

**STATE OF NEW YORK PUBLIC EMPLOYMENT
RELATIONS BOARD
INTEREST ARBITRATION PANEL**

**In the Matter of the Compulsory Interest
Arbitration between**

OPINION AND AWARD

**FULTON FIREFIGHTERS ASSOCIATION, LOCAL
3063, IAFF, AFL-CIO,**

Union

-and-

THE CITY OF FULTON,

Employer.

**PERB CASE NO: IA95-040;
M95-304**

**NYS PUBLIC EMPLOYMENT RELATIONS BOARD
RECEIVED**

JUL 21 1997

CONCILIATION

**FINAL AND BINDING OPINION AND AWARD OF TRIPARTITE ARBITRATION
PANEL**

The Public Arbitration Panel Members are:

**PUBLIC PANEL MEMBER AND CHAIRMAN: Thomas N. Rinaldo, Esq.
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On April 23, 1996, Pauline R. Kinsella, Chairperson of the New York State Public Employment Relations Board, designated the undersigned individuals as the Public Arbitration Panel pursuant to the provisions of the Civil Service Law, Section 209.4. The Panel is required by Section 209.4 to consider the following statutory guidelines:

- (v) The public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the panel shall specify the basis for its findings, taking into consideration, in addition to any other relevant factors the following:
- 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.
- (vi) The determination of the public arbitration panel shall be final and binding upon the parties for the period prescribed by the panel, but in no event shall such period exceed two years from the termination date of any previous collective bargaining agreement or if there is no previous collective bargaining agreement then for a period not to exceed two years from the date of determination by the panel. Such determination shall not be subject to the approval of any local legislative body or other municipal authority.

BACKGROUND

The City of Fulton (hereinafter referred to as the "City") is located in Oswego County, and has a population of 12,929. The Fulton Firefighters Association Local 3063, International Association of Firefighters (hereinafter referred to as the "Association"), affiliated with the New York State Firefighters Association and the AFL-

CIO, represents a bargaining unit consisting of approximately 37 full-time firefighters. The base salary for a first year firefighter ranges from a 1993 minimum of \$21,065 to a maximum of \$31,086. The total payroll for the unit amounts to \$1,214,968.

In the Fall of 1993, the City and the Association entered into negotiations for a successor agreement to their collectively negotiated contract that covered a three year term beginning January 1, 1991 and expiring December 31, 1993.

Because the parties reached an impasse on all issues, on November 29, 1995, the Association filed a Declaration of Impasse with the Public Employment Relations Board [hereinafter referred to as "PERB"]. On December 7, 1995, PERB appointed a mediator to assist the parties in reaching a settlement.

On March 1, 1996, the Association petitioned for the appointment of a compulsory interest arbitration panel. Thomas N. Rinaldo, Esq., was designated to serve as the Public Member and Chairman of a Tripartite Arbitration Panel through the procedures of the New York State Public Employment Relations Board.

On October 30, 1996, a hearing in this matter was held in Fulton, New York. Subsequent to the October 30, 1996, hearing, the panel met in an executive session on two separate occasions. Because there was a possibility that a consensus award could be achieved covering a period beyond the mandated two years provided for under the Taylor Law, the parties agreed to explore the possibility of a three (3) years or longer consent award. On May 1st, 1997, correspondence was received from Mr. Blitman indicating that a settlement was not attainable and requested that an award be issued.

ISSUES IN DISPUTE

ASSOCIATION

The Association presented the following proposals for the panel's consideration:

1. **Duration of Award**

Two years. All items to be retroactive to 1/1/94 unless otherwise specified or agreed to by both parties.

2. **Article 13 Uniforms & Equipment Section 13.4[a]**

Reimbursement amount for 1994 and every year thereafter to be increased to \$600.00.

Delete portions and add - any unused amounts will be carried over to future years, with any unused allowance at time of retirement to be paid to each bargaining unit employee.

3. **Article 14.2[a] Compensatory Time, to read as follows:**

An Employee who works on a holiday, specified in Section 14.3, shall be entitled to an equal number of hours additional pay at the employee's current hourly rate or equal time off for the actual hours worked on the holiday at the option of the employee. For the purposes of this section compensatory time shall be counted as time worked from 0001 hours of the day of the holiday to 0800 hours the date after the holiday.

4. **Add new Section 14.4 to read as follows:**

The City will recognize the hours of 0800-2400 on Christmas and New Years Eve of each year as a holiday for every employee who works during those hours. [Dec. 24 & 31].

5. Article 17 Direct Compensation

Article 17.1 Salary Schedule

For 1st year - increase salary by 3%

For 2nd year - increase salary by 6%

Delete Sections 17.1, 17.2, and 17.3, and renumber Sections 17.4 and 17.5 as 17.2 and 17.3. Sections 17.2 and 17.3 shall read as follows:

Section 17.2 rank differential

For 1st year - F/ptr to Lt. - increase by \$200 each year for a total of \$600

For 2nd year - Lt. to Capt. - increase by \$600 each year for a total of

\$1,200

Section 17.3 increments

Increments apply after application of applicable percentage increases.

Effective 1/1/94

increase of:

8 years \$550.00

12 years \$550.00

15 years \$1,100.00

16 years \$1,100.00

17 years \$1,100.00

Effective 1/1/95

increase of:

5 years \$250.00

8 years \$300.00

12 years \$400.00

15 years \$500.00

6. Article 20 New York State Retirement

Section 20.2 Retirement incentive, increases the stated amount per year of service as follows:

1/1/94 to \$175.00 per year of service

1/1/95 to \$200.00 per year of service

7. Article 21 Medical, Hospital and related benefits

a. Delete Section 21.5 (employee contribution) per section 21.6

b. Section 21.2(e) change to read as follows:

At age 65 City will retain coverage as a Medicare supplement for the retiree and their spouse for their natural life.

8. Article 22 Life Insurance

Increase amount of life insurance to \$50,000.00

9. New Article - Safety/Hazard Pay

In the event that less than the below listed staffing level is maintained, each bargaining unit employee on duty during such lesser staffing levels shall receive a lump sum payment of \$200.00 per shift, in the employee's weekly pay, for each bargaining unit employee that does not work according to the below listed staffing level.

Staff of 37 employees consisting of:

1 Assistant Chief
4 Captains
4 Lieutenants
28 Firefighters

and, a staff of level of eight (8) bargaining unit employees on duty during all shifts.

10. New Article Temporary Employees

Any employee working as a Firefighter or in training will be covered by this agreement and receive full benefits of the employees of this Department.

11. Article 24 Educational Benefits

Section 24.1 delete the last line of this section.

12. Article 12 Attendance at Meetings

Add new Section 12.3 to read as follows:

12.3 Negotiations

For the purpose of negotiations, members of the negotiating committee representing the Fulton Firefighters shall be granted time off with pay.

13. Article 15 Vacation

Section 15.2 schedule change as follows:

after 1 year of service 2 weeks
after 5 years of service 3 weeks
after 10 years of service 4 weeks
after 15 years of service 5 weeks

14. Article 9.2

The City will pay for promotional tests.

CITY'S PROPOSALS

City Proposal No. 1: Seeks to amend Article 4, "Grievance Procedure", at Section 4.2(b) [p.2] to correct the reference to "Article 75: [housekeeping].

City Proposal No. 2: Seeks to amend Article 4, "Grievance Procedure", at section 4.5(c) [p.3] by streamlining the process as to how the parties get to arbitration [housekeeping].

City Proposal No. 3: Seeks to amend Article 4, "Grievance Procedure" at Section 4.6(a)[p.3] as it relates to the streamlining of the arbitration process [housekeeping].

