



The New York State Public Employment Relations Board, on or about December 6, 1984, invoked the provisions of the Civil Service Law, Section 209.4 and designated the Undersigned as the Public Arbitration Panel for the purposes of making a just and reasonable determination of this dispute. This "Opinion and Award" was prepared by the Public Panel Member and Chairman of the Panel, Dr. Theodore H. Lang, Ph.D.

HISTORY OF THE IMPASSE

This impasse exists between the City of Rye and the Rye Police Organization, as bargaining agent for the Police collective bargaining unit. The prior contract expired on December 31, 1983, without an agreement having been reached on a new contract. Negotiations on a 1984 contract did not commence until December 7, 1983.

After a period of bargaining extending to July 12, 1984, the Rye Police Organization, hereafter the Association, on or about September 1, 1984 submitted Petition for Compulsory Arbitration. On September 12, 1984, the City of Rye, hereafter the City, submitted its response. On December 6, 1984 the Public Arbitration Panel was named by P.E.R.B.; and because of difficulties of scheduling during the holiday season, the first scheduled hearing date was January 23, 1985.

In the meantime, negotiations between the parties continued; and on December 21, 1984, a Memorandum of Understanding, hereafter the Memorandum (Joint Exhibit #1), was agreed to by negotiators for 1984-

1985, subject to approval by the City and the Association. The Memorandum was rejected by the membership of the Association by a 19 for to 17 against vote, short of the 75% vote required by the Association Bylaws.

A first set of hearings was scheduled on January 23, February 13, March 13, and April 3, 1985. Three of these hearing dates were cancelled by the parties; and only the February 13, 1984 hearing was held, at which the City was represented by Bruce R. Millman, Esq. of Rains and Pogrebin, P.C.; and the Association was represented by Jack B. Solerwitz, Esq., of Solerwitz, Solerwitz, and Leeds, Esqs. On April 14, 1985, the Association substituted Alan E. Wolin, Esq. of Lecci, Wolin, and Wolin, for the original attorney. Hearings were held on May 13, July 18 and 19, and September 4 and 26, 1985. The Reporter of Record in this Case was Pepper Court Reporting Services of Mineola, New York. The City and the Association had ample and full opportunity to submit exhibits, examine and cross-examine witnesses and make oral argument. The parties availed themselves of the opportunity to submit post-hearing briefs, which were received on or about December 21, 1985. There were three joint exhibits, 35 Association exhibits, and 35 City exhibits. The Association presented testimony from Edward Fennell, Consultant on Government Finances, Joseph Klausz, James Quigley, William Pease, and Jeff J. Reichert, Police Officers, and Robert Somerville and William Capaccio, Detectives. The City presented testimony from Francis J. Culross, City Manager, and Harold Aspesi, City Comptroller.

The Panel met in private sessions to discuss this arbitration on January 7 and 10, 1986.

The City filed an Improper Practice Charge listing items allegedly non-mandatory subjects of bargaining as follows: auxiliary police uniforms, assignment of regular full-time Special Service Police Officers to police boat assignments, establishment of a Safety Committee with specified authority, disciplinary procedures relating to statements by employees under investigation, and disciplinary procedures (double jeopardy). The Panel has not been advised of any decision by P.E.R.B. on this IPC. Therefore, pursuant to the provisions of Section 205.6 c of the Civil Service Law, the Panel will neither discuss nor make awards on these challenged issues.

The Association presented 35 issues for arbitration (listed in Petition for Arbitration). The City's five issues are listed in the City's Response to Petition for Compulsory Interest Arbitration, namely: proposals on pay plan, annual leave, holidays, sick leave, and term of agreement. Of the Association issues, one was withdrawn (retirement), and five were not treated because they were the basis of the City's I.P. Charge.

In regard to all items, the Panel has considered seriously 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 qualifications; (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.

The issues will be treated and awards made in sections below:

(1) Length of Agreement (Association Demand No. 1; City Demand No. 5)

The Association demands that there be an annual renewal of the contract. The City proposes a two-year term stating:

An agreement of less than two (2) years in duration will not be to the advantage of either the Association or the City. Even a two (2) year agreement will have expired by the time the Panel issues its award.

Inasmuch as we are now beyond the termination date of a 1984-1985 two-year contract, the only reasonable term, within the maximum allowed by the law is for two years. It is, therefore, AWARDED (AWARD NO. 1) that the duration of the new agreement be for two years from January 1, 1984 through December 31, 1985.

(2) Night Differential (Association Demand No. 3)

The expired 1983 Agreement contained no provision for any night differentials. The A-tour is the day tour; the B-tour is the evening tour (4:00 p.m. to 12:00 midnight or 3:00 p.m. to 11:00 p.m.); the C-tour is the night tour (11:00 p.m. to 7:00 a.m. or midnight to 8:00 a.m.). At present patrol forces rotate five days on each shift.

The Association demands a 20% differential for the C-tour and a 15% differential for the B-tour stressing the great strains on marital life and health of the rotating shift, including evening and night duty.

Witness Reichert testified:

It also takes quality time away from the family, if you're working nights you don't get to see your wife or children, very often a few days a week, the days that you're off, if your wife is working, you've come home and she's either out the door or just about ready to go out the door and the kids are already on their way to school. You're by yourself, you don't even get to see them, by the time they come home you may be taking a nap and then have to go back to work again. Now for single guys it's tough also because it's difficult to socialize, you know, when you're working nights, all your friends are out, you know, at gatherings and, you know, at parties or social events or whatever and you have to be working. It's difficult for an officer to obtain a date or maintain a relationship with a member of the opposite sex.

Also, five of 39 police departments in Westchester County already have such differentials.

The Association states in summary:

...(T)herefore, being required to work nights and/or changing shift strains an officer's marital, social and personal life, and affects his/her health and eating habits and increases the stress load. (Association Brief, p. 30.)

The City vigorously opposes this demand, stating in support of its position:

"Rotating hours of duty are an inherent and traditional part of a police officer's job, due to the fact that police protection is needed around the clock."

"The Association's proposal is merely an additional wage increase in disguise. Approximately 29 patrol officers would receive the 20% and 15% differential, thereby adding on a built in increase of 6-2/3% and 5% respectively for a total of 11-2/3% (T. 265)."

"The proposal is simply unjustified. Night time differentials do not currently exist and never have existed in the City of Rye. None of the surrounding communities gives a night differential. According to Association testimony only 5 out of 39 departments provide night differentials. (T. 262.)"

"Thus the night differential benefit is not such a widespread practice as to warrant the panel to award it." (City Brief, pp. 35-37.)

DISCUSSION:

The Board recognizes the difficulties faced by employees working a rotating shift. This is, however, part of the nature of the job of being a police officer. Inasmuch as most of the patrol force works the rotating shift, the City's position that this would constitute a substantial salary increase has a great deal of merit. The comparative data in Westchester County does not support the Association's position, and none of the police departments in the neighboring communities pay a night differential.

