

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the Public
Interest Arbitration Between

CITY OF MOUNT VERNON,

Public Employer,

- and -

POLICE ASSOCIATION OF
CITY OF MOUNT VERNON,

Employee Organization.

O P I N I O N

and

A W A R D

Case Nos. IA84-1; M83-573
-----X

FINAL AND BINDING OPINION AND AWARD OF TRIPARTITE PUBLIC
ARBITRATION PANEL PURSUANT TO SECTION 209.4 OF THE CIVIL
SERVICE LAW

PUBLIC PANEL MEMBER AND CHAIRMAN:

Mr. Daniel House
18 Center Drive
Roslyn, New York 11576

EMPLOYER PANEL MEMBER:

Terence M. O'Neil, Esq.
Rains & Pogrebin, P.C.
210 Old Country Road
Mineola, New York 11501

EMPLOYEE ORGANIZATION PANEL MEMBER:

Mr. John P. Henry, Director of Labor Relations
New York State Federation of Police, -Inc.
5 Skyline Drive
Hawthorne, New York 10532

On June 13, 1984, the above-mentioned Panel was designated
by the New York State Public Employment Relations Board for the
purpose of making a just and reasonable determination of the
impasse between the City of Mount Vernon (hereinafter referred to

as the "City") and the Police Association of the City of Mount Vernon (hereinafter referred to as the "Association"). Hearings were conducted on February 5 and February 25, 1985 at which time both parties were represented by counsel, over 50 exhibits were submitted by the parties and various witnesses were called in support of each side's proposals.

There was no official transcript of the hearings, the parties having stipulated that the record of this hearing shall be constituted solely of the exhibits and testimony, and briefs, and reply briefs, if any, supplied by the parties and the parties affirmed that they do not wish a transcript.

Extensive post-hearing briefs were submitted by both sides requiring extensive review by the Panel. Following the executive sessions, the Panel arrived at the Award herein:

HISTORY OF THE IMPASSE

The City and the Association were party to a collective bargaining agreement covering a one-year period from January 1, 1983 through December 31, 1983. Despite negotiations and mediation, the parties were unable to arrive at a successor agreement.

In addition to its agreement with the Association, the City also negotiates with unions representing its firefighters, blue collar employees (represented by Teamsters, Local 456) and its white collar employees (represented by the CSEA). The City successfully negotiated settlements with all three of these units covering the 1984-85 period.

The issue of comparability was contested during the course of the hearing with the Association arguing for a broad area including towns and villages in Westchester County and the City arguing that comparability should be limited to the cities of White Plains and New Rochelle. The Arbitration Awards of Arbitrators Haber, Marx, Lang, Carey and Benewitz were submitted by the City to buttress their argument on comparability. The Association argued that the Arbitration Awards submitted by the City were prior to the time that Police Officers in Westchester County were permitted to transfer from a city to a town or village within the County. The City contended that perhaps even more relevant are the settlements voluntarily negotiated by the City with its three other unions.

OPEN ISSUES

The open issues submitted to arbitration were contained in the Association's Petition and the City's response. They are as follows:

Association Demands

1. Term of Agreement
2. Annual Salary
3. Annual Work Schedule
4. Overtime
5. Life Insurance
6. Dental Plan
7. Optical Plan
8. Night Differential
9. Medical Insurance After Retirement
10. Longevity
11. Vacation
12. Sick Leave
13. Paid Holidays
14. Agency Shop
15. Disciplinary Hearings
16. Hazard Compensation

17. Annuity Fund
18. Grievance Arbitration
19. Uniform and Required Clothing (clarifying wording)
20. Personal Leave
21. Terminal Leave
22. Health Insurance
23. Uniform Allowance

City's Demands

24. Overtime
25. Uniform Allowance
26. Personal Leave
27. Vacation
28. Terminal Leave
29. Health Insurance

APPLICABLE CRITERIA

All of the data received, oral and documentary evidence, statistical data, oral arguments and post-hearing briefs have been carefully considered. In regard to all items, the Panel has considered the statutory provisions applicable to compulsory interest arbitrations pursuant to §209.4 of the Civil Service Law, which provides in part:

