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Binding Arbitration— Should it be Eliminated?

by Jerry Garner

The concept of "binding arbitration" used by the City of Portland and the Portland Police Association to settle disputes between the two sides could become a hot issue in the future.

Binding arbitration is an idea that was created in 1973 by the Oregon State Legislature in an attempt to prevent the police from walking out on strike. Binding arbitration says that if the Police Union and city officials cannot agree on an issue, whether they are grievances, disciplinary matters, wage negotiations, or etc., then the issue goes before an arbitrator. Over the years, binding arbitration has greatly reduced the capability of police chiefs and the mayor to manage the Bureau. In fact, many will say that Police Association Stan Peters runs the Portland Police Bureau.

Here is how binding arbitration works. If the Police Union and city officials (whether it is the Chief of Police or the Mayor) cannot agree on the settlement of an issue, then it must go before an arbitrator. The Police Union and the City agree on one arbitrator from a list of federal arbitrators. That person then hears all evidence from both parties and makes a decision. His decision is final and cannot be appealed.

Critics of binding arbitration say it makes it impossible for police administrators to manage and discipline police officers. "The city should renegotiate the type of binding arbitration with the Union when the contract expires in 1987."

Harrington said it is very difficult for one person to hear every issue and make a decision. She went on to say that if binding arbitration is going to be used, there should be a panel of arbitrators. "For instance, in discipline cases, you could have a panel consisting of an expert in personnel, a labor law expert, and a community member. I think the desires of the community get lost in all of this."

Harrington said in the past, arbitrators have made some bad decisions. "Take the T-shirt incident for example. The arbitrator examined everything I did and decided the procedure I followed was correct except for the discipline. The arbitrator felt my recommendation to the Mayor that the two officers be terminated was too severe. Yet the arbitrator turns around and gives the same officer a 120-day suspension. That is a severe penalty, he

should have upheld the firings."

It was during Harrington's tenure as Chief that the concept of binding arbitration became a topic of discussion in the public forum. In May of 1985, Harrington recommended to Mayor Bud Clark, that he fire two policemen who sold the Don't Choke 'Em, Smoke 'Em T-shirts on the day of the funeral of Lloyd D. Stevenson. Stevenson, an African-American who was married and the father of 5 small children, died on April 21, 1985, after officers applied the carotid-artery hold on him.

The Police Union appealed the dismissal of the officers. Later an arbitrator ruled the firing of the two officers was excessive and reinstated them. The arbitrator's decision was assailed throughout the City. Commissioner Mike Lindberg made the following statement regarding the arbitrator's reinstatement of the two officers. "It is a devastating blow to the Police Chief and our ability to manage the police department. It is almost an unsupervisable (police) force at this point in time." Herb Cawthorne, Chief Executive of Portland Urban League, called the decision "an unfortunate decision."

Binding arbitration has angered many in Portland's African-American community. In recent years, they have watched binding arbitration allow officers whom they perceived as committing racist and criminal acts and who were fired, to be reinstated by an arbitrator. This occurred in both the T-shirt and opossum incident of 1981.

Several African-American citizens told the Observer that binding arbitration should be changed when the City contract with the Police Association expires in 1987.

Jean Vessup, a member of the Police Internal Audit Committee (PIAC), said changes are needed in the method in which binding arbitration is presently applied. "I don't have any problem with the concept of binding arbitration. However, the way in which it has been used by the City of Portland in conjunction with the Portland Police Association has resulted in erroneous decisions."

Vessup said in the future when binding arbitration appears to be necessary, the issue should be evaluated carefully and some thought should be given to looking for arbitrators from outside the State of Oregon. "The arbitrator should be chosen from neighboring states



Jean Vessup

Photo by Richard J. Brown

which will prevent bias or associations with any other parties involved. In addition, I will suggest that more than one arbitrator be used in making appropriate decisions."

Robert Phillips, Chairman of the Greater Northeast Police Advisory Council blames past city officials for the lack of police managers control of the rank-and-file. "Over the years, city officials have negotiated management rights in contract disputes with the police union." Phillips said this trend started during the administration of Terry Schunk and has continued.

Another reason that binding arbitration has caused so much attention is the cost associated with it. For example, the City of Portland had to pay a Seattle law firm \$33,761 in legal fees and expenses for its work in an attempt to uphold the firings of the officers involved in the T-shirt caper. This figure didn't

include the fee the City had to pay the arbitrator, which was almost \$4,000.

Furthermore, shortly after the officers were reinstated by the arbitrator, each filed a \$100,000 damage claim against the City. One of the officers, Richard A. Montee, has since been granted full medical disability. Montee now will receive \$2,700 a month for four years and then 60 percent of that amount for life.

