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**Collective Bargaining:  
The Future of Law Enforcement Employee-Employer Relations**

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**A Leadership White Paper  
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## **ABSTRACT**

Collective bargaining is relevant to contemporary law enforcement because there is imminent legislation that will impose federal collective bargaining laws on all public safety employees throughout the United States. Law enforcement executives have not prepared themselves for this eventuality, while unions continue to rally. The position of the researcher is that police executives should embrace collective bargaining as the future of employee-employer relations in order to regain their administrative rights. This leadership white paper is intended to help the police leader educate himself and navigate through the collective bargaining process. The researcher reviewed articles, books, internet sites, periodicals, journals, and contracts for information that supports his position. It is the conclusion of the researcher that there is much misinformation about collective bargaining floating around the police profession, so police executives must educate themselves and use these tools to regain administrative powers lost in the past.

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## INTRODUCTION

Since the early 1900s, police officers have been trying to organize into unions in order to collectively bargain pay and benefits with their governing entity. The Texas Legislature has passed several laws in the past to facilitate this process, but police chiefs and city managers have fought it every step of the way. Administrators believe that it will erode their ability to control the budget and conduct day-to-day operations of their organization. In fact, in an address to the International Association of Chiefs of Police, Chief Gates warned of encroachments of police unions into the area of management's rights. (Ayers & Coble, 1987)

This topic is very important to all law enforcement because there are several existing statutes and pending bills in legislation that allow bargaining rights to some police officers. In 1993, the 74<sup>th</sup> Texas Legislature passed the Fire and Police Employee Relations Act (Texas Statutes Local Government Code, Section 174, 1993). This law allows police officers and fire fighters to have a referendum and ask the voters for the right to collectively bargain. In 2005, the 79<sup>th</sup> Texas Legislature, amended in 2007, by the 80<sup>th</sup> Texas Legislature, Chapter 142, subchapter b, section 142.053 Texas Statutes Local Government Code, allowed certain police officers and fire fighters to petition their cities for the right to meet and confer (Texas Statutes Local Government Code, Section 142, 2007) . Also, H.R. 413 "Public Safety Employee-Employer Cooperation Act of 2009" was introduced to the United States House of Representatives on January 9, 2009 and was referred to the Committee on Education and Labor (International Association of Fire Fighters, 2009). In the June 2010 issue of The FOP Journal, it was reported that "the passage of H.R. 413, The Public Employee Cooperation Act, is

inching towards a final vote by Congress and the Fraternal Order of Police is confident it will pass and that President Obama will sign it into law” (p. 3). According to Shea and Kelly (2010), “the bill was attached to a war-funding bill and passed the Senate July 1” (p. 1).

It appears that collective bargaining will soon be law and although it is not new, most police executives do not understand the process. Instead of resisting the efforts of the legislatures, law enforcement executives should embrace collective bargaining with police unions in order to reclaim their administrative rights. It can be used as a tool to improve employee-employer relations by allowing modification of existing state laws and help determine the future of the organization. It can also be used to improve working conditions, manage budgetary projections, and protect management’s rights. With a written contract in place, it is much easier to manage the day-to-day operations of any police department.

## **POSITION**

Collective bargaining and meet and confer are becoming the growing norm for police unions and municipalities to negotiate employee benefits such as salaries, vacation, retirement, and health care. Organizations can also negotiate rules that can override Chapter 143 of the Texas Statutes Local Government Code, which is the governing rules in civil service cities (Texas Statutes Local Government Code, Section 143, 1993). These rules had their place in the past when political influence on police officers was prevelant. They were designed to protect police officers from political reprecussions after performing their jobs objectively. According to Salerno (1981), “the incidence of political interference in police departments is vastly less today than it was

in the first half of the twentieth century” (p. 3). Elling (1986) then stated it would be advantageous to make minor changes to existing civil service laws. Keeping these factors in mind, police executives should use collective bargaining to change state law in a way that benefits the organization and the employees.

