriptions, if all their non-security duties were eliminated, the positions of the custodian and night guard would likely not exist. As the HR director indicated, AFSCME unit employees do not perform security. For these reasons, the CH safety/security officers are not so similar to AFSCME-represented employees to conclude that the officers are presumably a part of the unit. If anything, the CH safety/security officers are very similar to employees belonging to another unit represented by CWA, the court security officers. This last factor indicates that the CH safety/security officers are not a part of the AFSCME-represented unit.

The evidence does not support a finding that the CH safety/security officers have traditionally been treated by the parties as within the present AFSCME-represented bargaining unit or the existence of any other factor indicative of their inclusion in that unit. Based on the record, the CH

safety/security officers are not and have not been in the presently constituted AFSCME bargaining unit.

## II. Amendment of AFSCME Unit or CWA Unit.

Having concluded that the CH safety/security officers are not presently in the AFSCME unit, the Board must determine the appropriate unit placement for the officers. Each of the unions requests the Board to amend its respective unit to include the CH safety/security officers. In determining the appropriate unit, Iowa Code section 20.13(2) provides, in relevant part:

> . . . the board shall take into consideration, along with other relevant factors, the principles of efficient administration of government, the existence of a community of interest among public employees, the history and extent of public employee organization, geographical location, and the recommendation of the parties involved.

The analysis of section 20.13(2) is done on a case-by-case basis with consistency in reasoning and weighing of factors leading to a unit determination tailored to fit the particular facts of each case. *Anthon-Oto Cmty. Sch. Dist. v. PERB*, 404 N.W.2d 140, 144 (Iowa 1987). Although all factors must be considered, weight is given to those factors deemed most relevant under the circumstances. In this case, the analysis of the section 20.13(2) factors weigh in support of the Board's amendment of the CWA-represented unit to include the CH safety/security officers.

### A. Principles of Efficient Administration of Government.

The section 20.13(2) "efficient administration of government" factor is of no import in either of the proposed amendments. This factor requires the designation of fewest units as possible consistent with the employees' rights to

form organizations of their own choosing to represent them in a meaningful and effective manner. *Anthon-Oto Cmty. Sch. Dist.*, 404 N.W.2d at 143; *City of West Des Moines & West Des Moines Ass'n of Prof. Firefighters, Local 3586 & Devon Sadler, et al.*, 10 PERB 8043 at 12; *City of Lake Mills & Int'l Bbd. of Elec. Workers, Local 204*, 96 PERB 5499 at 6-7. In the present case, this factor is of no significance because it involves the amendment of an existing unit, whether it is the AFSCME or CWA unit, and does not result in the creation of additional units. The County and AFSCME's assertion that the placement of the officers in the CWA unit will cost additional money is irrelevant to this factor. Also irrelevant to this factor is the board of supervisors' authority over the officers. For the "efficient administration of government" factor, consideration is given to the efficiencies offered by *fewer units*. *Anthon-Oto-Cmty. Sch. Dist.*, 404 N.W.2d at 143. This is not an issue in this case. Thus, "efficient administration of government" weighs equally for both of the proposed unit amendments.

**B. Community of Interest.**

The "community of interest" factor supports the amendment of the CWA unit. The analysis of community of interest requires the determination of the existence of similarities of the relevant positions for appropriate unit placement. *See, e.g., Anthon-Oto Cmty. Sch. Dist.*, 404 N.W.2d at 143. The Board has held that this requires the examination of such matters as duties, skills, training and qualifications, methods of compensation, benefits, hours of work, common supervision, employee contact with other employees, and transfers among the classifications or positions to be included in the

bargaining unit, and existence or absence of common personnel policies. *See, e.g., Dubuque Cmty. Sch. Dist. v. PERB*, 424 N.W.2d 427, 431 (Iowa 1988); *City of West Des Moines*, 10 PERB 8043 at 14; *State of Iowa (Regents) & Serv. Employees Int'l Union, Local 150*, 98 PERB 5834 at 14; *Des Moines Indep. Cmty. Sch. Dist. & Des Moines Educ. Ass'n*, 84 PERB 2498 at 8-9.

