

PUBLIC EMPLOYMENT RELATIONS BOARD
STATE OF NEW YORK

In the Matter of Compulsory Interest
Arbitration Between

TOWN OF GATES,
Public Employer

and

GATES POLICE KEYSTONE CLUB,
Employee Organization

**NEW YORK PUBLIC EMPLOYMENT
RELATIONS BOARD
RECEIVED**

OCT 26 1981

CONCILIATION

OPINION AND AWARD

Case No. IA80-30
M80-454

On January 21st, 1981 the New York State Public Employment Relations Board determined that a public arbitration panel was appropriate under Section 209.4 of the Civil Service Law. Pursuant to the Statutory Provision and Rules of Procedure the following public arbitration panel members were designated:

PUBLIC PANEL MEMBER AND CHAIRMAN: Thomas N. Rinaldo, Esq.
Scinta, Rinaldo & Sandler
Suite 622, Brisbane Bldg.
Buffalo, New York 14203
(716) 853-5464

EMPLOYER PANEL MEMBER: Peter J. Spinelli, Esq.
Harris, Beach, Wilcox, Rubin & Levey
Two State Street
Rochester, New York 14614
(716) 232-4440

EMPLOYEE ORGANIZATION PANEL MEMBER: Richard J. McCorry
675 Meigs Street
Rochester, New York 14620
(716) 271-4958

BACKGROUND

After the undersigned chairman received notice of his selection, he contacted the representatives of the Town of Gates and the Gates Police Keystone Club concerning the manner of proceeding. On February 1, 1981 a letter was received indicating that the parties had agreed to submit all issues to the arbitration panel by briefs only; oral arguments were waived. Shortly after this agreement was reached the chairman was informed the Gates Police Keystone Club dismissed their attorney and requested a delay until a new attorney could be appointed. On July 14, 1981 correspondence was received from Attorney Francis A. Affronti advising the panel that his office had been retained to represent the Gates Police Keystone Club. August 21, 1981 was set as the date for filing pre-hearing briefs with the further suggestion that either party could request oral argument. On September 3, 1981 briefs were received and at the request of the Gates Police Keystone Club, oral arguments were scheduled for September 29, 1981. On September 29, 1981 a hearing was held and at the conclusion the panel met in executive session.

The panel compared wages, hours and conditions of employment of the employees involved with those of other persons performing similar services with similar skills and under similar working conditions, with other employees generally in public and private employment. The panel at all times took into consideration the interests and welfare of the public and the financial ability

of the public employer to pay. It also considered the hazards of the job, physical qualifications, educational qualifications, mental qualifications, job training and skills, and the terms of collective agreements negotiated between the parties in the past as well as all other relevant factors.

The award of the panel is made in accordance with Section 209.4 of the New York State Civil Service Law.

The Town of Gates was represented throughout by the firm of Harris, Beach, Wilcox, Rubin and Levey, Carl Krause of Counsel, and the Gates Police Keystone Club was represented by Attorneys Affronti, Jesserer, Andolina and Lamb, Lawrence J. Andolina of Counsel.

THE ISSUES PRESENTED BY THE GATES KEYSTONE CLUB

1. WORK DAY AND WORK WEEK The Gates Keystone Club proposed that the work week for all employees covered under the agreement shall be four days on, followed by two days off. Time worked in excess of eight hours or in excess of the 4-2 schedule shall be compensated at overtime rates as defined in Article 6 of the 1979 Collective Bargaining Agreement.

In support of their position, the Gates Keystone Club submits that most if not all of the law enforcement agencies

within the County of Monroe, State of New York, presently utilize 4-2 "work wheel". The Keystone Club submitted that the law enforcement agencies include the Town of Brighton, East Rochester, Greece, Irondequoit, Webster and the Village of Fairport. The Club argues that the utilization of such a work schedule will further serve to attain the county-wide standard on this particular term and condition of employment.

The Town argues that the Union's proposal would in effect make plainclothes policemen, who are not engaged in around-the-clock shift operation, subject to the 4-2 schedule and therefore entitled to overtime pay for any time worked over the schedule. Plainclothes policemen currently do not work a 4-2 schedule; they work a 5-day, 40-hour week, i.e. a 5 on -2 off schedule. The Town maintains that if the Union's proposal was implemented, the Town would be forced to either change the work schedule of plainclothesmen or to encourage substantial overtime costs in keeping with the current work schedule. According to the Town they know of no other municipality where the 4-2 schedule applies to police officers assigned to either plainclothes or single shift work.

2. ARTICLE 5 - COMPENSATION The Union salary proposal seeks 23% increases in the starting, one year and second year police officers salaries to \$17,175.00, \$19,502.00

and \$20,790.00, respectively, a 22% increase in the third year police officers salary to \$22,000.00 and a 30% increase in the sergeant's salary to \$25,300.00. The Union has also proposed two new salary classifications - investigator and youth officer - at the same salary as a sergeant. In addition, it seeks a cost of living adjustment (COLA) to be calculated quarterly and to be fully equal to the percentage increase in the Consumer Price Index for Urban Consumers for the United States.

