

AMERICAN ARBITRATION ASSOCIATION

FOP, E.B. Jermyn Lodge No, 2

AND

City of Scranton

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* AAA Case No.
* 01-22-0004-0019
* (Act 111-
* Interest Arbitration)
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BOARD OF ARBITRATION

Stephen J. Holroyd, Esq.
Holroyd Gelman, P.C.
FOP-appointed Arbitrator

Robert Ufberg, Esq.
Ufberg & Associates
City-appointed Arbitrator

Samantha E. Tower, Esq.
Neutral Arbitrator and Board Chair

FOREWARD

The FOP, E.B. Jermyn Lodge No. 2 (FOP) and the City of Scranton (City) are parties to a collective bargaining agreement which expired on December 31, 2021. The parties engaged in collective bargaining but were unable to reach agreement on a new contract.

The undersigned arbitrators were duly appointed as the Board of Arbitration pursuant to the provisions of Section 4(b) of the Act of June 24, 1968, P.L. 237, as amended, 43 P.S. §217.4(b) (Act 111) and the procedures of the American Arbitration Association. The Board acknowledges that the parties agreed to waive the time limits under Act 111. A hearing was held on April 18, 2023 and May 23, 2023, at which time both parties had a full and fair opportunity to submit documentary and other evidence in support of their respective positions.

Following a full and complete review of the evidence and arguments presented by the Union and the City, and executive sessions of the Board of Arbitration, the following Award was adopted by a majority of the Board. The arbitrators on the Board were not unanimous on each and every issue, but the following Award represents the majority decisions of the Board.

AWARD

1. Term

The term of the Agreement shall be five (5) years, effective January 1, 2022 through December 31, 2026.

2. Wages

Modify as follows:

ARTICLE II: WAGES

2022: One thousand dollar (\$1,000) one-time lump sum payment, less any applicable deductions and withholdings, for all current City officers hired and employed by the Police Department on or before December 31, 2021.

- \$800 if the individual worked as a City police officer during the four calendar quarters;
- \$600 if the individual worked as a City police officer during three calendar quarters;
- \$400 if the individual worked as a City police officer during two calendar quarters;
- \$200 if the individual worked as a City police officer during one calendar quarter.

All lump sum amounts shall be payable within sixty (60) days from the date of this Award, less applicable deductions and withholdings.

Increase employees' base wages, with appropriate adjustments for rank, by 1% effective retroactive to December 31, 2022; provided that police officers who have not completed their progression to Patrol Officer Base Rate as of the date of the increase will follow their incremental wage schedule until completion.

2023: Increase employees' base wages, with appropriate adjustments for rank, by a total of 3%: 1.5% payable on January 1, 2023; and 1.5% payable on July 1, 2023, provided that police officers who have not completed their progression to Patrol Officer Base Rate as of the date of any increase will follow their incremental wage schedule until completion.

2024: Increase employees' base wages, with appropriate adjustments for rank, by a total of 3.5%: 2% payable on January 1, 2024; and 1.5% payable on July 1, 2024, provided that police officers who have not completed their progression to Patrol Officer Base Rate as of the date of any increase will follow their incremental wage schedule until completion.

2025: Increase employees' base wages, with appropriate adjustments for rank, by a total of 4%: 2% payable on January 1, 2025; and 2% payable on July 1, 2025, provided that police officers who have not completed their progression to Patrol Officer Base Rate as of the date of any increase will follow their incremental wage schedule until completion.

2026: Increase employees' base wages, with appropriate adjustments for rank, by a total of 4%: 2% payable on January 1, 2026; and 2% payable on July 1, 2026 provided that police officers who have not completed their progression to Patrol Officer Base Rate as of the date of any increase will follow their incremental wage schedule until completion.

Remove the 4% Detective Division increment (applicable to Detective Divisions Sergeants, Lieutenants, and Captains). Employees in that Division will hereafter be paid at the regular rate applicable to their ranks in the other SPD Divisions (Patrol, Administrative). Employees who regularly held Detective Division positions as of the date of this Award and continuing, will continue to receive that additional increment until they leave the Detective Division.

All future Detectives will earn the pay of the current Corporal position.

