

PUBLIC EMPLOYMENT RELATIONS BOARD
STATE OF NEW YORK

In the Matter of the Impasse Between

THE CITY OF CORNING,

Employer,

PERB Case No.
M74-121/CA-0006

- and -

CORNING POLICE DEPARTMENT,
STEUBEN CHAPTER, C.S.E.A.,

Union.

OPINION
AND
AWARD

Before the Public Arbitration Panel:

John E. Sands, Chairman and Public Member
Justin V. Purcell, Jr., Employer Member
Robert Russo, Employee Organization Member

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CONCILIATION

OPINION

Robert H. Helsby, Chairman of the New York State Public Employment Relations Board designated us members of the Public Arbitration Panel on March 14, 1975. Pursuant to our authority under Article 14 of the Civil Service Law ("Taylor Law") we conducted hearings on October 20 and November 17, 1975 in Corning, New York. Each party had full opportunity to submit testimony under oath as well as documentary evidence and to cross-examine opposing witnesses.

In reaching our conclusions, we have been bound by the standards mandated by section 209.4 (c) (v) of the Taylor Law. Accordingly, pursuant to sub-paragraph (d) of the cited section, we have taken into account the Taylor Law's strong policy to encourage parties to negotiate their own settlements without requiring impasse procedures. We find the fact-finder's award in this case covering contract year July 1, 1974 through June 30, 1975 followed the statutory standards and established an over-all cost structure which we have not changed. To vary that structure by increasing or decreasing benefits and costs would only encourage negotiators of future contracts to hold out to impasse on the hope of

winning an improved result from some third-party arbitration panel. This would be counter-productive.

Instead, we have by agreement of the panel members reshuffled benefits proposed by the fact-finder for both sides within the same cost structure to improve the impact of the settlement on both management and labor. Accordingly, in some cases we have granted more money to employees. In other cases, we have counteracted such increases by either decreasing money benefits or by providing additional productivity privileges to the employer.

In addition, we have acted pursuant to our authority under the Taylor Law to include in this award contract provisions for the year July 1, 1975 through June 30, 1976. We felt unanimously that a second year's award is necessary because delays to litigate the Public Arbitration Panel procedure's constitutionality have put the parties far beyond the fact-finding report's one year term prior to our commencing hearings in this case.

In generating our award for the second year we have considered the entire record before us and have been particularly impressed by two facts, among others: first, the City of Corning is in outstanding financial condition, and its ability to pay the benefits awarded herein is beyond cavil. By careful controls and budgetary management, the City has been able to maintain substantial contingency reserves and general fund surpluses which are available to underwrite the expense of this award.

A second salient fact affecting our award is the dramatic difference between the levels of compensation for Corning's Police personnel and those of every other police force in the State. Regardless of the standard of comparison used, Corning Police are far behind State, County, City and Town law enforcement officers in terms and conditions of employment.

We have accordingly developed a second-year award which is designed to help the covered employees begin to catch up to the benefits enjoyed by comparable personnel in the public sector. In doing so we emphasize that this award does not signal the end of the necessary catch-up period. We realize that much of the parties' negotiating energies were channeled off into litigation activities during this round of bargaining. Since these last two years' experience has elucidated the nature of the process as well as the circumstances and needs of the respective parties, we are confident that the City will approach future negotiations with an eye toward continuing this catch-up process which will be necessary to attract and keep competent personnel on the Corning Police Force.

By reason of the foregoing, we issue the following:

AWARD

1. TERM

The term covered by this award shall be two years, commencing July 1, 1974 and terminating June 30, 1976.

2. HOLIDAYS

Article V of the parties' prior collective bargaining agreement shall be amended to read as follows, effective July 1, 1975:

1. All employees covered by this contract shall be compensated for ten (10) paid holidays per year.
2. The benefit required by this article shall be paid either in cash or in compensatory time off, at the option of each covered employee. If in cash such compensation shall be computed on the basis of each employee's regular, straight-time rate of pay for eighty (80) hours and shall be paid in a lump sum during the first pay period in December of each year. If in compensatory time off, the employer shall credit each such employee during the first pay period in December of each year with a leave balance of ten (10) days' compensatory time off, to be taken before December 31 of the following year. If an employee fails to take any of the ten (10) days before December 31 of the following calendar year, he shall receive the balance due in cash at the daily salary rate which was applicable to him

when the compensatory time in question was credited.

