

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UC-06-12

(UNIT CLARIFICATION PETITION)

GRESHAM POLICE)	
OFFICERS' ASSOCIATION,)	
)	
Petitioner,)	RULINGS,
v.)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
CITY OF GRESHAM,)	AND ORDER
)	
Employer,)	
)	
and)	
)	
TEAMSTERS LOCAL 223,)	
)	
Incumbent.)	
_____)	

None of the parties objected to a Recommended Order issued by Administrative Law Judge (ALJ) Wendy L. Greenwald, on October 24, 2012, after a hearing held June 26 and 27, 2012, in Salem, Oregon. The record closed with the receipt of the parties' post-hearing briefs on August 23, 2012.

Mark J. Makler, Attorney at Law, Makler, Lemoine & Goldberg PC, Portland, Oregon, represented the Petitioner.

Sarah K. Drescher, Attorney at Law, Tedesco Law Group, Portland, Oregon, represented the Incumbent.

The City of Gresham did not make an appearance.

On April 3, 2012, Gresham Police Officers' Association (GPOA) filed this petition seeking to transfer the positions of police administrative assistant II and III, police records specialist I and II, police management analyst, and crime analyst from the bargaining unit represented by Teamsters Local 223 (Teamsters) into the GPOA bargaining unit under OAR 115-025-0005(6). The City did

not file objections. The petition was supported by a sufficient showing of interest. Teamsters filed timely objections on April 20, 2012. The issues are:

1. Are the positions of police administrative assistant II and III, police records specialist I and II, police management analyst, and crime analyst in the Gresham Police Department, which are currently included in the bargaining unit represented by Teamsters, more appropriately included in the GPOA bargaining unit?
2. Should the police records specialist trainee be included in the petition?¹

RULINGS

The rulings of the ALJ have been reviewed and are correct.

FINDINGS OF FACT

1. GPOA and Teamsters are labor organizations and the exclusive representatives of separate bargaining units of employees at the City of Gresham (City), a public employer.
2. In addition to the GPOA and Teamsters' bargaining units, there is a third bargaining unit at the City consisting of certain employees in the Fire Department.
3. The City's offices are primary located in the City Hall. The Public Safety Building, which houses the City's police and fire departments and some school district offices, is located across the street from City Hall. The City's facilities also include an Operations Center, located approximately five miles from City Hall, that houses the public works department; five or six fire stations; and a satellite police office.
4. All City Hall employees wear City identification cards and employees in some offices, such as the City Manager's office, must carry a key card to obtain access to their department and offices. Visitors to City Hall must sign in with a receptionist and obtain a visitor's badge before they can visit offices or employees.
5. The Police Department's (Department) offices are located in a secured area of the Public Safety Building. Department employees all have key cards to allow them access to the Department's facilities. All Department employees possess a unique identification card or badge that identifies the division in which the employee works.

¹At the hearing, GPOA sought to add the police records specialist trainee classification to the petition. Because we dismiss this petition on the basis that the GPOA bargaining unit is not the most appropriate unit for the petitioned-for positions, we need not determine whether the police records specialist trainee should be added to the petition.

6. Police Chief Craig Junginger is in charge of the Department's operations. The Department operates under a command structure, which includes captains, lieutenants, and sergeants.

7. The City's administrative rules apply to all City employees to the extent the rules do not conflict with any collective bargaining agreements to which the City is a party. The Department operates under policies and procedures, referred to as general orders. The general orders apply to GPOA-represented employees. Although the general orders state that they apply to all members of the Department, Teamsters does not currently believe that the general orders apply to Teamsters-represented employees.

8. The City prefers that the petitioned-for employees do not move into the GPOA bargaining unit.²

GPOA Bargaining Unit

9. The GPOA bargaining unit consists of approximately 102 strike-prohibited Department employees in the classifications of police officer and police sergeant, and 4 strike-permitted employees in the classifications of police technician (2), senior police technician (1), and criminalist (1). All GPOA bargaining unit members work in or are based out of the Department's offices. GPOA has represented this bargaining unit since 1991.

10. The City and GPOA are parties to a collective bargaining agreement (GPOA Agreement) effective through June 30, 2013. Under that agreement, all bargaining unit employees generally receive the same wage increases and benefits. The agreement establishes a salary schedule, which includes seven steps for police officers and six steps for other bargaining unit positions. The agreement specifies the following current minimum and maximum monthly salaries: police technician—\$3,573 to \$4,531; senior police technician—\$4,120 to \$5,254; police officer—\$4,353 to \$5,826; criminalist—\$4,564 to \$5,826; and police sergeant—\$5,610 to \$7,166. Under the GPOA Agreement, seniority is based on an employee's time in the bargaining unit and the Department.

11. Police Officers. A police officer's primary responsibility is to protect citizens and property by performing the following tasks: patrolling the City's streets, responding to information requests, investigating criminal activity, issuing citations, arresting criminal suspects, testifying in court, working with citizens to address crime and neighborhood problems, and enforcing laws and regulations. Police officers are assigned either to the patrol or detectives unit, and may be assigned to, and receive training for, specialty assignments, such as motorcycle officer, dog handler, special

²Since the City did not file objections, we would not normally include such a finding. However, GPOA cited the testimony of Captain Dale Cummins to support its argument that it would be better for the Department if the petitioned-for employees were transferred into the GPOA bargaining unit. Cummins testified he had been informed by his chain of command that the City preferred the employees not transfer into the GPOA bargaining unit. Cummins, however, testified that he had no personal preference regarding which union represented the employees at issue, and that from an organizational standpoint, he could perform his job regardless of which union represented the employees.

weapons and tactics (SWAT), and field training officer. Patrol officers work in the field out of a patrol car in a designated geographic area, wear uniforms, and are trained to use and carry a firearm. Detectives work out of unmarked cars, do not wear a uniform, carry a gun and a badge, and split their time between the office and the field, during which time they are generally interviewing witnesses or working with the District Attorney's office. While responding to emergencies in the field, police officers are exposed to a number of physical hazards and a risk of potential physical injury.