The public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the panel shall specify the basis for its findings, taking into consideration, in addition to any other relevant factors, the following:

a. Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities.

b. The interests and welfare of the public and the financial ability of the public employer to pay.

c. Comparison of peculiarities in regard to other trades or professions, including specifically: (1) hazards of employment; (2) physical qualification; (3) educational qualification; (4) mental qualifications; (5) job training and skills.

d. The terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

ECONOMIC ITEMS AND CONSIDERATIONS

The Association's arguments in support of its demands can be characterized as follows:

1. The City is losing officers to other Westchester police departments because of higher pay and better benefits;

2. The salary and fringe benefits offered by other communities in Westchester County are more favorable than those offered to police officers in the City;

3. The crime rates in Mount Vernon are relatively high for Westchester County;

4. The City substantially reduced property taxes for the fiscal year 1985;

5. The City has the financial ability to pay the increases demanded.

6. The area of comparability for wages and fringe benefits should be expanded from the Cities of New Rochelle and White Plains to include all Police Departments in Westchester County, since, due to a recent change in Westchester County Civil

Services Rules, Police Officers are permitted to transfer from a city to a town or village in Westchester and such was not the case until 1983.

The City's arguments in support of its position can be summarized as follows:

1. The settlements reached with the three other municipal unions constitute a pattern which is reasonable for this group as well;

2. Despite the Union's arguments concerning ability to pay, the City averted a financial crisis only through special State legislation which permitted it to raise the sales tax beyond what had been previously authorized under the State Constitution.;

3. The increases in the consumer price index over the last few years favor a moderate increase;

4. Private sector settlements have been approximately 4% per year for the last two years;

5. The population and size of the police departments of the surrounding cities compel a comparison limited to White Plains and New Rochelle;

6. The City's residents are already in the second highest taxed in Westchester County and its citizens are among the poorest in Westchester County. In addition, the assessed valuation of its taxable property is the second lowest in all of the County.

All of these arguments have been considered by the Panel. The majority of the Panel awards as follows:

1. DURATION

During the course of the hearing the parties agreed that the Award should cover a two-year period commencing January 1, 1984 through December 31, 1985. We so award.

2. SALARIES

In 1983, the salary of a top grade police officer in the City was \$24,700. The City's Firefighters negotiated increases of \$1,400 for 1984 and split increases of \$1,400 effective January 1, 1985 and \$1,100 effective July 1, 1985. It must be noted that the Firefighters agreed to a City proposal on health insurance which should produce significant savings to the City in future years.

The City's settlements with its other units were 5% for 1984 and 7% for 1985 but the CSEA and Teamsters did not make the concessions on health insurance as did the Firefighters union.

The rate of inflation has indeed been controlled so that it has remained around 4% for the last year and one-half.

The citizens of Mount Vernon have the lowest mean household income of the three major cities at a figure of \$19,319 compared to White Plains at \$26,459 and New Rochelle at \$28,111.

In addition, the combined tax rate in Mount Vernon far exceeds these other two communities:

<u>Mt. Vernon</u>	<u>New Rochelle</u>	<u>White Plains</u>
\$201.79	\$153.67	\$130.15

This is perhaps a reflection of the lower assessed property values which exist in Mount Vernon compared with these other two communities.

Effective December 1, 1984, the City increased its sales tax from 7-1/4% to 8-1/4%, which along with Yonkers is the highest sales tax in Westchester County. The City argued that the City's reduction of its real property taxes for 1985 was merely a reflection of its ability to raise these funds through its increased sales tax.

