

STATE OF NEW YORK

PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the Arbitration Between  
THE TOWN OF QUEENSBURY, NEW YORK  
and  
QUEENSBURY POLICE ASSOCIATION

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OPINION AND  
AWARD

PUBLIC EMPLOYMENT RELATIONS BOARD CASE NUMBER: IA81-19; M80-626

ARBITRATION PANEL: Peter A. Prosper, Jr., Chairman  
and Public Panel Member

Mrs. Frances Walter  
Supervisor, Town of Queensbury  
Employer Panel Member

Peter J. Reilly  
President, Police Conference of New York  
Employee Organization Panel Member

APPEARANCES: For the Town

Joseph Brennan, Esq.

For the Association

William F. Sheehan, Esq.

INTRODUCTION

This proceeding is an Interest Arbitration instituted and conducted pursuant to the provisions of New York Civil Law, Section 209.4. The petitioner is the Town of Queensbury Police Association (hereinafter referred to as the "Association") and the respondent is the Town of Queensbury, New York (hereinafter referred to as the "Town").

The Association petitioned the State of New York Public Employment Relations Board on July 1, 1981, to invoke Interest Arbitration on the basis of its proposals for the renewal of the Labor Relations Agreement for the period January 1, 1981 to December 31, 1981. The Town answered the allegations and submitted its proposals to the State of New York Public Employment Relations Board on September 28, 1981.

The Arbitration Panel conducted hearings on all items at impasse at the Town of Queensbury offices on December 3, 1981, at which time the parties were afforded full opportunity to present all evidence and testimony in support of their respective positions. At the commencement of the hearing the parties stipulated and agreed to waive a stenographic transcription of the proceedings and further agreed to be bound by the notes taken by Panel members and exhibits entered into evidence.

The Panel met in executive session on December 29, 1981, and deliberated each of the outstanding issues. The results of these deliberations are contained in the accompanying Award issued by the Arbitration Panel.

In reaching our conclusions, the Panel members have been bound by the standards mandated by Section 209.4 of New York Civil Law, with particular emphasis given to comparison of wages, hours, and conditions of employment, the interests and welfare of the public, and the terms of collective agreements negotiated between the parties in the past.

The Town of Queensbury maintains a fully paid police department. The current bargaining unit consists of fourteen full-time employees.

Prior to the arbitration, no items were negotiated and agreed upon because negotiations on individual items were discussed as part of an overall agreement.

The following items have been raised in negotiations and are outstanding:

- Disability Insurance
- Off-duty Actions
- Personal Leave
- Quick Change Pay
- Compensatory Time Off
- Call-in Time
- Sick Leave
- Vacations
- Shift Differential
- Health Insurance
- Increments
- Salary Levels

The Panel has reviewed each of the parties' submitted proposals on their individual merits, but considered the items on an interrelated basis because they, directly or indirectly, impact upon the finances of the Town.

TOWN AND ASSOCIATION CRITERIA SUPPORT  
FOR THEIR POSITIONS ON THE ITEMS AT IMPASSE

Ability To Pay

The Town did not claim an inability to pay as a stricture on the improvement of salaries and other economic items. However, the representatives of the Town took the position that any financial settlement greater than its proposals would increase costs to the citizens of the Town because the tax base is not so substantial as it might appear. The Association contends that the Town is fast-growing and already has a quite substantial tax base. It states that the Town will levy its first general Town Tax on property in 1982, and the rate will be \$1.76 per thousand of assessed value. Adding to the tax base, according to the Association, are a large number of recent residential housing developments, the construction of commercial shopping malls, and new apartment complexes.

The Town responds that because of growth in the Town, problems arise which require substantial amounts of money

to solve. For example, facilities for water, roadbuilding and maintenance all require financing by the Town, for which there are currently limited funds.