3. Employees shall work on holidays according to the natural rotation of their schedules and shall receive no extra compensation whether or not they work on any holiday in a given calendar year.

4. For information purposes, the parties intend that the following days comprise the ten (10) paid holidays referred to in paragraph 1, above:

New Year's Day	Columbus Day
Lincoln's Birthday	Veteran's Day
Washington's Birthday	Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	Labor Day

3. VACATIONS

Article VIII of the collective bargaining agreement between the parties shall be amended to read as follows:

The schedule of vacations for covered personnel shall be as follows:

Appointed by February 1st but less than one year of service by June 1st	1 week
One year but less than five years of service by June 1st	2 weeks
Five years but less than ten years of service by June 1st	3 weeks
Ten years or more of service by June 1st	4 weeks

The selection of vacation periods shall be governed by the operating needs of the police department. In determining "operating needs," the employer shall not deny a request for vacation scheduling for a reason unrelated to the actual operating needs of the police department.

4. SICK DAYS

There shall be no change in the current provisions for sick days in the parties' agreement.

5. JOINT LABOR-MANAGEMENT COMMITTEE

At the hearing, it became clear that both parties agree on the need

for updating the department's Book of Rules. In addition, it became clear to us that many other problems between the parties can be resolved at an early stage if the parties had a regular forum in which to raise and discuss them. Accordingly, the parties' collective bargaining agreement shall be amended to add the following new article:

1. There shall be a four-member joint Labor Management Committee which shall meet at least once a month to discuss with a purpose of voluntarily resolving all problems affecting the relationship of the parties.

The Mayor of the City of Corning and the President of the union shall each appoint in writing with notice to the other two members of the committee, and each may appoint himself. The members so appointed shall continue to serve at the pleasure of the appointing officer.

2. In addition to other matters appropriately before it, the committee shall discuss and review the police department Book of Rules to update the same by revising or expanding it to cover current conditions. Subject to the terms of this agreement, the City of Corning shall retain the unilateral right to issue rules and regulations notwithstanding a failure of Labor-Management Committee to agree on specific items.

6. OVERTIME AND OFF-DUTY APPEARANCES

Article XIII of the parties' collective bargaining agreement shall be amended to read as follows:

1. Through June 30, 1975, compulsory attendance at any court trial, breathalyzer operation, or hearing shall be compensated at the employee's base hourly rate of pay for a minimum of two (2) hours or for actual time in excess of said two (2) hours.

2. Effective on and after July 1, 1975, any required attendances outside regularly scheduled duty at any court appearance, breathalyzer operation or hearing shall be compensated at one and one-half times the employee's base hourly rate of pay for a minimum of four (4) hours or for actual time in excess of said four (4) hours. Time and one-half shall be paid for all overtime worked as a continuation of the shift and in pursuit of such duties normally performed on a shift assignment. Except in cases of emergency, employees shall receive no less than forty-

eight (48) hours' notice of a change of their regular schedules.

7. EDUCATIONAL RAISES

There shall be no change in the parties' collective bargaining agreement to provide this benefit.

8. GRIEVANCE PROCEDURE

Article XIV of the parties' agreement shall be amended to read as follows:

1. Definitions

(a) The term, "Grievance" shall mean any claimed violation, misinterpretation, inequitable application or non-compliance with the provisions of this Agreement, provided, however, that such term shall not include any matter involving an employee's rate of compensation, retirement benefits, or disciplinary proceedings.

(b) The term, "Grievant," shall mean either any employee who claims to have a grievance or the union, whether it is processing a grievance filed by an employee or a grievance which it has filed itself, or both, as the context may require.

(c) The term, "Days," shall mean regular work days for the City's civilian force.

2. STEP ONE

A grievant shall submit a grievance in writing to his immediate superior within thirty (30) days of the event giving rise to the grievance or of the date on which grievant should reasonably have known about the existence of the grievance. The immediate superior shall make a determination of the grievance within five (5) days after receipt thereof. The determination shall be in writing, and a copy shall be given to the grievant and to the union.

