

PUBLIC EMPLOYMENT RELATIONS BOARD  
STATE OF NEW YORK

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N. Y. S. PUBLIC EMPLOYMENT  
RELATIONS BOARD  
**RECEIVED**  
AUG 9 - 1976

In the Matter of the Impasse Between  
CITY OF NIAGARA FALLS,

Public Employer,

-and-

NIAGARA FALLS POLICE CLUB, INC.,

Employee Organization.

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PERB Case No.  
CA-0058/M75-872

**CONCILIATION**

**OPINION  
AND  
AWARD**

Before the Public Arbitration Panel:

John E. Sands, Chairman  
Al Sgaglione, Employee Organization Member  
Harvey Albond, Public Employer Member

OPINION

Robert H. Helsby, Chairman of the New York State Public Employment Relations Board, designated us members of the Public Arbitration Panel on February 9, 1976. Pursuant to our authority under Article 14 of the Civil Service Law ("Taylor Law") we conducted a hearing in Niagara Falls, New York on May 14, 1976 and met in executive session in Albany, New York on June 3, 1976. Each party had full opportunity to submit testimony under oath as well as documentary evidence and to cross-examine opposing witnesses.

In reaching our conclusions, we have been bound by the standards mandated by Section 209.4(c)(v) of the Taylor Law. Accordingly, pursuant to subparagraph (d) of the cited section, we have considered the Taylor Law's strong policy to encourage parties to negotiate their own settlements without requiring recourse to impasse resolution proceedings such as this. We find the fact-finder's award in this case followed the statutory standards and

established an overall cost structure which we have not changed. To vary that structure by increasing or decreasing benefits would only encourage negotiators of future contracts to hold out to impasse in hope of winning an improved result from some third party arbitration panel. This would be counter-productive.

By reason of the foregoing, we issue the following

AWARD

1. TERM

The term covered by this award shall be one year, commencing January 1, 1976 and terminating December 31, 1976.

2. EXTRA-DUTY WORK

The City is to be complimented for participating as an intermediary in the assignment and compensation of off-duty uniformed police officers serving as security personnel for private events. This ensures that the services performed and payments made will be open to public scrutiny and not subject to under-the-table dealing and its demoralizing impact.

As long as the City does provide this service, however, it should be subject to a contractual provision requiring equitable distribution of such work throughout the bargaining unit.

We therefore award that the contract between the parties shall contain the following provision:

EXTRA-DUTY ASSIGNMENTS

1. The City shall maintain a list in order of seniority within the Police Department of all police officers willing to perform extra-duty security work at private events. After an initial sign-up period of two weeks, new names shall be added to the bottom of the list in order of signing up, without regard to seniority.

2. When available, the City shall offer extra-duty work opportunities only to police officers on the list and only in order of their appearance on the list. Offers of extra-duty work shall be made in sequential order through the list, with new opportunities being offered first to police officer following the one who accepted the last offer. When the list is exhausted, offers shall return to the top of the list. The intention of this paragraph is to equalize opportunities for extra-duty work among all police officers on the list.
3. In order to keep this list current, the City shall strike from the list any police officer who refuses four consecutive offers of extra-duty work.

### 3. AUXILIARY POLICE

Although it is unclear whether we have authority to award in the area of the union's demands for contractual limits on the City's use and arming of auxiliary police, the record constrains us to make the following advisory observations.

Auxiliary police are civilian volunteers who supplement the regular force. Although most are motivated by high public ideals, some have demanded permission to carry guns and have threatened to quit their service if denied that request. The City, on the one hand, contends that auxiliary police are not used to "replace" police officers; but the City has availed itself of their services with increasing frequency. The union, on the other hand, contends but has not proved that auxiliary police have reduced job opportunities and tenure for regular police officers by taking up the slack that lay-offs have created.