The picture painted by the Association of a rapidly increasing tax base is misleading, according to the Town. Other than Aviation Mall, there exists no viable shopping center complex. All major tenants have vacated the mall at Route 9 and Aviation Road, leaving seventy percent of the floor space unoccupied. Some commercial enterprises (including Aviation Mall and several apartment complexes) are either under tax review or have requested tax review. While acknowledging the fact that there is growth, the Town contends that overall, more than proportionate funds are required to meet all the problems inherent in growth.

#### Comparability

The Town and the Association disagree on the jurisdictions to be used for comparison purposes. The Association claims that the relevant labor market area is the entire Capital District including Albany, Schenectady, Troy and towns and villages in areas adjoining those areas.

The Town views the relevant labor market area as those jurisdictions of comparable size and attributes which are located in the immediate geographic area, including Warren County Sheriffs Department, Hudson Falls, South Glen Falls and Fort Edward.

No data or criteria exist to designate a specific geographic area as being the uncontroverted relevant labor market area. The Panel, in its deliberations, examined salaries and other terms and conditions of employment of police departments in the immediate geographic area, of those in the general area of the Capital District, and of police departments in similar areas and under similar circumstances elsewhere in the state. By an examination of these three markets, it was concluded that a reasonable and realistic evaluation could be made.

#### Equitability

The Association contends that the rise in the Consumer Price Index has eroded real incomes, and it is necessary to adjust salaries to reflect this phenomenon.

It also argues that long-term police officers in the Town of Queensbury receive only one thousand dollars more than a starting policeman, an inequity that should be addressed.

The Town argues that to provide the financial improvements sought by the Association would place an inequitable burden on the taxpayers of the Town.

All arguments and positions regarding the equitability of financial items were seriously considered and evaluated when making the Award for each item individually and all items taken as a unit.

#### THE ISSUES AND THEIR DISPOSITION

The Panel has evaluated each of the items below on their individual merits consonant with the requirements of New York Civil Law, Section 209.4, and has considered them as a financial whole. The conclusions and the awards below were arrived at by due deliberation followed by a vote of

the Panel, the results of which are indicated for each item.

Disability Insurance

The Association proposes that the Town pay one hundred percent of the premium cost of the New York State disability plan.

The Town has stated in negotiations and at the hearing that it is agreeable to this proposal, but only as part of a total package. The Town has given no specific objections to the proposal otherwise, nor has it presented a further explanation of its position.

AWARD

The Panel awards the New York State disability plan, the entire cost of which is to be borne by the Town of Queensbury.

CONCURRING: Frances Walter, Peter J. Reilly

Off-Duty Actions

The Association proposes the following new clause be incorporated in the Agreement:

If an officer takes action while off duty which would have been taken by an on duty officer if present, he shall have all rights and benefits as if he were on active duty; and that the employer will provide and bear the expense of an attorney to defend an officer suit civilly out of an action performed on duty when the Town is also a party to the action.

The Association contends that an officer has the obligation to respond to situations whether on duty or off duty, and should not be concerned about application of benefits if he is injured.

The Town is in agreement with the concept, but is wary of the generality of the proposal. It foresees the possibility of an action occurring in, say Hawaii, for which it becomes financially liable, including payment for travel expenses. With regard to the second part of the

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proposal referring to provision of counsel for an officer in a civil suit, the Town would restrict its payment only for allegations of misconduct.

The paragraph below encompasses the alterations suggested by the Town.

AWARD

The following paragraph shall be in the Agreement:

If a police officer takes action while off duty which would have been taken by an on duty Queensbury police officer in the performance of his duties and within the scope of his employment as a Queensbury Police Officer, he shall have all rights and benefits as if he were on active duty. The Town shall provide and bear the expenses of defense, including counsel, of an officer named as a defendant in an action involving allegations of misconduct by the police officer in connection with his employment unless such defense and expenditure would violate the law of the State of New York.

CONCURRING: Frances Walter, Peter J. Reilly

Personal Leave

The present Agreement provides for three days of personal leave per year, non-accumulative, with one day's prior notice and with reason for the leave. The Association seeks to remove the requirement of giving a reason for taking a personal leave day. The Association defends its proposal on the grounds that personal leave is for personal business, and an employee should not be required to divulge the nature of that personal business.

