



CITY OF NEW YORK (City), Mayor.

OFFICE OF THE MAYOR

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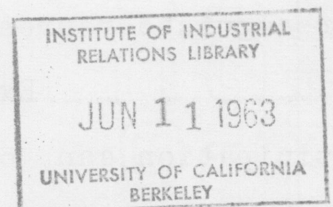
March 29, 1963

EXECUTIVE MEMORANDUM

TO: MICHAEL J. MURPHY
COMMISSIONER
POLICE DEPARTMENT
CITY OF NEW YORK

FROM: HON. ROBERT F. WAGNER
MAYOR OF THE CITY OF NEW YORK

SUBJECT: EXECUTIVE ORDER ON THE CONDUCT OF
LABOR RELATIONS BETWEEN THE CITY OF
NEW YORK AND MEMBERS OF THE POLICE
FORCE OF THE POLICE DEPARTMENT



1. INTRODUCTION

Inquiry and study into the mutual needs of the City and members of the Police Force of the Police Department of the City of New York, as employees of the City, and the experience developed in the establishment and maintenance of labor relations in the municipal service since the issuance of Executive Order No. 49, March 31, 1958, relating to the conduct of Labor Relations between the City of New York and its employees, have indicated the necessity for devising a further program of collective dealing limited solely between the City and members of the Police Force of the Police Department. Accordingly, this Order is hereby issued which shall constitute the sole and exclusive labor-relations policy and plan for the City of New York and its employees who are members of the Police Force of the Police Department. This Order shall be known, and referred to, as the "Executive Order on the Conduct of Labor Relations Between the City of New York and Members of the Police Force of the Police Department."

2. DECLARATION OF POLICY

Experience has indicated that labor disputes between the City and its employees who are members of the Police Force of the Police Department will be minimized, and that effective operation of the City's affairs in the public interest will be safeguarded, by permitting such employees to participate, to the extent allowed by law and applicable rules and regulations, in the determination of the terms and conditions of their employment, as hereinafter set forth, through recognized representatives freely chosen by them.

Experience has further indicated that such joint participation can, on a practical and effective basis, be achieved by negotiating and bargaining with the certified representatives shown to be the free choice of a majority of such employees and that such free choice can best be assured through the utilization of orderly and peaceful procedures designed to ascertain the wishes of the employees.

Accordingly, it is hereby declared, subject to the limitations of the Constitution and Laws of the State of New York, of the Charter and applicable laws of the City of New York, and of the applicable rules, regulations, directives and policies of the Police Department relating to the control, administration, disposition and discipline of the members of the Department, to be the policy of the City of New York to promote the practice and procedures of collective bargaining for the City of New York and the duly chosen majority representatives of its employees who are members of the Police Force of the Police Department.

Within the limitations imposed by law upon the authority of City officials to represent and act for the City, and upon the nature of the subjects as hereinafter set forth, open to collective bargaining, the objective shall be to further and promote insofar as possible the practice and procedures of collective bargaining prevailing in private labor relations.

3. RIGHTS OF EMPLOYEES

Employees of the City of New York who are members of the Police Force of the Police Department shall have the right to self-organization, to form, join or assist organizations for their mutual aid or protection, and to bargain collectively through such organizations as they choose to represent them concerning the terms and conditions of their employment within the subjects open to collective bargaining.

The term "organization" and the organization chosen by such employees to represent them for collective bargaining purposes shall mean and be limited to those line organizations qualified to be certified pursuant to the terms and provisions of this Order.

Such employees shall also have the right to refrain from joining any such organization and to refrain from any or all of the aforesaid activities.

Such organizations designated or selected for the purposes of collective bargaining by the majority of the employees in a grouping or unit appropriate for such purposes shall be the exclusive representatives for collective bargaining concerning the terms and conditions of employment of the employee in such grouping or unit: Provided, that nothing herein shall be construed to prevent any City official from meeting with any of the representatives of such organizations for the purpose of hearing the views and requests of its members in such grouping or unit and provided, further, that nothing herein shall be construed to prevent any City official from meeting with any of the employees in such grouping or unit for the purpose of hearing the views and requests of such employees so long as (a) the certified representative is informed of the meeting; (b) deliberations on such views are had solely with the certified representative; (c) and any changes or modifications in terms and conditions are made only through negotiation with the certified representative.

Employees shall have the right at appropriate times to have the question of representative status resolved by appropriate and suitable methods, including a secret-ballot election.

Nothing herein shall be construed to deny to any individual employee his rights under Section 15 of the New York Civil Rights Law or under applicable civil service laws or regulations.

4. NATURE OF SUBJECTS OPEN TO COLLECTIVE BARGAINING
CONSTITUTING TERMS AND CONDITIONS OF EMPLOYMENT

As used herein, "the nature of the subjects open to collective bargaining constituting terms and conditions of employment" shall mean collective bargaining with respect to wages and salary adjustments, the number of hours constituting the average work week, pensions, uniform allowances, and any other item or fringe benefit, which, if resolved, will partake of a financial character.

