

STATE OF NEW YORK

PUBLIC EMPLOYMENT RELATIONS BOARD

N. Y. S. PUBLIC EMPLOYMENT
RELATIONS BOARD
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JUN 16 1975

BEFORE A PUBLIC ARBITRATION PANEL

In the Matter of the Dispute)

- between -)

CITY OF NEW ROCHELLE)

- and -)

POLICE ASSOCIATION OF NEW ROCHELLE)

CONCILIATION

OPINION AND AWARD

CA-0012; M74-543

APPEARANCES: For the City

Bertrand B. Pogrebin, Esq.

Warren K. Meyer, Director of Finance and Personnel

For the Association

Richard Hartman, Esq.

John E. Meaney, President

BEFORE:

Jonas Silver, Chairman, Public Arbitration Panel

Joel H. Golovensky, Esq., City Member

Reynold A. Mauro, Esq., Association Member

Pursuant to a petition by the Police Association of New Rochelle and a response thereto by the City of New Rochelle, the New York State Public Employment Relations Board proceeding under Section 209.4 of the Civil Service Law, designated the undersigned Public Arbitration Panel "for the purpose of making a just and reasonable determination of the matters in dispute". In accordance with the statutory provisions and rules of procedure applicable to interest arbitration, the Panel held hearings on February 26, March 10, 14, 26, and April 28, 1975, in New Rochelle, New York. At the hearings the parties were afforded full opportunity to present evidence and argument

in support of their respective contentions. Thereafter the Panel met in executive session to consider and conclude as to the resolution of the matters in dispute. The following determinations represent the Award of the Panel including those determinations dissented from.

The Fact Finding Recommendations

In his Report and Recommendations dated December 20, 1974, Fact Finder Matthew A. Kelly addressed himself directly to 17 proposals of the Association and 3 proposals of the City. The Association put forth some 110 items all told. It is apparent from the Report that apart from those "minor" proposals that were agreed upon or withdrawn, the Fact Finder recommended that no proposals other than those expressly taken up in the Report, were to be the subject of contract change, additions or deletions. The Association, however, regards all unsettled items as open and before the Panel in arbitration.

Inasmuch as the Panel is required by Section 209.4 (b) (iii) to "hold hearings on all matters related to the dispute" and by (v) of the same Section to "make a just and reasonable determination of the matters in dispute", the Panel heard all proposals of either party that continued in dispute whatever the number. If this unwelcome state places an undue burden on the Panel, the statute nevertheless does not permit the Panel to pick and choose among matters in dispute. As we read the statute, a plethora of items may not be reduced in number by the Panel however appealing in the interest of economy of time and application such limiting action might be.

Section 209.4 (b) (v) states that the Panel "may, but shall not be bound to, adopt any recommendation made by the fact finder. . ." Clearly, therefore, the Panel does not exist to routinely review the Fact Finder's Recommendations and place its stamp of

approval upon them. On the other hand, the Fact Finder's Recommendations are not to be treated de novo but rather are to be given due weight by the Panel. Otherwise there would be no constraint upon the parties to treat fact finding as a serious process designed to reach agreement without automatic prolongation into arbitration. The Panel itself is to be guided in its determinations by the expansive criteria for arbitration set forth in the foregoing Section of the statute.

As previously indicated many of the items considered herein are not part of and therefore not referable to the Report of the Fact Finder. The numbering employed by the Panel is its own order of determination but with cross reference to the number and subject matter of the Association's proposals not withdrawn or compromised or otherwise disposed of in the course of the proceedings in arbitration. The proposals of the City in dispute are separately referred to. All exposition is held to a minimum.

1. (Association 7) Blood Donors: The voluntary donation of blood is not equitable to the sought for mandatory excused tours of duty. Denied.

2. (Association 9 A, B) College Courses: Tuition, etc. reimbursement is desirable in principle but is not a relatively appropriate area for municipal expenditure at this time. Denied.

3. (Association 10) College Courses Paid Leave: See 2. Denied.

4. (Association 12) Death Leave: Working days in place of calendar days misconceives the purpose of the leave by seeking to treat it as an undiminishable block of time regardless of when the need arises. Denied.

5. (Association 14) Detective Elimination of Grades: The proposed elimination of the probationary period and grades where applicable for detective and above is inconsistent with the concepts of a job classification structure. Denied.

6. (Association 25) Emergency Reporting System: Denied as a management prerogative.

