

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

County of Will,	)	
	)	
Petitioner	)	
	)	
and	)	Case No. S-SI-14-001
	)	
American Federation of State, County, and	)	
Municipal Employees, Council 31,	)	
	)	
Labor Organization	)	

**DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

On November 13, 2013, the County of Will (Petitioner) filed a Petition for Strike Investigation with the State Panel of the Illinois Labor Relations Board (Board), pursuant to Section 18 of the Illinois Public Labor Relations Act, 5 ILCS 315 (2012), as amended (Act), and Section 1230.190 of the Board's Rules and Regulations, 80 Ill. Admin. Code Sections 1200 through 1240 (Rules). The Petitioner claims that a strike threatened by the American Federation of State, County, and Municipal Employees, Council 31, (Union), the exclusive representative of a bargaining unit composed of certain of the Petitioner's employees, constitutes a clear and present danger to the health and safety of the public.

Pursuant to the Act and the Rules, the Board investigated the petition and on November 18, 2013, held an expedited hearing before Administrative Law Judge Anna Hamburg-Gal. Both parties were present at the hearing and were given an opportunity to proffer any and all material evidence, and to argue orally. The parties agreed to grant the Board an extension to 1 pm on November 19, 2013, to issue a written decision. Having considered all of the information provided by the parties, we make the following findings:

1. The Petitioner is a public employer within the meaning of Section 3(o) of the Act and a unit of local government within the meaning of Section 5(a) and Section 20(b) of the Act.
2. The Union is a labor organization within the meaning of Section 3(i) of the Act and during all times relevant herein, has been the exclusive bargaining representative of certain of the Petitioner's employees, including Deputy Coroners; Telecommunicators in the County's 911 Center; Administrative Correctional Clerks; Food Coordinator, Lead Cooks and Cooks in the Adult Detention Facility; and craftsmen in the Adult Detention Facility as follows: one electrician, one HVAC technician, two plumbers, and one locksmith.<sup>1</sup>
3. On November 7, 2013, the Union gave the Petitioner notice of its intent to strike.
4. The strike began on November 18, 2013.
5. Deputy Coroner
  - a. Petitioner seeks one Deputy Coroner per 24 hours to continue work in the event that there is a strike.
  - b. The Coroner's Office receives 500 decedents annually and performs over 300 autopsies.
  - c. The Deputy Coroners log bodies into the morgue, identify and label them; respond to calls in Will County which might require them to remove bodies to the morgue; perform death investigations to determine cause of death, schedule and assist in autopsy; notify next of kin of a death, enter data into a case management

---

<sup>1</sup> The Union is the exclusive representative of employees in five bargaining units employed by the County. The positions subject to this petition were covered by two of those agreements, (1) the collective bargaining agreement for the Will County Executive Branch and Sunny Hill Nursing Home LPNs and (2) the collective bargaining agreement for the Will County Health Department employees. The parties stipulate that the composition of the bargaining units is as outlined in Petitioner's exhibits Nos. 1 and 2.

- system; maintain chain of custody for specimens collected; clean morgue after autopsy; schedule x-rays, and maintain the personal effects of the deceased.
- d. The Deputy Coroners draw vitreous fluid samples from dead bodies. If untrained individuals perform this task they may be exposed to bodily fluids and are at risk of contracting communicable diseases.
  - e. The Deputy Coroners take possession of all personal property on the decedent's body and maintain the chain of custody.
  - f. Deputies are LEADS certified. They may perform background checks and help identify bodies.
  - g. Death investigations are time sensitive because no one may disturb or move a body without obtaining permission from the Coroner's Office.
  - h. The Deputies must train for six months to learn the Office's policies and procedures. They also receive 40 hours of special training at the University of St. Louis School of Medicine to learn how to perform death investigations.
  - i. The Office employs a Chief Deputy Coroner who is trained to perform some but not all of the Deputies' duties.
  - j. The Coroner is qualified to perform all of the Deputies' tasks.
  - k. The DuPage County Coroner's office offered to help in the event of a strike. However, there is no guarantee that they would arrive. Further, Will County is so large that use of DuPage Deputy Coroners would increase response time by 3 to 4 hours.
  - l. Deputy Sheriffs cannot conduct coroner's investigations because they have not received the field training for drawing fluids.

- m. Two part-time employees, former police officers, are willing to cross the picket line but they are not qualified to draw toxicological specimens.
- n. The Office contracts with two board certified pathologists who perform autopsies and can collect fluid samples.