5. REPRESENTATION PROCEDURES

In order to insure the full exercise of the rights granted to the employees of the Police Force of the Police Department in this Order, the Department of Labor shall have the authority to resolve questions concerning representation by conducting a secret-ballot election or utilizing any other appropriate and suitable method designed to ascertain the free choice of the employees.

The Commissioner of Labor shall decide in each instance which employee grouping or unit will assure to such employees the fullest freedom in exercising the rights herein granted consistent with the efficient operation of the public service and to designate such grouping or unit as appropriate for the purposes of collective bargaining.

The Commissioner of Labor, with the approval of the Mayor and the Police Commissioner shall prescribe such rules and regulations as he deems necessary and administratively feasible to carry out and promote the basic policy herein declared and to achieve effective and stable relations between the City of New York and its employees of the Police Force. Such rules shall empower the Commissioner of Labor among other things:

(a) to render an official report of the results of the election or other

methods utilized and to certify the exclusive bargaining representative for an appropriate grouping or unit, such certificate normally to remain in effect for a period of one year from its date, and thereafter until such time as it shall be made to appear that the certified representative does not represent a majority of the employees in the unit in which case such certified representative may be decertified; (b) to determine in the interest of effectuating the policies herein declared, when special circumstances require that a particular certification be revoked or shall remain free from challenge or attack for a period either longer or shorter than one year.

6. INTERVENTION TO RESOLVE DISPUTES

In the event that the parties are unable to reach agreement as to those terms and conditions of employment as defined in Paragraph 4 after sincere and exhaustive bargaining, they may seek the intervention of the Commissioner of Labor or, if the public interest so requires, the Commissioner of Labor may proffer his services upon his own motion. It shall thereupon be the duty of the Commissioner of Labor to take such steps as he may deem expedient to effect an expeditious adjustment and settlement of the differences between the parties.

7. PRESENTATION AND ADJUSTMENT OF GRIEVANCES

The procedures for the presentation, processing and review of grievances for the members of the Police Force of the Police Department shall be as follows:

As used herein, the following terms shall have the meanings indicated:

- (a) "Member" means a member of the Police Force of the Police Department.
- (b) "Commanding Officer" means the immediate commanding officer of the member claiming the grievance.
- (c) "Reviewing Officer" means the superior officer in charge of the next higher command or level above the commanding officer of the member originating the grievance.

- (d) "Board" means the Joint Personnel Relations Board to be composed of three members as follows: A Deputy Commissioner or other designee of the Police Commissioner, who shall serve as Chairman of the Board; the Chief Inspector or his designee; the president or other officer of the certified line organization which represents members of the rank of the member originating the grievance.
- (e) "Certified Line Organization" shall mean and include an organization designated by members of the Police Force to represent a single unit of one of the following: Patrolmen, Sergeants, Lieutenants, Captains, Policewomen, or Detectives and provided such organization is certified by the Commissioner of Labor, in accordance with the provisions of this Executive Order, as the exclusive bargaining representative of an appropriate unit.
- (f) "Grievance" shall mean a claimed violation, misinterpretation or inequitable application of the existing rules, procedures or regulations applicable to the Police Department, but the term "grievance" shall not refer to or include rates of pay, retirement allowances, disciplinary matters or any other matter, specially treated by law, rule or regulation, or any other matter which is reviewable pursuant to law, or rule or regulation having the force and effect of law.

Every member of the force shall have the right to present his grievances in accordance with the procedure provided him, free from coercion, interference, restraint or reprisal.

The informal resolution of differences or grievances is urged and encouraged at all levels of supervision.

Commanding Officers and Reviewing Officers shall promptly consider grievances presented to them and, within the scope of their authority, take such necessary action as is required herein.

Commanding Officers, Reviewing Officers and members of the Joint Personnel Relations Board shall consider objectively the merits of grievances, with due consideration to the harmonious inter-relationship that is sought to be achieved among all members of the force and for the

good of the Police Department.

Grievances shall be processed according to the following procedure:

(a) First Stage - A member who feels that he has been aggrieved may orally present his grievance to his Commanding Officer who shall carefully consider the matter, and within five days make a determination and advise the member of the decision.

(b) Second Stage - If the grievance is not adjusted, the member may within ten days after notification of the decision, seek the following review:

The member shall reduce the grievance to writing on Form U.F. 49 (in triplicate), setting forth a concise resume of the grievance and the results of the proceedings at Stage One. He shall forward two copies to the designated Reviewing Officer and retain one copy for his own use. The Reviewing Officer shall forward one copy to the Commanding Officer requesting his comments. The Reviewing Officer, promptly and within twenty days of receipt of the grievance, shall carefully consider said grievance, make a determination, and notify the member and the Commanding Officer of his decision.

(c) Third Stage - If the grievance is still not adjusted, the member may, within ten days after notification of the decision of the Reviewing Officer, seek further review as follows:

The member shall prepare a report on U.F.49 (in quintuplicate) setting forth a resume of the grievance and the results of the proceedings at Stages One and Two. He shall forward four copies of the report through official channels to the Chairman, Joint Personnel Relations Board, retaining one copy for his own use. The Board shall forward one copy to the Reviewing Officer requesting his comments thereon. The Joint Personnel Relations Board shall meet at least once a month on a date designated by the Chairman, and shall promptly consider all grievances properly referred to it for review. The Board shall permit the member and his representative to be present and to present oral or written statements.