The Town salary proposal is that the salaries specified in the prior contract for existing wage classifications be increased by 7% on either January 1, 1981 or the date the interest arbitration panel issues its award, whichever is later, and that another increase of 7% be effective on January 1, 1982.

The Club argues that the existing cost of living, inflation, and other expenses have continuously eroded the actual spending power of each club member. According to the Club, the ravages of inflation have caused each club member to sustain and incur a loss of real dollar value. While the majority of consumers have received regular monetary wage increases in an attempt to offset the ever-increasing inflationary spiral, law enforcement officers, argues the Club, have lagged continuously behind. The Club points to the ever-increasing consumer prices in order to support their pay claim.

The Club argues that the Town of Gates has never indicated a financial inability to meet the demands of the Club. On the

contrary, argues the Club, representatives of the Town of Gates have recently increased the salary of the Chief of Police by 12% to \$26,006.00 annually, plus a vehicle to be used for the Chief's personal use; further, the Town Supervisor has received an increase of 14%, to \$30,472.00, plus a similar vehicle for personal use; and all police lieutenants employed by the Town of Gates Police Department have recently received an eight per cent (8%) increase in annual salary.

The current and existing Town of Gates Budget includes a contingency fund in the approximate amount of \$100,000.00 not specifically earmarked for any purpose and which amount can be utilized for the requested increase in police salaries according to the Club.

The Club submits the following wage comparison, presently existing among various County law enforcement agencies:

Top Salary Figures for 1981

East Rochester	\$19,327.00
Brighton	20,971.00
Fairport	17,795.00
Webster	20,643.00
Monroe County Sheriff	19,400.00
Irondequoit	21,301.00
Brockport	18,678.00 (plus cost of living)
Rochester Police Dept.	20,340.00
Greece	20,700.00 (plus 9% for 1982)

The Town of Gates submits by way of comparison the fact that the Town of Gates Police Officer suffers no significant wage disadvantage when compared to fellow policemen in Monroe County and in other comparable communities. The Town submitted Exhibits A through J which are attached hereto and made a part of this report for the panel's consideration on salary comparisons.

The Town does not argue that they are unable to afford a reasonable increase in police salaries. However, the increases proposed by the Union, argues the Town, are unreasonable and cannot be considered. The estimated increase in total salary and fringe benefit costs for police resulting from the Union's proposal translates to an increase of at least \$1.87 per \$1,000 valuation of the tax rate for each property owner in the town. The Town submits that their proposal, on the other hand, would increase salary and fringe benefit costs for policemen by approximately \$47,510.00, which would cause only a 57 cent tax increase per \$1,000 valuation.

The Town further argues that the panel should accept the Town's wage proposal as a just and reasonable determination and reject the proposal of the Union.

3. SICK LEAVE The Union proposes that most of the current sick leave article be deleted. It proposes that the last paragraph on page 14 of the previous agreement, all of page 15, and the first line of page 16 be removed from the contract.

The deletions would eliminate the requirement that an employee on sick leave has to remain at home unless authorized by the Chief of Police. Further, the Union seeks the elimination of the right of the Chief to require forfeiture of vacation time when an employee is absent on six or more separate occasions or for 120 days in a calendar year because of non-work related injuries or illness.

The Town's position is that the language in the contract should remain unchanged. The Town maintains that the current language was the Union's proposal in prior negotiations and resulted in an increase from 12 to 180 days sick leave and the addition of the restrictive language.

The Town argues that the selections the Union suggests be deleted are reasonable limitations which deter the abuse of sick leave and ensure the health of the employee. The requirement that an officer remain home while on sick leave is legitimately intended to aid in rapid recuperation of policemen and to deter use of sick leave for purposes other than illness or injury. The requirement of a physician's statement for illness of more than three days is similarly aimed at ensuring that sick leave is not abused and ensuring that an officer does see a physician when serious illness is involved. The provision permitting (not mandating) forfeiture of vacation is, according to the

Town, likewise aimed at deterring inappropriate use of sick leave.

The Club argues that merely because a police officer is sick or injured does not necessarily require him to be bedridden and if, for example, an individual is recovering from an operation, he should not be obligated to remain at home, particularly when his doctor does not restrict him to the house. The same arguments apply to an individual who is injured on the job, since although such an individual may have specific restrictions which may require him to confine himself to his residence, there may be occasions when his physical condition and recovery capacity will permit him to travel from his residence. According to the Club, it would be blatantly unfair to require an injured and/or sick police officer to remain confined to his residence during his sick leave period, especially when such individual is completely ambulatory and able to function on a day-to-day basis. The language as set forth in the existing contract, the Club points out, completely prohibits and restricts a sick officer, able to function as set forth above, from attending family functions, activities, and/or providing for his own personal and business interests.