Section 4. Modify as follows:

Any Officer hired after January 1, 2023, shall be paid the following percentage of the Base Rate of a Patrol Officer without longevity until s/he reaches the Base Rate:

First Year	80%
Second Year	90%
Third Year	100%

Previously hired police officers (not completely through the progressive scale) will move prospectively only, not retroactively, to the new relevant wage progression step in accordance with this modified progression.

The City will pay employees covered by this Agreement bi-weekly. The parties mutually endorse that all employees should be paid by direct deposit. During an employee's probationary period s/he shall complete all necessary employment-related forms, including providing Human Resources and Payroll with her/his bank information, as applicable.

On and after the effective date of this Award, the City may, for purposes of pay only, credit a newly hired police officer who, within the ten (10) years preceding his/her hire, has prior employment as a full-time municipal police officer. The City's decision will be based on its good faith determination of whether that officer's prior work experience is comparable to that of a City of Scranton police officer. Credit will only be given for prior full-time employment as a municipal police officer of one or more full years (e.g. no credit for partial years). This provision can only be applied pre-hire, and applies *only* to pay; it does not in any way affect an officer's date of hire, seniority or seniority rights. Nor does this provision apply to current employees.

3. Article III- Overtime Pay

Section 6. Bargaining unit members may not take paid time off to voluntarily work an overtime shift on that day.

4. Article VII - Time Coming Days

Modify this Article and any other reference throughout the CBA to "Paid Holidays" or "Personal Days" to "Time Coming Days."

Modify as follows:

Section 1.

A) Each employee who has completed her/his probationary period shall be eligible to earn sixteen (16) Time Coming Days per year. A Time Coming Day is equal to eight (8) hours' pay at the employee's regular hourly rate of pay. For new hires, Time Coming Days are earned on a pro-rated quarterly basis based on their date of hire, as follows: four (4) Time Coming Days if hired by January 1st; four (4) Time Coming Days if hired by April 1st; four (4) Time Coming Days if hired by July 1st; and four (4) Time Coming Days if hired by October 1st.

5. Article VIII- Vacation

Add new first paragraph as follows:

All employees hired on or after the date of this Award, will have the following vacation schedule:

- a. 1 year 1 week
- b. 2-4 years 2 weeks
- c. 5-14 years 3 weeks
- d. Over 15 years 4 weeks

New hires will become eligible for one (1) week of paid vacation upon completion of their one (1) full year of service. They must use that vacation time in the calendar year in which it was earned, except that if an employee who completes one (1) full year of service in the final calendar quarter of a year and cannot use her/his vacation time in that first calendar year, s/he may carry it over to the next calendar year. Beginning with that next calendar year - Year 2- the employee will be eligible for vacation in the same manner as other Department employees, i.e., on a calendar year basis in accordance with the above chart.

Section 4. Codify the following (current practice):

Vacations taken by application of these provisions to the shift worked. An officer who was bumped from a prior shift during a calendar year will carry his/her vacation accrual with him/her to that different shift. An employee who voluntarily transfers shifts upon a successful bid, whether permanent or temporary, shall re-bid for then-open vacation times on her/his new shift.

6. Article X- Sick Leave

Section 2. Modify as follows:

The following sick leave program shall apply to individuals who became members of the bargaining unit on or after January 1, 2024.

- A. Full-time employees shall earn 8 hours of sick leave for each month of active service. Sick leave shall be earned by an employee for any month in which the employee is in active pay status for ten (10) or more working days. Employees shall be eligible to take such leave after thirty (30) days service with the Employer.

Section 4. The current clause is rescinded, and replaced with the following:

Section 4. An employee may take unpaid leave time off in accordance with the FMLA for childbirth or child bonding due to birth or adoption to an eligible bargaining unit member who requests it. Employees may also use their sick leave for these purposes.

Note: The Panel notes the City's representation that it is considering the possibility of implementing a paid component to its parental leave policy, depending on cost, among other factors.

However, the panel recognizes that there is no guarantee that such a program will be implemented.

7. Article XII- Uniform and Clothing Allowance

Increase the clothing allowance to \$750.00, effective January 1, 2024. Increase the clothing allowance to \$775.00, effective January 1, 2026. Incumbent officers who did not actively work more than six (6) calendar months of the preceding calendar year will not receive a clothing allowance for the following year.

8. Article XVII- Filling of Vacancies

Modify the 2015 MOU as follows:

The City may, at its option, appoint officers from an active promotional list in accordance with the rule of three (3) to fill temporary supervisory vacancies, rather than appointing strictly by seniority.