Chapter 143 dictates that candidates must be tested and an eligibility list be kept current for one year (Texas Statutes Local Government Code, Section 143, 1993). This makes the hiring process extremely long and cumbersome. Through collective bargaining, an agreement can be made to allow for the hiring of licensed peace officers with numerous years of experience without having to go through the testing process. Incentives can also be put in place to make an agency more attractive. The La Porte Police Department (LPPD) entered into a Meet and Confer agreement with the La Porte Police Officer's Association (LPPOA), which allows the lateral hiring of licensed police officers without testing and will pay these new police officers up to seven years pay, depending on their experience (City of La Porte, 2009). Orrick (2008) said, “the greatest factor impacting a department's ability to successfully recruit and retain police officers is the economy” (p.12). Although the country is in an economic downturn, due to these modifications, the La Porte Police Department is fully staffed with qualified police officers.

Chapter 143 also dictates that all civil service officers will be paid the same for time in grade (Texas Statutes Local Government Code, Section 143, 1993). This hinders police executives because no matter how good or how bad a police officer's performance is, he will still receive a pay increase on his anniversary date. Therefore, there is no pay for performance, and some officers have no incentive to perform at a

high level. When studying civil service, Elling (1986) found, “in most states adequately rewarding employees ranked as the number one obstacle to effective management among a set of more than fifty potential impediments” (p. 87). Through their agreement, the LPPD and LLPOA has changed that law as well. La Porte police officers that earn a below average performance evaluation will not receive their annual step increase, and those that earn an exceptional performance evaluation will receive two step increases (City of La Porte, 2009). This allows the police supervisors and managers more flexibility in motivating employees.

There are no standards or consistency across the nation among police agencies as it relates to hiring practices or day-to-day operations (Canterbury, 2010). Everyone sees agencies, such as Los Angeles or New York, as the standard and forefront in technology, but these are mega agencies, not just large agencies, and mega agencies make up only 0.4% of the nations police forces (Hickman & Reaves, 2003). According to Hickman and Reaves (2003), a vast majority of police agencies in the United States employ less than 50 police officers, with a total of 11,277 agencies and 118,523 officers. Canterbury (2010) said, “there are tens of thousands of agencies scattered throughout the country with fewer than ten sworn law enforcement officers on staff” (p. 2).

Collective bargaining can be used to streamline hiring practices across agency jurisdiction and make all processes more consistent in order to better serve all of the public's interest (Canterbury, 2010). Zhao and Lovrich (1997) reported salary levels of police officers tend to be raised by collective bargaining, so it may improve the quality of recruits. It would further improve the safety of all police officers and service to the communities they serve by the implementation of better labor laws (Canterbury, 2010).

If law enforcement improves the compensation of police officers in order to attract a more professional and educated employee, it can only be a good thing for the citizens that they serve and the employees themselves. Marks and Fleming (2006) argue, "If we expect police to behave democratically, it is important for police themselves to experience democratic engagement within the organizations in which they work." (p.179) This can be accomplished through collective bargaining.

Rynecki and Morse (1981) found that, "collective bargaining is quickly becoming a major part of police management in our nation." (p.5) There is great chance that collective bargaining will become federal law for all police, firefighters and emergency medical personnel in the near future (Fraternal Order of Police, 2010). According to the Combined Law Enforcement Associations of Texas (CLEAT), S. 3194, "Public Safety Employee-Employer Cooperation Act of 2009" will go to the floor of the Senate after September 13, 2010. CLEAT and National Association of Police Officers (NAPO) will continue to lobby for the passage of this law. CLEAT further states that the Senate leadership is committed to passing this bill, and once passed, the President will sign it into law (CLEAT, n.d.). Police executives should get ahead of the curve on this system because once passed, states will have two years to implement the procedure (Fraternal Order of Police, 2010). Police unions are recommending that its local chapters begin gearing up for negotiations, so police executives should not be caught off guard when it comes time to negotiate for a contract (Fraternal Order of Police, 2010).

