

State of New York
Public Employment Relations Board

NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD
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CONCILIATION

In the Matter of the Arbitration

between

The Incorporated Village
of Old Brookville

Opinion of Chairman

Award of Panel

and

Old Brookville Policemen's Benevolent Association

Case Number: IA 87-24; M 87-206

Panel of Arbitrators:

Maurice C. Benewitz, Public Panel
Member and Chairman

Peter Shea, Public Employer
Panel Member

Joseph Sanchez, Employee Organization
Panel Member

Appearances:

For the Village: Thomas Lamberti, Esq., Attorney

For the PBA: Lawrence M. Gordon, Esq., Attorney

By letter of January 20, 1988, and pursuant to Civil Service Law Section 209.4, the Public Employment Relations Board appointed the undersigned panel to hear and make a just and reasonable determination of a dispute concerning a bargaining impasse between the parties. Transcribed hearings were held on June 17, July 25 and September 15, 1988 at Old Brookville, New York. An executive session convened on November 28, 1988 at Manhasset, New York. Briefs were not filed by the parties.

Section 209.4 (d) directs the panel to consider the following factors in coming to a determination of this controversy:

- (i) comparison of the wages, hours, fringe benefits, conditions and characteristics of employment of the public employees involved in the impasse proceeding with the wages, hours, fringe benefits, conditions and characteristics of employment of other employees performing similar work and other employees generally in public or private employment in New York city or comparable communities;
- (ii) the overall compensation paid to the employees involved in the impasse proceeding, including direct wage compensation, overtime and premium pay, vacations, holidays and other excused time, insurance, pensions, medical and hospitalization benefits, food and apparel furnished, and all other benefits received;
- (iii) the impact of the panel's award on the financial ability of the public employer to pay, on the present fares and on the continued provision of services to the public;
- (iv) changes in the average consumer prices for goods and services, commonly known as the cost of living;
- (v) the interest and welfare of the public; and
- (vi) such other factors as are normally and customarily considered in the determination of wages, hours, fringe benefits and other working conditions in collective negotiations or impasse panel proceedings.

The parties stipulated at the first hearing (T. I, 4, 5) "that there is no issue with ability to pay." After agreeing to this stipulation, the Village represented that it believed the issue to be (T. I, 5).

what [the Village] should pay and whether it is reasonable under the circumstances.

In light of this stipulation, the panel shall not consider ability to pay and shall limit its consideration to the other criteria set forth in the law.

This opinion is solely that of the chairman. The award is issued by those panel members who sign as concurring with it.

The Dispute

The parties were bound by a collective agreement effective June 1, 1982 which expired on May 31, 1986 (Ex. J-1). Despite vigorous bargaining and the intervention of the PERB, the parties were unable to reach agreement on a successor contract. By a demand dated October 27, 1987 (Ex. J-2), the Association moved for the appointment of a public dispute interest arbitration panel. The document listed a number of PBA demands which were later reduced in number during mediation and during an improper practice proceeding held before Administrative Law Judge John M. Crotty on January 19, 1988.

The Village responded to the PBA document in an undated document received by PERB on December 1, 1987 (Ex. J-3). The response appended a list of Village demands. These also were reduced in number during the proceeding before Judge Crotty.

Among the Village demands was one for a three-year contract duration. The question was again raised in this proceeding. The PBA did not agree

to empower the panel to consider a greater duration than that which the statute authorizes an interest panel to impose. The Panel will award for a two-year contract.

Before Judge Crotty, the parties agreed that the final offers set forth in his proceeding would be (Ex. J-4A, 4)

the only subject matters brought by the parties to the [arbitration] panel and with respect to the wage proposal, both parties have agreed that the specific proposed increases that are set forth for the various years of the proposed agreement are not binding on either party. Each party specifically reserving the right to submit to the panel any proposal that they see fit with respect to that subject of wages.

With this settlement, the PBA withdrew the charges leading to the Crotty hearing.

The PBA final offer set forth at the Crotty proceeding (which also included third-year elements not here set forth or considered) read

(Ex. J-4B):

1. Wages	6/1/86 6%	6/1/87 6 3/4%
2. Shift [Differential]		
P.O. (5 yr.)	1900	2100
Sgt.	2200	2400
3. MLK [Martin Luther King] holiday		
4. Holiday O.T. [overtime] for all holidays worked		
5. Uniform & Dental	~ +100	+100
6. Detective		
	+250 on appointment	
	+1000 after one year	

7. Termination payout over 5 years
[The parties agreed on this issue prior to the arbitration].
8. Vacation 1st year - 5 days after no academy
9. PBA + 6 days.