City Proposal No. 4: Seeks to amend Article 4, "Grievance Procedure", at Section 4.6(f)(1) [p.4] to clarify that only the cost of an arbitrator is shared equally [housekeeping].

City Proposal No. 5: Seeks to amend Article 4, "Grievance Procedure" at Section 4.7(a) [p.4] to require any extensions of time to be in writing [housekeeping].

City Proposal No. 6: Seeks to amend Article 5, "No Discrimination" at Sections 5.1 and 5.2 [p.5] by adding language to clarify that "disability" discrimination is also prohibited [housekeeping].

City Proposal No. 9: Seeks to amend Article 13 at Section 13.4(a)[p.9] to clarify that only those who plan to retire in the coming year will receive prorated uniform allowance [housekeeping].

City Proposal No. 10: Seeks to amend Article 16, "Sick Leave" [p.11] by implementing a comprehensive, comparable sick leave policy and procedure.

City Proposal No. 11: Seeks to amend Article 18, "Compensatory Time" at Section 18.1 [p.14] so that comp time/overtime costs can be contained.

City Proposal No. 12: Seeks to amend Article 18, at Section 18.2 [p.14] so that there can be no use of comp time if it causes overtime.

City Proposal No. 13: Seeks to amend Article 18, "Kelly Days", at Section 18.2(b)(p.14), to stop the illegal practice of paying a Kelly Day at time and one-half rate.

City Proposal No. 14: Seeks to amend Article 19 at Section 19.2 [p.15] to ensure that comp time is not granted if it will cause overtime.

City Proposal No. 15: Seeks to amend Article 19, "Required Travel", at Section 19.3(p.15), by deleting the current language which is duplicative of Section 11.2 [housekeeping].

City Proposal No. 16: Seeks to amend Article 20, "Retirement Incentive", at Section 20.2, [p.16] by narrowing the window of opportunity within which to obtain the incentive.

City Proposal No. 17, 18 & 19: Seeks to amend Article 21 at Sections 21.1, 21.2 and 21.5, respectively [pp. 16-18] by modifying current health insurance language toward cost containment.

City Proposal No. 20: Seeks to amend Article 21, "Reopener", at section 21.6 [p.18] as violative of the spirit of the Taylor Law that each union has the right and responsibility to negotiate the best deal for its own members.

City Proposal No. 21: Seeks to amend Article 26, "Minimum Shifts" [p.20] by deleting the manning requirements detailed in the Agreement.

City Proposal No. 23: Seeks to include a General Municipal Law §207-a Policy and Procedure in any successor agreement.

**THE ASSOCIATION'S RATIONALE AND
STATISTICAL DATA TO SUPPORT THEIR PROPOSALS.**

It is the Association's contention that in considering wages, hours, and conditions of employment, with wages, hours and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions, that this panel should grant all the requested economic relief proposed by the Association. It is the Association's position that the City has the financial ability to fund their proposals.

According to the Association, the City's actual sales and property tax revenues have risen. For example, the City's sales tax revenues increased between 1993 and 1994, from \$3,290,300 to \$3,527,500, an increase of \$237,200 or 7.2%. With respect to real estate tax revenues, the real property taxes and assessments rose \$216,800 or 5.4% from \$3,993,100 in 1993 to \$4,209,900 in 1994.

The Association contends that in addition to the above revenue figures, there are other indications of Fulton's present economic vitality and its potential for future economic growth and stability. For example, the City of Fulton was the site of an expansion project by the Sealright Packing Company. This expansion, according to the Association, created 125 new jobs.

In addition to sales tax and real property tax assessments, the City has other avenues available for raising revenue, if needed, to pay the Association's demands. First, with respect to real property taxes, the City of Fulton has a state constitutional tax limit of \$5,048,000 for fiscal year 1994. When exclusions and levies are deducted from this limit, the City of Fulton had a tax margin of \$912,000, which is 18% of its state constitutional tax limit. This margin was 9.3% of the City's 1994 budgeted appropriations. Second, the City, if it were necessary, could borrow to pay any increases. As of December 31, 1994, the City had a debt limit of \$18,984,000 and had only exhausted 78% of this limit. Therefore, the City has ample financial resources with which to pay the Association's demands.

The Association, in making a comparison of wages, hours, and conditions of employment, with employees performing similar services, has selected fire departments in cities with a population between approximately 12,000 and 67,000. According to the Association, on the basis of population alone, these cities are comparable and should be considered by this panel in assessing the Association's proposals.

The Association submitted a comparable salary schedule to demonstrate that the City will pay its Entry Level Firefighters \$4,742 less than the average salary which is provided to entry level firefighters in comparable cities for 1994, and \$3,928 less for 1995. Percentage-wise, the salary to be paid to Entry Level Firefighters employed by the City will be 17.5% less than the average salary paid to Entry Level Firefighters in comparable communities in 1994 and 14.2% less in 1995.

The salary provided to Top-Step Firefighters will be \$1,489 less than the average salary paid to top-step firefighters in comparable communities in 1994 and \$5,722 less in 1995. The top-step firefighter employed by the City will earn 4.4% less (on average) than the top-step firefighter employed in comparable cities in 1994 and 2% less in 1995.

With respect to Captains, the entry level Captain employed by the City will earn \$951 less, or 2.4% less, than an entry level Captain employed in a comparable city for 1994. For 1995, the entry level Captain employed by the City will earn \$4,175 or 17.5% more.

The Association argues that the salaries paid to the Association members employed by the City should be comparable to the salaries paid to the firefighters employed by comparable communities for the following reasons:

- a. The firefighting hazards faced by the Fulton Firefighters are identical to the firefighting hazards faced by the firefighters employed by comparable communities.
- b. The qualifications, job training, and skills possessed by the Fulton Firefighters are identical to the qualifications, job training, and skills possessed by the firefighters employed by comparable communities.
- c. The functions performed by the Fulton Firefighters are identical to the functions performed by the firefighters employed by comparable communities.
- d. The cost of living in the City is substantively similar to the cost of living in the comparable communities.
- e. The City's financial condition is not weaker than the financial condition of comparable communities.

The Association requests that this panel's award should strive to maintain parity with the Fulton Police Department and submits the following comparisons for this panel's consideration:

TABLE VII

	1991	1992	1993	1994
Salary:				
Entry Level/	\$23,347	24,768	26,276	26,276
Top-Step Patrolmen	28,750	30,501	32,358	32,358
		[+ 6%]	[+ 6%]	
Entry Level/	\$19,277	20,450	21,695	
Top-Step Firefighter	\$27,620	29,302	31,086	
		[+ 6%]	[+ 6%]	

Uniform Allowance:

Police	\$ 525	525	525	Paid in full
Fire	\$ 300	300	300	

Longevity:

Police	5-\$125	5-\$225	5-\$225
	8-\$200	8-\$325	8-\$325
	12-\$300	12-\$425	12-\$425
	15-\$400	15-\$525	15-\$1,100
	17-\$500	17-\$625	17-\$1,100
Fire	5-\$0	5-\$0	
	8-\$200	8-\$200	
	12-\$400	12-\$400	
	15-\$600	15-\$600	
	17-\$150	17-\$800	17-\$800

Rank Differential:

Police	Lt. \$100/yr	Inv.\$200	Inv.\$200
	Cpt. \$100/yr	Sgt.\$400	Sgt. \$400
	Acting Cpt. \$100/yr	Lt. \$600	Lt. \$600
		Cpt. \$800	Cpt. \$800
Fire	Lt. \$100	Lt. \$400	Lt. \$400
	Cpt. \$100	Cpt. \$600	Cpt. \$600
	Acting Cpt. \$100	Cpt. to AC \$800	AC \$800

According to the Association, the above schedule proves that the City has treated police and firefighters employed by the City of Fulton, for the period 1991 through 1993, similar.

