

of the matters in their dispute. The Panel then proceeded under the applicable statutes, rules and regulations to inquire into the causes and circumstances of this continued dispute and at the conclusion of its inquiry made the findings and Award which follows.

Upon notice duly given a hearing was held on December 3, 1990, in the Board of Trustees Conference Room in the Public Library on Main Street in Niagara Falls. Both parties were present and represented by counsel as shown in the above List of Appearances. The Parties were afforded full equal opportunity to be heard and present testimony, to cross-examine witnesses and to present arguments and proof, both oral and written, in support of their respective positions regarding the items in dispute. The Public Interest Arbitration Panel admitted into evidence fourteen (14) Club exhibits, nine (9) City exhibits and one (1) Joint exhibit.

The Parties mutually agreed on December 3, 1990, that they had submitted their entire case and the Panel officially declared the hearings closed.

The Panel met in Executive Sessions on December 4, 1990 and January 23, 1991. After due and deliberate consideration of all of the evidence, facts, exhibits and documents submitted and in accordance with the applicable criteria arrived at the unanimous Determination and Award which follows. The Panel in arriving at such determination based its findings on the mandated statutory criteria which follow: New York Civil Service Law, Section 209.4 (v)

a. comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities.

b. the interests and welfare of the public and the financial ability of the public employer to pay;

c. comparison of peculiarities in regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications;

(3) educational qualifications; (4) mental qualifications; (5) job training and skills;

d. the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

The Panel considered each of the outstanding issues and at the urging of the Chairman sought to reach unanimous consensus on each of them. The Chairman commends Messrs. Fabrizio and Soltys for the time and effort they devoted to the process and their sincere attempts to resolve each of the issues submitted to the Panel in accordance with the above stated criteria.

IN GENERAL:

1. The dispute involves the continued impasse between the City and the Club over the terms and conditions of a new contract to be effective as of January 1, 1990, the last two-year contract of the parties having expired on December 31, 1989.

2. Prior to the request for the appointment of this Arbitration Panel the parties engaged in nine (9) negotiating sessions, the first six (6) on their own and the last three (3) with the assistance of a PERB appointed mediator.

3. The parties at the start of the Arbitration Hearing, in writing, waived their right to a full and complete record of the Public Arbitration Panel Hearing as set forth in Section 209.4 (iii) of the New York State Civil Service Law.

4. The Club represents 120 members.

5. The "position" of the parties and the Panel's "discussion" are only a summary and are not intended to be all inclusive.

6. The following issues were submitted at the arbitration hearing for determination and Award by the Panel:

Issues:

A. Club

1. Premium Pay
2. Sick Leave
3. Disciplinary Action

- 4. Vision Care
- 5. Overtime Distribution
- 6. Field Training Officer
- 7. Shift Premium Pay
- 8. E-Days
- 9. Pregnancy
- 10. Vacations
- 11. Uniform Allowance

B. City

- 1. Union President Time
- 2. Employee Evaluation

C. Joint

- 1. Contract Term
- 2. Health Insurance
- 3. Unused Sick Leave
- 4. Holidays
- 5. Salaries

Each of the above issues were carefully considered and the Panel's determination on each issue is as indicated. Hearings, analysis of the testimony, evidence, research and study of the issues in dispute have now been concluded and the Panel after due deliberation, consideration and evaluation makes its determinations and Award in the matters in dispute, which were the only issues submitted to the Panel. All other provisions of the Parties' prior collective bargaining agreement shall remain unchanged.

Background:

The Parties agreed that any comparisons should be made with the following communities in Niagara County and nearby Erie County who employ fifty (50) or more police officers:

Amherst	North Tonawanda
Buffalo	West Seneca
Cheektowaga	Tonawanda Town
Lockport	Tonawanda City

The Parties' last contract for the years 1988 and 1989 was the result of an Interest Arbitration Award dated December 19, 1988.

By stipulation of the Parties, this Award does not apply to Civilian Dispatcher and Communication Technician Titles.

- A. 1 Premium Pay or Shift Compensation

Demand:

The present premium pay, afforded to patrol officers and officers assigned to Street Crimes Unit, to be extended to in-

clude all officers governed by the contract.

Position of the Parties:

Club feels all are doing difficult and dangerous work and so they should all receive it.

City, through the testimony of Inspector Galie, noted that the present provision was agreed to in 1985 to resolve a questionable rotating shift schedule for patrol officers and there is no need to expand those receiving it.

Discussion:

At present, only the officers of the uniformed patrol division, traffic division and street crimes unit, who are actively working a 4-2 non-rotating shift are paid shift compensation. The Panel recognized some merit in expanding this to all uniformed personnel.

Award:

The present paragraph under Sec. 5.11 SHIFT COMPENSATION be labeled a) and new paragraph b) be added as follows:

b) Uniformed officers not assigned to the 4-2 non-rotating shift will receive the value of the two hours pay, each payroll period, at straight time, not to exceed 52 hours per year.