7. (Association 26) Equipment: The demand is that the City furnish a number of items of equipment. Denied as an inappropriate expense at this time.

8. (Association 35, 36) Holidays Special Days Declared: For purposes of those holidays declared by appropriate authority as the special occasion arises, police should not be treated differently than other City employees. Award: Police shall be entitled to holiday compensation on these ad hoc holidays, if worked, otherwise compensatory time only.

9. (Association 40) Medical Review Board: No abuse was shown by way of present procedures which would warrant a Review Board with arbitral authority in the hands of a third physician. Award: In cases of contested sick leave status, the City will additionally take into account the opinion of a physician outside the Department or City government.

10. (Association 42) Insurance for Officers of Association: This proposal would give medical and comprehensive liability coverage for Association work as if on duty. It goes beyond the bounds of the City's obligation. Denied.

11. (Association 43) Insurance Law Suits Against Employees: In view of the disagreement as to the legality of such coverage, an Advisory rather than a Binding Award is made that such coverage or its equivalent be provided in cases of legal actions against employees alone arising out of performance in the course of duty.

12. (Association 48) Meal Compensation for Overtime: This proposal is not prevalent in Westchester localities. Denied.

13. (Association 49) Meal Compensation When Out of City: There is no showing that this circumstance would necessarily involve the loss of a meal period. Denied.

14. (Association 50) Meal Period Overtime In Lieu of: There is no showing that

this circumstance occurs with sufficient frequency to justify the imposition of a penalty.

Denied.

15. (Association 54) Military Time Credit: Denied:

16. (Association 55) Negotiating Committee: It is an unreasonable extension of the City's obligation for paid negotiating time to also include time spent outside a Negotiating Committee Member's scheduled hours. Denied.

17. (Association 62) Overtime For Performance of Duties While Off Duty: This proposal would require the payment of overtime, travel expenses, etc. for out of hours performance of police duties such as arrest, etc. There are certain elements of public service associated with the job of a police officer which do not entail remuneration.

Denied.

18. (Association 63) Overtime Inter-Departmental Communication (UF 37): The proposal is to treat the writing of this report as overtime (recall) where an employee is called upon to write it at home. This is working time and should be compensated for as such though not at the overtime rate. Award: If an employee is directed by his Commanding Officer to write a UF 37 during his off duty hours, such employee shall be given one (1) hour compensation at straight time in cash.

19. (Association 68) Overtime Segments: Award: Continue present practice.

20. (Association 71) Performance of Duty Out of Rank: In principle duties performed are to be confined to those within rank barring emergency or unusual circumstances for a limited period of time. There are no measuring standards furnished other than one tour. In this posture Denied.

21. (Association 74) Physical Examination: At present a complete physical examination is given at hire and at promotion. The maintenance of physical standards

should require that a complete physical examination be given each employee at City expense more often. Award; A complete physical examination at such interval of years of service as the City shall determine.

22. (Association 77) Polygraph: This test is of dubious reliability. Award: An employee may not be ordered to take a polygraph test.

23. (Association 87) Sick Leave for Immediate Family: This demand is supported by very limited precedent in Westchester and would inevitably lead to bargaining on the basis of sick leave for me and my family. Denied.

24. (Association 88) Sick Leave Lack of Confinement During: The confinement aspect is peculiar to police employment and no change is warranted with the stated exceptions. Denied.

25. (Association 104) Vacation Recall Compensation: The proposal is to compensate for the loss of vacation costs and for the disruption of scheduled vacation. The City asserts that this may occur on rare occasions due to court trials scheduled at times beyond its control. But as between the City and the employee, the latter should not be made to bear the expense and time without recognition of the imposition involved.

Award: An employee recalled from vacation shall be reimbursed for all vacation expenses involved representing actual losses that are reasonably incurred. The working time involved in the recall shall be compensated as applicable in the case of recall under the contract.

26. (Association 105) Vacation Sick Leave Used For: This proposal would permit an employee to use sick leave in lieu of vacation for a "serious" illness or injury incurred while on vacation. There is an element of fortune or misfortune that inheres in the incidence of any benefit and vacation should no more be replaced by sick leave than sick for vacation. Denied.

27. (Association 106) Vacation Splitting: Award: Present practice with regard to split vacation shall be maintained. A third split may be permitted at the sole discretion of the Commissioner.

