STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

Jane Reynolds Arts, Objector	)	
and	)	
Illinois Council of Police, Petitioner	)	
and	)	
County of Lake and Sheriff of Lake County, Employer	)	Case No. S-RC-13-031
and	)	
Illinois Fraternal Order of Police Labor Council, Incumbent	)	
and	)	
Policemen's Benevolent Labor Committee, Intervenor	)	

DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD STATE PANEL

On June 20, 2013, Executive Director Melissa Mlynski issued a Report on Objections to an Election dismissing the objections filed on June 3, 2013, by Jane Reynolds Arts (Objector) to an election conducted on May 31, 2013, with respect to a bargaining unit of employees of the County of Lake and Sheriff of Lake County in titles identified under Law Enforcement and Law Enforcement Support (Unit). Thereafter, in accordance with Section 1200.135(a) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(a), the Illinois Fraternal Order of Police

Labor Council (Incumbent) timely filed an appeal of the Executive Director's report. After reviewing the objections and appeal, the Board affirms the Executive Director's dismissal.

The only objections to the May 31, 2013, election conducted in this case were those filed by Jane Reynolds Arts. Though timely filed, we agree with the Executive Director's determination that Arts, while eligible to vote in the May 31, 2013, election, was not a party to the election within the meaning of Section 1210.150(a) of the Rules and therefore did not have standing to file objections to that election. As Arts had no standing to file objections they were properly dismissed on that basis and we need not address the merits of those objections nor the appeal filed by the Illinois Fraternal Order of Police Labor Council which did not address the standing issue. In affirming the Executive Director's dismissal, we also uphold the result of the tally of ballots for the election conducted on May 31, 2013, and direct that the Executive Director certify the Petitioner, Illinois Council of Police, as the exclusive bargaining representative of the Unit.

BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

/s/ John J. Hartnett
John J. Hartnett, Chairman

/s/ Paul S. Besson
Paul S. Besson, Member

/s/ James Q. Brennwald
James Q. Brennwald, Member

/s/ Michael G. Coli
Michael G. Coli, Member

/s/ Albert Washington
Albert Washington, Member

Decision made at the State Panel's public meeting in Chicago, Illinois, on August 13, 2013; written decision issued at Chicago, Illinois, August 30, 2013.

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Jane Reynolds Arts,	)	
	)	
Objector	)	
and	)	
	)	
Illinois Council of Police,	)	
	)	
Petitioner	)	
and	)	
	)	
County of Lake and Sheriff of Lake County,	)	
	)	Case No. S-RC-13-031
Employer	)	
and	)	
	)	
Illinois Fraternal Order of Police Labor Council,	)	
	)	
Incumbent	)	
and	)	
	)	
Policeman's Benevolent Labor Committee,	)	
	)	
Intervenor	)	

EXECUTIVE DIRECTOR'S REPORT ON OBJECTIONS TO AN ELECTION

On October 30, 2012, the Illinois Council of Police (ICOP or Petitioner), filed a petition with the State Panel of the Illinois Labor Relations Board (Board), seeking to represent a unit of employees of the County of Lake and Sheriff of Lake County (Employer). The Petitioner sought to be certified as the representative of a bargaining unit consisting of approximately 174 employees in titles identified under Law Enforcement and Law Enforcement Support (Unit). The Unit was, at that time, represented by the Illinois Fraternal Order of Police Labor Council (FOP or Incumbent). On April 8, 2013, the Board issued a Decision and Order (Order) directing that a secret ballot election be held "at a time and place set forth in the Board-issued Notice of

Election."[1] On April 24, 2013, the Policeman's Benevolent Labor Committee (PBLC or Intervenor), filed a petition of intervention in the election.

The Board conducted the election on May 31, 2013. By document postmarked June 3, 2013, Jane Reynolds Arts (Arts or Objector) timely filed an objection to the election on the grounds that set voting hours were too limited for her and others to vote.

I. INVESTIGATORY FACTS AND POSITIONS OF THE PARTIES

Consistent with the Board's practice, the Board agent set the time, date and place to hold the election after soliciting input from the Employer and the labor organizations. The Board agent also directed the Employer to post a Notice of Election at the workplace, notifying all employees of the time, date and place of the election and describing the sample ballot as a choice between FOP, ICOP, PBLC or No Representation.

The Board agent conducted the election on May 31, 2013. Polling was set at one voting location, and the hours for the vote were set as 7:00 AM to 12:00 PM. Immediately after the closing of the election site, the Board agent proceeded to tally the ballots. The tally of ballots was as follows:

Approximate number of eligible voters:	174
Void Ballots:	0
Votes cast for Illinois Council of Police	49
Votes cast for Illinois Fraternal Order of Police Labor Council	31
Votes Cast for Policeman's Benevolent Labor Committee	7
Votes cast for No Representation	0
Valid votes counted:	87
Challenged Ballots:	0
Valid ballots plus challenged ballots	87

The Board agent indicated that ICOP had prevailed in the election.