4. HEALTH INSURANCE The Union proposes that the Town continue to pay health insurance premiums for retired members and their families and shall continue to pay premiums for their families upon their decease. The Club supports the amendment because retired members have dedicated their professional and working life to the Gates Police Department and should now be in a position to receive health care benefits at a time when they are most needed. Based upon the existing cost of health care services, and medical coverage, argues the Club, there is a much greater need that retirees receive such medical insurance payments.

The Club also requests that the Town provide and pay for the GHI Type "N" Spectrum 2000 Dental Plan (Full basic with 100% prosthetics and orthodontics) to unit members with single and family coverage at the employee's option.

The Town submits that the Union's proposal on the payment of medical benefits to retirees is a non-mandatory subject of negotiations. Furthermore, even if a mandatory subject of negotiation, the Town requests this proposal be rejected because it entails substantial and indeterminate costs. The current cost of the proposal cannot be calculated because the Town did not know how many people would fall within the coverage of such clause. The prospective cost cannot be determined because it is impossible to predict how many persons would be covered by such a provision at any time in the future.

The Town also proposes that the Dental Plan be rejected by this panel. The Town points to the excellent health coverage for its police officers, at no cost to them, to suggest that this additional benefit be denied.

5. DISCIPLINARY PROCEDURES The Union has proposed adding to the contract a lengthy article setting out various restrictions on the Town's ability to discipline employees covered by the agreement. This proposed article provides, in essence, that an officer whom the Town intends to discipline may elect between contractual procedures concluding in binding arbitration and/or the statutory procedures contained in Section 75 of the Civil Service Law. The proposed article also limits the Town's right to interrogate a policeman for the purpose of imposing discipline.

The Town opposes this demand for several reasons and suggests that the panel should reject the Union's proposal for its inclusion in the contract. The Town argues that employees covered by Section 75 of the Civil Service law receive substantially greater protection through the investigatory and disciplinary processes than do private employees and all other public employees. Therefore, no need exists for the overly restrictive provisions included in Section 2 of the proposed article, purportedly to protect the employee, argues the Town. No evidence exists that employees have been treated unfairly or that there has been abuse

of disciplinary procedures by the Town requiring a change in this article.

TOWN PROPOSALS

1. Article 20 - Seniority The Town proposes deletion of the second paragraph of Article 20 of the most recent contract which states that shift assignments within the patrol division shall be on the basis of seniority so long as it is compatible with the proper operation of the police department.

The Town sought throughout negotiations to obtain some modification of existing language to clarify that the intent of the contract language was not that strict seniority should prevail, but that seniority should prevail unless the Chief of Police made a shift assignment which he deemed necessary for the operation of the Department. The Town believes that a change in the current contract language to clarify its right to make shift assignments where necessary must be achieved in order to avoid continued dispute over the meaning of the shift assignment language and the continuous threat of arbitration concerning the issue.

The Club argues that the present language set forth in the existing contract with reference to seniority was enacted in 1972. The proposal of the Town to delete the second paragraph

of the Article would, according to the Club, allow the shift assignments to be made by the Chief arbitrarily. The present requirement that shift assignments shall be a function of seniority has been, as pointed out by the Club, the rule within the Gates Police Department since at least 1972.

2. Article 21 - Reciprocal Rights The Town withdrew this proposal concerning reciprocal rights.

3. Article 22 - Bill of Rights The Town proposes changes in Paragraphs 9, 10, 11 and 15 of Article 22. According to the Town, the first three of these paragraphs concern the preparation by a police officer of a special report when that report may result in discipline against him. Paragraph 9 currently states that if the investigating officer knows that a special report may result in discipline, the police officer involved cannot be directed to write a special report unless he is told the reason for the report and that discipline may result. The officer is to have the opportunity to consult an attorney. Paragraph 10 says that the police officer shall receive a copy of the report. Paragraph 11 states that a police officer may not refuse to answer questions about non-criminal matters without risking discipline, but that he may consult his attorney about such matters.

The Town argues that these paragraphs afford an undue amount of protection in normal disciplinary matters. According to the Town, these paragraphs were intended to afford protection to

a police officer when the officer himself stands in the position of a person accused of a crime; indeed, the language of these paragraphs is framed in constitutional terms, as is the title of the article. As a result, the terms of these paragraphs improperly restrict normal investigations into employee misconduct.

The Town argues that their proposals are reasonable, sensible and more consistent with effective administration of discipline.

4. Article 23 - Grievance Procedure The Town proposes that the basic definition of Article 23 which defines a grievance as "any claimed violation of an express provision" of the agreement remain the same, but that language be added to clarify that the grievance procedure is the sole method for resolving contract claims and that no claims under the Civil Service Law shall be subject to the grievance procedure.