Lastly the Association argues that the hazards of firefighting are uncontroverted: Risk of injury, exposure to communicable disease, exposure to heat, exposure to noise, exposure to stress-producing situations, toxic effects of fire and smoke, are just some of the hazards that a firefighter is exposed to.

**THE CITY'S RESPONSE TO THE
ASSOCIATION'S STATISTICAL SUPPORT
FOR SALARY INCREASES AND OTHER ECONOMIC BENEFITS**

The City has not claimed an inability to pay that which the Union seeks. It is the City's position in order to give the Union what it demands, there must be a quid-pro-quo. The City is seeking certain givebacks in order to fund any wage or fringe benefit increases.

The City points out that the data submitted by the Association to support their proposals is misleading.

For example, the Union notes that in 1982, the City employed 41 firefighters, while in 1996, there were only 37. The conclusion that the fire department does "more work with fewer men" is misleading when it is noted that in 1980, the City of Fulton had a population of 13,312. That dropped to 12,929 by 1990.

The Union is correct in noting that the City saw a rise in sales tax revenues from 1993 to 1994. This, however, does not provide an accurate overall assessment of the trend in sales tax revenue. For example, from 1990 to 1991, sales tax revenues rose by \$142,235 but from 1991 to 1992, the City saw a drop in revenues of \$12,770, with another drop in 1993 by \$113,767.

The City also counters the Association's argument that the City of Fulton has the best ratio of firefighters per 1,000 people by pointing out that this ratio is unnecessary considering the fact that several of the manufacturing operations believed by the Union to be located in the City of Fulton, are, in fact, located in the Town of Volney, which has a volunteer fire department.

The City responds to the Association's arguments regarding the stresses of firefighting by pointing out that a Fulton firefighter works one 24-hour shift, followed by three days off.

The City argues that this arbitration panel should not put the City in a position of borrowing money to fund an interest arbitration award unless there are "compelling circumstances."

Lastly, the City contends that if this unit is seeking parity with the police department, the City would agree to a wage package similar to that received by the Fulton Police, (1994: 0%; 1995: 6%; 1996: 4%), provided the Association agrees to certain give-backs.

The City offered for my comparison of salaries the Cities of Cortland, Oswego, Ogdensburg and the Village of Massena, to demonstrate that a City of Fulton firefighter received a salary which, on average, was quite comparable to, if not higher than, the top rate salary of similarly situated employees.

PANEL'S ANALYSIS

In rendering its interest arbitration award with respect to the negotiated impasse between the parties, this panel is charged by Section 209.4 to compare, among other criteria, the wages, hours, and conditions of employment to the employee involved in this 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.

While this panel has carefully considered the above referenced comparable wage data submitted by the parties to support their respective position, we do not believe that comparability alone should be the determining factor for our arriving at a just determination in this case.

Nor do we believe that a comparison of wages and benefits of other public sector employees or private sector settlements is a proper yardstick to measure the equities of the parties' proposals. The physical and mental qualifications necessary to perform all of the responsibilities of a firefighter, the considerable training involved, the exposure to safety and health hazards and the markedly increased work loads occasioned in part by fiscal restraints, set the unique terms and conditions of employment of a firefighter apart from other public and private sector employees.

Instead, this panel will rely on the City's historical endeavor to maintain parity between the Fire Department and the Police Department to arrive at a fair and reasonable settlement.

In past negotiations, there has been similar treatment of police and firefighters during the period 1991 to 1993. For instance, the firefighters and the police both received the same percentage raises in 1991, 1992, and 1993; they both received no increases in their uniform allowance, and they both received similar increases in their longevity and rank differentials. In 1994, the police negotiated a three-year agreement which provided for a wage freeze in 1994, a 6% increase in 1995, and a 4% increase in 1996. However, this panel is limited by law to a two year settlement.

The City has not denied that parity has been a traditional standard in police and fire wage setting and is willing to accept a similar settlement with respect to salary

increases and other economic benefits with this unit provided the unit is willing to accept many of the City's proposals which will ultimately result in considerable savings to the City.

DURATION AND RETROACTIVITY OF THE AWARD

The Taylor Law [Civil Service Law 209.4(c)(vi)] limits the duration of an interest arbitration award to a maximum of two years. Because the City and the Association did not dispute that a two year award would be appropriate, it is this panel's decision to award a two year contract.

The Association is requesting this panel to grant all salary increases and increased benefits retroactive to January 1, 1994.

The City concedes that certain issues may be awarded retroactively but this is contingent on concessions made by the Association.

The panel is not prepared to grant retroactive relief on all issues but rather will decide on the retroactivity of each issue separately.

UNIFORM ALLOWANCE

The Association has demanded that the uniform allowance for 1994 and every year thereafter be increased to \$600.00. The Association has also demanded that any unused credit should be carried over to future years with any unused allowance paid to each bargaining unit employee at the time of retirement. According to the Association, the total cost of this increase would be the minimum annual sum of

\$11,100.00 and will make up for the discrepancy and pay that will remain between benefits received by the Fulton Firefighters and the Fulton Police Department.

The City argues that the total base pay for the Fulton Firefighter Unit is \$1,214,968. One percent of this payroll is \$12,150. The "minimal" amount sought by the Association the City contends is only a bit shy of 1% of payroll.

As for the right to carry over any allowance not spent by year's end, the City argues that such a request flies in the "face of arguing for any increase." The City contends that if an employee has money left over, how can one logically conclude that the employee needs more money, assuming the money is spent on clothing in the first instance.

AWARD

This panel is persuaded that there should be an adjustment in the current \$300.00 uniform allowance.

The average reimbursement to a firefighter for the cost of uniforms in comparable communities selected by the Association is \$427. However, more significant to this panel's finding that an adjustment is warranted is that the City had determined in their negotiations with the Police that an adjustment should be made to a police officer's uniform reimbursement and increased their allowance to \$575 effective January 1, 1994.

The cost of a firefighter's uniform and equipment can be no less than that amount determined by the City to be a reasonable reimbursement for the cost of a police officer's uniform and equipment.

We are, therefore, awarding an equal allowance of \$575 to this unit to be effective January 1, 1994. This panel is not awarding the right of a bargaining unit member to carry over any unused allowance.

COMPENSATORY TIME PROVISIONS

Under Article 14 of the expired agreement, firefighters working on a legal holiday shall be entitled to equal time off within one year. The Association is requesting that Article XIV be modified to grant an employee who works on a holiday an equal number of hours additional pay at the employee's current hourly rate or equal time off for the actual hours worked on the holiday at the option of the employee.

The Association contends that their proposal is the same benefit that is currently enjoyed by the Fulton Police Department.

The City contends that there is absolutely no justification for this proposal arguing that the Union has been unable to supply any comparable data for this panel to consider.

AWARD

The panel finds reasonable the Association's request to allow a firefighter the option to receive payment in lieu of time off for those hours a firefighter is compelled to work on a holiday. An employee who is inconvenienced by having to work on a holiday even though it is the nature of their work should have the option to be reimbursed in cash for the time compelled to work on a holiday or equal time off for hours worked on a holiday at the option of the employee.

HOLIDAY SCHEDULE

The Association is demanding an increase in the number of holidays by the City recognizing the hours of 0800-2400 on Christmas and New Year's Eve of each year as a holiday for every employee who works during those hours.

