

P.E.R.C. NO. 81-137

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWN OF KEARNY,

Petitioner,

-and-

Docket No. CE-78-39-35

KEARNY P.B.A. LOCAL #21

Respondent.

SYNOPSIS

The Commission determines on a stipulated record that Kearny P.B.A. Local #21 violated N.J.S.A. 34:13A-5.4(b)(3) when it failed to comply with a decision of the Commission's Director of Representation, Town of Kearny and Kearny P.B.A. Local 21, D.R. No. 78-30, 4 NJPER 54 (¶4025 1977), requiring that police superior officers employed by the Town be excluded from the existing collective negotiations unit containing rank and file officers,

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWN OF KEARNY,

Charging Party,

-and-

Docket No. CE-78-39-35

KEARNY P.B.A. LOCAL #21,

Respondent.

Appearances:

For the Petitioner, Doyle and Brady, Esqs.
(Norman A. Doyle, Jr., Esq.)

For the Respondent, Schneider, Cohen, Solomon &
DeMarzio, Esqs. (David Solomon, Esq.)

DECISION AND ORDER

An Unfair Practice Charge was filed with the Public Employment Relations Commission on June 13, 1978 by the Town of Kearny (the "Town") alleging that Kearny P.B.A. Local #21 ("Local 21") had engaged in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A1 et seq. (the "Act"). Specifically, the Town alleges that Local 21 has refused to implement a decision of the Commission's Director of Representation, Town of Kearny and Kearny P.B.A. Local 21, D.R. No. 7830, 4 NJPER 54 (¶4025 1977), requiring that police superior officers employed by the Town be excluded from the existing collective negotiations unit containing rank and file officers. This alleged failure to comply is said to constitute a refusal to negotiate in good faith in violation of N.J.S.A. 34:13A5.4(b)(3).^{1/}

^{1/} This subsection prohibits public employee organizations, their representatives or agents from: "(3) Refusing to negotiate in

(Continued)

It appearing that the allegations of the Unfair Practice Charge, if true, could constitute unfair practices within the meaning of the Act, a Complaint and Notice of Hearing was issued on November 14, 1979. By Answer filed on November 26, 1979, Local #21 denied the allegations of unfair practices.

Before a Commission Hearing Examiner, the parties agreed to waive an evidentiary hearing and to submit stipulations of fact, exhibits, pleadings and briefs directly to the Commission for determinations, pursuant to N.J.A.C. 19:14-6.7.^{2/} The submission of these materials to the Commission was completed on October 29, 1980, and the record is now appropriately before the Commission for determination.

In the decision by the Director of Representation referred to in the Town's charge, the Director reviewed the record in the matter and determined that "actual and potential conflicts of interest are generated by the inclusion of sergeants, lieutenants and captains in the same negotiations unit with rank and file officers...." The Director therefore "clarifie[d] the negotiations unit represented by the PBA to exclude sergeants, lieutenants and captains." Town of Kearny and PBA Local 21, supra.

1/ (Continued) good faith with a public employer, if they are the majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit."

It should also be noted that Local 21 did not request review or otherwise appeal from the Director's decision.

2/ N.J.A.C. 19:14-6.7 provides: "In any such proceeding stipulations of fact may be introduced in evidence with respect to any issue. The parties may submit a stipulation of facts to the commission for a decision without a hearing. The parties may also agree to waive a hearing examiner's recommended report and decision."

The Town alleges here that Local 21 has not substantively complied with the Director's order.

The parties have stipulated (Stipulations attached) that, after the Director's decision, Local 21 divided itself into organizations with three separate names: An umbrella organization, Kearny PBA Local #21 (hereinafter "PBA-Fraternal"), and two separate organizations for negotiations, Kearny PBA Local #21-Superiors (hereinafter "PBA-Superiors"), and Kearny PBA Local #21-Patrolmen (hereinafter "PBA-Patrolmen"). Utilizing this structure, the parties commenced negotiations for two separate agreements: one for the PBA-Superiors and one for the PBA-Patrolmen.

