



# **Grievance Arbitration Strategy for Public Safety Unions: What Works and What Fails**

**Richard Poulson**  
LRIS Executive Director  
Willig, Williams & Davidson

**June 25, 2025**

Presented by  
Labor Relations Information System  
3142 NE Multnomah St. | Portland, OR 97232  
503-282-5440  
[www.LRIS.com](http://www.LRIS.com) | email: [info@LRIS.com](mailto:info@LRIS.com)

# **Grievance Arbitration Strategy for Public Safety Unions: What Works and What Fails**

**June 25, 2025**

**10:00 AM PT / 1:00 PM ET**

**60 minutes**

**Presented By Richard Poulson**

**Arbitration Essentials** – Understand the key factors arbitrators weigh in contract disputes and how to align your case with their decision-making process.

**Building a Winning Case** – Master the art of presenting compelling witness testimony and documentary evidence that strengthens your position.

**Countering Employer Tactics** – Learn how to anticipate and overcome common employer defenses, procedural objections, and strategic roadblocks.

**From Preparation to Decision** – Key steps to take before, during, and after arbitration to maximize your chances of success.

Richard Poulson has been representing labor unions for his entire career, representing union clients in collective bargaining, interest and grievance arbitration and employment-related litigation. He is a partner with the Philadelphia, Pennsylvania firm of Willig, Williams & Davidson, where he focuses on advising and representing police, fire, paramedic and other uniformed employees regarding municipal affairs and public employment. He earned his B.A. from La Salle University (1992) and his J.D. from the Catholic University of America, Columbus School of Law (1997). Rick is the Executive Director of LRIS. Since its inception in 1981, LRIS has been a valuable resource for public safety labor relations. LRIS conducts labor seminars, publishes a monthly newsletter, and currently has five books in print.

[Richard G. Poulson | Willig, Williams & Davidson \(wwdlaw.com\)](http://www.williglaw.com)

# Grievance Arbitration Strategy For Public Safety Unions: *What Works And What Fails*

Richard Poulson  
Executive Director, LRIS  
Partner, Willig, Williams & Davidson  
Philadelphia, PA



1

Connecting With LRIS



New 1 Hour Webinar  
July 23  
10am PT / 1pm ET

REGISTER TODAY!



[LRIS.com/ECN25](https://www.lris.com/ECN25)



WEBINAR

## Economic Comparability In Negotiations:

What Works And What Doesn't

Connecting With LRIS

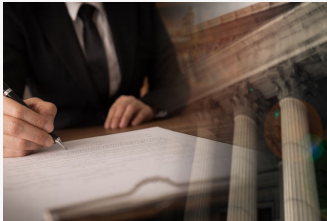
2



**Union Leadership In Action:  
Enforcing The Contract**

Sept. 10-12

The Horseshoe Hotel - Las Vegas



[LRIS.com/ELV25](http://LRIS.com/ELV25)

**Collective Bargaining For  
Public Safety Employees**

Oct. 15-17

The Horseshoe Hotel - Las Vegas



[LRIS.com/CBLV25](http://LRIS.com/CBLV25)

**Best Practices In Public  
Safety Discipline**

Nov. 5-7

The Horseshoe Hotel - Las Vegas



[LRIS.com/DLV25](http://LRIS.com/DLV25)



**First Thursday Podcast**  
by



[LRIS.com/podcasts](http://LRIS.com/podcasts)



Available on  
LRIS.com and  
your favorite  
podcast app.

**LRIS's monthly First  
Thursday podcast covers  
the latest news, court  
decisions, and arbitration  
awards in the public safety  
labor and employment  
arena.**

## Overview

- The Arbitrator's Role
- Contract Interpretation Principles
- Evidence Principles
- Case Preparation and Presentation Advice

5

## **PART ONE: THE ARBITRATOR'S ROLE**

6

## **What Is Grievance Arbitration?**

- **Definition of grievance arbitration**
  - How is grievance arbitration different from interest arbitration?
  - How does the arbitrator's role differ between the two?

7

## **The Arbitrator's Role**

- **To serve as a neutral third party**
  - Are arbitrator's subject to ethical rules or a code of conduct?
- **To ensure a fair hearing**
  - How much authority does an arbitrator wield?
- **To issue a binding decision**
- **The arbitrator as creature of contract - what does this mean?**

8

## Key Stages Of The Arbitration Process

### Filing of the Grievance

- Timeliness issues – when and how to address.

