

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the matter of:

Fraternal Order of Police, Department
of Corrections Labor Committee,

Petitioner,

and

The District of Columbia Department of
Corrections,

Agency/Employer.

PERB Case No. 84-R-09
Opinion 88

DECISION AND ORDER

On June 8, 1984, the Fraternal Order of Police, Department of Corrections Labor Committee (FOP) filed a "Recognition Petition" with the Board seeking to represent all employees of the D.C. Department of Corrections (DOC) excluding management officials, confidential employees, supervisors, temporary employees, any employees engaged in personnel work in other than purely clerical capacities and institution residents (inmates) employed by DOC. This unit is currently represented by Local 1550 of the American Federation of Government Employees (AFGE) whose contract expires September 30, 1984. FOP's Petition was timely filed in compliance with Board Rule 101.8(b).

On June 8, 1984, Board Notices were forwarded for posting at employee worksites. On June 27, 1984, Teamsters Local 246 (Teamsters) filed a "Petition to Intervene" pursuant to Board Rule 101.7. On July 3, 1984, DOC forwarded the employee list to the Board and filed an "Employer Response to Recognition Petition". On July 11, 1984, the Board accepted the "Petition to Intervene" filed by the incumbent, AFGE.

The unit consists of approximately 2,273 employees. FOP submitted the showing-of-interest of 914 employees or 40% of the unit. This satisfied the requirements of Board Rule 101.2. The Teamsters submitted the showing-of-interest of 249 employees or 11% of the unit. This satisfied the Intervenor requirements of Board Rule 101.7. The incumbent, AFGE, is not required to submit a showing-of-interest under the Board's rules. All showing-of-interest documents and the employee list were inspected and deemed authentic.

In its "Response" DOC contends that FOP's petition should be dismissed because representation of corrections officers by the same union that represents police officers creates a conflict of interest. DOC argues that, in the event of a strike or job action by corrections officers, contingency plans call for police officers to assume the duties of the corrections officers. DOC contends that this would create divided loyalties by police officers resulting in a conflict of interests. DOC urges that corrections officers should be represented by a different union from police officers as a matter of sound labor policy.

PERB Opinion No. 49, issued September 24, 1982, resulted from a recognition petition by FOP which sought, as here, to challenge AFGE, the incumbent labor organization in the DOC. In that Opinion, the Board held that the FOP petition was untimely under Board Rule 101.8 because a contract bar existed between FOP and the DOC. Also at issue, but not the basis for the decision was the conflict of interests issue which is again raised here. The Board concluded in Opinion No. 49 that the alleged conflict was speculation unsupported by the record.

On July 11, 1984, the Board provided each party with the opportunity to respond to DOC's comments. FOP contends that DOC's comments raise serious questions about DOC's neutrality since this is the third consecutive time that it has opposed an FOP recognition petition despite the fact that the identical issue has been litigated conclusively in PERB Case No. 82-R-06. FOP contends that certain provisions of the Comprehensive Merit Personnel Act (CMPA) provide ample protection to DOC in instances in which the exclusive representative might engage in prohibited conduct.

The Teamsters contend that DOC unfairly assumes that corrections officers will violate the law, that the conflict of interest issue has previously been considered by the Board and that DOC ignores the statutory protections against improper conduct by labor organizations.

AFGE did not directly address issues raised by DOC, but directed its comments toward FOP. AFGE urges the Board to examine the influence of the FOP Lodge on the Labor Committee and contends that the FOP's dual role as a social organization and a collective bargaining agent casts doubt on its credibility. AFGE further alleges, but fails to document, that some corrections officers signed with FOP for its social benefits rather than manifesting an intent to have FOP serve as their bargaining agent.

After concluding its investigation, reviewing DOC's "Response" and the comments thereto, the Board determines that no new issues of fact or law have been raised which were not previously considered in PERB Case No. 82-R-06. Any potential conflict of interest that might arise from the same union representing both corrections officers and police officers is not a sufficient basis for dismissing FOP's "Recognition Petition" in view of the statutory remedies available if an exclusive representative engages in prohibited conduct. Accordingly, an election is authorized to determine the will of the eligible employees of DOC.

ORDER

IT IS ORDERED THAT:

An election is authorized pursuant to Section 102 of the Interim Rules of the Board to determine whether the eligible employees of the District of Columbia Department of Corrections wish to be represented by the Fraternal Order of Police, Department of Corrections Labor Committee;

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Teamsters Local 246; American Federation of Government Employees, Local 1550; or not represented in bargaining concerning compensation and the terms-and-conditions of their employment.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
August 9, 1984