

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
: :
: Case No. PF-R-08-142-W
: :
INDIAN LAKE BOROUGH :

ORDER DIRECTING SUBMISSION OF ELIGIBILITY LIST

On October 31, 2008, the Roof Garden Lodge No. 98, Fraternal Order of Police (Union) filed with the Pennsylvania Labor Relations Board (Board) a petition for representation. The Union is seeking to investigate a question of representation and certification of a collective bargaining representative for an appropriate unit of Indian Lake Borough (Borough) police officers. On November 13, 2008, the Secretary of the Board issued an order and notice of hearing directing that a hearing be held on Wednesday, January 7, 2009. The examiner continued the hearing due to weather. The hearing was held on February 25, 2009 in Pittsburgh. At the hearing, the examiner afforded both parties a full and fair opportunity to present testimonial and documentary evidence and to cross-examine witnesses. On April 3, 2009, the Borough filed its post-hearing brief. On April 20, 2009, the Union filed its post-hearing brief.¹

The hearing examiner, on the basis of the evidence presented at the hearing and from all other matters of record, makes the following:

FINDINGS OF FACT

1. The parties stipulated and agreed that the Borough is an employer under the Pennsylvania Labor Relations Act (PLRA) as read in pari materia with Act 111 of 1968 (Act 111). (N.T. 7)
2. The parties stipulated and agreed that the Union is a labor organization under the PLRA as read in pari materia with Act 111. (N.T. 7).
3. The parties stipulated and agreed that the proposed bargaining unit of police employes of the Borough share an identifiable community of interest. (N.T. 7).
4. The Borough currently employs two full-time police officers: Chief Denise Miller and Officer Shawn Hillegas. The Borough has one part-time police officer who was last called for duty in July, 2007 (nineteen months before the hearing). (N.T. 12-13, 85, 89).
5. In January, 1991, Miller began her employment with the Borough Police Department (Department). In 1996, the police chief retired, and the Borough abolished the position of chief. At this time, Officer Miller was promoted to Sergeant because there was no chief position. Sergeant Miller was the highest ranking officer in the police department. As Sergeant, her job duties were identical to those of the former chief. (N.T. 31-32, 76-77, 84-85, 99).
6. Sergeant Miller became Chief on November 7, 2004. (N.T. 43, 84).
7. In the late 1990's, Miller worked two police jobs. She worked at the Borough and the West Hills Regional Police Department. At that time, the Borough's manual of standard operating procedures (SOPs) was approximately three to five pages in length. Miller proposed changing the SOPs. In drafting a proposed manual of SOPs, Miller borrowed policies and procedures from the manuals of West Hills Regional Police Department and other departments. The Borough's Taser™ policy was adopted as written by Taser International. (N.T. 15, 24-25, 60-62, 85, 88, 111, 126-128).

¹ The envelope containing the Union's Brief and the certificate of service were dated April 14, 2009.

8. At the request of either Mayor Barry Lichty or the Borough Council, Miller forwarded the draft SOPs to the Borough's solicitor for review. Several years later, by letter dated March 8, 2002, the Borough's solicitor notified Miller that he completed his review of the proposed SOPs for the Department. After indicating his approval of most of the SOPs, he stated that he made a correction. At some unknown time, the Borough Council approved the SOPs. (N.T. 86, 88; Union Exhibit 4).

9. Chief Miller has not recommended the hiring of any officers at the Department. Officer Hillegas was hired in 2003, when Chief Miller was a Sergeant. She did not recommend Officer Hillegas for hire. The hiring decision was between two candidates. Miller recommended the other candidate who was not hired. Mayor Lichty wanted Hillegas.² (N.T. 87-89).

10. The imposition of discipline on a subordinate police officer has not been necessary since Miller has been Chief. While Miller was a Sergeant, she did not initiate or impose discipline on a subordinate officer. Some years ago, when a new officer was behaving aggressively in the community, Miller and the Mayor held a meeting with the officer. Six weeks later, Miller, the Mayor and the Borough Manager held another meeting with the officer and discussed his resignation. There was no conclusion reached as a result of these meetings with the officer. Miller discussed a course of action with the Mayor, but she did not make any recommendations. Miller has not written any letters of reprimand. Also, in 2003, the Mayor--and not the Chief--initiated disciplinary action and recommended to Council to terminate an officer. This recommendation came from the Mayor in the form of a handwritten memorandum while he was in Arizona. The Mayor directed Sergeant Miller from Arizona to investigate and obtain notarized statements from individuals involved in the alleged inappropriate conduct of the officer. The initiation and level of discipline was determined by the Mayor and not Sergeant Miller. (N.T. 43, 45-48, 90-91, 100-102; Union Exhibits 1 & 6).