The final Village offer (which had items - not considered or set forth - that went beyond two years] read (Ex. J-4 C):

- | | 6/1/86 | 6/1/87 |
|---|--------|--------|
| 1. Wages | 6 | 6 |
| not compounded - 6 steps for new hires | | |
| 2. Shift [Differential] | | |
| P.O. (5 yrs.) | N/C | 1300 |
| P.O. (20 yrs.) | N/C | 1400 |
| 3. MLK holiday - no | | |
| 4. Holiday O.T. - no | | |
| 5. Uniform & Dental - no change | | |
| 6. Detective pay - something more | | |
| 7. Termination pay out over 5 years - yes
[Agreed item] | | |
| 8. Vacation 1st year - 5 days if no academy - yes
[As will be seen, the parties interpreted this item differently. So there was no agreement although the words seem to indicate a settlement on this item.] | | |
| 9. PBA & 6 days - no | | |
| 10. Eliminate blood days | | |
| 11. 25 year retirement plan. | | |

Preliminary Statement of Chairman

In the opinion of the chairman (in a position which the other panel members may or may not share), no arbitrated contract settlement can meet the joint needs of the parties as faithfully as a negotiated settlement. The trade-offs which arise in bargaining are made by parties who fully understand the importance and impact of each term and condition of employment on their relationship. An arbitration panel, in deciding to accept some demands, modify others, and reject still others totally can only imperfectly approximate the result which an agreed settlement would bring. Furthermore, arbitration may free one party or the other from making the difficult but necessary decisions which arise out of the complex of forces determining reasonable outcomes.

Therefore, the chairman believes that the award, within the guidelines set by Section 209, will best meet the "interest and welfare of the public" if it is "centrist" and "minimalist." That means for the most part that the economic terms ordered should maintain the parties in the same relative position vis-a-vis other similar bargains as they were in at the end of the expired contract. Such a result requires consideration of other settlements and/or awards in comparable units, the cost of living changes for the period in question, and, when relevant, the ability of the employing unit to pay. Old Brookville has stipulated that it has the ability to pay any reasonable award. But that stipulation should not impel the panel to provide unusually large economic changes. The market forces, other than ability to pay, which have shaped settlements elsewhere, should also operate here.

For non-economic items, this philosophy dictates that items granted should be normal and ordinary. And those items should appear in the contracts

of a preponderance of comparable units.

Extraordinary changes in either economic or non-economic items, except where bringing the parties closer to the norm found in other contracts, are not imposed appropriately by arbitrators. And the norms followed in "centrist" awards are shaped by the median - i.e. the middle point in a distribution of the item as found in other contracts -, rather than by the average - i.e. the arithmetic result found by summing the values in all the contracts and dividing that sum by the number of contracts containing the item. Averages can be skewed by a small number of unusually high or low items. Furthermore, averages are not useful in finding the norm for non-economic items.

An exception to this general principle ruling out unusual upward grants exists where the employee group lacks a benefit which others in similar circumstances possess. "Catch-up" awards bringing the unit closer to the median or centrist position meet the intent of Section 209, in the opinion of the chairman. By the same token, employees may possess some benefit so unusual as to justify, even in a minimalist award, the removal of that item.

The Unit and Comparable Units

The Old Brookville police department, the parties agree, is a full-service department providing twenty-four hour year-around coverage to several municipal units serviced fully by the department and certain contract services to other units as well. Detective Stephen J. Chand, the PBA president, testified that the department has an authorized strength of thirty-five and had thirty-two members in the summer of 1988 (T.I , 51). Village Exhibit 16

shows that as of September 9, 1988, the department had a lieutenant, a detective sergeant, five sergeants, three detectives and eighteen police officers. One detective retired in 1987. A detective sergeant and two police officers retired in 1988. The transcript also reveals that the chief of police retired in and about July 1, 1987 (T. II, 21, 23).

The parties compared the contract status on wages and other items of the sergeants, detectives, and police officers in the Old Brookville PBA unit to those of similarly situated officers in two groups: 1) those in all departments in Nassau County (including a number of unspecified departments whose contracts had parity with that of the Nassau County police department); and 2) those in north shore departments which included Glen Cove, Kings Point, Lake Success, Old Westbury, Port Washington, Sands Point and an unspecified number whose contracts had parity with that of the Nassau County police department.

Matters Discussed

Longevity

The PBA introduced exhibits - U-6 and U-7 - dealing with a demand for changes in the longevity payments set forth in Article IV, Section II. of the expired contract. Although the chairman admitted the exhibits so that the claim could be considered (T. III, 160), the Village objected to the consideration of this item.

The PBA took the position on longevity that since it is a wage item (T. I, 24,), it falls under the reservation set forth in the stipulation reached at the Crotty proceeding. That stipulation read in relevant part:

Each party specifically reserving the right to submit to the [arbitration] panel any proposal that they see fit with respect to that subject of wages.