AWARD

The following amended paragraph is awarded:

ARTICLE VII

Personal Leave

Section 1. All employees shall be granted three (3) personal leave days per year. No reason need be given for taking a personal day, so long as prior approval for the leave, as per Section 3, is obtained and the absence will not interfere with police functions.

CONCURRING: Frances Walter, Peter J. Reilly

Quick Change

A quick change is the practice of an officer being required to work a tour of duty with fewer than sixteen hours off between two tours. Under current departmental policy, the Chief of Police can require an officer to work another tour of duty if less than sixteen hours has elapsed since his last tour of duty ended. The Association seeks to have this tour of duty compensated at an overtime rate. It states that under its proposal no interference with the operation of the department exists because the Chief of Police can still require the added tour of duty, yet provides compensation to the officer for the inconvenience of interrupted family and personal plans and of the added fatigue factor.

AWARD

The payment of overtime rate (time-and-a-half) for a quick change, so long as the assignment is made by the

Chief of Police, is awarded. If the quick change is requested by a police officer, no overtime compensation shall be paid.

CONCURRING: Peter J. Reilly

DISSENTING: Frances Walter

Compensatory Time Off

The Association proposes that officers be permitted the option of compensatory time off in instances in which they are entitled to overtime pay, at a rate of one-and-a-half hours for each extra hour worked.

The Association argues that in most cases the officer would choose dollars to hours off, but it does afford an officer the choice.

The Town is concerned about its ability to properly staff each shift each day if a number of officers choose

time off.

AWARD

Considering the concerns of both parties, the following award is made:

An officer has the option of receiving premium pay (one-and-a-half times regular rate) for overtime hours or for compensatory time off (one-and-a-half times regular hours) for overtime hours, subject to the approval of the Chief of Police. Compensatory time off must be taken within ninety (90) days or the overtime will be compensated by premium pay. If an officer is denied time off within the last twenty days of eligibility, the deadline for use shall be extended an additional thirty (30) days.

CONCURRING: Frances Walter, Peter J. Reilly

Call-In Time

The present Agreement provides a guaranteed two hours pay, at one-and-a-half times regular rate, if an employee

is called in when off duty. The Association seeks an increase in minimum time to a guaranteed three hours, all other conditions remaining the same.

The Association asserts that very little call-in time occurs, and that it is used mainly for court appearances. It cites other departments in the area which have a guarantee of three or four hours.

AWARD

A minimum call-in time of three hours is awarded, all other conditions (e.g., overtime rate) remaining the same.

CONCURRING: Peter J. Reilly

DISSENTING: Frances Walter

Sick Leave

The Association proposes several adjustments in the clause regarding sick leave. It proposes to grant payment for unused sick leave days to those who resign as well as to those who retire. Presently, payment is made only to those who retire.

Presently, the Agreement provides payment of one-half days pay for each day of unused sick leave for employees hired prior to January 1, 1976, and one-fourth days pay for each day of unused sick leave for employees hired after January 1, 1976. The Association seeks payment of one-half days pay for all unused sick leave days without regard to date hired.

The present Agreement provides that the department head may require a physician's statement for any leave of absence or sick leave. The Association seeks to have that section stricken from the Agreement.

The Association supports its proposals by stating that they are common provisions in many police department agreements. It states that not only does unused sick leave

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provide an earned benefit to employees, it also saves money for the Town.

The Town is fearful of abuses of the benefit if the Association's proposals are adopted, and provides several hypothetical instances of possible abuse.

AWARD

The following have been agreed to by at least a majority of the Panel:

(a) Payment for each unused sick leave day of one-half the per diem pay rate for all police officers regardless of date of hire is awarded.

CONCURRING: Peter J. Reilly

DISSENTING: Frances Walter

(b) The Association's proposal that payment for unused sick leave days be made to those who resign as well as those who retire is denied.