Whether or not they have an impact on regular police employment conditions, auxiliary police can have a devastating impact on the public safety. Auxiliary police are not trained in use of firearms nor in making the life-or-death shooting decisions which regular police officers must face on a daily basis. To arm untrained

auxiliary police would be to invite disaster on two bases:

(a) practically by exposure to substantial legal liability for accidental or intentional gunshot injuries, and (b) morally, by pandering to a civilian's base desire for the illusion of grandeur that "packing a gun" gives one who is ignorant of its awesome responsibility.

Accordingly, we urge most fervently that, whatever use the City does make of auxiliary police, it not under any circumstances permit them to carry guns.

4. UPGRADING OF AUXILIARY POLICEMAN AND POLICE MATRON

This demand is subject to pending litigation which will resolve the parties' disagreement whether current salary differentials are due to substantive differences in work performed. We therefore direct that incumbents of these titles continue to occupy Grade 1 of the salary schedule, subject to any future adjustments which may be required by courts or agencies of competent jurisdiction.

5. PERSONAL LEAVE DAYS

The parties shall eliminate from their collective bargaining agreement Article X, Section III(e). They shall add as Article X, Section VII, the following provision:

Section VII. Personal Leave

Employees shall be eligible to take three (3) days' personal leave per year. Such eligibility shall accrue on January 1 of each year. Employees may accumulate one unused personal leave day per year up to a maximum personal leave balance of five (5) days. Employees must give notification in advance to their department heads. Except in case of emergency such advance notification will be in direct relation to the number of days requested.

6. VACATIONS

The parties shall add the following subparagraph to Article X, Section II of their collective bargaining agreement:

(g). After twenty-five (25) years or completion of thirteen hundred (1300) weeks of service -- six (6) workweeks based on previous year's service.

7. SAFETY EQUIPMENT AND STANDARDS

The parties shall change Article V, Section III of their collective bargaining agreement to read as follows:

Section 3. The City shall provide protective equipment and maintain procedures consistent with established and recognized safety standards for police departments.

8. LINEUP TIME

The union demands a contract provision requiring a one-half hour pre-shift lineup procedure for briefing police officers on alarms and special conditions as well as to provide an overlap of tours for more effective coverage during platoon changes. The employer resists this demand because of the cost of overtime payments for the additional one-half hour's service. The fact finder recommended against adoption of this expensive demand, and we agree.

In view of the affirmative benefits of overlapping tours, however, we do suggest that the parties consider in the future altering duty schedules to provide for overlapping tours at straight time rates. For example, if regular tours of duty were lengthened to eight and one-half hours, tour one could begin at 7:40 a.m. and end at 4:10 p.m. Tour two would start at 3:40 p.m. and end at 12:10 a.m. Tour three would start at 11:40 p.m. and end at 8:10 a.m. This would provide twenty minutes' time for pre-shift preparation and/or training as well as ten minutes' post-shift time for orderly relief and attending to clerical duties. A scheduling concept of this nature may ultimately save the City substantial money

since the parties have agreed to eliminate the free-casual-over-time provision of their now-expired contract. The result will be that necessary pre- or post-shift briefings, formerly gratis, will have to be compensated at overtime rates.

We therefore recommend that the parties give consideration to this concept in their continuing negotiations.

9. WAGES

We adopt without change the recommendations of the fact finder. Accordingly, the parties shall amend wage schedule A of their collective bargaining agreement to raise all police salaries, except those of dispatchers, by \$753.90 per year. Dispatchers shall be moved onto the new grade 2 schedule. The current extra-duty pay provided in wage schedule A of the parties' collective bargaining agreement shall be raised to \$425 for all groups currently mentioned, except detectives. Extra compensation for detectives in the Criminal Investigation Division and the Criminal Intelligence Unit shall be raised to \$750 per year.

10. HOSPITALIZATION-RETIREEES

The parties shall amend Article XI, Section II of their agreement to add the following subparagraph prior to the words "...shall be entitled to group hospitalization and surgical benefits ...:"

or

(c). Whose age and years of continuous service with the City of Niagara Falls, New York total 75, but in no event prior to reaching age 55,

...

