

Civil Service Law. The designated members of the Public Arbitration Panel are the following:

William A. Hazell, Public Member and Chairman
Carmi Rapport, Employer Member
Al Sgaglione, Employee Organization Member

Both parties were given full opportunity to present evidence, testimony and argument in support of their respective contentions and a transcript was made of the hearings. Briefs were to be filed two weeks after receipt of the final transcript and they were duly received on September 18, 1975 when the proceedings were declared closed.

The Panel held an executive session at the PERB offices, Albany, New York, on October 6, 1975 and authorized the Chairman to prepare the Award.

INTRODUCTION

It was stipulated by the parties at the commencement of the first hearing that certain items including equipment and insurance (life, false arrest and assault) had been agreed upon and should be made a part of this award (T. 3). The PBA stated it was willing to accept the Fact-Finder's recommendations, plus previously agreed upon items, except for the issue of salary and the City concurred. The issue was subsequently clarified to include the matter of increments in the salary structure.

The bargaining unit is made up of 18 patrolmen, 4 sergeants and the Chief, a total of 23 officers.

The expired agreement between the parties was entered into December 31, 1973 and expired April 30, 1975. The parties have

agreed the renewal contract will be for a one-year term and changes will be retroactively applied (T.8).

ASSOCIATION'S POSITION

The Association has requested an increase of \$1,500 across the board and contended the request was justified not only in terms of comparability with other police departments, but also by reason of the fact that it is not outside the capacity of the City of Hudson.

The current starting salary is \$8,100. The three police departments in the area are the Sheriff's Department which has a starting salary of \$10,034, the State Police with \$12,000 and the Catskill Police with \$9,017.

Association Exhibit D, allowing 30% as the value of fringe benefits, shows the cost to the taxpayer per thousand of assessed valuation for various increases above the Fact-Finder's recommendation of \$800. \$200 additional would mean \$.43/M; \$400, \$.86/M; \$600, \$1.28/M and \$700, \$1.50/M. In a statement to the press published in the Register Star on November 5, 1974 the Mayor indicated that salary increases were figured in the new budget (Assoc. Ex. E).

In an analysis of the budget the Association cited budget allotments for Police salaries of \$19,400 which with an increase in the Contingency Fund of \$10,000 totals \$29,400. The \$800 increase recommended by the Fact-Finder, plus longevity increases of \$250 and an increase in clothing allowance of \$75 would aggregate \$21,700. Adding \$200 per man would cost another \$5,980, to bring the total cost to \$27,760 (Assoc. Ex. G). The Association

contended that the City offered no denial or rebuttal of the facts contained in the cited exhibits.

Association Exhibit F purports to demonstrate that there was a loss of \$25.00 in purchasing power of police salaries between 1970 and 1974.

It was asserted that the City's witnesses failed to refute the Association's contention that the raises sought can be absorbed in the budget, nor was there any claim that essential services in other areas would have to be curtailed.

CITY'S POSITION

Mayor Samuel Wheeler testified that the police have been fairly dealt with throughout the years he has been in office. He stated the average patrolman's salary has increased in seven years from \$5,500 to \$8,600 or 56.3%.

The witness pointed out that the City is not a profit making institution so that it has no profits to share with the employees. He said that he had pointed out to the Common Council, inflation and the cost-of-living had increased for everyone including the taxpayer. In its offer to the PBA the City had tried to strike a balance between the needs of the police officer and the ability of the taxpayer to pay.

Mr. Wheeler cited percentage increases in wages granted in private and public sector negotiations. The coal industry gave 9% plus 3% for the second and third years of a three-year contract. The average increase for teachers in 134 districts was 7.2%. Albany employees have been offered \$300; New York State Thruway 7% on a two-year contract; and the City of Troy 7%. Greyhound Bus gave

6% plus 5% on a three-year contract; Hudson teachers will receive 7%; Ichabod Crane teachers 8.3%; Federal employees 5.25%; East Greenbush police 8%; New York City police 7.1%; and Saratoga County CSEA 8.5%. A Fact-Finder recommended 8.16% for the Albany Fire Department and 7.3% for the police; Columbia Memorial Hospital 8% and Dutchess County CSEA 8.3%. New York State gave \$250 to its employees. The figures came from PERB publications or the press. The increases offered to PBA amount to 9.3%.

The Mayor stated that he recognized the need for a differential between the police and other City employees and it is his intention to maintain that differential. Submitted in evidence was a letter from the State Division of Criminal Justice Services (City Ex. 1) rejecting a funding application because Hudson is not regarded as a high crime incidence area.