6. Telecommunicators in the 911 Call Center

- a. The Union stipulated that it is necessary to retain three telecommunicators per shift to avoid a clear and present danger to the health and safety of the public. The telecommunicators who remain at work will perform only their customarily assigned duties.

7. Administrative Correctional Clerks

- a. The Petitioner seeks two Administrative Corrections Clerks for each shift per day in the event of a strike.
- b. The Administrative Correctional Clerks work in the Inmate Records Unit of the Will County Adult Detention Facility (ADF).
- c. There are 19 full-time Administrative Correctional Clerks and two part-time staff who work at the Facility.
- d. They book inmates, conduct interviews, and ascertain identification of inmates. They also update and maintain court records and prepare the documentation to permit the transfer of inmates to the Department of Corrections.
- e. These employees are overseen by one Inmate Records Supervisor. The former Inmate Records Supervisor also currently works in the Unit.

- f. The County trained approximately 15-20 Correctional Officers trained in the duties performed by the Administrative Correctional Clerks for two weeks in preparation for the strike.
- g. Correctional Officers are currently performing the Administrative Correctional Clerks' duties.
- h. The former Inmates Records Supervisor testified that the primary value in retaining the Clerks during the strike was due to their experience and their ability to spot "red flag" issues.
- i. The current and the former Inmate Records Supervisors have the experience and expertise to oversee the work of the Correctional Officers and to catch such red flag issues.

8. Food Coordinator, Lead Cooks, and Cooks

- a. The Petitioner withdrew its petition with respect to the Food Coordinator, Lead Cooks, and Cooks in the Adult Detention Facility.

9. Craftsmen in the Adult Detention Facility

- a. The Petitioner seeks to retain five of the seven craft employees in case of a strike including one electrician, two plumbers, one HVAC technician, and a locksmith.
- b. The Adult Detention Facility houses 600-700 inmates in a 318,000 square foot facility.
- c. Correctional Deputies rely on the security systems to maintain safe operations.
- d. Electrician Mark Colwell
  - i. Mark Colwell has knowledge regarding the security systems and camera and data storage systems for the Will County Adult Detention Facility.

- ii. He is the only employee who has working knowledge of the emergency backup system and how to reset the system in case of failure. The UPS battery backup systems operate all locking and unlocking of doors in the older section of the building in the event of a power failure. Colwell has knowledge as to the location of each panel that needs to be reset.
  - iii. He has special knowledge regarding the negative air flow system that reduces the risk of the spread of infectious disease among inmates.
  - iv. He also maintains the video cameras.
  - v. Integrator is the contractor for the security system of the ADF. Integrator is based in Indiana. Its response time to a security failure could be three hours to two days long.
  - vi. Colwell has received special training on the Integrator System.
  - vii. He serves as backup for the locksmith and the HVAC technician.
  - viii. He is currently on vacation, but has made himself available to the County if they need to contact him.
- e. Locksmith Adam Wiewiora
- i. Wiewiora maintains and repairs over 1500 locks at the ADF, 1000 of which are electronically controlled.
  - ii. He also maintains master key systems
  - iii. Work on the locks at ADF requires both knowledge of mechanical security and computer technology.
  - iv. The Union stipulated that it would agree to allow the Petitioner to call Wiewiora back for emergency purposes. Wiewiora would only perform

the work he customarily performs and would only perform the work necessary to avert the emergency.

- f. HVAC technician John Walden
  - i. An outside contractor could perform Walden's HVAC duties.
- g. Plumbers Jason Winkler and Robert Park
  - i. The plumbers maintain toilets and sinks, 720 of which are used by inmates.
  - ii. Inmates intentionally clog toilets. Failure to fix the clogs expeditiously will result in back up of human waste which makes housing areas uninhabitable.
  - iii. Outside plumbers could perform the work of the ADF plumbers.
  - iv. The Petitioner asserts that harm would result if the plumbers did not arrive in a timely fashion.

#### 10. Vital Records Technician

- a. Petitioner seeks Jan Cullen, one of the two Vital Records Technicians, to remain working during a strike.
- b. Alternate backup staff has received minimal training to perform this work in the event of a strike.
- c. The Vital Records Technician issues birth and death certificates. She also issues cremation certificates.
- d. Bodies may not be buried without a death certificate.
- e. The office receives 14 requests for death certificates a day.