**(1) Community of Interest with AFSCME-Represented Unit**

AFSCME's assertion that a community of interest exists between the courthouse security officers and the AFSCME-represented employees is not persuasive. The AFSCME bargaining unit consists of classifications that report to several different departments or administrators, including the sheriff's department, building services superintendent, the zoning administrator and the board of supervisors. The AFSCME unit employees, including the positions asserted relevant by AFSCME (safety officers, night security guards, and custodians) do not share significant similarities with the CH safety/security officers to establish the existence of a community of interest.

First, with respect to duties, skills, training, and qualifications, there are few similarities between the CH safety/security officers and the AFSCME-represented safety officers, night security guards, and the custodians. There is no evidence regarding the safety officer position upon which to analyze its commonalities with the CH safety/security officers. The custodian position differs drastically from the new CH safety/security officer position in all material respects. The custodian's primary duties are janitorial and maintenance. Its responsibility for "*leaving* offices and buildings properly

locked and secured" (emphasis added) does not constitute a security-related responsibility similar to the level performed by the new CH safety/security officers who provide security at the courthouse entrance. The custodian's duties require the use of equipment, skills, training, and qualifications different from those required of the CH safety/security officers.

Regarding the night security guard's duties, this position's similarity to the new CH safety/security officers is negligible. The night security guard does not provide security while the courthouse is open to the public; its security duty is limited to ensuring doors and windows are locked at night. Additionally, the night security guard has light janitorial and maintenance duties. There is no evidence to indicate whether the skills, training and qualifications required of the night security guard are similar to those required of the CH safety/security officers. Both the custodian and the night security officer report to the building superintendent. These two AFSCME positions have greater differences than similarities with the new CH safety/security officers in the areas of duties, skills, training, qualifications, and supervision.

Second, in other matters, the number of similarities between the CH safety/security officers and the remaining AFSCME unit employees is limited. One commonality is that the CH safety/security officers are subject to the same County personnel policies as the AFSCME unit employees. The CH safety/security officers also have the same wage schedule and may be granted other benefits or rights that the AFSCME unit employees receive under their CBA. However, their common rights under the CBA are due to the County's

unilateral placement of the officers in the AFSCME unit. Accordingly, we give no weight to the similarities that exist as a result of their common coverage under the AFSCME and County CBA.

While the CH safety/security officers only work part-time, they work a standard workweek when the courthouse is open and during the same hours as AFSCME unit employees who work at the courthouse. Based on their hours and duties, presumably, the new officers interact with those AFSCME-represented employees. However, the CH safety/security officers do not interact with the AFSCME unit employees who work at other locations or those who work different hours. For instance, the new officers' hours are different than the night security guard who works nights and the custodians who work various shifts when the courthouse is both open and closed. In addition, the new officers' supervision differs from AFSCME unit employees.

In total, there are few similarities between the new CH safety/security officers and AFSCME unit employees. The similarities–common personnel policies, hours, work location and employee interaction–are insignificant. In the overall context, the new officers do not share common interests with the unit of secretarial, clerical, technical, custodial and administrative employees that establish the existence of a community of interest. Thus, the community of interest factor does not weigh in favor of the proposed AFSCME unit amendment.

### (2) Community of Interests with the CWA Unit

A community of interest exists between the CWA bargaining unit and the CH safety/security officers. The CWA unit currently consists of several civilian job classifications that report to the County sheriff, including court security officers. The new CH safety/security officers are significantly similar to the CWA-represented court security officers in many material respects that establish a community of interest.

The duties of the court security officers and the new CH safety/security officers are designed to accomplish a common goal – providing security and safety for employees and members of the public while they are in the courthouse. The new CH safety/security officers limit access to individuals at the front entrance based on the security risk they pose to those in the courthouse. They operate the metal detector and x-ray machine for the purpose of discovering and preventing contraband and weapons that may be used against individuals in the courthouse, regardless whether the potential safety risk is against an inmate, an employee, or a member of the public. Additionally, the new officers typically patrol and respond to calls for assistance from offices or departments located at the courthouse.

