

The Arbitration Panel has carefully considered and weighed the evidence and testimony placed before it and has carefully assessed the positions of the parties in relation to the following criteria in arriving at its final determination:

(1) Comparison of wages, hours, fringe benefits, and characteristics of employment with other similar work in both the public and private sectors and in comparable communities.

(2) The community's ability to pay.

(3) The interest and welfare of the public.

(4) And such other factors that are normally and customarily considered in determining an equitable arbitration settlement.

It is noted here that voluminous material including awards, transcripts, collective bargaining agreements, charts as well as other documents were presented to the Panel by the parties.

The Panel also reviewed and noted with interest the careful analysis and conclusions of the Fact Finder in this dispute.

Mr. Horace Kramer, the PBA's economic analyst, presented extensive testimony and data concerning the County's ability to grant the PBA's demands. Much of his testimony was uncontested and generally revealed a County that is in relatively sound financial condition as compared with other nearby communities undergoing severe financial trauma.

However, the County pointed out that unemployment had placed significant economic strain on the County's resources, and those wage earners who have had to relocate as a result of unemployment were experiencing difficulties in selling their homes because of high taxes. The County argued that while conditions in Suffolk County might be better than elsewhere, continued diligence in watching over public funds was necessary lest the County slide into the devastating financial morass faced by other municipalities.

Nevertheless, the PBA showed increases in productivity and savings that the County has achieved in the Police Department, while the incidence of police activity (crimes and arrests) have increased.

The Arbitration Panel has carefully considered the position of Suffolk County Patrolmen with respect to Nassau County and other police departments in estimating an equitable determination of the proposals of both the PBA and the County that are at impasse.

The Panel has weighed all the issues for the purpose of creating a fair and balanced package. In its deliberation, the Panel concluded that the settlement must be in the context of a two year agreement for two reasons. First, the present contract year is all but ended and a one year agreement would immediately thrust the parties into negotiations over a second year agreement. Second, a two year package could distribute benefits over a longer time period, thus making a more comprehensive and satisfying settlement possible.

Thus, the following determinations are predicated on a two year agreement. The Panel shall only deal with those proposals put forth by the parties for which there is a positive holding. All other issues not dealt with specifically are to be considered denied by the Panel.

(1) Contract Term: The contract shall be effective as of January 1, 1977 and run through to December 31, 1978.

(2) Longevity Increase: There shall be a longevity increase of \$50.00 per year in all steps effective July 1, 1978 which will make the steps \$500 after six years of service, a total of \$900 after ten years of service, and a total of \$1,300 after fifteen years of service. Additionally, the \$50 per year after 15 years of service shall continue until retirement, the present 25 year limitation being eliminated.

(3) Clothing Allowance: There shall be an increase in the clothing allowance of \$50.00 per year effective July 1, 1978.

(4) Cleaning Allowance: There shall be an increase in the cleaning allowance of \$50.00 per year effective July 1, 1978.

(5) Night Differential: Night differentials shall be increased by \$200 per year for three-tour men and \$150 per year for two-tour men effective January 1, 1978.

(6) Welfare Fund: The Welfare Fund shall be increased by \$100 per year per employee effective January 1, 1977.

The Panel recommends that the Board of Trustees of the Fund seriously consider the institution of a pre-paid legal services program.

(7) Salary Increase: There shall be a salary increase of \$1,105 for all employees effective January 1, 1977; \$926 increase effective January 1, 1978; \$926 increase effective July 1, 1978.

(8) Polygraph Tests: There shall be no polygraph tests administered without an employee's consent.

(9) Outside Employment: All employees hired after the effective date of the agreement shall be required to obtain approval for such employment, which will not be unreasonably withheld.

(10) Tenure for Detectives: There shall be no tenure for those employed as detectives.

(11) Detectives' Overtime: The memorandum of understanding providing that detectives receive overtime at straight time, recall at straight time, and no additional compensation when tours are switched shall be deemed terminated effective January 1, 1978 and detectives shall be entitled to the same overtime as members of the uniformed force.

(12) Elimination of "X" Days: All detectives shall work ten additional tours per year by eliminating "X" days.

(13) Additional Tours for Uniformed Employees: All uniformed men hired on or after the date of this award shall work ten additional tours per year until they reach Step 5 on the salary schedule. The following language is suggested for this provision:

"All employees hired on or after the date of this Award shall, in addition to their regular tours of duty, work ten additional tours per calendar year as assigned with due consideration to the wishes of such employees as to the time when such duty is to be performed. Upon reaching Step 5 of the Salary Schedule, such new employees shall thereafter work the same schedule as other employees."

(14) Voluntary Overtime: Employees shall be permitted to volunteer to perform scheduled overtime on a straight time basis as recommended in the fact finding report.

(15) Blood Days: The maximum number of paid leave days for blood donations under Section 23 of the contract shall be limited to two (2) days per year.

(16) Mileage Allowance: There shall be an increase in mileage allowance to seventeen (17) cents per mile effective January 1, 1978.

(17) All other proposals of the PBA and the County not contained herein are rejected by the Arbitration Panel.

