

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

REC

FEB 8 - 1982

CONCILIATION

In the Matter of Interest Arbitration between

CITY OF LONG BEACH

and

LONG BEACH PATROLEMEN'S BENEVOLENT ASSOCIATION

CASE NO. M-81-365

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:
:
: DETERMINATION
:
: AND
:
: AWARD
:
: OF THE
:
: ARBITRATOR

BACKGROUND

The undersigned arbitrator, Samuel Ranhand, upon appointment by the Director of Conciliation of the New York State Public Employment Relations Board participated as mediator in the impasse between the above parties. After several mediation sessions, the impasse was not resolved.

Based on a joint request made by the above parties, under date of October 2, 1981 the undersigned was designated arbitrator in accordance with Voluntary Interest Arbitration provisions of the Taylor Law, Section 209.3 (d) (ii) and Part 205.2 of PERB'S Rules of Procedure.

In a Memo of Agreement between the Long Beach PBA and the City of Long Beach, dated September 18, 1981, the parties agreed that Samuel Ranhand shall be the sole arbitrator in this matter.

INTRODUCTION

Pursuant to the authority cited above hearings were held during which the parties were afforded ample opportunity to present

testimony and proofs and to examine and cross-examine witnesses.

The parties waived a transcript.

APPEARANCES

For the City:

Caesar Guazzo, Esq.	- Counsel
Sol Barnett	- Deputy Police Commissioner
Sal Lombardi	- Comptroller

For the Union:

Michael C. Axelrod, Esq.	- Counsel
George R. Voight	- President, L.B.P.B.A.
Thomas Browne	- 1st Vice President, L.B.P.B.A.
Joseph Morrison	- President, Superior Officers' Association

CRITERIA FOR DETERMINATION

AS a basis for arriving at a just and reasonable determination of the matters in dispute, the arbitrator took 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.

ISSUES IN DISPUTE

At the outset of negotiations, the PBA submitted a list of demands which included fifty-seven (57) items and City submitted a list which included thirteen items.

As a result of items having been agreed upon by the parties or withdrawn or otherwise deleted from the lists, the arbitrator was presented with a list of eighteen issues which were in dispute and were submitted for the arbitrator's decision.

Following is the list of eighteen unresolved issues submitted by the PBA. The numbers shown are the numbers as shown in the original list of PBA demands:

10. BASIC WORK WEEK AND TOUR OF DUTY (NUMBER OF TOURS)
12. DURATION OF AGREEMENT
13. WAGE INCREASE
17. RELEASE TIME (OFFICERS OF ASSOCIATION)
18. HOLIDAY PAY (WHILE ON AUTHORIZED LEAVE)
22. NIGHT DIFFERENTIAL
23. MEAL PERIOD (MISSED)

- 24. MEAL PERIOD (OVERTIME)
- 25. MEAL COMPENSATION FOR OVERTIME
- 29. OPTICAL PLAN
- 34. HOSPITALIZATION, MEDICAL AND DENTAL BENEFITS
(FOR DECEASED EMPLOYEES)
- 39. OVERTIME (COMPUTATION DURING NIGHT HOURS)
- 43. MINI-CHECK PROGRAM
- 46. HOLIDAYS (SPECIAL DAYS DECLARED)
- 49. EQUIPMENT AND CLEANING ALLOWANCE
- 50. CLOTHING AND UNIFORM ALLOWANCE
- 51. LONGEVITY
- 53. HOSPITAL AND DENTAL INSURANCE

RELATIONSHIP HISTORY

Long Beach is located on the south shore of Long Island, 20 minutes by automobile from J.F.K. International Airport and 50 minutes via the Long Island Railroad from midtown Manhattan.

A population of 33,221 resides within the 5 square mile area of Long Beach. The population swells to about 100,000 in the summer months because of its resort attraction.

The population expansion of almost three-fold places added strain on the police resources as all forms of police action increases substantially including arrests for disorderly conduct and assaults. Long Beach crime statistics are the highest in the County, second only to Hempstead.

The Long Beach Police Department is comprised of 81 officers, 17 modern vehicles, a Detective Division, Traffic, Identification and Youth Bureau.

In fact, because Long Beach was in dire financial straits, relationships between the parties were usually strained. There was continuing disparity between the Long Beach PBA and the County.

Over time, with improvement in the financial condition and a substantial debt reduction, relations have improved considerably.

In "The Year in Review - 1980" the City Manager's message was one of optimism. Many long-awaited capital improvements projects and management innovations were initiated.

The message continued that management and productivity improvements are being stressed in the delivery of City services and the improvement of the quality of life for the City's residents.

In looking at other settlements, it was noted that other jurisdictions in the County which reached two or three-year agreements it was noted as under:

Freeport,	8% and 8%
Port Washington,	10%,10% and 10%
Hempstead,	4%,4% and 8%
Rockville Center,	17% over two years

A prior arbitration involving the County was remanded by a judge in an Article 72 proceeding because the Arbitrator did not specify his findings of fact.