Longevity, it was argued, is not a separate item in the "wide open" question of wages but rather is "an appendage of wages" (T. I, 61-62).

The Village objected that the matter of longevity "is not within the purview of the stipulation" (T. I , 62; T, III., 53). The Village argued that "longevity" is not an item on either list of open matters which were referred to by Judge Crotty as being the basis for submission to the arbitration panel. (Those lists were entered in the instant proceeding as Ex. J-4 B, the "PBA 'Final' Offer", and Ex. J-4 C, the "Village Offer.") Longevity, it was suggested, was "never meant to be considered." (T. III , 52-53).

It was noted that longevity was an item in the expired contract which was set forth separately from wages. [Article IV. Compensation and Benefits set forth salary schedules for police officer and sergeant in Section I. Each schedule contained an item entitled LONGEVITY IN ADDITION TO BASE SALARY. Section II set forth certain longevity increments after the sixth, tenth, and fifteenth year of service.]

The Village further submitted that in the list of open items the PBA appended to its demand for arbitration (Ex. J-2), a salary demand was the first item on the first page of the list of demands and a separate longevity demand was set forth on the third page of the demand (T. III , 54).

The chairman has concluded that since the original demands of the PBA set forth a demand on longevity separate and apart from a demand on wages and since the PBA "final" offer - drawn by the same party - did not include a longevity

item, longevity was considered by the union to be something different than wages. If that is not correct, it was incumbent upon the union to make known before Judge Crotty its position that longevity was a wage item rather than some other kind of monetary benefit. Because such a specification did not occur, the chairman finds that longevity is not an item before the panel pursuant to the Crotty stipulation. The matter of longevity has not been considered by the arbitration panel and no award on it will issue. Thus the longevity payments set forth in Article IV, Section 2 will remain unchanged. So ruled.

Night Differential - Sergeant

In its final offer (Ex. J-4B), the PBA proposed differing shift (night) differential payments as of June 1, 1986 and June 1, 1987 for police officers and sergeants. In the presentation, neither exhibits nor testimony dealt with any differential payment for sergeant. Therefore, as set forth in Article IV, Section III of the expired contract, which deals with night duty pay and holiday overtime compensation, sergeants will continue to receive the same additional pay as police officers. So ordered.

Additional Pay - Based on Years of Service

On the same additional pay item, the Village proposed a different rate of pay for five-year and twenty-year police officers (Ex. J-4C). No testimony or exhibit supporting this proposal was received. The differential rates based on 5 years or 20 years of service will not be awarded but the present contract scheme based on service will be followed. So ordered.

Twenty-Five Year Retirement

In its final offer, the Village proposed a change from the current twenty-year to a twenty-five year retirement plan. Only one department in the county was shown to have a twenty-five year plan (T. III , 155). The chairman finds this demand to seek a highly unusual contract item. It is the sort of change, different from the norm, which should be gained by negotiation rather than at arbitration. It will not be awarded. So ordered.

Blood Days

The final Village proposal demanded the elimination of blood days. Article XII., Section 6 of the expired agreement read:

Employees shall receive an additional day off for having participated as a blood donor and shall receive one (1) day off for each pint of blood donated.

Village Exhibit 15 purports to show that for all departments in Nassau County, none gave blood days in 1985, 1986, and 1987. The Village corrected this to say that Long Beach did provide such a benefit (T. III , 150). The exhibit further shows that in 1987, the officers in the Old Brookville department took thirty-nine days or an average of 1.5 days per officer.

The PBA represented that the exhibit was not precise. Freeport allows one blood day per contribution, Long Beach two, Malverne eight hours, and Rockville Center one (T. III , 150-151).

The PBA also argued that the demand is academic or moot since the two-year period which may be covered by the contract here considered has already expired. The officers who contributed blood between June 1, 1986

and May 31, 1988 did so on the understanding that they would receive a day off upon a contribution. The Village contended that these officers knew that a demand to end blood days had been made by employer.

The ruling on this demand of the Village shall have two elements. In light of the PBA representation, it appears that four departments other than Old Brookville provide time off after blood donations. This benefit is far from the median situation among the jurisdictions cited by both parties in this arbitration. The chairman finds the benefit so far from the norm that it properly may be revoked by an interest arbitration panel. On the other hand, the rescission should be entirely prospective. Officers who made blood contributions in the good faith expectation that they would receive an additional day off upon such contribution should not have to repay the days received. They could not know the outcome of the Village demand to revoke the contract entitlement. The award, that Article XII., Section 6 and the additional day off it provides shall be removed in toto from the contract, shall take effect only upon the date of receipt from PERB of this award. So ordered.

Six Step Schedule

In its final offer (Ex. J-4C), the Village proposed that new hires shall be placed on a six step schedule. The salary schedules set forth in Article IV., Section I of the expired agreement provided for a five step police officer schedule for base salary.

