

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NOS.:	S-03-43a
	)		S-04-43b
JOHN WAIHEE, III, Governor,	)		S-13-43c
State of Hawaii,	)		
	)	ORDER NO.	1052
Petitioner,	)		
	)	ORDER AMENDING BOARD ORDER	
and	)	NO.	1039
	)		
HAWAII GOVERNMENT EMPLOYEES	)		
ASSOCIATION, AFSCME, LOCAL 152,	)		
AFL-CIO,	)		
	)		
Exclusive	)		
Representative.	)		

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ORDER AMENDING BOARD ORDER NO. 1039

On April 25, 1994, the HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA), by and through its attorney Charles K.Y. Khim, Esq., filed a Motion to Enforce Order with the Hawaii Labor Relations Board (Board). The HGEA moved the Board to enforce its order by directing the above-named Petitioner to cease and desist from ordering the deputy sheriffs and other state law enforcement officers deemed essential to surveil, police, or otherwise exercise jurisdiction over the HGEA members who are engaging in a work stoppage.

The affidavit of HGEA's counsel attached to the motion indicates that deputy sheriffs were requested in the subject petition to assist the Judiciary in security functions such as taking custody of and delivering criminal defendants who are incarcerated to and from the courtrooms in which their cases are being heard, detaining the criminal defendants in the holding cells

within the various courthouses in the State, etc. HGEA contends that the deputy sheriffs were deemed essential solely for those purposes. The affidavit of HGEA business agent, Stuart McKinley, attached to the motion indicates that the Honolulu Police Department (HPD) has an agreement with the State Department of Public Safety (PSD) to have the deputy sheriffs control or otherwise police the picket lines. McKinley stated that he believed the motive behind using the deputy sheriffs to confront employees sympathetic to the HGEA's strike was to interfere with or restrain the HGEA members from engaging in a work stoppage.

On April 26, 1994, Petitioner JOHN WAIHEE, III (Employer), by and through his counsel, filed a Memorandum in Opposition to HGEA's motion to enforce order. Employer maintains that the deputy sheriffs can properly be assigned to police picket lines and provide security to State buildings since these functions are encompassed within their normal duties and responsibilities. The affidavit of Roy Yamamoto submitted in support of its Motion for Interlocutory Relief states that the Protective Services Division of the PSD is responsible, inter alia, for providing round-the-clock police and security for the State Office Tower, Washington Place, and other state government buildings. With respect to the Sheriff Division, George Iranon, Deputy Director of Law Enforcement, PSD, states in his affidavit that the Division: a) provides law enforcement security for all Judiciary facilities and personnel; b) transports detainees, prisoners, inmates, and juvenile offenders for court hearings and trials; c) secures and detains all prisoners awaiting court hearings or trials within the

court cellblocks; d) investigates and apprehends individuals with outstanding arrest warrants; and e) assists other State agencies in providing security.

Moreover, Iranon states that the Deputy Sheriffs of the Protective Services Division and the Sheriff Division are currently providing security services at selected state buildings and facilities on Oahu which are subject to picketing by HGEA. He further states that Chief of Police Michael Nakamura, HPD, informed PSD Director George Sumner that the HPD was short-staffed and lacked manpower and requested PSD's assistance in providing security at the picket sites.

At the outset, the Board views the HGEA's motion to enforce order as a motion to amend its Order No. 1039, issued on April 16, 1994. The HGEA seeks a proviso to limit the deputy sheriffs to their normal duties, i.e., transporting prisoners and providing security for the Judiciary rather than policing the picket lines. The Employer contends that providing security to State buildings is within the normal duties of deputy sheriffs.

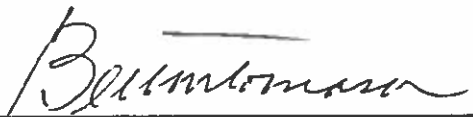
Based upon the arguments of counsel and the affidavits submitted to the Board, a majority of the Board finds it appropriate to amend Order No. 1039 to clarify that the deputy sheriffs of the Protective Services Division, PSD, can properly be assigned to provide security for the State buildings because it is part of their normal duties. The affidavit of Roy Yamamoto filed in support of Employer's motion for interlocutory relief does not limit the duties of these deputies to only the transportation and custody of prisoners. In addition, Iranon's affidavit states that

the deputy sheriffs of the Sheriff Division, PSD, provide security to all Judiciary facilities and also assist other State agencies in providing security. Thus, the normal duties of the deputy sheriffs encompass the provision of security to State buildings and facilities.

However, the Board is mindful that the current HGEA work stoppage is an extraordinary event. The Employer's decision to assign deputy sheriffs belonging to Unit 03 to patrol and police picketers belonging, in large part, to Unit 03 presents a possibly volatile situation given that the alternative is to have disinterested Unit 12 police officers assigned for the same purpose. In order to avoid possible confrontations and defuse potentially volatile incidents, the Board majority orders that the deputy sheriffs may be assigned to ensure ingress and egress of vehicles at roadways and driveways providing access to State buildings and ensure safety for the picketers and general public. It is the intention of the Board majority that the deputy sheriffs not conduct surveillance of the picketing activities in a manner which would intimidate or harass the picketers but be available to respond, if necessary, to any occurrence requiring their intervention.

DATED: Honolulu, Hawaii, April 28, 1994.

HAWAII LABOR RELATIONS BOARD


  
BERT M. TOMASU, Chairperson

  
RUSSELL T. HIGA, Board Member

JOHN WAIHEE, III, Governor, State of Hawaii and HAWAII GOVERNMENT  
EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO; CASE NOS.:  
S-03-43a, S-04-43b, S-13-43c  
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Dissenting Opinion

I dissent from this order of the Board. There was no evidence before the Board of incidents to support the policing of picket lines. In addition, the documents supporting Employer's motion for interlocutory relief indicates that the deputy sheriffs are used primarily to transport prisoners and provide security for the Judiciary. In my opinion, it is reprehensible to assign members of the same bargaining unit to surveil fellow members of the bargaining unit who are participating in a lawful strike. The potential to create bad feelings between the two groups can easily be avoided by the assignment of impartial police officers to provide security services.

  
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SANDRA H. EBESU, Board Member

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