

**NATIONAL ARBITRATION PANEL**

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In the Matter of the Arbitration )  
Between )  
UNITED STATES POSTAL SERVICE ) Case No: Q14K-4Q-C 20388760  
and )  
POSTAL POLICE OFFICERS ASSOCIATION )

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**INTERPRETATION OF AWARD PURSUANT TO REMAND BY THE  
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA**

**Case No. 23-cv-675 (CRC)**

BEFORE: Barry E. Simon, Arbitrator

APPEARANCES:

For the U. S. Postal Service: Michelle A. Windmueller, Esq.

For the PPOA: Arlus J. Stephens, Esq.  
Murphy Anderson PLLC  
Washington, DC

  
Barry E. Simon

**Background:** On February 21, 2023 the undersigned Arbitrator issued an Award in a dispute concerning management's issuance of a memorandum regarding the utilization of Postal Police Officers. The Arbitrator described the issue on the merits presented in this case to be as follows:

*Did the Postal Service violate the National Agreement when, on August 25, 2020, David Bowers, Deputy Chief Inspector of the U.S. Postal Inspection Service, issued a Management Communication with the subject heading "Postal Police Utilization"? If so, what is the appropriate remedy?*

In his Discussion of the grievance, the Arbitrator wrote:

Nearly all references in both Handbooks [IS-701 and IS-702] to the jurisdiction and authority of PPOs are to being "on Postal Service controlled property." The preposition "on" implies the scope of PPO jurisdiction and authority is limited to real property owned or controlled by the Postal Service, which is consistent with the position taken by the Service for some time. It is also consistent with the position taken in the Bowers Memo.

There is, however, one distinguishing aspect in the "Limitations" paragraph in Handbook IS-701, where it states, "The policing powers of the Security Force are restricted to Postal Service-controlled property, except for "hot pursuit" and in situations requiring mobile patrol or escort protection." The reference to "situations requiring mobile patrol or escort protection" implies such work is part of the normal duties and responsibilities of PPOs, even though that might be true in only a limited number of locations. Under the Bowers Memo, such work may be performed only with the "prior approval of the DCI over the Division with concurrence of the DCI over the Security Group." This requirement for prior approvals suggests such work is anything but routine. In this regard, the Bowers Memo is in conflict with the IS-701.

In reference to the language in IS-701, the Service has stated:

The Employer acknowledges that citation in the 2006 edition of the IS-701 quoted by the union is not a correct description of PPO authority. The Employer is working to address this and will ensure that corrections are made to show that the law enforcement authority of Postal Police Officers is, by statute, restricted to the real property of the Postal Service.

Nevertheless, this provision has remained unchanged in IS-701, and the Service must follow the procedures set forth in Section 19.02 of the Agreement to make any change. It may not do so by management fiat, whether it is called a "policy," a

“management communication,” a “management instruction,” or anything else that purports to vary the jurisdiction and law enforcement authority of PPOs from that contained in the Handbook.

Because this portion of the IS-701 deals with where and how PPOs perform their duties, the Arbitrator finds this to be a matter addressing their working conditions. Section 19.01 of the Agreement requires such provisions to “be continued in effect.” The Service may make changes “that are fair, reasonable, and equitable,” but any proposed changes directly relating to working conditions must be handled in accordance with the procedures specified in Section 19.02.

The issuance of the Bowers Memo, without following the procedures of Section 19.02, was in violation of Section 19.01, and, in turn, Article 5 prohibiting unilateral action. The Bowers Memo must be rescinded and the Service must be guided by the terms of Section 112.12 of Handbook IS-701.

In reaching this conclusion, the Arbitrator makes no judgment as to the statutory law enforcement authority of Postal Police Officers, as that is beyond the jurisdiction conferred upon him under the Agreement. Additionally, he makes no judgment as to whether any changes to the Handbooks IS-701 or IS-702, if made in the same manner as the Bowers Memo, would be considered to be “fair, reasonable, and equitable.” Finally, the Arbitrator recognizes, as does the Union, that there is a distinction between the jurisdictional and law enforcement authority of PPOs and how management chooses to deploy them in the field. Nothing in this Award should be construed as a directive that the Service must deploy PPOs away from Postal Service-controlled real property. [footnotes omitted]

In his Award, the Arbitrator stated, “The grievance is sustained. The Bowers Memo is to be rescinded and the utilization of Postal Police Officers is to be governed by the provisions of Handbooks IS-701 and IS-702.”