Village Exhibit 14 is an array of the salary steps (above the entry level step) for all departments in Nassau County. It shows eight jurisdictions

at four steps and eight at five steps. In such case either four steps or five could be accepted as the median. The array of provisions is close enough so that a review of the argumentation is unnecessary. No persuasive argument can be made that four steps above entry is so far from the norm that it should be changed. The Village demand for six steps for new hires will not be granted. So ordered.

Agreed Items

The parties agreed on a number of items which were not presented to the arbitration panel at all. In addition, they stated that item 7 on the PBA final offer (Ex. J-4B) and item 7 on the Village offer (Ex. J-4C) was agreed upon. The nature of the agreement on the item reading "Termination payout over 5 years" was not described to the panel. Where the parties have reached agreements on various items, they need not explicate the agreements to the arbitration panel.

We incorporate by reference into our award for the contract commencing June 1, 1986 and expiring May 31, 1986 all agreed items including termination payout over five years. All such agreed items shall be included in the 1986-1988 contract. So ordered.

Vacation - New Hires Previously Completing Police Academy

The parties had an item numbered 8 on both lists which read as follows on the PBA final offer (Ex. J-4B): "Vacation 1st year - 5 days if no academy after 6 months." On the Village final offer, item 8 read (Ex. J-4C): "Vacation 1st year - 5 days if no academy."

The parties had believed that an agreement was reached on this item. It developed, however, that each interpreted the purported settlement differently and that there was no meeting of the minds on the item. The difference must be resolved.

What is at issue is the vacation to be enjoyed during the first year of employment by officers who have previously worked for another police department and who have previously attended a recognized police academy and been sworn as police officers.

Article VI., Section II A. of the expired agreement provided as follows in relevant part

- A. Employees hired after January 1, 1977, shall receive vacations as follows:
 - 1. After (1) year of continuous service, ten (10) working days' vacation.

The PBA understanding of the agreement reached was that such officers "can get vacation five days in the first year" (T. I , 19). The Village understanding was that such a police officer "could borrow five days from his first year's accrual rather than wait a year before he could use it" (T. I , 31).

Under questioning from the chairman, Detective Chand explained, and counsel for the Village agreed, that vacation earned in any year is taken in the succeeding calendar year (T. I , 81-83). This would mean, as the chairman understands it, that first year police officers are not entitled to take any vacation during their first year of employment. Both parties understood that the disputed item was intended to allow a new hire who had

previously been to an accredited police academy to take five days of vacation in the first year. The PBA understood that this would not affect the ten days such an officer could take in his second year (T. I, 84). The Village understood that the five days were to be a loan, and to the extent used, would reduce the ten days to which the officer was entitled in his second year (T. I , 83, 86).

Detective Chand testified that in practice the chief of police has already granted such new hires the loan of five days in their first year with a consequent reduction of working days' vacation to five in the second year (T. I , 88). The PBA was demanding more than it already was receiving, the witness stated (T. I , 88-90).

The parties did not offer any exhibits showing the extent of agreements, if any, to provide vacation in the first year to officers who had already been to an academy at the time of hire. The chairman concludes that new hires who are immediately ready to undertake departmental work without further training should receive some vacation without a loan against their second year entitlement. These officers are able to provide more active service than other new hires. Therefore, although no norm in other jurisdictions has been shown, the chairman shall award five days of vacation without diminution of the ten working days' vacation in the second year for new hires who have previously been to a police academy. Since this provision can be made retroactive to June 1, 1986, the chairman shall do so. Any officers who "borrowed" vacation days during their first year of employment in the period beginning June 1, 1986 and whose second year entitlement was reduced by the number of borrowed days, shall have the

number of days lost in second year of employment restored to them during the calendar year 1989. For any future new hires with academy training, the contract right provided is prospective. So ordered.

Provision of a Martin Luther King Paid Holiday

Article IV., Section I F. of the expired contract provided holiday compensation for twelve specified paid holidays. The PBA sought, and the Village opposed, the addition of a thirteenth paid holiday identified as Martin Luther King Day.

Ex. U-10 shows that eight Nassau County police departments other than Old Brookville receive twelve paid holidays and seven receive thirteen or more. (In Ex. V-8, the Village shows that when Old Brookville is added to this distribution, nine departments receive twelve paid holidays and seven receive thirteen or more.) Of the departments receiving thirteen, three receive fourteen and one receives fifteen.

Exhibit U-11 shows that three listed North Shore departments other than Old Brookville receive twelve paid holidays, one receives thirteen, and three receive fourteen.

In both union exhibits, it is shown that departments with Nassau County police department parity receive twelve days. We do not know how many departments are at parity, but if it is more than one, then twelve becomes the mode and may be the median of the distribution.

