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In the Matter of Interest Arbitration

Between

Lackawana, City of

And

Lackawana Police Benevolent Association

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NYS PUBLIC EMPLOYMENT RELATIONS BOARD  
**RECEIVED**

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**CONCILIATION**

NYS PERB CASE      IA95-022

Before: Dr. Mark D. Karper, Mr Albert Monaco, Mr. Norman Stocker

Hearing date: April 22, 1996

Briefs due: May 8, 1996

Decision date: July 31, 1996

For the PBA:  
Mr. Anthony DeMarie ESQ  
Dixon, De Marie & Schoenborn  
Room 313 City Hall  
Lackawana, N.Y. 14218

For the City:  
Mr. Arc Petricca ESQ  
City Attorney  
930 Convention Tower  
Buffalo, N.Y. 14202

## Introduction

This is a dispute between the City of Lackawana (hereafter referred to as the City) and the Lackawana Police Benevolent Association (hereafter referred to as the PBA). The negotiations over a new contract failed and this dispute was ultimately submitted to public interest arbitration panel on October 26, 1995 after following proper procedure pursuant to section 209.4 of the New York State Civil Service Law. The public interest arbitration panel held a hearing on April 22, 1996 with briefs and reply briefs filed by the parties and full due process accorded to both sides in accordance with the law. After receipt of briefs, the panel met on two additional days to make a determination on the ten issues submitted to arbitration. It carefully considered each issue and was guided in its award by the criteria set forth in the statute. The award represents the majority opinion of the panel on each issue and was authored by the chair in consultation with both members. The ten issues will be considered in order of their presentation based on their place in the current agreement. A full review of the positions and arguments submitted to the panel is contained in the briefs submitted by both sides and will not be repeated in this award. The term of the award shall be for two years as the failed to agree on a voluntary extension of the time period.

## Issue 1 Section 2.04 Meetings and Conferences

### Positions of the Parties

The PBA requested four additional conference days to allow union officers to attend professional meetings without loss of pay.. The City was opposed to increasing the number of conference days.

### Award

It is the award of this panel that the number of days of paid leave to attend official union meetings be increased from 6 to 10. In addition, the following proviso shall be added to Section 2.04.

"It is understood such paid leaves of absence will occur only when officers are regularly scheduled to work on official conference days."

#### Rationale

Most contractual agreements typically provide paid leave to attend these types of conferences and the extension to 10 days was necessary to accommodate those meetings given the number of officers allowed to attend. Given the proviso, it is possible that the full 10 days may not be required in any given contract year and as a result the increased cost impact of this change may be minimal or zero.

#### Issue 2 Section 2.05 PBA Office

##### Positions of the Parties

The PBA wished to have contractual recognition of its existing office. The City did not want to compromise its flexibility in the use of its facilities.

##### Award

It is the award of this panel that the PBA be given the contractual right to use its existing office space with following addition to Section 2.05.

"The PBA will have the right to continue to use its existing office in the municipal building with the proviso that should a critical need for that space arise it shall be forfeited only after the City has made a good faith effort to find another suitable office."

#### Rationale

This addition memorializes an existing arrangement and represents contractual recognition of a consistent past practice and grants the flexibility the City requests in the use of its facilities.

#### Issue #3 Section 5.05 Layoffs

##### Positions of the Parties

The PBA requested a "no layoff" provision for the balance of the award. The City was opposed to this loss of flexibility.

##### Award

It is the award of this panel that existing language regarding layoffs not be changed.

## Rationale

The panel did not see, in light of constantly changing financial circumstances facing the City, the wisdom of a guaranteed employment clause nor did it find that such a clause was typical of current comparable practice.

## Issue #4 Section 6.01 Annual Salary

### Positions of the Parties

The PBA asked for 10% increases in each of the two years covered by this award in addition to increases in differentials between officers and supervisors. The City did not submit a formal wage offer to arbitration

### Award

It is the award of this Panel that the following language be added to Section 6.01.

"Beginning August 1, 1994 there shall be an increase of 5% in each position of salaries in existence at that time.

Beginning August 1, 1995 there shall be an increase of 4% in each position of salaries adjusted by this award as of August 1, 1994."