12. Police officers and sergeants work shifts covering a 24-hour per day, seven-day per week schedule (24/7 schedule), are on-call, and may be required to attend training and meetings outside of their regular work hours. Police officers report directly to their shift sergeant, who reports to a lieutenant. Applicants for the position of police officer are required to take a written and physical test, must be interviewed by a panel of police officers, and are subject to a background investigation and medical and psychological evaluations. Minimum requirements for the position include a high school diploma or its equivalent and two years' police-related college course work, or an equivalent combination of education and experience.

Police officers are required to hold a basic Department of Public Safety Standards and Training (DPSST) certification. To obtain this certification, recruits attend a four-month training at the DPSST academy and receive 18 months of field training in the Department. Police officers also receive annual firearm and work-related refresher training. A police officer may advance to a position as a sergeant, lieutenant or other higher ranking position.

13. Police Sergeant. In addition to performing the duties of a police officer, police sergeants are responsible for assigning and supervising the activities of police officers and support personnel on an assigned shift in field operations, investigations, or administration. Police sergeants work the same schedule under the same conditions as police officers. The minimum requirements for this position include an associates' degree in a law enforcement related field and three years' law enforcement experience, or an equivalent combination of education and experience.

14. Police Technician and Senior Police Technician. The police technician and senior police technician classifications are a series. The natural promotion for a police technician is to a senior position. The primary responsibility of the Department's two police technicians and one senior police technician is processing and storing property and evidence. The technicians receive, process, log, and store the evidence and property; develop and maintain related records; prepare evidence for use in court; collect fingerprints; and perform appropriate disposal procedures. They may also process property at crime scenes and could be required to testify in court regarding the chain of custody.

15. The Department's two police technicians and senior police technician work out of the property room in the Department offices in the Public Safety Building and at a property room in a building in an outside location. Entry into the property room is restricted to the technicians, the criminalist, and the supervising sergeant. They work regular day shift schedules, Monday through

Friday.³ The senior technician is on call and may be required to come in at night to process evidence. These employees are supervised by the investigations division sergeant. Police technicians are required to have knowledge of law enforcement practices, methods, techniques, laws, and procedures for the storage, tracking, record keeping, and disposition of evidence and property; be able to operate a variety of office equipment; and have the ability to learn criminal investigation and evidence identification techniques, court procedures, and rules of evidence. The minimum requirements for these positions include a high school diploma or equivalency and three years' experience in inventory control and photography, or an equivalent combination of education and experience.

16. Criminalist. The criminalist performs complex tasks and laboratory tests related to processing evidence collected from crime scenes; collecting and processing fingerprints; supporting officers in the search for and collection of evidence or stolen property at a crime scene; taking crime scene photographs; providing information on processed evidence and property to Department personnel; and testifying in court regarding evidence collected and prepared. The criminalist has an office and laboratory located on the first floor of the Department's offices across from the property room. The current employee in this position is strike-permitted. The employee who previously held this position was a police officer.

17. The criminalist is supervised by the investigations division sergeant. The criminalist must be able to use a microscope and other scientific analytical instruments; have knowledge of crime scene investigation and evidence collection practices; and have knowledge of techniques, practices, methods, laws, and procedures for the storage, tracking, record keeping, and disposition of evidence and property. Minimum qualifications for the position include two years' college course work in chemistry or laboratory science and two years' experience, or an equivalent combination of education and experience. The employee in this position receives training in fingerprint collection and evidence processing. There is no promotional ladder for this position unless the employee is also a police officer. The criminalist generally works a regular day shift schedule, Monday through Friday, and is subject to call-back for emergency situations.

18. The Department holds a roll call for police officers at the beginning of every shift, during which the police sergeant conducts daily activity briefings. Police Records Manager Michelle Perman sometimes attends these briefings. Police administrative assistants and the management analyst do not attend roll call. The crime analyst occasionally attended roll calls to present information about criminal activity patterns in the past, but currently does not attend. On a few occasions in the past, police records specialist II employees attended roll calls.

³While GPOA stated in its post-hearing brief that all GPOA-represented positions were assigned to rotating shifts, covering a 24/7 schedule, we credit the testimony of Captain Cummins that the technicians and criminalist work regular day shifts, since Cummins is in charge of the investigations division where these positions work.

Teamsters' Bargaining Unit

19. Teamsters represents a general bargaining unit of approximately 237 strike-permitted employees in over 75 strike-permitted job classifications in most City departments, including Environmental Services, Information Technology, Office of Governance and Management, Finance and Management Services, Urban Design and Planning, Economic Development, and Community Development. Most employees in the Teamsters' bargaining unit work out of City Hall. Other bargaining unit employees work in the Fire Department, the Operations Center, and the Department. Teamsters has represented this general unit since 1981. During this time, the City and Teamsters have generally maintained a good relationship. There has never been a strike or an employer unilateral implementation. No bargaining unit member has ever filed a duty of fair representation claim against Teamsters.

20. Teamsters currently represents Department employees in the petitioned-for classifications of administrative assistant II (6), administrative assistant III (1), police records specialist trainee (1), police records specialist I (12), police records specialist II (4), management analyst (1), and crime analyst (1).

21. Teamsters-represented employees in the following positions perform a wide variety of duties:

- Permit technicians process and issue commercial and residential building permits. Extensive training is required to work with complex database and record keeping systems.
- GIS analysts are responsible for creating, collecting, compiling, manipulating, and maintaining data for various GIS applications as well as maintaining the accuracy of the GIS database(s), technical files, and documentation.⁴
- Internet technology employees handle, track, and investigate sensitive information when working with the City's computers. If these employees discover potential criminal information, such as pornography, they turn the investigation over to the police.
- Building inspectors I and II, plans examiners I and II, and chief inspectors are required to test for and hold various State certifications to carry out their duties and receive certification pay based on the number and types of certifications they hold.
- Building license specialists perform a variety of moderate to complex technical activities requiring a specialized knowledge of the business licensing program, such as reviewing and approving business license renewal applications and interpreting City codes and state and federal laws and regulations to determine license requirements.

⁴GIS is the acronym for Geographic Information Systems.

22. There are a number of classification specifications for positions in the Teamsters' bargaining unit that are included in the specifications for the petitioned-for positions. The administrative analyst is responsible for coordination of a program, including development, designing program elements to meet objectives, promotion, and measurement of program activities. This classification's duties and responsibilities include participating in the development, implementation, and enforcement of department/division policies, procedures, rules, regulations, work plans, and measurement goals; providing technical support to a department by researching, developing, and analyzing technical and management reports and collecting, analyzing, and reporting on data related to the operation of the program; and making recommendations based on findings. The administrative analyst classification is four salary ranges lower than the management analyst. The administrative analyst performs work that is less complex than that performed by the management analyst.