A. 2 Sick Leave

Demand:

Present annual entitlement of one day per month to be increased to 1½ days per month and entitled to accumulate 250 days per year instead of the present 180 days per year.

Position of the Parties:

Club offered Union exhibit 1 which on page 3 indicates that Niagara Falls provides the least number of sick days of comparable police departments as well as the fewest days of accumulation.

City's rejoinder was that some officers use all they can get and giving them more will only increase the Department's manning and coverage problems.

Discussion:

To encourage the greatest number of police officers not to

use sick days unless they truly need to do so, the Panel will recommend that the cap on accumulation be removed. This is a benefit which none of the other comparable communities enjoy.

Award:

There be no change in the present number of sick days earned per year but their accumulation shall be unlimited.

A. 3 Disciplinary Action

Demand:

Add to contract: If the City desires to appoint a hearing officer, in a disciplinary proceeding, both the City and the officer who is in charge, must agree to the selection.

If they cannot agree thaneither can request a Supreme Court Justice to appoint a hearing officer. The decision of the hearing officer shall be final and binding, unless the parties mutually agree to modification.

Position of the Parties:

Club argued that this was not an outlandish request and would take a Section 75 hearing out of politics. Once a hearing is conducted by a true neutral, his or her decision should be binding and not optional on the part of the City as it is now.

Though it is true that an officer can seek review of the final City decision it is expensive and time consuming and the officer is out-of-work and without income awaiting the Review.

It noted that Buffalo has been following the desired procedure for the past twenty (20) years and they average one per week.

City's response was that Disciplinary actions are not often and the City does not want to lose control of their handling. The recent Disciplinary matter proves that employees have adequate protection.

The City desires to stay with the present statutory procedures which provide review rights to employees.

Discussion:

The purpose of a Disciplinary Hearing is to make a fair and reasonable determination of the guilt or innocence of the Patrolman of the charges brought against him. The Hearing Officer should be one the Parties trust to make that determination and this can be achieved by mutual selection. If that is not possible then the Hearing Officer's appointment should be made by a neutral agency such as Supreme Court, Public Employment Relations Board or American Arbitration Association. The Club has suggested a representative of the former.

Statutes provide patrolman the right to review said decision of the hearing officer or that of the City.

Award:

Add new provision to contract that hearing officers for Disciplinary Proceedings shall be mutually selected by the City and the officer charged and failing agreement, either party can request that a Supreme Court Justice appoint the Hearing Officer.

A. 4 Vision Care

Demand:

The City to pay the police club the sum of \$15,000 per year, with which the club will provide vision health care.

In the alternative, the City to provide vision care health insurance coverage.

Position of the Parties:

In support of its demand, the Club offered page 3 of its exhibit I in which several other departments offer vision care coverage.

City felt it was an unnecessary expense and one no other City unit enjoyed. City said it tried to keep health insurance coverage uniform for all City employees as it keeps costs down and is easier to administer.

Discussion:

It is a recognized fact that the costs of health insurance have been rising at a much greater rate than that of inflation

and everyone is striving to keep those costs down especially in today's deteriorating economy. It, would, therefore, seem inadvisable to add any new costly benefits at this time.

Award:

Club request be rejected.

A. 5 Overtime Distribution

Demand:

The City to advise, on a weekly basis, the names and hours of overtime worked by each officer.

Position of the Parties:

Club said, "This is the only way Club can police the contract and prevent abuse."

City replied that it was not adverse to posting weekly except for the Criminal Intelligence Unit for that might reveal what should be confidential information.

Award:

Beginning February 1, 1991, the Department will supply the Club on a weekly basis, the names and hours of overtime worked by each officer except for those in the Criminal Intelligence Unit. Said overtime shall also not include court time.

A. 6 Field Training Officer

Demand:

An officer, who is assigned as a field training officer, to be compensated two hours pay for each day so assigned.

Position of the Parties:

Club noted that said designations were controlled by the City and it was not unreasonable that when they were so designated that they be compensated for the extra responsibility.

City claimed that it was not adverse to giving them more and was providing additional compensation now by giving them overtime to complete their reports.

Discussion:

Though the designation of Field Training Officer may be

an honor it involves additional duties and responsibilities. The officer performing those duties and responsibilities is entitled to additional compensation during the time he is performing them, which is different from paying him for any over-time involved.

Award:

Add new provision: A police officer who has been assigned by the Superintendent, or his designee, to train a new officer will be compensated with two (2) additional hours of pay at his straight time rate for each day so assigned. The Field Training Officer will receive this additional compensation for the actual days spent training for so long as this program remains in effect.

A. 7 Shift Premium Pay

Demand:

To be increased from 35¢ per hour to 50¢ cents per hour.

Position of the Parties:

Club alleged that the present differential had not changed for years and the night shift in particular was far behind other departments. It offered page 4 of its exhibit 1 in support of this contention.

City countered that the 35¢ was pretty high as compared to other communities in Club's exhibit and shift differential was increased with last Public Arbitration Panel Award.