The Town argues that this division is superficial and that the Superior officers and the rank and file patrolmen still function as one negotiations unit in contravention to the Director's decision. In support of this contention, the Town cites, inter alia, the following stipulated facts:

1. Neither PBA-Superiors nor PBA-Patrolmen have officers or constitutions. PBA-Fraternal has officers, and its constitution provides that no superior officer may be an officer of PBA-Fraternal.

2. All patrolmen's and superior officers' dues are paid to, and all funds are disbursed by PBA-Fraternal.

3. One grievance committee, comprised of two patrolmen and two superiors, processes all grievances of both patrolmen and superior officers at the initial level. All committee members are appointed by the PBA-Fraternal President.

4. Both the superior officers and the patrolmen have their own negotiating committees. The patrolmen's committee is

comprised of four patrolmen who are appointed by the President of PBA-Fraternal. The superior officers' committee is comprised of four superior officers who are appointed by the President of PBA-Fraternal.

Local 21 contends that the Act and the New Jersey Constitution guarantee the rights of its members to choose their representatives for both negotiations and adjustment of grievances. In addition, Local 21 asserts that the Commission has no authority to evaluate the grievance procedures utilized by the parties.

While Local 21 is certainly correct that employees have the right to select their own representatives, that right is not absolute. Case law and this very Act impose certain limitations which are deemed in the public interest. See e.g. Lullo v. International Association of Firefighters, Local 1066, 55 N.J. 409 (1970); Board of Education of West Orange v. Wilton, 57 N.J. 404 (1971); N.J.S.A. 34:13A-5.3 and N.J.S.A. 34:13A-6(d). Additionally, the Commission is charged with the responsibility for resolving questions concerning representation which can include the appropriateness of units and the avoidance of conflicts of interest of the type set forth in the statute and case law. It was in furtherance of that responsibility that the Director issued his decision in this matter following his investigation, which included a hearing on the clarification of unit petition previously filed involving these parties. N.J.A.C. 19:11-1.5.

Upon review of the record and the Director's decision with which we are in agreement, we conclude that Local 21 has not complied with the order in Town of Kearny, supra. The same actual

and potential conflicts of interest found by the Director in Town of Kearny, supra. exist under the present structure. For example, while negotiations for the superior officers unit are conducted by four superior officers under the modified structure, those officers are appointed by the PBA-Fraternal President, who, according to the PBA Constitution, must be a patrolman. If the superior officers, who "exercise significant authority and assume responsibilities which are integral and important factors in the proper functioning of the department..., ^{4/} are to negotiate without actual or potential conflicts of interest, their negotiating team should not be appointed by one of their subordinates in the police hierarchy. ^{5/} Such a structure presents the same conflicts of interest, or at least potential for conflict, as did the old structure in which they were in the same unit, and is thus in direct contravention to the Director's order in Town of Kearny, supra. ^{6/}

By this determination, we do not suggest that different units cannot consult or even form joint negotiations teams in the course of negotiations with their common employer. cf. In re Brunswick Township Board of Education, P.E.R.C. No. 80-122, 6

^{4/} Town of Kearny, supra.

^{5/} This is precisely the kind of conflict of interest envisioned by the New Jersey Supreme Court in Board of Education of West Orange v. Wilton, 57 N.J. 404, 423 (1971): "Significant indications of such conflict are existence of a duty in some of the group to evaluate the performance of others in the group in the interest of the employer, and exercise by some of an influential part in matters of discipline or grievance procedures with respect to the others."

^{6/} This is only one example of the possible conflicts which exist. The other stipulated facts relied upon by the Town, as well as others set forth in Appendix A, establish that the present structure has not alleviated the problems discussed by the Director.

NJPER 193 (¶11095 1980). Nor should our decision be read as prohibiting superior officers from choosing to be members of Kearny PBA Local 21. Such a right is specifically recognized by N.J.S.A. 34:13A-5.3. Our decision is based on the record developed by the parties' stipulated facts which indicates that the current arrangement does not alleviate the problems found by the Director's decision in Town of Kearny, supra. Moreover, by demanding that the Town negotiate with it concerning terms and conditions of employment for superior officers, Local 21, under these facts, is engaging in an unfair practice in violation of N.J.S.A. 34:13A-5.4(b)(3).