Other members of the Arbitration Panel have agreed to have

PUBLIC EMPLOYMENT RELATIONS BOARD
County of Suffolk

IN THE MATTER OF THE ARBITRATION

-Between-

THE COUNTY OF SUFFOLK, NEW YORK, N.Y. :

-and-

SUFFOLK COUNTY POLICE OFFICERS'
BENEVOLENT ASSOCIATION

RE: POLYGRAPH TESTS

PUBLIC ARBITRATION
PANEL'S SUPPLEMENTAL
REPORT OF FINDING
ON ISSUE OF
POLYGRAPH TESTS

In conformity with a court order regarding Award No. 8, Polygraph Tests, to the Public Arbitration Panel for the purpose of preparing and filing a supplemental report including the findings and the basis for that award, the Public Arbitration Panel in the above captioned matter was reconvened on June 2, 1978. The Panel reviewed the evidence and testimony of the parties with respect to this issue and the following is its complete findings.

PBA PROPOSAL

The County shall not make use of polygraph tests on employees when investigating their activities. An employee may not be ordered or requested to take said tests.

COUNTY'S POSITION

We are requesting to maintain the Department's right to utilize the polygraph as an investigative tool. Its principal purpose is to eliminate suspects rather than to establish guilt. The police commissioner feels that he is entitled to full cooperation from all members of the Department when the organization is seeking to purge itself of members who have engaged in criminal or disreputable acts.

The polygraph has been used sparingly considering the number of inspection cases that have been investigated.

To prohibit the utilization of the polygraph will only endanger the right of the community to have the public servants above reproach. It is incumbent upon all members of the police department to cooperate to their fullest to weed out these individuals.

The right to utilize the polygraph should be left in the administrative process of the Department and not be bargained away over the negotiating table. It is a useful tool in the investigative process. The integrity of the use of the polygraph has been upheld in the courts and we are asking to continue this right.

PANEL FINDINGS

1. The Panel finds on the basis of the New York State Supreme Court decision in the matter of the Buffalo Police Benevolent Association, Inc. v. the New York State Public Employment Relations Board, City of Buffalo, that this issue is negotiable. In that case, the Court concluded as follows:

For the reasons stated above, the decision of PERB is annulled and the PBA and the City of Buffalo are directed to negotiate the subject of whether or not the City of Buffalo police officers shall be required to submit to polygraph tests during investigation of departmental misconduct.

2. On the basis of the evidence and testimony, the Panel has reservations concerning the reliability and validity of polygraph tests in a situation in which a police officer's job is at stake. The possible misreading of a result by a relatively inexperienced polygraph operator should not result in unfounded suspicions concerning a police officer's integrity.

3. The Panel has taken judicial notice of the Court's unwillingness to admit polygraph test results as evidence in a court proceedings.
4. The County failed to satisfy the Panel concerning the necessity of using polygraph tests for internal administrative proceedings of the Department. Indeed, the County claims that the use of this device is necessary in a relatively small percentage of Departmental investigations.
5. Considering the acknowledged imperfections associated with polygraph testing, the County's assertion that the use of such testing is consistent with maintaining higher standards of conduct among police officers is questionable. In reality, it might result in lower standards of police conduct should innocent police officers be found lying as a result of an erroneous polygraph test.
6. The County has argued that polygraph tests would only be used for the purpose of determining the innocence of a police officer involved in an investigation. However, the County has not shown how someone found not to be telling the truth, could avoid the stigma of guilt as a result of such findings.
7. The Panel was also concerned in its deliberation with the vagueness of standards which would be used in determining the application of polygraph tests. There was no evidence that the County had given careful consideration to safeguards against the arbitrary

application of polygraph tests.

- 8. The County argued that administrative hearings and procedures do not require the same standards of proof and evidence as court procedures and polygraph tests should be permitted on that ground. It is the Panel's view that the polygraph test is under widespread and growing criticism throughout the country and that such a controversial and questionable instrument of investigation goes beyond the liberal application of procedures that are appropriate for administrative hearings.

For the above reasons, the Panel finds that there shall be no polygraph tests administered without an employee's consent.

Edward Levin

Edward Levin
Impartial Chairman

 Concur

Dissent

Joseph Fasbach

Joseph Fasbach
County Designee

Concur

 Dissent

Edward Johnson
Edward Johnson
PBA Designee

State of New York)
) ss.:
County of New York)

On this 7th day of June 1978, before me personally came and appeared EDWARD LEVIN, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.



CHARLES DORNBAUM
NOTARY PUBLIC, State of New York
No. 52-1000400
Qualified in Suffolk County
Qualified in Nassau County
Term Expires March 30, 1979

State of New York)
) ss.:
County of New York)

On this 7th day of June 1978, before me personally came and appeared JOSEPH EASBACH, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.



CHARLES DORNBAUM
NOTARY PUBLIC, State of New York
No. 52-1000400
Qualified in Suffolk County
Qualified in Nassau County
Term Expires March 30, 1979

State of New York)
) ss.:
County of New York)

On this 7th day of June, 1978, before me personally came and appeared EDWARD JOHNSON, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.



CHARLES DORNBAUM
NOTARY PUBLIC, State of New York
No. 52-1000400
Qualified in Suffolk County
Qualified in Nassau County
Term Expires March 30, 1979