3. STEP TWO

If the grievant is not satisfied with the determination at step 1, he shall present it in writing to the Chief of the department, who shall, within five (5) days after receipt thereof make a determination in writing and present a copy to the grievant and to the union.

4. STEP THREE

If the grievant is not satisfied with the determination at step 2, he shall present his grievance in writing together with a copy of the step 2 determination through the Chief of Police to the Police Commission. The Police Commission shall then conduct a hearing on the grievance with ten (10) days following submission to the Chief of Police. The Police Commission shall issue its determination in writing within ten (10) days following said hearings and shall give copies of its determination to the grievant and to the union.

5. STEP FOUR

If the determination at step three is not satisfactory to the grievant, the union alone may process the grievance to arbitration by an impartial committee of three persons, who will hear and decide the case. Arbitration shall be commenced by service of a written demand for arbitration specifying the nature of the grievance and the relief sought. The impartial committee shall be appointed as follows:

The union shall appoint one (1) member. The City of Corning shall appoint one (1) member. The two members so appointed shall jointly choose a third, neutral member, who shall serve as chairman. If the two (2) members appointed by the parties are unable to agree on a third, neutral member, he shall be chosen according to the then-effective rules of the American Arbitration Association.

The decision of the arbitration panel shall be binding on all parties concerned. Both parties shall share equally the fee and expenses of the neutral arbitrator.

6. The arbitration panel shall issue its award, which shall be executed by any two (2) members of the panel, within thirty (30) days following close of the record (which shall remain open to permit submission of briefs, in any). The arbitration panel shall have no power to add to, subtract from or modify the terms of this agreement.

7. Nothing in this Article shall prevent the union from submitting a grievance at the second step, if the same involves a number of employees or an issue which cannot be resolved at the first step.

8. With the exception of Step IV, if no determination is issued within the time limit permitted at any step, the grievance shall be deemed denied and the time shall begin to run for processing the grievance to the next step. In every case, the grievant shall have fifteen (15) days to file his appeal in writing to the next step of the grievance procedure.

9. EQUIPMENT

The parties' collective bargaining agreement shall be amended to

add the following article:

The City shall establish a formal system or procedure for covered employees to report hazardous conditions involving equipment such as automobiles and firearms. The system or procedure shall include participation by the Chief of Police or Police Commission to ensure that corrective action is taken if necessary. In the event such system or procedure is not established or followed, or if there continues to be reasonable doubt about the serviceability of the equipment which is subject to a complaint, such questions shall be subject to the grievance procedure provided for herein.

10. CLOTHING

Article XIV of the parties' collective bargaining agreement shall be amended to read as follows:

1. Each employee covered by this agreement shall receive Two Hundred Dollars (\$200.00) per annum for maintenance of uniforms.
2. Beginning July 1, 1974, the amount for said maintenance will be divided into four (4) equal quarterly payments. The schedule of these payments is as follows: October 1st, January 1st, April 1st and July 1st.
3. The following articles of clothing will be issued on a one-time basis to all new police officers together with all those police officers who presently do not have the items or numbers of items spelled out on the list:

Five long sleeve shirts	One overcoat
Five short sleeve shirts	One raincoat and hat cover
Three pairs of pants	One pair of rubbers
One spring and summer jacket	One pair of overshoes
One winter jacket	One pair of insulated boots
One hat	One pair of police shoes
One set of badges	One serviceable revolver
One Sam Brown belt	One cartridge case
One whistle	One iron claw and case
One handcuff and case	One nightstick and holder
One tie	

It is not intended for this list to be an annual issue. Replacement articles will be provided for only as needed and will be made on the basis of "fair wear and tear."

11. FALSE ARREST INSURANCE

The parties' collective bargaining agreement shall be amended to

include the following article:

The City of Corning shall provide false arrest insurance coverage for its police officers.