28. (Association 108 A) Veterans Additional Holiday Entitlement: A statutory holiday allowance is not ipso facto a down payment on a contract allowance. Denied.

29. (Association 111) Year of Completed Service: There is no reason for the City to assume the potential obligations as to benefits arising out of employment in other localities upon employment with the City. Denied.

30. (Association 94) Standby: The Fact Finder recommended that standby be compensated for by compensatory time computed at half-time. Standby recognition in contracts is exceptional in Westchester. However, standby is a limitation on an employee's free use of his off-duty hours and, as such, warrants a measure of restitution. Award: Fact Finder's recommendation of compensatory time on a half-time basis effective January 1, 1975.

31. (Association 96) Termination Pay: There is no compelling basis upon which to increase the present arrangement. Award: Retain the present provision.

32. (Association 33) Gun Carrying of: The carrying of a gun while off duty inheres in the job and should not be the subject of extra compensation. Denied.

33. (Association 73) Personal Leave Days: The demand is for 5 days a year. The present provision is for 2 days taken out of sick leave. The Fact Finder recommended 2 days not to be taken out of sick leave apparently relying principally on Mt. Vernon though also making reference to "As with other Westchester communities. . . ." A preponderance of "other Westchester communities", however, provide 3 or more personal days. Moreover, the condition of rotating schedules that are peculiar to public safety requirements make some contract terms such as personal days non-referable to

other municipal employees. Award: 3 personal leave days per year not to be taken out of sick leave shall be provided effective January 1, 1975, such days to be subject to the approval of the Commissioner which approval shall not be unreasonably denied.

34. (Association 79, etc.) Recall: That which continues in dispute pertains to the PBA demand for travel time compensation and mileage allowance on recall. The Fact Finder recommended that recall be compensated for from the time the employee reports for duty rather than when called. There is no compelling reason to disturb this recommendation in that almost as many Westchester communities deny as grant this type of compensation while only the County Police pay mileage. Award: Fact Finder's recommendation.

35. (Association 56) Night Differential: While night differential may have merit, it has not been negotiated in Westchester where, unlike Nassau and Suffolk, there is no County wide police force to standardize bargaining in a follow the leader pattern and therefore the local police forces and communities have more latitude to be different. Denied.

36. (Association 13) Dental Plan: The Fact Finder recommended that police be treated in the same fashion as other City employees. There is no compelling reason for distinguishing police from other City employees under this benefit. Award: Fact Finder's recommendation.

37. (Association 38) Hospitalization Retired Employees: Award: As in 36.

38. (Association 45) Life Insurance: Award: As in 36.

39. (Association 44) Legislative-Retirement: Award: As in 36.

40. (Association 34) Holidays Number Compensated: The Association seeks 12, one more than at present. The number of paid holidays compares favorably with other Westchester localities. Denied.

41. (Association 36) Holidays Additional Compensation for Hours Worked: The Fact Finder recommended "Effective January 1, 1975 an additional day's pay shall be provided for each holiday worked". The City maintains that it is contrary to White Plains and Mt. Vernon provisions and illogical to pay an additional day for work on a holiday and, as currently provided, to also receive that day as an extension of paid vacation time. The Association seeks to be paid for those holidays not worked in addition to the Fact Finder's recommendation of an additional day for each holiday worked. Although the Westchester communities do not, for the most part, pay additionally for holidays worked, this extra compensation is justified per se as a recognition of the special character of a holiday which assumes time off. Though police working schedules are continuous and must include holidays as work days at least to the extent of 7 days on the average in New Rochelle, nevertheless police personnel should not be made to go without the recognition of a premium payment because work on holidays is unavoidable. Otherwise holidays would lose their distinctive aspect and remain as any other day unless not scheduled to be worked. But they are not any other day and so the logic of the extra compensation when worked. Award: The Fact Finder's recommendation except that the effective date shall be July 1, 1975.