The Club resists any change in the contract definition of a grievance.

DECISION

Article 5 - Compensation

The Union seeks a salary increase totaling 25% coupled with a cost of living adjustment calculated quarterly and to be fully

equal to the percentage increase in the Consumer Price Index for Urban Consumers for the United States.. The Town offered 7% salary increases for the year beginning July 1, 1981 and 7% for the year beginning January 1, 1982.

Ability to Pay and Public Interest

The Town never disputed that they were able to afford a reasonable salary increase for its police force; they offered 7% and suggested that this offer could be increased if the Union would counter with a reasonable proposal. The Union's proposals amount to an increase of at least \$1.87 per \$1,000 valuation in tax rate for each property owner in the town, while the Town proposals would cause only a \$.57 tax increase per \$1,000 valuation.

A salary increase closer to the Town offer would in this panel's opinion be in the public interest and within the ability of the residents of the Town to afford. The Union's proposal, if implemented, would substantially affect the residents of the Town who ultimately bear the cost of any award.

Comparability

A Town of Gates Police Officer receives the sum of \$17,964.00 at the top step. Comparing a Gates Police Officer with neighboring police departments places a Gates Police Officer somewhere in the middle of the list; a Gates patrolman is neither the highest paid patrolman in the County nor the lowest paid.

The Town of Gates is one of the last units to settle; increases for other police departments in the County range from a 7% increase for patrolmen in the City of Rochester to 10% for police officers in the Town of Webster. Most increases are in the 7% to 10% range.

Under the Union salary proposal a Town of Gates patrolman would be the highest paid in Monroe County, in fact, nearly two thousand dollars more than the salary recently negotiated for a City of Rochester patrolman (\$23,540 under the Union's proposal as compared to \$21,768 negotiated for the City of Rochester police department).

Peculiarities of the Profession

It is unnecessary to dwell on the difficulty and danger of a police officer's job. Their work is demanding, stressful and dangerous as compared to the average employee in the public and private sector.

Conclusion on Compensation

The Union's proposal is clearly not in line with comparable police departments and the public welfare. It would have been helpful to this panel and possibly might have resulted in settlement by negotiation rather than arbitration had the Union's proposal fallen within the range of other settlements in Monroe County. The Town remained firm at 7% only because the Union was unwilling

to relent on their 23% demand. Possibly, hard, realistic negotiations would have resulted in compensation or benefits exceeding amounts awarded by this panel. A study by the New York Public Employment Relations Board revealed that negotiated settlements often exceeded awards by arbitration panels.

A majority of this panel believes that a salary package equaling 18.5% over a two year period is consistent with comparable police departments in Monroe County and the ability of the Town of Gates to pay. The salary is to be allocated over two years as follows: 8.5% retroactive to January 1, 1981 and 10% increase beginning January 1, 1982.

A cost of living adjustment is rejected as well as Union demand for two new salary classifications.

Article 4 - Work Day and Work Week

The Union proposes changing this section so that plainclothes policemen currently working a 5 on-2 off schedule be included in the 4 on-2 off schedule worked by patrolmen working an around-the-clock shift operation.

The Union has not persuaded the majority of the merit of this change. Plainclothes policemen working 8 hour days 5 days a week in most police departments work the 5-2 shift rather than the 4-2 schedule. The change in schedule would generate additional overtime with no corresponding benefit to the Town. We the panel, therefore, reject this proposal.

Article 11 - Sick Leave

The Union proposes that most of the current sick leave article be deleted. The main concern of the Union in this proposal is to discourage the Chief of Police from mandating a policeman, out on sick leave for an extended period, to remain at home even when the condition of a police officer does not require home confinement. This proposal has substantial merit and we adopt it in part. The following language is to be added to Article 11:

"In the event an employee is disabled due to injury in excess of seven calendar days or long term illness in excess of seven calendar days and the police officer's private physician certifies that home confinement is unnecessary then the employee need not obtain authorization from the Chief of Police to leave home. The employee must submit to the Chief of Police, upon his request, verification that home confinement is unnecessary."

Article 13 - Health Insurance

The Union proposes that this paragraph be rewritten to require the Town to pay health insurance premiums for retired members and their families and for their families upon their decease. In addition the Union proposes the addition of the GHI Type "N" Dental Plan with 100% prosthetics and orthodontics be added to the current health coverage with cost to be borne by the Town.

This panel rejects this proposal because of the excessive cost the Town would be required to incur in order to implement either proposal. We have appropriately placed any costs in this award in the compensation to be awarded a

police officer. These fringe benefits considering our salary award are too excessive to implement.

