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May 12, 2012 Edition

FOP Challenges DC Police Chief's Role In Bargaining

On May 10, 2012 07:30 am

WASHINGTON, DC D.C. Police Chief Cathy L. Lanier's involvement in compensation decisions for the 3,500 officers of the Metropolitan Police Department (MPD) violates D.C. law and a 2005 mayor's order that reserved such authority for the mayor and his labor relations director, according to a lawsuit filed Monday by the Fraternal Order of Police (FOP).

Chief Lanier's five-year contract, approved by the D.C. Council in April 2007, authorizes her involvement in police collective-bargaining activities despite that being prohibited by the mayor's order and D.C. Code. But her contract expired April 3, the lawsuit states, "thereby removing [her] authority from controlling compensation-related decisions as management of the MPD."

Starting salaries for MPD officers are commensurate with those in neighboring jurisdictions, but their current collective-bargaining agreement expired at the end of fiscal 2008, and the last raise MPD officers received was in October 2007, according to FOP President Kristopher Baumann.

At the same time, Chief Lanier is negotiating a new contract for herself that could elevate her \$253,000-per-year salary – fourth-highest in the nation – despite a recent D.C. law that purports to cap executive salaries. As The Washington Times reported last week, the council will have to deal with that law in approving a new salary increase for the chief.

Chief Lanier's original annual salary in 2007 was \$175,000. It has increased more than 40 percent since then.

"While growing rich and taking credit for actual and perceived reductions in crime, Chief Lanier has only offered rank-and-file officers a contract for [seven] years without a pay increase or cost-of-living adjustment," Mr. Baumann said in an email. "As a result, the working police have not had a raise, or even an offer of a raise, in five years."

Chief Lanier's contract says she has the "right to participate in the collective-bargaining process as management of MPD" and "shall be consulted" on a "collective-bargaining agreement affecting the members of MPD." But in an email Monday to The Times, Gwendolyn Crump, a spokeswoman for Chief Lanier, said the chief "has never had pay and compensation authority in negotiations." She said the Office of Labor Relations and Collective Bargaining has that authority.

The FOP's lawsuit also claims that "Chief Lanier's interference with the compensation-related decisions of the collective-bargaining agreement process is improperly impeding the parties' ability to reach a new [agreement], and as such is causing harm" to its members.

Her authority to engage in labor negotiations that affect her officers is rooted in an expired contract, the FOP argues.

Pedro Ribeiro, spokesman for Mayor Vincent C. Gray, disputed that the chief's contract had expired.

The D.C. Code states that the mayor has authority over personnel functions related to employees of all city departments. In 2005, then-Mayor Anthony A. Williams signed an executive order specifically delegating the authority to approve police collective-bargaining agreements to the director of the Office of Labor Relations and Collective Bargaining.

But in January 2007, then-Mayor Adrian M. Fenty signed an employment contract giving that authority to Chief Lanier. On April 4, 2007, the council approved her five-year pact, which expired on April 3.

Yet Chief Lanier "has been involved in making compensation-related decisions for the MPD during the collective-bargaining process for the proposed contract between the MPD and the [FOP]," the lawsuit states, the authority for which expired along with her contract.

The FOP is asking a D.C. Superior Court judge to declare Chief Lanier in violation of the 2005 mayor's order and the existing D.C. law and to prevent her from being involved as "management in making compensation-related decisions in the collective bargaining process."



Judge Blocks Vote On Future Of Camden Police

On May 10, 2012 07:00 am

CAMDEN, NJ A Superior Court judge Monday temporarily blocked a planned Camden City Council vote that ultimately could put in the hands of voters a decision on whether to dismantle the city's police department in favor of a county force.

Judge Faustino J. Fernandez-Vina decided to hear arguments June 11 on a complaint filed by Mayor Dana L. Redd and President Frank Moran that maintaining the department could cause the city "irreparable harm." He issued an order preventing the city clerk from certifying before the Council a petition with more than 2,000 signatures requesting that Council vote on a proposed ordinance to maintain the department and, if the ordinance is rejected, the voters would get to decide what to do.

A vote had been scheduled for Tuesday. A rejection would send the issue to a special election within 70 days.