The Village, in its presentation, noted that five of the jurisdictions providing twelve paid holidays have "recently concluded negotiations in which no additional holidays were given" (T. II, 97).

Village Exhibit 12 shows that the 1986-87 incremental holiday pay cost for one added holiday would be \$146 for a fifth year police officer.

The chairman finds that twelve paid holidays is the median number among Nassau County departments and very close to the median in North Shore departments. As in the case of the number of salary steps, the situation of officers in the Old Brookville department is not so far from the norm as to require a change from the current situation. An additional paid holiday will not be awarded.

Night Differential and Pay for Working Holidays

Article IV, Section III B. of the expired agreement read as follows:

B. Effective June 1, 1984, in addition to the total salary listed in Section "I", each employee shall be paid additional pay (in lieu of night duty pay and holiday overtime compensation) as follows:

1st Year	\$500
2nd Year	\$625
3rd Year	\$750
4th Year	\$875
5th Year-17th Year	\$1,000
18th Year	\$1,100
19th Year	\$1,200
20th Year	\$1,300

Members while assigned to the Police Academy for recruit training will not receive additional pay but will receive a pro-rata share while not at the Police Academy.

As is evident from this language, there was no separate night duty pay and holiday overtime compensation. Instead there was a single sum which amounted to \$1000 for a fifth year police officer.

This method of payment led to two PBA demands (Ex. J-4B) and to two response items by the Village (Ex. J-4C). Item 2 of the PBA final offer

sought shift differential (night duty pay) for fifth year officers of \$1900 as of June 1, 1986 and of \$2100 as of June 1, 1987. (The separate amount sought for sergeants will not be considered pursuant to the ruling set forth earlier.) Item 4 of the PBA final offer sought holiday overtime for all holidays worked.

Item 2 of the Village offer proposed no change in the shift differential for fifth and twentieth year officers as of June 1, 1986 and \$1300 and \$1400 respectively as of June 1, 1987. (As previously noted, the progression by seniority which the chairman shall order on this item shall be the same as that in the expired agreement.) Item 4 of the Village offer proposed that there be no separate payment of holiday overtime.

The chairman shall examine the exhibits and testimony on night duty pay and holiday overtime pay separately.

Additional Pay for Holidays Worked

For all departments in Nassau County, Union Exhibit 12 shows, fourteen provided four hours of additional pay for all holidays worked and one provided four hours of pay for working any of six specified holidays. Exhibit U-13 shows that six North Shore departments made this payment for all holidays worked and one paid on six holidays. Each exhibit included an unspecified number of departments with parity to the Nassau County police department. Thus the actual number of departments paying the benefit is greater than the numbers shown above.

No Village exhibit was entered on the number of departments paying overtime for holidays worked. Exhibits U-20 and U-26 show that the cost

for this benefit for a fifth year officer would be \$476 as of June 1, 1986 and \$507 as of June 1, 1987. (Thus the June 1, 1987 incremental cost would be \$31.) The Village, in Exhibit V-12, adopts the \$476 figure for June 1, 1986. (These costs presume adoption of the union wage increment proposals. They would be marginally lower if smaller percentage salary increases than those proposed by the PBA for 1986-87 and 1987-88 were adopted.)

As already noted in the discussion of the proposal to add a thirteenth paid holiday, officers are paid a day's pay for holidays whether the holidays are worked or not. Because of the operation of the schedule, officers can expect to work three-quarters of all holidays. What the PBA proposes is the provision of four more hours of pay for holidays on which an officer actually works. Such pay is consistent with the premium compensation generally paid in industry at large when holidays are worked.

The evidence is extremely persuasive that the worked holiday pay sought by the PBA is a benefit which should be granted. Whatever the reason may have been historically for the combination of night duty pay and worked holiday pay, Old Brookville is nevertheless unique among the departments which both parties accept as comparisons in its failure to make any separate payment for working on the holidays set forth in the contract. The median and mode show that payment of four hours at straight-time rates is provided throughout the comparable departments for all paid holidays worked. This payment shall be awarded. So ordered.

Night Duty Pay

The other item of compensation included in Article IV, Section III B.

of the expired contract was pay for night duty. The Village computes that night tours represent 64% of all assigned work time for police officers (T. III, 69), and the PBA does not dispute this computation.

It is difficult to compare the night duty compensation of Old Brookville police officers to that received in other departments because the \$1000 paid to fifth year officers in Old Brookville lumps night duty pay with pay for holiday work. Obviously, the night duty component is something less than \$1000. But as the exhibits entered show, even if the entire \$1000 were allocated to night duty pay, Old Brookville officers would be receiving compensation far below that of officers in all comparable departments. This is made clear not only by the array presented for Nassau County departments in Exhibit U-8 and for North Shore departments in Exhibit U-9, it is also made evident by the array of payments presented in the Village exhibit, V-6. (The Village recomputed some of the numbers in exhibit U-8 to reflect time actually worked on night duty rather than the maximum possible.)