New Article - Disciplinary Procedure

The Union has proposed adding to the contract an article setting our various restrictions on the Town's ability to discipline employees covered by this agreement. The proposed article gives the police officer the option of electing binding arbitration in lieu of Section 75 of the Civil Service Law.

The current state of the Law in New York State is unsettled as to right of a Union to negotiate away an employees protection under Section 75 of the Civil Service Law. Several cases seem to suggest that an employee may elect binding arbitration in lieu of Section 75.

The Town generally opposed any changes in the current language. We the panel believe that language should be included suggesting that all parties may elect binding arbitration in place of Section 75 of the Civil Service Law. We therefore recommend the addition of the following language:

"Formal punishment shall be subject to Civil Service Law Sec. 75, provided that if the Keystone Club, officer involved, and Employer all agree, the arbitration provisions of this agreement shall constitute a binding election and substitution for Sec. 75. A request for arbitration shall be made in writing within the time provided for answering charges served pursuant to Sec. 75, and if the written agreement of the remaining parties is obtained within five days thereafter, the parties shall follow the provisions of step three of the grievance procedure contained in this agreement."

Article 20 - Seniority

The Town has sought during negotiations and to this panel some modification of existing contract language to clarify that the intent of the contract language is not that strict seniority should prevail, but that seniority should prevail unless the Chief of Police made a shift assignment which he deemed necessary to the operation of the Department. The Union has rejected changes in the current contract language.

We the majority of the panel, after reviewing all arguments, believe the following changes in Article 20 will serve the needs of both parties:

"Preference for shift assignments within the Patrol Division shall be determined in the following manner: Each member of the Patrol Division will notify the Office of the Chief of Police by November 15 of his preference for shift assignment for the following calendar year. An employee shall not exercise his shift preferences in excess of once per year in the above manner. The Chief of Police shall have posted on the Police Bulletin Board and notify the Officers involved of his action no later than December 15th.

"Preferences for shift assignments will be determined by:

- Seniority
- Date of Appointment to the Gates Police Department
- Experience
- Needs of the Department
- Qualifications
- Performance
- Special Training or skills

"In all cases, the assignments shall be made compatible with the proper operation of the Police Department. In no event shall a shift assignment be made for disciplinary reasons. If all of the above factors are equal, seniority shall prevail."

Article 22 - Bill of Rights

The Town proposes changes in Article 9, 10, 11 and 15 of this article - the Town believes that these paragraphs afford an undue amount of protection in normal disciplinary matters.

We the panel conclude that the current language should not be altered.

AWARD

Article 5 - Compensation

18.5% for a two year contract allocated 8.5% retroactive to January 1, 1981 and 10% beginning January 1, 1982.

Article 4 - Work Day and Work Week

No change in current language.

Article 11 - Sick Leave

The following language shall be added:

"In the event an employee is disabled due to injury in excess of seven calendar days or long term illness in excess of seven calendar days and the police officer's private physician certifies that home confinement is unnecessary then the employee need not obtain authorization from the Chief of Police to leave home. The employee must submit to the Chief of Police, upon his request, verification that home confinement is unnecessary."

Article 13 - Health Insurance & Dental Insurance

No change - Dental Insurance is rejected.

Disciplinary Procedure

Add the following:

"Formal punishment shall be subject to Civil Service Law Sec. 75, provided that if the Keystone Club, officer involved, and Employer all agree, the arbitration provisions of this agreement shall constitute a binding election and substitution for Sec. 75. A request for arbitration shall be made in writing within the time provided for answering charges served pursuant to Sec. 75, and if the written agreement of the remaining parties is obtained within five days thereafter, the parties shall follow the provisions of step three of the grievance procedure contained in this agreement."

Article 20 - Seniority

Add the following:

"Preference for shift assignments within the Patrol Division shall be determined in the following manner: Each member of the Patrol Division will notify the Office of the Chief of Police by November 15 of his preference for shift assignment for the following calendar year. An employee shall not exercise his shift preferences in excess of once per year in the above manner. The Chief of Police shall have posted on the Police Bulletin Board and notify the Officers involved of his action no later than December 15th.

"Preferences for shift assignments will be determined by:

- Seniority
- Date of Appointment to the Gates Police Department
- Experience
- Needs of the Department
- Qualifications
- Performance
- Special Training or Skills

"In all cases, the assignments shall be made compatible with the proper operation of the Police Department. In

"no event shall a shift assignment be made for disciplinary reasons. If all of the above factors are equal, seniority shall prevail."

Article 22 - Bill of Rights

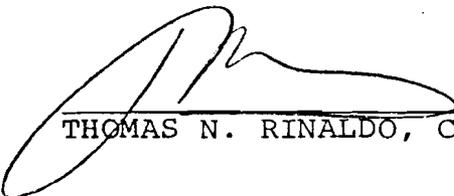
No change.

Article 23 - Grievance Procedure

No change.

