

STATE OF NEW HAMPSHIRE  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES, AFL-CIO

Petitioner

and

POLICE DEPARTMENT, PELHAM, NEW HAMPSHIRE

Petitionee

CASE NO. A-0465

DECISION NO. 80021

APPEARANCES

Representing AFSCME:

William J. McDonough, Executive Director

Representing the Town of Pelham:

Robert Leslie, Esquire, Counsel

Witnesses:

Thomas J. Mahon, Administrative Assistant  
Ralph Boutwell, Chief of Police

BACKGROUND

This case was brought before the Board by the petition of the American Federation of State, County and Municipal Employees, AFL-CIO dated March 4, 1980 and received March 5, 1980 seeking an election for the employees of the Pelham Police Department under the provisions of RSA 273-A, Section 10. The petition was accompanied by separate petition cards signed by over thirty percent of the employees of the Police Department.

Exceptions to the proposed unit was filed by the Town of Pelham on March 18, 1980 on the inclusion of sergeants on the grounds that they exercised supervisory authority involving a significant exercise of discretion over the patrolmen and in accordance with 273-A:8, II should not be included in the same unit with employees they supervised.

An objection to the inclusion of the sergeants as confidential employees was withdrawn at the hearing held in the Board's office on April 24, 1980.

FINDINGS OF FACT

Petitionee, Town of Pelham, at the April 24, 1980 hearing submitted a request for findings of fact and rulings of law on thirteen items. The Board found as follows:

1. By direct testimony, Chief Boutwell stated that confidential material was handled by a part-time employee of the Town and not the full-time Clerk/Dispatcher. Issues involving the collective bargaining process would fall in that category and could be handled by the part-time clerical employee.
2. The Town's Police Manual does define supervisors as "any rank above patrolmen", however, throughout the manual, it is evident that the Chief is the direct supervisor of all employees of the Department; for example,

Section 2-12, "Reporting Violations of Laws, Ordinances, Rules or Orders. Members and employees knowing of other members or employees violating laws, ordinances, or rules of the department, or disobeying orders, shall report same in writing to the Chief of Police through official channels."

Section 9-3, "Public Appearance Requests. All requests for public speeches, demonstrations and the like, will be routed to the Chief of Police for approval and processing. Members and employees directly approached for this purpose shall suggest that the party submit his request to the Chief of Police."

Section 11-1, "DISCIPLINARY ACTIONS."

Section 11-2, "Letters of Warning. The Chief of Police may issue letters of warning for minor infractions of department rules and regulations. Letters so issued will be brought to the attention of the Board of Selectmen. All letters of warning will become a part of the personnel files of individuals involved."

Section 11-3, "Suspensions. The Chief of Police, or in his absence, the officer in charge of the shift may for cause relieve from duty any subordinate officer from duties. The Board of Selectmen may suspend or discharge any member or employee, and then only for just cause and after hearing."

Section 11-4, "Dismissal. The Board of Selectmen have authority to remove any member at any time for just cause and after due hearing, which cause shall be specified in the order of removal."

3. Although sergeants relay orders and direct patrolmen in their work assignments, they must also work and carry out the assignments.

4. Section 6-4 of the Police Manual referring to grievances state that attempts should be made to settle any grievance through the immediate supervisor, however, it further states that:

"Persons receiving grievances from any member or employee shall immediately bring them to the attention of the chief of police. The chief of police will take appropriate action and forward a reply to the individual from which the grievance originated. The chief will make a full report of such matters to the Board of Selectmen with his recommendations."

5. The final authority for the appointing and removing of officers in accordance with the Pelham Police Manual, Section 103, falls under the duties of the Board of Selectmen.

A-103 Duties: appointing and removing officers.

"It is the duty of the Selectmen to appoint such police officers, and superior officers as they may in their judgment deem necessary, and fix their compensation."

"The Selectmen shall have authority to remove any officer at any time for just cause and after due hearing which cause shall be specified in the order of removal."

"The Selectmen shall have full power to make all rules for the government of the police force and to enforce said rules."

#### DECISION AND ORDER

After review of the exhibits and testimony at the hearing, the Board rules as follows:

- A. A unit is hereby created for the Town of Pelham, Police Department and includes patrolmen, sergeants and the clerk/dispatcher.
- B. Election is hereby ordered and will be held within thirty (30) days.

  
EDWARD J. HASELTINE, CHAIRMAN

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 8th day of May, 1980.

By unanimous vote. Chairman Edward J. Haseltine presiding; present and voting, members David R. Mayhew and Russell F. Hilliard, Esquire. Also present Executive Director Evelyn C. LeBrun.