42. (Association 101) Vacation: The Association would exclude holidays from the vacation entitlement and increase the present entitlement. The Fact Finder recommended that the existing vacation entitlement remain the same in parallel with other City employees. Viewing the vacation days now received and the qualifying length of service New Rochelle is, indeed, behind most other communities in Westchester. Nevertheless the vacation entitlement of 10 duty tours after 1 year, 15 duty tours after 5 years and 20 duty tours after 15 years is augmented at each level of entitlement by the addition of 11 duty tours for holidays in lieu of observance. This ambivalent character

of holidays as vacation should not be lost sight of particularly where, as here, 7 of those holidays will now also be paid for under item 41, above, at premium when worked. Consequently, there is no compelling reason to increase the vacation schedule considered as a whole. However, the full number of duty tours/days allowed as holidays/vacation should be taken and not lost on account of the 43 consecutive calendar day requirement by arranging for equivalent time off outside a vacation period as to those senior employees affected -- otherwise by cash payment. Award: Maintain existing vacation entitlement. Holiday entitlement not realized because of the limitation of 43 consecutive calendar days shall be taken at another time during the year. If still not available this unrealized time shall be paid for in cash at the end of the calendar year.

43. (Association 85, 90, 91) Sick Leave Entitlement; Accumulation, Conversion: These benefits were treated by the Fact Finder as remaining at the City wide level subject to changes there made if any. At 12 days annual sick leave and a maximum allowable accumulation of 120 days, the City has the minimum benefit in the County including Mt. Vernon and White Plains. Though there are factors involving the exposure of police especially to health hazards in the ordinary course of continuous outdoor employment, an increase in annual sick days presents the potential of added costs with "ripple" effect. However, increasing the maximum accumulation would not have this consequence in that it would discourage abuse. Conversion at retirement could equally be said to be an anti-abuse factor. However, the latter is not at all prevalent in Westchester. Award: Continue present number of annual sick days but increase the accumulation to 180 days.

44. (Association 50) Meal Period: The demand of the Association is for a one hour meal period in place of the current one-half hour. There is no sufficient County wide basis upon which to change the existing one-half hour. Denied.

45. (Association 68) Overtime Roll Call: The demand of the Association is to include within the tour, the 15 minutes for roll call, etc., which occurs before the start of the tour or to pay overtime for the long standing "not later than" 15 minutes. There is no sufficient County wide basis upon which to change the existing requirement. Denied.

46. (Association 8, 99) Cleaning, Uniform Allowances: The Fact Finder recommended an increase from \$200 to \$250 inclusive of both allowances effective January 1, 1975. The Association asks for separate allowances of \$250 and \$250. There is no sufficient data on the record as to Westchester upon which to base a separate amount for cleaning. Award: The Fact Finder's recommendation,

47. (Association 109) Wages Detective Differential: The Fact Finder recommended an increase in the detective differential from 7% to 8% effective January 1, 1975. The Association would raise the differential to 10%. The City opposes the Fact Finder's recommendation. The Association's position is based largely on Nassau County and New York City but here the primary frame of reference is Westchester County. Presumably the Fact Finder advanced the differential in recognition of the limitation on compensable overtime hours worked by detectives as per his recommendation on that subject. In any case that is the basis employed herein. Award: The detective differential shall be increased from its present level of 7% to 8%.

48. (City) Detective Overtime: The City would amend Article VI essentially to except overtime for detectives where engaged in "follow-up" work on their own cases. The Association would continue the effect of an arbitration award which construed the contract so as to require overtime for this work beyond the tour of duty or the regularly scheduled 35.5 hour work week. There is merit to the City's position that traditionally

detectives have not received overtime compensation for the extra time involved in investigating their own cases and that a differential takes these extra hours into account. Award. The Fact Finder's recommendation in favor of the City as to the substantive modifications with regard to detective overtime.

49. (Association 109) Wages Superior Officers Differential: Employing Westchester communities as a frame of reference, there is no basis for increasing the existing 15% differential. Denied.

50. (Association 46, 47) Longevity: The Fact Finder recommended \$100 after 5 years, \$200 after 10 years and \$300 after 15 years, non-cumulatively. He supported his recommendation with "As with other Westchester communities and, in particular, the Mt. Vernon contract. . ." However, apart from the Mt. Vernon contract, a preponderance of Westchester communities, including White Plains, provide a more favorable longevity schedule either in amounts or duration or both than Mt. Vernon. Award: \$100 increase after 5 years; \$200 after 10 years; \$350 after 15 years employment, non-cumulative, effective July 1, 1975.