- f. No special training or knowledge is required to fill out such forms. However, the position receives hands on training.
- g. The Office's primary concern in the event of a strike is that the Vital Records Technician's absence would create a backlog of work.
- h. The Executive Assistant has received training in the Vital Record Systems. She will perform the most prioritized work.

11. Sanitarians

- a. Petitioner seeks two sanitarians to remain at work during the strike.
- b. The sanitarians enforce regulations concerned with food processing, food service, collection and disposal of solid waste, sewage treatment and disposal, plumbing, vector control, recreational areas, hospitals and other public institutions, noise, ventilation, air pollution, radiation, and other areas. The sanitarians also collaborate with other health personnel in epidemiological investigations and control.
- c. The Department of Environmental Health permits and regulates 2000 facilities.
- d. The sanitarians are required to have an Environmental Health Practitioner License. They must also be licensed to perform inspections of tanning and tattoo facilities. The position requires 6 months to a year of training.
- e. If two sanitarians are not permitted to work during a strike, services would cease. The Department would not be able to perform the inspections necessary to prevent disease, including investigations of food borne illnesses and restaurant inspections. It would only have the resources to respond to emergencies.

- f. Failure to properly inspect facilities could result in an emergency situation with adverse health effects on the public.

12. Communicable Disease Investigators

- a. The Petitioner seeks two Communicable Disease Investigator (CDI) to remain working during the strike.
- b. The goal of the Communicable Disease Program is to reduce morbidity and mortality within the community through investigation of illness, disease prevention, issuance of quarantine orders, and control of an infectious individual's contacts.
- c. The Program is headed by a Will County Health Department epidemiologist.
- d. The CDIs investigate reported cases of communicable disease, advise exposed persons about how to obtain medical treatment and prevent further spread of the disease, and perform as a liaison between related environmental health, laboratory and nursing program activities.
- e. CDIs perform approximately 2000 investigations a year.
- f. They are trained to use the Illinois National Disease Surveillance System to report confirmed cases of disease to the State.
- g. CDIs are the only individuals with the training to use that system.
- h. Timing is critical to the investigation of disease.
- i. If two CDI were not permitted to work during the strike, 90% of the Program's investigations could not be performed. This could cause an outbreak of disease and an increase in morbidity and mortality.

- j. There are no other employees who could perform the work of the CDIs. While the epidemiologist is qualified to perform all of the CDIs' work, he could only take on 10% of their duties in the event of a strike.
- k. The petitioner asserts that there are no supervisory personnel at the Health Department or other individuals who possess all the required training, skills, and ability to perform the work.

Under Section 18 of the Act, we consider whether the strike by the Petitioner's employees constitutes a clear and present danger to the health and safety of the public. We address each title, or set of titles, in turn below.

1. Deputy Coroners

We find that a clear and present danger to the health and safety of the public would exist if the Petitioner did not have the services of one Deputy Coroner per 24-hour shift in the event of a strike.

Here, the Deputies perform core public health functions such as removal and identification of bodies, taking toxicological specimens, and investigating causes of death. We acknowledge that there are employees who could perform some of the different facets of the Deputy Coroners' work. Nevertheless, the extensive coordination necessary to achieve such a piecemeal solution to the Deputy Coroners' absence itself creates a clear and present danger to the health and safety of the public because it substantially increases the risk that the Deputies' core public health functions are not performed adequately. Cnty. of Winnebago, 20 PERI ¶ 34 (IL LRB-SP 2004)(considering the availability and adequacy of substitutes); see also Clerk of the Circuit Court of Winnebago Cnty., 20 PERI ¶ 16 (IL LRB-SP 2003).

Thus, we conclude that the Petitioner must have the services of one Deputy Coroner per 24-hour shift to avert a clear and present danger to the health and safety of the public.

## 2. Administrative Correctional Clerks

We find that the Administrative Correctional Clerks are not essential service employee whose absence during a strike would pose a clear and present danger to the health and safety of the public.

A strike by bargaining unit members does not pose a clear and present danger to the health and safety of the public where the Petitioner is able to find adequate substitutes for the striking employees. See County of Winnebago, 20 PERI ¶ 34; Clerk of the Circuit Court of Winnebago Cnty., 20 PERI ¶ 16; Clerk of the Circuit Court of Cook Cnty., 18 PERI ¶ 2046 (IL LRB-SP 2002), but see City of Naperville, 13 PERI ¶ 2044 (IL SLRB 1997); City of Edwardsville, 1 PERI ¶ 2015 (IL SLRB 1985).