The Association makes this demand in order to close the gap between the benefits received by the Fulton Fire Department and the Fulton Police Department.

Under Article 18 of the current contract between the City of Fulton and the Fulton Police Department, the City recognizes Christmas Eve and New Year's Eve as holidays.

The City acknowledges that the Fulton Police Department has a similar benefit and argue that police officers, work an eight (8) hour day while the Fulton Firefighters work a twenty-four (24) hour day. According to the City, it appears that firefighters are seeking an additional sixteen (16) hours of pay.

AWARD

The Association has been unpersuasive in convincing the panel that this benefit should be extended to this unit.

LIFE INSURANCE

Under Section 22.1 of the expired agreement, all Association members currently have a \$2,500.00 life insurance policy. The Association is demanding that the life insurance policy be increased to \$50,000.00 of coverage. The Association's demand is based upon the level of hazards faced by Association members, which has increased as

a result of the decrease in staffing and increase in work loads. In addition, Fulton Police personnel receive a \$50,000.00 life insurance policy.

The City argues that although the Association is justifying this proposal by arguing that its duty hazards have increased, there has been no direct proof of same. According to the City, the cost to the City for the Union's demand is approximately 8/10 or 1% of payroll.

AWARD

This panel is persuaded by the Association's argument that fighting fires is one of the more difficult and hazardous occupations. Certainly, fighting fires is as dangerous an occupation as that of a police officer. We, therefore, require the City to increase the life insurance policy provided to a Fulton Firefighter to an amount of \$50,000 to be effective one hundred and twenty (120) days from the date of this award.

NEW ARTICLE - SAFETY/HAZARD PAY

The Association is proposing a new article to the contract which compensates a bargaining unit employee on duty, a lump sum weekly payment of \$200.00 per shift, for each employee who works a shift that falls below a level of eight (8) employees per shift.

The City strongly opposes any compensation tied to minimum staffing levels.

AWARD

This panel is not convinced that hazard pay should be awarded. The City was willing to entertain this subject provided the Association was also willing to consider

the minimum manning requirements contained in the contract. Because the Association was unwilling to consider the subject, this panel is not prepared to entertain the subject of hazard pay.

TEMPORARY EMPLOYEES

Under the expired agreement, temporary employees of the Fire Department are not guaranteed the same level of benefits and wages that Association members receive. The Association is demanding that a new article be added to the employment agreement to provide that any employee working as a firefighter or in training, will be covered by this agreement and receive the same benefits that the employees of this department enjoy. The Association contends that they are making this demand in order to prevent a bifurcation of benefits by the City by the hiring of temporary employees.

The City contends that the Association offers no justification to change the City's longstanding, city wide practice to deny contractual benefits to temporary employees.

AWARD

This panel is not persuaded by the Association's argument that temporary employees should be awarded contract benefits. Until an employee holds a permanent position of firefighter, he or she should not enjoy the benefits of negotiated wages, benefits and other terms and conditions of employment.

ATTENDANCE AT NEGOTIATING MEETINGS

Under the terms of the expired agreement, Association members are not entitled to time off with pay for attendance at negotiating sessions. The Association is requesting that members of the negotiating committee representing the Fulton Firefighters be granted time off with pay. The Association contends their proposal is submitted in order to enable its members to effectively participate in the negotiation process.

The City contends that compensating a negotiating team member will not make him/her more or less effective.

AWARD

This panel is not persuaded that Association members should be granted time off with pay to negotiate their contract. Although the City did extend this benefit to the Police Department we are not prepared to grant this similar benefit to Fire Fighters.

VACATION

Under section 15.2 of the expired agreement, Association members receive the following vacation benefits set forth below:

After 1 year of service	2 weeks
After 5 years of service	3 weeks
After 15 years of service	4 weeks

The Association has demanded a new vacation schedule as follows:

After 1 year of service	2 weeks
After 5 years of service	3 weeks

After 10 years of service	4 weeks
After 15 years of service	5 weeks

The Association contends that the vacation benefits of the comparable locals were so diverse so as to preclude a logical comparison. The Association bases its demand upon the level of vacation benefits received by the employees of the Fulton Police Department as set forth below:

After 1 year of service	2 weeks
After 5 years of service	3 weeks
After 13 years of service	4 weeks
After 15 years of service	5 weeks

The City contends that there is no justification to grant increases in vacation benefits.

AWARD

This panel is persuaded that the vacation schedule granted to the City's Police Department should be extended to this unit. Because the job of a Firefighter is as demanding and stressful as that of a Police Officer we believe that the same vacation relief accorded a Police Officer should be granted to this Department. However, we do not award additional vacation retroactively but rather provide that additional vacation should be granted in calendar year 1997, based on years of service as of December 31, 1996.

PROMOTIONAL TESTS

The City does not currently reimburse Association members for the cost of taking promotional tests. The Association is requesting that the City reimburse employees for taking promotional examinations.

The City objects to reimbursing an employee for the cost of taking a promotional test, which may result in a promotion for the employee.

AWARD

This panel is of the opinion that if an employee is interested in obtaining a promotion the cost associated with taking a promotional test should be the individuals responsibility and not the City's obligation.

EDUCATIONAL BENEFITS

Under Section 24.1 of the expired Agreement, the City will pay the cost of tuition, books and fees for two unit employees to complete coursework for an Associate, Bachelor, or Graduate degree in Fire Science.

The Association is proposing that the portion of Section 24.1 limiting the educational benefits to two [2] members be deleted.

The Association contends that by granting this proposal many of the inconsistencies that still exist between the Fulton Police Department and the Fulton Fire Department will be diminished.

The City contends that granting this proposal will take away a management right to limit its cost for the payout of this benefit.

AWARD

Article 24.1 specifies that it is the City's policy to encourage the upgrading of the fire-fighting force through education. This policy encourages a firefighter to improve his/her skills through education.

This panel believes this is a valuable policy because it improves the quality of the Department which is ultimately responsible to protect the general public in the event of a fire or other fire related emergency. We therefore believe that there should not be a limitation on the number of employees who can seek reimbursement.

Because this is a small department, only 27 employees, and because the City must approve the course work and degree program in advance, we do not believe this will be a significant cost item to the City.

MEDICAL BENEFITS

The Association is requesting that the portion of Section 21.5 of the expired Agreement that requires Association members to contribute 1.5% of their base salary towards health insurance be deleted so that a Firefighter like a Police Officer will not be required to make any contribution toward premium cost for health insurance.

The Association is also requesting that 21.2 (e) of the expired Agreement that provides that members are only entitled to retain health benefits until age 65 be modified to require coverage for retiree as a Medicare Supplement.

The City points out that the reason that the Fulton Police make no contributions toward health insurance premiums is because they have a "lessor" plan than do the

firefighters. The firefighters plan pay 100% of the cost of treatment, as opposed to 80% reimbursement under its police plan.

AWARD

Although this panel believes that it would be beneficial to the City, if there was a uniform health insurance program we are not prepared to eliminate the 1.5% contribution a Fire Fighter makes toward the cost of Health Insurance.

This panel will likewise make no change in the current contract provision that concerns retirees.

COMPENSATION

The Association has proposed that salaries be increased by 3% retroactive to January 1, 1994, and 6% retroactive to January 1, 1995, in addition the Association is requesting that rank differentiate be increased by \$200.00 each year in the first year from Firefighter to Lieutenant to a total of \$600.00 and \$600.00 each year for the second year from Lieutenant to Captain for a total of \$1,200.00.