23. The program technicians perform technical, administrative, and research functions or projects requiring specialized training and program knowledge. This classification is two salary ranges lower than the administrative analyst because the position has a lower level of responsibility in supporting a technical program and ensuring that established procedures, rules, and regulations are met. Program technician employees may be required to perform the same clerical work as administrative assistants, but are assigned more complex work that requires more technical knowledge than the work performed by administrative assistants. The program technician is a "bridge class between the administrative support/clerical job family and the Administrative Analyst and/or professional job family within the program."

24. The City and Teamsters are parties to a collective bargaining agreement (Teamsters' Agreement) effective July 1, 2012 through June 30, 2015. Under that agreement, the salary schedule establishes a minimum, mid-range, and maximum salary for each salary range. Bargaining unit employees receive a four percent annual increase as they progress through the salary range. Teamsters' bargaining unit employees generally receive the same benefits and leaves. Effective July 1, 2012, the minimum and maximum monthly salaries provided for the positions at issue are: police records specialist trainee—\$2,948 to \$3,761; administrative assistant II and police records specialist I—\$3,263 to \$4,166; administrative assistant III and police records specialist II—\$3,616 to \$4,613; crime analyst—\$4,673 to \$5,967; and management analyst—\$4,919 to \$6,278. Other Teamsters-represented employees are at the same salary ranges as these positions.

25. Under the Teamsters' Agreement, a bargaining unit employee who promotes into another represented classification and fails to successfully complete the probationary period may return to the position held before the promotion. The agreement also provides for classification seniority based on continuous service in a classification. During a layoff, bargaining unit employees who have promoted or been hired into a higher bargaining unit classification may be able to bump back into their prior classification based on their total seniority in those classifications. An employee who is promoted or hired into a position that is not in the bargaining unit loses their bargaining unit seniority after six months.

26. The Teamsters' Agreement includes specific provisions addressing police records specialist employees' working conditions, including a shift differential, seven-days' notice of a change in days off, shift selection based on classification seniority, and a 12-month probationary period.

27. Except for the Department's police records specialist employees, the Teamsters' bargaining unit employees work during regular day shift hours, Monday through Friday. Some employees may work nine or ten-hour shifts. Other employees, such as those in public works, may occasionally be required to work an evening shift. The police records specialists work rotating shifts covering a 24/7 schedule. Some Teamsters' bargaining unit employees, such as public works employees, are subject to call-back during emergencies. The Department's administrative assistant III has been called back to work on an on-going investigation a few times during the past couple of years.

28. Except for the some administrative assistants, who wear polo shirts with their department's logo, and police records specialists, who may wear polo shirts or sweatshirts with an emblem identifying them as records employees, Teamsters' bargaining unit employees are not required to wear a uniform.

29. Administrative Assistant I, II, and III. The City has an administrative assistant classification series, which includes administrative assistant I, II, and III. Employees in the classifications of administrative assistant I (1), administrative assistant II (24), and administrative assistant III (4) work in most City departments. The positions of police administrative assistant II and III are included in this series and have been part of the Teamsters bargaining unit since 1981.⁵ Some administrative assistants are excluded from the Teamsters bargaining unit because they are confidential employees.

30. The administrative assistant classifications are broadly written in order to include the various administrative duties performed by employees filling these positions. All employees working in these classifications have the same level of responsibility and skills. The actual duties performed by an administrative assistant are specific to the program they support. The administrative assistant I position is an entry level classification. Employees in these positions usually work on a part-time, limited-term basis. There is currently only one administrative assistant I employee, who works at the City Hall reception desk.

31. Most employees are hired at the administrative assistant II level. They perform a variety of moderately difficult to complex administrative activities, including general customer service and/or reception support; computer software and clerical support, such as typing, proofreading and editing, transcribing, data entry, and developing and maintaining databases; budget or management plan support; and purchasing support, such as tracking and ordering office supplies, initiating purchase requisitions, distributing purchase orders, and tracking department payments.

⁵Police administrative assistant is the Department's working title for the administrative assistant positions in the Department.

These employees also perform general administrative duties such as coordinating appointments, meetings, calendars, and travel arrangements; processing mail; supporting a group or committee; acting as a project coordinator; coordinating materials for distribution; photocopying and faxing documents; processing a variety of moderately difficult paperwork; creating and maintaining electronic and manual filing systems; coordinating and participating in various inter-departmental and public matters; and collecting and compiling data.

32. In addition to the duties of the administrative assistant II, employees in the administrative assistant III classification provide complex or confidential administrative support. These employees serve as lead workers, direct the work of other administrative staff, and perform administrative management tasks for department directors or upper-level management, such as developing office procedures, routines, and processes; screening and evaluating telephone calls, mail, and requests for appointments; assisting with personnel, budgeting, and facilities issues; and coordinating activities or programs.

33. Administrative assistant employees primarily work in an office environment while seated at a desk or computer terminal. In larger departments, administrative assistants are supervised by administrative supervisors, which is a non-represented supervisory position. City-wide training is open to administrative assistants in all departments and they sometimes attend training and meetings together. The Gresham Administrative Professionals is a recently formed group of City-wide administrative assistants who meet on a regular basis.

34. Administrative assistants are required to have the following skills: knowledge of standard office practices, procedures, and business English; the ability to operate standard office equipment, such as computers, transcribers, and typewriters; knowledge of word processing, database, and spreadsheet software; and the ability to establish filing systems, prepare complex reports and correspondence, maintain confidential files, and apply and explain policies and procedures. The minimum requirements for these positions include a high school diploma or equivalent and five years' experience, or an equivalent combination of education and experience.

35. Employees in an administrative assistant classification can laterally transfer into that classification in another department. This series is a natural promotional ladder. Administrative assistant III employees can also promote to an administrative supervisor position. In addition, due to similar job duties and qualifications, administrative assistants have promoted to other bargaining unit classifications, including program technician. There are no natural promotional opportunities for these employees in the GPOA bargaining unit.