## **COUNTER POSITION**

Many police managers claim that collective bargaining gives the union too much power to impact the day to day management of police agencies (Elling, 1986), but Zhao



and Lovrich (1997) found, “there is no evidence of a significant impact attributable to collective bargaining with respect to the setting of departmental policy” (p. 510). Elling (1986) also stated, “proponents see collective bargaining as solving many problems with few costs” (p. 88). According to Carter and Sapp (1992), management has become more aggressive between 1980 and 1990 in regaining its rights through collective bargaining contracts by offering better benefits, such as merit pay, leave and supplemental pay, to union members. The LPPD has used this process to override the requirement of Chapter 143 (Texas Statutes Local Government Code, Section 143, 1993) hold an annual civil service examination and to hire police recruits from a current eligibility list of applicants. The LPPD can now hire any licensed peace officer as long as they meet the minimum requirements set out in their contract with the LPPOA (City of La Porte, 2009). This has allowed for more flexibility in hiring, and the LPPD is fully staffed for the first time in over 20 years.

Police executives and city managers claim that collective bargaining is too expensive and influences the budget too much, but Elling (1986) found that “proponents see collective bargaining as solving many problems with few cost” (p. 88). Zhao and Lovrich (1997) reported that there has been “no clear victory being evident on either the management side or the employee side” (p. 510). The Texas Municipal League (TML) lists as one of its legislative priorities that “passage of any legislation that would exempt as many cities as possible from any federal collective bargaining legislation that may become law in the future” (Texas Municipal League, 2009, p. 6). This is due to the myth that police unions will gain too much power and cause budgets to inflate astronomically, but according to Kearney’s (1979) research, this cannot be proven because “union

influence on municipal budgetary outcomes has not been subjected to systematic empirical analysis” (p. 364). Kearney (1979) also found that it does not appear that there will be large wage and fringe benefit gains. Kearney (1979) further suggested that most unionized cities compensated their employees at a higher rate than other cities studied before their employees became organized and that afterwards there was an average increase in police budgets of 4.4%, but there is no stance on whether that is a large or small impact. According to Canterbury (2010), in these trying economic times, police unions across the nation are reopening contracts and giving wage concessions to cities in order to prevent layoffs or furloughs and allowing government entities to balance budgets.

The above citings prove that the collective bargaining is neither too intrusive on managements rights nor too costly for government budgets. To the contrary, it proves that the process is a give and take and that managers are aggressively using the contracts to override the requirements of civil service, gain advantages in hiring and recruiting and to gain flexibility in meeting budget concerns. Collective bargaining can be a great tool if law enforcement executives will embrace it and bargain in good faith.

## **CONCLUSION**

There are many outdated problems in today's law enforcement employee-employer relations. Police managers should educate themselves about collective bargaining and the meet and confer process. They can then use these processes as tools to rework the antiquated laws of civil service while still providing stability for their officers. This would further increase consistency in the standards for police recruits across Texas and the nation. There is also impending federal legislation that will make

it mandatory for states to adopt collective bargaining for all public service employees.

The research above has shown that the critics have said that it would erode their administrative powers and cost too much, but the research does not support that. In fact, the research showed that most managers that enter into collective bargaining agreements found no problems in managing their department. (Zhao & Lovrich, 1997) These statements are simply stories of the activities of unions in the private sector that have been wrongly applied to the public sector.

It appears that collective bargaining is eminent, so police executives need to begin training and preparing for the process. Police unions have already set their machine in motion and law enforcement organizations are behind. TML should start training its member cities and take part in federal interest based negotiations training.

Police executives must take an initiative and engage in collective bargaining. This process is the wave of the future, and it will allow law enforcement managers to regain administrative rights and make all of their organizations more professional. In turn, this will provide a better prepared police officers who will provide better service to the communities that they protect and serve.

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