The Association is also requesting that longevity increments be increased after applicable percentage increases as follows:

Effective 1/1/94 increase of		Effective 1/1/95 increase of	
8 years	\$ 550	5 years	\$250
12 years	550	8 years	300
15 years	1,100	12 years	400
16 years	1,100	15 years	500
17 years	1,100		

The Association contends that their requests are reasonable and should be granted because: the Association will be receiving benefits that are closer to that received by the Fire Fighters in other comparable communities; the Association demands approach parity with the level of salary and other benefits received by the Fulton Police; the Association has demonstrated the hazard of the profession; the Association has clearly shown that the need for Firefighting services has increased while manpower has decreased; lastly, the City has the financial ability to pay.

As noted herein the City has not disputed their ability to agree to a wage package similar to that received by the Fulton Police. However, said wage package can only be accepted if the City receives many of their cost containment requested proposals. In the absence of the Association agreeing to any such cost containment, the City is requesting this panel to award the status quo and grant no salary or added benefits for at least a one year period.

AWARD

Because this panel believes that any award should substantially equal the salary increases and wage benefit package paid to the Fulton Police Department, it is this panel's judgment that the following increases in compensation should be granted:

Effective January 1, 1994 - 0%
Effective January 1, 1995 - 6%

This panel makes no change in the rank differentials.

Section 17.3 increments shall be increased effective January 1, 1995, as follows:

5 Years of Service	\$ 250
8 Years of Service	300
12 Years of Service	400

15 Years of Service	1,100
16 Years of Service	1,100
17 Years of Service	1,100

CITY'S PROPOSALS

CITY PROPOSAL NO. 1.

Seeks to amend Article 4.2(b)(page 2), "Grievance Procedure" correct the reference to Article "75."

The existing language uses the term "article" instead of the word "section." The City contends this is a housekeeping change and the Association does not oppose this proposal.

AWARD

Amend Article 4 to refer to Section 75 instead of Article 75 of the New York State Civil Service Law.

CITY PROPOSAL NO. 2.

The City seeks to amend Article 4 "Grievance Procedure" at Section 4.5(c)(page 3) requiring the Union to file its Intent to Proceed to Arbitration within 15 calendar days after receipt of the Step 2 response from the Mayor, a Demand for Arbitration with the appropriate agency.

Existing contract language only requires the Union to file a notice in writing of its Intent to Proceed to Arbitration within 15 calendar days after receipt of the Step 2 response from the Mayor, rather than requiring the Union to file a Demand for Arbitration within those 15 days.

The Association's position is that the City's proposal would discourage the voluntary resolution of grievances by not allowing the parties the sufficient opportunity to mutually resolve their differences.

According to the Association, requiring the Association to file a Demand for Arbitration convert the resolution process to a more adversarial process at an earlier stage, thus, impeding the ability of the parties to reach a voluntary resolution.

The City contends that this is merely a streamlining process as to how the parties could get to arbitration.

AWARD

The City's proposal is awarded in the modified form that the Union must file a Demand for Arbitration with an appropriate agency within 30 days of receipt of the Mayor's Step Two response. This will provide the parties ample opportunity to settle the outstanding grievance.

In the event the parties are unable to reach a resolution, filing a Demand with an appropriate agency will expedite the process.

CITY PROPOSAL NO. 3.

Amend Article 4 to delete the current contract language which allows either party to ask the American Arbitration Association or the New York State Public Employment Relations Board for a list of arbitrators. The City's proposal would limit the parties to use the services of the New York State Public Employment Relations Board.

The Association believes that the parties should have the option to select the American Arbitration Association or the New York State Public Employment Relations Board.

AWARD

The panel recommends that the current contract language be retained.

CITY PROPOSAL NO. 4.

The City seeks to amend Article 4, "Grievance Procedure", at Section 4.6 [f](1)(page 4) to provide that all fees and expenses of the arbitrator shall be divided equally between the parties.

The Association contends that the entire cost of arbitration should be divided equally and not just the fees and expenses of the arbitrator. The Association cites the example that if a neutral forum is rented for the arbitration hearing, that cost should be divided equally.

AWARD

The City's proposal is adopted. Only the fees and expenses of the arbitrator should be shared equally. Any other costs associated with the arbitration such as the rental of a room or a court reporter should be borne by the party requesting said services or shared equally providing there is mutual agreement for incurring said costs.

AWARD

This panel is not persuaded that there should be any change in the existing contract language.

CITY PROPOSAL NO. 6.

This seeks to amend Article 5, "No Discrimination" at Section 5.1 and 5.2(page 5) by adding language to clarify that "disability" discrimination is also prohibited.

The Association does not oppose this proposal.

AWARD

The City's proposal is adopted.

CITY PROPOSALS NO. 5, 7, 7B, 8, 8A AND 22.

Withdrawn by the City.

CITY PROPOSAL NO. 9.

The City seeks to amend Article 13 at Section 13.4(a)[page 9] to clarify that only those employees who plan to retire the coming year will receive pro rate uniform allowance.

The Association does not oppose this proposal.

AWARD

The City's proposal is adopted.

CITY PROPOSAL NO. 10.

The City seeks to amend Article 16, "Sick Leave", by implementing a sick leave procedure.

Currently, all Fire fighters automatically receive up to six months of sick leave time for non-work related illness or injury. The six months renewed for each new occurrence. There is no accrual for sick leave, no notice of use requirements spelled out in the Agreement, and no oversight from management.

The City contends that they have a managerial right to control their work force and be responsible for the whereabouts of its personnel. Therefore, it should have some procedure to control sick leave. More importantly, sick time usage leads to high amounts of overtime due to the minimum manning contractual mandate that eight men be assigned to a shift. In 1994, the sick leave overtime costs amounted to \$42,610.00 while in 1995, the cost increased to \$60,679.00.

The Association is resisting this proposal contending that the City has not provided evidence of an abuse of sick leave on the part of Association members. According to statistics submitted by the Association, sick leave taken by Association members has dropped from 2,128 hours in 1986 to 2,028 in 1994. However, sick leave hours rose in 1995 to 3,275 hours. The Association contends that in light of the fact that the work load of the Association members has risen dramatically in recent years, it would not be unusual to expect that there would be an increase in sick leave. The Association also cites the increase in fire calls that the Fulton Fire Department has had to respond to. Between 1986 and 1995, the total number of alarms that the Department responded to increase by 157 percent from 467 to 1,203.

Lastly, the Association contends that the Fulton Police Benevolent Association is not subject to the requirement proposed by the City for this department.

AWARD

The City has not persuaded this panel that the Fulton Fire fighters are abusing sick leave such that there should be any change in the current contract language.

CITY PROPOSALS NO. 11, 12 AND 14 all deal with compensatory time.

CITY PROPOSAL NO. 11.

Requires an amendment of Article 18 to provide as follows:

An employee may qualify for compensatory time in the event of work on legal holidays or work on holidays granted by the mayor.

CITY PROPOSAL NO. 12.

Requires that the current language be replaced with the following:

1. Any work in excess of 40 hours per week will be compensated at a rate of time and one-half at the current rate of pay. There will be no compensatory time off.
2. Employees will be permitted to accumulate up to 80 hours of overtime which, although may be carried over from year to year, will only be paid out at the rate at which it was earned.

CITY PROPOSAL NO. 14.

Requires the deletion of the current contract language replacing it with the following:

Any work in excess of 40 hours per week will be compensated at a rate of time and one-half, by granting pay all overtime compensation will be based on the rate equal to the rank or pay scale of the position in which the overtime is accumulated.

The Association contends that the intent of the City's proposals are to eliminate compensatory time entirely and to merely compensate an employee for time worked in excess of 40 hours at time and one-half.