9. Article XIX- Grievance and Arbitration Procedure

Modify the below sections to read as follows:

Section 2. The Committee shall take the grievance and decide whether it shall pursue it. If so, the Committee or Grievance Officer will try to resolve the Grievance with the Officer in charge of the shift within ten (10) calendar days of its first occurrence, if possible. If the Committee tries but the matter is not resolved at this level, the Committee may submit the grievance to the Chief of Police within five (5) calendar days from that date, and in any case no more than twenty (20) calendar days of its first occurrence. The Chief of Police will have ten (10) calendar days to respond to the grievance, which will be extended for up to another five (5) calendar days if the Chief requests an extension of the Grievance Committee.

Section 3. If the Chief does not resolve the grievance within that time, it may be appealed to the City Business Administrator within fourteen (14) calendar days from the date it was or should have been responded to and the City Business Administrator shall render a decision, in writing, within fourteen (14) calendar days. If the issue is not resolved at the end of that fourteen (14) calendar day period, the Union may, within twenty-one (21) calendar days, submit the issue to binding and compulsory arbitration to the American Arbitration Association. Only if extenuating circumstances exist and it is agreed by both the Chief and the Grievance Committee with that twenty-one (21) calendar days deadline for submission to arbitration be extended.

10. Article XXI - Seniority

Delete following section:

Section 10. [Delete] The Chief of Police, and in the event the City shall employ a Commissioner of Police, or Superintendent of Police, or some other similar plan, the person who fills the position must come from the ranks of the Scranton City Police Department.

11. Article XXII- Bidding Procedure

Add the following section, and amend the Article to provide the following:

If there is an active promotion list when a temporary vacancy opens, the list may be used to fill that vacancy in accordance with the then-applicable civil service regulations. This provision shall supersede any article or provision or arbitral award, and any such provision to the contrary is automatically rescinded.

12. Article XXIII- Health Insurance

At the implementation of this Award, the City's current health insurance plan remains in effect. Effective beginning January 1, 2024, the City will continue to provide health insurance through that plan, with certain components, i.e., deductibles, co-pays, dental coverage and prescription formulary, modified as presented at the arbitration hearing. Therefore, replace or modify, as appropriate the current Article as follows:¹

- A. Regular full-time bargaining unit employees will be eligible to participate in an Employer-sponsored health insurance plan ("Plan") beginning the next full calendar month following the completion of their probationary period or earlier if required by law. Upon ratification, the Employer will offer eligible employees the attached Health Plan.
- B. Effective January 1, 2024, the applicable Health Insurance Plan for actively employed bargaining unit employees covered by this Agreement, including Medical, Prescription Drug, Dental and Vision components, shall be in accordance with the attached plan. The Presentation shows the Plan coverages, deductible and co-pays for bargaining unit employees and covered family members/dependents covered by the Plan.
- C. Employee contributions for Health Insurance:
 - 1. Effective the next calendar month after the issuance of this award, bargaining unit members who are eligible for and participate, for themselves and any eligible family

¹ The following plan for Health Insurance mirrors the plan set out in the April 4, 2023, Interest Arbitration Award (AAA Case No. 01-22-0003-9023) for the City's Fire Department (IAFF Local 60), which is consistent with the plan for all other City employees.

members, in the City's Health Insurance Plan shall contribute, on a pre-tax basis, toward the cost of health care benefits 4.0% of the base pay of a 5th year Patrol Officer, deducted in equal shares from their paycheck.

2. Effective July 1, 2025, active bargaining unit members who are eligible for and participate, for themselves and any eligible family member/s, in the City's Health Insurance Plan shall contribute, on a pre-tax basis, toward the cost of health care benefits 4.5% of the base pay of a 5th year Patrol Officer, deducted in equal shares from their paycheck.

D. Recognizing the ever-changing nature of health insurance and the significant fiscal challenges posed to the Employer in continuing to provide it, the Union acknowledges the Employer's right to designate and unilaterally change from time to time, as it determines necessary, the particular carrier(s) and plan(s); to modify specific plan components, except as provided below; and to provide any or all benefits on an insured basis with a carrier(s) of its choice, or on a self-insured basis.