11. Chief Miller and Officer Hillegas collaborate on developing proposals for the Department budget. The Chief then forwards the proposed budget to the Borough Manager. The Mayor instructed the Chief to "trim" the proposed 2009 budget. The Mayor wanted to purchase a new police patrol boat in 2009. Borough Council reduced the proposed expenditure for the new boat by approximately half. The Chief consulted with Hillegas when she trimmed the rejected budget proposal. (N.T. 34, 37, 91, 95-96, 108-109; Employer Exhibit 3).

12. The Mayor has expressed interest in purchasing two different boats each with center consoles. Both the Chief and Officer Hillegas expressed their disinterest in a boat with a center console. After the boat purchase was approved by Council, the Chief located a boat for the approved purchase price and wanted to purchase that boat. The Mayor instructed the Chief to "hold off" on purchasing the boat. (N.T. 96, 112).

13. The Borough automatically purchases a new police vehicle every six years. The Chief does not determine when a new police vehicle is necessary. Chief Miller has no input into the selection of a new police vehicle. With one of the recent purchases, the Mayor selected, and the Borough purchased, a V-6 Ford Explorer over the objection of Chief Miller who requested a V-8 model. Subsequently, the Borough purchased a Ford Expedition. The Chief did not have any involvement with the selection or purchase of either vehicle. (N.T. 122-123).

² On this point of fact there is a conflict between the testimony of Mayor Lichty and Chief Miller. The Mayor testified that he had concerns about hiring Officer Hillegas but that he deferred to the Chief who recommended Hillegas. On the contrary, the Chief testified that she recommended another candidate, but the Mayor overrode her recommendation and selected Hillegas. I resolve this conflict in favor of Chief Miller and conclude that the Mayor overrode the Chief's recommendation for hiring a police officer candidate. I base this determination on the witnesses' appearance, general bearing, conduct on the stand, demeanor, manner of testifying, candor, frankness, command of the subject matter and the contradictions between testimony and other record evidence. Mid Valley Education Association v. Mid Valley School District, 25 PPER ¶ 25138 (Final Order, 1994); Keystone Education Center Charter School Education Association v. Keystone Education Center, Inc., 30 PPER ¶ 30167 (Final Order, 1999). There are other inconsistencies between the testimony of the Mayor and that of the Chief where I have also credited and favored the testimony of the Chief. For these reasons, I am unable to rely on any of the Mayor's conflicting testimony.

14. In the 2009 budget proposal, the Chief submitted a line item proposal for the purchase of a new snow blower. After discussing it with the Mayor, they removed the snow blower from the proposed budget. The Mayor also reduced the line item proposal for new office chairs by half in that budget. (N.T. 35-36, 64).

15. The Mayor eliminated the proposed purchase of a computer program for criminal complaints and search warrants from Miller's proposed budget. (N.T. 65).

16. Each line item of the budget proposal submitted by the Chief must be reviewed and considered by the Mayor and by Borough Council. Once a budget is approved, the Chief is permitted to purchase any item on the approved budget without further permission. The Chief does not have authority to purchase any items not expressly included in the approved budget. (N.T. 35-38, 66-67, 73).

17. The Council determines the monetary values for line item expenditures in the police budget. Chief Miller has no authority to adjust line-item amounts in the approved budget. When Chief Miller seeks to purchase an item that is beyond its pre-approved cost, the Borough Manager confers with the Mayor and approves or denies the purchase. The Mayor and the Borough Manager decide whether to move money from another line item in the budget to cover the cost overrun of another line item purchase desired by the Chief. (N.T. 70-73, 78-80).

18. Chief Miller has taught the boat safety course required by the Commonwealth for boat operators. The Borough pays Chief Miller for her time while she teaches the boat safety course. The Chief donates her personal time to public safety programs, schools and organizations. (N.T. 40-41).