51. (City) Article III, 2, Rules and Regulations: The City would eliminate this clause which brings rules and regulations of the Department into the contract by incorporation by reference. It provides further for consultation with the Association upon amendment. The Association opposes. Departmental Rules and Regulations are a function of management and within the prerogative of the Commissioner. Only to the extent that they may be bound up with terms and conditions of employment may those specific aspects of the Rules and Regulations be a proper subject of negotiations for express inclusion in the agreement. Award: Delete Article III, 2 except for "If any conflict exists between such rules and regulations and the provisions of this Agreement, then the provisions herein contained shall be controlling."

52. (City) Article III, 3, Existing Practices and Provisions of Employment:

The City would delete this clause because "it would lock us into the unknown". The Association opposes. However, the City may be in a better position to know this "unknown" relating to ordinances, practices and provisions affecting terms and conditions of employment not contained in the contract than the Association. And while it is true that the statute applies as to unilateral changes in terms and conditions of employment, this is the more extensive contractual counterpart. Until the time when the contract is expanded as to express subject matter, this clause is unavoidable particularly where, as here, there is much that pertains to conditions of employment that is not in the contract. Award: Retain Article III, 3 as is.

53. (Association 109) Wages: The Fact Finder recommended: (1) effective July 1, 1974 an increase of \$575 making the patrolman maximum \$13,360; (2) effective January 1, 1975, a further increase of \$625 making the patrolman maximum \$13,985; (3) effective July 1, 1975 a further increase of \$625 making the patrolman maximum \$14,610. The Fact Finder specifically refers to his considerations, i. e., "to spread the cost of the fiscal impact to the City, and to soften the erosion of employee salaries through inflation". The Fact Finder values these 6 month intervals as approximating 4 1/2 to 5% adjustments.

The Association argues that the Fact Finder improperly based his salary recommendation on levels in Mt. Vernon and White Plains to the exclusion of Nassau, Suffolk and New York City. Even most of the Westchester communities, it is said, are ahead of New Rochelle though police activity here is like that of nearby parts of New York City. It argues further that cost of living increases particularly in 1974 must be reflected in a salary increase in order that New Rochelle may catch up over the previous governmentally

fixed 5 1/2% increases. The Association cites fact finder recommendations involving increases in police wages of from 15 to 35%. Without appropriate increases, the Association maintains, the City will fail to "continue to attract and retain the high caliber of personnel" and morale will decline. For these reasons, the Association seeks a maximum salary for patrolmen of \$15,410 as of July 1, 1974 and a 12.5% increase as of January 1, 1975 or \$17,336.

The City argues that comparisons should be limited to White Plains and Mt. Vernon within Westchester only; that Nassau, Suffolk and New York City settlements are unrelated historically, geographically, and governmentally to New Rochelle and Westchester; that since the 1972 contract the reduced work week of 35.5 hours while other Westchester police are at 38.3, is equivalent to a 7% increase in pay, a factor to be reckoned with in any wage adjustment; that the salary increase for police in 1975 should be the same as for other employee groups in the City, i.e., approximately 7%; that the Fact Finder's salary increases together with the recommended additional holiday pay and longevity would take the "real" wage to \$15,265, an increase of 19.4% in 18 months, an unprecedented wage settlement on any comparable basis; that past increases in police wages have exceeded the cost of living; and that the ability to pay criteria coupled with the legal tax limit show that New Rochelle, in common with other cities, is hard pressed to afford what has been offered without jeopardizing the effective maintenance of public services, etc. The City offers an increase effective July 1, 1974 of 7% coupled with an increase in hours to 38.3 per week; a further increase of \$500 on January 1, 1975 and a further increase of \$500 on July 1, 1975. These adjustments would bring the patrolman maximum to \$14,680 compared with the Fact Finder's \$14,610, but the latter amount would retain the present work week and tour schedule.

1. The emphasis placed by the Association upon the Nassau and Suffolk contracts and the localities therein is not without interest by way of contrasts in salaries, and other terms and conditions of employment. However, these contracts may not provide a benchmark for Westchester communities that would properly be relatable to their own County governmental and geographical distribution of the policing function absent a County force such as in Nassau and Suffolk. The broad tax base available in Nassau and Suffolk and the levels of public safety employment set by these Counties bear no counterpart in Westchester. Consequently the agreement provisions will differ from Westchester to Long Island. Within Westchester County the absence of a County wide contract puts bargaining on a local basis with appropriate comparisons not readily made even as between and among villages and towns which show significant differences particularly in the major cost area of salaries. If salary comparisons are to be drawn between New Rochelle and other Westchester communities, they more closely relate to the cities in the County rather than to the towns and villages. New Rochelle, White Plains and Mount Vernon have approximately the same size police force and comparable populations. They are also closely situated geographically. Their police activities take in similar types of problems characteristic of an urban-suburban mix and their fiscal problems bear the earmarks of the current dilemma of the cities. The foregoing is not to say that Westchester County references by way of illustrating comparability as to non-salary terms and conditions of employment are without relevancy where the prevalence or absence of a term may be clearly demonstrated on a County wide basis. The cities are contiguous with towns and villages and such changes in one location may not be kept from spilling over to the other in the course of time. Lines of communication with reference to contract proposals and settlements guarantee reaction from community to community. It

