

STATE OF NEW YORK, COUNTY OF NASSAU
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of Impasse Between

COUNTY OF NASSAU

--and--

OPINION and AWARD

NASSAU COUNTY PATROLMENS BENEVOLENT
ASSOCIATION
-----x

ARBITRATION PANEL:

LEONARD COOPER, ESQ.
DANIEL GREENWALD
VITO COMPETIELLO

APPEARANCES:

County

ROBERT W. MAC GREGOR -	Commissioner of Labor
ROBERT J. SWEENEY	County Attorney's Office
WILLIAM CORBIN	Department of Labor
TIM TURNER	County Budget Office
WILLIAM TREADWELL	County Police Department
FRANK KLECAK	County Police Department

Patrolmens Benevolent Association

RICHARD HARTMAN	Attorney
EDWARD WITZKE	
EDWARD HISGEN	
RICHARD SINSKI	
NICHOLAS MAROLDA	

AS TO ISSUE 1

PBA Position:

The PBA, through its attorney, Richard Hartman, offered testimony as follows:

In 1961, Nassau County enacted Ordinance #94-1961 which provided, in part, that members of the police force would be paid two days' salary for holidays whether or not the member actually worked on the holiday.

At the time this ordinance was passed, members of the police force had fixed days off and the enactment of this ordinance would provide holiday compensation fairly and equally for each police officer.

Subsequently, during contract negotiations in 1969, the PBA offered a proposal which would provide that the police officer who actually worked on a holiday would receive an additional day's pay.

An agreement was reached which became effective in the 1970 contract year wherein the police officer working a holiday would receive an extra half day's salary. Thus, the police officer who did not work on a holiday received two days' salary and the police officer who did work, received two and one-half days' salary.

During the 1971 contract negotiations, the PBA renewed its efforts to secure a full day's salary for the police officer who worked on a holiday so that he would receive a total of three days' salary for working a tour

on a holiday. The County continuously rejected this proposal. This issue, along with others, went to fact finding.

The fact finder recommended as follows:

"Although the compensation provided in the County's present system of holiday pay is rather unique and well rewarding, the Fact Finder feels there is an inequity in paying a man who works only one-half (1/2) day's pay more than his fellow employee who does not work. It is, therefore, recommended that this item be granted." (PBA Exhibit 1)

When an agreement was ultimately concluded, the fact finder's recommendation on this issue was not implemented.

The PBA renewed this proposal at the commencement of negotiations for the 1973 contract but withdrew the proposal before fact finding occurred.

Finally, the PBA again presented the proposal in 1975. (Joint Exhibit 2). Again the County rejected the proposal and the issue went to fact finding. The fact finder did not recommend its implementation and dispensed with it as follows:

"Additional Compensation for Hours Worked on Holidays (PBA 56):
The demand here put forth would provide for the payment of triple time for working on a holiday which is also an employee's regularly scheduled work day. This demand, as the County indicates, would add some \$600,000 in payroll costs. In the view of the Fact Finder, the current provision for double time and one-half is adequate extra compensation for working on those holidays which fall within an employee's schedule and known to him in advance as a work day." (Joint Exhibit 1)

Edward Witzke, First Vice-President of the PBA, testified: That it is a hardship on a police officer's family when he works on a holiday; that he, himself, has been on the police force for eighteen years and has worked sixteen times on Christmas Day; that although work charts tell a police officer what holidays he will not be working, the police officer has no guaranty since a squad change will change his work chart.

Richard Sinski, President of the Detective Association, testified: that there is a basic inequity because some police officers work more holidays than do other police officers.

Nassau County Position:

The County, through Robert J. Sweeney, argued and gave testimony as follows: working on holidays is required of many employees who work for municipalities other than police officers, because of the nature of the services performed by that municipality; when an employee is hired for particular types of work, he knows that he will be required to work on holidays; the fact that the County provided an additional half day's pay to that police officer who works a holiday was an error which should not be compounded.

Tim Turner testified on behalf of the County as follows: an examination of the records which concern themselves with police officers working holidays showed that of the twelve holidays involved, the average police officer worked on six of those holidays.

Discussion:

Upon reviewing all the facts that have come before the arbitration panel, one cannot help but ask, "what is the real problem?" Is it whether or not a police officer should be paid an additional day's salary for working on a holiday or does the real problem concern itself with, "how much is a police officer entitled to for not working on a holiday?" Although this question is not before this arbitration panel, it lies at the heart of the problem.