Discussion:

The Interest Arbitration Award dated December 19, 1988 increased the shift differential as of April 1, 1988 to thirty-five cents per hour for all hours worked between 4:00 PM and 8:00AM.

That 35¢ per hour compares very favorably with other comparable departments especially on the afternoon shift. Therefore, no increase is needed.

Award:

Club demand is denied.

A. 8 E Days

Demand:

Officers who are assigned to shifts, other than a 4-2 shift, are granted "E Days" or equalized time off so that the work year, of such officers, does not exceed that of officers assigned to the 4-2 shift.

E Days may be granted, on any day, provided the granting of leave will not seriously hamper the smooth operation of the Department.

Position of the Parties:

Club states that the contract Section 5.10 grants E Days but it wants a modification as to how it is granted to 5-2 work week people.- e.g. Detectives, Traffic-permitting them to take it on Friday, Saturday, Sunday and Monday as long as it doesn't hamper departmental operations.

City, through Inspector Galie, argued that when it was open ended those in Identification Bureau, Detectives and Criminal Investigation Unit were taking their E Days at the beginning or end of the week which is the busiest time for the Department. If it is midweek there is less impact. He noted at times Department does grant E Days on Saturday and/or Sundays.

Discussion:

Section 5.10 EQUALIZATION OF TIME-OFF of prior contract states: "Such TIME-OFF will be assigned at the discretion of the various unit commanders, pursuant to direction by the Superintendent of Police. Equalized time-off will not be allowed to accumulate beyond a calendar year."

Thus, the needs of the Department are protected - it will only grant when it doesn't adversely impact Department's manning requirements. Fact is, by Inspector Galie's own statement some are granted E Days on Saturday and Sundays. But, it shouldn't be just a select few but as many as the Department can accommodate.

Award:

E Days must be booked in the preceding month and will be granted on any day of the month providing the granting of leave will not seriously hamper the smooth operation of the Department.

A. 9 Pregnancy

Demand:

Pregnant officers be assigned to light duty and leave of absence, of up to 12 weeks for purpose of delivery and infant care.

Position of Parties:

Club maintained that there was a growing tendency to include such a provision in police contracts.

City seemed to have no objection to this demand for it too wanted to protect pregnant officers.

Discussion:

Everyone recognizes the dangers to a pregnant officer performing normal duties but City needs some assurance that an officer is pregnant.

Award:

When a police officer becomes pregnant while a member of the Department, and supplies the Department Head with a physician's certificate stating that she is pregnant the City agrees to provide said officer with a light duty assignment until said officer is ready to take her one (1) year maternity leave pursuant to City Administrative Order of the Chief Executive-Chapter 6 Fringe Benefits Section 6.9.

A. 10 Vacations

Demand:

Officers assigned to a 4-2 four-two work week to be permitted vacation leave consisting of four days at a time so that vacation leave will coincide with the work week.

Selection to continue based upon departmental seniority.

Officers assigned to the A, B, C, and D shifts may be permitted leave, one day at a time.

Vacation scheduling, for the A, B, C and D shifts will not include officers assigned to the Traffic Division. Traffic to be scheduled separately. Officers select vacations in blocks of two four-day weeks and rotate selection based upon seniority without the requirement that selections be alternated between "summer" and "winter" selections.

Officers be authorized to pass selection and to bank

vacation, in accordance with the present provisions.

Position of the Parties:

Club contended that when a 4-2 shift officer gets 5 vacation days off it doesn't coincide with her/his 4-2 shift schedule.

Also present restriction of having to make alternate selections between "summer" and "winter" vacations causes hardships and inconvenience.

Inspector Galie said he was not adverse to 4 day blocks for those on 4-2 shift but scheduling one day vacation days could be a scheduling nightmare.

He testified it had always been the practice to rotate vacations but in the last three years it lapsed because most took their vacations from May to October which severely impacted Department's ability to man the streets. It also didn't allow the taking of holiday days off, personal leave, compensatory time, etc. Department wants vacation taken from January through December and thus balance it out.

Discussion:

The Panel recognizes that the granting of vacation in one day blocks could be a scheduling nightmare but feels that as manning requirements are met, police officers should be able to take their vacations at any time of the year and not be restricted to alternating summer and winter.

Award:

The present requirement of alternating selections between "summer" and "winter" vacations be eliminated.

A. 11 Uniform Allowance

Demand:

Increase uniform allowance for communications technicians and radio dispatchers to the sum of \$500.

Position of the Parties:

Club said it was a question to be decided by the Panel, but it felt obligated to bargain for them. Club maintained that by sitting at the desk they will wear out the seat of their pants and elbows of the uniforms they are required to wear. Since they

can't shop for uniforms and their price is fixed if they need to buy, their present \$125 allowance doesn't cover costs.

City argued that P.E.R.B. provides for separate negotiations.

Discussion:

Uniform allowance for communication technicians and radio dispatchers is a subject outside the scope of Interest Arbitration Proceedings for police officers.