36. Six Department employees (Maria Mercado, Melinda Morgan, Diana Nicholas, Kristin Hartman, Jill Mick, and Rachael Miller) are classified as police administrative assistants II and one employee (Tina Frostad) is placed in the police administrative III classification. The Department's administrative assistants are required to be certified by DPSST to use the Law Enforcement Database System (LEDS). These employees obtain their LEDS certification by taking a written test at the Department administered by Administrative Supervisor Rebecca Danner. The

police administrative assistants interact on a daily basis with police officers and sergeants. They do not generally attend police officer training.

37. Frostad, Nicholas, Hartman, Mick, and Miller work in the Department's administration division, which is located on the first floor near the detectives and Department command staff. These employees perform general administrative and clerical support for investigations, administration, patrol, and the gang unit and interact on a daily basis with police officers and sergeants. They are supervised by Administrative Supervisor Danner, who reports directly to Chief Junginger. Danner does not supervise any employees in the GPOA bargaining unit. While each employee has specific responsibilities, they are all cross-trained. In addition to general clerical and administrative support, administrative assistants assigned to investigations transcribe investigation interviews and police reports; assist detectives with the preparation of case books by organizing the materials, statements, evidence, and information collected into a binder for use in court; process investigation time sheets; monitor police radios; and run vehicle checks, criminal background checks, and searches using LEDS, the National Crime Information System (NCIC), and detective databases. Hartman and Mick are also responsible for data entry of payroll for Department employees.

38. The administrative assistants assigned to administration transcribe internal investigations and officers' reports and process personnel orders, workers compensation claims, internal paperwork, doctors' notes, payroll, and Department time sheets. In addition to these duties, Frostad provides direct administrative support to Administrative Supervisor Danner and acts as a lead worker for the administrative assistant II employees.

39. Nicholas' primary responsibility is acting as the court coordinator, which involves monitoring, managing, and serving as the Department's contact on subpoenas for the appearance of police officers at various courts and hearings. Nicholas enters the subpoenas into a database, receives time off slips from officers and enters these into the database, checks officers' availability to appear, notifies courts of an officer's availability, receives updates from the court throughout the day, notifies officers of their need to appear, and prepares daily trial dockets.

40. Miller is the administrative assistant for the gang unit. She spends most of her time researching and preparing gang member background and criminal history reports for the gang unit detectives. Miller also prepares spreadsheets on gang information, transcribes interviews and reports, listens to and reports on recorded jail conversations, compiles data and statistics, prepares reports on arrests, assists detectives with preparation of case books, and prepares line-ups using photographs from the Department of Motor Vehicles.

41. Administrative Assistants Morgan and Mercado work in the Department's services division. These employees work at desks located on the Department's second floor. They are directly supervised by GPOA-represented Training Sergeant Wallace Coon, who directs their work and performs their evaluations. They interact on a daily basis with GPOA-represented employees and Department command staff.

42. Morgan is the administrative assistant for the services division lieutenant. Her primary responsibility is ordering, processing payment for, and distributing uniforms; and processing receipts and providing payment for officer's equipment purchases. Morgan orders and coordinates officers' schedules for uniform and safety vest fittings, orders and distributes certain equipment, maintains a spreadsheet to track and coordinate replacement of expired safety vests, and conducts research through vendors on uniform and equipment replacement options. She also constructs testing books to be used by raters in internal promotions. Morgan interacts with City Hall staff in processing purchases and payments and works one to four hours, once or twice a month, as the relief receptionist in the City Hall lobby.

43. Mercado's primary responsibility is to coordinate and track training for all Department employees. She identifies and notifies employees of available training; schedules employees to attend training; arranges for registration, payment of fees, and travel; provides administrative assistance for on-site training; tracks DPSST-mandated training hours and records; inputs officers' training hours into a database and electronically transmits the information to DPSST; and works with recruits, including signing them up for training at the police academy and coordinating their training activities with DPSST and their field training officer. Mercado has access to secure files, including medical and psychological information on recruits and internal candidates. She is also responsible for ordering and issuing officers certain equipment, works as an analyst, assists in improving process flow, provides limited training to officers on the use of new databases, and works with the City's information technology staff to coordinate paging software with cellular telephones.

44. Police Records Specialist Trainee, I, and II. The classifications of police records specialist trainee (1), police records specialist I (12), and police records specialist II (4) are limited to the Department and are a natural promotional ladder. The police records specialist trainee classification is utilized for up to one year of training for new employees, and successful trainees automatically promote into a police records specialist I position. Police records specialist II positions are generally filled by police records specialist I employees. These positions have been represented by Teamsters since 1981.

45. The police records specialists work at a desk or computer terminal in the records section, which is located on the first floor of the Department offices in an enclosed area behind a plate glass window and secure door. These employees frequently interact with police officers and sergeants in carrying out their duties. Police records specialist I employees perform "a broad range of police records functions and specialized office duties from routine to complex in support of police activities." Their general responsibilities include researching information on law enforcement databases, such as criminal background and licensing; providing information to officers by radio, telephone, or computer-aided dispatch equipment; providing assistance to citizens, other agencies, and outside parties in person and by telephone; sending pager messages to callout multi-agency law enforcement teams; contacting towing companies; tracking and distributing case files; and processing police and auto record reports. These employees also are assigned special projects, such as validations, expungements, requests for report copies, abandoned vehicle codes, and field incident reports.

46. The police records specialist I employees rotate through five work stations; they perform different duties at each work station. Employees assigned to the front counter station serve as the Department's reception and are the first point of non-emergency contact for citizens and visitors. Their primary responsibility is providing customer service, including responding to customer inquires, processing paperwork for the release of towed vehicles, and granting visitors access to the Department. They also answer incoming non-emergency telephone calls; assist police officers in obtaining copies of reports, case files, and LEDS inquiries; and perform computer entry of case reports.

The primary responsibility of employees assigned to the main desk is to answer and refer in-coming non-emergency telephone calls. They also backup the front reception counter; assist officers with obtaining copies of reports, case files, and LEDS inquiries; and enter case reports into a database.

The primary responsibilities of employees assigned to the second desk include backing up the front reception counter; answering in-coming telephone calls; and distributing police reports and case files to the district attorney's office or other law enforcement agencies.

