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Rift Between Aquinnah and Tribal Authority Leads to Resignation of Rangers

By Nelson Sigelman

A long-simmering dispute over the wearing of weapons by two Wampanoag tribal rangers who were also Aquinnah special police officers came to a head at a Monday morning selectmen's meeting, following a request from the Aquinnah police chief that the selectmen revoke the rangers' police status for insubordination.

In a compromise designed to preserve relations between the tribe and the town and leave the rangers with an unblemished record, Aquinnah selectmen agreed to accept offers of resignations from the two rangers. Attributing part of the problem to a lack of communication, leaders of the Wampanoag Tribe of Gay Head (Aquinnah) and the selectmen pledged to meet regularly in the future.

Under an existing agreement signed in 1995 and recently updated, the town of Aquinnah provides police and fire protection on the tribe's approximately 400 acres, which includes the tribal housing complex and administration building. That agreement calls for quarterly and annual meetings that have not taken place.

In a meeting marked by concerns about the media and the need to portray events in the best possible light, it was clear that the delicate and intimate nature of the tribal-town relationship in the small Island community continues to shape decision making by town leaders.

While the immediate issue was ended with the offers of resignation, questions of jurisdiction and of the authority of the tribal council to empower rangers to carry weapons in the course of their duties were left hanging in the backdrop.

State law places the authority to issue a permit to carry a weapon solely with the police chief in each town. Doug Fortes, Aquinnah police chief, did not indicate that he plans to revoke either ranger's license to carry a weapon.

Currently, tribal rangers can only enforce tribal fish and game regulations on tribal lands. The rangers have no formal arrest powers except when granted authority by the Aquinnah police chief as designated special police officers, and while acting with the authority of the town.

In part, Chief Fortes's request to revoke the special officer status of the rangers was a move to protect the police department and town from any responsibilities or liabilities as a result of the carrying of firearms by natural resource officers. It is not clear what liabilities the rangers might incur should they use their weapons during the course of their regular duties as rangers, now that they are no longer special officers.

There was only a brief reference at Monday's meeting to the effort by the tribe to establish its own police force using a \$274,436 federal grant from the U.S. Department of Justice community oriented policing services (COPS) tribal grant program. That grant application is currently under review as a result of questions raised by a news story, "Wampanoags Get Fed Funds for Police Force," published on Nov. 2 in The Times (www.mvtimes.com/online_folder/wampanoag.htm).

Failure to Communicate

In separate letters to the selectmen, the police chief and tribal chairman described their views of recent events. While participants at Monday's meeting pointed to a lack of communication, Chief Fortes made it quite clear that he would not allow the rangers to wear their weapons as deputized special officers of his department.

At the request of Chief Fortes, on June 30, Aquinnah selectmen appointed tribal rangers Jeff Day and Jason Baird special police officers for the specific purpose of "unarmed beach patrol."

In a letter dated Nov. 21, 2000 [see Letters to the Editor, page 18] Chief Fortes requested that selectmen revoke the rangers' special officer status.

Among the eight points listed as his reasons for the request, Chief Fortes said that in July the rangers had refused to patrol the beach unarmed and had continued to wear their firearms around town in the performance of their daily duties, claiming they were empowered by the tribal council to carry weapons. Mr. Fortes, who is also a tribal member, said he attended a council meeting in August where he received an apology and was told the weapons would be secured pending a resolution.

He said in November he received a letter from Beverly Wright, tribal chairman, stating that the council had authorized the rangers to wear a "full complement of defensive equipment" during hunting season.

Chief Fortes wrote he was requesting the removal of the rangers' special status because the rangers had "acted willfully insubordinate to the town's specifications as to their restrictions as special officers" and because the tribe had enabled the rangers to carry weapons "without regard to agreements with the town."

At Monday's selectmen's meeting Ms. Wright read a letter [see Letters to the Editor, page 18] in which she said the rangers had been reprimanded for their responses to Chief Fortes. But at the same time Ms. Wright said the actions of the rangers "should be looked upon as being fully authorized and supported by the Wampanoag Tribe. They should not be held personally responsible for carrying out the desires of the Wampanoag Tribe."

At the same time, Ms. Wright included a chronology of the tribal law enforcement program that includes references to Chief Fortes's prohibition against carrying weapons and tribal council directives throughout the summer that the rangers not carry weapons while on the beach. That changed on Sept. 9, when the council approved the carrying of weapons during the tribal hunting season.

Monday Meeting

At Monday's meeting, Ms. Wright struck a conciliatory tone, telling the selectmen the rangers had been reprimanded and would now operate under the strict oversight of the tribal administrator. She said the tribe had agreed to take "full responsibility" for the rangers when they carried "full defensive equipment" on tribal lands and when traveling between tribal lands.

After Chief Fortes had detailed his understanding of events, Ms. Wright said the council had no problem with the selectmen revoking special officer status but asked that it not be for insubordination. Mike Hebert, chairman of the selectmen, pointed out that action

could not be taken without a reason and the “the reason we are being given is insubordination.”

Asked if a resignation would suffice, Mr. Hebert, with the acknowledgement of town counsel Ron Rappaport, agreed that it would.