### Selection of Arbitrator

- Ad hoc selection versus permanent appointments.

### Pre-hearing Procedures

- Is there formal “discovery” in arbitration? Should there be?

9

## **PART TWO: CONTRACT INTERPRETATION PRINCIPLES**

10

## **Factors Arbitrators Consider: Contract Language**

- **The role of the arbitrator – interpret the CBA!**
  - Again... creature of contract.
  - Can/Should an arbitrator ever go outside of the CBA?
- **Clarity of the language.**
- **Interpretation based on past practice.**
- **Specificity vs. ambiguity.**

11

## **Clear And Unambiguous Contract Language**

- **Arbitrator's job is to enforce clear CBA language as written.**
- **CBA provisions are to be interpreted consistent with parties' intent as reflected by clear and explicit terms.**
  - Importance of drafting clear language in bargaining.
- **Where language is clear and unambiguous, the arbitrator may not consider parol evidence.**
  - What is parol evidence?

12



## **Ambiguous Contract Language**

- **Where CBA provision is NOT clear and unambiguous, an arbitrator use the following tools to resolve the dispute:**
  - Consider past practice of the parties.
  - Consider bargaining history.
  - Apply traditional rules of contract interpretation.

13

## **Interpreting Ambiguous Language: *Past Practice***

- **Ask the question: How have the parties lived under the disputed CBA provision since it has been in effect?**
  - Parties' practice should indicate their intent
- **The importance of consistency in application**
- **Historical context**
- **How to prove? Documents and testimony**

14

## **Interpreting Ambiguous Language: *Past Practice***

- What happens when an established past practice violates clear and unambiguous contract clause?
- Are all practices binding upon the parties?
- **Special CBA clauses:**
  - Maintenance of prior practices or benefits
  - Zipper clause

15

## **Interpreting Ambiguous Language: *Bargaining History***

- How might bargaining history indicate intent?
- **Methods of proving bargaining history:**
  - Negotiating minutes and notes
  - Testimony of what was said “at the table”
  - Evidence of the evolution of the disputed language
  - Prior and subsequent proposals and agreements

16

## **Interpreting Language: *Traditional Rules Of Contract Interpretation***

- CBA terms should be given their ordinary meaning
  - The significance of technical language
- CBA should be reasonably construed based upon a reading of an article or the CBA *as a whole*.
- CBA construction should avoid a nullity.
- CBA should be interpreted consistent with external law

17

## **Interpreting Language: *Traditional Rules Of Contract Interpretation***

- Provisions will be construed against the drafter
- The significance of specific vs. general language
- When a provision mentions one item but excludes others
- Avoidance of nonsensical and harsh results
- Avoidance of a forfeiture
- Considerations of fairness and equity

18

## **PART THREE: EVIDENCE PRINCIPLES**

19

### **Factors Arbitrators Consider: Evidence**

- **Whether and the extent to which the Rules of Evidence apply in arbitration**
  - What are rules of evidence and why do we need them?
- **Relevance and materiality**
- **Credibility of witnesses**
- **Weight of documentary evidence**

20

## **Factors Arbitrators Consider: Legal Standards**

- **Compliance with relevant laws and regulations**
- **Precedents in similar cases**
  - What is the value of prior arbitration awards and settlements between the parties?
  - What is the value of prior arbitration awards involving other parties?
- **Public policy considerations**

21

## **PART FOUR: CASE PREPARATION AND PRESENTATION**

22

## Understand The Contract

- Know what you have. Know what you don't have.
- Thoroughly review of the collective bargaining agreement
  - This means someone has to actually *READ THE CONTRACT*
- Identify the relevant clauses
- Anticipate contract interpretation issues
- Appreciate the value of seniority and institutional knowledge

23

## Gathering Evidence

- Documentation of facts and incidents
  - The value of contemporaneous notes
- Witness statements and interviews
  - The Union's right to conduct its own investigation
- Information requests and subpoenas
- Building a coherent timeline
  - Highlighting key dates and actions
  - Correlating evidence with timeline

24

## **Case Preparation Guidelines – Questions To Ask**

- What does the grievance allege?
- What CBA provisions are cited in the grievance?
- What remedy is being sought?
- What were the positions of the parties in the grievance procedure?
- Are there any substantive or procedural arbitrability issues? Were they raised below?