EXECUTIVE SESSION

The arbitrator held an executive session with the attorneys for each of the parties. During this executive session, the

arbitrator reviewed with the attorneys each of the issues before him. Based on this review and evaluation, in addition to all the documents and arguments presented to the arbitrator by the parties as well as consideration of the criteria enumerated above in order to reach a fair and reasonable decision the Arbitrator Awards as under:

ARBITRATOR'S AWARD

Based on the foregoing, the Arbitrator Awards as follows:

1. The duration of the new agreement shall be for two years commencing July 1, 1981 and ending June 30, 1983.
- 2.A. Commencing July 1, 1981, the base salary of each member of the bargaining unit shall be increased by eight percent (8%).
- B. Commencing July 1, 1982, the base salary as adjusted in (2A) above shall be increased by five percent (5%).
- C. Commencing January 1, 1983, the base salary as adjusted in (2B) above shall be increased by four percent (4%).
3. Following is the language of four Articles which shall replace the same-numbered Articles in the expired Agreement.

ARTICLE 13. SICKNESS, INJURY AND PERSONAL LEAVE

(a) (as presently written)

(b) Injury shall be defined as any disablement rendering the employee unable to perform police duties. Subject to examination by a police doctor on reasonable notice, an employee absent by reason of an on "line of duty" injury shall not be required to be confined to a hospital, bed or home or otherwise be restricted by the City.

The City shall designate and order a physical medical examination to determine whether the employee is fit to perform any police duties. The police doctor's determination shall be subject to review by a medical review board, which shall be composed of a police doctor, the association designated doctor and a third impartial doctor selected by the police doctor and the association doctor.

In the event they cannot agree upon the third impartial doctor, either party may request the Nassau County Medical Association to provide a panel of five (5) qualified doctors from which the parties shall select the impartial doctor by each party eliminating two (2) names. The impartial doctor shall be selected from the remaining doctors who have not been eliminated by each party.

The selection of the third doctor aforescribed shall be made within ten (10) days following appeal from the police doctor's determination as to fitness for police duties following a "line of duty" injury.

The determination of the police doctor as to fitness for duty shall be determinative unless appealed to the review panel procedure within two (2) work days from receipt of the police doctor's determination by the affected employee.

The cost of the impartial doctor shall be divided equally between the parties hereto.

(The balance of the Section remains unchanged.)

ARTICLE 15. DISCIPLINARY ACTION

(a) Disciplinary action shall be required to be commenced within thirty (30) days from the date the violation is discovered or should have been discovered upon cause for and after reasonable investigation.

A departmental hearing thereon shall be held and a determination as to guilt or innocence of the charge or charges shall be made within thirty (30) days after the hearing is closed, unless the employee consents to a longer period.

If no determination as to guilt has been made within the thirty (30) day period or agreed extension thereof, the charges shall be deemed dismissed.

The institution of charges shall be considered the service of charges and specifications.

(b) Charges and specifications and all references thereto shall be removed from the employee's personnel folder one (1) year after the final determination thereof, so long as no other determination has been made as to charges served within the said one (1) year period.

(c) The departmental determination of guilt may be grieved within the steps of the grievance procedure described in Section "16" hereof, including Step III of the grievance procedure, providing final and binding arbitration. The arbitrator shall review the findings and determination as to guilt by the City and make a final determination as to guilt or innocence of the charges.

The City has the right to discipline employees for cause by reprimand, fines, loss of vacation or personal days, suspension without pay, demotion or dismissal except that employees who have not completed twelve (12) months of service may be disciplined or terminated by the City in its sole discretion without recourse to the grievance and arbitration provisions of this agreement.

The arbitrator in any arbitration involving disciplinary matters, has the power to restore to the employee any fine or benefit taken away, reinstate any employee, with or without pay, or remove any reprimand, in the event he finds no just cause for the discipline.

(d) Anonymous personal complaints against an employee shall not be the basis of any charge, provided, however, that the City may investigate to ascertain whether there is cause for complaint as to conduct of a police officer or patrolman relating to police duties or functions.

Upon the conclusion of such an investigation, the employee involved shall be notified immediately of the result thereof.

16. For the purposes of this agreement, the term "grievance" shall mean:

- (1) A claimed violation, misinterpretation or misapplication of the express terms of this agreement;
 - (2) A claimed violation, misinterpretation or misapplication of the Rules, Regulations or Procedures of the Police Department affecting terms and conditions of employment, provided that, except as otherwise provided in this Section 1 (a), the term, "grievance" shall include determinations as to discipline.
 - (3) An assignment claimed to be substantially and involving the duties of a higher title.
- (b) The term "grievant" shall mean an affected employee, group of employees, or the association, or both, as the context requires.
- (c) Grievances may be processed by the association within its discretion, and the determination as to whether or not to invoke arbitration as the final step in the grievance procedure on behalf of an employee, group of employees or the association shall be the exclusive right of the association. The association shall have the right to settle grievances.

16. Section 2

(a) Every bargaining unit member who believes he has a grievance under the collective agreement shall present his grievance to an authorized representative of the association who shall process the employee's grievance to the Deputy Police Commissioner or his designee for this purpose, in writing upon a form to be provided by the City.

The informal resolution of grievances is encouraged at all levels of supervision.

