

L.237, IBT, et. Al v. City, 4 OCB 60 (BOC 1969) [Decision No. 60-69 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF CERTIFICATION

- - - - - x

In the Matter of  
CITY EMPLOYEES UNION, LOCAL 237, I. B.T.

-and-

DECISION NO. 60-69

DETECTIVE INVESTIGATORS BENEVOLENT  
ASSOCIATION

-and-

DOCKET NOS. RU-80-68  
RU-82-68

THE CITY OF NEW YORK AND RELATED  
PUBLIC EMPLOYERS

- - - - - x

A P P E A R A N C E S

MARVIN PREMINGER, ESQ.  
For Detective Investigators  
Benevolent Association

MR. BERT ROSE

For City Employees Union,  
Local 237, I. B.T.

DECISION AND DIRECTION OF ELECTIONS

Detective Investigators Benevolent Association, herein called the Association, filed a petition requesting certification as the collective bargaining representative of Detective Investigators.

City Employees Union, Local 237, I.B.T., herein called Local 237, filed a petition requesting certification as the collective bargaining representative of Senior Detective Investigators.

All petitioned titles, and the other titles herein-after mentioned, are unique to the Offices of the District Attorneys of the City of New York and the petitions are, accordingly, deemed to be petitions for City-wide units.

By order dated July 9, 1969, the Board consolidated the proceedings and a hearing was held before Richard J. Horrigan, Esq., Trial Examiner, on July 22, 1969.

The City did not appear at the hearing, but submitted a written statement of position.

Both unions desire to appear on the ballot in any election or elections which may be directed.

Upon consideration of the entire record herein and upon due deliberation, the Board issues the following decision:

The Appropriate Unit

Detective Investigators are employed in the offices of the District Attorneys of Kings, Queens, and Bronx Counties. Senior Detective Investigators are employed in Kings and Queens Counties. An Assistant Chief Detective Investigator is employed in Queens County, and a Chief Detective Investigator in Bronx County,

The District Attorneys of New York, Kings and Queens Counties also employ various titles in the Rackets Investigator series. The District Attorney of Bronx County employs County Detectives.

Although there are differences in the qualifications for and duties of the basic titles in each series; namely, Detective Investigator, Rackets Investigator, and County Detective, there also is considerable overlapping. These similarities are emphasized by the fact that although the functions of the various District Attorneys are the same, no county has employees in all three titles. New York County employs Rackets Investigators only. Bronx County employs Detective Investigators and County Detectives, but no Rackets Investigators. Kings County employs Detective Investigators and Rackets Investigators, but not County Detectives. Queens County employs only Detective Investigators, except for a Chief Rackets Investigator.

Detective Investigators, Rackets Investigators, and County Detectives thus constitute a readily identifiable and homogeneous group of employees, all of whom perform related services connected with the District Attorneys' investigation and prosecution of criminal matters. We find and conclude, therefore, that all three titles properly belong in the same bargaining unit.

Combining the titles herein in a single unit on the basis of similar job duties, should not be understood as a conclusion that the jobs are interchangeable or that we have made a determination as to the appropriate job classification for the employees. Job classification is the responsibility of the Civil Service Commission. Our task is to establish appropriate bargaining units of similar or related titles in a manner that will enhance sound labor relations.

The same considerations are present for the supervisory titles in each of the three series. The nature of the work performed by such supervisory employees is related and similar, with increasing skills, experience, and responsibilities in each successively higher title. They, too, belong in the same bargaining unit.

Section 1173-3.0 1 of the New York City Collective Bargaining Law provides that supervisory employees shall not be placed in the same unit as non-supervisory employees without "the consent of a vote of a majority of the \* \* \* supervisory employees involved."

Our unit findings, therefore, will await the outcome of a self-determination election to be conducted among the supervisory titles. If a majority of the supervisory employees voting in the election vote in favor of a combined unit of supervisory and non-supervisory employees,

we shall find such unit appropriate. If a majority of the supervisory employees voting in the election do not vote in favor of a combined unit, we shall find separate supervisory and non-supervisory units appropriate.

DIRECTION OF ELECTIONS

Pursuant to the powers vested in the Board of Certification by the New York City Collective Bargaining Law, it is hereby

D I R E C T E D:

1. That separate elections by secret ballot shall be conducted under the supervision of the Board, or its agents, at a time, place, and during hours to be fixed by the Board, among:

A. Detective Investigators, Rackets Investigators and County Detectives (excluding supervisory and managerial-executive employees) employed by the City of New York and related public employers subject to the jurisdiction of the Board of Certification during the payroll period immediately preceding this Direction of Election, other than those employees who have voluntarily quit, retired, or who have been discharged for cause, before the date of the election;

B. Supervisory employees in the Detective Investigator, Rackets Investigator and County Detective series (excluding managerial-executives) employed during the payroll period immediately preceding this Direction of Election by the City of New York and related public employers subject to the jurisdiction of the Board of Certification, other than those who have voluntarily quit, retired, or who have been discharged for cause, before the date of the election,

2. The question to be voted on in the election directed in paragraph "1A," above, shall be:

"Do you desire to be represented for the purposes of collective bargaining by Detective Investigators Benevolent Association or by City Employees Union, Local 237, I.B.T., or by neither?"

3. The questions to be voted on in the election directed in paragraph "1B," above, shall be:

"(a) Do you desire to be represented for the purposes of collective bargaining (1) as a separate unit limited to the supervisory titles in the Detective Investigator, Rackets Investigator and County Detective series, or (2) as a combined unit of the supervisory and non-supervisory titles in the Detective Investigator, Rackets Investigator and County Detective series.

"(b) Do you desire to be represented for the purposes of collective bargaining by Detective Investigators Benevolent Association or by City Employees Union, Local 237, I.B.T., or by neither?"

4. If a majority of the employees casting valid ballots in the election directed in paragraph "1B," above:

(a) vote in favor of a combined unit, the votes cast by such employees on question 3(b), above, shall be counted and tabulated with the votes cast by the Detective Investigators, Rackets Investigators and County Detectives.

(b) do not vote in favor of a combined unit, the votes of such employees on question 3(b), above, shall be counted and tabulated separately.

DATED: New York, N.Y.

October 23 , 1969.

ARVID ANDERSON  
C h a i r m a n

ERIC J. SCHMERTZ  
M e m b e r

WALTER L. EISENBERG  
M e m b e r