The assist desk employees work in a separate room behind the second desk. Their primary responsibility is to monitor the main police radio and provide assistance and information, such as licensing and criminal background information from the LEDS and NCIC systems, to officers in the field through the radio, telephone, and computer-aided dispatch equipment. From their desks, these employees also audibly monitor the four prisoner holding cells by listening to a speaker, control the doors to the holding cells, and respond to officers' requests to open and close the sally port doors, which is an outer entrance to the facility near the holding cells.

Employees are assigned to the fifth station, which is the out position, if there are sufficient employees to fill the other four stations. These employees work on special projects or data entry.

47. The police records specialist II is a lead worker position. In addition to the duties of the police records specialist I, the employees in this classification oversee the operations and activities on an assigned shift, including the distribution of work assignments, acting as the final authority on difficult issues, coordination of resources and direct assistance and supervision of specialists during critical police operations and major disasters, and reviewing data entry. These positions are also responsible for the operation of the records section in the absence of the records manager; providing training to police records specialists, officers, and staff on LEDS certification and data entry; researching and producing complex statistical police activity reports; and directly addressing sensitive and complex issues and administrative duties.

49. Police records specialists are supervised by Records Manager Perman, who reports to the services division lieutenant. Perman does not supervise any employees in the GPOA bargaining unit. Police records specialist employees are required to have knowledge of office practices, procedures, and equipment; above-average communication skills; the ability to deal with difficult, angry, and hostile people; and the ability to communicate effectively on two-way radios and

accurately operate multiple computer systems and databases. Minimum requirements for these positions include a high school diploma or equivalency and three years' clerical experience, or an equivalent combination of education and experience. Employees must also become certified through DPSST to use the LEDS system. Such certification may be obtained through a written test administered by Perman. Due to their contact with the public, these employees risk physical hazard from angry citizens and exposure to bloodborn pathogens and disease. Police records specialists do not generally attend police officer training.

50. Crime Analyst. The crime analyst is a single classification, which is exclusive to the Department. There are no lateral transfer or natural promotional opportunities for this position. Until approximately a year ago, the crime analyst worked at the Department full-time. At that time, the Department decided to reduce the crime analyst's work hours due to workload and budgetary reasons and arranged for the crime analyst to split her work between the Department and the Community Development Department. The crime analyst's split assignment has been continued for a second budget year, but her job classification has not been changed.

51. The crime analyst currently works in the Department on Fridays, during which time her primary responsibility is to conduct an in-depth analysis of crimes throughout the City, identify crime patterns, and produce reports to assist officers in the performance of their duties and enhance the effective use of Department resources. The crime analyst researches different crime-related databases and systems; collects, studies, and analyzes criminal activity, statistics, and research; reports on criminal activity patterns; and works on an on-line mapping system, which allows the public to view which crimes occur in different City locations. While in the Department, the crime analyst works at a desk near the investigations division, is supervised by the investigations division lieutenant, and interacts with detectives and the management analyst.

52. The job requirements for the crime analyst classification include knowledge of criminal analysis, police organization, staffing and deployment, and public administration principles, practices, and methods; knowledge of research and evaluation methods and techniques of statistical and sampling theory; advanced statistical analysis techniques; and knowledge of data processing, database management systems, and global positioning applications. The minimum requirements for this classification are a bachelor's degree in a related field and three to five years' crime analysis experience, or an equivalent combination of education and experience.

53. The crime analyst works Mondays through Thursdays in the Community Development Department. Her original responsibility was to analyze statistics in the small business program. Her current responsibilities are primarily administrative, including processing paperwork, computer entry, and setting up housing code expectations. While at Community Development, the crime analyst works at a desk in a shared cubicle with an administrative assistant and performs similar duties; interacts with rental housing inspectors, code enforcement officers, the small business coordinator, and the budget analyst; and is supervised by the assistant to the Community Development Department Director.

54. Management Analyst. The management analyst is a single City-wide classification. There are currently two management analyst employees in the Teamsters' bargaining unit, including the Department's management analyst and a management analyst in the Department of Environmental Services. The Department's management analyst was originally in the Teamsters' bargaining unit, was removed for a period of time during which she was a confidential assistant to the police chief, and was then returned to the bargaining unit in 2011. Another management analyst, who is designated as a confidential employee, works in the Fire Department. Should this position be designated as non-confidential, it would be represented in the Teamsters' bargaining unit. Management analysts may promote to a senior management analyst classification, which is an unrepresented classification.

55. Management analyst employees perform "a wide variety of moderately difficult to complex professional, technical and administrative support activities requiring in-depth knowledge of City, department and program activities." A management analyst's job duties could include coordinating a department's annual budget process; preparing, scheduling, and coordinating department programs; serving as a special project manager; performing research and fiscal analysis on special projects, including policy development, grant applications, and cost-benefit feasibility studies; researching and preparing quarterly and annual reports, staff reports, and department policies; and coordinating management plan development and updates.

56. Management analysts are required to have knowledge of government operations and procedures; department programs, policies, and regulations; and methods and procedures related to research and forecasting, budgeting, engineering, and finance. These employees must be able to conduct in-depth financial and policy analysis, prepare detailed reports, independently manage very large projects, and interpret and apply department or program information. The minimum qualifications for this position include a bachelor's degree in public or business administration or a related field and three to five years' experience, or an equivalent combination of education and experience.

57. The Environmental Services' management analyst works primarily on a capital improvement program and manages that program's budget.

58. The Department's management analyst currently spends 90 percent of her time as a special project administrator revising Department policies and general orders to adapt into the Lexipol system, which is part of the Department's national accreditation process.⁶ The management analyst's role is to review the Department's general orders, compare and merge the general orders with the Lexipol policies, and work with the command staff and GPOA representatives to finalize the policy. The management analyst prepares policy drafts, seeks input, and incorporates changes to the policy format and content. She also stays informed on changes in laws and practices which may necessitate policy changes. The other 10 percent of her duties include preparing uniform crime reports, monitoring records on temporary holding facilities, tracking and reporting the Department's

⁶Lexipol is a nation-wide standardized law enforcement policy system.

compliance regarding the length of juvenile holds, crime analysis, and responding to requests for statistical information from the police chief, businesses, and organizations.

