STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD

IN THE MATTER OF

RHODE ISLAND STATE LABOR RELATIONS BOARD

CASE NO: ULP-5697

-AND-

CITY OF NEWPORT

DECISION AND ORDER

TRAVEL OF CASE

The above-entitled matter comes before the Rhode Island State Labor Relations Board (hereinafter "Board") on an Unfair Labor Practice Complaint (hereinafter "Complaint") issued by the Board against the City of Newport (hereinafter "Employer") based upon an Unfair Labor Practice Charge (hereinafter "Charge") dated and filed on October 23, 2003 by the Newport F.O.P. Local #8 (hereinafter "Union"). The charge alleged violations of R. G.L. 28-7-13 (3), (5), (7) and (10). The detailed charge is attached hereto as Exhibit A.

Following the filing of the Charge, an informal conference was held on November 21, 2003. The Board issued its Complaint on January 9, 2004. The Employer filed its answer on February 2, 2004 denying the allegations therein.[1] Formal hearings on this matter were held on May 13, 2004, September 9, 2004, September 21, 2004 and September 28, 2004. Both parties filed briefs in this matter on November 15, 2004. In deciding this matter, the Board has reviewed the transcripts and documents of the proceedings, as well as the briefs filed by both parties.

FACTUAL SUMMARY

Sergeant Peter Calo has been a member of the Newport Police Department since 1990 and was promoted to the rank of Sergeant in June 2002. TR. p. 21 Since 2002 Sergeant Calo has been a member of the Union's negotiating committee and was engaged in contentious contract negotiations during the year 2003. At the time the hearings before this Board commenced on

[1] The Employer had requested and was granted additional time within which to file its answer.

May 13, 2004, the Employer and the Union were engaged in interest arbitration proceedings for the 2002-2003 contract year.

At the beginning of 2003, the Union filed a grievance alleging that the collective bargaining agreement ("CBA") had been violated because members of the Special Response Team ("SRT") were working an extra day, without compensation. TR. p 24-25. Sergeant Calo testified that he had been told by Lieutenant Silva (his direct supervisor) and Captain Terrano (captain of Calo's assigned patrol) that he was responsible for filing the aforementioned SRT grievance. TR. p. 25. Lieutenant Silva issued a memorandum dated February 22, 2003 to Sergeant Calo directing that he respond in writing to Lieutenant Silva concerning the grievance. *Union Exhibit #1* Calo did as directed and filed his written response on February 26, 2003. *Union Exhibit #2.*

Also on February 22, 2003, Lieutenant Silva issued another memorandum to Sergeant Calo concerning Sergeant Calo's discharge of two (2) hours annual leave time for a shift he worked on February 18, 2003. In that memo, Lieutenant Silva directed Sergeant Calo to respond to the memo in writing and to explain his actions and for Sergeant Calo to disclose who authorized the discharge of annual leave. *Union Exhibit # 3.* On February 26, 2003, Sergeant Calo responded to Lieutenant Silva's directive and issued a written memorandum, which disclosed that Sergeant Hayes (the Officer in Charge or "OIC" for the shift) had authorized the use of the annual leave. (Union Exhibit # 4) On or about March 22, 2003, Lieutenant Silva directed Sergeant Calo to submit an "amended" leave slip changing the two (2) hours he had used in February from "annual leave" to "sick leave". TR. 40-41. *Union Exhibit #5.* On March 27, 2003, Sergeant Calo issued a memorandum to Chief Golden stating Calo's disagreement with the order to amend his time slip and advising of Calo's intent to file a grievance concerning the issue. On March 28, 2003 Chief Golden issued a memorandum to Sergeant Calo directing him to be more specific with his grievance allegations. *Union Exhibit # 4A.*

On April 3, 2003, the Chief issued another memorandum to Sergeant Calo denying his grievance. *Union Exhibit # 4F.* On April 13, 2003, Sergeant Calo

filed his appeal of the Chief's denial with City Manager James Smith. *Union Exhibit # 4G.*