On March 13, 2023, the Union filed a petition before the United States District Court for the District of Columbia asking that the Award be confirmed and enforced. The Postal Service filed a Motion to Dismiss on July 24, 2023, which was followed the Union’s Motion to Confirm the Arbitration Award, filed on October 6, 2023. Judge Christopher R. Cooper issued a decision dated February 28, 2024 (Case No. 23-cv-675 (CRC)). In his decision to confirm the Award, Judge Cooper wrote:

As to enforcement, the parties dispute what the award required of USPS when it directed that “utilization of Postal Police Officers be governed by the provisions of Handbooks IS-701 and IS-702.” Arbitration Award at 19. As discussed above, the Postal Service contends that mere rescission of the Bowers Memo with its attendant prior approval requirement was sufficient while the Union argues that the award further required disavowal of the statutory interpretation espoused in the memo. While the language of the award clearly does not direct disavowal of the Service’s long-held position on PPO law-enforcement authority, it is unclear whether utilization in accordance with the handbooks requires USPS to make exceptions in the circumstances described in Handbook IS-701 or simply allows for an exception without prior approval. Because the award is susceptible to more than one interpretation,” it is “ambiguous.” See *Am. Postal Workers Union, AFL CIO v. U.S. Postal Serv.*, 254 F.Supp.2d 12, 16 (D.D.C. 2003) (quoting *Green v. Ameritech*, 200 F.3d 967, 977 (6<sup>th</sup> Cir. 2000)).

“[T]he question of interpretation of the collective bargaining agreement is a question for the arbitrator.” *United Steelworkers of Am. v. Enter. Wheel & Car Corp.*, 363 U.S. 593, 599, 80 S.Ct. 1358, 4 L.Ed.2d 1424 (1960). Judicial deference to the arbitration process suggests that the appropriate remedy in this situation is remand to the original arbitrator. See *id.*; see also *Am. Postal Workers Union*, 254 F.Supp.2d at 16-17 (collecting cases). USPS complains that PPOA requested enforcement rather than remand in its petition and cannot now change its mind. See Reply at 8. But “the court may not attempt to enforce an award that is ambiguous or indefinite” and remand is appropriate “to ensure that the court ‘will know exactly what it is being asked to enforce.’” *Am. Postal Workers Union*, 254 F.Supp.2d at 15 (collecting cases). The Court will therefore remand the case to the original arbitrator, Barry E. Simon, and retain jurisdiction over the matter. The Union shall inform the Court of the arbitrator’s decision as soon as it is issued.

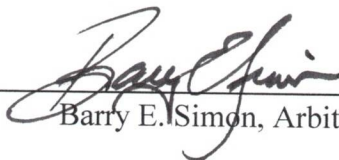
In connection with the remand, the Arbitrator conducted a video conference with counsel for the parties to discuss how the matter will proceed. It was agreed that the parties would submit briefs on their respective positions to the Arbitrator. The Arbitrator held a subsequent video conference with counsel to allow them to further clarify their positions.

In his Award, the Arbitrator identified the conflict between the Handbooks and the Bowers Memo as being the former defining the policing powers of the Postal Police as being “restricted to Postal Service-controlled property, except for ‘hot pursuit’ and in situations requiring mobile patrol or escort protection,” and the latter as requiring “prior approval of the DCI over the Division with concurrence of the DCI over the Security Group” for any activity away from property that is not

Postal Service-controlled . Narrowly defined, the dispute between the parties as to the interpretation of being “governed by the provisions of Handbooks IS-701 and IS-702” is whether the rescission of the Bowers Memo simply eliminated the need for higher level administrative approval for the utilization of Postal Police Officers away from Postal Service-controlled property, or whether it bestowed (or returned) law enforcement authority to the Officers when engaged in such duties.

As noted in the Arbitrator’s Award, the Handbook language “implies such work is part of the normal duties and responsibilities of PPOs.” Without a doubt, the rescission of the Bowers Memo removed the need for higher level authorization. With respect to the question of law enforcement authority, Section 112.12 of Handbook IS-701 defines the policing powers of the Security Force. In addition to being restricted to Postal Service-controlled property, it includes “‘hot pursuit’ and in situations requiring mobile patrol or escort protection.” On its face, this would indicate that PPOs engaged in such activities have policing powers pursuant to Section 112.12 of Handbook IS-701. Similar language may be found in Section 1-4.4 of Handbook IS-702.

The Union has argued this is the case. It submits that it is the Postal Service that defines the extent of the law enforcement authority of PPOs. The Arbitrator, however, was very careful to say the question of the statutory law enforcement authority is not within his jurisdiction. Whether a statute defines the limits of that authority, or permits the Postal Service to define those limits, is not a matter of contract interpretation. That is a question for the courts. If, however, it is found that the Postal Service may define the limits of the law enforcement authority of PPOs, the Arbitrator would find that it did so in Handbook IS-701, Section 112.12, and Handbook IS-702, Section 1-4.4.

  
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Barry E. Simon, Arbitrator

Dated: October 24, 2024  
Arlington Heights, Illinois