59. Prior to the Lexipol project, the management analyst's primary responsibility was crime data analysis. She will again focus her work on crime data analysis after completion of the Lexipol project. The analyst performs broad scope statistical analysis, such as developing a comparison of the City's number or types of crimes and arrests with other cities or the nation. Requests for such information typically come through the police chief, the services division lieutenant, or Sergeant Coon, although police officers may directly request such information.

60. The Department's management analyst works at a desk located in the services division on the second floor of the Department's offices, extracting information from Department and law enforcement computer databases. She is supervised and evaluated by Sergeant Coon. This employee interacts with police officers, sergeants, command staff, and the crime analyst. This position holds a DPSST LEDS certification. Under a prior police chief, the management analyst attended some training with police officers and command staff, but has not done so in the last year.

Interchange or Transfer of Employees

61. Approximately 20 years ago, a Department administrative assistant transferred into an administrative assistant position in the Operations Center. No other administrative assistants have transferred between the Department and other City departments. Six of the current administrative assistants previously worked as a police records specialist. Such promotions are common because of the similar skill set and opportunity for a higher salary. Frostad previously worked as a police records specialist II and an administrative assistant II before becoming an administrative assistant III. Administrative Supervisor Danner previously worked as a police records specialist I, an administrative assistant II, and an administrative assistant III.

62. Two Department employees in the petitioned-for classifications were hired into other Teamsters-represented classifications outside of the Department. Dusty Kimmons worked as a Department police records specialist I before going to work as a code inspector and then a rental housing inspector. Steve Rutherford worked as a police records specialist I before going to work as a code enforcement officer.

63. Department employees in the petitioned-for classifications have been transferred or hired into unrepresented positions in their classifications in other City departments. Jeannette Johnson (McGarity) worked as a Department police records specialist I and administrative assistant II before going to work as a confidential administrative assistant III in the City Manager's Office. Darla Sheldon worked as a police records specialist I and an administrative assistant II before going to work as a confidential administrative assistant III in the Fire Department.

64. Two Department employees working in Teamsters-represented classifications were hired into classifications represented by the GPOA. Rema Teeny worked as police records specialist before being hired as a police officer. She no longer works at the Department. Jim Dennis originally

worked as a police records specialist, was hired for approximately one year as a police officer, and then was rehired as a police records specialist II, which is his current position.

Desires of Employees

65. GPOA filed a sufficient showing of interest.⁷

CONCLUSIONS OF LAW

1. This Board has jurisdiction over the parties and subject matter of this dispute.
2. The petitioned-for employees do not more appropriately belong in the GPOA bargaining unit than the Teamsters' bargaining unit.

DISCUSSION

Standards for Decision

GPOA seeks to transfer approximately 25 strike-permitted Department employees in seven positions from the Teamsters' general strike-permitted bargaining unit to the GPOA strike-prohibited bargaining unit under OAR 115-025-0005(6).⁸ In addressing such petitions, our task is to evaluate the two bargaining units to determine which unit is more appropriate for the positions at issue. *Association of Oregon Corrections Employees v. State of Oregon, Department of Corrections, and AFSCME, Council 75 (AOCE v. DOC)*, Case No. UC-24-99, 18 PECBR 441, 447 (2000). In determining the more appropriate unit, we consider the community of interest, wages, hours, and other working conditions of the employees involved, as well as the history of collective bargaining and the desires of the employees. ORS 243.682(1)(a). Community of interest factors include similarity of duties, skills, benefits, interchange or transfer of employees, promotional ladders, and common supervision. OAR 115-025-0050(2).

This Board has discretion to determine how much weight to give each factor. *OPEU v. Dept. of Admin. Services*, 173 Or App 432, 436, 22 P3d 251 (2001). Although the desires of employees is one factor this Board uses to determine appropriate bargaining units, it is rarely, if ever, the only determining factor. When there are no clearly distinct community of interest factors favoring the proposed unit, this Board does not give controlling weight to employees' preferences. *Oregon*

⁷Although the original petition was for 25 employees and did not include the police records trainee, the showing of interest is sufficient to support a petition that includes the employee filling that position.

⁸OAR 115-025-0005(6) permits this Board to clarify "a group of employees who are represented within (as a fragment of) another bargaining unit" into a bargaining unit represented by a petitioning labor organization, if we determine "that it would be appropriate to add the positions in question to the petitioning organization's bargaining unit." If we make such a determination and the showing of interest is adequate, we must order a self-determination election to allow the petitioned-for employees to vote on representation by either the current labor organization or the petitioning labor organization.

AFSCME Council 75 v. City of Ontario, Case No. RC-1-07, 22 PECBR 260, 275 (2008); *Teamsters Local Union No. 223 v. Yamhill County and Yamhill County Employees' Association*, Case No. RC-14-07, 22 PECBR 459, 473 (2008). We also consider the policies and preferences developed by this Board in determining the more appropriate bargaining unit. *Oregon Workers Union v. State of Oregon, Department of Transportation, and Service Employees International Union Local 503, Oregon Public Employees Union*, Case No. RC-26-05, 21 PECBR 873, 883 (2007).

In addition, because strike-permitted employees lose their right to strike if they are added to a strike-prohibited unit, this Board has a "strong preference for separate bargaining units for strike-permitted and strike-prohibited employees." *Ashland Police Association v. City of Ashland, and International Brotherhood of Electrical Workers, Local 659 (IBEW)*, Case No. UC-22-06, 22 PECBR 1, 9 (2007). Accordingly, "we do not lightly make unit determinations that convert statutorily strike-permitted employees to strike-prohibited status. There must be compelling reasons for that result based upon community of interest factors." *AOCE v. DOC*, 18 PECBR at 450. Our overriding goal is to group those employees who share the greatest community of interest in the same bargaining unit. *Oregon State Police Officers' Association v. State of Oregon, Department of State Police, and Oregon AFSCME Council 75*, Case No. UC-6-00, 18 PECBR 930, 935 (2000).