Article 27 - Term of the Award

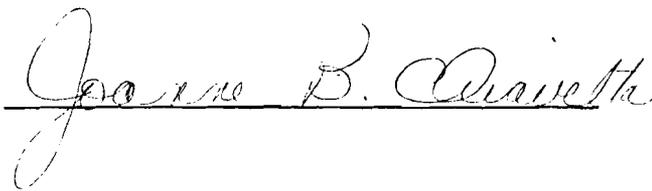
Two Years.


THOMAS N. RINALDO, Chairman

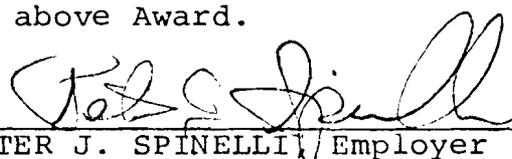
STATE OF NEW YORK)
COUNTY OF ERIE) SS.:

On this 19th day of October, 1981, before me, the subscriber personally appeared THOMAS N. RINALDO, to me known and known to me to be the same person described in and who executed the within Award, and he duly acknowledged to me that he executed the same.

JOANNE B. CHIAVETTA
Notary Public State of New York
Qualified in Erie County
My Commission Expires March 30, 1983



I concur / ~~dissent~~ in the above Award.


PETER J. SPINELLI, Employer
Panel Member

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

On this 19th day of October, 1981, before me, the

subscriber personally appeared PETER J. SPINELLI, to me known and known to me to be the same person described in and who executed the within Award, and he duly acknowledged to me that he executed the same.

JOANNE B. CHIAVETTA
Notary Public State of New York
Qualified in Erie County
My Commission Expires March 30, 1983

Joanne B. Chiavetta

I ~~do not~~ / dissent in the above Award.

Richard J. McCorry
RICHARD J. MCCORRY, Employee
Organization Panel Member

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

On this 19th day of October, 1981, before me, the subscriber personally appeared Richard J. McCorry to me known and known to me to be the same person described in and who executed the within Award, and he duly acknowledged that he executed the same.

JOANNE B. CHIAVETTA
Notary Public State of New York
Qualified in Erie County
My Commission Expires March 30, 1983

Joanne B. Chiavetta

GATES POLICE ARBITRATION

Comparative Police Salaries

	Gates	East Rochester	Fairport	Brighton	Ogden
1. Patrolman - Entry Level					
1980	13,964	13,763	14,056	14,748	
1981	(17,175-U) (14,941-T)	14,795	15,110	15,928	14,483
%	(23%-U) (7%-T)	7.5%	7.5%	8%	
2. Patrolman - Top Step					
1980	17,964	17,109	16,554	19,418	
1981	(22,000-U) (19,221-T)	18,392	17,795	20,971	17,494
%	(22%-U) (7%-T)	7.5%	7.5%	8%	
3. Sergeant					
1980	19,425		18,209	22,230	
1981	(25,300-U) (20,784-T)	18,930	19,575	24,116	20,299
%	(29%-U) (7%-T)		7.5%	8.5%	

Exhibit A

(-U) - Union Proposal
(-T) - Town Proposal

GATES POLICE ARBITRATION

Comparative Police Salaries
(Continued)

	Webster	Auburn	Newark	Rochester	Tonawanda
1. Patrolman - Entry Level					
1980	13,219	13,404	11,278	16,324	12,413
1981	14,535	14,542	11,955	17,467	13,158
%	10%	8.5%	6%	7%	6%
2. Patrolman - Top Step					
1980	18,766	15,625	13,186	19,010	15,302
1981	20,643	16,953	13,977	20,341	16,220
%	10%	8.5%	6%	7%	6%
3. Sergeant					
1980	20,303	17,046	14,006	21,683	
1981	22,334	18,495	14,946	23,393	
%	10%	8.5%	6.7%	7.8%	

Exhibit A

GATES POLICE ARBITRATION

Top-Step Police Officer
Comparison

Union Proposed Salary for Top Step Police Officer in 1981	-	\$22,000		
Consumer Price Index for All Urban Consumers for 1981*	-	Jan.	Feb.	Mar.
		260.5	263.2	265.1
Percentage Increase in CPI for 1st Quarter, 1981	-	1.8%		
Reasonable Predicted Increase in CPI for 1981	-	7%		
1982 Salary for Top Step Police Officer Under Union Proposal with 7% Increase in CPI for 1981	-	\$23,540		
1982 Salary for Top Step Police Officer in City of Rochester**	-	\$21,765		

* Source - Monthly Labor Review, June 1981 (U.S. Department of Labor, Bureau of Labor Statistics)

** Source - First 1981 Report of Salaries For Police Personnel in New York State, Public Employment Relations Board

GATES POLICE ARBITRATION

Cost of Living Comparisons

Consumer Price Index for Urban Wage Earners
and Clerical Workers, annual averages and
changes*