Award:

It should be addressed in separate negotiations.

B. 1 Union President Time

Demand:

Union Presidents will be afforded a reasonable amount of time to conduct union business. They must first coordinate with the Department Head, City Administrator, or their designee, prior to leaving their respective work area. Union President will make every effort to establish such procedures which would minimize interruption of their assigned City responsibilities. This may include, but not be limited to, specific call-in hours, emphasizing after hour meetings, and limiting attendance at "events" during work hours. This procedure is standard language governing Union Presidents of various City unions.

Position of the Parties:

City said it sought uniformity in this provision in all its contracts with City employees.

Club argued that the present clause has never created a problem so why change it.

Discussion:

City has not furnished supportive evidence demonstrating a need to revise this article.

Award:

City demand be denied, stay with present provision.

B. 2 Employee Evaluation

Demand:

The employer will maintain an employee evaluation program

annually, as is currently being conducted.

Position of the Parties:

City said it wanted to continually improve its force to make it the best possible.

Club argued that if the City was doing it now it was without the Club's consent. Fact is, Club doesn't know what it is, what it is they are to agree to and not grieve.

Discussion:

The Panel was provided with insufficient information to make any recommendation.

Award:

Parties discuss this further and try to reach an agreement.

C. 1 Contract Term

Both parties are in agreement that the Panel should Award a two (2) year agreement. Club would have it effective, retroactively, from January 1, 1990 to December 31, 1991. City would have it take effect upon rendering of the Arbitrator's Decision without retroactivity.

Discussion:

Section 209.4 (vi) of the New York Civil Service Law says that the Public Arbitration Panel shall prescribe a period that shall not exceed a period of two years from the termination date of any previous collective bargaining agreement.

A two year agreement is consistent with the previous contract. The present contract having expired at the end of 1989, it makes no sense to award a one-year contract that will have expired by the time this Award reaches the Parties. The last contract, also a Public Arbitration Panel Interest Arbitration Award was effective and retroactive as of the start of the two year contract period.

Award:

The contract will be for the two years commencing January 1, 1990 and ending December 31, 1991 and be retroactive to January 1, 1990, except where otherwise indicated in this Award.

C. 2 Health Insurance

Demand:

Club: The City to provide Blue Cross Select Plan 90-91; \$1 million major medical with \$50.00 deductible; prescription rider-\$2.00 co-pay; rider covering dependent children to age 23 years; City dental coverage as provided to other City workers.

City: Delete reference to the insurance carrier by name; which is applicable to all city employees.

Position of the Parties:

Club asked that its dental coverage be the same as that of other City employees.

City explained that in the past when insurance carrier was named in contract it made it difficult to bargain renewals with them and their service sometimes wasn't the best it could be.

Discussion:

City seemed agreeable to coverage requested by Club including City dental coverage but insisted it was to everyone's best interest that carrier not be named in contract.

As long as coverage is not changed and Club has a say in the selection of a new carrier, Club is protected.

Award:

City to provide Blue Cross Select Plan 90-91; \$1 million Major Medical with \$50.00 deductible, prescription rider-\$2.00 co-pay; Rider covering dependent children to age 23 years and City dental plan.

The medical/hospitalization insurance provided by Blue Cross will remain full force and effect until such time that the City and Union mutually agree to select another carrier.

In Section 10:02 of the Parties' prior collective bargaining agreement delete "Blue Cross/Blue Shield" in first paragraph and after surgical benefits insert "equal to the present coverage."

C. 3 Unused Sick Leave

Demand:

Club. The petitioner requests that officers who have been employed, for more than three years, will be compensated for such accumulated sick leave by payment to be computed by multiplying

the number of unused sick days times the daily rate of pay at the time of termination at the following rate:

<u>Number of Unused Days</u>	<u>Percent of Payment</u>
1 -49 days	25%
50 -99 days	50%
100 -or more	75%

City. Employees entitled to sick leave and who have been in the employ of the City for three (3) or more years, prior to termination of service shall be entitled to compensation equal to the following schedule of their unused sick leave credit upon their termination of service. Upon retirement any days between 1 and 99 will be paid at 20%, for any days over 99 and less than 199, those days will be paid at 40%; for any days over 199, those days will be paid at 60%.

<u>Step</u>	<u>Days</u>	<u>Will be paid at</u>
<u>Step 1</u>	1 - 99 days	- 20%
<u>Step 2</u>	100 - 199 days	- 40%
<u>Step 3</u>	200 - plus days	- 60%

Position of the Parties:

Club claimed that the buy-out of unused sick leave at retirement encouraged patrol officers not to use sick leave unless they must and so is good for the City.

City did not disagree except to the actual buy -out proposal i.e. days to be paid for and at what percentage. It sought to grant the same sick leave buy-back as granted to all other City employees.

Discussion:

Both proposals are an improvement on what the last contract provided and are additional costs to the City.

In today's troubled times and in view of other recommended contract improvement for patrol officers, this is not the time to go beyond City's offer of improvement.