Logic leads one to assume that if a former administration, in its great wisdom, decided to pay a police officer two days' salary for not working on a holiday, then it could do so only on the basis that it was correcting an inequity for all police officers.

When the PBA asked for additional salary for those police officers who actually worked the holiday, the County should have viewed that request as one which completely departed from an implicit understanding of the original ordinance and countered with its own proposal to do away with the second day's salary for that police officer who does not work the holiday.

The County never made this proposal to this panel, and so far as this panel knows, it had not been previously made at all. That proposal, therefore, is not before us.

What is before us is, "Should a police officer who works a holiday receive one more day's salary than does the police officer who does not work a holiday?"

Clearly, the principle was established during the course of negotiations between the County and PBA that a police officer working a holiday should receive more money than the police officer who does not work a holiday.

The County argues that this was an error and should not be compounded. However, when the County agreed to the extra half day's pay for working a holiday, it destroyed the principle created by the ordinance. Therefore, it is that ordinance that the County should seek to change.

When the problem is examined in light of the foregoing discussion, there is only one question to resolve: "Should a police officer who works a tour of duty on a holiday receive a day's salary more than the police officer who does not work on the holiday?" The majority of this panel believes he should.

AS TO ISSUE 2

The fact finder's report (Joint Exhibit 1) recommends as follows:

"Effective January 1, 1975 through December 31, 1975, a general increase of 8.5% at all levels in the bargaining unit, making the salary for patrolman at the beginning of the 5th year, \$16,720."

PBA Position:

The arguments presented by the PBA during the course of these hearings were essentially the same arguments as those presented to the fact finder:

1. That traditionally the salary level of the police in Nassau County had been \$1,000 ahead of the salary level for the police in Suffolk County.

2. That based upon increases provided to the Suffolk County Police Department during the 1973-75 contract negotiations, for Nassau County to maintain the differential that existed between the Nassau County Police Department salary level and the Suffolk County Police Department salary level, an increase to the Nassau County police officers of 14.23% is necessary.

3. That the consumer price index for the period January 1974 to January 1975 showed a 10.1% rise.

4. That a percentage differential always existed between the CSEA settlements and the PBA settlements in that PBA always received higher percentage increases and that those differentials should be maintained.

5. That the Nassau County Police Department has the highest entrance and promotional requirements in the Country and while it is true that this was not sought by the PBA, it nevertheless exists.

Nassau County Position

The County argued that the PBA is entitled only to a 6.5% wage increase and fringe benefits that would total 2.8%. One should point out that of the 2.8% in fringe benefits, 2.31% is actually dollar amounts which will benefit all police officers, and 5/10ths of a percent is an estimate of the cost of fringes which are intangible and cannot be determined at this time.

The County says that the PBA acknowledges that a fair cost for the total fringe package is in fact 2.8% and if added to the County's proposed wage increase of 6.5%, the total would be 9.3%.

The County further argues that although they presently may have high educational standards for incoming police officers and those officers who wish to take promotional examinations, the fact remains that 80% of the police officers are not college men and in any event they are paid for the same work they have been doing for the past five years.

The County makes further argument that PBA is in error when they argue that they have always been able to negotiate higher wage packages than CSEA. It is further stated that 60% of the employees in the CSEA bargaining unit are on the graded salary plan and receive 5% increments per year. This represents an actual 3% increment cost in the CSEA unit, while there is only an 1.8% increment cost in the PBA unit. When taken together with general wage increases over the course of the years, PBA has not received larger wage increases than has CSEA.

Finally, the County testified that although there may have been a time in 1968 when the wage differential between Nassau County patrolmen and Suffolk County patrolmen was \$942, there was also a time in 1970 when the wage differential was \$149, and in 1974 salaries became equal. (PBA Exhibit 2).

The majority of arbitrators agree that the fact finder was correct when he recommended a general increase of 8.5% at all levels in the bargaining unit for the following reasons:

The County's position is unacceptable because of the combined impact of two considerations: (1) by providing 6.5% and computable fringes in the amount of 2.3%, the total increase would be 8.8%. This falls short of the cost of living index for the period January 1974 to January 1975; (2) salaries for Nassau County police officers would be substantially below that of Suffolk County police officers.

Perhaps this reasoning would be less significant had Nassau County been in a position to argue inability to pay. At no time during the course of these hearings was such an argument made nor is there anything in the fact finder's report which would indicate that such arguments were made during fact finding. As examples, the County did not argue that it could not afford a larger increase; it did not claim that the PBA demanded increase could create a budget deficit; it did not argue that the demanded increase would place an unfair burden on the taxpayer.