Nor do we believe it appropriate to set forth a specific structure which must be established to meet the requirements of the Act, the cases, and the Director's decision, as no one structure is appropriate. Obviously, based on the Director's decision, the sergeants, lieutenants and captains in Kearny must be in a different unit from the rank and file officers. However, beyond that limitation and the other restrictions set forth in the law, the employees in Kearny, as in all other situations, are free to select the representative and structure which best meets their needs. In the event of a dispute, the Commission is available to pass upon whether the particular form is consistent with the law, but we do not dictate to employees who their representative will be, or with whom that representative will be affiliated, or structured.

ORDER

Based upon the above, IT IS HEREBY ORDERED that:

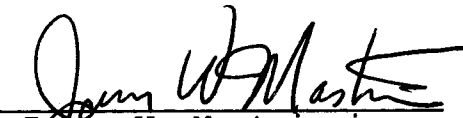
1. Local 21 cease and desist from demanding that the Town of Kearny negotiate with it concerning terms and conditions

of employment for police sergeants, lieutenants and captains employed by the Town of Kearny under an organizational structure which presents substantial actual or potential conflicts of interest between the responsibilities of these officers and the rank and file officers.

2. That Kearny PBA Local #21 post copies of the attached "Notice to Employees" marked as "Appendix A" at all places where notices to employees are customarily posted. Copies of such notice, on forms to be provided by the Commission, shall, after being signed by Local #21's representative, immediately upon receipt thereof, be posted and maintained by it for a period of sixty (60) days thereafter in conspicuous places at the aforementioned locations. Reasonable steps shall be taken by Kearny PBA Local #21 to insure that such notices are not altered, defaced, covered or expropriated.

3. Notify the Chairman of the Commission, in writing, within twenty (20) days of receipt of this Order what steps have been taken to comply herewith.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Hartnett, Hipp, Parcels, Newbaker and Suskin voted in favor of this decision. None opposed. Commissioner Graves was not present.

DATED: Trenton, New Jersey
June 9, 1981
ISSUED: June 10, 1981

"APPENDIX A"

NOTICE TO ALL EMPLOYEES

PURSUANT TO

AN ORDER OF THE

PUBLIC EMPLOYMENT RELATIONS COMMISSION

and in order to effectuate the policies of the

NEW JERSEY EMPLOYER-EMPLOYEE RELATIONS ACT,

AS AMENDED

We hereby notify all employees who are employed as
police personnel by the Town of Kearny that:

Kearny PBA Local #21 will cease and desist from demanding that the Town of Kearny negotiate with it concerning terms and conditions of employment for police sergeants, lieutenants and captains employed by the Town of Kearny under an organizational structure which presents substantial actual or potential conflicts of interest between the responsibilities of these officers and the rank and file officers.

KEARNY PBA LOCAL #21

Dated _____

By _____

(Title)

This Notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

If employees have any question concerning this Notice or compliance with its provisions, they may communicate directly with the Public Employment Relations Commission,
429 East State, Trenton, New Jersey 08608 Telephone (609) 292-9830.

NORMAN A. DOYLE, JR., ESQ.
327 Kearny Avenue
Kearny, New Jersey 07032
(201) 997-0030

Attorney for Petitioner

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS
COMMISSION
DOCKET NO. CE-78-39-35

TOWN OF KEARNY, :
 :
 Petitioner :
 :
 vs. :
 : CIVIL ACTION
 KEARNY PBA LOCAL #21, :
 : STIPULATION OF FACTS
 Respondent :

The following facts are hereby stipulated by and between the parties for the purposes of the within proceeding only.

1. The Town of Kearny is a Public Employer subject to the jurisdiction of the Public Employment Relations Commission (PERC).
2. The Kearny PBA Local #21 (PBA Patrolmen) is an employee organization as defined by the New Jersey Employer-Employee Relations Act and represents the Patrolmen in the Kearny Police Department.
3. The Kearny PBA Local #21 (Superiors) is an employee organization representing the Sergeants, Lieutenants and Captains in the Kearny Police Department and is an employee organization subject to the jurisdiction of PERC.
4. The Kearny Police Department is composed of 130 men; a Chief and 4 Inspectors who are considered Managerial

Employees for the purpose of this proceeding; 6 Captains; 9 Lieutenants; 10 Sergeants; and 100 Patrolmen.