12. OUT OF TITLE PAY

The parties' agreement shall be amended to include the following article:

Effective January 1, 1976, a patrolman who is responsible for shift operations for a period of time in excess of one (1) day shall be compensated at the rate of pay applicable to lieutenants. The employee must continue to work consecutive scheduled work days in the higher-rated job without interruption to be eligible for the higher rate of pay after one (1) day. In absence of a lieutenant, captain or chief on duty or in absence of specific designation by the chief, the desk officer shall be responsible for shift operations.

13. RETIREMENT

There shall be no change in the retirement benefits currently applicable to covered employees.

14. SALARY SCHEDULE

1. For the year July 1, 1974 through June 30, 1975 the salary schedule shall be:

Patrolman - Entry level rate	\$7200.00	(Step 1)
Two full years' service	8200.00	(Step 2)
Four full years' service	9240.00	(Step 3)
Lieutenant	10,350.00	
Captain	11,400.00	

Regardless of years of service as of July 1, 1974, the following rate shall apply:

Patrolman at \$6445.00	will move to	\$7200.00
" " 6800.00	" " "	7500.00
" " 7025.00	" " "	7700.00
" " 7425.00	" " "	8200.00
" " 7945.00	" " "	8740.00
" " 8190.00	" " "	9000.00
" " 8370.00	" " "	9240.00
" " 8425.00	" " "	9240.00

Lieutenants at \$9434.00 will move to \$10,350.00

Captains at \$10,506.00 will move to \$11,400.00

In addition to the salary payments specified above, each covered employee shall receive a lump sum of \$500.00, which shall not be added to his base salary rate.

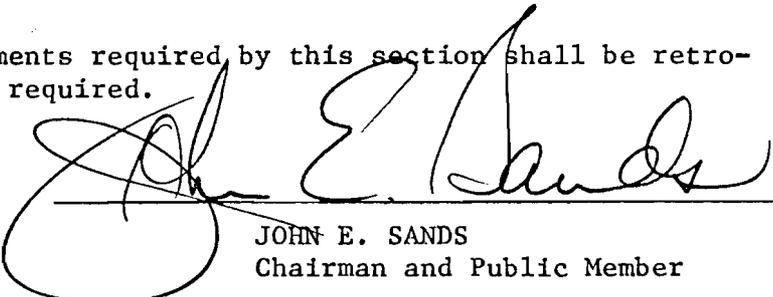
2. For the year July 1, 1975 through June 30, 1976, the salary schedule shall be:

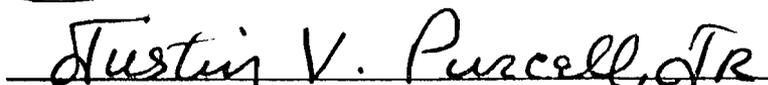
Patrolman	
Entry level rate	\$7985.00 (Step 1)
Two full years' service	9095.00 (Step 2)
Four full years' service	10,250.00 (Step 3)
Lieutenants	11,470.00
Captains	12,705.00

There shall be no exceptions to the foregoing salary schedule.

3. All of the payments required by this section shall be retroactive to the time required.

Dated: December 8, 1975
Schenectady, New York


JOHN E. SANDS
Chairman and Public Member


JUSTIN V. PURCELL, JR.
Employer Panel Member


ROBERT RUSSO
Union Panel Member

STATE OF NEW YORK)
COUNTY OF SCHENECTADY) ss:

On this 8th day of December, 1975, before me personally came and appeared JOHN E. SANDS, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

Kathleen Pace
Notary Public

KATHLEEN PACE
Notary Public, State of New York
Qualified in Schenectady County
My Commission Expires March 30, 1977

STATE OF NEW YORK)
COUNTY OF STEUBEN) ss:

On this 10th day of December, 1975, before me personally came and appeared JUSTIN V. PURCELL, JR., to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

Mary L Purcell
Notary Public

MARY L. PURCELL
Commissioner of Deeds
City of Corning
County of Steuben
Commission Expires January 14, MARCH 3, 1977

STATE OF NEW YORK)
COUNTY OF STEUBEN) ss:

On this 10th day of December, 1975, before me personally came and appeared ROBERT RUSSO, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

Mary L Purcell
Notary Public

MARY L. PURCELL
Commissioner of Deeds
City of Corning
County of Steuben
Commission Expires January 14, MARCH 3, 1977