On April 25, 2003, Sergeant Calo filed a written request for earned vacation time for the period of May 27, 2003 through July 4, 2003. *Union Exhibit # 6.* On April 26, 2003, Lieutenant Silva submitted Calo's request to Captain Terrano. *Union Exhibit # 6A.* On May 1, 2003, Chief Golden issued a memorandum to Sergeant Calo denying his request for vacation as "unreasonable" and "not consistent with the work requirements of the department and the city." In the memo, the Chief indicates that he can arrange for Calo to take three weeks off and arrange to have the balance of Calo's request granted as an unpaid absence. *Union Exhibit # 6B* On May 2, 2003, Sergeant Calo filed a grievance with the Chief concerning the Chief's denial of Calo's requested vacation time. *Union Exhibit # 6E.* In his grievance, Calo notes that he has well over 300 hours of vacation time on the books and that in his opinion, to deny him the use of the time without a valid reason, is inherently unfair. Calo argued in his memo that his absence will not hinder the City's work requirements in any way and that since no one else senior to him has requested vacation time for that period, his request should not be denied *Union Exhibit # 6E.* On May 13, 2003, Sergeant Calo wrote to City Manager Smith and accepted an offer granting him the use of his vacation time in exchange for Calo's agreement to drop both the vacation grievance filed on May 2, 2003 as well as the two (2) hour annual leave grievance which was filed on April 13, 2003. TR. p. 50-51. *Union Exhibit # 6F.* Sergeant Calo testified that when he issued his May 13, 2003 letter to the City Manager and agreed to withdraw his grievances, that he did so because he mistakenly believed that if he had taken unpaid leave, his health care coverage would be rescinded. Calo testified that when he discovered that his health care coverage would not be affected if he took unpaid leave, he withdrew his acceptance of the City's offer and decided to take the trip with unpaid time and let the grievances stand. TR. p. 52.

During Calo's absence for vacation in May 2003, the Department held a scheduled awards ceremony wherein Calo was scheduled to receive an award he earned for outstanding police work the prior year. Upon his return from

vacation, Calo wrote to the Chief and requested his award now that he had returned *Union Exhibit # 8.* Calo testified that the Chief did not ever respond to this memorandum (which was also copied to Calo's supervisors- Silva and Terrano). Calo did not receive his award until January 2004, after Chief Golden had been placed on administrative leave by the City. TR. p 58-59.

In addition to the award, Calo also had trouble receiving a written commendation for which he had been recommended by Captain Terrano for work performed on March 8, 2003 in apprehending a criminal. In his memorandum dated March 9, 2003, Captain Terrano recommended that Chief Golden issue letters of commendation to seven (7) other officers and detectives for their role in apprehending a criminal for the Middletown Police, as well as Sergeant Calo for his participation as the street supervisor on the evening of the incident. The memorandum singled Calo out for his active involvement and for his "positive and proper leadership in coordinating a high-risk search for a suspect considered armed and dangerous." All the other officers and detectives received letters of commendation; Calo did not. In its answer to the complaint dated February 2004, the City acknowledged that Calo was entitled to a letter of commendation and claimed it was merely an "oversight" that the same had not been issued. Yet, as of the first day of testimony in this case, May 13, 2004, Calo had still not received his letter of commendation as street supervisor.

On March 3, 2003, Captain Terrano selected Sergeant Calo to head the Department's bicycle patrol for the summer. *Union Exhibit # 9.* In his notice. Captain Terrano states to Sergeant Calo: "Peter, picked you to command this unit because know you will do an excellent job! Please take control and put effort into this program, want to move forward and make it better. Thank you"! Calo testified that he immediately took command of the bike patrol (which usually runs from May to October) as requested by Captain Terrano. TR. p. 60. While Calo was on his vacation in early June 2003 (the one over which he had filed a grievance) he received a call that he had been transferred from the 4:00 p.m. to midnight shift to the midnight shift to 8:00 a.m. shift. *Union Exhibit # 9A.*

On June 13, 2003, during a staff meeting, Chief Golden asked for suggestions for personnel who the staff felt would be qualified to take on the role

of a training sergeant. Captain Wayne Morrison testified that he responded to the Chief's inquiry by stating: "How about Pete"? The Chief replied: "Pete who"? Captain Morrison responded: "Sergeant Calo." The Chief responded: "Sergeant who"? Captain Morrison responded: "Pete Calo." The Chief responded: "Who"? Captain Morrison did not respond further.