The City contends that their goal is not to eliminate compensatory time, but rather to limit time off by prohibiting the use of compensatory time if such would result in the payment of overtime.

According to the City, because of the eight man minimum requirement, the City continues to accrue extensive overtime costs when it grants compensatory time off. In 1994, [even with the limit of one individual off on comp time] the City incurred \$51,340.00 in overtime costs. Said amount dropped in 1995 to \$42,467.00 but according to the City, still is excessive.

AWARD

This panel is persuaded that the City should have the right to limit compensatory time, if said time will result in the City incurring overtime costs. Therefore, the following is awarded:

- on a quarterly basis, the most compensatory time any individual fire fighter can use is 24 hours; accumulations can continue beyond this amount.
- at the end of each year the City has the right to pay out any and all compensatory time accumulated in excess of 24 hours; this remaining 24 hours can be carried over into the next fiscal year.
- a "test year" shall be established to calculate the cost and "savings", if any, obtained by this modified compensatory time language. The "test year" shall commence upon the execution of the Consent Award. In the event there are insufficient amounts of or no "savings", the issue of compensatory time will be resubmitted to Arbitrator Thomas Rinaldo for exploration of the issues and reduction of same.
- all compensatory time presently "on the books" shall be paid out by the City at the current rate, by the close of the fiscal year, 1998.

CITY PROPOSAL NO. 13.

The City is proposing that Kelly pay time be paid at straight time rather than time and one-half.

It is the City's contention that payment of Kelly days at time and one-half violates the intent of Chapter 1011 of the Laws of 1968, as amended by Chapter 952 of the Laws of 1970. (NYS Unconsolidated Laws, Chapter 143-a, CLS) which establishes the idea of a Kelly Day which basically means that no fireman shall be

required to work more than an average of 40 hours per week, computed during the current fiscal year.

It is the City's contention that the payment of Kelly Days at straight time is consistent with the F.L.S.A., which permits public agencies to balance the hours of work of a fire fighter over a given work period.

The Association opposes the City's proposal because it is an economic benefit which is presently enjoyed by Association members. According to the Association, because their members are so poorly paid in comparison to comparable communities and in relation to the Police Department, this is an economic benefit that should not be taken away from Association members.

AWARD

This panel is not persuaded that there should be any change in the current contract language. Because the above wage package is modest, we do not believe this benefit should be eliminated.

CITY PROPOSAL NO. 15.

Article 19, at Section 19.3, "Required Travel" [p.15] shall be amended by deleting same in its entirety. [This language is identical to that found in Section 11.2.]

The Association has no objection to this proposal because it eliminated a redundant provision of the current contract.

AWARD

This panel adopts the City's proposal.

CITY PROPOSAL NO. 16.

Seeks to amend Article 20 at Section 20.2, "Retirement Incentive". Apparently a fire fighter with at least 20 years of service will receive \$125.00 for each year of service (for a minimum of \$2,500.00).

The City does not seek to control the amount received as an incentive. Instead, the City seeks to have fire fighters, who wish to receive the incentive, retire between the 20th and 21st year of service.

The intent of a 20-year retirement option is to have people retire for their own protection and benefit.

The Association opposes this proposal because it would eliminate an incentive for senior Association members, who possess the most training and knowledge of fire fighting, to remain in employment past 20 years.

AWARD

The purpose of a retirement incentive is to encourage an employee to retire. It was never intended to provide additional compensation to an employee when they choose to retire.

Therefore, this panel is persuaded that there should be some window period during which an employee must retire in order to get the incentive.

We do not, however, agree with the City the window should be a one year period between the 20th and 23rd year of service.

We are, therefore, extending the window of opportunity to earn the retirement incentive between the 20th and 25th year.

CITY PROPOSALS NO. 17, 18 AND 19., propose to amend Article 21, "Medical Insurance."

The City's proposals are intended to provide cost containment. It is the City's position this is one area in which the Association should be willing to make concessions in order to earn wage increases and increases in other economic benefits.

The Association resists any change in current contract language.

AWARD

This panel is persuaded that there should be no change in existing contract language.

CITY PROPOSAL NO. 21.

The City proposes to amend Article 26, "Minimum Shifts" by deleting the manning requirements.

The Association opposes the deletion of the Minimum Shift because it would create an unsafe work environment due to the increased work load and would therefore not be in the best public interest.

AWARD

This panel is not prepared to alter the negotiated manning requirement contained in Article 26.

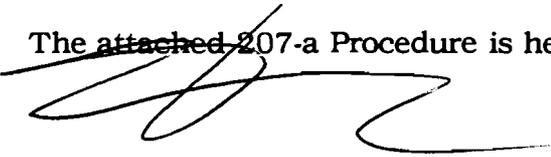
CITY PROPOSAL NO. 23.

Seeks to include a General Municipal Law Section 207-A "Policy and Procedure" in any panel award.

The Association has not resisted including a procedure in the contract for the administration of Section 207-a but the Association does have some concern regarding certain other language contained in the City's proposal and has made unreasonable counterproposals to the City's proposed procedure.

AWARD

The ~~attached~~ 207-a Procedure is hereby adopted.



THOMAS N. RINALDO, ESQ., CHAIRMAN

SEE ATTACHED DISSENT

ELAYNE G. GOLD, ESQ., PANEL MEMBER (I CONCUR/DISSENT)

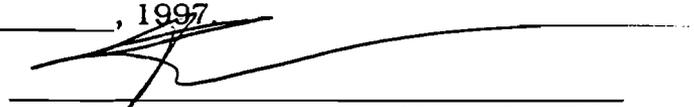


CHARLES E. BLITMAN, ESQ., PANEL MEMBER (I CONCUR/DISSENT) *

STATE OF NEW YORK)
COUNTY OF ERIE) SS.:
CITY OF BUFFALO)

I, THOMAS N. RINALDO, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed the within Arbitration Award on

6/17, 1997



THOMAS N. RINALDO, ESQ., CHAIRMAN

*SEE ATTACHED PUBLIC EMPLOYEE PANEL MEMBER'S STATEMENT

STATE OF NEW YORK)
COUNTY OF _____) SS.:
CITY OF _____)

I, ELAYNE G. GOLD, ESQ. do hereby affirm upon my oath as Panel Member that I am the individual described in and who executed the within Arbitration Award on _____, 1997.

SEE ATTACHED DISSENT

ELAYNE G. GOLD, PANEL MEMBER

STATE OF NEW YORK)
COUNTY OF ONONDAGA) SS.:
CITY OF SYRACUSE)

I, CHARLES E. BLITMAN, ESQ. do hereby affirm upon my oath as Panel Member that I am the individual described in and who executed the within Arbitration Award on July 1, 1997.

Charles E. Blitman

CHARLES E. BLITMAN, PANEL MEMBER

**PROCEDURE FOR THE ADMINISTRATION OF SECTION 207-a OF THE
GENERAL MUNICIPAL LAW FOR THE FIRE DEPARTMENT
OF THE CITY OF FULTON**

Section 1. INTENT

(a) In order to insure that determinations arising by virtue of the administration of the provisions of Section 207-a of the General Municipal Law satisfy the interest of those potentially eligible for its benefit, the City of Fulton, and the public, the following procedure shall be utilized to make determinations in regard to benefits authorized by Section 207-a.

(b) This procedure is intended to be a supplement to the express language of Section 207-a of the General Municipal Law and is not intended to reduce any benefits pursuant to Section 207-a of the General Municipal Law.

(c) The term "firefighter," as used herein, shall include all paid members of the Fire Department who perform firefighter duties, including, but not limited to, Firefighters, Lieutenants, Captains and Assistant Chiefs; any reference to "he", "his", etc., shall be read to include "she", "her", etc.