11. DEATH BENEFIT FUND

The City shall set up a fund into which it shall pay each year an amount equal to the fees collected from the annual dog census. This fund shall be used for payment of death benefits to all members of the Police Department, regardless of rank.

12. AGREED MATTERS

The parties shall amend their collective bargaining agreement in the following respect to reflect agreements reached during negotiations:

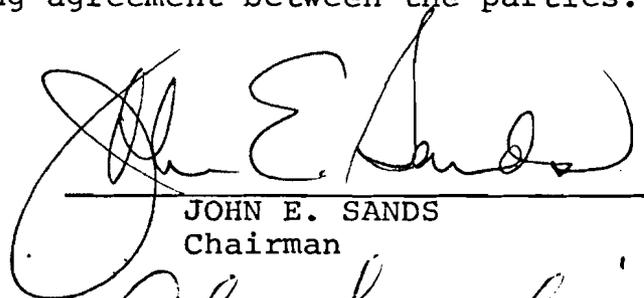
1. The wage schedule attached to all future contracts shall contain reference to the Police Department only and should reflect all wages paid to policemen in the Niagara Falls Police Department regardless of Bargaining Unit.
2. Section 3-A of Article VII shall be amended to read as follows: "The City agrees, except as otherwise provided herein, to pay time and one-half the regular rate of pay for all hours worked in excess of the normal work schedule."
3. Section 8 of Article IV shall be deleted.
4. Section 1 of Article XII shall be amended to include the following items: Two hats - one for winter and one for summer, an Eisenhower Jacket, two pairs of trousers, one for winter and one for summer, a reefer, a raincoat and three shirts.
5. The reference to the Chief Communications Officer shall be deleted from Section 2-A of Article XII of the contract.
6. Section 3 of Article XII shall be amended as follows:
  - a. Two trousers - one winter and one summer - as per contract.
  - b. Two hats - one winter and one summer - as per contract.

- c. Two ties - one clip on and one regular - as needed.
  - d. Shirts - three each year.
  - e. Eisenhower Jacket or Leather Jacket - every three years.
  - f. Outer garment - every three years.
  - g. Raincoat - every two years.
  - h. Flashlight and batteries including detectives as needed.
  - i. All garments issued will have appropriate shoulder patches attached.
7. The parties shall add to Section IV of Article X of the contract, "Nothing contained in this section shall be construed as a waiver of any rights guaranteed by State Law."
8. The contract shall contain provision that all members of the C.I.U. and the C.I.D. are detectives.

13. RESIDUAL MATTERS

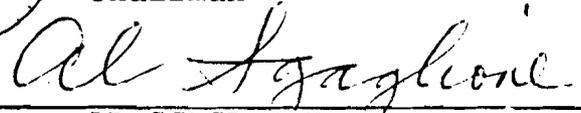
As to all remaining demands, there shall be no change in the existing collective bargaining agreement between the parties.

Dated: July 27, 1976  
Schenectady, New York



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JOHN E. SANDS  
Chairman



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AL SGAGLIONE  
Employee Organization Member

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HARVEY ALBOND  
Public Employer Member

STATE OF NEW YORK )  
COUNTY OF SCHENECTADY) ss:

On this 29<sup>th</sup> day of July, 1976, before me personally came and appeared JOHN E. SANDS, 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.

Marcelle K. Goun  
Notary Public

Schenectady Co. Commission Expires 3/30/77

STATE OF NEW YORK)  
COUNTY OF ALBANY ) ss:

On this 29<sup>th</sup> day of July, 1976, before me personally came and appeared AL SGAGLIONE, 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.

Madeline M. Spaulding  
Notary Public

STATE OF NEW YORK)  
COUNTY OF ERIE ) ss:

On this \_\_\_\_\_ day of July, 1976, before me personally came and appeared HARVEY ALBOND, 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.

\_\_\_\_\_  
Notary Public