On July 7, 2003, after his return from vacation, Sergeant Calo received an e-mail from Sergeant Daniel Dvorak concerning a mandatory fitting for protective body armor (bullet proof vests) indicating that a fitting was scheduled for July 10, 2003. Since Calo was not working during the time for the fitting and since the fitting was mandatory, Calo submitted a request for overtime for his reporting to work for the fitting. TR. p. 71. On July 10, 2003, Calo reported for the fitting, and then submitted his overtime slip to Sergeant Costa who signed it. On July 17, 2003, Sergeant Calo received a call from Lieutenant Silva indicating that the overtime request for the July 10th fitting was being denied. On July 22, 2003, Calo filed a grievance concerning the overtime denial for vest fitting with the Chief. *Union Exhibit # 11A.*

On or about August 5, 2003, the vests arrived at the Department. TR. p 75. When Calo went to pick up his vest, he was informed by Sergeant Gallipeau that he was under orders from Chief Golden not to release Calo's vest until Calo spoke to the Chief about the grievance Calo had filed. TR. p 74. Two other officers, Carroll and Kleinick, were also denied their vests for the same reason. Id.[3] After two (2) calls to the Union's attorney who called the City Solicitor, Sergeant Calo was finally granted an audience with Chief Golden on or about August 18, 2003. During that meeting, which Calo testified lasted approximately an hour to an hour and a half, Calo and the Chief "discussed" Calo's grievances (annual leave vs. sick leave, the five weeks vacation grievance and the vest fitting overtime grievance). Sergeant Calo claims that during that meeting the Chief called Calo "childish" and "immature" and accused Calo of setting a bad example.

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[2] Captain Morrison also testified that approximately one month prior to the June 13th staff meeting, the Chief made a comment in the presence of Captain Morrison and two others that "Calo is finished as long as I'm around here."

[3] Officer Carroll testified that in a meeting he had with the Chief concerning his vest grievance that the Chief told him not to listen to Calo on "those matters" which Caroll understood to mean union matters or labor matters. TR. p. 143.

On August 21, 2003, Chief Golden denied Calo's grievance for the overtime denial. *Union Exhibit #11B.* On August 30, 2003, Sergeant Calo issued a letter to the City Manager outlining Calo's overtime grievance and events thereto. *Union Exhibit #11C.*

In the interim, on August 7, 2003, Lieutenant Silva issued Sergeant Calo's annual employee performance evaluation and rated Sergeant Calo as either "superior' or "above average" in all respects (the two highest ratings). *Union Exhibit # 12.* Lieutenant Silva, as required, also issued a narrative memorandum explaining the "superior" ratings he had given to Sergeant Calo. *Union Exhibit # 12A.* On September 9, 2003, Captain Terrano issued a memo to Lieutenant Silva indicating that Chief Golden wanted Lieutenant Silva to review Sergeant Calo's evaluation again. *Union Exhibit # 12B.* On September 16, 2003, Golden issued a memo to Captain Terrano purportedly documenting discussions that Golden and Terrano had had during the previous year concerning Sergeant Calo's performance as an employee. In the memo, the Chief directs the Captain to respond via a memo. On September 19, 2003, Captain Terrano responded to the Chief's September 16th memo. In his September 19th communication, Captain Terrano indicates that he defers to Lieutenant Silva, Sgt Calo's immediate supervisor on day-to-day performance issues. In that memo, Captain Terrano also specifically states that Sergeant Calo does possess the abilities to be a good SRT supervisor and that he has also been a very competent Bicycle Patrol Supervisor. Captain Terrano opines that the distractions and disruptions that have occurred was a result of labor vs. management issues surrounding the FOP Lodge # 8's unsettled labor contract. Captain Terrano's September memo referenced memoranda attached from Lieutenant Silva dated September 17, 2003, September 11, 2003 and March 29. 2003 (none of which were submitted into evidence in this proceeding)