Here, the Petitioner has adequate substitutes because it has trained approximately 15-20 correctional officers in the duties performed by the Administrative Correctional Clerks. Although these employees do not have the full training, experience, or expertise as the Clerks, the presence and oversight of the current and former Inmates Records Supervisor obviates any clear and present danger to the health and safety of the public. Clerk of the Circuit Court of Winnebago Cnty., 20 PERI ¶ 16 (supervisors' familiarity with work of subordinates rendered subordinate employees non-essential).

Thus, we find no basis on which to prohibit the Administrative Correctional Clerks from striking.

### 3. Craftsmen in the Adult Detention Facility

#### a. Electrician (Mark Colwell) and Locksmith (Adam Wiewiora)

Of the craftsmen at issue in this petition, we find that electrician Mark Colwell is an essential service employee whose absence during a strike would present a clear and present danger to the health and safety of the public. Further, we find that locksmith Wiewiora is an essential service employee only in the event of an emergency and we accept the Union's offer of accommodation with respect to this employee.

Colwell's functions are essential because he is the only employee who has working knowledge of the emergency backup security system and how to reset the system in case of failure. Faulty security at the Adult Detention Facility, which might result from Colwell's absence, is a matter that impacts the security of the inmates, the Correctional Deputies, and the public at large. We acknowledge that the Petitioner could call Integrator, the contractor ultimately responsible for the ADF's security system. However, the contractor's uncertain and potentially extended response time, its specialized knowledge of the system, and the gravity of a potential security risk compel us to find that Colwell's presence is necessary to avert a clear and present danger to the health and safety of the public. But see Cnty. of Winnebago, 20 PERI ¶ 34 (availability of temporary personnel and alternate service providers rendered bargaining unit members non-essential).

Further, we find that the locksmith is an essential service employee only in the event of an emergency because we accept the Union's agreement to allow the Petitioner to call Wiewiora back for emergency repairs. Pursuant to this agreement, Wiewiora would only perform the work he customarily performs and would only perform the amount of work necessary to avert the emergency. See City of Naperville 13 PERI ¶ 2044 (in deciding to limit the number of

employees designated as essential, the Board considered the union's pledge that it would provide as many employees as necessary to restore service in the event of a major emergency or natural disaster).

Thus, we find that Colwell is an essential service employee who must be prohibited from striking and that Wiewiora is essential only in the event of an emergency.

b. HVAC Technician (John Walden) and Plumbers (Jason Winkler and Robert Park)

We find that the HVAC technician and the plumbers are not essential service employees whose absence during a strike would pose a clear and present danger to the health and safety of the public.

The Petitioner has failed to show how these employees' tasks, performed within a detention facility, are substantially different from those performed by HVAC technicians and plumbers who work among the general public. Accordingly, we find that the Petitioner could hire a private HVAC technician or plumber to resolve any plumbing and HVAC issues that arise and could therefore avoid any clear and present danger to the health and safety of the public. Further, given the multitude of available private plumbers and HVAC technicians, the Petitioner could find craftsmen to make timely service calls, particularly if the Petitioner pays a premium for expedited service. Indeed, the Petitioner already has a list of approved contractors who can perform such functions. Finally, we note that Colwell frequently serves as backup to Walden. As such, Colwell's designation as an essential service employee renders the need for the HVAC technician less acute. Cnty. of Winnebago, 20 PERI ¶ 34 (considering availability of adequate substitutes), see also Clerk of the Circuit Court of Winnebago Cnty., 20 PERI ¶ 16; Clerk of the

Circuit Court of Cook Cnty., 18 PERI ¶ 2046; City of Naperville, 13 PERI ¶ 2044; City of Edwardsville, 1 PERI ¶ 2015.

Thus, we find no basis on which to prohibit the HVAC Technician and the Plumbers from striking.

#### 4. Vital Records Technician

We find that Vital Records Technician Jan Cullen is not an essential service employee whose absence during a strike would pose a clear and present danger to the health and safety of the public.