The witness called attention to economic losses to the City through the closing of the glue factory and the training school for girls plus the possible loss of Universal Atlas Cement Co., all of which adversely affect banks, merchants, professional people and the taxpayers.

The 1970 census showed that 12% of the population of Hudson is at the poverty level and 96% of similar sized communities have a higher median income. The unemployment rate in Hudson as of April 30, 1975 is 12.75% as compared to an approximate statewide rate of 9%.

Only two cities in the State had a higher percentage of tax exempt property than Hudson in 1970 when it was 57.8%. Now in 1975 it is 65% so that Hudson may be first or second in this respect.

This means that a large minority of the taxpayers is paying 100% of the cost of running the City government, said the Mayor. This is not only unfair and unjust, but puts a burden on the City administration in working out budgets it can offer and to work out fair settlements with its employees. Efforts to obtain payments in lieu of taxes from those exempt properties have been almost totally unsuccessful.

Through City Treasurer Ludwig Polidor the City introduced Exhibit No. 2 showing the per capita cost for police departments in 1974 for selected New York State cities. While Hudson ranks 25th in population it is 11th in per capita costs. The point was made that the normal relationship shows that the larger the population the larger the per capita cost. Hudson, however, pays relatively more per taxpayer than cities of similar size.

The witness testified that the 1975-76 budget made in November 1974 projected a possible \$600 increase for police. The approximate constitutional tax limit is \$600,000 and the City is now within \$60,000 of that figure. Already increases in health insurance cost, the Fact-Finder's recommended increase in salary, longevity and clothing allowances exceed the budget by \$25,104, which is more than the \$17,000 put in for contingencies.

The City also anticipates increases of taxes on water lines running through other municipalities and in the cost of street lighting. In addition there is contemplated a City share of about \$10,000 in the cost of providing mini-buses for the community.

The City's next witness, Arnold Moore, City Assessor, testified that taxable property in the City has an assessed valuation of

approximately \$14.5 million and wholly or partially exempt property amounts to \$25.5 million. Since 1967 the valuations have increased 2-3/4% and no appreciable change is foreseen for the future. However, it is hoped to achieve a 1% increase in taxable valuation.

John Grover, Administrative Officer of the Community Planning and Development Agency was the City's next witness. He testified that in consultation with a U. S. Department of Labor statistician it was his opinion that the CPI for Buffalo was more reflective of an upstate area, such as Hudson, than would be the index for New York City - Northern New Jersey.

The City argued that the Fact-Finder had found police salaries equal to or better than a number of cities of comparable size and wealth. Kingston was mentioned as settling with PBA at a starting salary of \$8,624 so that the Fact-Finder concluded the \$800 Hudson offer for 1975-76 "compares well".

The City contended the proposed increase would encourage irresponsible fiscal instability. The Fact-Finder reported:
"Quite frankly the Fact-Finder feels that the City of Hudson will just be able to pay for the 1975-76 increase of \$800 and improvements the Fact-Finder has recommended . . . and still maintain all 23 of the policemen currently employed."

DISCUSSION

The law provides that the Panel may, but is not bound to, adopt the recommendations of the Fact-Finder. Insofar as it deems also them applicable it/shall take into consideration comparative studies, the interest and welfare of the public and the financial ability of the employer to pay. It shall consider, where applicable, the peculiarities and qualifications of the job. The law also

suggests consideration of factors traditionally used in wage determinations. Although not specifically mentioned, this would certainly include changes in the cost of living. The parties have dealt with all of these factors and they will be considered herein seriatim starting with the Fact-Finder's recommendations.

In his discussion of the issue of salaries the Fact-Finder indicated he had taken into consideration very much the same factors. The job peculiarity factor was found irrelevant because the City has maintained a differential between police and other City employees. This differential will be further increased in money but not in percentage in 1975-76.

He noted that several larger and wealthier upstate cities such as Auburn, Rochester, Schenectady and Troy pay more than Hudson. However, the newly recommended entry salary of \$8,900 for patrolmen brings Hudson equal to or better than Batavia, Glens Falls, Mechanicville, Port Jervis and Utica. Except for Utica, he found them more comparable in size and wealth to Hudson. The salary information came from a 1974 PERB study. It may be noted that a similar PERB study of 1975, not available to him, confirms the Fact-Finder's information. He also noted that Kingston had negotiated with PBA a starting patrolman's salary of \$8,624 for 1975. He concluded with respect to this factor that Hudson's offer compared favorably with comparable cities.

Concerning ability to pay his review of the Hudson 1974-75 budget revealed "that fiscally it is in trouble" and will just be able to pay for the 1975-76 improvements recommended by him and "still maintain all 23 of the policemen currently employed".

