

BACKGROUND

The parties are signatories to a Collective Bargaining Agreement which expired on December 31, 1999. Negotiations for a successor Agreement proved unsuccessful, as were mediation efforts. Consequently, pursuant to the rules and regulations of the Public Employment Relations Board ("PERB"), the undersigned Panel was constituted to hear and decide the dispute and to render an Interest Arbitration Award.

A hearing was held before us on May 18, 2001. Thereafter the parties submitted written closing statements, whereupon the record was closed. In addition, the Panel met in executive session on July 30, 2001. These findings follow.

POSITIONS OF THE PARTIES

PBA

The PBA seeks an award for calendar years 2000 and 2001 with annual wage increases of 4.75%. It asserts that these raises are fair in light of salary improvements in other contiguous, comparable communities. As the PBA sees it, the Towns of Yorktown, New Castle and North Castle not only border Bedford, but show strikingly similar characteristics. Moreover, it insists, these similarities are in keeping with the statutory criteria set forth in Section 209.4(C)(V) of

the New York State Civil Service Law ("Taylor Law"). Hence, it insists, the three (3) communities cited above form the relevant base for comparing Bedford to other communities.

The PBA notes that increases in North Castle were 4.0% for 2000 and 2001; in New Castle 4.0% for 2000 and 4.25% for 2001; and Yorktown 3.75% for 2000. It also suggests that substantial fringe benefit increases were granted in those communities. Hence, it urges, raises of 4.75% are justified to equal the total economic packages granted elsewhere.

In addition, the PBA argues that the Town can well afford the raises it seeks. The PBA submitted a review of the financial documents of the Town without objection. It maintains that the Town had a high fund balance at the end of 1999 and that it incorporated a 20.4% budget increase for 2001. Also, it suggests, the Town has enjoyed modest tax increases which averaged less than 2.2% over the last eight (8) years. Hence, it urges, there is no doubt that its proposed increases will not unduly burden Bedford's taxpayers. Accordingly, it asks that the Panel adopt its wage proposals.

The PBA has economic proposals in addition to its wage proposals. The PBA proposal on longevity is to compress the existing schedule and add \$50.00 to each

level.

The PBA asks that its members receive time and one-half if they work on New Year's Day, Memorial Day, Thanksgiving Day, Independence Day and Christmas Day. It points to neighboring communities in which officers receive this additional compensation while in Bedford only straight time is paid. Thus, it sees this proposal as an "equity" issue which should be awarded.

Concerning vacation leave, the PBA asks that the current two (2) tiered schedule, which affected those hired on or after December 31, 1991, be eliminated. In its view, disparate treatment of those officers hired after that date cannot be justified.

With respect to its welfare fund, the PBA asks that the current \$231.00 per member payment be increased to \$250.00 in 2000. It also seeks the elimination of the existing \$55,000 cap in the amount of life insurance that can be purchased for each police officer. In addition, it seeks an increase of \$10.00 per member in 2000 and 2001 to fund increased optical plan premiums, as well as providing that eligible dependents be included within these amounts.

The PBA also asks for \$50.00 increases in each year for uniform allowance for the uniformed and non-uniformed members, which is currently \$725.00 and \$825.00 respectively. The PBA also seeks a new

cleaning allowance benefit of \$550.00 and \$650.00 for the uniformed and non-uniformed members respectively. Therefore, it asks that the following schedule be adopted:

	<u>January 1, 2000</u>	<u>January 1, 2001</u>
Uniform	\$775.00	\$825.00
Clothing (non uniform)	\$875.00	\$925.00
Cleaning (all)	\$550.00	\$600.00

The PBA seeks economic improvements in existing benefits, as follows:

CFR-D or EMT-D Certification
 from \$800/\$2,000 to \$1,500/\$3,000
 B.A. stipend from \$1,000 to \$1,500

The PBA claims that raising the above stipends will continue to provide incentive to members to achieve and/or maintain a high standard to address the medical calls responded to by police officers and provide the community with a more educated and trained police force.

For the reasons set forth above, the PBA contends that its proposals are fair and reasonable and consistent with the statutory criteria. Accordingly, it asks that they be granted as presented.