The chairman concludes that even if the Village-computed statistic for the Nassau County array is accepted, the median night duty of \$1600 for 1985, \$1800 for 1986 and \$1850 for 1987 requires a catch-up award. The chairman has noted that "catch-ups" are proper under "centrist" principles when they allow equitable adjustments of payments far below the median. He shall direct a \$400 increase to \$1400 for the year beginning June 1, 1986 and a further \$400 increase to \$1800 for the year beginning June 1, 1987. Even with such payments, the Old Brookville fifth year officer will be \$400 below the median and \$365 below the average computed by the Village for 1986-87. The officer will be \$50 below the median and \$81 below the average

computed by the Village for 1987-88. But the \$800 in increases over two years will bring the Old Brookville officers to a position close to the median by the second year of the contract.

Article IV, Section III B. allocated the additional pay according to service. Some officers received less than \$1000, and some received more. The chairman shall follow the same ratios is establishing the schedules. They shall be as follows:

Effective:	6/1/86	6/1/87
1st Year	\$700	\$900
2nd Year	\$875	\$1125
3rd Year	\$1050	\$1350
4th Year	\$1225	\$1575
5th Year-17th Year	\$1400	\$1800
18th Year	\$1500	\$1900
19th Year	\$1600	\$2000
20th Year	\$1700	\$2100

These distributions shall show the night duty pay for the 1986 and 1987 columns in the new contract and are effective as of June 1, 1986 and June 1, 1987 respectively. So ordered.

Uniform and Dental Pay

Article IV, Section IV of the expired contract set forth

an annual allowance of \$700 to provide
for uniform maintenance and a dental
plan.

The union seeks a June 1, 1986 increase to \$800 and a June 1, 1987 increase

to \$900 (Ex. J-4B). The Village opposes any increase (Ex. J-4C). By examination of the exhibits on such payments for all Nassau County Departments and for the North Shore departments, the chairman concludes that the \$700 paid in Old Brookville is \$125 less than the \$825 which is shown to be the median for both 1986 and 1987 on Village Exhibit 7.

Some increase in these allowances is justified by this below median position. The chairman shall direct a \$50 retroactive increase effective June 1, 1986 to \$750, and a \$50 retroactive increase effective June 1, 1987 to \$800. So ordered.

Detective Pay

Article IV, Section I E. read:

E. \$750 shall be added to the annual base salary of a detective upon his appointment as a detective. An additional \$750 shall be added to the annual base salary of a detective after the first year of such service. Both additions shall be included in the computation of a detective's holiday compensation.

The PBA seeks an additional \$250 upon appointment and an additional \$1000 after one year (Ex. J-4B, item 6). This would add \$1000 to base salary upon appointment and \$1500 after one year or a total of \$2500 as opposed to a total of \$1500 in the expired contract. The Village proposal agreed to "something more" (Ex. J-4C, item 6).

Since most North Shore departments do not have a detective grade (T. I, 77), the exhibits entered on detective pay (U-16, V-9) array Nassau County departments but not North Shore departments separately.

The Village notes that of sixteen departments, none in 1986 and 1987

had detective forces. Nassau County also has a detective force with allegedly larger responsibilities (T. III, 105, 102). Four departments pay more than Old Brookville, and after the first year, five pay the same or less according to the corrected exhibits (T. III, 105).

The parties were in agreement that some increase in detective pay is justified. The chairman rules that upon appointment, detectives shall receive \$1000 in addition to base salary - or an increase of \$250. After one year in grade, detectives shall receive \$2000 in addition to base salary - or a \$500 increase. These increases shall be paid retroactive to June 1, 1986. So ordered.

PBA Leave Days

Article XII, Section 2 of the expired agreement read as follows:

Twelve (12) work days for members of the P.B.A. collectively. Seven (7) work days for an Employee who is an officer of the Nassau Police Conference.

The union seeks six additional PBA days (Ex. J-4B, item 9). The Village opposes any increase (Ex. J-4C, item 9). The union exhibits for all Nassau County departments (Ex. U-17) and for the North Shore departments (Ex. U-18) show six departments with days arrayed from seven to thirty, one - Kings Point - with ten days plus time for police conference duties, and one with "reasonable time" for police conference duties. A number of departments allow "necessary time", time at the discretion of the chief, or unlimited time off. It is difficult to make comparisons because the departments providing fixed number of days differ in size, and hence in need.

The Village opposes any increase on a number of grounds. Union business, it is argued, should not be financed by the taxpayer. And similar -sized departments, it is contended, give relatively similar numbers of PBA days (T. III, 110-111).