is to say, however, that Westchester is not at this time ready for Nassau and Suffolk.

2. The City compares New Rochelle favorably with Mt. Vernon and White Plains with regard to salary increases since July 1, 1974, by taking the increased rate of pay resulting from the reduction in hours from 38.3 (or 38.2) to 35.5 which it estimates at 7% and then restoring the hours on a par with the other two cities. The City further adds, in this connection, sums equivalent to the amount of holiday pay increase and longevity pay recommended by the Fact Finder so that the New Rochelle salary level on July 1, 1975 would well exceed the salary levels for the other two cities.

The City proves too much. All terms of employment having monetary aspects may be calculated on the basis of salary add on or hourly rate increase. But such equivalence does not remove the reason for being that attaches to the term in question as a condition of employment. Thus a reduction in hours of employment accomplishes the benefit of a shorter work week per se apart from its monetary equivalent. And while non-salary compensatory items may be equated to a salary figure for cost accounting purposes, it nevertheless remains true that salary as dollars to be paid is not received by an employee in the aggregate. He does not go to the grocer and say may I pay you with an additional 7% which I do not have because it is in the rate and not in the dollars. A cost of living increase, for example, would not be predicated on a stated contract salary amount plus an abstract 7% but only on the actual dollars that have been eroded in purchasing power. If the argument of the City is carried to its logical conclusion, then the monetary equivalent in salary of the Mt. Vernon dental plan absent in New Rochelle should be added to the Mt. Vernon salary level and the same with the more favorable sick leave or the more advantageous longevity in White Plains, etc. This line of inquiry becomes self-defeating.

3. It should be noted that although the Fact Finder recommended a salary increase which would have the effect of bringing New Rochelle to the same level as Mt. Vernon effective July 1, 1975, his particular reason for so doing was "to soften the erosion of employee salaries through inflation. . ." A cost of living increase is, of course, a separate and distinct criterion upon which a salary adjustment may be founded quite apart from any other factor such as comparability. Certain it is that inquiry as to cost of living permits of reference to adjustments of this type without regard for County lines. The common ingredient is the extent of loss of purchasing power in the salary dollar and this chronic economic condition knows no geographical limitation. However, the response thereto may be tempered by the fiscal capacity of the public employer to bear the additional cost.

(a) As of January 1, 1974, the salary of patrolman fourth year or maximum went from \$12,120 to \$12,785 under the expired contract, or an increase of \$665. The Fact Finder recommended an increase of \$575, effective July 1, 1974. Over the calendar year 1974, therefore, the net increase would come to \$953 or approximately 7.86%. During the same year, the Consumer Price Index for this Region advanced 10.7% on the average.

(b) The Fact Finder recommended further increases of \$625 and \$625 effective January 1, 1975 and July 1, 1975, respectively. This represents a net increase over the calendar year 1975 of approximately \$938 or 7.02% over the July 1, 1974 recommended contract salary of \$13,360, in net dollars as distinguished from the July 1, 1975 recommended contract figure of \$14,610.

(c) The CPI for this Region showed January 1974 to January 1975, a 10.1% rise; February 1974 to February 1975, a 9.5% rise; March 1974 to March 1975, an 8.4% rise;

and April 1974 to April 1975, an 8.5% rise. In the second and fourth quarters of 1974, prices rose an average of 0.7% per month in this Region and in the first and third quarter 1 percent. But in the first four months of this year, the rises were between 0.3 and 0.5% and in March, there was a decline of 0.1%.

(d) Forecasting an annual rate of increase in the CPI is a hazardous undertaking in this period of declining rate of increase but with portents of a resumption of an upward climb. Thus the Wholesale Price Index rose 1.5% in April, reversing a 4 month decline, largely because of higher farm prices.