Fernandez-Vina said he saw no harm in hearing the arguments to determine "as soon as possible whether the petition passes muster."

Redd and Moran filed the complaint several weeks after police union officials and community activists submitted the petition trying to stop a county force. The signatures on the petition were certified April 11.

The proposed force has the support of Gov. Christie and powerful local Democrat George E. Norcross III, among others. Norcross is an insurance executive and chairman of Cooper University Hospital, and an owner of Philadelphia Media Network, the parent company of The Inquirer.

The plan would dismantle the current department and rehire up to 49 percent of the current force, to avoid the provisions of an expired contract, county officials said.

Union officials and officers have decried the initiative — which started after unions and the city could not agree on negotiations and concessions, contributing to layoffs — as a union-busting maneuver that would not make the city safer.

The cash-strapped city, which depends for more than 70 percent of its budget on the state, laid off 168 officers in January 2011. Many were rehired, but 80 to 90 officers have since left the force for retirements and other reasons.

County and police officials said a regional force is necessary to improve public safety in one of the nation's most dangerous cities.

The plan would start with a metro division that would police only Camden, boosting the number of officers on the street to around 400.

The complaint that City Attorney Marc Riondino filed argues that voters' right to a referendum on municipal issues is limited and cannot constrain future city governments. It is an argument that New Jersey towns and cities, which are granted significant autonomy under state law, have made in the past.

"If the Council acts tomorrow, this becomes law. If this becomes law, it binds future governments," Riondino told the court.

Thousands of dollars in current and future state aid could be jeopardized if the city failed to comply with a memorandum of understanding with the county and state to create the regionalized force, the complaint says.

In addition to Council and the city clerk, the complaint by Redd and Moran names several of the petitioners.

Fernandez-Vina asked Riondino to submit a brief about a possible conflict of whether as city attorney, he can sue Council.

"It seems to me you're suing a current client," the judge said.

City spokesman Robert Corrales said the city was pleased with the action.

"This was always about the safety of the residents of the city of Camden," he said.

John Williamson, president of the Fraternal Order of Police lodge in Camden, said he wanted to see the legal process run its course.

"What actually shocks me is the fact that the mayor and the Council president have filed a lawsuit against the clerk and the other members of the City Council, restraining them from acting on a petition that spells out exactly what people want," he said.



Video From Reality TV Show Faces Sheriff's Deputy With Criminal, Disciplinary Problems

On May 10, 2012 07:00 am

LOS ANGELES COUNTY, CA The reality TV show "Bait Car" is supposed to catch car thieves in the act.

Undercover cops park a rigged car on the side of the road, conspicuously leaving the keys inside, while a television crew waits nearby for an unsuspecting passerby to take the bait and steal the car.

But in one recent sting filmed in cooperation with the Los Angeles County Sheriff's Department, the lead detective on the case ended up getting busted instead.

Footage shot for the TruTV program showed 28-year-old Keenan Alex come across a parked, shiny, red Cadillac Escalade with the keys in the ignition and the engine running. After he gets inside and drives off, deputies pull him over and cuff him. In court, Det. Anthony Shapiro said under oath that he read Alex his Miranda rights from a card in his notebook before the suspect made incriminating statements, a transcript shows.

But unedited video for the program shows the detective never read the suspect his constitutional rights, including the right to remain silent and have an attorney present during questioning.

"You watch TV. You know your rights and all that?" Shapiro asked instead, according to the video reviewed by The Times.

Combining law enforcement and reality TV has a long and sometimes controversial history, dating to the long-running show "Cops." While such programs often record the questionable behavior of suspects, the "Bait Car" case shows the unblinking eye of the camera can also catch potential police wrongdoing.

After Shapiro's conduct was discovered, authorities dropped the case against Alex and launched a criminal perjury investigation of the detective, citing the conflict between his testimony and the video.

Deputy Dist. Atty. Christopher Frisco told a judge in February that the contradiction "poses a very severe problem" for the detective, according to court documents. Explaining why the D.A.'s office agreed to dismiss the case, Frisco said the footage showed that Shapiro violated Alex's Miranda rights, which prevented the prosecution from using the defendant's incriminating statements. Frisco said prosecutors needed the statements to counter defense arguments that Alex's mental illness played a role in the decision to take the vehicle.