5. Prior to December 28, 1977 when the Director of Representation decided Kearny's Unit Clarification Petition, Kearny PBA Local #21 represented all members of the Kearny Police Department except the ranks of Inspector, Deputy Chief and Chief.

6. There are also a group of school crossing guards that are not in the Kearny PBA Local #21, but are represented by their own bargaining unit, Civil Service Council #11.

7. After the decision of December 28, 1977, (4 NJPER 54), the Kearny PBA Local #21 divided itself into units of three separate names; Kearny PBA Local #21, which is the social and fraternal organization (hereinafter PBA fraternal).

8. As a social and fraternal organization, PBA fraternal is composed of all ranks, Inspectors, Captains, Lieutenants, Sergeants and Patrolmen and in addition includes eight members of the East Newark Police Department, a neighboring municipality. Kearny PBA has engaged in labor related services for East Newark members with the exception of collective bargaining.

9. After the December 28, 1977 decision, a new organization was formed by the Superiors (ie, Captains, Lieutenants and Sergeants) called Kearny PBA Local #21 - Superiors (hereinafter called PBA - Superiors) which exists simultaneously with Kearny PBA Local #21 - Patrolmen, (hereinafter called PBA Patrolmen).

10. Both the Superiors and the Patrolmen maintain their

membership in Kearny PBA Local #21- fraternal, and all pay dues into one bank account which is maintained by PBA- fraternal.

11. Kearny PBA Local #21- fraternal is affiliated with the State PBA while PBA Local #21- Superiors and PBA Local #21- Patrolmen are not affiliated with any statewide organization.

12. Kearny PBA Local #21- Patrolmen has no officers. They have a bargaining agent who is appointed by a bargaining committee. The bargaining committee is four patrolmen who are chosen by the President of Kearny PBA- fraternal, who is in turn elected by the membership of Kearny PBA Local #21- fraternal, which membership as stated above is composed of both Superiors and Patrolmen.

13. Moreover, it is part of the Constitution and By-Laws of the Kearny PBA Local #21- fraternal that a Superior officer may not hold office in Kearny PBA Local #21- fraternal. Thus the President of PBA Local #21- fraternal will always be a Patrolman.

14. Kearny PBA Local #21- Superiors likewise has no separate officers. They too have one bargaining agent (a Superior) who is chosen also by a 4 man bargaining committee, who also is formally chosen by the Patrolman President of the Kearny PBA Local #21- fraternal upon recommendation by the Superiors.

15. The parties have stipulated the Constitution and By-Laws of Kearny PBA Local #21- fraternal into evidence as Exhibit A.

16. The four-man bargaining committee as above described, generally conduct negotiations with the employer and would continue to present their respective cases through interest arbitration.

17. The Patrolmen-President serves also as ex-officio member of the Patrolmen's bargaining committee, but does not so serve on the Superior's bargaining committee.

18. Since the promulgation of the Unit Clarification decision on December 28, 1977, the members of PBA 21- Superiors have met approximately 3 times to discuss contract demands and proposals and the general progress of negotiations. The members of PBA 21- Patrolmen have met approximately 4 or 5 times also to discuss contract demands, counterdemands and the general progress of negotiations.

The members of PBA 21- fraternal have met and continue to meet once per month and at these meetings, progress of negotiations are discussed generally but not specific proposals.

19. Negotiations and Interest Arbitration proceedings are conducted by the above mentioned 4 man bargaining committee, although both PBA 21- Superiors and PBA 21- Patrolmen use the same attorney.

20. The meetings of PBA 21- fraternal, PBA 21- Superiors and PBA 21- Patrolmen are usually held at the same meeting hall and on the same evening. For example, after the regular meeting of PBA 21- fraternal is conducted, the members of PBA 21- Patrolmen or the members of PBA 21- Superiors would adjourn to a separate room to discuss their respective union problems.