[1] The Board made its ruling on the matter at the State Panel's public meeting held on March 12, 2013. The written decision ordering the election was issued April 8, 2013.

In her objection, Arts took issue with the limited voting hours available, which she claims severely restricted most Unit members' ability to vote. She claims that the limited time frame of 7:00 AM until 12:00 PM unintentionally gave unfair advantage and preferential access to those working day shift hours of 6:30 AM until 3:00 PM. Additionally, Arts states that she and other Unit members inquired about being able to give a co-worker their proxy, but they were denied by the Board agent. Furthermore, she claims that an option of an electronic ballot from a secure work e-mail could have afforded a fair, though not anonymous, alternative so that all bargaining unit members would have a voice in the process.

ICOP, FOP and PBLC did not respond to Arts' objection. The Employer stated that they are not willing to support Arts' position on the matter.

As part of the investigation into the circumstances of the objection, the Board agent assigned to investigate the objections[2] requested that the Employer provide information concerning the shift assignments of the eligible voters. In summary, the data shows 64 of the eligible voters worked shifts that covered the entirety of the polling period. 50 of the eligible voters work shifts that either began or ended during the polling period. 57 of the eligible voters worked shifts that were not proximate to the polling time, i.e., 2:30 PM to 11:00 PM, or 2:30 PM to 10:30 PM.[3]

II. DISCUSSION AND ANALYSIS

There is a question as to whether Arts has standing to bring objections in this case. Section 1210.150(a) of the Board's Rules and Regulations (Rules) state the following:

> Any party to the election may file objections with the Board alleging that the result was not fairly and freely chosen by a majority of the employees. The party must serve its objections on the other parties to the election prior to or simultaneously with their filing with the Board.

[2] After Arts filed her objections, the case was transferred to a new Board agent to investigate the matter.
[3] The total number of employees, as seen from the Employer's data is 171. This is not materially different from 174, the approximate number of eligible voters.

The question is how to define "any party" to the election. Arts contends that this means any individual that was involved in the election. However, in this case, the Board's April 8, 2013 Order named the Employer, FOP and ICOP as the parties. As referenced above, the PBLC filed an intervention petition after the fact. Arts is clearly a member of the Unit, but she is not an agent of any of these entities, nor was she named as a party to the Board's April 8, 2013 Order. Therefore, I find that she is not a "party" within the meaning of 1210.150(a) of the Rules. See Board of Regency Universities, State of Illinois (Sangamon State University), 2 PERI ¶1043 (IELRB Opinion and Order, 1986), where the Educational Labor Relations Board found that individual employees do not have standing to file an objection to an election.

Even if it is determined that Arts has standing to file her objection, the objection fails to raise an issue for hearing. Section 1210.150(d) of the Rules provide that upon reasonable cause, the Executive Director shall direct a hearing if she believes that the results of a representation election were not freely and fairly chosen by a majority of the employees voting in the election. A hearing may be appropriate if the evidence indicates that eligible voters were deprived of an opportunity to vote. See County of Saint Clair, 12 PERI ¶2023 (ISLRB 1996).

In this case, Arts' objection can be construed as stating a reason for the low voter turnout at the election on May 31, 2013. 87 out of approximately 174 eligible voters is, arguably, a low showing of voters. However, while the election time clearly did not coincide with the work shifts of all Unit members, the available evidence is not sufficient to find that the hours prevented employees from voting. Although some of Arts' coworkers claimed they were unable to vote in the set time frame, other employees on work shifts that did not coincide with the polling time, including Arts, cast a ballot in the election. Further, while Arts outlined a number of alternatives that could have been employed to accommodate those who were unable to vote

during the polling time, none of her proposed alternatives are consistent with the Board's established procedures for conducting secret ballot representation elections. As such, I find the available evidence insufficient to raise an issue that the timing of the election caused the election results to not be fairly and freely chosen by a majority of the employees.

III. ORDER

For the reasons stated above, I find that the objection is hereby dismissed. Accordingly, **IT IS HEREBY ORDERED** that the Board shall uphold the tally of ballots for this election in accordance with these findings and thereafter certify the Petitioner as the representative of the Unit, in accordance with the outcome of tally of ballots counted May 31, 2013.

Any party identified in the caption of this Report on Objection to an Election may appeal this order to the Board any time within 10 days of service. Such appeal must be in writing, contain the case caption and number, and must be addressed to the General Counsel of the Illinois Labor Relations Board, 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60603-3103. The appeal must contain detailed reasons in support of the appeal, and the party filing the appeal must provide it to all other persons or organizations involved in this case at the same time it is served on the Board. The appeal sent to the Board must contain a statement listing the other parties to the case and verifying that the appeal has been provided to them. The appeal will not be considered without this statement. If no appeal is received within the time specified, this order will be final.

Issued in Springfield, Illinois, this 20th day of June, 2013.

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

Melissa Mlynski, Executive Director