TOWN

The Town acknowledges that it has the ability to pay fair wage increases. However, it disputes the PBA's contention that 4.75% increases for 2000 and 2001

are reasonable. The Town proposes a ten (10) year wage schedule for new hirees. The Town insists that comparable communities have received increases on their wage schedules less than the PBA is seeking, as follows:

	<u>2000</u>	<u>2001</u>
V/Briarcliff	3.375% (top grade)	3.375% (top grade)
V/Mount Kisco	3.25%	3.25%
T/New Castle	4.00%	4.00%
T/North Castle	4.00%	4.25%
T/Yorktown	3.75%	no contract
T/Ossining	3.00%	3.00%
V/Ossining	3.50%	3.75%

Moreover, the Town maintains, its current wage structure is highly competitive, exceeding that of most, if not all of the communities cited above. In light of the general wage increases granted in the municipalities it sees as comparables, the Town contends in its closing statement that the increases should be limited to 3.0% each year, along with a ten (10) step salary schedule for all new hires.

Concerning longevity payments, the Town maintains that no increase is warranted. It asserts that a twenty (20) year police officer receives the highest longevity payment of any comparable community in the area. The Town asserts that at the lower steps, Bedford's officers receive similarly high payments. Thus, the Town asks that the PBA's longevity proposal be rejected in its entirety.

The Town maintains that it needs numerous operational changes regarding the scheduling of Detectives and Lieutenants and of employees assigned to Squad 5. The Town proposes the Panel confirm the current practice whereby Detectives work the same number of days as the patrol force. It also argues that the Chief should have the right to schedule Lieutenants on any shift between 8:00 a.m. and Midnight. This is required, it stresses, because it needs to have Lieutenants work evening shifts to adequately supervise police officers, though it acknowledges that it does not intend to permanently assign a Lieutenant to a 4:00 p.m. to Midnight shift.

As to Squad 5, the Town sees no need to maintain its existence. It points out that due to an Arbitration Award rendered in January 2000, it may not change the tours of Squad 5 members. In its view, such a restriction improperly hampers its ability to staff the force and is unwarranted since all other squads are staffed at the Chief's discretion. Accordingly, it asks that references to Squad 5 be deleted from the Agreement. Similarly, the Town asks for the right to assign a flex Sergeant whenever it deems appropriate. In its view, the current system, whereby a flex Sergeant can only replace an existing Sergeant, is unduly restrictive.

The Town also seeks the right to place Detectives in on-call status if a Detective is not already scheduled to be on duty. This is necessary, it suggests, because crimes requiring the skills of a Detective can occur at any time. Therefore, it asks that the Panel grant its proposal.

The Town proposes that the procedure for approving tour switches be modified to eliminate the involvement of Sergeants. In its view, they neither approve nor disapprove such requests. Thus, it contends, their involvement is superfluous and wastes time.

Concerning overtime, the Town seeks the elimination of all compensatory time. Instead, it asks that overtime be paid out in the payroll period in which it is earned. This is necessary, it argues, because officers who take compensatory time generate more overtime if a police officer calls in sick, thereby resulting in the need to bring in a replacement. Thus, it contends, this proposal should be awarded to curtail burgeoning overtime costs.

Concerning sick leave, the Town notes that the Agreement provides for unlimited sick leave for officers. It argues that this is a very generous provision when compared to the sick leave granted in surrounding communities. As such, it maintains, its chronic sick leave proposal is necessary for it would

reduce the use of sick leave by:

- a. requiring doctors' notes for three (3) or more consecutive days of absence or from chronic sick leave users;
- b. limiting the ability of officers to work off-duty immediately before and after sick leave utilization;
- c. allowing the Chief to place various restrictions upon chronic sick leave users.

The Town asks that no more than one (1) Detective be permitted to take vacation at any one (1) time. It points out that a similar provision bars more than one (1) police officer on a squad from taking vacation at any one (1) time. It sees no reason why the same situation should not exist for Detectives.

The Town proposes language that would prohibit officers from taking time off when training and instruction is scheduled. It maintains that these activities are difficult to schedule and that limiting time off in this manner is not unduly burdensome. Therefore, it asks that the Panel award its proposal.

As to a change in the health insurance carrier and contribution, the Town seeks the ability to switch to a new carrier so long as benefits would be substantially equivalent to the existing plan and that a 25% premium contribution be required of all members. The Town maintains that numerous other communities require police officers to pay a portion of their health

insurance premiums in their first few years of service. It sees no reason why Bedford should be different in this regard.

Concerning requests for time off, the Town asks that ten (10) calendar days' notice, instead of the current five (5), be required in advance of the days sought. It maintains that longer notice is required to give Lieutenants, who must approve or disapprove the request, ample time to respond.

The Town proposes the adoption of its substance abuse testing procedure. It suggests that such a procedure will demonstrate to the public that its police officers are substance free. It also notes that the Department of Public Works employees who are represented by Local 456 are already subject to such a provision.

The Town contends that some restrictions are needed upon the right of officers to engage in off-duty employment. It maintains that without any restrictions, officers may place themselves in compromising positions which reflect discredit upon themselves or the Town. Thus, it insists, it needs some ability to restrict the type of work, hours of work or location of work regarding off-duty employment.