(e) In New Rochelle blue collar workers negotiated a two year settlement effective January 1, 1975 in average amounts of \$695 or 7.3% cost in the first year and \$1,000 or 5.8% cost in the second year. Teachers in New Rochelle received an 8.5% increase in 1974-75 while non-instructional employees negotiated a 7% wage increase. On the other hand, 5,500 Westchester County employees received a negotiated 8% increase for 1975 and an 8% increase for 1976 with a cost of living formula in 1977.

Police in cities faced with severe fiscal problems have been awarded increases which, in part, reflect the state of municipal strain. Thus in Buffalo the arbitration award provided for an average increase of 7.2% for July 1974-June 1975. In New York City, the award provided for 8% for 1974-75 and 6% for 1975-76 on top of leading salaries. On the other hand, in Syracuse the arbitrator awarded police 11% for 1974-75. Those towns and villages in the Metropolitan Area without the degree of fiscal complication of the cities have more appropriately taken account of past cost of living escalation particularly that reflecting the sharp rate of increase in the second half of 1974.

(f) The net dollar increase for police in New Rochelle in calendar 1974 taking the prior contract and the Fact Finder's recommendation comes to 7.86%, well behind the cost of living rise for that year of 10.7%. The recommendation for 1975 of a net dollar

increase of 7.02% is closer to the 12 month CPI increase of April 1974 to April 1975 which is 8.5%. The currently indicated annual rate of increase in the CPI for this Region would place the 7.02% within present projections which, as indicated, are speculative and may change substantially before the year is up. In the judgment of the Panel, an increase above the Fact Finder's recommendation is required to adjust these employees more appropriately to the loss of buying power experienced by them particularly in the second half of 1974 and not sufficiently accounted for in the Fact Finder's 1974 increase. However, consistent with the Fact Finder's approach of cushioning the impact upon the City's fiscal problems, only a part of the shortfall in the cost of living adjustment for 1974 shall apply herein as a catch up to be included in the July 1975 wage increase.

(g) Thus the Fact Finder's net increase of 7.02% in 1975 shall have added to it 0.58% to become 7.6%, the additional amount drawn from the shortfall of 2.34% behind the 10.7% average cost of living increase in 1974. The net dollar increase at patrolman maximum in 1975 will become \$1,015 or \$77 above the Fact Finder and the patrolman maximum contract salary will go to \$14,765 on January 1, 1976, as compared with the Fact Finder's \$14,610, all told a net dollar increase of 15.46% (7.86 + 7.6) over two years, including the last half year of the prior agreement (January 1, 1974 - June 30, 1974).

(h) The City presented a detailed analysis of its financial problems generally referred to as "ability to pay". It shows falling tax revenues, continued inflated cost, shrinking tax base, high tax rate, 35 out of 46 in ranking under equalized assessed value per capita. In addition, special problems are indicated: substantial losses in available non-tax revenues "due to rather imprudent actions which a previous City administration took in the budgeting process"; apparent reduction in State aid; and the

virtual exhaustion of the constitutional tax limitation come 1976. These constraints have led the City to conclude that it "absolutely cannot afford to meet a composite of labor demands, the total cost of which would exceed the amounts provided for this purpose in the adopted 1975 City budget, which amount roughly approximates 7% of the 1974 total payroll of \$11,000,000".

The criteria for arbitration under the statute make the fiscal capacity of the City a consideration but not, of course, a controlling factor. Thus while the City may have arrived at a predetermined conclusion based on its budgetary concern, the figure of 7% is to be weighed along with all other criteria relevant to the wage setting determination including the public interest involved. The salary increases provided herein are moderate in view of the 1974 eroded dollars and the fact that the CPI still shows 8.5% over a year ago. The fringe changes as well recognize the fiscal state of the City, among other factors. However, there are limits when weighing compensation levels against the revenue, expenditure, and tax burden of the City beyond which public employees should not be required to forego reasonable adjustments in salary and conditions. More so as to police charged with public safety functions who have an especially responsible task to perform, a task heightened because of conditions surrounding the plight of the City, worsened by the impact of a depressed economy. Fair treatment with regard to terms and conditions of employment requires that the dilemma of the City not be further compounded by reducing employee morale as if to prove the Victorian plaint -- "the policeman's lot is not an 'appy one, 'appy one".