A few days later on September 23, 2003, Chief Golden issued a second memorandum to Captain Terrano directing him to comment on concerns that Captain Terrano may have had over the past year relative to Sergeant Calo's "divisive" behavior. *Union Exhibit # 12F.* Captain Terrano responded by written memoranda. *Union Exhibit # 12G.* In that memo, Captain Terrano notes that

during a discussion with Sergeant Calo during the rating period, Sergeant Calo reports that he believes that the Chief is holding Calo's union activity against him and that the Chief is finding ways to disrupt Calo's environment and life. Although this last memorandum from Captain Terrano is undated, it was clearly issued after September 23, 2003. On October 23, 2003, the within charge of unfair labor practice was filed

DISCUSSION

In this case, the Union alleged discrimination against Sergeant Peter Calo in retaliation for his union activities. In its charge, the Union seeks several remedies, including: (1) A cease and desist order. (2) A transfer for Sergeant Calo from third shift back to second shift (4:00 pm to midnight) (3) Any other relief that is just under the circumstances.

When an employer is accused of discriminating against an employee for union activity, the Board must consider whether the employee's protected conduct was a substantial or motivating factor in the adverse action. NLRB v Transportation Management Corporation, 462 U.S. 393,401 (1983) If so, the burden then shifts to the Employer to show that it would have treated the employee in the same manner, irrespective of his or her union activity. If the Employer meets this burden, then it cannot be found to have committed an unfair labor practice. Wright Line, Wright Line Div., 251 NLRB 1083 (1980) enf. 662 F.2d 899 (C.A. 1981) cert denied, 455 U.S. 898 (1982) [4]

In this case, there was a series of "incidents" in which Sergeant Peter Calo exercised his rights as a member of a union to file grievances over what he felt were contract violations and/or violations of City ordinances. During the same time frame, the Union and the Employer were engaged in protracted negotiations for a successor labor agreement; negotiations, which ultimately failed, and which subjected the parties to interest arbitration proceedings. By all accounts Sergeant Calo was an ardent union advocate and was very vocal about his opinions. It is within this climate that the Board evaluates the testimony and documentary evidence submitted in this case.

[4] See this Board's decision & order in re: ULP 5459 Thomas Pizzi v Rhode Island Resource Recovery Corporation.

In at least two instances, the employee's protected conduct (filing grievances) resulted in adverse actions being taken by the Chief of Police. In the first instance, the Chief directed Calo's immediate supervisors to warn him that filing grievances were not consistent with the Chief's management style and set a "bad example." TR p. 65-68. The Chief himself testified that he told Sergeant Calo that he believed that Calo was being "childish" and "immature" for filing grievances. TR. p. 218 –219. In the second instance, the Chief issued a directive prohibiting the distribution of bullet proof vests to any officer who had filed a grievance regarding their eligibility for overtime for the vest fitting, until that officer went to meet with the Chief. TR. p. 184. Both Calo and Carroll had to report to the Chief to discuss the fact that they had filed grievances as a precondition to receiving their safety gear. See testimony of Patrolman Joseph Carroll at TR. p. 141-143. In Carroll's case, he was subjected to a three (3) hour meeting to discuss the grievance. TR. p 179-180. Carroll also testified that the Chief told Carroll not to listen to Calo on "these matters" which Carroll took to mean "union matters" or "labor issues." TR. p. 143, 147. The Chief admitted that he told Carroll not to listen to Calo. TR. p. 180 and p. 181 lines 11-20.

Since these incidents occurred in direct response to the fact that officers had filed grievances, the Union had met its burden of showing that the protected conduct was a substantial or motivating factor in the adverse action. The burden then shifts to the Employer to show that it would have treated the Employee in the same manner, irrespective of his or her union activity. That burden is impossible for the Employer to meet in these instances, because the employees are being singled out and called on the carpet in response to the filing of grievances. The Employer, therefore, is guilty of unfair labor practices in these instances.