If the Employer intends to make a material change in plans or specific plan components ('material' being defined to mean a plan or specific plan component change that is not substantially comparable with that in effect as of the date of this Award) which it determines is necessary, it will inform the Union, provide it with the reason it wants to make the intended change, and offer to negotiate with the Union; provided that upon such notice, if the Union wishes to meet and negotiate about the intended change, such negotiations shall be conducted on an expedited basis, without delay, and completed in sufficient time for the Employer's plan to be finalized and implemented, including conducting an Open Enrollment, before the new Plan Year. In the event the parties do not reach agreement over a proposed material change in plans or specific plan components, the Employer may seek expedited arbitration from an independent arbitrator, or, if both parties prefer, under the AAA Rules for Arbitration.

Although the former "Health Care Committee" is terminated, the City will meet with the Union upon request to discuss health insurance issues and is open to creation of a new and different health care committee, about which discussion is invited.

E. A bargaining unit member may elect to waive his/her health insurance coverage as provided hereinbefore under the following conditions:

i. The election shall be in writing and shall be effective as of the first day of the month next following the City's receipt of the notice; and

- ii. The election may be revoked at any time in writing with such revocation becoming effective as of the first day of the month next following the City's receipt of that notice; and
- iii. For each full month that the revocation is in effect the Employee shall monthly receive the following amount, payable to him/her in the paycheck next following the completion of the month for which the revocation was in effect.
 - Employee \$100/mo
 - Employee and Spouse \$200/mo
 - Employee and Child \$200/mo
 - EE and Children \$200/mo
 - Family \$400/mo
- iv. The money shall be paid to the bargaining unit member in the paycheck next following the completion of the month for which the revocation was in effect and shall not be considered compensation for pension deduction purposes.
- v. An employee cannot maintain health insurance with the City if Employee's spouse/significant other or other family member is also employed by, or a retiree of, the City and has health insurance with the City that does or could cover the employee. Nor is any buyout available to an employee who is not eligible to maintain health insurance with the City.

Employee Participation in Health Insurance costs during the term of the Contract:

1. Employee Premium Portion (as a percentage of base pay):

- Effective the next calendar month after issuance of this Award: 4.0%
- Effective July 1, 2025: 4.5%

2. Deductibles

- Effective January 1, 2024: \$500/\$1,000
- Effective January 1, 2025: \$750/\$1,500
- Effective January 1, 2026: \$1,250/\$2,500

3. Pharmacy Co-Pays

- Effective January 1, 2024: \$5, \$25, \$80
- Effective January 1, 2025: \$10, \$35, \$90
- Pharmacy formular shall be updated periodically by the carrier or RX provider in standard industry fashion, with notice to Union of any significant changes.

4. Physician, Therapy, Rehab Co-Pays

- Effective January 1, 2024: \$20, \$30
- Effective January 1, 2025: \$30, \$40

5. Emergency Room Co-Pay

- Effective January 1, 2024: \$150

13. Article XXVI - Residency

Amend to provide that bargaining unit members shall be required to reside within Lackawanna County, or, if outside Lackawanna County, to reside within 25 air miles of City Hall. Nothing herein shall be construed as a mandate or give coverage to any other City employees. This provision is provided, notwithstanding the City's vehement and ongoing objection to any consideration of eliminating its current residency requirement. This panel has carefully considered the compelling evidence provided by the Union regarding comparables on this subject for similar-sized Pennsylvania municipalities and the City's objectives of recruitment and retention of police professionals.

14. Article XXVI - Past Agreements, Arbitration Awards, and Past Practices

Section 1. Replace with the following:

The written provisions of this Agreement control and supersede any prior Agreement or any purported customs or past practices which are in conflict with or contrary to any provision, term or condition of this Agreement. Any agreement, clause or provision in any prior collective bargaining agreement between the parties which maintains or protects past practices or any rights which are not specifically set forth in this Agreement is eliminated.

15. Article XXX - Heart and Lung Benefits

Modify to add the following additional sections:

New Section 4. Any employee who is determined by a Heart and Lung Arbitrator to be permanently disabled shall immediately apply for pension: if not, the City shall submit the application of the employee's behalf. The decision of the Heart and Lung Panel arbitrator adjudicating whether an injury is permanent shall be binding on the employee and the parties hereto.

New Section 5. An employee will not accrue any paid leave while out on Workers' Compensation, providing he or she is not also receiving benefits pursuant to Heart and Lung Act. This includes sick time, vacation time, and holiday time.