Award:

The City's schedule should be adopted and implemented.

C. 4 Holidays

Demand:

Club-One additional holiday to be added to those presently provided. Martin Luther King, Jr. Day is suggested.

City- The current holiday schedule observance to be modified to include D. Martin Luther King, Jr's Birthday. Election Day will be deleted from the observed holiday schedule.

Position of the Parties:

Club claimed that in comparable communities the average number of holidays granted was 13.25 with almost everyone granting 13 or more holidays (Union ex. 1). It was only asking for 13 and was suggesting Martin Luther King, Jr. for it felt it would be a politically acceptable day. It could be Flag Day too. However, whatever actual day is granted was meaningless to police officers because they don't necessarily get those days off.

City responded that all City employees enjoy the same number of holidays and it offered to swap Martin Luther King, Jr. Day for Election Day which it has done with all other City unions.

Discussion:

Holidays, for most City employees, represents time off. However, for police officers, who do not necessarily get holidays off, holidays mean additional compensation.

All City contracts, including the police contract, presently provide twelve (12) holidays per year. Since holidays represent money rather than time off for police officers, the Panel will maintain uniformity in the number of holidays for all City contracts. It will, however, take into account in its comparisons and computations of comparable police departments the fact that the City of Niagara Falls only allots twelve (12) holidays to police officers in fashioning a just and reasonable determination of wages.

Award:

Club demand be denied.

C. 5 Salaries

Demand:

Club - Salary increase for each employee covered by the agreement as follows:

1. Effective January 1, 1990 - an increase of 10% above the 1989 salary.

2. Effective January 1, 1991 - an increase of 10% over the 1990 salary.

For police officers who have at least 15 years of service, an additional 5%.

City - 5% per year in each of two years.

Position of the Parties:

Club said that it was not unaware that increase granted in comparable municipalities ranged from 5½% to 7¼% (exhibit 1) and that the second 10% request may sound alarming, but even with the requested increases its members would still be below average. So, it is not an unrealistic request. Additionally, it pointed out that the City of Niagara Falls was unique for it had a large number that was constantly growing, of visitors (exhibit 11) because it was a border crossing from Canada. A large number of Canadians do most of their shopping in Niagara Falls. Thus, the number of people per police officer was very high.

City also has a lot of drug traffic at the border and a City drug problem (exhibit 11 - Buffalo News story 2/22/90 request for more community patrols).

The large number of Canadians shopping in Niagara Falls increases Sales Tax revenues for the City (exhibit 11 graph and Niagara Gazette story 11/6/90) and has encouraged the building of malls and shopping centers which means an expanding tax base and more revenue for the City. There is talk of building the largest shopping mall in the world in the City (exhibit 11 Buffalo News stories 10/7/90 and 12/1/90).

The City is an important industrial center because of the availability of low cost hydro-electric power and this brings in a lot of workers from surrounding communities adding to the police burden. City has high crime areas and traffic problems which the police must cope with (exhibit 11 Niagara Gazette stories of 8/3, 8/5 & 9/4/89).

Club said it knew City's position would be we know your behind but this is not the time to catch up. State has trouble, and is reducing monies it gives to municipalities and municipalities are also being hard pressed by additional costs. But, police officer costs are also going up (City C.P.I. exhibits 8,9 and 10 and exhibit 11) and things here in Niagara Falls are also high and going up. And, if the City didn't raise revenues (taxes) it was in effect asking the police officers to underwrite the City. Club recognizes that if City raises taxes, its members as residents will also pay these increases.

Club claimed that its exhibits 2 (1987) and 3 (1988) City of Niagara Falls General Obligation Bonds offerings showed that the City was in good financial shape and had the ability to pay the increases it sought. There were no bonds in 1989 and 1990 so City probably had no need to borrow. Fact is, "City was not required to borrow money, for operating purposes in 1988, 1989 or 1990" (exhibit 1).

Club said that the City has not exceeded its 2% tax limit and enjoys a significant constitutional tax margin. City was proposing a tax rate increase for the 1991 proposed budget that was less than the inflation rate (exhibit 11 Buffalo News 11/2/90 story "36-cent Tax Rate Hike Sought in Falls). That the same proposed budget contains a 18.75% pay raise for City Council members (exhibit 11 Buffalo News story of 11/6/90).

Club maintained that there has been a budget surplus each year from 1986 to present time and submitted exhibit 5 a news story from the 11/15/90 issue of the Niagara Gazette reporting on the Niagara Falls City Council budget workshop dispute as to whether there was a \$4.5 million or \$6.9 million budget surplus. Additionally, it submitted exhibit 11 Niagara Gazette story of 1/1/90 discussing audit surplus for 1988.

Club also pointed to the City's savings on the contribution rate to the New York State Policemen's Retirement System (exhibit 7) as a further indication of the City's ability to pay salary increase Contributions for Tier 1 & 2 employees have been drastically reduced since 1978 (exhibit 1).