But the sometimes muddy issue of jurisdiction in the small town cropped up when, in response to a comment from Matthew Vanderhoop, tribal natural resources director, Mr. Hebert said the town has no jurisdiction over the carrying of weapons on tribal land. In a point of correction, Chief Fortes said that for the purposes of enforcing the laws of the Commonwealth, Aquinnah police and state police do have jurisdiction.

Correcting himself, Mr. Hebert, whose wife Eleanor is the tribal council secretary, said, “We are not here to regulate what tribal rangers do on tribal property. If it is the tribe’s desire to arm tribal rangers on tribal property, that is not our concern. Our concern is they’re being armed on town property, and when asked not to do so they continued to do so anyway.”

Mr. Rappaport agreed, “The only issue here today is special officer status.”

Gladys Widdiss, tribal council vice chairman and respected tribal elder, said the council did not authorize the rangers to “go anywhere and everywhere.” Mrs. Widdiss, the mother of selectman Carl Widdiss, said she wanted to impress on everyone that the mandate was very limited.

For his part, ranger Jeff Day said the whole issue had blown up because of “miscommunication between the tribe and town and within the tribe itself.” Mr. Day offered to resign if it would help the situation and said he had been operating under the assumption that he was no longer a special police officer since Mr. Fortes had spoken to the rangers on Sept. 28.

Ranger Jason Baird also offered his resignation. But commenting on the lines of communication, Mr. Baird said he thought Chief Fortes should have first talked to tribal officials regarding the wearing of guns rather than the rangers.

As the discussion veered into other areas of the tribal-town relationship and the benefits of a cooperative policing arrangement, Chief Fortes continued to focus on the immediate issue, which was the refusal of the rangers to comply with his directives.

“I felt I had no control, and in my job there has to be a certain amount of control,” said Chief Fortes.

Regarding the tribal council authorizing the rangers to carry weapons, the chief said that while he agreed the tribe can have ordinances, he said there are serious questions regarding the ability of the council to empower an individual to carry a weapon to enforce them.

That issue was not addressed.

Robert MacDiarmid, council member and husband of Ms. Wright, asked that action be postponed until everyone had had a chance to sit down and talk, and he asked the chief to take back his letter. But the chief remained adamant. Referring to the tribe’s effort to create a police department, he said, “My agency has been disavowed in your COPS grant.”

Selectman Widdiss suggested the word “revoke” be changed to “suspend.”

But speaking in support of the chief, Mr. Rappaport said Mr. Fortes had acted in the best interests of the town. The selectmen agreed to put off action until their next meeting based on their expectation that letters of resignation would be forthcoming.

Spinning the Spin

The issue of weapons and law enforcement authority was not the only thing on the minds of some of those at the Monday meeting. There was also concern about the publicity surrounding any resignation and how news would be filtered out to the public by the media.

Matthew Vanderhoop suggested that the town and tribe establish spokespeople so any news would reflect events in the best light “versus any power play by the town or the tribe.”

Mr. Vanderhoop described the issues raised on Monday as a “work in progress.” If it was not reflected as such, he said, “it could turn into something negative.”

Taking that cue, Mr. Hebert and Ms. Wright said they would act as the respective spokespeople in dealing with the media.

Despite the fact that the meeting was being recorded, there appeared to be general relief that there were no representatives from either Island newspaper present.

Without elaborating, Ms. Wright said, “We all know the spin some newspapers have.” Chief Fortes said, “Anything that comes to me I have no comment.”

Spokesperson of Few Words

True to his word, later that day when called by a Times reporter, Chief Fortes said he would not comment on the meeting.

Ms. Wright took a minimalist view of her responsibilities as a spokesperson. Reached on Tuesday, she said she would have no comment on the Monday meeting until she was ready. Asked when she might be ready, Ms. Wright said, “We haven’t had a meeting yet.”

Reminded she had accepted the role of spokesperson, Ms Wright was asked to confirm that even though there had been a meeting on Monday, she would not speak about that meeting until after another meeting.

“Right,” said the tribal chairman.

Mike Hebert, the only spokesperson speaking, said one of the issues to come out of Monday’s meeting was the need for better communication. He said the memorandum of understanding that called for public safety services had called for regular meetings of an oversight committee. Mr. Hebert said he would ensure that those would occur in the future.

Asked why the issue of the rangers wearing weapons while patrolling the beach and their subsequent insubordination was a communication problem when the chief had made his directives perfectly clear to the rangers, Mr. Hebert acknowledged that the issue should have been dealt with immediately. Mr. Hebert said the selectmen had no idea there was a problem until this fall.

Mr. Hebert said the subject of a tribal police force would be addressed at future public meetings of the oversight committee.

Asked about where the tribal council derives its authority to allow the rangers to carry weapons on tribal property when only the police chief can issue weapon permits, Mr. Hebert said he did not know.

“I assume that if the tribal council voted to allow it they must think they have the authority to do that.”

Asked why he would assume the council has that authority based on the fact that the tribe is subject to all local and state regulations, Mr. Hebert said he thought the subject would come up for discussion. Mr. Hebert said he wants to have the opportunity to speak with tribal officials before he comes to any conclusions.