(1967=10)

Year	CPI	Increase over Prior Year	Percent Increase
1977	181.5	-	-
1978	195.3	13.8	7.6%
1979	217.7	22.4	11.5
1980	<u>247.0</u>	<u>29.3</u>	<u>13.5</u>
Total 1977-1980		65.5	36%

*Source - Monthly Labor Review, June 1981 (U.S. Department of
Labor, Bureau of Labor Statistics)

GATES POLICE ARBITRATION

Cost of Living Comparisons

Average Weekly Earnings of All Production or
Nonsupervisory Workers on Nonagricultural
Payrolls

United States*

Year	Average Weekly Earnings	Increase Over Prior Year	Percent Increase
1977	189.00	-	-
1978	203.70	14.70	7.8%
1979	219.30	15.60	7.7
1980	<u>235.10</u>	<u>15.80</u>	<u>7.2</u>
Total 1977-1980		46.10	24.4%

*Source - Monthly Labor Review, June 1981 (U.S. Department of Labor, Bureau of Labor Statistics)

GATES POLICE ARBITRATION
Cost of Living Comparisons
Summary

	<u>Percent Increase</u> <u>1977-1980</u>
Consumer Price Index	36%
Average Weekly Earnings	24.4%

Exhibit E

GATES POLICE ARBITRATION

Cost of Retirement Plans

Contribution Rates for 1981 for the
New York State Policemen's and Fire-
men's Retirement System As Percentage
of Wages

<u>Plan</u>		<u>Rate</u>
Section 375C	Tier I	21.2
	Tier II	14.2
Section 384	Tier I	30.7
	Tier II	19.8
Section 384F	Tier I	33.5
	Tier II	21.7
Section 384D	Tier I	42.7
	Tier II	29.3

GATES POLICE ARBITRATION

Salary and Retirement Costs

Number of Police Officers, Distribu-
tion on Salary Schedule, Level of
Retirement Contribution

The Town currently employs 23 persons in its police force: 1 chief; 4 lieutenants; 6 sergeants; and 12 officers. All are enrolled in the Section 384D, 20-Year, Half-Pay Retirement Plan.

<u>Salary Schedule</u>	<u>Number of Officers</u>
Police Officer	
Starting Salary	0
After 1 year	0
After 2 years	1
After 3 years	11
Sergeant	6

<u>Retirement Plan (Section 384D)</u>	<u>Number of Officers</u>
Tier I	11
Tier II	7

(The chief and the four lieutenants are all Tier I employees.)

GATES POLICE ARBITRATION

Police Department Expenses As
Part of Town Budget

<u>Year</u>	<u>Police Dept. Budget</u>	<u>Town Budget</u>	<u>Police as % of Town</u>
1980	\$795,512	\$3,224,414	25%
1979	787,559	2,965,381	27%
1978	657,588	2,716,098	24%

GATES POLICE ARBITRATION

Police Salary and Fringe Benefit
Costs, Tax Rates, and Projected
Changes

Police Salary and Fringe Benefit Costs (including Chief and Lieutenants)

<u>Year</u>	<u>Total Police Salaries</u>	<u>Total Police Fringes</u>	<u>Fringes as % of Salaries</u>
1980	\$513,432	\$208,180	41%

Total Police Salary & Fringe Benefit Cost
for 1980 = \$721,612

Property Tax Effort (1980-81)

<u>Taxable Assessment</u>	<u>Equalization Rate</u>	<u>Computed Full Value</u>	<u>Tax Rate Per 1000</u>
83,162,520	15.20	547,121,842	27.95

<u>Taxes Collected</u>	<u>Tax Rate on Full Value</u>
2,324,392	4.25

\$1.00 increase in tax rate yields \$83,162

Union Proposal

(Assume that Union salary proposal is for 22% increase, that the chief and lieutenants will receive same increase as bargaining unit employees, and that fringe benefits will equal 40% of salary costs.)

Salary	\$513,432 + 22% increase	= \$626,387
Fringes	40% of \$626,387	= <u>\$250,555</u>

Union Proposal (continued)

Total Projected Cost
Under Union Proposal = \$876,942

Total Projected Increase
in Cost From 1980 Under
Union Proposal = \$155,330

Projected Tax Rate
Increase Per \$1000
Under Union Proposal = \$1.87

Town Proposal

(Town salary proposal is 7%; assume that chief and lieutenants will receive the same increase as bargaining unit employees and that fringe benefits will equal 40% of salary costs.)