Club called attention to the fact that the City received reimbursement from the federal government for providing security to housing units. Each officer receives 2 days per month or 24 days per year. This lessens City's financial burden.

Club noted that Niagara Falls likes younger police officers- 20 year retirement is the norm in this area. But, they want older experienced officers to teach these younger men and so should be granting an additional 5% to those with at least 15 years of service.

City responded that any increase granted police officers also automatically increases their longevity pay and this must be taken into account. This is especially so, when the City already provides the best longevity at 15 years and at 20 years it is still better.

City maintained that its offer was in line with those of other surrounding communities and what was granted other City unions. It noted that the last increase was over 10% with the 5½% increase, \$50. increase in each longevity step, increase in shift differential and uniform allowances.

City maintained that its finances were being squeezed by increased costs and less State aid as well as a smaller percentage of Sales tax - 16% vs 19%. These are creating a cash flow problem. Additionally, City contended that its tax base contrary to what Club claimed was decreasing (State exhibit 4), and when bonding the City puts forth the most optimistic picture.

Furthermore, City pointed out that like the rest of the country City's manufacturing sector has been contracting and higher paying manufacturing jobs have been replaced with lower paying service sector jobs (State exhibit 3).

It noted that any savings on retirement contributions were partly spent on wages and these monies are not recouped in following year.

City disputed Club's allegation that its police officers do not compare favorably with neighboring municipalities. It compared Niagara's 1989 salary including steps, longevity, uniform allowances holiday pay, shift allowances and shift differential with other communities (City exhibit 1) and said the City of Niagara Falls paid more than Buffalo, Lockport, North Tonawanda and Tonawanda in 1989.

It also claimed that if the Police received the same increase as other City unions from 1986 through 1991, the Police Club would and has fared better than any City union other than police senior officers.

City said that it was some few officers that are paid from sources other than the City.

Discussion:

The Panel's objective is to arrive at an equitable and reasonable Award which logically considers the statutory criteria previously cited in this Award.

In arriving at its wage adjustment the Panel took notice that the Cost of Living has moderated and is expected to be lower in 1991 than it was in 1990.

It is evident from the oral testimony and written exhibits submitted to the Panel in this impasse that the City wants to manage its fiscal affairs in a prudent manner and maintain some semblance of equality of treatment of all its City employees. In evaluating the fiscal affairs of the City, based on the information submitted by the Parties, we find that the City has the "ability to pay" a wage increase that is reasonable and in accordance with other criteria of law previously cited.

Absent a severe "ability to pay" problem, in most interest arbitrations the "comparability factor" seems to emerge as the first among equals.

The salary objective sought by the Club in the instant case is to improve their relatively poor position vis a vis the agreed upon comparable communities. The City, however, maintains that when salary comparisons take into account all aspects of what constitutes "guaranteed take home salary", police officers in Niagara Falls compare favorably with the other agreed upon municipalities. The inability of the Parties to determine "guaranteed take home salaries" for those comparable communities is one of the reasons for the submission of this dispute to a Public Arbitration Panel for determination.

The Panel recognizes that whatever percentage wage increase it awards will have a wide ranging effect, i.e. it will impact longevity, holiday pay, shift allowances (Sec 6.13 of their contract), etc.

Chart 1 on the following page is a comparison of Guaranteed 1989 Salary Comparisons for 15 Year Patrolmen in the various municipalities that the Panel agreed to include. The comparison includes base salary, longevity, uniform allowances, holiday pay, shift allowances and briefing time.

GUARANTEED SALARY COMPARISONS FOR 15 YEAR PATROLMEN

Municipality	Wages			Longevity	Uniform Allowances	Shift Allowances	Briefing Time	Holiday Pay	TOTAL
	1989	1990	1991						
Town of Amherst	30,451 1/1 5%	31,974 1/1	32,933 1/1 3%	89-1000 90-1,100	Town provide + \$ 675 maintenance		89-1,464 90-1,531	89-2,460 90-2573	36,050
City of Buffalo	30,990 7/1			89-700	City provides + \$100 maintenance		89-2,898	included in salary	34,688
Town of Cheektowaga	33,573 1/1 5½%	35,414 1/1		89-425 90-550	89-600 90-650			89-1,808 90-1,907	36,406
City of Lockport	28,866 1/1 7%	30,887 1/1	33,049 1/1 7%	89-800 90-850 91-950	89-650 90-700 91-750			89-1943	32,259
City of North Tonawanda	28,427 1/1 6¼%	30,204 1/1		89-600 90-600	City supplies + \$500 plain clothes		89-1,184	89-1,706 90-1,812	32,417
Town of West Seneca	31,919 1/1 5½%	33,675 1/1	35,577 1/1 5½%	89-750 90-800 91-850	89-650 90-700 91-775			89-1,596 90-1,684 91-1,779	34,915
Town of Tonawanda	30,534 1/1 5½%	32,213 1/1		89-800 90-800	Town supplies + 89-600 90-650 cleaning			89-2,290 90-2,407	34,224
City of Tonawanda	27,963 4/1 7½%	30,078 4/1		89-675 90-675	89-400 90-400	89-250 90-250	89-600 90-600	89-1,398	31,286
City of Niagara Falls	27,631 1/1			89-956 90-same % increase as salary	89-500	89-741		89-2,053	31,881

The Panel is aware that the City of Niagara Falls was the only municipality cited in chart 1 whose longevity was not a specified sum, but increased each year the same percentage as salaries.