21. As stated above, the same law firm represents PBA 21- Superiors and PBA 21- Patrolmen. The law firm was selected by the President of PBA 21- fraternal (a patrolman) and that attorney represents both PBA 21- Patrolmen and PBA 21- Superiors on all matters, ie negotiation, interest arbitration,

grievances and grievance arbitration and any litigation stemming therefrom.

22. There are no dues collected by PBA 21- Patrolmen or PBA 21- Superiors. The only dues collected is by PBA 21- fraternal and all union activities for both Superiors and Patrolmen are financed from this source.

23. PBA 21- Patrolmen and PBA 21- Superiors discuss their own contract negotiations and grievances and neither one consults formally with the other, nor do they send observers to each other's proceedings, nor do the members of one group vote to ratify or approve proposals relating to the other's contract. (There are two separate contracts albeit containing almost identical language). Bargaining sessions for both groups may or may not be on the same day depending on mutual convenience.

24. Only PBA 21- fraternal has a Constitution and By-Laws. PBA 21- Superiors and PBA 21- Patrolmen have none.

25. As for information gathering and the use of members for resource material, a patrolman would serve as a resource person only for PBA 21- Patrolmen and likewise a superior would serve as a resource person only for PBA 21- Superiors except if the issue related to both unions eg holiday pay, and then resource persons and researchers would be used interchangeably.

26. As to grievances, the procedure is different than with contract negotiations.

There is a joint grievance committee composed of two (2) patrolmen and two (2) superior officers.

If the grievance affects the patrolmen only, it is presented (1st step) to the Chief by one or both of the patrolmen members of the committee.

If the grievance affects a Superior it is presented to the Chief by one or both of the Superiors.

27. The decision to proceed with the grievance in the first instance is made by all four members of the committee regardless of whether it affects a Patrolman, Superior or both.

If the grievance affects both bargaining units eg vacation pay, or uniforms, then it could be presented by either a Patrolman or Superior.

28. If the grievance is denied by the Chief, then the entire committee decides whether or not to proceed to the next contractual step (presentation to the Mayor and Council).

29. If the committee decides against proceeding further, and the grievant wishes to proceed on his own, there is no set procedure as to how the grievance would be handled because that problem has never arisen with either the PBA 21- Superiors or PBA 21- Patrolmen.

30. If the grievance proceeds to arbitration the same procedure is followed, ie a Patrolman's grievance is presented by the Patrolmen members of the grievance committee and the Superior's grievance by the Superior members.

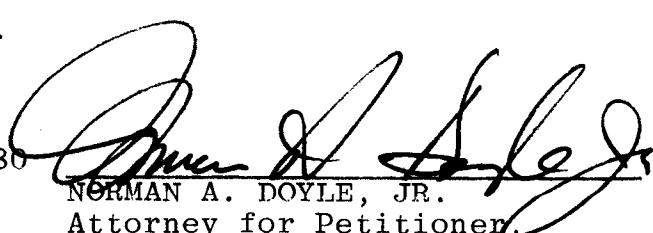
The attorney always is the spokesman for all members at arbitration proceedings and at a proceeding affecting all members, both Superiors and Patrolmen would be present.

31. The parties further stipulate into evidence without formal proof the following documents:

- (a) correspondence from D. Solomon, Esq.- Ex. B
- (b) correspondence from D. Solomon, Esq.- Ex. C
- (c) Constitution and By-Laws of Kearny PBA 21- fraternal- Ex. D.
- (d) Contract- Town of Kearny and Kearny PBA Local #21 covering 1/1/76 to 12/31/78- Ex. E
- (e) The Arbitrator's Interest Arbitration Award for 1979- Ex. F
- (f) Order of Superior Court, Chancery Division, confirming the award in part (under appeal)- Ex. G
- (g) The Motion papers in the within proceedings and briefs already filed together with all pleadings.

32. It is also stipulated between the parties that there are no other facts in dispute; that the parties waive a formal evidentiary hearing, and further waive the hearing officer's report and exceptions thereto and agree that the matter may be forwarded directly to the commission on the stipulated facts, exhibits, pleadings and briefs.

Dated: 4/1/80, 1980


NORMAN A. DOYLE, JR.
Attorney for Petitioner
Town of Kearny

Dated: 3/31/80, 1980


ROBERT T. BRESCIA, ESQ.