Since this provision for PBA was adopted, the union has undertaken to administer the life insurance and dental plans and no other decrease in need was shown since the time the Village agreed to the allowance. Some increase in days for the PBA in general, but not for officers of the police conference, is justified. The chairman shall direct an increase of two days to fourteen for members of the PBA collectively. This provision is prospective and shall not have any retroactive effect for 1986 and 1987. So ordered.

General Wage Increase

The question of what wage increase should be ordered for the two-year period beginning on June 1, 1986 must be answered within a number of contexts. The Village has stipulated that it has the ability to pay for any reasonable increase. The overall compensation of these officers includes not only the base salary received but also longevity, night duty pay, holiday pay, pay for holidays worked, uniform/dental allowance, life insurance, and any other benefits customarily received. A number of these items have been the subject of discussion and award above. Comparisons of base salary in other similar police units will be provided below. Thus the Section 209 criteria will all be considered.

The urban wage earners and clerical workers consumer price index for the New York and eastern New Jersey area increased by 11% between June 1, 1982

and June 1, 1985, Village Exhibit 2 shows. In the same period the compensation of a fifth year Old Brookville police officer (including holiday pay) increased from \$30,089 to \$37,376 or 24%. The urban wage earners and clerical workers CPI, according to Department of Labor figures, increased 2.6% between June 1985 and June 1986, by 5.5% between June 1986 and June 1987, and by 4.5% between June 1987 and June 1988. The chairman notes that the 1986 and 1987 percentage increases in base salary for Nassau County departments and for North Shore departments exceeded these cost-of-living increases for the area (Exs. U-2, U-3, V-10, V-12).

Union Exhibit 2 as corrected by Village Exhibit 10 shows that the average increase for all Nassau County departments was 6.87% in 1986 and 6.53% for 1987. The uncorrected averages for the North Shore departments (Ex. U-3) were 7.16% for 1986 and 6.59% for 1987.

It is appropriate, however, to consider the actual base salary positions of the various departments as well. When this is done, it appears that Old Brookville was above the median both for the County and for the North Shore departments in 1985. In that year, an Old Brookville fifth year officer was paid a base salary of \$35,733. The median in Nassau County (Ex. V-5) was \$35,371. The median, computed by the chairman, for the North Shore departments was \$35,325. Only one of the seven North Shore departments had a higher base salary than Old Brookville.

If the 7% 1986 increase requested by the PBA at the hearing (See Exhs. U-2, U-3, U-4, U-5) were granted, the fifth year officer in Old Brookville would receive \$38,234 as opposed to a County median of \$37,798 (Ex. V-5) and a North Shore median (computed by the Chairman) of \$37,798.

If the 6.5% requested by the PBA were granted for 1987, over the Old Brookville fifth year police officer would receive \$40,720 (Ex. U-4, U-5). The median for all County departments was \$40,260 (Ex. V-5) and that for the North Shore departments (as computed by the chairman from Exhibit U-5) was \$40,387.

A comparison of the average base salaries for fifth year officers in each of these years (if the PBA demand were granted for 1986 and 1987) shows the Old Brookville officer above the County and North Shore department averages for each year (Ex. U-4, U-5, V-5).

The chairman concludes that the PBA proposed increases are too high in light of the already favorable salary position of the Old Brookville department. The increases which shall be granted will leave the Old Brookville officer above the 1986 medians for all Nassau departments and for the North Shore departments and slightly below the medians for 1987. When the increases granted for night differential and worked holiday pay are considered, the monetary improvements provided will meet the requirements of a centrist award, i.e. to leave the parties in the same relative position as in the year before bargaining except where catch-ups are required because of some non-normative provisions.

The Village proposed increases in base salary of 6% in each year uncompounded are too low to maintain the relative position of the department.

The chairman shall direct an increase of 6.25% for 1986 which will yield a fifth year base salary of \$37,966. He shall direct an increase of 6% for 1987 which will yield a fifth year base salary of \$40,244. These percentages will be applied to each step up to the fifth in the 1985 salary

schedule and will be paid retroactively to June 1, 1986 and June 1, 1987. The Village proposal that the increases in base salary not be compounded (Ex. J-4C, item 1) is denied. It is usual to compound salary increases. The awarded 1987 base salary is founded on the 1986 base salary schedule, i.e. is compounded.

Total Monetary Increases

For the year beginning June 1, 1986, this award provides a basic salary increase for fifth year police officers in Old Brookville of \$2233 or 6.25%. In addition, the award provides a first year increase of \$400 for night duty pay, an increase of \$476 in pay for holidays worked, and an increase of \$50 in the uniform/dental allowance. The total of \$3159 amounts to an 8.8% monetary improvement.