The Board shall make a determination and notify the member, his Commanding Officer and the Reviewing Officer of its decision within sixty days of the receipt of the grievance. Where the matter is not adjusted, the Board shall refer the grievance to the Police Commissioner for final determination, if the member so requests.

At every stage of these procedures, the member and the officers considering the grievance shall work for a satisfactory adjustment. At any stage, the Commanding Officer, the Reviewing Officer, and the Board shall have the right to summon the member and any and all persons considered necessary to the equitable adjustment of the grievance. Proceedings shall be informal.

The Chairman of the Joint Personnel Relations Board shall take such steps to implement the provisions concerning grievances as are necessary for the proper and effective operation of the procedures provided for herein. He shall resolve questions as to jurisdictional responsibility of Commanding Officers and Reviewing Officers and shall work out the operational detail of the program. For these purposes, the Chairman is authorized to issue orders and instructions through the Chief Inspector not inconsistent with the provisions of these procedures.

The grievance procedure established hereinbefore is designed to operate within the framework of, and is not intended to abolish or supersede, existing rules and procedures providing for additional methods of redress. These include, but are not limited to, the existing rights of a member to request a change of detail or assignment (Chapter 2/48.1 and 48.2) or to request an interview with the Police Commissioner (Chapter 2/46.0).

8. PROTECTION OF EMPLOYEES IN THE EXERCISE OF THEIR RIGHTS

(a) There shall be no discrimination against any employee of the Police Force of the Police Department because he has exercised the rights of self-organization and collective activity granted by this Order or because he has presented a grievance under this Order. Nor shall there be any discrimination against any employee because he has given testimony or information in any hearing or conference relating to any matter presented or arising under this order.

(b) Charges of a violation of this section shall be referred to or filed directly with the Department of Labor, which shall make appropriate determination after proper hearing and notice.

(c) Whenever the Commissioner of Labor has reason to believe that there has been a willful failure and refusal on the part of any person to comply with a determination of the Commissioner concerning a violation of paragraph (a) the Commissioner shall forward to the Mayor and the Police Commissioner a complete copy of the record upon which his determination is based, together with a report and evaluation of the record and a statement of the basis for such belief.

9. NON-QUALIFIED ORGANIZATIONS

1. No organization seeking or claiming to represent members of the Police Force of the Police Department shall be certified as the representative of employees of the Police Force of the Police Department in a bargaining unit of such employees if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than members of the Police Force of the Police Department.
2. No organization seeking or claiming to represent members of the Police Force of the Police Department which asserts or advocates the right to strike shall be certified as the representative of such employees.
3. No organization seeking or claiming to represent employees of the Police Force of the City of New York shall be recognized for any of the purposes of this Order if it is motivated, controlled or dominated by fascist, communist or other organizations or groups which advocate, advise, teach or embrace the doctrine that the government of the United States or of any state or of any political subdivision thereof shall be overthrown or overturned by force, violence or any unlawful means, or advocates, advises, teaches or embraces the duty, necessity or propriety of adopting

such doctrine, or if such employee organization allows in office or permits to represent it any person who is a member of or supports any organization that advocates, advises, reaches or embraces the doctrine that the government of the United States, or of any state, or of any political subdivision thereof, shall be overthrown or overturned by force, violence or any unlawful means, or advocates, advises, teaches or embraces the duty or propriety of adopting any such doctrine.

Any information or material concerning any organization seeking to invoke the privileges of this Order, and which relates to the provisions of subdivision 3 hereof, shall be directed as follows: Copies of the information or material shall be transmitted to the Department of Investigation of the City of New York for inquiry and investigation. If the investigation and inquiry of the Department of Investigation indicates, in the judgment of the Commissioner of the Department of Investigation, that there is a prima facie basis warranting that the privileges of this Order, including recognition, if given, be suspended or denied to such organization, he may recommend to the Police and Labor Commissioners, as well as to any Department or Agency head, that the privileges of this Order, including recognition, if given, be suspended or denied to such organization pending a prompt hearing and report by an impartial panel to be selected by the Mayor.


No public statement by any City official concerning any matter involving alleged violations of the conditions herein contained, before an impartial hearing and determination of the same is made, shall be issued without assuring all possible safeguards to the organization and the persons involved to avoid any premature implications or inferences that the violations alleged have been proved or established.

10. INTERPRETATION AND CONSTRUCTION

Whenever necessary, the Commissioner of Labor, after consultation with the Police Commissioner, may issue an opinion interpreting or construing the provisions of this Order.

11. REPORTS

The Police Commissioner shall submit to the Labor Commissioner periodic reports concerning the progress of labor relations under this Order and the Commissioner of Labor shall thereupon submit to the Mayor his evaluation of such report together with his own report on the progress of the labor relations policy established under this order.


ROBERT F. WAGNER
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