Mention was made of the City's high unemployment rate and loss of business.

No evidence was submitted at our hearing to indicate a history of use of other selected cities as comparable for the purpose of salary determinations in Hudson. The limited group of cities used by the Fact-Finder was not challenged by either party, except that by implication the PBA must rest its position on other data.

The Association also submitted a PERB study of 1975 salaries (Un. Ex. K). Thirty-one upstate cities are included in the study (Hudson is not listed) and it shows that the entry salary is above Hudson's in thirteen and below Hudson's in eighteen cities after applying the Fact-Finder's \$800 increase to Hudson's entry salary.

Comparing salaries at the top of the scale reached in successive annual increments (not including longevity) we find there is considerable difference. The study shows such increments are made over various periods of years, mostly from two to six. One, Ithaca, grants increments for 15 years, and Canandaigua for eight. The average (excluding Ithaca) is 3.65 years. Even with the \$800 added, Hudson at \$9,400 ranks next to the bottom. Only Norwich with \$8,726 is lower. The average salary at the top of the range for the 31 cities in the study is \$11,023.

Undoubtedly the pressure for higher salaries comes from existing personnel and since the PBA demand was much beyond the yield of an increment, they focused on the base or entry salary as the most appropriate place to put it. This study, however, shows convincingly that the new base salary, incorporating the

fact-finder's recommended \$800, places Hudson in a reasonably good position with respect to that phase of its salary structure. Many of the cities with a higher recruiting level of salaries obviously are wealthier or have a broader tax base.

The Fact-Finder's recommendation of \$250 at five year intervals accepted by the parties, makes for a total of \$1,000 additional salary for the long-term officer. Only six cities of the 31 studied have \$1,000 or more in the accumulative totals for longevity, four have none and nine are below \$400. Here again Hudson compares favorably with a cross-section of upstate cities.

The comparative study leads inevitably to the conclusion that if there is one weakness in the Hudson police salary structure it is in the level reached through the operation of the successive automatic annual increases which have been labelled increments. Whether improvement can be made, and to what extent, can only be determined after consideration of the other suggested statutory criteria, particularly the ability of the City to pay.

However, taking those criteria in order, the next one is the interest and welfare of the public. It is the opinion of the author that the retention of the experienced officers on the force serves well the public interest. Inexperienced employees, generally speaking, do not perform as effectively and as well as those with experience. Recruiting and basic training of patrolmen may not represent a large direct outlay to the City, but the indirect cost of reduced efficiency is something to be avoided if possible. That this is the consensus of salary-setters is borne out again by the PERB study mentioned above (PBA Ex. K). A majority of the upstate

cities reported have automatic increases for three or more years which not only recognizes and rewards the increased value of the individual's service but provides an incentive against early resignations. It is concluded that an adjustment in the increment would serve the public interest and welfare.

The next criterion to be considered is the financial ability of the public employer to pay. In the law it is coupled with the interests and welfare of the public and those ends would not be served if the cost were such as to require deficit financing to meet payroll or other operational expenses.

The testimony does not picture Hudson as a prosperous city with unlimited resources. Because of an unusually large percentage of tax exempt property its tax base is narrow. Loss of industry, high unemployment, a large block of poverty level citizens and other adverse factors place a damper on the city government in choosing priorities for the expenditures of the taxpayers' money. At the present time the City is close to its constitutional real estate tax limit (T. 188), the margin being \$60,000. Increases in health insurance cost, the taxes charged by other municipalities for water lines running through them, and the cost of electricity, all unanticipated at budget-making time, will add to the cost of government this year. From these considerations it is evident that any further increase in salary cost must be within modest and reasonable limits.

There was no showing that job peculiarities, including hazards, have been neglected in the City's past employee compensation arrangements or in the Fact-Finder's study.

As a part of its argument for an increase in salaries beyond the City's \$800 offer, the PBA contended that it does not keep pace with the rise in the cost of living.

There are several Consumer Price Indexes published by the U. S. Department of Labor. There was no indication that one has been used in preference to another in Hudson's past salary determinations. Under such circumstances, when that factor enters the picture, there is a natural inclination to select the index that supports one's own position.

There are those who hold that regional influences and geographic location may be more significant in determining price behavior for some of the important items included in the calculation of the indexes. It is worthy of note that the New York City-Northeastern New Jersey CPI showed a twelve month rise of 9.5% in February, 1975 (just prior to the expiration of the PBA contract) and the Buffalo index rose 9.3% during the same period. The Fact-Finder calculated the \$800 increase in the police entry salary as representing a 9.38% boost. Analysis of past Hudson police salaries leads to the conclusion that they have kept pace with the inflationary trend.