When considering a petition to add strike-permitted employees to a law enforcement strike-prohibited bargaining unit, we also consider: (1) the percentage of strike-prohibited employees in the proposed bargaining unit; (2) the relationship of the petitioned-for positions' duties to the mission of a law enforcement agency; (3) the unique nature of the petitioned-for positions; (4) the extent to which other employees with similar duties are or could be organized; (5) the work force's pattern of organization; and (6) the history and stability of labor relations. *AOCE v. DOC*, 18 PECBR at 447. In addition, we focus on the degree to which the work of the petitioned-for employees is distinctive to the agency and whether the positions at issue are significantly involved and integrated with a law enforcement mission. *Multnomah County Deputy Sheriff's Association v. Multnomah County, and AFSCME Local 88*, Case No. UC-14-01, 19 PECBR 733 (2002).

Community of Interest

The duties performed and the skills used by the Department's administrative assistants are not significantly distinct from the duties and skills of administrative assistants in other City departments. The Department's administrative assistants are part of a City-wide classification series, work under the same general job descriptions, and have the same minimum qualifications as other administrative assistants. While some of the police administrative assistants' duties are specific to the Department, all administrative assistants may perform department-specific duties. The police administrative assistants' duties and skills are primarily clerical in nature and do not overlap significantly with the duties and skills of the positions in the GPOA bargaining unit.

The police records specialist classifications are unique to the Department and these employees perform some duties distinct from other Teamsters' bargaining unit employees, such as monitoring and responding to police radios, researching criminal background information in law

enforcement databases, monitoring prisoner holding cells, and allowing entry through the Department's sally port. However, these duties are primarily performed when the police records specialists are working in one of the five stations. The majority of the duties these positions perform include serving as a front-desk receptionist, answering and referring telephone calls, providing customer service, performing data entry, and preparing and distributing case files. These duties, and the skills required to perform these duties, are not significantly distinct from those of the administrative assistants. The qualifications required for these positions are also similar and, as a result, police records specialists often promote to administrative assistant positions. In addition, while other positions in the Teamsters' bargaining unit do not work with the law enforcement databases, they do work with other complex database systems. The police records specialists' duties, skills, and qualifications do not overlap significantly with the duties, skills, and qualifications of the positions in the GPOA bargaining unit.

The management analyst is a City-wide classification, although there is currently only one other represented management analyst in the City. The Department's management analyst is currently focused on updating the Department's policies and general orders, but also performs crime analysis, which involves compiling and reporting on statistical information. These duties and skills are not distinctive. While the subject matter of the policies and statistical analysis is specific to the Department, these duties fall within the stated responsibilities of the City-wide management analyst classification. Some of the management analyst's duties are also similar to those in the administrative analyst classification, which is also represented by the Teamsters. Both the management analyst and crime analyst perform crime analysis tasks; the primary distinction in the duties of the position is one of degree. The management analyst focuses on broad comparisons, while the crime analyst focuses on more in-depth analysis. The duties, skills, and qualifications for the management analyst position are not similar to those of GPOA bargaining unit members.

The crime analyst classification is unique to the Department. While in this position, the employee's primary responsibility is to research crime-related databases and statistics, analyze the data and statistics, and identify and report on criminal activity patterns to support the police officers' work and the appropriate allocation of Department resources. However, for the last year, the crime analyst has only worked in the Department one day a week. The other four days, the crime analyst works in the City's Community Development Department. In her original assignment at Community Development, the crime analyst applied her skills analyzing the small business program statistics. Currently, she works in a shared cubicle with an administrative assistant and essentially performs administrative assistant duties. Neither her crime analyst skills and duties in the Department nor her duties in the Community Development Department overlap significantly with the type of duties performed by the GPOA bargaining unit members.

All Department employees work under a common command structure and ultimately report to the chief of police. However, the petitioned-for employees do not have direct supervision in common with either the GPOA employees or members of the Teamsters' bargaining unit. Five of the police administrative assistants are directly supervised by Administrative Supervisor Danner. Danner does not supervise any GPOA-represented employees. The 26 police records specialists are directly supervised by Records Manager Perman, who also does not supervise any GPOA bargaining

unit members. The crime analyst is supervised by the investigations division lieutenant during her one day in the Department and by the Community Development Department Director's assistant during her four days in that department. Only two administrative assistants and the management analyst are directly supervised and evaluated by Sergeant Coon, who is a GPOA bargaining unit member.

The petitioned-for employees have limited training in common with the GPOA-represented employees. GPOA-represented police officers and sergeants are required to obtain a basic DPSST police officer certification, which requires them to attend the DPSST academy for four months and engage in an additional 18 months of on the job field training. The initial training for the petitioned-for positions generally takes place on the job and in an office. The majority of the petitioned-for positions and some GPOA-represented positions do receive training and a DPSST certification for use of LEDS. Yet the petitioned-for employees do not attend the police academy to obtain this certification and do not attend other police-oriented training.

The administrative assistant and police records specialist series have natural promotional ladders. The administrative assistant positions are also a typical promotion for the police records specialists. The administrative assistants and management analyst can transfer to positions in the same classification in other City departments, although this rarely occurs. Due to the difference in qualifications, skills, and duties, there is no natural promotional opportunity for the petitioned-for employees into the GPOA bargaining unit positions.

There is definite interchange or transfer of employees from the Department's petitioned-for positions to other City positions represented by Teamsters. Currently, one Department administrative assistant provides relief coverage for an administrative assistant I employee on the receptionist desk in the City Hall lobby. The crime analyst, who previously worked full time at the Department, now works four days per week in the Community Development Department. Two police records specialists were also hired into the Teamsters-represented positions of a code enforcement officer and housing inspector in other City departments.

There is some interchange of employees between the petitioned-for positions and the positions in the GPOA bargaining unit. Two police records specialists were hired as police officers. One of these employees was subsequently rehired as a police records specialist after one year.

Wages, Hours, and Other Working Conditions

The wage schedules for the Teamsters' and GPOA bargaining unit employees are different. While both have a salary range, the Teamsters' Agreement provides for employees on a range to receive a four percent annual increase and the GPOA Agreement provides wage increases based on a six- or seven-step schedule. Under the Teamsters' Agreement, the police administrative assistants are on the same salary range as administrative assistants in other City departments and the two Teamsters-represented management analysts are on the same salary range. In addition, the administrative assistant II is on the same range as the police records specialist I, the administrative assistant III is on the same range as the police records specialist II, and other Teamsters-represented

classifications are on the same salary ranges as the petitioned-for positions. The administrative assistant II and police records specialist I salary range is slightly below that of a police technician. The administrative assistant III and police records specialist II salary range is slightly above that of a police technician. The crime analyst's salary range is close to that of the criminalist and a little above the police officer range. The management analyst's salary range falls between the salary ranges for the criminalist and police sergeants.