It is, therefore, AWARDED (AWARD NO. 2) that this demand of the Association be disapproved.

(3) Longevity Payments (Association Demand No. 4)

Article 5b of the expired Agreement deals with this subject. It provides for "grandfathering" employees hired in 1970.

It provides, for employees who are not grandfathered, but were hired prior to January 1, 1979 according to the following schedules cumulative longevity payments:

	After 9 years	After 14 years	After 19 years
Patrolman	\$600	\$630	\$660
Sergeant	660	693	728
Lieutenant	728	764	802

Finally, for employees hired on and after January 1, 1979, it provides:

- a. At the completion of 10 years service an additional \$150
- b. At the completion of 15 years service an additional 150
- c. At the completion of 20 years service an additional 150

The Association demands the following:

- (a) All Patrolmen will receive equal longevity - 660, 693, 728 respectively.
- (b) All Sergeants will receive equal longevity - 660, 693, 728 respectively.
- (c) All Lieutenants will receive equal longevity - 728, 764, 802 respectively.
- (d) Article V, Section 2-E shall remain in full force and effect from the last contract.
- (e) Delete Section 2-F from Article 5.

The Association, primarily through the testimony of Officer Reichert, states:

- Senior officers carry added responsibilities.
- The distinction as to longevity payment between patrolmen and sergeants is unfair and harms morale.
- There is very little cost to this demand.

The City's opposes this demand, stating:

- "The RPA is seeking to eliminate this distinction which is based on date of hiring. (p. 308.)"

- The Association ignores the fact that the reduction in longevity for officers hired on or after January 1, 1979 was awarded by an arbitration panel in return for a reduction of work schedule (C. Ex. 3).

DISCUSSION:

In 1980, an interest arbitration award was issued which effectively reduced longevity payments for new hires as part of a package establishing a lighter work schedule and substantial increases in wages. No one hired on or after January 1, 1979 would be affected by any change in longevity payments in the life of the 1984-1985 Agreement being awarded. As to establishing parity of longevity payments for sergeants and patrolmen, the argument is unpersuasive and clear comparative data was not offered.

Therefore, it is AWARDED (AWARD NO. 3) that this demand be denied.

4. Meal Period (Association Demand No. 5)

The practice in the Department is for the employee to have ½ hour for a compensated lunch period; and, in the event the lunch period cannot be taken, the employee receives no compensation therefor.

The Association demands:

(a) Each member will be excused for a sixty minute meal period during each tour of duty with pay.

(b) If a member is compelled to miss his/her meal period due to his/her official duties he/she shall be entitled to overtime compensation.

stating, primarily through the testimony of James Quigley, Police Officer:

- One-half hour is not enough time for lunch. Men have to wait their turn at the grocery.
- Officers, 22 for 36, who live outside the City cannot go home for a fast lunch.
- Most of the stores are closed for B and C tours.

The City opposes this demand as not being the prevalent practice in police departments and as not being justified.

DISCUSSION:

Absent compelling evidence of a comparative nature this demand, which would effectively reduce police work by over 6%, is (AWARD NO. 4) denied.

5. Overtime and Recall (Association Demand No. 8)

Article 6 (Overtime) of the expired Agreement reads as follows:

A. The Employer will pay police officers for authorized overtime worked during emergency situations, while attending hearings before the State Department of Motor Vehicles or

while attending court under subpoena in relation to their duties of law enforcement, including travel time, (minimum of 30 minutes and maximum of 1 hour), at the rate of 1½ times the hourly equivalent of the annual salary.

B. Employees recalled to work after leaving at the end of an assigned shift shall be guaranteed a minimum period of recall of two (2) hours. For time actually worked, including travel time, compensation shall be paid at the rate of 1½ times the hourly equivalent of the annual salary; straight time rates shall apply for time paid to meet the 2 hour minimum, but not actually worked.

C. The provisions of Sections A and B of this Article shall not apply to employees while assigned to the Detective Division or Youth Division for which additional compensation is paid. Such employees shall receive compensatory time off, at time and one-half, for authorized overtime worked. The City may, at its election, pay such employees for such accumulated compensatory time.

The Association wishes to:

(1) Amend Article 6A by deleting "including travel time (minimum of 30 minutes and maximum of 1 hour)" and by substituting, in lieu thereof, "including travel time, (portal to portal);"

(2) Amend Article 6B by substituting a minimum period of four hours for the present minimum period of two hours.

In support of its position the Association states:

● "When you're called for overtime, especially if it's on your own time, your time off, you're leaving your home, your family, leaving family responsibilities. If your wife is working and you have to watch the kids, you have to go out and find a babysitter, you have to go through an inconvenience, you have to rearrange plans, put up with traffic, bad weather, all just to come in and work overtime. (p. 280.)" The average minimum recall time in

Westchester police departments is 2.91 hours. And the cost is minimum since the number of recalls averages less than 15 times per year for the entire force.

● As to portal to portal overtime, the present provision of one hour is insufficient since most of the men "...live in excess of thirty minutes travelling time. Therefore, they are not being wholly compensated. (p. 281.) As an aside, most officers cannot reside in the City because of the lack of affordable housing. (p. 282.)"

The City's position is that this overtime demand be disapproved. In support of this position, the City states:

● The present one hour cap on travel time is adequate since 14 officers live in Rye, and six other men live within one-half hour of the City.

● "The City, in its tentative agreement, had agreed to provide the 4 hour minimum call-back (Jt. Ex. 1). The Association rejected this offer. It should not now be awarded the same benefit which several months ago they deemed unsatisfactory." Moreover, this is not a real problem since there were only a few such recalls in 1983 and 1984.

DISCUSSION AND AWARD:

As to the travel time, no comparative data was presented by the Association to justify their demand. As to the minimum recall period, of the 39 police departments in the County on which data is available, 21 have a minimum recall period for all or some purposes. Of the five neighboring police departments two have a minimum recall of four hours and one of three hours. The comparative data justifies an increase in the minimum recall time.

Accordingly, in full treatment of Association Demand No. 8, it is AWARDED (AWARD NO. 5) that, effective December 31, 1984, Article 6B be amended by substitution of four (4) hours for two (2) hours therein.

6. Appearances at a Trial Disciplinary Hearing (Association Demands Nos. 9 and 10)

The Association demands the following new clauses:

No member shall be compelled to attend, in his/her off time, a trial disciplinary hearing, etc., unless compensated at the fixed rate for overtime at the minimum of four (4) hours.

An employee who is being questioned on a violation of the rules and regulations and/or any criminal statute, shall not be compelled to give a statement even for administrative purposes only.

but offers no comparative data nor the existence of significant problems.

It is, therefore, AWARDED (AWARD NO. 6) that these demands be denied.