SCHNEIDER, COHEN & SOLOMON

COUNSELLORS AT LAW
591 SUMMIT AVENUE
JERSEY CITY, N. J. 07306

ZACHARY SCHNEIDER
EDWARD A. COHEN
DAVID SOLOMON

SCOTT E. TANNE
MARTIN LIST
BRUCE BRAFMAN

AREA CODE 201
656-8241

March 9, 1978

Norman Doyle, Esq.
327 Kearny Avenue
Kearny, New Jersey 07032

Re: Kearny P. B. A. Local 21

Dear Mr. Doyle:

Please be advised that the Superior Officers in the Kearny Police Department have unanimously determined to remain members of Kearny P. B. A. Local 21. However, the Superiors have designated as their negotiating committee the same individuals who will be negotiating a contract in the future for the patrolmen. You may contact the Kearny Superior Officers on labor matters by directing your mail and notices to the President of Kearny, P. B. A. Local 21. The individuals who will be representing the police superiors in the presentation of grievances will be the same individuals who will be representing the patrolmen at the presentation of grievances.

The Superiors recognize that for the next collective bargaining agreement they will be in a separate bargaining unit. However, the facts as outlined above will be strictly adhered to by the Superior Officers as well as by the Patrolmen.

Very truly yours,

SCHNEIDER, COHEN & SOLOMON

By David Solomon
David Solomon

DS:ed

SCHNEIDER, COHEN & SOLOMON
COUNSELLORS AT LAW
591 SUMMIT AVENUE
JERSEY CITY, N. J. 07306



ZACHARY SCHNEIDER
EDWARD A. COHEN
DAVID SOLOMON

AREA CODE 201
656-8241

MARTIN LIST
FRANK R. DIMARZIO

March 21, 1978

Doyle and Brady Esq.
327 Kearny Avenue
Kearny, New Jersey 07032

Attention: Norman A. Doyle, Jr.

Re: Kearny PBA Local 21

Dear Mr. Doyle:

I received your letter of March 15th wherein you refused to honor a negotiating committee partially made up of patrolmen who will negotiate on behalf of the Superior Officers. Apparently our only remedy at this time is to file an unfair labor practice charge against the Town of Kearny, and that is my recommendation to my client.

You will be hearing from me shortly.

Very truly yours,

SCHNEIDER, COHEN & SOLOMON

BY David Solomon Esq.
DAVID SOLOMON

DS/ps

cc: Nick Forscione
8 Riverview Court
Kearny, N. J. 07032

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McC
Chap Potter
3/23/78

NORMAN A. DOYLE, JR., ESQ.
327 Kearny Avenue
Kearny, New Jersey 07032
(201) 997-0030

Attorney for Petitioner

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS
COMMISSION
DOCKET NO. CE-78-39-35

TOWN OF KEARNY,

Petitioner

vs.

KEARNY PBA LOCAL # 21,

Respondent

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SUPPLEMENTAL
STIPULATION OF FACTS

The following is a supplemental stipulation of facts
in the within cause.

Paragraphs are numbered to correspond with numbered
paragraphs in the original stipulation to which the supplemental
stipulations relate.

5. In the history of negotiations before the Director's
decision in D R No. 78-30, 4 N.J.P.E.R. 299 (1978) there was one
committee for negotiations and one committee for grievances.
There were usually at least 2 officers from the ranks of Sgt.
Lieutenant and Captain on both of these committees which usually
numbered six or seven members. However there were always more
patrolmen on both committees than superiors.

Again, prior to the Director's decision, there was one
bargaining unit and one contract, exemplified by the contract

DTA

covering period January 1, 1976 to December 31, 1978 submitted as an exhibit.

Special provisions covering Superiors may be found in this contract in the following articles.

Article XII - Variances

Article XXVI - Wages

Article XXXVIII - Acting Capacity

Article IX - Overtime to the extent

that it recognizes areas of specialty assignment (ie Sections 4A,B,C,D, 5,6,8.