In addition to these two instances, there are two additional incidents which are particularly troubling, both of which were testified to by Captain Morrison. Captain Morrison testified that one morning after the awards ceremony, the Chief came into the staff lounge in a disgruntled mood and stated: "Calo is finished as long as I'm around here." Captain Morrison testified that the statement was made in the presence of Lieutenant McKenna and Mr. Lavallee. Although neither

Lieutenant Mckenna or Mr. Lavalleee recall hearing such a statement, Mr. Lavallee did testify that in the twenty five (25) years that he has known Captain Morrison, Lavallee has found him to be a truthful individual. Lieutenant McKenna testified that he does not dispute the fact that the Chief could have made the "Calo is finished" comment, but that McKenna simply did not hear the remark. The Board found Captain Morrison's testimony to be credible and there has been no showing or even suggestion of bias made by the Employer against Captain Morrison Simple put, there seems no reason for Captain Morrison to manufacture the statement and the Board finds his testimony credible. The fact that other persons in the room did not hear the Chief's comment is not sufficient evidence to disbelieve Captain Morrison's statement.

Having found that the Chief did in fact make the "Calo is finished" comment shortly after the awards ceremony, puts the Chief's other actions in an unfavorable context, in this Board's opinion Having made that comment, it appears to this Board that the Chief attempted to make good on the threat by transferring Calo off his regular shift to a shift which interfered with Calo's assignment as head of the bicycle patrol during the summer months. In addition the Chief refused to consider Sergeant Calo for a training position even though he was recommended by Captain Morrison at a staff meeting. Captain Morrison testified that he responded to the Chief's inquiry by stating: "How about Pete"? The Chief replied: "Pete who"? Captain Morrison responded: "Sergeant Calo." The Chief responded: "Sergeant who"? Captain Morrison responded: "Pete Calo." The Chief responded: "Who"? Captain Morrison did not respond further.

The Chief testified that he only remembers the "Pete who?" portion of the conversation. The Board does not find this testimony to be credible. It is not credible to believe that the Chief can recall the meeting itself, can recall saying "Pete who", but then not recall what happened next. In fact, the Chief's testimony on this issue is contradictory:

Q. So the only thing you remember of the conversation is that he said 'How about Pete?' You said, "Pete who?" and that's the last recollection you have of that?

A. Yes, you have to remember that conversation allegedly took place almost two years ago.

In his answer he claims that there was an "alleged conversation", yet he acknowledged certain portions of the conversation. The only reason the Chief has to not recall the rest of the conversation is that it is damaging to his position There is no reason for Morrison to lie about the statement and no other witnesses contradicted Morison's version. Therefore, the Board finds that Chief Golden's testimony is less than credible on this issue. The message imparted to Morrison regarding Calo's status was loud and clear - forget about Calo. The Chief's actions in this case is perceived by the Board as the Chief making good on his "Calo is finished" comments he made earlier.

The Board is also troubled by the Chief's actions in regards to Calo's request for annual leave; and for seemingly not having sufficient grounds to deny the vacation as requested. However, more troubling is the fact that the evidence in the record and the Chief's testimony on this issue do not support each other. The Chief claims that after Calo filed his grievance over the denial of vacation time, the "two attorneys" got together and came up with the solution that Calo could be allowed to take all the vacation requested, but that some should be unpaid However, Union Exhibits 6B and 6E make it perfectly clear that the Chief denied Calo's vacation request (as submitted) by memo dated May 1, 2003. In that memo, he suggests to Calo that he take some weeks as unpaid leave. Calo responds by filing his grievance the next day. Thus, the suggestion of using unpaid time initially came from the Chief, not the "attorneys", after the grievance had been filed. Again, the Chief's testimony and documentary evidence are contradictory.

The Chief's course of conduct was most transparent when on several occasions in September 2003 he attempted to have Sergeant Calo's performance evaluations changed. By this time, the Chief was only thinly veiling his open hostility towards Sergeant Calo. Fortunately, Calo's immediate supervisors stood up to the Chief and refused to alter the performance evaluations. It is clear to the Board that Chief Golden indeed embarked on a

campaign to "finish" Sergeant Calo by retaliating against him for engaging in protected conduct, in violation of R. G.L. (3) (5) and (10) as alleged.