In addition there shall be full retroactivity for the amounts granted by this award payable in an expeditious manner.

## Rationale

The panel was presented with a broad array of comparisons and arguments. The New York State Interest Arbitration law requires that the panel absent a proven inability to pay, that the panel look at comparable salaries. In this case the panel as its external comparison examined average wage increases (See Appendix A.) for police officers in the surrounding communities. The panel also considered an internal comparison based average wage increases for the Fire Fighters working at the City Of Lackawana based on their average increases from an arbitration award over the same time period. (See Appendix B, which shows that it is the same total percentage amount as received by fire fighters over the same time period.) The resulting general percentage increase of 5% and 4% is consistent with the average increase for police officers in the Buffalo area over the same time period (external comparison) and consistent with what fire fighters received in the City of Lackawana (internal comparison). It maintains their relative position both with respect to comparable police officers and fellow city employees. Since the City was able to afford similar pay

increases for its fire fighters over the same time period the ability to pay was not explicitly considered as a factor in this award.

#### Issue #5 Section 8.05 Overtime

##### Positions of the Parties

The PBA requested overtime payments for time spent reporting to briefing/line up sessions prior to the start of each shift. The City was opposed to such payments.

##### Award

It is the award by this panel that such language not be included in section 8.05.

##### Rationale

The legal claim set forth by the union its brief did not convince the panel that briefing/line up time should be explicitly considered overtime and therefore included in this award. There was no compelling evidence of comparable practice.

#### Issue #6 Section 10.01 Personal Leave

##### Positions of the Parties

The PBA requested that the number of personal days be increased from four to six days per year. The City was opposed to increasing the number of personal days.

##### Award

It is the award by this panel that the language not be changed.

##### Rationale

The personal leave is consistent with what fire fighters presently receive.

#### Issue #7 Section 11.01 Sick Leave

##### Positions of the parties

The PBA requested that sick leave be increased from 16 to 18 days per year. The City was opposed to such a change.

##### Award

It is the award of this panel that the number of sick days be increased from 16 to 18 days section 11.06 to equalize their amount of sick leave with other city employees.

#### Rationale

The 18 day amount of sick leave is presently received by all other City employees and should be comparable for police.

#### Issue #8 Section 12.04 Education Incentive Pay

##### Positions of the Parties

The PBA requested increases in pay differentials for educational attainment. The City was opposed to any increases.

##### Award

It is the award of this panel that this language not be changed.

#### Rationale

The panel felt this issue of valuing educational attainment could best be addressed by future negotiations.

#### Issue #9 Section 13.01 Health Insurance

##### Positions of the Parties

The PBA asked for a new health plan that which it claimed would result in savings to the City. The City wished to alter the health plan to be consistent with other City employees.

##### Award

It is the award of this panel that health insurance not be changed.

#### Rationale

The panel felt that changes in the complex issue of health insurance which can only change future benefits would best be dealt with by future negotiations directly between the parties.

#### Issue #10 Section 16.07 Cost of Arbitration

##### Positions of the parties

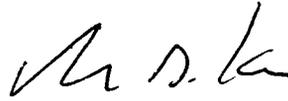
The PBA requested a loser pay all provision in the arbitration clause. The City was opposed to such a change.

**Award**

It is the award of this panel that existing language not be changed.

**Rationale**

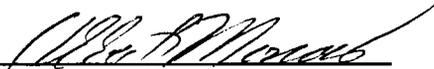
The panel saw no compelling reason to change existing practices in bearing the cost of arbitration.



**Dr. Mark D. Karper**  
**Public Panel Member & Chairperson**

**NANCY M. TACKLEY**

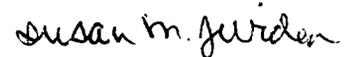
Notary Public in the State of New York  
Qualified in Madison County No. 4786460  
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1-31-98



**Mr. Albert Monaco**  
**Employee Organization Panel Member**

**SUSAN M. JVDEN**

NOTARY PUBLIC, STATE OF NEW YORK  
QUALIFIED IN ERIE COUNTY  
MY COMMISSION EXPIRES ~~4.20.98~~



**Mr. Norman Stocker**  
**Public Employer Panel Member**