19. Chief Miller and Officer Hillegas work out a schedule among themselves and take into consideration the leave each may need or want. The Chief submits the schedule to the Mayor for his review. As a general matter, only one of the two officers is on duty at a time. The Mayor sometimes overrides the submitted schedule and requires both the Chief and Officer Hillegas to be on duty at the same time. The Mayor has done this on New Year's Eve and during weddings. (N.T. 20-24, 49, 106; Employer Exhibit 2).

DISCUSSION

The parties stipulated and agreed that the employes in the proposed bargaining unit share an identifiable community of interest. The Borough has the burden of proving the managerial status of the Chief of Police because it is pursuing the exclusion of that position from the unit. In the Matter of the Employes of Elizabeth Township, 37 PPER 90 (Final Order, 2006). In Elizabeth Township, the Board enunciated the test for determining the managerial status of a position as follows:

In order to meet its burden of establishing the managerial status of the . . . position, the [employer] was required to prove that the actual job duties satisfy one of the following criteria: that the [employee in the position] has authority to initiate departmental policies, including the power to issue general directives and regulations; he [or she] has the authority to develop and change programs of the department; he [or she] engaged in overall personnel administration as evidenced by effective involvement in hiring, serious disciplinary actions and dismissals; he [or she] effectively prepared budgets, as distinguished from merely making suggestions; he [or she] effectively engaged in the purchasing process, as compared to merely providing suggestions; or he [or she] has the authority to commit departmental resources in dealing with public groups. [Fraternal Order of Police Lodge No. 20 v. PLRB (Star Lodge), 522 A.2d 697, 704 (Pa. Cmwlth. 1987, aff'd, 522 Pa. 149, 560 A.2d 145 (1989)]. Significantly, the test for managerial status under Act 111 is disjunctive and not conjunctive, such that the performance of any of the above functions results in a finding of managerial status.

Elizabeth Township, 37 PPER at 291. The employe in the position at issue must exercise decisional authority in any of the six above-mentioned areas. Dalton Police Ass'n v.

PLRB, 765 A.2d 1171 n.6 (Pa. Cmwlth. 2001). The test set forth in Star Lodge makes it difficult to exclude a position from a bargaining unit as managerial because the criteria focus on the level of discretion exercised by the person occupying the position in question rather than the critical nature of that person's duties. Dalton Police Ass'n, 765 A.2d at 1177. As the Board representative stated in the case In the Matter of the Employes of Franklin Township, 16 PPER 16145 (Order and Notice of Election, 1985), "[i]t is the exercise of independent discretion, the authority to choose between competing policy alternatives, which raises an employe to management level status and not merely the exercise of discretion within parameters set out by the employer." Id. at 373.

For purposes of evaluating this case, I have included the duties performed by Miller when she was a Sergeant. The undisputed facts of record demonstrate that Borough Council abolished the position of chief of police when the former chief retired. There was no chief position to be promoted into, so the Borough promoted Officer Miller to the rank of Sergeant. The record also demonstrates that Sergeant Miller was the highest ranking officer in the Department and her duties were the same as those of the former chief. However, on this record the Borough has not established that Miller, either as Chief or Sergeant, has exercised the requisite discretion or decisional authority in the areas identified by Star Lodge to be considered a manager.

Policy Formulation and Implementation

The Borough argues that the position of chief of police is managerial. Chief Miller, contends the Borough, has the authority to initiate departmental policies and to change departmental programs, as evidenced by her modification of the Department's SOPs. (Borough Post-hearing Brief at 3). The Borough specifically contends that "Chief Miller exhibited policy formulation abilities when she took on the responsibility of updating the out-of-date Indian Lake Standard Operating Procedures manual." (Borough Brief at 3).

In Elizabeth Township, supra, the Board relied on Dalton Police Ass'n, supra, and concluded that a deputy chief's development of his department's standard operating procedures alone was sufficient to make him a manager. The Elizabeth Township Board concluded that the deputy chief's duties satisfied the first criteria of Star Lodge in that he developed departmental policy. The deputy chief in Elizabeth Township developed his department's policy manual by adopting policies and procedures from other police departments' policy manuals. The Board concluded that by selecting which policies to adopt for his department, the deputy chief was exercising discretion and judgment in setting policy. Elizabeth Township, supra.