The settlements negotiated above are obviously a reflection of the financial constraints placed on the City. The Association's relative standing with regard to other Westchester communities is also apparently a result of these financial constraints. Nonetheless, the Association's ranking and the settlements negotiated with the other units in the City compel an equitable wage adjustment. Accordingly, we award the following salary schedule which would replace the 1983 rates:

	<u>Employees Hired Prior to 1/1/85</u>			<u>Employees Hired On or After 1/1/85</u>	
	<u>1/1/84</u>	<u>1/1/85</u>	<u>7/1/85</u>	<u>1/1/85</u>	<u>7/1/85</u>
Probationary (1 year)	\$16,599	\$17,488	\$18,124	\$17,000	\$17,500
4th Grade	20,791	21,905	22,702	20,000	20,500
3rd Grade	22,563	23,772	24,638	22,000	22,500
2nd Grade	24,336	25,640	26,573	24,300	25,300
1st Grade	26,100	27,500	28,500	27,500	28,500
Sergeants	30,015	31,625	32,775		

Lieutenants	34,517	36,369	37,691
Captains	39,695	41,824	43,345

The lower rates for employees hired on or after January 1, 1985 have been provided in lieu of a contributory health insurance plan for new hires.

3. SICK LEAVE

The Association has proposed additional paid sick leave, additional accumulation and payment for such days upon separation from the Department.

Presently, members of the bargaining unit receive 15 sick leave days per year, if hired prior to July 1, 1982, and 12 days per year, if hired after July 1, 1982. The majority of the Panel finds no compelling reason to alter the current benefit.

Because of the recent manpower needs created by a turnover in the Department, a majority of the Panel believes that an incentive should be provided for members of the unit who scrupulously guard their sick leave allocation. Accordingly, we award the inclusion of the following clause:

Effective for 1985, members of the unit who have worked an entire calendar year and do not use any sick leave during that calendar year shall be entitled to two (2) bonus leave days in the following calendar year. Members of the unit who meet these requirements and have 180 days of accumulated sick leave shall be entitled to four (4) such days. Such days may not be taken in conjunction with compensatory time. Any portion of such days which are not granted by December 31 of the year due shall be paid in cash.

4. VACATION

The Association presently enjoys a vacation schedule which provides 30 calendar days for police officers and 32 calendar days for Captains. The Association proposed to increase this schedule and that the vacations be working-day vacations. The City has proposed a reduction in vacation allotments. In its agreement with the Firefighters, the City negotiated lower vacation entitlements for new hirees. A comparison with other police departments, including New Rochelle and White Plains, reveals that less senior officers receive less annual vacation than more senior officers. Accordingly, the Panel awards the following:

Members of the unit hired after the date of this Award shall receive the following vacation:

After 1 year	- 15 calendar
After 2 years	- 15 calendar days
After 3rd & 4th years	- 20 calendar days

Thereafter, the vacation schedule for employees hired prior to this Award shall apply.

5. HEALTH INSURANCE

The issue of health insurance was one of the more troublesome items in the City's negotiations with the Association. While its Firefighters agreed that new hirees would contribute 25% of the premium for those electing family coverage, such a concession was not made by the CSEA or the Teamsters.

The Association strongly objects to contributions for health insurance even for new hirees. As mentioned in the salary portion of this Award, the Panel has provided for a split schedule for members of the unit hired on or after January 1,

1985. This schedule provides lower rates of pay for these employees during their first four years of employment so that the City will tend to offset the savings which would have been generated in its health insurance proposal during this period. Accordingly, the majority of the Panel does not award contributions for new hirees. We have, however, awarded restrictions on those new hirees who might have dual coverage and have also provided for a withdrawal bonus. The award of a majority of the Panel on this issue reflects more closely the health insurance benefits being enjoyed by other police bargaining units in Westchester County but, at the same time, relieves the City of the financial burden of payment for health insurance if a new hiree is eligible for coverage under the Statewide Plan through a spouse. The majority Award is as follows:

Members hired on or after the date of this Award shall not be eligible for health insurance coverage by the City if they are eligible for coverage through a spouse under the Statewide Plan.