Salary \$513,432 + 7% = \$549,372

Fringes 40% of \$549,372 = \$219,749

Total Projected Cost
Under Town Proposal = \$769,121

Total Projected Increase
in Cost From 1980 Under
Town Proposal = \$ 47,509

Projected Tax Rate
Increase Per \$1000
Under Town Proposal = \$.57



The index that feeds inflation

On Jan. 31, 1980, William D. Howard, a retired federal employee, wrote a letter to Mrs. Janet Norwood, Commissioner of Labor Statistics. *BUSINESS WEEK* has obtained his permission to reprint it. The editors consider it an interesting and informative study of the inflationary impact that results when cost-of-living adjustments in wages or pensions are based on the consumer price index compiled by the Bureau of Labor Statistics.

Dear Mrs. Norwood:

According to the Jan. 2, 1980, issue of *The Wall Street Journal*, you spoke to the National Association of Government Labor Officials and defended the ELS consumer price index against claims that it exaggerates the inflation rate. . . . I submit to you that an honest analysis of my own personal financial status reveals more about the impact of the ELS's actions than can be derived from opinions of economists.

Let's start with my 43rd birthday, July 1, 1968, when as a middle-management federal accountant, Grade 15, Step 8, I was earning \$22,000. Federal workers then became subject to the "Comparability Pay" law. My salary would have changed little had the "average" pay of the private sector surveyed been used, but it wasn't. The ELS used special weighting curves and other refinements they felt necessary to achieve "comparability," and instead of my pay increasing 22% in the next 4½ years, it spurted 54% to \$34,971 by January, 1973, without any promotions. It would be \$50,112 a year today if I had not retired on my 50th birthday, July 1, 1975.

During the 4½ years since my retirement from federal employment, my Civil Service annuity (=1 810 115), which started at \$1,922 a month, will reach \$3,075 based on the CPI-w [The index that applies to wage earners and clerical workers] of 230.0 at December, 1979. Thus, I now receive 63% more retired than I did working in mid-1968, primarily due to the impact of the ELS's determination of "comparability pay" and calculation of CPI-based cost-of-living allowances.

In your speech, which I referred to at the outset, you stated:

"We have one official consumer price index, and we will continue to have one official consumer price index."

"The CPI is the best measure of purchasing power we have."

"The purpose of CPI cost-of-living adjustment has been to permit people to purchase in today's prices the bundle of goods and services they purchased in the base period, thereby leaving them at least as well off as they were then."

This means that I do not have to switch to pork, chicken, or even pasta, as others do, because the cost of beef and veal has gone up more in the last eight years than meat substitutes. I am entitled, according to you, to eat the same quantity and

quality of beef and veal as I did in 1972-73, when it was cheap.

I still get to drive gas-guzzling big cars at 6 to 10 mi. a gal., just like people did when the CPI was "based" and gasoline cost 41¢ instead of the \$1.00 now. When the government urges conservation, it is at variance with your contention that we (CPI-based COLA recipients) should be left at least as well off as before. Heating oil was 19¢ a gal. in the CPI base, plentiful too. I can ignore the government's urging that I insulate my home, fix back the thermostat, etc., and heat with the same amount of oil as before at today's prices.

As to my home, I live in a new house acquired just before I retired in 1975, and although its value has doubled and I can take \$100,000 tax-free profit, and the monthly payments are not a bit more, the housing components of my COLA increases of more than .50% have handsomely increased my income. Is it true that the CPI assumes that I can only sell my house for the equity I have paid into it and assumes that I must repurchase and refinance a portion of my house every year?

My radial tires for my cars get 40,000 mi. the first year, but my cost-of-living allowances based on the CPI assume that I still get only 15,000 mi. The quality improvements (except for new automobiles) are ignored.

Medical care costs have risen dramatically in the last eight years, and my CPI-based income has been raised accordingly, yet my former employer continues to pay a large portion of my health insurance, and my costs are about the same.

I know that I am very fortunate to have CPI income protection, as are 50 million other people who are similar beneficiaries. But do you think, honestly, that it is unjust enrichment? Frankly, it scares me to contemplate what a transfer of payments from one group of citizens to another means. For myself, I am busily engaged in a second career in the private sector, but everyone is—due to the influence on incentives

For example: A local fellow who used to work in the same government bureau I did retired 10 years ago. I called him last week about a job opening similar to the one I got after retirement. He is a CPA and figured that from the \$24,000 salary to start, on top of his CPI-based federal annuity, federal, state, city, and FICA taxes, and commuting expenses would leave him only \$9,000 for working, and he therefore was not interested. Why should he support the system?

I understand that ELS's *Monthly Labor Review* welcomes communications that are factually analytical, not polemical in tone. Although this one is a bit embarrassing to me personally, it is a story that needs to be told, even if it ultimately results in less unjust enrichment to CPI-based cost-of-living benefit recipients. Sincerely,

William D. Howard

The measure that is most widely used to adjust wages and pensions for cost-of-living increases is so distorted that it often produces unjust enrichment

William D. Howard, formerly an accountant in the Intelligence Div. of the Treasury Dept., retired in 1975.

Drawing by David G. Kinn