Here, the Petitioner has procured adequate substitutes to perform the Vital Records Technician's tasks because the completion of vital records certificates requires no special training or knowledge and the Petitioner has trained backup staff to perform this work in the event of a strike. Cnty. of Winnebago, 20 PERI ¶ 34 (considering availability of adequate substitutes), see also Clerk of the Circuit Court of Winnebago Cnty., 20 PERI ¶ 16 and Clerk of the Circuit Court of Cook Cnty., 18 PERI ¶ 2046; City of Naperville, 13 PERI ¶ 2044; City of Edwardsville, 1 PERI ¶ 2015. Here, the Petitioner admitted that the Executive Assistant, who received training in the Vital Records System in anticipation of the strike, will perform the most prioritized work, such as the issuance of death certificates. Though the Petitioner asserts that the job requires experience which lends an understanding of the nuances of the work, we do not find this argument persuasive because the petitioner has not connected the need for such intimate knowledge of the tasks to a clear and present danger to public health and safety. Finally, we reject the Petitioner's assertion that the risk of a backlog warrants Cullen's designation as an essential service employee and note that the employer's inability to provide services identical to

that provided under non-striking conditions is not the relevant standard. See City of Naperville, 7 PERI ¶ 2033.

Thus, we find no basis on which to prohibit the Vital Records Technician Cullen from striking.

## 5. Sanitarians

We find that a clear and present danger to the health and safety of the public would exist if the Petitioner did not have the services of two sanitarians in the event of a strike.

The sanitarians' work is integral to maintaining public health and safety because their inspections prevent epidemics of food borne illnesses. Their absence would hinder the Petitioner from performing these essential functions and would reduce the Department of Environmental Health to reacting to developed emergencies, rather than performing the essential task of preventing them. Although the Department has managers who are qualified to perform the sanitarians' work, we accept the testimony that the sanitarians' absence would cause a cessation or diminishing of the Department's food inspection tasks. Accordingly, we find that there are no substitutes who could perform the sanitarians' tasks in a manner that could prevent a clear and present danger to the health and safety of the public. See cases supra.

Thus, we find that two sanitarians must remain at work to prevent a clear and present danger to the health and safety of the public.

## 6. Communicable Disease Investigators

We find that a clear and present danger to the health and safety of the public would exist if the Petitioner did not have the services of two Communicable Disease Investigators (CDIs) in the event of a strike.

Here, the CDIs' failure to perform their investigative functions could cause an outbreak of disease and an increase in morbidity and mortality. While we acknowledge that there is no guarantee that any single case of infection could expand into an epidemic, our finding here addresses and attenuates the danger inherent in that uncertainty.

Further, we note that there are no individuals who could adequately perform these employees' tasks. The CDIs are the only individuals, with the exception of the epidemiologist supervisor, who are trained to use the Illinois National Disease Surveillance System to report confirmed cases of disease to the State. Further, although the epidemiologist can perform the CDIs' investigative functions, his presence alone would not forestall a clear and present danger to the health and safety of the public because he could only perform 10% of the employees' duties in the event of a strike. See City of Edwardsville, 1 PERI ¶ 2015 (considering employees' licenses and qualifications). Contrary to the Union's contention, the risk of languishing investigations is not merely that of an administrative backlog. Rather, the failure to investigate an illness creates a clear and present danger that such a sickness could rapidly develop into a County- or State-wide health emergency.

Thus, we find that two CDIs are essential service employees whose presence at work is necessary to prevent a clear and present danger to the health and safety of the public.

## 7. Conclusions

- a. The Petitioner must have the services of one Deputy Coroner per 24-hour shift to avert a clear and present danger to the health and safety of the public.
- b. Pursuant to the Union's stipulation, it is necessary to retain three telecommunicators per shift to avoid a clear and present danger to the health and safety of the public. The telecommunicators who remain at work will perform only their customarily assigned duties.
- c. Electrician Mark Colwell is an essential service employee who must be prohibited from striking.
- d. Locksmith Adam Wiewiora is an essential service employee only in the event of an emergency and will only perform his customarily assigned duties as necessary to avert the emergency.
- e. Two Communicable Disease Investigators are essential service employees whose presence at work is necessary to prevent a clear and present danger to the health and safety of the public.
- f. Two sanitarians are essential service employees whose presence at work is necessary to prevent a clear and present danger to the health and safety of the public.
- g. The Administrative Correctional Clerks, the Vital Records Technician, the HVAC Technician, and the plumbers are not essential service employees.
- h. Except as outlined above, we find that all other employees of the Petitioner can exercise their right under the Act to strike. Accordingly,

pursuant to Section 18 of the Act, the Petitioner may petition the circuit court for appropriate judicial relief.

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/ Albert Washington  
Albert Washington, Member

Decision made at the State Panel's public meeting in Chicago, Illinois on November 18, 2013, written decision issued in Chicago, Illinois on November 19, 2013.