

Manchester Police Patrolman's Association v. City of Manchester Police Department,
Decision No. 2013-059 (Case No. G-0103-2) (*On remand from Supreme Court*)

This case was remanded to the PELRB from the Supreme Court. The Union claimed that the City improperly denied a law enforcement employee his right to union representation during the course of an involuntary polygraph examination administered as part of an investigative interview. The Union representative was not allowed to stay in the examination room during the pre-examination or examination phase but instead was required to listen and observe on a monitor in another room. After a hearing, the PELRB issued several decisions finding, among other things, that the Union representative should have been allowed to remain in the room with the employee and polygraph examiner for at least a portion of the process but was properly relocated to a separate room once the employee was connected to the polygraph equipment. The City appealed and the Court issued an order vacating and remanding the case for further proceedings. The Court sought clarification of the Board's rationale in deciding that the exclusion of the Union representative from a room during a pre-test phase of a polygraph examination of a bargaining unit member was an unfair labor practice.

On remand, the PELRB found that the officer had the right to Union representation during the pre-test phase of the polygraph exam but that restricting his Union representative to a nearby room throughout the entire process, including during the pre-test phase, stroke the proper balance between the employee's right to union representation and the City's right to a valid polygraph examination. This arrangement eliminated the potential for interference in the pre-test phase which might be caused by the physical presence of a union representative who actively participated in the process. The Union's complaint was dismissed.

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.