

Manchester Police Patrolman's Association v. City of Manchester Police Department,
Decision No. 2011-093 (Case No. G-0103-2).

Background: The Union filed an unfair labor practice complaint claiming that the City violated RSA 273-A:5, I (a), (c), (e), (g) and (i) when it failed to negotiate polygraph examinations, ordered an officer to submit to an involuntary polygraph examination for an administrative disciplinary investigation and refused to allow a union representative to be present during the entire polygraph examination, and violated the officer's "Garrity" rights because the questions asked during the polygraph examination were not sufficiently specific and narrowly related to duty or fitness for duty. The City denied the charges and claimed that polygraph examinations were within the City's management discretion and were not a mandatory subject of bargaining; that the claims were barred by res judicata and collateral estoppels; that it did not violate the officer's right to union representation because the representative was allowed to observe and listen to the actual administration of the examination on a monitor in a separate room; and that the disputed control questions asked during the polygraph examination were necessary to the proper administration of the examination.

Decision: The PELRB denied the Union's claims finding that the use of polygraph examinations in connection with investigations of law enforcement personnel was a permissive subject of bargaining and, therefore, the City did not violate its obligation to bargain and that the officer's right to union representation during the course of the polygraph examination was not unlawfully abridged when the representative was excused from the examination room but allowed to listen and observe on a remote monitor and there was insufficient evidence that the City proceeded with a polygraph examination in order to frustrate the officer's rights to representation. The PELRB dismissed the claim of violation of Garrity rights finding that it lacked jurisdiction to address the alleged Garrity rights violation.

Disclaimer: This summary is intended to provide a brief description of the issues in this case and the outcome. The summary is not a substitute for the decision, should not be relied upon in place of the decision, and should not be cited as controlling or relevant authority in PELRB proceedings or other proceedings.