CONCURRING: Frances Walter

DISSENTING: Peter J. Reilly

(c) It is awarded that the following replace Article VI, Section 2:

The department head may require a physician's statement for any leave of absence or for any sick leave of greater than two consecutive days.

CONCURRING: Frances Walter, Peter J. Reilly

Vacation

The present Agreement provides the following:

Section 1. Upon the completion of one (1) year of service, employees shall be entitled to vacations as follows: Two (2) weeks upon completion of the first year of service, with an additional day for each year of service thereafter, up to a total vacation time of three (3) weeks.

The Association seeks to improve the benefit by increasing vacation time to three weeks per year after four years of service and four weeks vacation after ten years of service. It also proposes payment for unused vacation days upon voluntary termination of service and the opportunity for those at level 5 or higher to take vacation in periods less than one week.

The Association argues that the present vacation clause provides less benefit than do any other of the fifty included in a Public Employment Relations Board survey. It also states that with its proposal the department will still receive fewer vacation days than a significant number of other departments, including Glens Falls. Vacations are particularly needed by police officers because of the stress of the position, avers the Association.

The Town initially opposed all aspects of the vacation proposal, particularly the proposal to take vacation time in less than one week blocks. Its opposition on this point hinges on its perception that it would constitute interference

with scheduling and staffing a small police department.

An examination of other police units as reported by the Public Employment Relations Board discloses that the Town of Queensbury does provide a relatively less substantial vacation benefit than do many other jurisdictions.

#### AWARD

Because of the relatively less desirable vacation plan of the Town, the Panel awards vacation as follows: After completion of one year of service, two weeks vacation; after five years of service, three weeks vacation; after thirteen years of service, four weeks vacation. Further, the Town shall compensate an employee for unused vacation days upon voluntary termination of service. The ability to take vacations in less than one week blocks is denied.

CONCURRING: Frances Walter, Peter J. Reilly

Shift Differential

The Association states that if a multiyear agreement is awarded, the Town should include in that agreement a shift differential payment beginning in the second year of \$0.30 per hour for the second shift and \$0.40 per hour for the third shift. Presently, no shift differential exists.

The Association presents no substantial argument to justify its proposal, except that it is desired as a benefit in a multiyear agreement.

AWARD

The proposal for a shift differential is denied.

CONCURRING: Frances Walter

DISSENTING: Peter J. Reilly

Health Insurance

The Association proposes that the Town contribute one hundred percent for individual and one hundred percent for family health insurance premiums. Presently there is a fixed dollar limit on the Town's contribution to family premiums amounting to the premium dollars as of December 31, 1978.

The Association supports its proposal on the grounds that most other jurisdictions in the state contribute one hundred percent to the health insurance premiums.

AWARD

Considering health insurance premium contributions as one part of a total financial cost, the Panel awards the following:

For 1981 the Town shall contribute one hundred (100%) percent of the premium for health insurance (including the present dental plan) for both individual plan and family plan; for 1982 the Town shall contribute one hundred (100%) for individual, and an amount equal to the dollar contri-

bution for the family plan premium as of December 31, 1981. The payments are to be made (reimbursed) retroactive to January 1, 1981.

CONCURRING: Frances Walter

DISSENTING: Peter J. Reilly

The Association also proposes that a prescription drug plan be instituted, with the Town contributing one hundred percent to the premium. It also proposes a continuation of the Town's payment of health insurance to an "officer's spouse and dependent upon his death."

The Town opposes the prescription drug plan as too costly. It opposes the continuation of payments to a spouse because of the omission of a time limit.

#### AWARD

A consideration of the supportive arguments of both parties was made and the following are awarded:

(a) The prescription drug plan is denied.

(b) In the event of the death of an officer, the Town shall continue its contributions for health insurance (including dental) on behalf of the spouse and dependents for one year. After that time the spouse and dependents may contribute the total dollar amount of the premium at the group rate.