In the year beginning June 1, 1987, the basic wage increase for fifth year officers of \$2278 is 6% above the 1986 salary. The award further provides \$400 of additional night differential, a further \$50 of uniform/dental allowance, and of \$31 in pay for worked holidays (because the hourly rate will rise with the increase in base salary). The total monetary increase for fifth year police officers will be 7.3%.

Since holiday compensation is computed from the contract's daily rate, this also will increase by the same percentage in each year.

Additional items with a money cost affect so few members that the chairman has not computed their percentage impact. These items are a \$250 increase in pay to detectives upon appointment and a \$500 increase to detectives after one year in grade. In addition, the five vacation days

in the first for new hires with academy training has some monetary cost, as do the two additional PBA days, if used.

Summary

The chairman expresses his appreciation for the effective presentations made in this proceeding. He is also grateful to his colleagues on the panel for their advice and assistance.

The undersigned impartial chairman having been duly sworn, and those panel members signing as concurring, issue the following

AWARD

1. The contract arising from this award shall be effective June 1, 1986 and shall expire May 31, 1988.
2. All items previously agreed upon by the parties including "termination payout over five years" are incorporated by reference into this award, and the predecessor contract shall be amended to reflect such items.
3. Longevity payments set forth in Article IV, Section II of the predecessor contract shall remain unchanged.
4. Article XII, Section 6, Blood Donor, shall be excised from the predecessor agreement, but no employee who has donated blood and received an additional day off prior to the receipt of this award from PERB shall be required to repay such additional days off.
5. The twelve work days of PBA leave provided by Article XII Section 2 shall be increased to fourteen, but this increase shall not take effect until the contract year commencing June 1, 1988.
6. Paid holidays shall remain at twelve and the rate of holiday compensation shall be computed from base salary in the same way as in the past.

7. The uniform maintenance/dental allowance provided in Article IV, Section IV shall increase to \$750 effective June 1, 1986 and to \$800 effective June 1, 1987.
8. The base salary of all officers and of all sergeants shall be increased by 6.25% for each step in the salary schedule for the year beginning June 1, 1986 and by 6% for each step in the salary schedule for the year beginning June 1, 1987. Holiday compensation will be increased in conformity with the changes in the basic salary schedule.

The salary schedule will continue to contain five steps. 1987 increases shall be compounded on those for 1986.

9. The words "and holiday overtime compensation" shall be excised from Article IV, Section III B.

A new provision shall be added to the contract providing four hours of pay at straight-time rates for each holiday worked.

10. Article IV Section III B. shall now reflect that the payments set forth therein are in lieu of night duty pay only. The amount of such pay for fifth year officer shall be \$1400 effective June 1, 1986 and \$1800 effective June 1, 1987. The pay by years of service, shall reflected the amended schedules set forth above in the discussion of night duty pay. The night duty pay of sergeants shall be the same as that of police officers with the same number of years of service.
11. Effective June 1, 1986, detectives shall receive \$1000 in addition to base salary upon appointment and \$2000 in addition to base salary after one year in grade.
12. New hires who have attended an accredited police academy shall receive five days of vacation during their first year of service and shall not have these days charged against vacation to be enjoyed in the second year of service.

Maurice C. Benewitz
Maurice C. Benewitz
Impartial Chairman

December 7, 1988

STATE OF NEW YORK)

ss:

COUNTY OF NASSAU)

On the seventh day of December, 1988, before me personally came Maurice C. Benewitz, to me known, and known to me to be the individual described in and who executed the foregoing instrument, and he duly acknowledged to be that he executed the same.

Louise M. De Mar

I (concur with) ~~(dissent from)~~ the above award

Notary Public
My Commission Expires Dec. 31, 1992

STATE OF New Jersey
COUNTY OF
HUDSON

P. Shea

Peter Shea
Employer Panel Member

Agnes Samato/Notary

On the *15th* Day of *December*, before me personally came Peter Shea, to me known, and known to me to be the individual described in and who executed the foregoing instrument, and he duly acknowledged to be that he executed the same.

I (concur with) ~~(dissent from)~~ the above award

*State of Pa.
Co. of Lebanon*

Joseph Sanchez
Joseph Sanchez
Employee Organization Panel Member

On the *17th* Day of *Dec. 1988* before me personally came Joseph Sanchez, to me known, and known to me to be the individual described in and who executed the foregoing instrument, and he duly acknowledged to be that he executed the same.

Loretta M. Baum

NOTARIAL SEAL
LORETTA M. BAUM, Notary Public
Palmyra Borough, Lebanon County, PA
My Commission Expires Feb. 23, 1992

LOUISE M. DE MAR
NOTARY PUBLIC, STATE OF NEW YORK
NO. 30-5977400
QUALIFIED IN NASSAU COUNTY
TERM EXPIRES JULY 31, 1990