Section 2. NOTICE OF DISABILITY OR NEED FOR MEDICAL OR HOSPITAL TREATMENT

(a) A firefighter who claims a right to benefits under Section 207-a of the General Municipal Law, either because of a new illness or injury or the recurrence of a prior illness or injury (either on or off duty), shall make written notice and application for those benefits to the Chief, or his designee, within twenty (20) days of when the firefighter reasonably should have known that the illness or injury would give rise to the claim on the form which is made a part of this procedure.

(b) The firefighter shall provide authorization for the City to obtain copies of his medical records from his treating physician or other health care provider and the City will provide the firefighter, without cost, and within five (5) work days from receipt of same, a copy of the records and reports produced by any physicians or other experts who examine the firefighter on behalf of the City.

(c) For cause shown, the above time limits may be extended by the Fire Chief.

Section 3. STATUS PENDING DETERMINATION OF ELIGIBILITY FOR BENEFITS

(a) The firefighter shall be placed on sick leave pending determination of his eligibility for Section 207-a benefits. The determination shall be made within the time provided in Section 4 of this procedure. If the firefighter has no available sick leave he may use vacation, personal leave, Kelly days or compensatory time to remain on the payroll. In the event that a timely determination is not made, the firefighter shall be continued in pay status until a determination is made. Time spent on the payroll beyond the initial date for making a determination shall not be charged to the

employee if it is determined that he is ineligible for the 207-a benefit.

(b) In the event that it is determined that the firefighter is entitled to Section 207-a benefits, the City shall credit back to him all leave which he expended prior to the determination.

(c) In the event that it is determined that the firefighter is not entitled to Section 207-a benefits, he will be permitted to use sick leave, vacation, personal leave, Kelly days and compensatory time provided he remains medically unable to perform the duties of his position.

Section 4. BENEFIT DETERMINATIONS

(a) The City shall promptly review a firefighter's application for Section 207-a benefits and shall determine his eligibility within twenty-one (21) working days after the Chief receives the application.

(b) In determining the application the City may require a more detailed statement from the firefighter than that contained on the application. The City may take statements from witnesses and may send the firefighter to a physician or physicians of its choice for examination at the City's expense.

(c) The determination of the Chief will be made in writing to the firefighter, setting forth the basis for the determination. In the event that the application is denied, the City will simultaneously provide the firefighter, without cost, a copy of all medical information produced or acquired by it, in connection with the firefighter's application and determination for Section 207-a benefits. The City will continue to provide the firefighter with additional medical information subsequently produced or required.

Section 5. ASSIGNMENT TO LIGHT DUTY

As authorized by the provisions of Subdivision 3 of Section 207-a, the Department, acting through the Chief, or the Chief's designee, may assign a disabled firefighter specified light duties, consistent with his/her status as a firefighter and consistent with the limitations causing the disability (as determined by a medical expert). The Chief, or the Chief's designee, prior to making a light duty assignment, shall advise the firefighter receiving benefits under Section 207-a that his/her ability to perform a light duty assignment is being reviewed. Such a firefighter may submit to the Chief, or the Chief's designee, any document or other evidence in regard to the extent of his/her disability. The Chief, or the Chief's designee, may cause a medical examination or examinations of the firefighter, to be made at the expense of the Employer. The physician selected shall be provided with the list of types of duties and activities associated with a proposed light duty assignment and shall make an evaluation as to the ability of the disabled firefighter to perform certain duties or activities, given the nature and extent of the disability. Upon review of the medical assessment of the firefighter's ability to perform a proposed light duty assignment and other pertinent information, the Chief, or the Chief's designee, may make a light duty assignment consistent with medical opinion and such other information as he or she may possess. A firefighter ordered to light duty shall either comply with the order or face loss of benefits of Section 207-a following a hearing pursuant to

Section 7 of this procedure with regard to the firefighter's physical ability to perform the light duty assignment. It is understood that assignment to light duty is in the nature of a "make work" assignment and that a firefighter so assigned does not have any entitlement to a continued light duty assignment for an indefinite duration of time.

Nothing contained herein shall require the City of Fulton or its Fire Department to create light duty assignments.

Section 6. TERMINATION OF BENEFITS

(a) Benefits provided by Section 207-a of the General Municipal Law shall terminate upon the employee being retired pursuant to a service retirement, an accidental disability retirement, or a performance of duty disability retirement, as set forth in the New York State Retirement and Social Security Law.

(b) The City will not discontinue Section 207-a benefits without the consent of the firefighter unless the firefighter's treating physician certifies that he is medically able to return to work. In the event that the City believes that the benefit should terminate and the firefighter does not consent, or his physician does not certify that he is able to return to work, the City may utilize the provisions of Section 7 in order to receive a determination from the arbitrator regarding the firefighter's continued eligibility for benefits.

Section 7. DISPUTE RESOLUTION PROCEDURE

In the event that the City denies an application for Section 207-a benefits, seeks to discontinue Section 207-a benefits, or there is a dispute about whether a firefighter is capable of performing a specific light duty assignment, the matter will be submitted directly to arbitration pursuant to the rules of the Public Employment Relations Board. The party seeking to utilize this Dispute Resolution Procedure shall file the Demand for Arbitration. The determination of the arbitrator shall be final and binding on the City and the firefighter, but shall not preclude further review at a subsequent date based upon new or supplemental medical or other information. The parties will divide the cost of the arbitration equally. Notwithstanding the foregoing, the Union retains the right to delegate to an individual member the opportunity to pursue the member's entitlements under this Procedure.

Section 8. DISABILITY RETIREMENT

Consistent with Section 207-a, the City may file an application on the firefighter's behalf for retirement under Sections 363 or 363-c of the New York State Retirement and Social Security Law. Any injured or sick firefighter who shall refuse to permit a medical inspection in connection with such an application for accidental disability retirement or performance of duty disability retirement shall be deemed to have waived his rights under Section 207-a with respect to expenses for medical treatment or hospital care or salary or wages payable after such refusal.

A determination made by any officer, agency, board or court regarding the existence of a disability or its extent or regarding an entitlement to any other statutory benefit because of a firefighter's disability, may be noticed by, but shall not be controlling upon, the Arbitrator.

Section 9. CONTINUATION OF CONTRACT BENEFITS

While on leave pursuant to Section 207-a, for a period of 90 days or less, a firefighter shall continue to accrue all economic fringe benefits provided by the Collective Bargaining Agreement. After 90 days in any calendar year or continuous period of time, the firefighter receiving 207-a benefits shall be entitled to the payment of salary and longevity, and any contractually mandated health insurance benefits.

Section 10. OUTSIDE EMPLOYMENT

If, as a result of an investigation, the Chief determines that a firefighter receiving benefits pursuant to 207-a has engaged in paid outside employment, the Chief shall provide written notice of such determination. The firefighter may appeal the determination pursuant to Section 7 herein. The arbitrator shall have the authority to determine the amount of benefit to be reimbursed, if any, and direct the manner in which such reimbursement shall be made. The City, upon request, must be provided with a W-2 form or tax returns or other proof other than sworn statements by the firefighter.

Medical Release

I do hereby authorize any physician, chiropractor(s), or other health care provider who has attended, examined or treated me, or any hospital at which I have been examined or treated, to furnish the City of Fulton, New York, or its duly authorized representative, with any and all medical and billing information which may be requested regarding my past or present physical condition and treatment rendered therefor.