While the thrust of the Union's argument is that salaries need to be increased and to achieve this the focus was on the entry level salary. We agree there is a need beyond the \$9,400 top of the successive annual increase level, but not with the entry level solution. Considering all of the evidence and the statutory criteria we find and conclude that the salaries of experienced police officers should be higher. The desirable and

reasonable remedy is not to increase the entry level beyond the \$800 increase, but to add a third increment.

It is worthy of comment that the additional increment was a part of the "Final Police Proposal" but was rejected by the City and the Fact-Finder. Their rationale was not set forth at length, but it is worthy of note that the 1975 PERB report (PBA Ex. K) was not available to them. As mentioned above, that study shows Hudson's entry level compares favorably with others, but the two succession increments leave Hudson low on the list at that level. This is not overcome by reason of the favorable longevity payments.

By our calculation, adding an increment after the third year of service will cost \$4,250 for those immediately and retroactively affected. The parties have used 30% as a fair add-on for fringes. With this factored in the total cost will be \$5,525. This, of course, will rise slightly as additional personnel qualify during the course of the contract year. We find this amount is within the City's ability to pay.

It is the opinion of this Panel that the parties should not be encouraged by the outcome of this proceeding to postpone possible early settlements in future direct negotiations because of the hope that utilization of all of the impasse procedures of the Taylor Law or the possible discovery of new information may benefit either party.

In reaching our decision we have carefully studied and considered the record of two days of hearings, two joint, thirteen PBA and five City exhibits plus fine briefs from both parties.

Inasmuch as our conclusions are predicated on the understanding

that the other recommendations of the Fact-Finder shall now prevail and that previous tentative agreements of the parties shall become final and a part of a total agreement, they are all repeated herein and made a part of this Award.

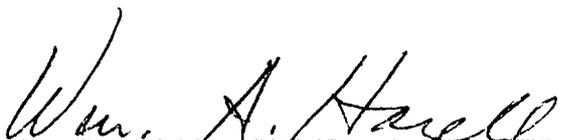
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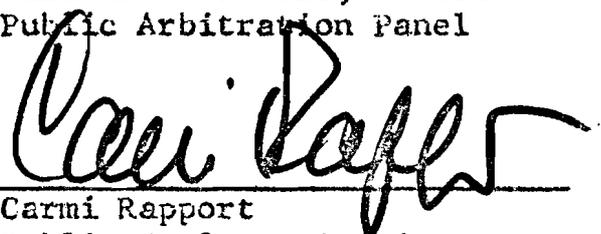
After full and careful consideration of all of the testimony, evidence and arguments of the parties, the Public Arbitration Panel, having been duly designated under date of June 4, 1975 by the New York State Public Employment Relations Board pursuant to Section 209.4 of the Civil Service Law to make a just and reasonable determination of this dispute, awards as follows:

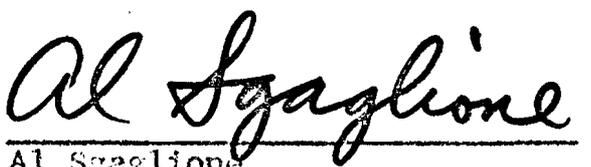
The contract between the parties that expired on April 30, 1975, shall be renewed with the following changes:

1. The contract shall be for a period of one year, starting May 1, 1975.
2. Salary and other changes where applicable shall be made retroactively effective as of the commencement of the contract year.
3. The base salary shall be increased by \$800.
4. The increments section shall be changed to provide that patrolmen shall receive a \$250 increase after the third year of service.
5. The amount of longevity payments shall be raised to \$250 at each five year interval up to 20 years of service.
6. The clothing allowance shall be increased to \$325 per police officer for 1975-76. Repair of police clothing and equipment shall be permitted with these funds.

7. The number of paid holidays shall remain at eleven and one-half unless extended by the operation of the automatic provision of the contract.
8. The City shall provide life insurance in the amount of \$20,000 and false arrest and assault insurance as previously agreed.
9. All patrol vehicles shall be equipped with steel-belted radial tires.
10. All patrol cars shall be equipped with flak vests, air conditioning, shotgun, cages or screen partitions, new radios and oxygen masks as agreed.
11. A typewriter shall be provided for the Station House.
12. A desk copy of the City Code Book shall be provided.
13. A sniper's rifle with scope shall be provided as agreed.
14. Sergeant's pay shall be equalized as previously agreed.


William A. Hazell, Chairman
Public Arbitration Panel


Carmi Rapoport
Public Employer Appointee


Al Sgaglione
Employee Organizations
Appointee