SALARY AWARD

An 18 month contract effective July 1, 1974 through December 31, 1975.

Effective July 1, 1974 an increase of \$575 bringing the patrolman fourth year salary to \$13,360.

Effective January 1, 1975 a further increase of \$625 bringing the above base salary to \$13,985.

Effective July 1, 1975 a further increase of \$780 bringing the above base salary to \$14,765.

James A. [unclear]

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For the Association

Richard Hartman, Esq.

John E. Meaney, President

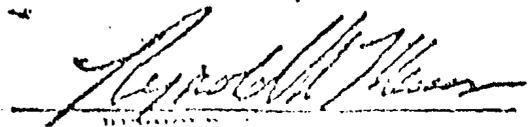
BEFORE: Jonas Silver, Chairman, Public Arbitration Panel

Joel H. Golovensky, Esq., City Member

Reynold A. Mauro, Esq., Association Member

REYNOLD A. MAURO, the association member of the above mentioned Public Arbitration Panel hereby presents to the following awards contained in the Opinion and Award: "1", "2", "3", "4", "5", "6", "7", "9", "10", "11", "12", "13", "14", "15", "16", "17", "19", "20", "23", "24", "26", "27", "28", "29", "31", "32", "34", "35", "40", "44", "45", "48", "49", "51" and "52".

Dated: Mineola, New York
June 12, 1975



STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

BEFORE A PUBLIC ARBITRATION PANEL

X

In the Matter of the Dispute

-between-

CITY OF NEW ROCHELLE

OPINION AND AWARD
CA-0012; M74-543

-and-

POLICE ASSOCIATION OF NEW ROCHELLE

X

APPEARANCES: For the City

Bertrand B. Pogrebin, Esq.

Warren K. Meyer, Director of Finance and Personnel

For the Association

Richard Hartman, Esq.

John E. Meaney, President

BEFORE: Jonas Silver, Chairman, Public Arbitration Panel

Joel H. Golovensky, Esq., City Member

Reynold A. Mauro, Esq., Association Member

JOEL H. GOLOVENSKY, the City member of the above mentioned Public Arbitration Panel hereby dissents on the following items contained in the Opinion and Award: "8", "18", "21", "22", "25", "30", "33", "36", "37", "38", "39", "41", "42", "43", "46", "47", "53".

I concur on item "52" insofar as the clause applies to terms and conditions of employment.

I note item "11".



STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

BEFORE A PUBLIC ARBITRATION PANEL

In the Matter of the Dispute)

- between -)

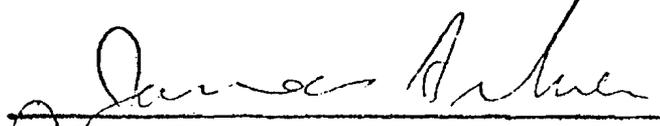
CITY OF NEW ROCHELLE)

- and -)

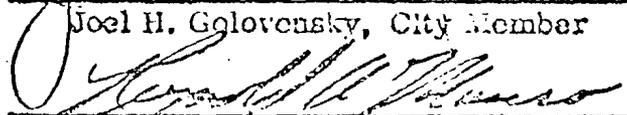
POLICE ASSOCIATION OF NEW ROCHELLE)

OPINION AND AWARD
CA-0012; M74-543

The UNDERSIGNED ARBITRATORS, having been appointed in accordance with Section 209.4 of the Civil Service Law of the State of New York and having duly heard the proofs and allegations of the Parties and made their determinations thereon in accordance with Section 209.4, (iii), (iv), and (v), AWARD as set forth above.

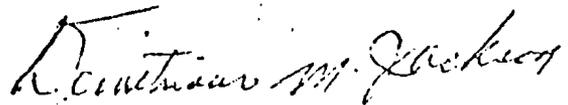

Jonas Silver, Chairman, Public Member


Joel H. Golovensky, City Member


Reynold A. Mauro, Association Member

STATE OF NEW YORK)
COUNTY OF NASSAU) SS.:

On this 2 day of June 1975, before me personally came and appeared Jonas Silver, Joel H. Golovensky and Reynold A. Mauro, to me known and known to me to be the individuals described herein and who executed the foregoing instrument and they acknowledged to me that they executed the same.



DEMETRIUS M. JACKSON
NOTARY PUBLIC, State of New York
No. 30-7052220
Qualified in Nassau County
Commission Expires March 22, 1976