Article XIII - Vacation Section 4 (e)

vacation priorities

At present, the Superiors have informally indicated to the Town that they are satisfied to accept the same contract as awarded to the PBA Patrolmen by the interest arbitrator for 1979, except that they are also demanding an increase in the differential between the ranks, which demand is being submitted to a separate interest arbitrator.

Originally this demand was assigned to arbitrator Manney who recently passed away, and as yet a new interest arbitrator has not yet been assigned.

Except for the above distinction the Superiors have not demanded a separate written contract.

1980 Contract Demands

At present the Town has received two separate sets of demands for the 1980 contract negotiation, one from PBA (patrolmen)

and one from PBA (Superiors)

Both sets of demands, are identical - (See copies attached)

Both sets of 1980 demands have been submitted to PERC by the Town of a scope of negotiations petition.

6. Common benefits of PBA (fraternal)

As members of PBA (faternal) both the superiors and partolmen share common benefits as noted from the constitution and by-laws.

These benefits may be summarized as

- (a) Socializing at monthly meetings.
- (b) Attendance at PBA conventions as a delegate
(see atricle V)
- (c) The financial support of paying the PBA attorney who is the same attorney for PBA (patrolmen) and PBA (superiors).
- (e) Serving as State delegate article XIII and the payment of expenses incidental thereto.
- (f) Attendance at policemen's ball.
- (g) Family may receive payments for death in the line of duty (see atricle XV).

12. The constitution and by laws of PBA Fraternal call for all committees, including the negotiation committee, to be appointed by the President (see p. 21).

There is no provision for any recommendations by the membership.

13. Voting rights of Superiors in PBA (fraternal)

Superiors have voting rights in PBA (fraternal) See Article VII Officer & Elections, although no Superior officer can be an officer in PBA (fraternal)

The only limitations on Superiors as members of PBA Fraternal, is that they cannot be an officer and are therefore precluded from all of the priveleges and rights accorded to officers under the PBA by-laws and constitutions (see sec. 7 article VII & article VIII).

Superiors are likewise not permitted to discuss or debate the election of state or local office or officers (see p 21) nor can a Superior be a chairman of any standing or special committee.

14. The 4 man bargaining committee of PBA Superior are themselves Superiors #16 thru 19

Negotiations are conducted through the respective bargaining committees of PBA (Superiors) and PBA (Patrolmen).

The Patrolmen's bargaining committee is not present at the Superior's negotiations nor are the superior's present at the partolmen's negotiations.

The spokesmen for both bargaining committee is their attorney who presents both groups bargaining demands at separate negotiation sessions.

The same procedure is followed for both grievance and interest arbitration ie the same attorney is the spokesman.

The position of PBA (partolmen) is that they do not consult regarding common approaches and demands with PBA (superior).

18. The meetings of PBA Superior and PBA Patrolmen set forth in paragraph 18 of the original stipulation have been separate meetings.

23. The stipulations in paragraph 23 relates to the negotiations process itself.

The Town emphasises at this point that it stipulates only that there are no formal consultations of PBA Patrolmen and PBA Superiors. ie there are no meetings wherein 2 separate groups meet as separate groups to consult with each other and exchange demands and negotiations information and progress.

25. Paragraph 25 refers to negotiations and grievances and again the Town stipulates only that there is no formal procedure existing between the two groups to use each other's personnel resource persons.

The entire committee decides on whether to proceed to grievance arbitration for both Superior and Partolmen.

27. The Town is not in a position to stipulate as to the use of each other members as resource persons other than to agree that there is no formal arrangement for the exchange of resource material.

22. Neither PBA Patrolmen nor PBA Superiors have a separate treasury. The only existing treasury is that of PBA fraternal which pays the costs of all grievances, interest arbitrations and court proceedings of either partolmen or superiors.

The parties further request consolidation of the Motion for enforcement with the unfair Labor Practice, the Town conceding that the gravamen of both proceedings is based on the same alle-

gation ie the failure of the Superiors and Patrolmen to separate themselves into two separate units.

June 9, 1980

Town of Kearny

BY:


NORMAN A. DOYLE, JR.

Kearny PBA Local 21

BY:


ROBERT BRESCIA, ESQ.

JUN 15 11 35 AM '80

67-11