CONCURRING: Frances Walter

DISSENTING: Peter J. Reilly

Salary Increments

The present Agreement provides a yearly increment of \$100.00 each year for ten years. The Association seeks a major increase in the increment structure by \$200.00 per year after one, five, six, and nine years of service; and \$300.00 per year after years two, three, four, seven and eight years of service; a \$500.00 increment after year fourteen; and a \$400.00 increment after the nineteenth year of service.

The Association contends that the one thousand dollar difference between starting salary and top salary is by far the lowest in any relevant comparison. In addition, it argues that in most other jurisdictions the top is reached in a much shorter period of time, usually three, four, or five years.

The Panel has examined the data presented by both parties concerning salary increments and concludes that the differential factors stressed by the Association do appear by almost any comparative group of police departments, and therefore makes the following determination:

#### AWARD

The increment structure shall be improved by \$300.00 in year five, by \$400.00 in year ten, and by \$500.00 in year twenty. The increment schedule below reflects the awarded changes:

<u>Years of Service</u>	<u>Increment</u>
1	\$100.00
2	\$100.00
3	\$100.00
4	\$100.00
5	\$400.00
6	\$100.00
7	\$100.00
8	\$100.00
9	\$100.00
10	\$500.00
20	\$500.00

CONCURRING: Frances Walter, Peter J. Reilly

Salary Levels

The Association proposes raising the entry level (provisional) salary from its current \$9,264.00 to \$11,500.00. It also proposes the following changes: Raise Patrolmen's

base salary from \$11,561.00 to \$13,000.00; raise Sergeant's base salary from its present \$13,057.00 to \$14,400.00; raise Investigator's salary from its present \$14,010.00 to \$14,500.00.

The Town has offered an eight (8.0%) percent increase in base salary for Patrolmen, Sergeants and Investigators for the year 1981, and an increase of eight (8.0%) percent in base salary for Patrolmen, Sergeants and Investigators for the year 1982; an increase of seven-and-a-half (7.5%) percent in base salary for Patrolmen, Sergeants, and Investigators for the year 1983. The Town proposes no change in provisional salary or in the increment structure.

The Association compares the Town of Queensbury police salaries with those of other jurisdictions in the Capital District and elsewhere in the state. The Capital District jurisdictions that it uses are: Albany, Amsterdam, Bethlehem, Glens Falls, Niskayuna, Rensselaer, Rotterdam, Saratoga Springs, Schenectady, Scotia, Troy and Watervliet. The Association claims that by using

those jurisdictions, the Town of Queensbury was within five dollars of having the lowest starting salary for patrolmen, and that it has the lowest top salaries. It estimates that its starting salary in 1980 for patrolmen is \$1,337.00 below the average of those in the Capital District, and \$2,871 below the average top salary.

The Association also presents data on fifty jurisdictions in the state as reported by the Public Employment Relations Board in its Report of Salaries For Police Personnel in New York State. It concludes that entry salary of Queensbury Police is \$4,856.00 below average. Using Glens Falls as a comparison, the Association finds that coverage of Glens Falls is 4.2 miles, and the Town of Queensbury is 72 square miles; the population of Glens Falls is also lower; more total burglaries, robberies, larcenies and assaults in Queensbury than in Glens Falls; Glens Falls has more than double the number of policemen than does Queensbury.

The Association argues that the Town has the funds to meet its proposals. The Town tax rate (for the first time levied) for 1982 is \$1.76 per thousand, an extremely low rate, according to the Association. It repeats its asser-

tions about the growth of the area in terms of population, wealth and commercial establishments. The Association points out that as the Town has grown, so has the workload (and therefore the productivity) of the police.

The Town questions the jurisdictions selected by the Association as comparables. It believes that comparable jurisdictions are those of relatively equal size and circumstances, such as Warren County Sheriff, Hudson Falls, South Glens Falls, and Fort Edward. These jurisdictions, according to the Town, have salaries for police in line with those of Queensbury.