Signature of Firefighter

Printed name of Firefighter

Date

New York State Policemen's &
Firemen's Retirement System
Governor Smith State Office Building
Albany, New York 12244

To: The Comptroller of the State of New York

In compliance with Section 363 and Section 363-c of the Retirement Law instructing me to notify your department of any and all injuries sustained in the line of duty as a member of the City of Fulton Fire Department, I hereby submit the following report:

Name of injured Firefighter

Registration Number

Address

Date of incident

Time of incident

Description of injury

Medical care required

Remarks

Signature of Firefighter

Witness to injury

Date

City of Fulton Fire Department
General Municipal Law Section 207-a
Application

1. _____
Name of firefighter

2. _____
Address

3. _____
Telephone number

4. _____
Age

5. _____
Name of supervisor

6. _____
Current job title

7. _____
Occupation at time of injury/illness

8. _____
Length of employment

9. _____
Date of incident

10. _____
Day of Week

11. _____
Time

12.a. _____
Name of witness(es)

b. _____

c. _____

13.a. _____
Names of co-employees at the incident site

b. _____

c. _____

14. Describe specifically what the firefighter was doing when the incident occurred. _____

15. Where did the incident occur? Specify. _____

16. How was the claimed injury or illness sustained? (Describe, stating whether injured person slipped, fell, was struck, etc., and what factors led up to or contributed. Use additional sheets if necessary.) _____

17. When was the incident first reported? _____

To whom? _____ Time _____

Witness (if any) _____

18. Was first aid or medical treatment authorized? _____

By whom? _____ Time _____

19. Name and address of attending physician _____

20. Name of hospital _____

21. State nature of injury and part or parts of body affected _____

22. Will the firefighter be returning to duty? _____

When? _____

Date of report

_____, New York _____

Signature of injured firefighter

State of New York :

County of Fulton : ss.:

_____, being duly sworn, deposes and says that he/she has read the foregoing notice and knows the contents thereof; that the same is true to the knowledge of deponent except as the matters therein stated to be alleged upon information and belief; and that as to those matters he/she believes to be true; any false statements herein may subject the deponent to the penalties of perjury.

Sworn to before me this ___ day of _____, 19__.

NOTARY PUBLIC-COMMISSIONER OF DEEDS

STATE OF NEW YORK PUBLIC EMPLOYMENT
RELATIONS BOARD

In the Matter of the Compulsory Interest
Arbitration between

FULTON FIREFIGHTERS ASSOCIATION, LOCAL
3063, IAFF, AFL-CIO,

PUBLIC EMPLOYEE PANEL
MEMBER STATEMENT

UNION

-and-

PERB CASE NO. IA95-040;
M95-304

THE CITY OF FULTON,

Employer.

The undersigned, as the Public Employee Panel Member, is compelled to execute this Opinion and Award as prepared by the Public Panel Member and Chairman. This compulsion is based upon the need to bring this matter to closure rather than complete acquiescence in the rationale adopted by the author of the Opinion and Award. Nevertheless, execution of this Opinion and Award, demonstrates adoption and affirmance of the Opinion and Award in order to comply with the law.

7/1/97

Charles E. Blitman
Charles E. Blitman, Esq.

STATE OF NEW YORK)
COUNTY OF ONONDAGA)
CITY OF SYRACUSE)

I, CHARLES E. BLITMAN, ESQ. Do hereby affirm upon my oath as a Public Employee Panel Member that I am the individual described herein and have executed this statement.

Charles E. Blitman
Charles E. Blitman

July 7, 1997

**Dissent Of Panel Member Elayne G. Gold
On Behalf of the City Of Fulton, NY**

After a thorough review and due consideration of the Interest Arbitration Panel Award, dated June 17, 1997 (by Arbitrator Rinaldo), in the matter of the Fulton Firefighters Association, Local 3063, IAFF, AFL-CIO and the City of Fulton (PERB Case No.: IA95-040;M95-304), and although the City can agree with some of the conclusions rendered by the Panel, the City must issue a Dissent to the overall conclusions and findings reached. This Dissent is to be attached to and made a permanent part of this Interest Arbitration Panel Award.

There is absolutely no substantiated persuasive proof on the Record of this proceeding to convince the undersigned that the Fulton Firefighters are in any way entitled to parity with the Fulton Police Officers; the City of Fulton did not claim an inability to pay to the Fulton Firefighters a fair and equitable economic package. It did, however, maintain that any increased benefits must be offset by concessions in the areas of manning, health insurance and overtime/compensatory time. Those three areas are ones of excessive burden to the City (as substantiated on the Record, i.e., City Exhibits 3A, B; 4; 6; and 7). The Panel disregarded all of this uncontested proof in rendering of its Award.

The bulk of this Panel Award provides increased economic benefits to the Fulton Firefighters (in almost every area in which an increase was demanded), while at the same time providing no economic relief to the City of Fulton. The Fulton Firefighters have, as established on the record of this proceeding, the "Cadillac" of health insurance plans; no other City employee receives the benefits afforded to firefighters. Despite the fact that the firefighters contribute toward the cost of this expensive benefit, the contribution in no manner can be said to offset the ever rising cost of health insurance. City Exhibits 3A and 4, as well as Exhibit "H" to the City's Closing Brief clearly sets out the economic "hit" which the City continues to face. The Panel amazingly declined to provide any relief in this area.

The issue of Minimum Manning was squarely before this Arbitration Panel, as the Union failed to "scope" it from the Arbitration Proceeding. In uncontroverted proof the City established that the manning provision has an enormous economic impact upon the Fire Department's budget. City Exhibit 6 shows, without question, that the City spends tens-of-thousands of dollars annually due to the manning requirement. In 1995, the City had a \$42,467.83 liability for

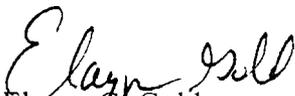
Compensatory time costs generated when an employee took a comp day; his position had to be filled in order to comply with the contractually mandated manning clause (and paid at the overtime rate!). For the taking of a holiday, the City incurred a 1995 cost of \$24,136.85; for a Kelly Day it's liability was, in 1995, \$21,384.45. Positions filled due to holidays or Kelly Days are paid out at the overtime rate. City Exhibit 7 established that in 1995 when the manning provision was invoked in cases of sick leave (which is every time someone calls out) the City paid out \$60,679.26 ! Despite this undisputed proof, the Panel refused to provide the City with any manning modification.

The only "relief" which the Panel awarded was to modify the existing compensatory time procedure. The modification limits the amount of time any given employee can utilize and limits carryover from year to year. However, it is speculative, at best, as to whether the City will truly see any relief as there is a "test year" to be established and then analyzed. It is possible that no relief for the compensatory liability will ever be realized; the effect of this part of the Award remains to be seen.

In City Exhibit 2, the City of Fulton provided a "Comparable Study" which compared the "status" of the Fulton Firefighters with that of other firefighters in "comparable" jurisdictions. The Panel, again, chose to not consider the data squarely before it in reaching its conclusions. A fair review of City Exhibit 2 demonstrates that item-for-item, the Fulton Firefighters fair quite well, or at least at the average.

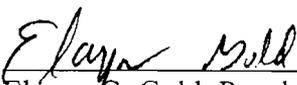
Based upon the above, the City of Fulton respectfully dissents to the Award of this Panel.

Roemer Wallens & Mineaux LLP


Elayne G. Gold

STATE OF NEW YORK)
COUNTY OF ALBANY)SS.:
CITY OF ALBANY)

I, ELAYNE G. GOLD, ESQ., do hereby affirm upon my oath as Panel Member that I am the individual described in and who executed the within Dissent to Arbitration Award on July 7, 1996.


Elayne G. Gold, Panel Member