7. Work Schedule (Association demand No. 11)

Article 3 (Work Schedule) of the expired Agreement reads (in part)

as follows:

The work schedule shall normally consist of five (5) consecutive eight (8) hour work days, and as established by Department rules and regulations promulgated by the Commissioner of Police and approved by the City Manager.

The work schedule for employees assigned to rotate shifts around the clock is 5-5-5/72, i.e., employees will work a five-day week, but upon the change of shift every week, shall be off for a 72-hour period.

The non-rotating schedule is a normal 40 hours per week schedule. Translated into shift language it is a 5-5-5/64 schedule, since, for example, between quitting time on a Friday at 4:00 p.m. and starting time at 8:00 a.m. on a Monday, 64 hours of time transpire. The existing rotating schedule is a 5-5-5/72 schedule, so that employees get an extra eight hours off between weeks of work; for example, an officer would quit work at 4:00 p.m. on Friday; and, so instead of starting at 8:00 a.m. on Monday, he starts at 4:00 p.m. on Monday, thus rotating from an A-tour to a B-tour. Similarly, after five additional days of work, he would rotate to the C-tour. This amounts to a maximum of 248.9 days per year, whereas the "normal" work year, excluding consideration of holidays, is 261 days.

Upon declaration of impasse, the Association sought a 4-4-4/96 schedule. During the course of the hearing the demand was reduced to a 5-4-4/96 schedule. This yields a work year of 237½ days.

In support of this demand the Association states:

- This will reduce the work year from 248.9 to 237.25 days, which is not drastic.

- This change would not be expensive. "Officer Capaccio testified that the proposed chart would require that an additional police officer be added to the schedule." (p. 437). However, this addition could be accomplished without additional hirings. (p. 437). The extra officer could come from the vacation relief officer, the radar officers or the village officer. None are currently on the schedule. (p. 438).

The City vigorously opposes this demand, stating:

● "If granted, this demand could have a devastating impact on the City's efforts to provide a quality and effective police presence on the streets of the City of Rye."

● It requires two additional officers to be implemented or a 5.5% increase in the workforce at a cost of over \$56,000 per year.

● This "...is outside the purview of the arbitration proceeding and is really infringing upon management's prerogative with respect to staffing." This concept of forcing creation of new police officer positions is not a mandatory subject of collective negotiations.

● "Under the current schedule, officers are scheduled to work an average of 248.9 tours in 1 year. An overwhelming majority of the departments in Westchester County schedule the 248.9 tours (P. Ex. 35). Only 17 of 39 departments have fewer than 248.9 tours of duty (P. Ex. 35). Four departments have more than 248.9 tours (P. Ex. 35). All five of the surrounding communities which the Association has deemed most relevant, work a 248.9 day schedule (Id.)."

DISCUSSION AND AWARD:

This demand reduces the work year for the rotating force from 248.9 to 237.25 tours or by 11.65 tours. This amounts to a 4.6% reduction in the work year. It is not supported by the comparative data.

Therefore, it is AWARDED (AWARD NO. 7) that Article 3 (Work Schedule) of the expired Agreement be continued unchanged in the 1984-1985 Agreement.

8. Optical Benefits (Association Demand No. 11)

The Association demands a new fringe benefit as follows:

The employees and their families shall receive 100% optical coverage.

stating, through the testimony of Officer Klausz,

- The plan would be that of the Tri-County Federation of Police.

- The cost would be only \$1,744 per year for the entire unit.

- The benefit already exists in the City of Rye in the Public Works Department (T. p. 30).

- This benefit will be useful to the men and to the Department.

The City opposes this new benefit citing that only five police departments in the County have the benefit.

DISCUSSION:

Based on the comparative data consistent with the requirements of the Law, it is AWARDED (AWARD NO. 8) that this demand is denied.

9. Dental Plan (Association Demand NO. 14)

Article 13 of the expired Agreement is as follows:

Effective January 1, 1983, the Employer shall pay up to \$250 per participating employee, pro-rated from the employee's effective date of coverage, for the purpose of purchasing a dental insurance program covering bargaining unit employees and/or their dependents. The Association shall provide the City Comptroller with proof of the existence of participating employees as a condition of any payment by the City.

The plan purchased actually costs \$360 per year for each of the 23 married employees covered, and only \$180 for the 13 single members covered, or a total of \$10,620. The City contribution is \$250 for each of 36 employees (a total of \$9,000 or about 80% of the cost).

The Association demands that each employee shall receive 100% dental coverage. In support of its position the Association states through the

testimony of Officer Klausz:

● Originally, in 1983, the \$250 per capita contribution covered the full cost of the program then in effect. When the insurance was shifted to Connecticut General Life Insurance Company in January 1985 the cost went up to the present rates.

● Comparative data tends to support this demand both in the County and in the five surrounding communities.

The City opposes any increase in dental coverage, stating:

It was only when the Tri-County switched coverage that the City's contribution of \$250 became inadequate (T. 54). The City should not have to bear the cost of Tri-County's decision to switch carriers. If it were required to provide 100% coverage as the Association demands, there could be no limit to the City's potential liability since Tri-County obviously exercises sole and unilateral control over the plan. There is no justifiable reason for the City to incur this additional cost.

DISCUSSION:

The Dental Plan was started in 1983. It is now funded at the rate of \$250 per year per employee and 100% coverage would require, at present, an additional \$45 per year. Comparative data supports a larger contribution by the City. Thus, of the five neighboring communities two provide full coverage and one contributes \$360 per capita per year. And in the County, at least 20, or a majority, provide full coverage or at least \$300.

Therefore, it is AWARDED (AWARD NO. 9) that effective January 1, 1984 the City contribute \$275 per year per capita and effective January 1, 1985, the City contribute \$295 per year per capita.

10. Cleaning Allowance (Association Demand No. 15)

Article 20 of the expired Agreement provides a \$250 uniform maintenance allowance and a \$325 clothing allowance for detectives. The Association demands that these allowances be increased to \$500. Through the testimony of Officer Vecchiola, the Association states:

- The \$250 is not adequate for a neat appearance due to frequent required cleaning.
- The real cost is closer to \$535 per year.

The City opposes this demand stating:

- The cost of cleaning of trousers, shirts, and jacket is less than \$250 per year.

DISCUSSION:

The City's analysis of cost is faulty. The Association's may well be exaggerated. The real cost is between the two calculations. Comparative data justifies an increase. Accordingly, it is AWARDED (AWARD NO. 10) that the uniform maintenance allowance be increased to \$350 and the clothing allowance for detectives be increased to \$425 for the year 1985.

11. Equipment Maintenance (Association Demand No. 16)

The Association demands a new fringe benefit, as follows:

Each member shall receive \$250.00 per man per year for equipment maintenance.

stating, primarily through the testimony of Officer Vecchiola:

- It costs approximately \$318.95 per year to maintain a police officer's equipment. The initial cost is \$983.50.
- Officers must replace destroyed or damaged items.