However, the determinative factor in both Dalton and Elizabeth Township was the extent to which the policy manuals were reviewed and/or modified by superiors. These cases require the Board to determine with whom lays the real responsibility for setting and approving the policies contained in the draft procedures manual. In Elizabeth Township, the Board specifically noted that the deputy chief in that case "submitted the completed manual to the Chief who conveyed the manual to the Township Board of Commissioners without modification." Elizabeth Township, 37 PPER at 291 (emphasis added). Similarly, in Dalton Police Ass'n, after the chief collected samples of model policy provisions, he provided the manual to the mayor who forwarded the manual to borough council for approval where there was no record evidence of scrutiny or changes by the mayor to the manual. Dalton Police Ass'n, 765 A.2d at 1175, n.5.

With Elizabeth Township and Dalton Police Ass'n as guidance, I conclude that Sergeant Miller, now Chief Miller, did not exercise decisional authority over policy development when she drafted the Borough's new SOPs. Sergeant Miller was ordered by either Council or the Mayor to submit her draft proposal of SOPs to the Borough's solicitor for review. The solicitor scrutinized the SOPs for more than two years. After scrutinizing the manual, he unilaterally made a change without consulting with Sergeant Miller. The Borough Council then approved the modified SOPs based on them having the imprimatur of the solicitor and not Sergeant Miller. Although the ideas for the proposed policies and the direction of the Department contained in the new SOPs were selected by Sergeant Miller, the independent decisional authority over those policies did not rest with her. The Borough did not defer to Sergeant Miller or her ideas for developing

policies for the Department. Rather they placed the ultimate managerial discretion and decisional authority with the solicitor and the Mayor. Moreover, there is no evidence on this record that the Department implemented and followed the draft SOPs while under the Borough solicitor's review.

Also, the record shows that Chief Miller has taught the Commonwealth boat safety course and that she donates her personal time to public safety programs, schools and organizations. However, to the extent that these activities can be considered Departmental programs, there is no evidence demonstrating that Miller actually developed or changed any of those programs. Accordingly, the Borough has not established on this record that Miller exercises discretion or decisional authority in the area of policy formulation or implementation.

Overall Personnel Administration

The Borough further contends that the position of Chief is managerial because Miller has been involved in the overall personnel administration of the Department as evidenced by her effective involvement in hiring and disciplinary actions. (Borough Brief at 4). However, the record supports the opposite conclusion and lacks the necessary factual predicate. Miller has not recommended the hiring of any officers at the Department.³ (F.F. 9). Officer Hillegas was hired in 2003 when Chief Miller was a Sergeant. She did not recommend Officer Hillegas for hire. The hiring decision was between two candidates. Sergeant Miller chose the other candidate who was not hired. Mayor Lichty selected Hillegas and recommended him to Council. (F.F. 9). The Mayor did not defer to Miller's recommendation. Therefore, the Mayor has not bestowed decisional authority over hiring upon the highest ranking officer of the Department. Rather he reserves that managerial decision making authority for himself.

The record also shows that Miller did not, at anytime, make any decisions to initiate or impose serious discipline, as required by Star Lodge, supra. Miller has not written any letters of reprimand. The imposition of discipline on a subordinate police officer has not been necessary since Chief Miller has been Chief. Officer Hillegas has been the only subordinate officer since Miller became Chief, and he has not provided any reason to be the subject of discipline.

While Chief Miller was a Sergeant, she did not exercise the discretion or final decisional authority to initiate or impose discipline on a subordinate officer. (F.F. 10). The record shows that some years ago a new officer was behaving aggressively in the community. Miller and the Mayor twice met with the officer. The Borough Manager was present at the second meeting. Among other things, they discussed the officer's resignation. There was no conclusion reached as a result of these meetings with the officer. (F.F.10). Sergeant Miller discussed a course of action with the Mayor, but she did not make any recommendations. (F.F. 10).

In 2003, the Mayor--and not Sergeant Miller--initiated disciplinary action and recommended to Council to terminate an officer. This recommendation came from the Mayor in the form of a handwritten memorandum while he was in Arizona. (F.F. 10). The Mayor had directed Sergeant Miller to investigate and obtain notarized statements from individuals involved in the alleged inappropriate conduct of the officer. After obtaining that information and submitting it to the Mayor, the initiation and level of discipline were determined by the Mayor for presentation to Council for approval. The Mayor did not permit Miller to make these determinations even while he was in Arizona.

The Borough further contends that Chief Miller is a manager because she "has the responsibility of creating the work schedule for herself and Officer Hillegas." (Borough Brief at 4). Although Chief Miller submits the Department work schedule to the Mayor, she does not determine the schedule and impose it on the Department. Rather, she and Officer Hillegas agree upon a schedule between themselves and they both consider the other's individual needs regarding leave. (F.F. 19). The Chief submits the schedule to the Mayor for his review. As a general matter, only one of the two officers is on duty at a time.