Instead, it argued that a 6.5% increase was fair and reasonable. Under the circumstances, we think not.

The PBA's argument that it is entitled to a 14.23% wage increase simply because it should be permitted to maintain the same differentials it claims it always had with Suffolk County is totally unreasonable.

The computation of an 8.5% general increase and a known 2.3% fringe package and additionally a 1% cost for additional holiday pay, is

believed by the majority to comprise, in totality, a fair and equitable resolution to the impasse. The fact finder recognized the value of fringes when he said, on page 19 of his report (Joint Exhibit 1):

"I have also recognized the money value of the fringe increases which augment the operating costs of the salary-fringe benefit package to the County."

Much of this money is money which the police officer actually receives in one form or another.

It is the view of the majority of this panel that an 8.5% wage increase is fair and reasonable.

AWARD

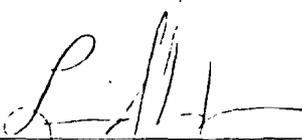
As to Issue 1:

The police officer who works a tour of duty on a holiday shall receive one day's salary more than the police officer who does not work the holiday.

As to Issue 2:

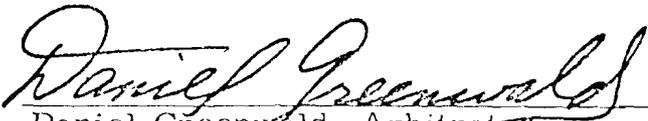
Effective January 1, 1975, the County shall provide a general wage increase of 8.5% to all levels in the bargaining unit, making the salary for patrolmen at the beginning of the fifth year \$16,720.

Dated, Mineola, New York
July 27, 1975



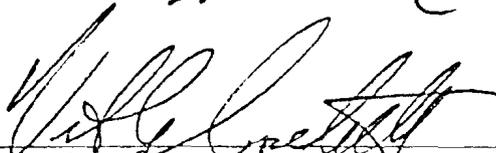
Leonard Cooper, Arbitrator

CONCURS:



Daniel Greenwald, Arbitrator

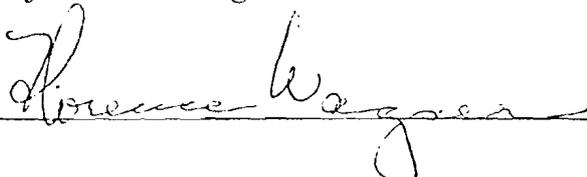
DISSENTS:



Vito Competiello, Arbitrator

STATE OF NEW YORK)
COUNTY OF NASSAU)ss.:

On this 21st day of July, 1975, before me personally came and appeared Leonard Cooper, Daniel Greenwald, and Vito Competiello, to me known and known to me to be the individuals described in and who executed the foregoing instrument and they acknowledged to me that they executed the same.



FLORENCE WAGNER
NOTARY PUBLIC, State of New York
No. 41-4120870 - Queens County
Term Expires March 30, 1977



I, Vito A. Competiello, having been duly assigned and qualified as a panel member of a three-man arbitration panel in the matter of the impasse in the PBA negotiations, with the authority to proceed under the applicable statute and the rules and regulations, dissent from the award made by the majority as follows:

I. WAGES: The County offered a wage increase of 6-1/2% equalling \$3,900,000.00. The panel was aware that a total of 5% or \$3,000,000.00 had been budgeted for the entire package of benefits. It was further aware that "fringes" agreed to after fact-finding equalled 2.8%. Granting a wage package of 8-1/2% by the majority of the panel members brings the total to in excess of 12%, or more than twice the amount which was budgeted. There must be some restraint to the constant see-sawing between Nassau and Suffolk. The only reason, in my opinion, for the 8.5% award was that Suffolk recently received an 8% increase. The time has come to put a stop to this unending leap frogging.

II. HOLIDAY PAY:

a) With the majority members' award, Nassau County again sets the precedent. To the knowledge of the dissenting member, no police force in the United States is paid triple time for working on a holiday.

b) To base the award on the argument that in 1969 the County should have reduced the benefit for the patrolman who did not work a holiday is completely inane. To so argue and then grant an additional amount for the patrolman who works a holiday is to compound the alleged error. I take exception to the public member's reasons recited in the majority report deciding the compensation for those patrolmen who work the holiday and those who do not. That issue may well be disposed of in future negotiations and should be for the parties to decide, not for

a third party's opinion which is not binding.

c) The hardship of being separated from one's family on Christmas Day as alleged by PBA witnesses before the panel is, surely, not duplicated to the same degree on such holidays as Election Day or Lincoln's birthday or Washington's birthday, etc.

d) The majority members' award goes beyond the Fact Finder's report. In his wisdom, the Fact Finder points out that payment of triple time for working on a holiday, which is also an employee's regularly scheduled work day, would add some \$600,000 in payroll costs. In his view, the provision for double time and one-half is adequate extra compensation for working on those holidays which fall within an employee's schedule and are known to him in advance as a work day. The County negotiators pointed out to the panel that the average patrolman works six out of the twelve holidays scheduled, so that there is a equality of treatment. No one suffered under the double and one-half time provision.