Once people pass through the security manned by the new CH safety/security officers, the CWA-represented court security officers are tasked with providing security and responding to disturbance calls. The court security officers monitor activities on the second floor of the courthouse where the courtrooms are located, rove the courthouse, respond to disturbance calls, and

provide courtroom security. Significant also is that, before the courthouse changed its security measures in August of 2014, these CWA-represented officers previously provided the security screening that is now provided by the new CH safety/security officers. The fact that the court security officers provided the screening on the second floor is insignificant because the location change was due to the change in the courthouse's security measures. Regardless of location, the court security officers performed the same duty and used the x-ray machine and metal detector that are now used by the new CH safety/security officers.

The County and AFSCME's allegation that the new CH safety/security officers are customer service and public relations oriented rather than law enforcement is not persuasive. The CH safety/security officers were added to provide a higher level of screening at the courthouse's only entrance as part and parcel of the courthouse's ramped up security measures. It is true that in the performance of their duties the new officers are interacting with the general public who enter the courthouse for a multitude of reasons. However, the new CH safety/security officers are not acting as greeters; they search for weapons and contraband and prevent access to the courthouse if individuals pose a risk. Additionally, the new CH safety/security officers carry a weapon like the court security officers. They also have hand-held wands to search people entering the courthouse. While they may not wear a uniform similar in appearance to those of the court security officers, their required dress

distinguishes them as security. The new officers' duties are substantially similar to those of the court security officers in all material respects.

Moreover, the skills, training and qualifications for new CH safety/security officers are similar to those required for the court security officers. Neither position is required to be certified by ILEA. The new officers and all of the CWA unit employees are not sworn officers, but are civilians. However, both the new CH safety/security officers and the court security officers must have knowledge of law enforcement procedures and applicable laws. Both must have the ability to communicate with others, write routine reports and correspondence, and the ability to handle unusual situations of stress or pressure.

Although the new CH safety/security officers work part-time, they work a standard work week while the courthouse is open and during the same hours as the court security officers. Based on their duties to ensure court security, the new officers work hand-in-hand with the court security officers. The new CH safety/security officers also interact with the CWA civilian officers who escort inmates to and from the courthouse. They are subject to the same County policies and procedures as are all the CWA civilian officers. The new CH safety/security officers are not subject to the sheriff's policies and procedures and do not share the same supervision as the court security officers or receive similar wages and benefits. Nonetheless, some of these few differences are a product of the board of supervisors' placement of the new CH safety/security officers in the AFSCME unit. Comparison of criteria in the

present case discloses that the new CH safety/security officers have greater similarities than differences with the CWA unit employees. Additionally, the similarities are ones of significance such that the community of interest is demonstrably strong. Thus, the community of interest factor weighs in favor of amending the CWA unit to include the CH safety/security officers

**C. Geographical Location.**

The geographical location factor is of little value and weighs equally for both of the proposed unit amendments. This factor is not controlling where the principal work locations are within the same city and relatively close to each other. *See, e.g., Des Moines Water Works Bd. Of Tr. & Over the Road and City Transfer Drivers, Dockman and Helpers, Local 147*, 77 PERB 810 at 7.

In the case at hand, the courthouse is the CH safety/security officers' work location and, based on the record it is the principal work location for many employees belonging to both the AFSCME-represented unit and the CWA-represented unit. Although AFSCME and the County correctly note that the CWA unit employees work at other County locations, it has little bearing in this case when these County buildings are all in close proximity to one another. Unit placement based on building assignment or courthouse floor assignment would result in an undue proliferation of units. Moreover, the AFSCME-represented unit includes employees working at other County locations as well. There is no evidence to show that all AFSCME unit employees work at the courthouse; as AFSCME aptly asserts in its brief, the "majority" of AFSCME-represented employees work at the courthouse. For

instance, presumably the AFSCME-represented sheriff department's secretary and bookkeeper also work at the sheriff's office and not the courthouse. Therefore, both unit amendments would result in the same geographical distribution of represented employees. Thus, the geographical location factor weighs equally for both of the proposed unit amendments.

**D. Recommendations of the Parties.**

The recommendations of the parties involved are of little significance because the parties disagree as to the appropriate unit. *See, e.g., English Valleys Cmty. Sch. Dist. & English Valleys Educ. Ass'n*, 98 PERB 5739 at 9. When the parties are in agreement as to the appropriate unit, the Board will generally give controlling weight to this factor and likely approve any such stipulated agreement as long as the composition of the agree-upon unit is not plainly repugnant or inimical to the statute. *City of West Des Moines*, 10 PERB 8043 at 11; *Iowa Nurses Ass'n & AFSCME Iowa Council 61 & Spencer Mun. Hosp.*, 94 PERB 4749 & 4799 at 12.