An examination of chart 1 shows that the City of Niagara Falls with a total of \$31,881 for 1989, is only ahead of the City of Tonawanda which is at \$31,286. It is, however, not far behind the City of Lockport at \$32,259 and the City of North Tonawanda \$32,417.

The City's offer of a five (5) percent increase in each of two (2) years, would put the City dead last in 1990 in the municipalities cited in chart 1. Club's proposed ten (10) percent increase in each of two (2) years, would substantially exceed increases granted by the other comparable municipalities in chart 1 and would not be in the "interests and welfare of the public and financial ability of the public employer to pay." Additionally, a ten (10) percent increase in each of two (2) years is unrealistic in today's economic and fiscal climate.

After considerable discussion and in consideration of what it entails to be a police officer in the City of Niagara Falls as compared to the other communities in chart 1, the Panel unanimously considered a seven (7) percent increase for 1990 and a six and three-quarters (6-3/4) percent increase for 1991. These increases will improve the Club's guaranteed salary vis a vis the other municipalities cited in chart 1. The seven (7) percent increase exceeds the seven and $\frac{1}{2}$ % increase agreed to in the City of Tonawanda because the City of Niagara Falls increase is effective January 1, 1990 whereas the City of Tonawanda's is effective as of April 1, 1990. Additionally, the increase in the City of Niagara Falls affects more contract provisions than it does in the City of Tonawanda. See the following and Chart 1:

<u>City of Niagara Falls</u>		<u>City of Tonawanda</u>	
<u>1989</u>	<u>1990</u>	<u>1989</u>	<u>1990</u>
27,631 x 7%	29,565	27,963 x 7½%	30,078
956 x 7%	1,023	675	675
500	500	400	400
2,053 x 7%	2,197	1,398 x 7½%	1,503
741 x 7%	793	250	250
<u>31,881</u>	<u>34,078</u>	<u>600</u>	<u>600</u>
		31,286	33,506

1989 difference 31,881-31,286=595 } This does not take into
 1990 difference 34,078-33,506=572 } account that the City of
 Tonawanda's increase is not
 effective until 4/1/90.

It should be noted that the 7% increase exceeds all other increases granted in the comparable communities other than the aforementioned City of Tonawanda and the City of Lockport (see chart 1) which also granted a 7% increase for 1990. However, in the City of Lockport the only other contract provision it affects is holidays, so the City of Niagara will gain on it in total guaranteed dollars even though the same percentage salary increase is granted.

Only three municipalities were known to have settled at the time of the last executive session (chart 1) and the proposed 6 ¾% increase exceeds two (2) of the three (3) and will most likely exceed most of the settlements agreed to for 1991 considering today's economic climate of budget deficits.

The proposed salary increases exceed the recent and anticipated increases in the Cost-of-Living and, therefore, the Club members will and should enjoy a real increase in income.

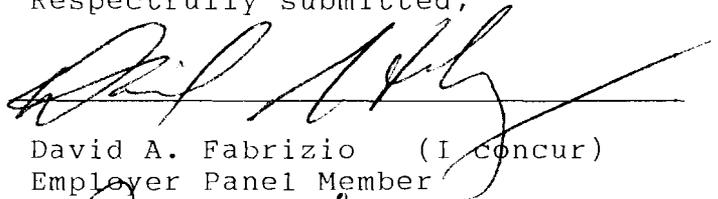
Keeping all of the foregoing in mind, the Panel feels its proposed wage adjustment is in conformance with the statutory criteria of Section 209 (4) of the New York State Civil Service Law.

Award:

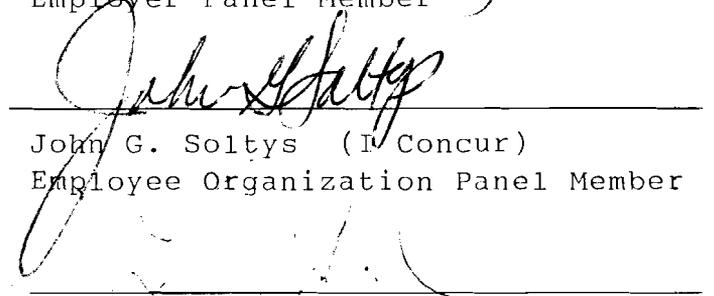
1. Effective January 1, 1990, salaries be increased seven (7) % above those in effect in 1989.
2. Effective January 1, 1991, salaries be increased six and three quarters (6 ³/₄)percent above those in effect in 1990.

