

85-050 57

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Ohio Council 8, American Federation of State, County and
Municipal Employees, AFL/CIO,

Employee Organization,

and

Five County Joint Juvenile Detention Center,

Employer.

CASE NUMBER: 84-RE-04-0092

DIRECTION OF ELECTION
(Opinion Attached)

Before Chairman Day, Vice Chairman Sheehan, and Board Member Fix:
September 26, 1985.

Ohio Council 8, American Federation of State, County and Municipal
Employees (Employee Organization) filed a Petition For Representation Election
relating to a unit composed of all employees of the Five County Joint Juvenile
Detention Center (Employer). The Employer objected to the Petition, objecting
to the proposed unit and alleging that, pursuant to Ohio Revised Code Section
4117.01(C)(8), its employees are not "public employees" covered by the Act.
The matter was referred to hearing.

The Board has reviewed the record, the hearing officer's recommendation,
exceptions to the recommendation, responses and approves the hearing officer's
recommendations. An opinion relating to the Board's determination that the
employees in question are "public employees" under Ohio Revised Code Section
4117.01(C)(8) is attached and incorporated by reference.

The Board directs an election pursuant to Ohio Revised Code Section
4117.07 and Ohio Revised Code Section 4117.06(D)(1) to be conducted in the
units recommended by the hearing officer. The election will be conducted at
the date, times and places to be determined by the Administrator of
Representation in consultation with the parties. No later than October 3,
1985, the Employer shall file with the Board and serve upon the Employee
Organization an eligibility list setting forth the names and home addresses of
all employees eligible to vote as of September 26, 1985.

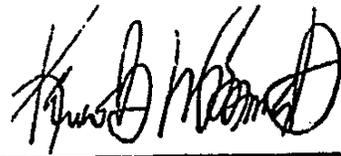
It is so directed.

DAY, Chairman, SHEEHAN, Vice Chairman and PIX, Board Member concur.



JACK G. DAY, CHAIRMAN

I certify that this document was filed and a copy served upon each party on this 27th day of September, 1985.



KENNETH W. BARRETT, EXECUTIVE DIRECTOR

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OPINION

Fix, Board Member:

In this case, the petitioner, American Federation of State, County & Municipal Employees (AFSCME), seeks a unit including all employees of the Five-County Joint Juvenile Detention Center (FCJJDC). In a letter filed with the State Employment Relations Board (SERB), the respondent, FCJJDC, contends that FCJJDC does not employ "public employees" pursuant to O.R.C. Section 4117.01(C)(8).

I

Although there are several issues in the instant case, this opinion will be confined to a single issue:

Are the employees sought for representation by AFSCME excluded from collective bargaining rights as employees or officers of the court pursuant to O.R.C. 4117(C)(8)?

The question is properly answered "no" for reasons set forth below.

II

Criteria for determining the public employer include: appointing authority, funding source, all encompassing administrative responsibility. In the instant case, the PCJJDC is a district detention center created and operated pursuant to O.R.C. Section 215.34.¹

The Board of Trustees of an Ohio joint juvenile detention center is appointed by a joint board of county commissioners upon the approval and recommendation of the juvenile court judges of the respective counties comprising the joint district.

The PCJJDC Board of Trustees is empowered under O.R.C. Chapter 2151 with the following authority:

1. Appointment of a superintendent
2. Administration of PCJJDC
3. Determination of site selection, physical facilities, method of financing of the joint detention center.
4. Sole right to vote at trustees quarterly meetings.²

The executive committee of the PCJJDC Board of Trustees including a president, vice president, and secretary is elected from within the ranks of the board and meets monthly.³

¹...Upon the joint advice and recommendation of the juvenile judges of two or more adjoining or neighboring counties, the boards of county commissioners of such counties shall form themselves into a joint board and proceed to organize a district for the establishment and support of a detention home for the use of the juvenile courts of such counties..."

²Findings of Fact 4, 5, 8, and 17.

³Finding of Fact 23.

The executive committee is required to approve the FCJJDC pay roll before it is submitted to the auditor's office.⁴

III

In determining that the employees in question are under the jurisdiction of the FCJJDC and not officers of the court, it is necessary to examine the relationship of the juvenile court judges to the FCJJDC in the instant case.

The juvenile court judges of the five counties, which jointly make up the FCJJDC, serve as advisors concerning the management, operations and administration of the FCJJDC. The juvenile courts are completely responsible for designating the children to be admitted for care in the detention center, the period of incarceration and the removal and transfer of the children from the center.⁵

The juvenile court judges from the member counties may attend quarterly board of trustees meetings and voice their opinions and concerns covering various issues. However, only members of the Board of Trustees have the right to vote at trustee meetings.⁶

The juvenile court judges periodically receive reports concerning the conduct of juveniles at the detention center. The juvenile court judges are not consulted concerning the day to day operations of the detention center. The juvenile court judges offer suggestions and recommendations concerning

⁴Finding of Fact 17.

⁵Finding of Fact 7.

⁶Finding of Fact 8.

the operation and management of the PCJJDC. However, the PCJJDC Board of Trustees makes all final decisions.⁷

The juvenile court judges do not attend the PCJJDC Board of Trustees executive committee meeting, nor has any judge from the member counties ever sat on the PCJJDC Board of Trustees.⁸

The PCJJDC employees are not listed on the member county appropriation resolutions as employees of the juvenile courts. In fact, monies with which to pay employees of the PCJJDC are not listed as expenses of the juvenile court as are the salaries of the employees who work directly with the court.⁹

In 1984, Union County (one of the member counties) had a separate departmental budget for the PCJJDC. The budget was not part of the juvenile court budget.¹⁰

Juvenile court judges do not appear in the PCJJDC grievance procedure because they are not legally in an administrative position in relation to the PCJJDC. Their role is advisory only. The juvenile court judges recommended approval of the proceeding provisions found in the PCJJDC procedures manual.¹¹

IV

The preceding findings of fact, supported by evidence, reveal that the role of the juvenile court in respect to the PCJJDC is advisory only.

⁷Findings of Fact 15, 16 and 20.

⁸Finding of Fact 24.

⁹Findings of Fact 26 and 27.

¹⁰Finding of Fact 28.

¹¹Finding of Fact 29.

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In applying the criteria for determining public employer status to the juvenile court judges, we find that the juvenile court judges:

1. Are not the appointing authority
2. Do not make final decisions for the FCJJDC
3. Do not have the monies to pay FCJJDC employees included in their budgets
4. Do not have administrative responsibility for FCJJDC.

These same questions, when applied to the FCJJDC, are answered in the affirmative.

Based upon the foregoing analysis, it is clear that employees of the FCJJDC are not "employees or officers of the courts" pursuant to O.R.C. 4117.01(C)(8).

The statutes indicate the Joint Board of Trustees rather than the juvenile judges are the appointing authority and have overall responsibility for the operation of the juvenile detention center.

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