The City opposes this demand stating:

- Many of the items listed are not required by the Department.
- Nothing new has happened, and no new items required justify this new demand.
- "Moreover, there was no demonstration that other departments pay for such equipment."

DISCUSSION:

This is a new fringe benefit. No comparative data has been presented justifying this demand. Pursuant to standards in the Law, it is AWARDED (AWARD NO. 11) that the demand be denied.

12. Education Costs (Association Demand No. 17)

Article 19 (Education) of the expired Agreement reads as follows:

The Employer shall budget \$6,000 annually for college education in courses relating to law enforcement or leading to a degree in a law enforcement related area. Funds will be made available for reimbursement, or partial reimbursement, of employees' expenses for tuition, registration and course materials up to a maximum of \$850 per employee per year, to a total of \$6,000 for the unit per year. Advance notice of intent to register for each course must be given to the Commissioner of Police, along with an estimate of cost, and it must be successfully completed (C or better) by the employee to be eligible for reimbursement. The City will only reimburse such expenses to the extent not covered by other reimbursement programs for which the employee would be eligible and of which the employee has knowledge. If reimbursement claims for a calendar year should exceed \$6,000, funds will be pro-rated among eligible employees.

Pursuant to this Article, four police officers are attending college seeking degrees, and the current cost to the City is approximately \$3,500.

The Association demands:

Each member shall be reimbursed 100% for costs incurred in the pursuit of a college or higher education degree.

In support of its position, through testimony of Anthony Vecchiolla, Police Officer, states:

- The better educated police officer serves the community better.

- 26 of 38 departments in the County provide full educational benefits to members.

The City is willing to increase the maximum payment to an officer from \$850 to \$1,000, stating:

- Only three officers have obtained tuition reimbursements.

- The City does not require the degrees and there is no difference in responsibilities for those officers who have degrees (T. 92). Therefore, the Association has demonstrated no need for the increased cost of 100% reimbursement.

- The demand is unreasonable in eliminating the requirement that the study be in law enforcement or related field and in requiring reimbursement for all costs.

- The comparative data is flawed since it does not show the limitations and qualifications placed on this benefit. "In addition, Rye apparently stands alone with White Plains in providing any tuition benefit among Westchester cities (P. Ex. 35)."

DISCUSSION:

Both parties share an interest in promoting the education of its police officers. The comparative data indicates that most other City departments pay 100% of tuition, but there are usually various kinds

of limitations. Most city departments in Westchester do not pay education benefits. The City of Rye may also pay 100% of tuition, within the stated caps of \$850 per employee and \$6,000 for the Department.

It is AWARDED (AWARD NO. 12) that Article 19 be amended by increasing maximum per employee from \$850 to \$1,000 per year effective January 1, 1985.

13. Salary Differentials for College Degrees (Association Demands Nos. 18, 19, and 20)

Such differentials do not exist now. The Association demands 5%, 10%, and 15% differentials for the Associate Degree, the Bachelor's Degree, and the Master's Degree, arguing primarily through the testimony of Officer Vecchiolla, that:

- 15 men would benefit, and the cost would be \$38,950.60.

● "...(I)t is vitally important for those with college degrees to be compensated. The demand would also provide a 'good incentive' for the officer 'to complete studies to higher education.' This result would, in turn, benefit the City."

The City opposes these differentials vigorously arguing that this would be very costly for little or no return to the City and that "The Association has offered no evidence that officers with degrees perform or have the ability to perform better work."

DISCUSSION:

No comparative data was offered to justify this new type of differential. It is AWARDED (AWARD NO. 13) that this demand be denied.

14. Death Benefit (Association Demand No. 21)

Article 16 of the expired Agreement reads as follows:

The Employer will provide for the guaranteed ordinary death benefit as permitted under the provisions for Section 360-b of the Retirement and Social Security Law. The Employer will provide the death benefits permitted under Section 208-b of the General Municipal Law during the term of this agreement, in addition to the death benefit payable under the Policemen's and Firemen's Retirement System.

The Association demands:

(a) If an officer is killed in the line of duty or dies from a line of duty injury or accident he/she shall be covered in the sum of \$100,000;

(b) If an officer dies while not on duty, he/she shall be covered in a sum of \$50,000.

The Association argues primarily through the testimony of Officer Joseph Klausz, that this would cost only \$12,960 per year for the entire Force, that the City now provides only the minimum protection mandated by Law, and that this fringe benefit would grant a great deal of security to men who risk their lives in the performance of their duties.

The City's position is that there are a number of protections now accorded to the officers under Law, and there is no reason for the City to incur additional expense.

DISCUSSION:

This is essentially a new contractual benefit not negotiated heretofore. No comparative data was presented to justify it. Accordingly, it is AWARDED (AWARD NO. 14) that this demand be denied.

15. Death Benefit (Education) (Association Demand No. 22)

The Association submits a new proposal, as follows:

In the event an officer should die while still an active member of the department his/her children shall receive from the city a full scholarship at the then SUNY cost standard.

stating, primarily through the testimony of Officer Klausz, that this is a low cost item since only one police officer has died in the City's employ about 12 years ago, and none since then, and that this would give peace of mind to the men in that the education of their children would be assured.

The City opposes this demand vigorously, stating:

There presently is no provision in the contract for this type of benefit. The cost to the City would be astronomical in view of the spiraling costs of higher education. More importantly, none of the other departments in the county have this benefit.

DISCUSSION:

The Board finds that no comparative data was presented to support this new fringe benefit. Accordingly, it is AWARDED (AWARD NO. 15) that this demand be denied.

16. Salary Differentials by Rank (Association Demand Nos. 23 and 24)

The 1983 Sergeant rate of \$29,304 is 10% greater than the first grade Officer's rate of \$26,649. The Lieutenant's rate of \$32,224 is 10% greater than that of the Sergeant, or approximately 21% over the first grade Officer's rate of \$26,649. There are seven Sergeants and one Lieutenant.

The Association demands that the Sergeant differential be increased to 20% over the Officer's and that the Lieutenant's wage be 20% greater than that of the Sergeant. In support of these demands the Association, primarily through the testimony of Sergeant Pease, argues:

- "... (D)aily between 4:00 p.m. - 8:00 p.m. and on weekends, a Sergeant is the highest ranking officer on duty. In most other surrounding communities, there is always at least a lieutenant on duty at all times. (p. 211.) Thus, in the City of Rye, Sergeants must make decisions and carry out duties, which in other surrounding communities are performed by lieutenants and captains. (p. 211.)"

- Comparative data indicates (A. p. 20) that the City pays the lowest in both ranks of the five closest communities.

- The Lieutenant's duties "...have increased since the position of Police Chief was eliminated and that of Police Commissioner instituted in 1982."

The City opposes these demands stating:

- The percentage increases requested "...well exceed the averages of 14% and 28% for sergeants and lieutenants respectively in surrounding communities (P. Ex. 20)."