³ Under the Borough Code, only Borough Council is statutorily empowered to formally hire police officers.

The Mayor occasionally overrides the submitted schedule and requires both the Chief and Officer Hillegas to be on duty at the same time. Examples are New Year's Eve and summer weddings. (F.F. 19). Although the Chief is responsible for ensuring that there is a schedule that provides police coverage in the Borough, the Mayor reviews all the schedules and occasionally changes them.

Moreover, scheduling alone is insufficient to establish the managerial status of the position. Scheduling guidelines are often delineated in detail in collective bargaining agreements or employe handbooks. There is no discretion in the routine scheduling of employes. Discretion is the sine qua non of exercising a managerial function. Dalton, supra. The record in this case demonstrates that there is no discretion in scheduling police coverage in the Borough. There are two full-time officers. At least one officer must be on duty. If one cannot work, the other must. There is no discretion. Indeed, when discretionary departures from the normal scheduling regime become necessary, it is the Mayor--not the Chief--who exercises his managerial discretion to depart from the regular schedule and requires both officers to be on duty at the same time. Accordingly, the record does not support the conclusion that Chief Miller has final decisional authority and independent discretion in the area of personnel administration.

Also, the Commonwealth Court has held that exercising the authority to determine the level of deployment and the allocation of fire equipment to combat fires, within the discretion of the deputy and battalion fire chiefs in Pittsburgh, did not qualify those employes as managerial. City of Pittsburgh v. PLRB, 556 A.2d 928 (Pa. Cmwlth. 1989). In this case, scheduling and determining the necessary deployment of officers (i.e., allocating Borough resources in the nature of manpower) to meet the protective needs of the Borough is not, alone, adequate to satisfy the criteria of overall personnel administration or the commitment of Departmental resources. City of Pittsburgh, supra.

Budget Preparation

The Borough also argues that the Chief has an effective role in preparing the Department budget as opposed to merely making suggestions. The Borough contends that "Chief Miller is instrumental in the preparation of the budget for the Department." (Borough Brief at 5). Again, the record does not support the Borough's position. Chief Miller and Officer Hillegas collaborate on developing a proposal for the Department budget. The Chief then forwards the proposed budget to the Borough Manager. The Mayor instructed the Chief to "trim" the proposed 2009 budget. The Mayor--not the Chief--proposed purchasing a new police patrol boat in 2009. Borough Council reduced the proposed expenditure for the new boat by approximately half. When the Chief trimmed the rejected budget proposal, she consulted with Officer Hillegas. (F.F. 11). The Mayor does not accept the Chief's budgetary recommendations or delegate to her decisional authority and discretion over the included items in the budget or the monetary values assigned to those items. The Mayor instead has shown that, after reviewing the Chief's proposed budget, he does not defer to the Chief's determinations. Rather he sends the budget proposal back to her to make changes and "trim" proposed expenditures.

Furthermore, in the 2009 budget proposal, the Chief submitted a proposed line item for the purchase of a new snow blower. After the Mayor reviewed the expenditure, it was removed from the draft budget. Also in that budget, the Mayor reduced the line item for new office chairs by half. (F.F. 14). The Mayor also eliminated from that budget the Chief's proposed purchase of a computer program for criminal complaints and search warrants. The Mayor has made many modifications to the 2009 proposed budget, as developed by both Chief Miller and Officer Hillegas, demonstrating that he has not deferred to the Chief's discretion, and he has not delegated final decisional authority to her regarding the budget.

The budget proposal submitted by the Chief must be evaluated and approved by the Mayor and Borough Council. Borough Council reviews and considers each line item in the proposed budget. Once a budget is approved, the Chief is permitted to purchase any item on the approved budget without further permission. But, the Chief does not have authority to purchase any items not expressly included in the approved budget. The Council determines and estimates the monetary values for line-item expenditures in the police budget. In City of Pittsburgh, supra, the Commonwealth Court held that deputy fire chiefs

and battalion fire chiefs were not management employees even though they made "recommendations with respect to purchasing, budget, personnel deployment and policy development, [where] the record show[ed] that battalion and deputy chiefs ha[d] no decision-making powers in those management areas." City of Pittsburgh, 556 A.2d at 933 (emphasis added). Although Chief Miller and Officer Hillegas offer recommendations for the police budget, the Mayor infrequently follows those recommendations; he does not give deference or the weight of decisional authority to those recommendations.