FINDINGS OF FACT

1) The Respondent is an "Employer" within the meaning of the Rhode Island State Labor Relations Act.
2) The Union is a labor organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining and of dealing with employers on grievances or other mutual aid or protection and as such is a "Labor Organization" within the meaning of the Rhode Island State Labor Relations Act.
3) Sergeant Peter Calo has been a member of the Newport Police Department since 1990 and was promoted to the rank of Sergeant in June 2002. Since 2002, Sergeant Calo has been a member of the Union's negotiating committee and was engaged in contentious contract negotiations during the year 2003. At the time the hearings before this Board commenced on May 13, 2004, the Employer and the Union were engaged in interest arbitration proceedings for the 2002-2003 contract year.
4) On February 22, 2003, Lieutenant Silva issued a memorandum to Sergeant Calo concerning Sergeant Calo's discharge of two (2) hours annual leave time for a shift he worked on February 18, 2003. In that memo, Lieutenant Silva directed Sergeant Calo to respond to the memo in writing and to explain his actions and for Sergeant Calo to disclose who authorized the discharge of annual leave. *Union Exhibit # 3.*
5) On February 26, 2003, Sergeant Calo responded to Lieutenant Silva's directive and issued a written memorandum, which disclosed that Sergeant Hayes (the Officer in Charge or "OIC" for the shift) had authorized the use of the annual leave. (Union Exhibit # 4)
6) On March 28, 2003 Chief Golden issued a memorandum to Sergeant Calo directing him to be more specific with his grievance allegations. *Union Exhibit # 4.*

7) On April 25, 2003, Sergeant Calo filed a written request for earned vacation time for the period of May 27, 2003 through July 4, 2003. May 1, 2003, chief Golden issued a memorandum to Sergeant Calo denying his request for vacation as "unreasonable" and "not consistent with the work requirements of the department and the city." In the memo, the Chief indicates that he can arrange for Calo to take three weeks off and arrange to have the balance of Calo's request granted as an unpaid absence.

8) On May 2, 2003, Sergeant Calo filed a grievance with the Chief concerning the Chief's denial of Calo's requested vacation time.

9) During Calo's absence for vacation in May 2003, the Department held a scheduled awards ceremony wherein Calo was scheduled to receive an award he earned for outstanding police work the prior year. Upon his return from vacation, Calo wrote to the Chief and requested his award now that he had returned. The Chief did not ever respond to this memorandum. Calo did not receive his award until January 2004, after Chief Golden had been placed on administrative leave by the City.

10) On June 13, 2003, during a staff meeting, Chief Golden asked for suggestions for personnel who the staff felt would be qualified to take on the role of a training sergeant. Captain Wayne Morrison testified that he responded to the Chief's inquiry by stating: "How about Pete"? The Chief replied: "Pete who"? Captain Morrison responded: "Sergeant Calo." The Chief responded: "Sergeant who"? Captain Morrison responded: "Pete Calo." The Chief responded: "Who"? Captain Morrison did not respond further.

11) Chief Golden refused to allow three officers to pick up bulletproof vests until they met with him because they had filed grievances concerning a denial of overtime for a vest fitting. One officer was required to meet with the Chief for a period of three hours on this issue.

12) On August 7, 2003, Lieutenant Silva issued Sergeant Calo's annual employee performance evaluation and rated Sergeant Calo as either "superior' or "above average" in all respects (the two highest ratings). On at least two subsequent occasions, the Chief attempted to have the reviewing officers change Sergeant Calo's performance evaluations.

CONCLUSIONS OF LAW

1) The Union has proven by a fair preponderance of the credible evidence that the Employer has committed violations of R.I.G.L. 28-7-13 (3) (7) and (10).

ORDER

1) The Employer is hereby ordered to post a full copy of this decision and order for a period of thirty (30) days on all Employee Bulletin Boards in the City.