Although here, the County as the employer supports the AFSCME proposed unit amendment, CWA disagrees and asserts that its amendment of unit is appropriate. In the absence of an agreement, the recommendations of the parties factor weighs equally for both of the proposed unit amendments.

**E. History and Extent of Organization.**

The remaining factor, history and extent of organization, weighs in favor of the CWA proposed unit amendment. PERB has indicated that the "extent of organization" requires consideration of the employees on which the union has

focused its organizing efforts and the employee interest in organizing. *City of West Des Moines*, 10 PERB 8043 at 19; *City of Boone & Boone City Employees Bargaining Org.*, 02 PERB 6454 at 11; *Iowa Nurses' Ass'n*, 94 PERB 4749 & 4799 at 19. While this factor is not controlling, it is given weight in finding a unit appropriate if that unit is supported by other section 20.13(2) factors. *Iowa Nurses' Ass'n*, 94 PERB 4749 & 4799 at 19-20. In this case, albeit the new employees' interest is unknown, both unions seek the new employees' inclusion in their respective existing units.

With respect to the extent of organization, both AFSCME and CWA (and CWA's predecessors) have long histories of bargaining with the County. However, the focus of their organizing efforts has differed. CWA has been the employee organization representative for employees performing security-related duties. The unit is comprised of civilian officers providing security in the courthouse and surrounding County buildings. Relevant is the fact that the new courthouse security officers share similar duties, skills, qualifications, and training with the court security officer, a position in the CWA unit since at least 1989. *See, e.g., City of Boone*, 02 PERB 6454 at 10-11. On the other hand, AFSCME's organizing efforts have been limited to clerical, technical, secretarial and custodial County employees. As such, the history and extent of organization factor weighs in favor of the CWA-proposed unit amendment.

SUMMARY

Based on the record, the section 20.13(2) factors, "efficient administration of government," "geographical location," and "recommendations

of the parties," weigh equally for both of the proposed amendments. However, we give greatest weight to the "community of interest" factor, which, along with "history and extent of organization," weighs in favor of amending the CWA unit to include the courthouse safety and security officers. Having examined the section 20.13(2) factors in light of the particular facts of this case, we conclude that CWA's petition for unit amendment should be granted.

Accordingly, we hereby issue the following:

ORDER

**Case No. 8794:** The courthouse safety and security officers have not been and are not a part of the AFSCME-represented unit originally determined in PERB Case No. 3337 and amended in Case No. 3661.

**Case No. 8795:** AFSCME's petition for amendment of bargaining unit is DISMISSED.

**Case No. 8792:** CWA's petition for amendment of bargaining unit is GRANTED.

The CWA unit, originally determined in PERB Case No. 470 and amended in Case Nos. 1955 and 8034, and the amendment of certification in PERB Case Nos. 3586 and 8018 and PERB Case No. 8260 to Communications Workers of America Local 7177, is amended as follows:

> INCLUDED: All civilian process servers, detention officers (jailers) and courthouse safety and security officers.
>
> EXCLUDED: Sheriff; supervisory sheriff's deputies; jail commander; jail supervisors; first, second, third and fourth class deputy sheriffs, including the deputy clerk matron and those excluded by Iowa Code section 20.4.

Because the classification of courthouse safety and security officer did not exist when CWA, Local 7177 was certified to represent the unit, and because a separate and distinct bargaining unit composed solely of courthouse safety and security officers would not constitute an appropriate unit under the criteria specified in Iowa Code section 20.13, PERB rule 621-4.6(20) does not require that a representation election be conducted in connection with this amendment and no representation election will be held.

DATED at Des Moines, Iowa this 8th day of June, 2015.

PUBLIC EMPLOYMENT RELATIONS BOARD

By: Michael G. Cormack

Michael G. Cormack, Chair

Janelle L. Niebuhr

Janelle L. Niebuhr, Board Member

Jamie Van Fossen

Jamie Van Fossen,Board Member

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