New Section 6. In any such arbitration pursuant to the grievance procedure, it is agreed and understood that the rules of evidence shall be applied to the same extent and in the same manner as at a labor arbitration.

New Section 7. An employee who is transferred from Heart and Lung to Workers' Compensation shall not accrue paid leave to increase their severance buyout. Any member on Workers' Compensation shall not be permitted to use their time on Workers' Compensation to increase their pension benefit or to use such time to calculate their eligibility for retiree healthcare benefits.

16. 1999 and 2015 MOUs - Modify with the following changes to the Patrol Division

Section V. PATROL DIVISION

Modify from Twelve (12) to Fifteen (15) Sergeants.

Sergeants will no longer be designated to certain units, and Management retains its inherent management rights to interchange and rotate Sergeants into different specialties, as determined by need and in the best interests of the Department. If no Sergeants are available for Patrol Division first-line supervisor overtime, Patrol Lieutenants or Captains will be eligible to work the overtime.

Section VI. DETECTIVE DIVISIONS

Modify from Twelve (12) to Six (6) Detectives.

Three of the Detectives will be assigned to the night shift.

The number of detectives shall be reduced by attrition. As the number reduces, tasks formerly performed by detectives will, as determined necessary by the Chief, be completed by officers on special duty assignment.

Add one detective sergeant position to the crime scene unit, responsible for evidence storage, and management, in addition to crime scene processing.

Remove the SID supervisor position which is currently unfilled.

Fire Marshall - The Fire Marshall position shall be filled by special duty assignment, by an officer with demonstrated ability and seniority, preferably with an officer having experience and knowledge of fire suppression, and an understanding of fire dynamics.

17. Designated Hours of Work Pilot Program Discussion

The parties are directed to meet promptly and negotiate in good faith to create a 12-month, 12-hour shift pilot program within the Department. The parties shall make a good faith effort to create the parameters of the pilot program and to implement such pilot program in the first six (6) months of calendar year 2024. If the parties fail to negotiate the creation of the aforementioned pilot program within ninety (90) calendar days from the date of this Award, the terms and conditions of the pilot program shall be set by this Board of Arbitration, and for which this Board retains jurisdiction.

18. Contract Consolidations/Integration

A consolidation of the Collective Bargaining Agreement (CBA) between these parties, including Memoranda of Understanding, and Act 111 Awards, is decades overdue. Although it is a time-consuming process, clarifying and consolidating the parties' exact obligations to each other will benefit the parties' relationship and the administration of the CBA. Accordingly, the parties are directed to consolidate and produce a clean and correct new CBA within one hundred and twenty (120) calendar days from the date of this Award.

In order to accomplish this goal, the parties must compile a clean and correct version of the last CBA which expired on December 31, 2021. Then the parties shall accept and integrate the terms and provisions of this Award into their new CBA, which must be produced within one hundred and twenty (120) days of the date of this Award. If the parties need more time, the party/or parties seeking an extension shall make such a request, they shall request an extension from the undersigned Board of Arbitration, providing a reason for the request and a new proposed date of completion.

This Board of Arbitration shall, until the parties produce a new and complete CBA, retain jurisdiction of any disagreement or dispute for the limited purposes of what constitutes true and correct terms of the parties' last prior CBA which expired on December 31, 2021. Any dispute or disagreement over the true and correct terms of the prior CBA shall be under the grievance procedure in the parties' CBA and shall be heard by this Board of Arbitration.

CONCLUSION

All remaining terms and conditions of employment not expressly modified by the Award or previously agreed to by the parties in negotiations shall remain "as is" through December 31, 2026. All proposals of the parties not included in the Award are denied. The arbitrators for the Union and the Employer have attached their respective dissents on certain specific issues to this Award.

It is understood that the Arbitrators' signatures attest to the fact that the contractual changes herein represent the majority opinion and Award on each issue by the members of the Arbitration Board. The Board shall retain jurisdiction of this case for one hundred and twenty (120) calendar days for the sole purpose of resolving any disputes regarding the implementation of the Award.

Samantha E. Tower
Neutral Arbitrator and Board Chair
Dated:

Stephen J. Holroyd, Esq.
FOP-Appointed Arbitrator

Robert Ufberg, Esq.
City-Appointed Arbitrator