Members of the unit who withdraw from the City's plan after the date of this Award shall receive \$500 if they were covered by the family plan and \$250 if they were receiving individual coverage, provided they remain uncovered under such plan for a period of twelve (12) consecutive months. Such payments shall be made at the end of the twelve (12) month period and annually each twelve (12) months thereafter, provided the member remains uncovered under the City's plan. Nothing contained herein shall preclude a member from reentering the plan within the twelve (12) month period, provided, however, that in the case of a member who reenters in less than twelve (12) months no payment shall be made. After the twelve (12) month period, such member may only reenter the plan if he/she is no longer covered by the comparable plan of a spouse.

The City may switch carriers to another plan providing comparable coverage to the statewide plan. At least ninety (90) days' notice shall be given to the Association. In the event of a dispute as to the coverage of the new plan, the dispute shall be submitted to arbitration, provided, however, that such grievance shall be instituted at the Commissioner's level and provided further that for this case only the decision of the Arbitrator shall be final and binding. The plan shall not be switched until a decision from the Arbitrator has been rendered.

6. ANNUAL WORK SCHEDULE

Along with the issue of health insurance, annual work schedule was the most troublesome issue in the City/Association negotiations.

The Association argued that a reduction in work schedule was warranted when one considered the overall package of salary and fringe benefits being enjoyed by Police Officers in other towns, villages and cities in Westchester County. They further argued that even in one of the two cities that Mt. Vernon claims must be the only comparables, the City of New Rochelle, the annual work schedule is 234 scheduled workdays per year as compared to Mt. Vernon's 249 scheduled workdays per year. The Association further argued that in the City of White Plains, the annual work schedule is 249 scheduled days per year. However, this is somewhat offset by the fact that White Plains' Police Officers are paid a night differential of 5%, when regularly, as part of their rotating tours, assigned to the 12:00 midnight to 8:00 a.m. tour of duty. In addition, White Plains' Police Officers receive substantially higher longevity payments than do police officers in Mt. Vernon.

The City argues that the annual work schedule demand by the Association is too costly. The work schedule demanded by the Association would result in a reduction of seventeen scheduled workdays per year and, therefore, would require the City to hire additional manpower to provide the same police services presently provided. The increase in manpower needed would be a costly item to the City. The City further argues that the predominant work schedule in Westchester County Police Departments is 249 scheduled workdays per year.

The majority of the Panel feels that the issue of work schedule is an issue that, at this time, should not be decided by an Interest Arbitration Panel and Awards no change in the current work schedules.

REMAINING ITEMS

The City's additional proposals relating to overtime, uniform allowance, personal leave and terminal leave are rejected.

The Association's remaining proposals on overtime, insurance, night differential, longevity, holidays, agency shop, disciplinary hearings, hazard compensation, annuity fund, arbitration and uniforms are also rejected.

The parties will commence negotiations almost immediately following the issuance of this Award and we believe that if these items are to be changed, such changes are more appropriately made through negotiations than through the arbitration process.

We urge the parties to return to the collective bargaining process in an effort to resolve their differences through collective bargaining. Third-party imposition of a settlement upon them should be viewed more as a time-consuming last resort than as a substitute for negotiation by the representatives of the parties.

State of New York
ss:
County of Nassau

On this 25th day of June, 1985, I, Daniel House, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is the Award of the above named Tripartite Public Arbitration Panel, and which was adopted by the votes indicated below.

Daniel House
Daniel House, Neutral and Chairman,
Concurring on all items.

Dated: 6/28/85
John P. Henry
John P. Henry, Employee Org. Memb.,
Concurring on all item but 3,4,5,6,
7,8,9,10,12,13,14,19 and 23, on
which he dissents.

Dated: 6/26/85
Terance M. O'Neil
Terance M. O'Neil, Esq., Employer
Member, Concurring on all but items
2,22,24,25,26,27 and 28, on which
he dissents.

Sworn To Before me 6/28/85
Rafael M. ...
NOTARY PUBLIC, State of New York
No. 30-8499400
Qualified in Nassau County
Commission Expires March 30, 1986

6/26/85
Eileen M. Rathgeber

EILEEN M. RATHGEBER
NOTARY PUBLIC, State of New York
No. 30-8499400
Qualified in Nassau County
Commission Expires March 30, 1986