"I believe the statement would be crucial to putting on the case to win a conviction," Frisco told the judge, according to a court transcript.

Alex, whose criminal history includes brandishing a firearm and drug possession, admitted taking the car as part of a probation violation hearing in another case. A judge allowed him to remain free as long as he continued taking his psychiatric medication and sought mental-health treatment, records show.

Shapiro did not return messages for comment. His captain said the detective could not discuss the matter because it was the subject of an ongoing investigation. Sheriff's spokesman Steve Whitmore said Shapiro has been relieved of duty with pay.

Court documents show Shapiro was almost fired in 2008 over allegations that he had received stolen property from a known felon. Internal sheriff's criminal investigators served Shapiro with a search warrant on his home and seized alloy car rims, a bicycle, a Honda generator and a Gibson electric guitar, court records show.

Shapiro denied the items were stolen, saying several came from his brother. Prosecutors declined to file charges, finding insufficient evidence the items were stolen. But after a separate investigation, the Sheriff's Department, which requires a lower standard of proof to impose discipline, moved to fire Shapiro.

The detective appealed the decision, arguing there was no proof the items were stolen, court records show. The department agreed to classify the allegations as "unfounded," while he agreed to a five-day suspension for using law enforcement records to check the criminal histories of two felons, including the man he was alleged to have received stolen property from and one of the detective's neighbors, according to court records.

The department's watchdog found serious flaws in the sheriff's internal investigation. Investigators, including a deputy who had previously worked in the same unit with Shapiro, inadvertently tipped off the detective before executing their search warrant and allowed him to be present for an interview with a key witness, according to a 2010 report by the Office of Independent Review. The report found that "investigative deficiencies hampered a potential criminal prosecution and forced the department to continue to employ a deputy it believed had committed serious crimes."

Shapiro's attorney, Richard A. Shinee, disagreed. "There was no credible evidence that he stole anything and that's why the case fell apart," he said. Shinee declined comment on the "Bait Car" case, citing the ongoing investigation.

During the case, the defense attorney raised questions about whether the problems she encountered were common in prosecutions resulting from "Bait Car" filming.

Deputy Public Defender Priya Bala said she doubted the county was regularly turning over relevant video to defense attorneys, who may be able to use that footage to exonerate their clients. In her case, it took weeks before she was told the arrest had been filmed and an additional six months before the unedited footage was turned over, prompting the judge to rule that the county had failed to disclose evidence in a timely fashion.

The district attorney's office initially said it could not compel the production company to turn over the footage but admitted it could when Bala obtained a copy of the county's contract, which showed Earth Angel Productions had agreed to comply with D.A. requests for unedited footage. Part of the delay, Frisco said in court, was because Shapiro did not return repeated messages left by the prosecutor.

Deputy Dist. Atty. Alex Karkanen, who works with the auto-theft task force, said the county has prosecuted scores of similar bait-car cases and never encountered such problems. Defense attorneys and judges, he said, are generally notified that the arrests were filmed for TV and the suspects are aware of the cameras and are asked to sign a waiver by the production crew at the time of their arrest.

Bala also criticized the county's decision to conduct the televised stings at all, saying they wasted taxpayer resources that could better be used on more serious crimes. She said her client, who hallucinates and hears voices, jumped into the bait car while walking to an aunt's house from a residential facility that houses the mentally ill.

"It's disgusting," she said. "Don't they have any real crime to go after?"

Under its contract with the county Board of Supervisors, the production company pays the county at least \$22,500 per episode, an additional 10% of the company's profit from the series and other fees, as well as the overtime costs for law enforcement officers working on the stings. In July 2011, when Alex was arrested, the company paid \$156,000 in overtime to deputies and police officers assigned to the task force during that month, records show.

Whitmore, the sheriff's spokesman, denied the payments are why the department does the stings, saying the televised operations act as a deterrent to car thieves.

"If the general public sees this [TV show], it's gonna prevent people from doing it because they won't know if [a] car is a bait car or not," he said.



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