All Teamsters-represented employees receive similar benefits and all GPOA-represented employees receive similar benefits. Similar to the rest of the employees represented by Teamsters, the Department's administrative assistants, crime analyst, and management analyst all work regular day shift hours, Monday through Friday. The police records specialists are the only Teamsters' bargaining unit employees that work shifts covering a 24/7 schedule. Their schedule is similar to the schedules of the police officers and sergeants, but not the police technicians or criminalist. The GPOA-represented positions may all be called back to work. Only the Department's administrative assistant II has been called back to work during the last year.

All Department employees work out of the Public Safety Building and are issued key cards to access the secured Department offices. Except for the crime analyst, the petitioned-for employees interact and work almost exclusively with other Department employees and have limited interaction with other City employees.

The petitioned-for employees all work in an office environment at a desk and/or computer terminal. The majority of GPOA-represented positions work primarily in the field. Even the criminalist and police technicians may be called to assist at crime scenes. In addition, unlike the majority of the GPOA-represented positions, none of the employees in the petitioned-for positions are required to wear a uniform. They may wear a shirt with an emblem designating their department or division, but such shirts are also worn in other City departments by Teamsters-represented employees.

Employees in the Teamsters' bargaining unit acquire seniority based on their classification. Employees who promote or are hired into a different Teamsters-represented classification retain their seniority and, in the event of a failed promotion or layoff, may be able to return to their prior classification.

History of Collective Bargaining

Teamsters has had a bargaining unit at the City and represented most of the petitioned-for positions, including the administrative assistants and police records specialists, since 1981. The management analyst was originally in the Teamsters bargaining unit and recently returned to the bargaining unit after a period as a confidential employee. Therefore, the history and stability of labor relations favors retaining these employees in the Teamsters' bargaining unit.

Desires of Employees

GPOA filed a sufficient showing of interest to demonstrate that the petitioned-for employees wished to be represented by the GPOA.

Strike-Permitted/Strike Prohibited Status

The current GPOA bargaining unit consists of 102 strike-prohibited employees (96 percent) and 4 strike-permitted employees (4 percent). If the 25 Teamsters-represented employees are added to the GPOA bargaining unit, the current percentage of strike-permitted employees will increase to 22 percent. While the strike-prohibited employees in the GPOA unit will still be in the majority, this is a significant increase in the percentage of strike-permitted employees.

The petitioned-for positions all work with and provide assistance to the GPOA-represented police officers and sergeants, as well as the Department's administration. In this sense, the work of these positions supports the Department's ability to function and carry out its mission as a law enforcement agency. However, as previously explained, the majority of the work performed by the petitioned-for employees is not distinct to the Department. The work performed by the petitioned-for employees is very similar to other work we found to be supportive of, but not distinct to, the law enforcement mission. *See Beaverton Police Association v. City of Beaverton, and Service Employees International Union Local 503, Oregon Public Employees Union, (SEIU)*, Case No. UC-13-09, 23 PECBR 803 (2010) (support specialists, who perform reception duties, customer service, word processing, data entry, special project coordination, formatting and maintenance of databases and spreadsheets, fiscal functions, file and record searches, input and retrieval of computer information, vehicle license and criminal history searches, coordination of officer subpoenas and leave requests, handling confidential information, coordination and tracking of recruit and officer DPSST training, and contacting officers to respond to business and residential alarms, are not more appropriately included in police unit); *IBEW*, 22 PECBR 1 (police department account clerks, who research and enter data in the LEDS system, enter police reports, enter warrants, prepare case files, fingerprint public, register sex offenders, release impounded vehicles, answer non-emergency telephones, and provide customer service, do not perform duties distinct from other City account clerks).

In addition, none of the petitioned-for employees perform the type of duties we have previously found to be integral to a law enforcement mission. *See Woodburn Police Association v. City of Woodburn, and Oregon AFSCME Council 75, Local 642*, Case No. UC-14-11, 25 PECBR 1 (2012) (code enforcement officers, who issue citations and perform traffic control, more appropriately belong in police unit); *SEIU*, 23 PECBR 803 (photo radar coordinator, who coordinates radar devices and personnel and participates in selecting photos which warrant prosecution, performs a law enforcement function); *Multnomah County Deputy Sheriff's Association*, 19 PECBR 733 (civil deputies who team up with and perform the same work under the same conditions as law enforcement civil deputies have significant integration with law enforcement mission).

The employees in the City are generally organized based on job classification instead of department. The clear majority of strike-permitted employees are in the Teamsters' bargaining unit and the City's strike-prohibited employees are in either the GPOA or the fire unit. Under this structure, the crime analyst is currently working the majority of her time as an administrative assistant in another department. In addition, police records specialist employees often transfer into police administrative assistant positions and have even transferred to other Teamsters-represented positions in the City. Retaining the petitioned-for employees in the Teamsters' bargaining unit will maintain this current pattern of organization for City workers and continue the current opportunities for the petitioned-for employees to work, transfer, or promote into other positions or other departments without losing their job security.

In conclusion, based on our review of the statutory factors and the applicable criteria, while placement in either bargaining unit may be appropriate, there are no compelling community of interest factors which favor converting these employees to strike-prohibited status. Therefore, we do not conclude that the petitioned-for positions are more appropriately placed in the GPOA bargaining unit. We will dismiss the petition.

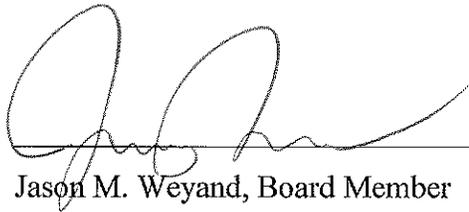
ORDER

The petition is dismissed.

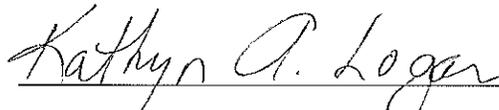
DATED this 28 day of December 2012.



Susan Rossiter, Chair



Jason M. Weyand, Board Member



Kathryn A. Logan, Board Member

This Order may be appealed pursuant to ORS 183.482.