Any attempt to eliminate binding arbitration by City officials will meet resistance from the Police Union. Portland Police Association President Stan Peters once said this in response to critics of binding arbitration: "The contract only gives the officers the right to a fair hearing before an impartial third party. It protects against political decisions, and we will not change it in the slightest."

Officer Involved In Stevenson Death Dismissed from Bureau

by Jerry Garner

Bruce M. Pantley, 35, one of the three police officers involved in the death of Lloyd Stevenson last April 22, 1985, was fired by Portland Mayor J.E. "Bud" Clark. Acting Portland Police Chief Robert M. Tobin recommended that Clark terminate Pantley from the Bureau for his plea of no contest June 30 to two misdemeanor charges of false swearing under oath during two court trials. The plea of no contest in a criminal case means that the person does not "directly admit" guilt, but submits to sentencing or other punishment.

Pantley was accused of lying while under oath during criminal trials in 1984, claiming that he held a Master's degree from Princeton. A check of Princeton's records by a local attorney representing a defendant revealed that Pantley was never registered in the graduate program at the Ivy League school.

Recently, Portland City Council authorized a \$20,000 settlement to Roosevelt Crawford, 24, a defendant in one of the cases in which Pantley lied about his education credentials. Crawford alleged that on October 2, 1983, Pantley and Officer Gary L. Barbour (Barbour was the officer who applied the fatal sleeper hold on Stevenson) "brutally beat him and used the carotid hold on him, after stopping him while riding a moped bike." Crawford sued the City for \$600,000, charging that Pantley and Barbour "used deadly physical force when it was not justified."

Pantley's dismissal from the Bureau is another strange twist concerning the tragic death of Stevenson. Although a public inquest jury ruled that Stevenson's death was the result of criminally negligent homicide, a "secret" Multnomah County Grand Jury refused to secure indictments against the officers involved in the death of Stevenson.

As soon as the grand jury unanimously decided not to indict any of the police involved in the incident, African-American leaders in Portland voiced their disappointment. Herb Cawthorne, Director of the Portland Urban League, criticized Multnomah County District Attorney Michael D. Schunk. "The only thing we can assume is that Mr. Schunk did not want to prosecute Portland police officers. It is too difficult for him politically." Cawthorne called the grand jury's decision not to indict in the Stevenson case a "miscarriage of justice."

Cawthorne couldn't be reached for comment on Pantley's firing.



Ricky Harrison joins protesters in front of the Pioneer Square Courthouse to show support for Senate Bill 5.2570, the Anti-Apartheid Action Act of 1986. The bill calls for comprehensive sanctions against South Africa, banning new and existing

U.S. investments; bars all trade except of certain strategic minerals, prohibits U.S. banks from lending to South Africa and withdraws U.S. landing rights for South African aircraft.

Photo by Richard J. Brown

Emanuel Offers Infant CPR Classes

Classes in infant and toddler cardiopulmonary resuscitation (CPR)

will be offered this fall by Emanuel Hospital & Health Center's Apnea and SIDS Program.

The classes are designed for anyone who spends time with young children, especially babysitters, day care providers and parents, says Mary Kaye Brady, Program Manager for the Apnea and SIDS Program.

The three-hour class will offer in-depth instruction in CPR using infant and toddler mannequins and will cover some emergency child-care concerns, such as who to contact when there is an emergency and how to call 9-1-1.

The \$18 class will be offered at 7 p.m. on Sept. 29, Oct. 14, Oct. 27 and Nov. 11. To register and for more information call 280-4284.

Portland Man Wins Presidential Award

President Reagan has awarded Vern Ryles Jr., a Portland businessman and civic activist, a Presidential Certificate of Honor in recognition of Mr. Ryles' demonstrated commitment to increasing employment opportunities for Portland's unemployed youth.

Mr. Ryles, President of Poppers Supply Co., describes Portland's high youth unemployment rate, particularly among minority youth, as a social problem with serious consequences for the business community. He explains, "As we move rapidly toward a service-oriented economy and the overall number of youth entering the workforce shrinks, disadvantaged youth will constitute the only available, untapped labor pool."

In 1985, Mr. Ryles, chairman of Portland's Private Industry Council,

joined with a group of key business and community leaders to establish Portland's first consolidated Summer Youth Employment Program. Portland's Summer Youth Employment Program, designed and operated by the Private Industry Council, now represents a model effort of national significance and local accomplishment.

Each summer more than 2,000 Portland youth are provided training, employment or work-oriented educational opportunities utilizing monies from the Portland Public Schools, City of Portland, the Private Industry Council, private foundations and dozens of private employers.

For more information contact John Rakowitz, the Public Affairs Coordinator at 241-4600 or Vern Ryles directly at 234-0576.