Some of the arguments of the Town have been enumerated earlier in this report, such as commercial base and tax base, costs of growth such as water system, lighting district, roads, and sewer system.

The Panel has examined all the arguments presented by both parties, examined all documents submitted by the parties, evaluated and analyzed all arguments and supportive positions, and with cognizance of the requirements of

New York Civil Law, Section 209.4, make the following determinations concerning salary levels.

AWARD

The Panel awards as follows:

(a) The duration of the Agreement shall be from January 1, 1981 through December 31, 1982.

(b) The base salary for provisional patrolmen shall be \$10,200.00 for 1981, and there shall be no change in that salary for 1982.

(c) The base salary for Patrolman shall be \$12,610.00 in 1981 and \$13,750.00 for the year 1982.

(d) The base salary for Sergeant shall be \$14,230.00 for 1981 and \$15,510.00 for the year 1982.

(e) The base salary for Investigator shall be \$15,270.00 for the year 1981 and \$16,490.00 for the year 1982.

All salaries are to be made retroactive to January 1, 1981.

A specimen of the award-modified salary schedules for 1981 and 1982 is appended to this report.

CONCURRING: Frances Walter

DISSENTING: Peter J. Reilly

The above constitute all items placed before the Arbitration Panel for its evaluation and award.

Except as changed or modified by this AWARD or by negotiations previously conducted by the parties, the terms and conditions of the expired contract shall continue in force and effect over the term of the new Agreement.

January 15, 1982  
Schenectady, NY

Peter A. Prosper, Jr.  
Peter A. Prosper, Jr., Chairman  
and Public Member

STATE OF NEW YORK )  
COUNTY OF SCHENECTADY ) SS:

On this 15<sup>th</sup> day of January, 1982, before me personally came and appeared PETER A. PROSPER, JR. to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

Sarah H. Fleming  
SARAH H. FLEMING  
Notary Public, State of New York  
Qualified in Schenectady County  
Commission expires March 30, 1982

Frances J. Walter  
Frances Walter, Employer Member

STATE OF NEW YORK )  
COUNTY OF ) SS:

On this 17 day of January, 1982, before me personally came and appeared FRANCES WALTER to me known and known to me to be the individual described in and who executed the foregoing instrument and she acknowledged to me that she executed the same.

David A. Chase  
DAVID A. CHASE  
Notary Public  
Qualified in Schenectady County  
My Commission Expires March 30, 1982



Peter J. Reilly, Employee Member

STATE OF NEW YORK )  
COUNTY OF Albany ) SS:

On this 19<sup>th</sup> day of JAN., 1982, before me personally came and appeared PETER J. REILLY to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.



KATHLEEN M. SMITH  
Notary Public, State of New York  
Qualified in Rensselaer County  
Commission Expires March 30, 1982

APPENDIX

Speciman Amended Salary Schedule  
1981

<u>Years of Service</u>	<u>Patrolman</u>	<u>Sergeant</u>	<u>Investigator</u>
1	\$12,610	\$14,230	\$15,270
2	12,710	14,330	15,370
3	12,810	14,430	15,470
4	12,910	14,530	15,570
5	13,310	14,930	15,970
6	13,410	15,030	16,070
7	13,510	15,130	16,170
8	13,610	15,230	16,270
9	13,710	15,330	16,370
10	14,210	15,830	16,870
20	14,710	16,330	17,370
Provisional	\$10,200		

Speciman Amended Salary Schedule  
1982

<u>Years of Service</u>	<u>Patrolman</u>	<u>Sergeant</u>	<u>Investigator</u>
1	\$13,750	\$15,510	\$16,490
2	13,850	15,610	16,590
3	13,950	15,710	16,690
4	14,050	15,810	16,790
5	14,450	16,210	17,190
6	14,550	16,310	17,290
7	14,650	16,410	17,390
8	14,750	16,510	17,490
9	14,850	16,610	17,590
10	15,350	17,110	18,090
20	15,850	17,610	18,590
Provisional	\$10,200		