- There have been no significant changes in duties of these two ranks.

● The comparative data is weak because no comparison is made of duties of the ranks in the higher paid communities.

● "In any event, Rye's differentials do not differ substantially from many villages and towns (P. Ex. 35)."

DISCUSSION:

The Board finds that neither party is persuasive that Sergeants and Lieutenants in the City are substantially different than in other police departments. The comparative data favors the need for an enlarged differential between the higher officers and the first grade patrolman. Thus, the average differential in the County for Sergeants is over 12%, and the median differential is 11.6%. The median rate for Lieutenant is 23% over the first grade Officer. Reasonable steps are justified to bring the City higher ranks closer to those of other departments in the County and in the five neighboring communities.

Accordingly, it is AWARDED (AWARD NO. 16) that the Sergeant rate for January 1, 1985 be increased to be 11% above the rate of the first grade Officer and that the Lieutenant rate be 10% over the thereby increased Sergeant rate also effective January 1, 1985.

17. Detective Salary Differentials (Association Demands Nos. 25, 26, and 27)

Article 5 (Salaries and Wages), §B reads as follows:

Each employee assigned to the Detective Division or Youth Division for 30 days or more in any calendar year shall receive additional compensation at the rate of \$1,000 per year, pro-

rated bi-weekly, during the period of this assignment, which is made at the sole discretion of the Commissioner of Police. In addition to the above, any employee designated as commander of the detective unit, for a period in excess of 30 days, by the Commissioner of Police, shall receive additional compensation at the rate of \$50 per year, pro-rated bi-weekly.

At present there is one Sergeant, several Officers, and no Lieutenants.

The Association demands that the differential be 20% of the salary for the rank of the employee for Officers, Sergeants, and Lieutenants. In support of this demand, the Association argues, through the testimony of Robert Somerville and William Capaccio:

- The detective works 260 days per year or 12 days more than the uniformed officer. The detective earns only 14¢ per day more than the officer.
- Detectives do not receive paid overtime.
- Detective duties are more onerous and have increased over the past five years.

The City resists these two demands stating:

- "The Association has submitted no evidence which justifies an increase in any of the pay differentials presently provided."
- The cost to the City would be enormous.

DISCUSSION:

The differential for the police officer detective is \$1,000 or 3.8%. This is comparatively low in the County. The median County differential is about 6 percent. The City makes no strong argument differentiating

City detectives from those of other County police departments. This is an area where significant increase is justified. Accordingly, it is AWARDED (AWARD NO. 17) that Article 5B be amended by substitution of \$1,100 for \$1,000 effective January 1, 1984 and \$1,200 effective January 1, 1985.

18. Emergency Leave (Association Demand No. 27)

There is no provision for emergency leave in the expired Agreement.

The Association demands the following:

Each employee shall be entitled to five (5) working days leave of absence with full pay in case of an emergency, which shall include but not be limited to the illness of a family member.

In support of its position, the Association states:

● Seven days notice is required for taking a personal leave day. This leaves an officer defenseless in the event of "...unforeseen and unexpected circumstances such as family illness, house problems and car problems (p. 168)."

● "Under the current system, according to Officer Quigley, an officer confronted with a problem 'must leave the emergency where it sits or face departmental charges for not showing up for work' (p. 168). Under current regulations, the officer is not permitted to utilize any other type of [leave] for these emergencies (p. 168). This system is woefully inadequate and must be rectified."

The City opposes this demand arguing:

● "This proposal would not only be a cost item but it would also result in operational difficulties for the City."

- Because there is no advance notice, it "...would result in significant difficulties for the City in terms of scheduling and coverage."

- It would reduce the work year by 5 days and would cost the full time of one man.

- "...(T)he officers are permitted to swap tours in order to accommodate their particular needs."

- No comparative data was offered.

DISCUSSION:

In Executive Session of the Board, it was noted that the aborted Memorandum of Understanding granted one day called "Emergency Family Day" for sickness in the family to be used within the calendar year in which granted and to be non-cumulative. The Board agreed to incorporate this provision in the Award.

Accordingly, it is AWARDED (AWARD NO. 18) that effective December 31, 1985 all members of the bargaining unit shall be entitled to one emergency family day annually, for sickness in the immediate family. The emergency family day must be used within the calendar year in which it is granted and shall be non-accumulative.

19. Paternity Leave (Association Demand No. 29)

At present there is no paternity leave. The Association demands four weeks of paid paternity leave. The City opposes this arguing its cost and stating, "Moreover, there is no indication that any of the surrounding communities offers a similar benefit."

DISCUSSION:

This is a new fringe benefit demand. There is no comparative data supporting it. It is AWARDED (AWARD NO. 19) that the demand be denied.

20. Salary Increases (Association Demand No. 30 and City Proposal No. 1

In the expired Agreement, Article 5 (Salaries and Wages), §1A reads as follows:

The pay plan for lieutenants, sergeants and patrolmen for the calendar year 1983 shall be as follows:

<u>Step</u>	<u>Patrolmen</u>	<u>Sergeants</u>	<u>Lieutenants</u>
1	\$19,274	\$	\$
2	23,550		
3	24,529		
4	25,565		
5	26,649	29,304	32,224

The Association proposes a 20% pay increase in 1984.

The City counter-proposes radical changes in the pay plan, as follows:

1. Pay Plan

A. The pay plan for lieutenants, sergeants and patrol officers for the calendar year 1984 shall be as follows:

<u>Step</u>	<u>Patrol Officer</u>	<u>Sergeants</u>	<u>Lieutenants</u>
1	19,000		
2	20,500		
3	22,000		
4	23,500		
5	25,000		
6	26,500		
7	28,000	31,000	34,000

B. For employees hired after January 1, 1984, advancement to a higher salary level (incremental step) shall be based upon a positive evaluation of performance. Failure to advance on the salary steps

(incremental step) shall not be subject to the Grievance Procedure, but any employee not advanced to a higher salary level (incremental step) shall be entitled, upon request, to a conference meeting with the City Manager and the Union Representative.

C. Effective January 1, 1985, each step on the above pay plan shall be increased by 3%.

In support of its position the Association makes the following points:

1. The City has the ability to meet the Association's demands and its financial position is very good. This was the conclusion of Edward Fennell, a government financial consultant who concluded:

- The City has the lowest tax rate of any city in the County.

- The City is far from reaching its tax limit. "According to Mr. Fennell, this fact indicates that the City has a great ability to raise money since taxation is the principal revenue producer. (May 16, 1985 p. 39, 47). Other cities, Mr. Fennell noted, are already at their tax limit. (May 16, 1985 p. 39). Further the City has a relatively small amount of non-taxable property." Furthermore, "...as of December 31, 1984 the City's debt was \$750,000 or only 21% of its debt limit. (May 16, 1985 p. 58). This ranks as one of the lowest among all cities in the State of New York on a per capita basis."