25

## **Case Preparation Guidelines – Questions To Ask**

- Can an argument be made that the CBA language is clear and unambiguous?
- Can the argument be made that a party is seeking through arbitration what they could not obtain through negotiation?
- What is the bargaining of the disputed CBA provision?
  - How will you prove this bargaining history?
  - Testimony of negotiators?
  - Notes of bargaining sessions?

26

## **Questions To Ask: Bargaining History**

- **What is the bargaining of the disputed CBA provision?**
  - How will you prove this bargaining history?
  - Testimony of negotiators? Notes of bargaining sessions?
  - Correspondence between the parties outlining their relative positions in negotiations?
- **Who proposed the language in issue?**
- **Was the proposal modified? By whom?**
- **What did the contract language replace, if anything?**

27

## **Questions To Ask: Past Practice**

- **If the CBA clause is arguably ambiguous, is there any relevant past practice with respect to the matter in dispute?**
  - How have the parties lived with the language?
- **Was this practice open and verifiable over a relatively substantial period of time, and mutually relied upon?**
- **Were there any personnel changes on either side that precipitated a change? What was the response?**

28



## Questions To Ask: Relevant Precedent

- Have the parties previously addressed this issue in the grievance procedure?
- Are there relevant settlements? Do they set precedent?
- Are there relevant arbitration awards between the parties?
- Has the contract language changed since the prior arbitration decisions?
- Is there any persuasive arbitral precedent you wish to cite?
- Is there any relevant case law or statute?

29

## Case Preparation: Anticipating Counterarguments

- Identifying potential weaknesses in your case
  - If you can identify a weakness, the other side can, too
- Preparing responses to likely defenses
  - Do NOT avoid the bad stuff.
- Strengthening areas of vulnerability
- And bear all of this in mind during the grievance process – bargaining never ends – *you can always settle.*

30

## **Case Presentation: Questions To Ask**

- How will you frame the issue for the arbitrator?
- What is the theory of your case?
- How will you educate the arbitrator of your case in your opening statement?
- Who is your arbitrator? What type of hearing do they run? How can you best present your case to this arbitrator?
- Have you anticipated your opponent's evidence and arguments?

31

## **Case Presentation: Questions To Ask**

- Do you need to issue subpoenas prior to hearing?
- Do you need a stenographic record?
- Have you prepared your witness for the arbitral forum?
- Have you made sufficient copies of all documents, including one for the arbitrator?
- Have you considered all possibilities of settlement? Do you want the arbitrator to assist in those settlement efforts?

32

## **Presentation Tips: Opening Statements**

- **Whether and when to provide an opening statement**
- **Provide a clear and concise overview of the case**
- **Emphasize the key issues**
- **Set the tone for the arbitration**
- **Don't write checks you can't cash...**
  - What happens when evidence doesn't match the opening?

33

## **Presentation Tips: Presenting Evidence**

- **Logical organization of evidence**
  - Think about the order of witnesses and evidence
- **Ensuring clarity and relevance**
  - What is the best and cleanest way to make a point?
- **Addressing potential challenges**
  - Get your weak points out through your case if you can

34

## **Presentation Tips: Witness Testimony**

- **Preparing witnesses for direct and cross-examination**
  - Particular challenges with public safety witnesses
- **Focusing on credibility and consistency**
- **Highlighting key witness statements**
- **Common mistakes made by witnesses**

35

## **Presentation Tips: Closing Arguments**

- **Oral versus written closing arguments**
  - Decide in advance and prepare accordingly
- **Summarizing key points**
- **Reinforcing contract language and evidence**
- **Making a persuasive case for the desired outcome**
- **Timeliness and thoroughness**

36

## Common Pitfalls To Avoid

- Failing to adequately prepare
- Refusing to continue to seek a negotiated resolution
- Over-reliance on technicalities
- Failing to address key issues
- Expecting an arbitrator to win your battles for you

37

Connecting With LRIS



First Thursday Podcast  
by



[LRIS.com/podcasts](https://LRIS.com/podcasts)



Available on  
LRIS.com and  
your favorite  
podcast app.

**LRIS's monthly First Thursday podcast covers the latest news, court decisions, and arbitration awards in the public safety labor and employment arena.**

Connecting With LRIS

38