Purchasing

The Chief also does not possess managerial authority or discretion over purchasing, as argued by the Borough. (Borough Brief at 5). Chief Miller has no authority to adjust dollar amounts for a line item in the approved budget. When Chief Miller seeks to purchase an item that is beyond its pre-approved cost, the Borough Manager confers with the Mayor and approves or denies the purchase. The Mayor and the Borough Manager decide whether to appropriate money from another line item to cover the cost overrun of another line item sought to be purchased by the Chief. Therefore, the Chief does not possess discretion or authority to purchase any items (or to spend any amounts) that have not been previously approved by Borough Council.

Moreover, the Mayor--not the Chief--decided to purchase a boat in 2009. The Council reduced the amount of money approved for the purchase of a boat. Thereafter, Chief Miller located a boat for the approved purchase price and wanted to purchase that boat. However, the Mayor instructed the Chief to "hold off" on purchasing the boat. (F.F. 12). Moreover, the Borough automatically purchases a new police vehicle every six years. The Chief does not determine when a new police vehicle is necessary. Chief Miller has no discretionary input into the selection of a new police vehicle. With one of the recent purchases, the Mayor selected, and the Borough purchased, a V-6 Ford Explorer over the objection of Chief Miller who requested a V-8 model. More recently, the Borough purchased a Ford Expedition. The Chief did not have any involvement with the selection or purchase of that vehicle either. The Mayor has not given Chief Miller final decisional or discretionary authority over making capital or minor expenditures.

Commitment of Departmental Resources

In support of the sixth Star Lodge criterion, the Borough maintains that Chief Miller exercises independence in public relations and commits Departmental resources in dealing with public groups. (Borough Brief at 5). Under this element, there is no evidence demonstrating that Miller, either as Sergeant or Chief, at any time possessed final authority to commit departmental resources. She has not authorized the use of the Borough's officers, cruiser, patrol boat or other equipment for any other purpose than routine police business within the Borough. The record does not show whether she appropriates funds or equipment for use by organizations or individuals outside the Department for any purpose. Although the Borough pays Chief Miller for her time for teaching the boat safety course, the record does not contain any explanation of the manner by which that service came into existence. In other words, the record simply does not establish that the Chief was responsible for deciding to provide the service and that the Borough should pay for her time while providing the boat safety instruction.

Accordingly, the record duties of Miller, either as Chief or Sergeant, establish that in both positions she has been, at most, a supervisor, which is not excludable from the bargaining unit under Act 111. Any exercise of discretion has not been independent of the Mayor and Borough Council; it has occurred within the parameters previously set by the civilian leadership. The Chief simply does not have any wiggle room within the tight box in which the Mayor and Borough Council have placed her.

CONCLUSIONS

The hearing examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds:

1. The Borough is an employer under the PLRA as read in pari materia with Act 111.

2. The Union is a labor organization under the PLRA as read in pari materia with Act 111.

3. The Board has jurisdiction over the parties.

4. The police employes share an identifiable community of interest.

5. The position of Chief of Police is not a managerial position and shall be included in the bargaining unit.

6. The one part-time officer is not a regular part-time police officer and is not eligible for inclusion in the unit.

7. The unit deemed appropriate for the purpose of collective bargaining between the Borough and the Union is a subdivision of the employer unit comprised of all full-time and regular part-time police officers, including the position of Chief of Police, currently occupied by Denise Miller, exclusive of any managerial employes.

ORDER

In view of the foregoing and in order to effectuate the policies of the PLRA, as read in pari materia with Act 111, the hearing examiner

HEREBY ORDERS AND DIRECTS

that the Borough shall within ten days of the date hereof submit to the Board an alphabetized list of the names and addresses of the police officers eligible for inclusion in the unit set forth above.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that any exceptions to this order may be filed to the order of the Board's Representative to be issued pursuant to 34 Pa. Code § 95.96(b) following the conduct of an election.

SIGNED, DATED and MAILED at Harrisburg, Pennsylvania, this twenty-first day of April 2009.

PENNSYLVANIA LABOR RELATIONS BOARD

JACK E. MARINO, Hearing Examiner