- The City "...[can] pay for its necessary capital improvements without incurring any appreciable debt." "This ability to provide for capital needs without resorting to debt is a clear sign of financial ability."

- As of December 31, 1984, there was \$289,708 fund balance plus \$700,000 unreserved and unappropriated. "Both of these sums could have been utilized to fund this collective bargaining agreement. (May 16, 1985 p. 74)."

2. Mr. Aspesi, the City's Comptroller, corroborated the Association's position. Thus he testified to the existence in 1984 and 1985 of a contingency fund of \$90,000, to the City's ability to transfer moneys to

fund emergency needs to an appropriate surplus in the 1986 Budget of \$500,000 and to the fact that "...the City of Rye enjoys a favorable bond rating of AA plus, as computed by Standard and Poors and Moody's. (p. 628)."

3. Comparing the salary of first grade patrolmen of Rye to the surrounding communities, the City would have to give a 9.3% increase in 1984 to bring its officers up to the average.
4. "Moreover, Officer Reichert noted that since the last contract was implemented, the duties and responsibilities of a police officer in the City of Rye have increased. (p. 481.) The department is now better trained and better educated. They are certainly entitled to be paid on a commensurate basis."

The City resists the 20% increase for one year demanded by the Association and instead proposes a new schedule with additional steps, a lower appointment rate in 1984, a 5% increase in 1984 for a first grade patrolman, and a 3% increase on schedule of 3%, with some new conditions for the earning of the annual increments. In support of its position, the City makes the following argument:

1. "... (T)he issue of ability to pay must be governed by what the City can reasonably afford given its constituency, tax base, economic status, and future, and the need to expend monies in order to maintain and provide other services as well as a stable infrastructure."
2. "The City of Rye should not be forced to jeopardize its financial future and engage in fiscal irresponsibility to meet outlandish bargaining demands."
3. "Rye's relative economic stability is based on a narrow tax base." "As City Manager Cullross testified, the City is essentially fully developed (T. 522). The City consists primarily of single family residential development and there are no new commercial buildings currently under construction (T. 522.)" Furthermore, the City's population is both declining and aging.

4. Furthermore, according to the Association's expert, State aid will decrease; and according to the City Comptroller, Mr. Aspesi, there will be a steady decrease of revenue sharing funds.
5. "Since the City has limited resources and does not have an expanding tax base, any additional expenses incurred translate directly into higher taxes for this already small group of taxpayers."
6. "The Police Association has failed to demonstrate that the City has funds sufficient to meet its demands." Most important is the fact that the Association's Report "...figures on the tax limit are misleading, in that they do not include or account for school and county taxes paid by the citizens of Rye (T. 40). Inclusion of these figures would indicate that the citizens are paying in excess of 4% of assessed value (T. 43)."
7. "The City does not have the 'ability to pay' for the Association's demands." "The City's general fund has been depleted." "There are no hidden resources from which to pay for the demand." The contingency funds are needed for real emergencies and not negotiated salary increases. The so-called surplus funds are also not a hidden source for funding. "Since at least 1982, the City has created budgets anticipating at least enough surplus to consistently appropriate \$700,000 the following year (T. 588; C-21, p. B-1). In effect the City is raising the \$700,000 each year through taxes, a year before the money is appropriated. However, in any year that the \$700,000 margin were to disappear, the City would have to raise the additional amount through taxes in that year." The so-called unappropriated surplus of \$289,708 cited by Mr. Fennell has been completely spent.
8. "The Association should not be rewarded for going to impasse: that would destabilize labor relations in the City." This unit should remain at the same level of increases as the C.S.E.A. clerical, public works employees and the firefighters, which were 6.5% in 1984 and 5.5% in 1985.
9. In 1983, Rye had become the second highest top salary of police officers of all other Westchester cities. Police in surrounding communities received average salary increases of 7.6% in 1984 and 5.7% in 1985.

DISCUSSION:

After considerable study the Board concludes that the salary proposals of both parties are not justified by any comparisons presented. The Board makes the following findings:

1. The City is well administered and conservatively managed. It has emptied its cupboard of various types of funds which might have been used to finance salary increases for this unit. It has set aside moneys for 5% increases in 1984 and 5% increases in 1985. The City has the ability to pay reasonable and comparative increases, even in excess of the aforementioned 5% figures.

2. Although the City has budgeted 5% each year, obviously it is willing to pay the 6.5% in 1984 and the 5.5% in 1985 already granted to other employees.

3. The City urges comparisons with the police departments of other cities in Westchester. The Association urges comparison with police departments of neighboring communities. The Board concludes that the closest reasonable comparisons are with the neighboring towns and villages. Following are the wages of first grade police officers in the City and in other various communities for the indicated dates:

	<u>1/1/83</u>	<u>1/1/84</u>	<u>1/1/85</u>
Town of Harrison	27,005	28,895	30,629
Town of Mamaroneck	27,422	29,616	31,541
Village of Mamaroneck	27,884	29,980	N.A.
Village of Rye-Brook	26,949	29,105	30,997
Village of Portchester	26,369	28,000	30,000
AVERAGE OF ABOVE	27,126	29,119	30,792
	(5 depart- ments)	(5 depart- ments)	(4 departments)
City of Rye	26,649	-	-

Based upon the entire Record the Board AWARDS (AWARD NO. 20) that the form of salary schedule remain unchanged with a 7.5% increase effective January 1, 1984 and a 6.6% increase effective January 1, 1985.

21. Holidays (Association Demand No. 31, City Proposal No. 8)

Article 8 (Holidays) sets forth 12 contract holidays and provides further:

B. Employees will be granted time off in lieu of holidays, which will normally be taken in conjunction with annual leave.

C. Whenever the Employer grants employees in other negotiating units time off as an additional holiday or partial holiday, similar compensatory time will be granted to the members of the police negotiating unit at a time convenient to the department head.

The Association demands:

(a) In addition to the twelve holidays in the present contract all employees shall be entitled to Easter, their birthday and Martin Luther King Day.

(b) In addition to the twelve (12) holidays added to vacation for each member under the present contract, members shall be compensated for all holidays worked either in compensatory time added to their vacation or in cash at the member's option.

(c) The following holidays shall be designated "super" holidays: Christmas, New Year's Day, Easter, Thanksgiving Day, Independence Day, and Labor Day.

(d) Any "super" holiday actually worked shall be compensated at triple time.

(e) Any member required to work overtime on a Saturday, Sunday or holiday shall be compensated at the rate of two and one half (2½) his/her hourly rate.

In support of this composite demand, the Association, primarily through the testimony of Officer Quigley, states:

● "Under the current provision, any officer who works on a holiday only receives a day added to his vacation. (p. 357.) This compensation is insufficient."

- "An officer who works on a holiday is missing valuable time with his family." This justifies additional compensation.