The majority members have put their stamp of approval on a total package which will cost the County at least \$7,380,000. When the keynote of the times should be restraint, the majority award goes beyond reason.

It is unfortunate that the majority award fails to recognize the serious financial plight in which Nassau County finds itself. The burden of this pay package can only be passed on to the backs of the taxpayers who the County Administration feels are "already overburdened


Vito A. Competiello
Dissenting Member

Dated: July 29, 1975

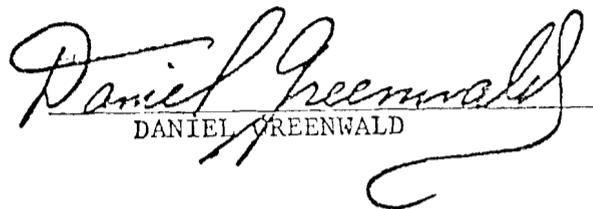
STATE OF NEW YORK, COUNTY OF NASSAU
PUBLIC EMPLOYMENT RELATIONS BOARD

-----X
In the Matter of an Impasse between the
COUNTY OF NASSAU and the NASSAU COUNTY
PATROLMEN'S BENEVOLENT ASSOCIATION
-----X

CONCURRING OPINION

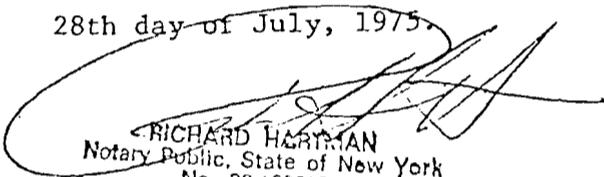
As a member of the Public Arbitration Panel, representing the Nassau County Patrolmen's Benevolent Association, I concur with the award issued by the impartial member, Leonard Cooper, but I do so reluctantly. Although I fully concur with the award providing an extra day's rather than an extra half (1/2) day's pay for working holidays, I concur with the eight and one-half (8 1/2%) percent award on wages, although I believe the facts have proven that an award of fourteen point twenty-three (14.23%) percent in wages alone would have been the appropriate one. Between 1973-1975, Suffolk Police moved from thirteen thousand five hundred fifty-two (\$13,552.00) dollars to sixteen thousand six-hundred forty-three (\$16,643.00) dollars, a percentage increase in rate of base pay of twenty-two point eight (22.8%) percent. If Nassau Police were to move ahead in similar fashion and receive a twenty-two point eight (22.8%) percent increase in rate of base pay, they would go from fourteen thousand three hundred thirty-five (\$14,335.00) dollars in 1973 to seventeen thousand six hundred three (\$17,603.00) dollars in 1975. In 1974, Nassau Police were at fifteen thousand four hundred ten (\$15,410.00) dollars, this would mean an increase of fourteen point twenty-three (14.23%) percent in 1975. Therefore, an increase of eight and one-half (8 1/2%) percent in 1975 only replaces a portion of that spread which the Nassau Police enjoyed in 1973. The fourteen point twenty-three (14.23%) percent increase would mean a difference of nine hundred sixty (\$960.00) dollars while the eight and one-half (8 1/2%) percent increase would only mean a difference as indicated above, of seventy-seven (\$77.00) dollars.

Further, the educational standards for appointment and promotion in the Nassau County Police Department are the highest in the nation, there being no requirement at all in Suffolk County. Consequently, the historical relationship in wages between the Nassau and Suffolk County Police Departments will be destroyed because of this eight and one-half (8 1/2%) percent wage increase and, in the opinion of this arbitrator, is completely insufficient. However, as I previously stated, so that there will be finality to these already extended negotiations, I will concur in the award of the Arbitrator Leonard Cooper.


DANIEL GREENWALD

Sworn to before me this

28th day of July, 1975.


RICHARD HARTMAN
Notary Public, State of New York
No. 30-1696820
Qualified in Nassau County
Commission Expires March 30, 1977