(AMENDED)

RHODE ISLAND STATE LABOR RELATIONS BOARD

WALTER J. LANNI, CHAIRMAN

FRANK J. MONTANARO, MEMBER

JOSEPH V. MULVEY, MEMBER

GERALD S. GOLDSTEIN, MEMBER

ELLEN L. JORDAN, MEMBER

JOHN R. CAPOBIANCO, MEMBER

ELIZABETH S. DOLAN, MEMBER

ENTERED AS AN ORDER OF THE
RHODE ISLAND STATE LABOR RELATIONS BOARD

Dated: July 7, 2005

By: ROBYN H. GOLDEN, ACTING ADMINISTRATOR

ULP-5697

*NOTE: PLEASE NOTE THAT GERALD GOLDSTEIN, MEMBER, VOTED AS DISSENTING ON THIS DECISION AND ORDER. THE WORD "DISSENTING" WAS INADVERTENTLY OMITTED.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD

IN THE MATTER OF

RHODE ISLAND STATE LABOR
RELATIONS BOARD

-AND-

CASE NO. ULP-5697

CITY OF NEWPORT

NOTICE OF RIGHT TO APPEAL AGENCY DECISION
PURSUANT TO R.I.G.L. 42-35-12

Please take note that parties aggrieved by the within decision of the RI State Labor Relations Board, in the matter of ULP No. 5697 dated July 7 2005. may appeal the same to the Rhode Island Superior Court by filing a complaint within thirty (30) days after July 7 2005.

Reference is hereby made to the appellate procedures set forth in R. G.L. 28-7-31

Dated: July 7, 2005

By: Robyn H. Golden
Robyn H. Golden, Acting Administrator

JFP/bt 6759/1 pleading\67591 exhibit

STATE OF RHODE ISLAND
BEFORE THE STATE LABOR RELATIONS BOARD

In the Matter of

The City of Newport/Newport Police Department/
Chief Charles F. Golden (Respondent)

Case No. ULP-5697

and

Newport Fraternal Order of Police,
Lodge No. 8 (Complainant)

UNFAIR LABOR PRACTICE CHARGE

EXHIBIT A

(a) On or about May 1, 2003, Sergeant Peter Calo ("Calo") who is a member of the Newport FOP and a member of the FOP's Negotiating Committee, was denied vacation time that had been earned because he had filed a grievance against the City. At a later date, he was advised that if he "dropped" his grievance his request for vacation time would be granted.

(b) In July of 2003, Calo was advised that his filing grievances as a supervisor was not consistent with the Chief of Police's management philosophy and was a "bad example" for the officers under his command.

(c) In March of 2003, Calo was involved with several other officers in making an arrest of a wanted suspect for armed robbery. Thereafter, Calo's immediate supervisor recommended that Calo—as well as all of the other officers involved in the arrest—receive letters of commendation. A decision was made by the Chief of Police that all of the officers involved in the arrest—except for Calo—would receive letters of commendation. Those other officers in fact received their letters of commendation and Calo did not.

(d) In May of 2003, Calo was to receive an award for outstanding police work along with two other officers (this award was for something other than what is set forth in (c) above). Calo was unable to attend the award ceremony because he was on vacation. However, upon his return he requested the award. Several other officers who were to receive similar type awards and did not attend the ceremonies were given their awards. However, the Chief never responded to Calo's request that he receive his award.

(e) At the beginning of June 2003, after leaving for vacation, Calo was advised that the Chief had decided to move him from the second shift (4:00 p.m. to midnight) to the midnight shift (midnight to 8:00 a.m.).

(f) Towards the end of June 2003, Calo learned that although his immediate supervisor had recommended that he be considered a candidate to attend training schools that the Chief made it clear that Calo would not even be considered.

(g) In July of 2003, Calo and two other members of the bargaining unit had to respond to the police department for a vest fitting which was mandatory. Those officers submitted an overtime slip. Despite being signed for approval, the Chief refused to pay the overtime for the vest fitting. The officers then filed a grievance with respect to that denial. When the vests arrived at the department, the officer who was in charge of distributing the vest advised Calo and the other officers who had submitted overtime slips for the vest fitting that he was under orders from the Chief not to issue their vests until they had met with the Chief. When the other officers responded to the Chief's office, he accused Calo of "influencing them" in a decision to file a grievance. Calo in fact had not influenced them and did not receive his vest for several weeks after they had been received by the department.

(h) The Chief has recently advised officers on Calo's shift not to listen to Calo with respect to union issues.