

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

CITY OF CAMDEN,

Public Employer,

-and-

FRATERNAL ORDER OF POLICE,
CAMDEN LODGE NO. 1 SUPERIOR
OFFICERS COMMITTEE,

DOCKET NO. RO-82-62

Petitioner,

-and-

CAMDEN CITY POLICE SUPERIOR
OFFICERS ASSOCIATION,

Intervenor.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs an election among police captains, lieutenants and sergeants for the purpose of ascertaining whether these employees desire to be represented for the purpose of collective negotiations by the FOP Lodge #1 Superior Officers Committee, the Camden City Police Superior Officers Association, or by neither. The City objected to an election, and requested a hearing to determine whether the FOP affiliate could represent supervisors, since FOP Lodge #1 currently represents nonsupervisory police officers. The Director concludes that the issue of whether the organizational structure of the Superior Officers Committee is proper, is an issue which is appropriate for consideration after an election, if the Superior Officers Committee is designated as the majority representative.

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Appearances:

For the Public Employer
Murray, Granello & Kenney, attorneys
(James P. Granello of counsel)

For the Petitioner
Kirschner, Walters & Willig, attorneys
(Jonathan Walters of counsel)

For the Intervenor
Richard A. D'Auria, President

DECISION AND DIRECTION OF ELECTION

On October 2, 1981, a timely Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was filed with the Public Employment Relations Commission (the "Commission") by the Fraternal Order of Police, Camden Lodge No. 1 Superior Officers Committee (the "Lodge 1

Superior Officers Committee") seeking to represent a negotiations unit of "Captains, Lieutenants and Sergeants" employed by the City of Camden. The current exclusive representative of the petitioned-for employees is the Camden City Police Superior Officers Association (the "Superior Officers Association"), which has intervened in this matter on the basis of a recent contractual agreement with the City covering the instant employees.

In accordance with N.J.A.C. 19:11-2.6, the undersigned has caused an administrative investigation to be conducted into the matters and allegations involved in the petition.

Based upon the administrative investigation herein, the undersigned finds and determines as follows:

1. The disposition of this matter is properly based on the administrative investigation herein, it appearing that no substantial and material factual issues exist which may more appropriately be resolved after an evidentiary hearing. Pursuant to N.J.A.C. 19:11-2.6(b), there is no necessity for a hearing, where as here, no substantial and material factual issues have been placed in dispute by the parties.

2. The City of Camden is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"), is the employer of the employees who are the subject of this Petition, and is subject to the provisions of the Act.

3. Fraternal Order of Police Camden Lodge No. 1 Superior Officers Committee and Camden City Police Superior Officers

Association are employee representatives within the meaning of the Act and are subject to its provisions.

4. Lodge No. 1 Superior Officers Committee seeks to represent an existing negotiations unit of captains, lieutenants and sergeants currently represented by the Superior Officers Association. The Fraternal Order of Police, Camden Lodge No. 1 currently represents a negotiations unit of rank and file police officers and detectives employed by the City. The City declines to consent to a secret ballot election and challenges the right of Camden Lodge No. 1 Superior Officers Committee to represent superior officers since Camden Lodge #1 represents the rank and file officers. The Superior Officers Association objects to the conduct of a secret ballot election claiming that the instant Petition was filed without the required internal approval of FOP Lodge #1. ^{1/}

5. At an informal conference, convened among the parties on October 14, 1981, representatives of Lodge No. 1 Superior Officers Committee were advised of the responsibility to create a separate entity from the Fraternal Order of Police, Camden Lodge No. 1, if elections resulted in the selection of Lodge No. 1 as the representative of the rank and file unit and Lodge No. 1 Superior Officers Committee as representative of the superior officers unit. ^{2/} On October 22, 1981, Camden Lodge No. 1

^{1/} The issue raised by the Superior Officers Association is not appropriate for consideration in a representation proceeding.

^{2/} At the time of the conference, the status of Camden Lodge No. 1 as the majority representative of rank and file officers was being challenged by a rival police employee organization. Camden Lodge No. 1 was subsequently redesignated as the majority representative by employees in a secret ballot election.

Superior Officers Committee formally acknowledged its responsibility and stated that if certified by the Commission it would be "a separate structure from patrolmen" and would meet all the requirements of the Commission. ^{3/}

The issue placed before the undersigned is whether the petitioner at this time has met the initial procedural requirements so that an election may be conducted to ascertain the employees' choice of a majority representative, if any.