A bargaining unit employee shall have the right to have a representative of the association present at any step of the grievance procedure.

It is understood and agreed that the association will attempt to avoid processing any grievance which it believes in good faith to have no merit.

STEP 1.

A grievance shall be submitted in writing to the Deputy Police Commissioner or his designee for that purpose. A determination thereon shall be made by the Deputy Police Commissioner within ten (10) days following the submission of the grievance unless the time is extended by agreement between the Association and the City.

STEP 11.

The Deputy Police Commissioner's determination, if not accepted by the Association, may be submitted to the City Manager by providing him with a copy of the grievance and the determination by the Deputy Police Commissioner, together with any supporting documents.

The City Manager or his designee shall review the grievant's case within five (5) days after the aforesaid submission to him. He shall, thereafter, make a determination thereon within ten (10) days after the aforesaid review.

STEP III

If the dispute is not settled by Step II, either party may submit the matter to final and binding arbitration in accordance with the Rules of the New York State Public Employment Relations Board (P.E.R.B.) for Voluntary Arbitration (Grievance Arbitration).

The arbitrator may be selected from a panel provided under the aforesaid P.E.R.B. Rules, or agreed upon by the parties in the interest of expeditious resolution for certain agreed upon matters.

The arbitrator shall have no authority to modify, alter, add to, or subtract from any of the terms of this agreement and shall be bound by its express terms. He shall have no authority to consider any matter which was not presented in the course of the grievance steps and he shall be the ultimate appeal therefrom.

He shall, nonetheless, have the authority to make an employee whole as to damages suffered.

The expenses of the arbitrator shall be equally shared by the parties. If a transcript is provided, the cost of same shall be shared equally by the parties. However, the City shall be responsible for the cost of the transcript of disciplinary hearings.

ARTICLE 21. HOSPITAL, MEDICAL AND DENTAL BENEFITS

(a) The City shall provide for the employees and their families, and will continue on behalf of the employees, at the sole cost and expense of the City, without any contribution from the employees, the present level of hospitalization, major medical and dental benefits. Maternity shall be considered a covered illness condition.

ARBITRATOR'S AWARD ADDENDUM

4. In the event that departmental rules and regulations conflict with the Collective Bargaining Agreement between the parties, the provisions of the Collective Bargaining Agreement shall prevail.
5. Of the eighteen issues in dispute listed hereinabove, those not included in this Award are hereby rejected by the arbitrator.

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6. All the Articles and provisions in the Agreement which expired June 30, 1981 shall continue in full force and effect in the new Agreement except as modified or amended by this Award.


Samuel Ranhand
Arbitrator

Dated: January 26, 1982
STATE OF NEW YORK }
COUNTY OF QUEENS }

On this 26th day of January, 1982 before me came Samuel Ranhand to me known to be the individual who executed the foregoing instrument and acknowledged that he executed same.


E. THOMAS LANKES
Notary Public in and for the State of New York - No. 4-1770
Expires March 1, 1982

STATE'S PUBLIC EMPLOYMENT
RELATIONS BOARD
RECEIVED
FEB 8 - 1982
CONCILIATION

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PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of Interest Arbitration between

CITY OF LONG BEACH

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LONG BEACH PATROLEMEN'S BENEVOLENT ASSOCIATION

CASE NO. M-81-365

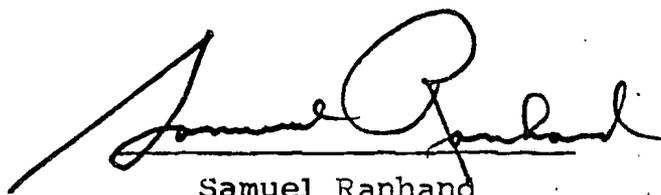
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: ADDENDUM TO
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: ARBITRATOR'S
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: AWARD
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: DATED: JANUARY 26, 1982
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The undersigned arbitrator issued an Award in the above matter dated January 26, 1982. Following are additions to the Award and shall have full force and effect of the Arbitrator's Award.

ADDITIONS TO ARBITRATOR'S AWARD

1. During the two-year duration of the new agreement between the parties, the first two steps of the salary schedule shall be frozen as of June 30, 1981.
2. The Equipment and Cleaning Allowance shall be increased by \$50.00 commencing July 1, 1982.
3. The Clothing and Uniform Allowance shall be increased by \$50.00 commencing July 1, 1982.
4. Commencing July 1, 1982, Longevity Pay shall be increased by adding \$50.00 after ten years and adding \$50.00 after 15 years.

5. The five items included hereinabove and the six items included in the Arbitrator's Award dated January 26, 1982 shall constitute the complete and total Arbitrator's Award in this matter;



Samuel Ranhand
Arbitrator

Dated: February 3, 1982

STATE OF NEW YORK }
COUNTY OF QUEENS }

On this 3rd day of February, 1982 before me came Samuel Ranhand to me known to be the individual who executed the foregoing instrument and acknowledged that he executed same.



ETHEL RANHAND
Commissioner of Deeds
City of New York - No. 4-1770
Commission Expires March 1, 1978