Dated: February 1, 1991.

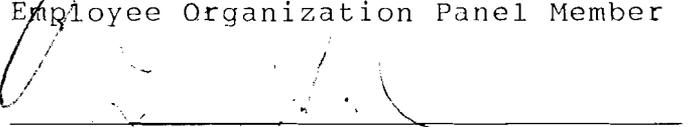
Respectfully submitted,



David A. Fabrizio (I Concur)
Employer Panel Member



John G. Soltys (I Concur)
Employee Organization Panel Member



I. Leonard Seiler, Chairman

STATE OF NEW YORK }
COUNTY OF NIAGARA } ss:

On this *4th* day of February, 1991, before me personally came and appeared David A. Fabrizio 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.

Peggy Tamborello

STATE OF NEW YORK }
COUNTY OF NIAGARA } ss:

PEGGY TAMBORELLO
COMMISSIONER OF DEEDS
In and for the City of Niagara Falls, N. Y.
My Commission Expires April 1, 1992 *6/30/92*

On this *8th* day of February, 1991, before me personally came and appeared John G. Soltys 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.

Peggy L. Tamborello

STATE OF NEW JERSEY }
COUNTY OF HUDSON } ss:

PEGGY TAMBORELLO
COMMISSIONER OF DEEDS
In and for the City of Niagara Falls, N. Y.
My Commission Expires April 1, 1992 *6/30/92*

On this first day of February, 1991, before me personally came and appeared I. Leonard Seiler 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.

Roberta L. Watson

ROBERTA L. WATSON
Notary Public of New Jersey
My Commission Expires August 2nd 1991

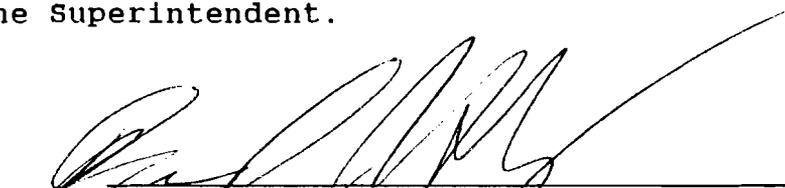
ARBITRATION AWARD ADDENDUM
CASE NO. IA-90-03, M-89-365

Page (4)

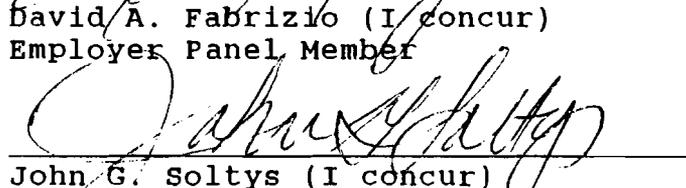
A. 1 Premium Pay or Shift Compensation

Uniformed officers not assigned to the 4-2 non-rotating shift will receive the value of the two (2) hours pay each payroll at straight time rate not to exceed 52 hours per year. That this provision will be extended to those police officers assigned to the Youth Aid Division which should not be construed as part of CID or CIU. Rather, they are uniformed officers assigned by the Superintendent of Police and may be directed to wear uniforms or plain clothes as required by their mission and the Superintendent.

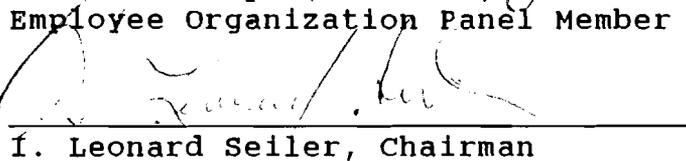
Dated: February 8, 1991.



David A. Fabrizio (I concur)
Employer Panel Member



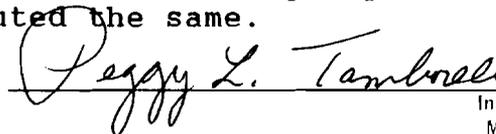
John G. Soltys (I concur)
Employee Organization Panel Member



I. Leonard Seiler, Chairman

STATE OF NEW YORK)
 ss:
COUNTY OF NIAGARA)

On this 8th day of February, 1991, before me personally came and appeared David A. Fabrizio 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.



PEGGY TAMBORELLI
COMMISSIONER OF DEEDS
In and for the City of Niagara Falls.
My Commission Expires April 1, 1991
6/30/91

STATE OF NEW YORK)

SS:

COUNTY OF NIAGARA)

On this 8th day of February, 1991, before me personally came and appeared John G. Soltys 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.

Peggy L Tamborello

PEGGY TAMBORELLO
COMMISSIONER OF DEEDS
In and for the City of Niagara Falls, N. Y.
My Commission Expires ~~April 1, 1992~~ 6/30/92

STATE OF NEW YORK)

SS:

COUNTY OF HUDSON)

On this 25th day of February, 1991, before me personally came and appeared I. Leonard Seiler 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.

Roberta L. Watson

ROBERTA L. WATSON
Notary Public of New Jersey
My Commission Expires August 2nd 1991