N.J.S.A. 34:13A-5.3 provides that no supervisor may be represented by an employee organization that admits nonsupervisory personnel to membership. The City argues that in light of this statutory requirement a formal hearing is necessary at this time to examine the structure of the Superior Officers Committee and to assure that the statutory prohibition will not be violated. However, the statutory prohibition is not implicated at this juncture of the representation proceeding, and may not be implicated unless the Superior Officers Committee is chosen the majority representative by employees. It would be pointless at this time to consider the precise structure of an employee representative which does not yet bear the responsibility of representing the interests of a unit of public employees, and thus does not have the responsibility to conform its structure pursuant to the mandates of the Act.

The issue raised herein is identical to the issue raised when the undersigned recently directed an election for certain employees of the State of New Jersey. The employee

^{3/} The Superior Officers Committee's letter is attached hereto and made a part hereof.

organizations involved formally acknowledged their responsibilities to create separate organizations if designated as the majority representative for both supervisory and nonsupervisory units.

In re State of New Jersey, D.R. No. 81-20 (1980). This determination was reviewed and affirmed by the Commission in In re State of New Jersey, P.E.R.C. No. 81-94 (1981).

Adequate protections are available to the City if the chosen majority representative is not in compliance with § 5.3. In Town of Kearny, P.E.R.C. No. 81-137 (1981), the Commission entertained an unfair practice charge concerning the separate representation of rank and file officers and superior officers. The Commission found a violation of the Act, and ordered the majority representative of superior officers not to demand negotiations until its structure comported with the requirements of the Act. At the same time, the Commission declined to establish a specific structure which would satisfy the requirement for separate entities. The Commission noted that the employees are free to select the representative and structure which best meets their needs, provided that this structure comports with the requirements of the Act.

The petitioner herein has acknowledged its responsibility to create a separate organizational entity for the representation of superior officers. This satisfies the initial requirements established by the Commission for the purpose of achieving a secret ballot election. Accordingly, the City's objections are premature for consideration herein.

Therefore, the undersigned shall direct the conduct of a secret ballot election. The appropriate unit is "All captains, lieutenants and sergeants, but excluding the chief, deputy chiefs, patrolmen/patrolwomen, detectives, managerial executives, professional employees, craft employees, and confidential employees within the meaning of the Act.

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned directs that an election be conducted no later than thirty (30) days from the date set forth below.

Those eligible to vote are employees set forth above, who were employed during the payroll period immediately preceding the date below including employees who did not work during that period because they were out ill, or on vacation, or temporarily laid off, including those in the military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who resigned or were discharged for cause following the designated payroll period and who have not been rehired or reinstated prior to the date of the election.

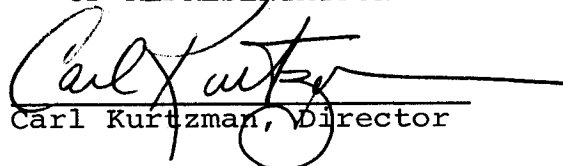
Pursuant to N.J.A.C. 19:11-9.6, the City is directed to file with the undersigned, and with Lodge No. 1, Superior Officers Committee, and with the Superior Officers Association an election eligibility list consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses. In order to be timely filed the eligibility list must be received by the undersigned no later than ten (10)

days prior to the date of the election. A copy of the eligibility list shall be simultaneously filed with Lodge No. 1, Superior Officers Committee and the Superior Officers Association with statements of service to the undersigned. The undersigned shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

Those eligible to vote shall vote on whether they wish to be represented for purposes of collective negotiations by the Fraternal Order of Police, Camden Lodge No. 1, Superior Officers Committee, or the Camden City Police Superior Officers Association, or neither.

The exclusive representative, if any, shall be determined by the majority of valid ballots cast by the employees voting in the election. The election shall be conducted in accordance with the provisions of the Commission's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Carl Kurtzman, Director

DATED: December 2, 1981
Trenton, New Jersey

3849 Union Avenue
Pennsauken, N. J. 08110
October 22, 1981

Mr. Carl Kurtzman
Director of Unfair Practices and Representation
Public Employment Relations Commission
429 East State Street
Trenton, New Jersey 08608

Dear Mr. Kurtzman:

This letter is to advise you that if the Fraternal Order of Police, Camden Lodge No. 1, Superior Officers Committee, is certified as the majority representative of the superior officers (Sergeants, Lieutenants and Captains) of the Camden City Police Department, we will be a separate structure from the patrolmen.

Furthermore, we will meet all the requirements of the Public Employment Relations Commission. It is our desire to not only be a separate structure encompassing the above mentioned superior officers, but also that they be members in good standing and active members of the Camden City Police Department.

I hope that I have answered any questions you may have. Thank you for your kind consideration.

Very truly yours,



Lieutenant Frank L. Martelli
Secretary