



Grievances and Arbitration: A Guide for Police Unions

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Richard G. Poulson, Esq.
Willig, Williams & Davidson
(215) 656-3600
www.wwdlaw.com



Rick's Rule on Grievances

- Your contract means *nothing* if you don't enforce it.
- That takes *work*. Every day.





What is a Grievance?

- ❑ Complaint alleging CBA violation
- ❑ No magic words
- ❑ Procedure vs. substance
- ❑ Gripe vs. “grievance”





The Right to Arbitrate

- Arbitration is the normal dispute resolution process under Act 111. Mandated by law.
 - *But get it in the CBA, too!*
- Quid pro quo.
 - *No strike, but interest arbitration.*
 - *No wildcat, but grievance arbitration.*





The Right to Arbitrate

- Employer cannot refuse to arbitrate.
 - *They can't tell you how to write your grievances.*
 - *Deny, move to next step.*
- If Employer refuses to arbitrate, file *anyway*, and file a ULP.





The Grievance Procedure

- ❑ Know your contract – what you have, and what you *don't* have.
- ❑ Know your facts – do the legwork.
- ❑ Keep expectations reasonable.
- ❑ Document, document, document.



Initiating the Grievance

- Write it down, and keep it simple.
 - *“On X date, the Employer violated Article X and any other relevant provision of the Agreement by . . .”*
 - *Don’t write a book.*
- Ask for a remedy.
 - *“[What we want them to do, plus] . . . And make the Union and all affected members whole.”*
- Keep a file on each grievance.
 - *Document time lines, extensions, etc.*



Presenting the Grievance

- Prepare as if you are going to arbitration.
- Get the Employer's position in writing where possible.
- Keep an open mind!
- Keep the grievance moving.



Arbitration – Should We Go? Do We Have to Go?

- Must we arbitrate? No.
 - *Normally, the Union decides whether to arbitrate.*
 - *Significance of precedent, legal counsel.*
- Should we arbitrate? It depends.
 - *Evaluate the merits – can we prevail?*
 - *Evaluate possible negative ramifications.*



Procedural Issues

- Procedure vs. substance.
- CBA contains rules for processing grievances.
 - *If miss timelines, **may** forfeit right to arbitrate.*
 - *You have to know the rules in order to follow them!*
- Arbitrator decides questions of arbitrability.
- Presumption in favor of arbitrability.
 - ***Don't dig yourself a hole!***





Selecting the Arbitrator

- ❑ Selection process can be negotiated.
- ❑ Act 111 process vs. standard selection.
- ❑ Who *are* these arbitrators?
- ❑ The role of legal counsel.



Arbitration Hearings

- ❑ Informal administrative hearing.
- ❑ Hallmarks of “regular” court.
 - Opening statements, witnesses, documents.
- ❑ Relaxed rules of evidence.
- ❑ *To brief or not to brief . . .*
- ❑ Written award w/n 30-60 days.





Contract Interpretation Cases

- Arbitrator's job is to interpret the contract – *what did the parties mean?*
- Union bears the burden of proof.
 - *Unlike in discipline cases.*
- Clear language will prevail.





The Importance of Language

- It all starts with negotiations.
 - *The best way to avoid a dispute is to negotiate clear contract language.*
- Say it plain. Say it right.
- No legalese.
- RR#2: 10 cent words are priceless.





Clear Language Wins

- ❑ Arbitrator's job is to enforce the CBA, nothing more.
- ❑ Clear and unambiguous language will be enforced as written.
- ❑ Back to negotiations – make sure you get it right!



Ambiguous Language

- More than one meaning.
 - “Well, I read it *this* way . . .”
- Arbitrator must determine what the parties *really* meant.
- Bargaining history and practice are key.





History and Practice

- Good notes and records are key.
- What is bad bargaining history?
- The importance of documentation.



Effect of Past Practices

- “*Agreement*” not limited to the words on the page of the CBA.
- Past practices can fill the blanks.
- But difficult to establish
 - Must be unequivocal, clearly acted upon, readily accepted over time, and accepted by *both* parties.

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Grievance or ULP?

- Generally, matters involving contract are grievances, not ULPs.
- Special circumstances.
- Cost considerations.
- Appeal considerations.





Final and Binding?

- Act 111 states that awards shall be “final and binding.”
- But . . . very limited ability to appeal.
- Narrow certiorari scope of review.
- Cuts both ways.





Conclusion

- ❑ Bargaining never ends. You have to fight to keep what you have won.
- ❑ The grievance procedure is a powerful tool when you use it.
- ❑ If you put in the *work*, you will maximize the benefits of your CBA.