The City opposes this demand, arguing:

- "Working on holidays, like weekends, is an inherent part of a police officer's job. Therefore, most departments provide alternative time off, or extra days' pay, in lieu of time off on the holidays themselves."

- The City is approximately at the County average.

- The demand is very costly in time and money.

DISCUSSION:

The median number of holidays in the County is 12. Also, about one-half of the departments do not have super holidays at a premium rate. Without a clear deficit in the holiday fringe as compared to the majority of departments, it is not indicated that an interest award should be made in an expensive area.

Accordingly, it is AWARDED (AWARD NO. 21) that there be no change in regard to holidays.

22. Sick Leave (Association Demand No. 32 and City Proposal No. 4)

Article 9 (Sick Leave) of the expired Agreement provides, in part:

For employees in the unit, sick leave is earned at the rate of 1¼ days per month of employment, up to a maximum accumulation of 365 days.

J. The Employer will make a one-time cash payment equal to one day's salary per year of service (to a maximum of 20 days) upon retirement, to employees who have accumulated sick leave in excess of 220 days upon retirement.

The Association demands the following:

(a) Each member shall be entitled to unlimited sick leave.

(b) Each member who uses less than ten days per year sick leave shall be entitled to accumulate up to 15 days per year and the employer shall make a one-time cash payment for the accumulated sick leave upon retirement of the employee for the purpose of retirement benefit.

(c) Any employee who has accumulated sick leave on the books as of the new contract date shall be entitled to the one-time cash payment for those accumulated sick days upon retirement.

In support of its position, the Association argues, based on Officer Quigley's testimony:

● "...(T)he current fifteen days per year is insufficient to protect an officer who contracts a major illness or injury. (p. 178.)"

● Unlimited sick leave would give peace of mind to the family of an officer out for over 15 days due to serious sickness or injury.

● This privilege would not be abused. "It would be subject to verification of medical condition. In fact, the City of Rye has its own police surgeon who could be utilized to verify illnesses and injuries. (p. 180.)"

● "A comparison with neighboring communities in the County of Westchester further bolsters the RPAA's case. Exhibit '15,' to which Officer Quigley testified, reveals that most of the police departments in the County enjoy unlimited sick leave. (p. 185.) Moreover, of those communities referred to as the immediately surrounding communities, all but one enjoy unlimited sick leave."

The City rejects the Association's demand on sick leave and has a major counter-proposal in this area, as follows:

Modify by deleting Sections B and J and replace as follows:

B. For employees in the unit on the payroll prior to January 1, 1983, sick leave is earned at the rate of 1¼ days per month of employment up to a maximum accumulation of 365

days. For employees in the unit hired on or after January 1, 1984, sick leave is earned at the rate of 1¼ days per month of employment up to a maximum accumulation of 165 days.

J. (1) The City will make cash payments annually for unused sick leave according to the following schedule:

<u>Sick Days Taken</u>	<u>Bonus Hours</u>
0	24
1	20
2	16
3	12
4	8
5 or more	0

(2) Cash payments will be made according to an equivalent hourly rate determined by dividing the annual base salary by 2080 hours. Payment will be made on or about December 15 of each year.

(3) Benefits under this program are based on attendance from December 1 each year through November 30 of the following year. The bonuses will be awarded eligible employees who are on the payroll on November 30 and who are continuously employed by the City for the year immediately preceding that date.

(4) The intent of this program is to reward individuals who have outstanding attendance records. Each unpaid absence, not previously approved prior to a scheduled work day, will be considered as a sick day taken for purposes of computing this benefit.

In support of its position the City states:

● "This demand is unnecessary, in view of past sick leave usage and it is excessively costly, when considered in the context of the other demands."

● The availability of excessive sick leave can encourage abuse.

● At present, "In the event an officer exhausts his annual allotment of 15 sick days, he can appeal to the City manager for a 30 day extension (T. 178.)"

● "The Association's proposal would immediately sky-rocket the City's liability for payout of accumulated sick leave upon retirement."

- Surrounding communities with unlimited sick leave may have a requirement of approval or medical certification.

- "...(T)he City proposes to reward officers who do not use sick days with an annual cash bonus." "This would provide officers with an immediate cash benefit and would curtail sick leave abuse. This policy has been adopted by the City's other bargaining units (C. Exs. 10, 11, 13)."

- Sick leave amounts to 199 days taken per year by the force.

- "(T)hese facts warrant a reduction in sick leave for new officers. Moreover, the City's bonus plan would reduce the incident of sick leave abuse. This in turn would alleviate the City's need to provide coverage to the extreme it did in 1984 (i.e., 199 tours) (C. Ex. 33)."

DISCUSSION:

Both parties are seeking radical revision of the existing plan. The Association wants a combination of unlimited sick leave and cumulative sick leave which would be used upon retirement for the purpose of retirement benefits. This combination is not supported by the comparative data nor by any evidence of need. However, unlimited sick leave without cumulative balances and without any tie-in with retirement is fairly widespread in the County; but yet, in a minority of police departments.

The City proposes a radical reduction from 365 to 165 days in the maximum which may be accumulated by newly hired officers, a bonus plan to reduce use of sick leave, and the elimination of any retirement award for cumulative sick leave balances. These proposals are not supported by comparative data. Nor is there evidence to support an argument of abuse of sick leave by the men.

The one major issue of concern of the Association which has a validity arises when a young employee with a small sick leave balance has a

serious extended illness. It is interesting to note that the parties had worked out a plan for an Emergency Sick Leave Bank on a one-year experimental basis.

Accordingly, it is AWARDED (AWARD NO. 22) that:

1. An emergency sick leave bank shall be established, essentially identical to the one contained in Article 8.5 of the agreement between the County of Westchester and the Westchester County Police Officers Benevolent Association, which became effective January 1, 1982, and which is incorporated herein by reference. It is mutually agreed that this program will be administered on an experimental basis during 1986 and either side may elect to cancel it at the end of the year.

2. Article 9 of the expired Agreement be otherwise unchanged.

23. Annual Leave (Association Demand No. 33 and City Proposal No. 2)

Article 7 (Annual Leave), §H is as follows:

a. Twelve (12) working days after employment for one year, and

b. Twenty (20) working days after employment for five years, except as modified, if at all, by the 1979-1980 public arbitration award between the parties. (Case No. IA-107; M78-665).

The Association demands:

(a) Members shall be allotted vacation time in accordance with their seniority.

(b) During the first five (5) years of service each member shall be entitled to twenty (20) working days per annum for vacation.

(c) After five years of service, each member shall be entitled to thirty-five (35) working days per annum for vacation.

In support of this demand, primarily through the testimony of William Capaccio, Detective, the Association argues:

● An officer in the City receives less vacation over a period of 20 years than an officer in the surrounding communities, except in Portchester.

