

**State of New Hampshire**

**PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

SEA, Local 1984 SEIU,  
Belknap County Jail Employees

Petitioner

Belknap County, Department of Corrections

Respondent

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Case No. S-0333-3

Decision No. 2002-019

PRE-HEARING CONFERENCE MEMORANDUM AND ORDER

BACKGROUND

The SEA, Local 1984 SEIU, Belknap County Jail Employees, (hereinafter referred to as the "Union") filed unfair labor practice charges on December 12, 2001 pursuant to RSA 273-A:5 I (a), (d), (g), (h) and (i) alleging that the Belknap County, (hereinafter referred to as the "County"), through the conduct of its agents in undertaking a series of actions affecting the employment of Correctional Officer Timothy Doris and the administration of the Union. The Union alleges that these actions constitute restraint and coercion directed against the lawful exercise of statutory rights as well as discriminatory treatment of the Union's Steward. Further, the Union alleges breach of the collective bargaining agreement caused by the manner by which the County administered discipline against Corrections Officer Doris.

The Union seeks relief in the form of a Cease and Desist Order prohibiting alleged acts of harassment, a finding that the County has committed unfair labor practices, and a compensatory award to make Corrections Officer Doris whole.

The County filed its answer in a timely fashion on December 27, 2001. The County denies most all of the material facts alleged in the Association's complaint as they relate to the intent of the County in dealing with either the Union or Corrections Officer Doris.

The County requests that the PELRB dismiss the complaint filed by the Union or otherwise deny the relief being sought by the Union.

At the Pre-Hearing Conference it was revealed that certain charges expressed within the instant Union complaint were the subject of arbitration and that an Arbitration Award is

expected to issue on or about February 11, 2002. It was further revealed that Corrections Officer Doris had independently filed a complaint with the Human Rights Committee. The Union representative indicated that that independent filing did not affect the charges contained in its complaint before the PELRB nor the relief requested in these proceedings.

### PARTICIPATING REPRESENTATIVES

For the Complainant: William McCann, Negotiator-Field Representative

For the Respondent: Elizabeth A. Bailey, Esquire

### ISSUES FOR DETERMINATION BY THE BOARD

1. Whether or not the County's alleged actions constituted coercion or discrimination against Correction Officer Doris for exercising his statutory rights as an employee?
2. Whether or not the County's alleged actions constituted coercion or discrimination against Correction officer Doris for exercising his rights as a Union Steward or interfered with the administration of the Union?
3. Whether or not the County properly followed the discipline procedures required under the provisions of the parties' collective bargaining agreement?
4. Whether or not the reassignment of Corrections Officer Doris from one shift to another shift during the approximate period of November 2001 to January 2002 constituted a unilateral change in his working conditions by the County.

### WITNESSES

For the Complainant:

1. Timothy Doris, Corrections Officer, Union Steward
2. David Berry, Corrections Officer

For the Respondent:

1. Superintendent Joseph Panarello
2. Corrections Officer Timothy Doris
3. Lieutenant Richard Grenier
4. Sergeant Shirley Noyes
5. Commissioner Mark E. Thurston (Chair)
6. Commissioner Christopher D. Boothby (Vice Chair)
7. Commissioner Phillip P. Daigneault (Clerk)
8. Nancy E. Cook, Chief

Both parties reserve the right to amend their List of Witnesses in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order, or upon proper showing, later reasonable notice to the other party. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective list will be available at the hearing.

### EXHIBITS

For the Complainant:

1. Letter of Warning, dated 8/8/01
2. Letter by Panarello, dated 8/30/01
3. Letter by Commissioner, dated 10/15/01
4. Investigation file, redacted and original versions, dated 7/19/01
5. Letter Cook w/enclosures, dated 9/11/01
6. Log dated, 7/13/01, 1514 -1940 hrs.
7. County Policy A-10
8. County Policy F-9
9. County Policy F-11
10. Letter of Counsel to SEA, dated 12/12/01
11. Collective Bargaining Agreement, effective 1/1/00 to 12/31/02
12. Bailey Letter, dated 12/17/01
13. Letter from Commissioner, dated 5/7/01
14. Letter to Panarello, dated 8/9/01
15. Letter to Panarello, dated 8/26/01
16. Letter to Panarello, dated 8/29/01
17. Letter Decker to Cook, dated 4/23/01
18. Memo to Bailey with enclosures, dated 12/12/01
19. McCann Affidavit, dated 12/17/01
20. Letter Cook to McCann, dated 9/27/01
21. Letter McCann to Thurston, 9/4/01
22. Letter Panarello to McCann with enclosures, dated 8/16/01

For the Respondent:

1. Corrections Officer Timothy Doris's personnel file
2. May 7, 2001 Letter of the Belknap County Commissioners
3. In addition, the City reserves the right to present such other exhibits that may be necessary for the City's case in chief, for impeachment or on rebuttal.

Both parties reserve the right to amend their List of Exhibits in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later reasonable notice to the other party. Copies of all exhibits are to be submitted to the presiding officer in accordance with Pub 203.02. It is to be understood by the parties that each party may rely on the representations of the other that the exhibits listed above will be available at hearing.

#### LENGTH OF HEARING

The time being set aside for this hearing is one day. If either party believes additional time is required, written notice of the need for additional time shall be filed with the PELRB no later than twenty-one (21) days prior to the scheduled hearing.

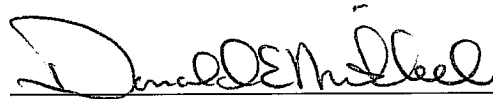
#### DECISION

1. Upon receipt of the Arbitration Award, the Union representative shall forward a copy of the same to the PELRB.
2. The party representatives shall meet and confer at a mutually acceptable date and time for the purposes of exchanging any documents requested by the other as pre-hearing discovery and for the purpose of making a good faith effort to draft an agreed statement of facts to lessen the number evidentiary points that would otherwise have to be made through the testimony of witnesses and introduction of exhibit. The parties shall also compile a chronology of events for joint submission at the evidentiary hearing.
3. The Union representative shall inform the County's representative of the date upon which Corrections Officer Doris became a Union Steward.
4. The County representative shall share the contents of such personnel files as may be anticipated to be used by either party at the evidentiary hearing.
5. The party representatives shall forward any amendments of their Witness and Exhibit lists detailed above to the opposing representative or counsel and to the PELRB no later than five (5) days prior to the scheduled hearing. The party representatives shall meet, or otherwise arrange, to pre-mark any exhibits, for identification, prior to the time of

hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02.

6. Any additional preliminary, procedural or dispositive motions shall be filed by the parties no later than fourteen (14) calendar days prior to the scheduled hearing date.
7. Unless otherwise ordered as a result of the filing of any subsequent motion, an evidentiary hearing between the parties is scheduled to be conducted at the Office of the Public Employee Labor Relations Board on Thursday, April 4, 2002 beginning at 9:30 A.M.

Signed this 30<sup>th</sup> day of January, 2002



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Donald E. Mitchell, Esq.  
Hearings Officer