● "Moreover, the County-wide average is 385.38 days over the same twenty year period or twenty-five days more than a police officer in the City of Rye receives.

The City proposes a reduction in the current allowances and other changes, as follows:

Modify by adding Sections I and J as follows:

I. For all employees in the bargaining unit hired on or after January 1, 1984:

1. Ten (10) working days after employment for one year of service.

2. Fifteen (15) working days after employment for five years of service.

3. Twenty (20) working days after employment for fifteen years of service.

J. Annual leave to be selected by rank in order of sick leave usage during previous year, i.e., the employee with the least number of sick days used would have first choice of vacation. In case of ties, seniority in rank would prevail.

In support of its position, the City states:

● This item would cost \$1,606 per man based on the old schedule.

● Also there would be a 72% increase in days off.

DISCUSSION:

During the first year, the City's annual leave schedule is slightly below the County average and slightly above the neighboring five communities. After the sixth year, the City equals the average of the five nearby com-

munities and is slightly above the County average. At the eleventh year, the City is slightly below the County average. The point is rendered moot by the passage of time. In consideration of time, personal day and family emergency day granted elsewhere in this Opinion, the Board AWARDS (AWARD NO. 23) that there be no change in the annual leave in the Agreement.

24. Personal Leave (Association Demand NO. 34)

Article 18 (Personal Leave) of the expired Agreement reads, in part, as follows:

All members of the bargaining unit shall be entitled to two days personal leave annually. Personal leave that is unused at the end of each calendar year shall be added to the employee's sick leave accruals, subject to the maximum accumulation established by Article 9.

There follow nine guidelines for the use of personal leave.

The Association demands:

(a) Each member shall be entitled to five (5) personal leave days per year without advance notice and at the option of the employee.

(b) In addition, one day's leave may be taken for every three months no sick days are used, at the option of the employee.

(c) An employee may accumulate personal leave days for two years at his/her option, and be entitled to ask for same at the end of a calendar year regardless of the year in which the personal leave days were accumulated.

(d) An employee with the consent of the Chief of Police shall be entitled to accrue additional personal leave days.

(e) At the member's option unused personal leave days shall be added to his/her terminal leave.

In support of this proposal the Association makes the following points, primarily through the testimony of Officer Quigley:

- The present two day allowance is inadequate.
- As family men, time to meet family problems is essential to relieve family strains. The divorce rate is high among police officers.
- There are also family gatherings, weddings, etc., at which attendance is important.
- The cost to the City would be minimal because "...the city has police personnel who would be available to cover without requiring overtime. Both the 'Slot One Man' and the steady radar officer would be available (p. 147)."
- The comparative data support this demand. "City of Rye police officers receive the same or less personal leave days than all but one department. Perhaps more telling is the fact that on average, the city officers have approximately one half of the County wide average which is 4.08 personal leave days per year (p. 151). These statistics are contained in RPA's Exhibit 14."

The City opposes this demand, arguing:

- "This demand further results in 3 fewer days of service per police officer and 108 fewer days of man hours per year." "The City utilizes the slot/position or the radar man to cover for personal leave (T. 147). In either case, the actual number of persons on a given shift would be reduced by one, thereby resulting in the City providing less coverage."
- "The Association's concern with officers being able to use personal days for particular events could easily be addressed by the officer swapping with another officer in order to obtain the desired tour off."

DISCUSSION:

Comparative data supports the Association's claim. Of 36 police departments in the County, only three, including the City of Rye, have two or fewer personal days. Twelve have three days allowance, and the remainder

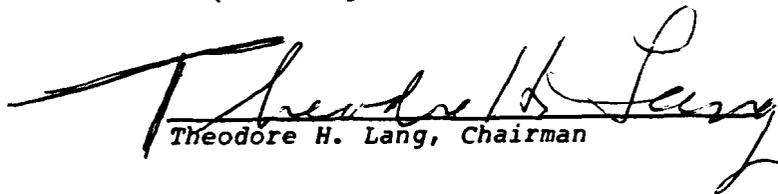
have four or more days. The City has a valid argument that this will reduce coverage. The Association offers no comparative data nor persuasive argument concerning other elements of its demand in this area.

It is clear that a three day personal leave allowance is fully justified on the Record. The Board is mindful that the effect of its award may be merely to add an additional day to sick leave reserve for 1985. Nevertheless, it is AWARDED (AWARD NO. 24) that, effective January 1, 1985, Article 18 be amended solely by substitution of three days for two days in the first line thereof.

CONCLUDING REMARKS

It is most unfortunate that the history of this Case has resulted in an Award which is retroactive for its entire term. The fixing of salaries and terms and conditions for the police collective bargaining unit in the City of Rye for 1984 and 1985 is long overdue. The period of contract and the salaries and terms and conditions of employment are hereby fixed in this Opinion and Award pursuant to Article 14, §209.4 of the Civil Service Law. Police protection is a most essential government function, and speedy implementation of this Award is in the best interests of the parties and the people of the City of Rye.

Respectfully submitted,

  
Theodore H. Lang, Chairman

January 17, 1986

STATE OF NEW YORK:

SS:

COUNTY OF NEW YORK:

I hereby affirm pursuant to CPLR §7507 that I am the individual described in and who executed this instrument which is my Award.



Dissenting as to items 9, 10, 12, 16, 17 and 24

*Bertrand B. Pogrebin*  
Bertrand B. Pogrebin Esq.  
Employer Panel Member

Sworn to before me this 5th day of February, 1986.

STATE OF NEW YORK:

*Deborah Austin*

SS:

COUNTY OF

DEBORAH AUSTIN  
NOTARY PUBLIC, State of New York  
No. 30-4729801  
Qualified in Nassau County  
Commission Expires March 30, 1986

I hereby affirm pursuant to CPLR §7507 that I am the individual described in and who executed this instrument which is my Award.

\_\_\_\_\_

John J. McCarthy  
Association Panel Member

STATE OF NEW YORK:

SS:

COUNTY OF

I hereby affirm pursuant to CPLR §7507 that I am the individual described in and who executed this instrument which is my Award.

\_\_\_\_\_

\_\_\_\_\_  
Bertrand B. Pogrebin, Esq.  
Employer Panel Member

STATE OF NEW YORK:

SS:

COUNTY OF

I hereby affirm pursuant to CPLR §7507 that I am the individual described in and who executed this instrument which is my Award.

\_\_\_\_\_  
x *John P. McCarthy*  
John P. McCarthy  
Association Panel Member

STATE OF NEW YORK:

SS:

COUNTY OF *Westchester*

I hereby affirm pursuant to CPLR §7507 that I am the individual described in and who executed this instrument which is my Award.

*John P. McCarthy*  
\_\_\_\_\_  
*Dissents # 2, 3, 4, 6, 7, 8, 13, 14, 15, 19, 21, <sup>23</sup>~~20~~, 22*  
*Denied by*  
*arbitrator*