Concerning Section 207-C of the General Municipal Law, the Town asks that an officer lose all contractual

benefits after being out for more than one (1) month. In its view the current system is unfair for it treats injured officers the same as those who are actively working. Also, the Town asks that officers on 207-C leave be confined to their home during their regularly scheduled tour of duty. It notes that those on sick leave are subject to this restriction. It sees no reason why officers on 207-C leave should be treated any different.

For these reasons the Town contends that its proposals are fair, reasonable and consistent with the statutory criteria to bargaining unit members while safeguarding its need to operate efficiently. Accordingly, it asks that they be awarded as presented.

DISCUSSION AND FINDINGS

Section 209 of the Civil Service Law ("Taylor Law") sets forth the parameters which an Interest Arbitration Panel must utilize in deciding terms and conditions of employment. These criteria are as follows:

- a. comparison of 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 qualifications; (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.

Civil Service Law, Sec. 209(4)(c)(v)

The criteria listed above require the Panel to apply a balance, in conjunction with the testimony and other evidence of record. In evaluating each of the proposals before it, the Panel has applied all of statutory criteria and it has fully and carefully considered the entirety of the record evidence and the parties' arguments. With these criteria in mind, the Panel turns to the specific issues before us.

1. Term of Award

The Taylor Law bars an award longer than two (2) years, absent agreement of the parties. No such agreement exists here. Thus, and despite the Chairman's belief that a longer award might well serve

their mutual interests, the Panel is required to issue an award for the period January 1, 2000 through December 31, 2001.

2. Wages

The criteria listed above require the Panel to balance the interests and welfare of the public, including but not limited to its ability to pay, with the right of the Officers to be paid reasonable compensation, based upon a comparison of the wages in Bedford with those of other, similarly situated employees in comparable communities, as well as with other employees generally in public and private employment in those communities.

As to the former criterion, there is no doubt that the Town of Bedford has the ability to pay reasonable wage increases without unduly burdening taxpayers (See PBA Exhibit 29). An examination of the Town's fiscal condition by outside consultant Edward J. Fennell reveals that the Town had sizable fund balances at the end of the 1999 and 2000 fiscal years, as well as projected for this year, and that Town taxes have risen very modestly over the last eight (8) years (i.e., 2.21% on average). Given these and related data, the Town's ability to pay is not at issue here.

Also, the interests and welfare of the public dictate that police officers, who are charged with

safeguarding the residents and their property, be reasonably compensated. Were wages in Bedford to fall substantially below those in comparable communities, police officer morale would surely decline with an unavoidable impact upon the quality of services performed.

The Town's superior fiscal condition, however, does not mandate an award of the 4.75% increases for 2000 and 2001 as proposed by the PBA. The PBA's proposal should not be awarded because wages in Bedford are competitive with other comparable communities. Moreover, 4.75% increases have not been garnered anywhere else. Thus, they cannot be justified based upon the statutory criteria cited above.

Instead, the Panel finds, wage increases of 3.7% for 2000 and 2001 are warranted. While they are lower than the communities cited by the PBA as comparables, they exceed the communities cited by the Town as comparables. As such, they fairly reflect wage patterns elsewhere. Accordingly, the Majority awards the following wage increases:

Effective January 1, 2000 - 3.7%
Effective January 1, 2001 - 3.7%

3. Longevity

There is no doubt that longevity payments in Bedford are very competitive when compared with other

areas. Consequently, the PBA's proposal to compress the years of service schedule, thereby accelerating receipt of longevity cannot be awarded. Accordingly, the Majority awards no compression to the schedule.

This is not to say that no increase in longevity is warranted. The data reveals that most police officers received longevity increases in 2000 and 2001. The range of such increases is from \$50.00 to \$200.00. Thus, the Majority concludes, a minimal increase is justified and we award a raise of \$25.00 in longevity payments on each level of the existing schedule, effective January 1, 2000.

4. Welfare Fund

The current level of payment is \$231.00. Clearly insurance premiums are rising. The increases proposed by the PBA are modest and are a reflection of rising costs. Therefore, the Majority awards increases as follows:

Effective January 1, 2000 - \$240.00 per
member/year
Effective January 1, 2001 - \$250.00 per
member/year

In addition, the elimination of the \$55,000.00 cap on the amount of life insurance available for purchase on each police officer is appropriate. Thus, the Majority awards eliminating the \$55,000.00 life insurance limit.

5. Optical Fund

Consistent with the foregoing, the Majority awards an increase to the Welfare Fund contributions for the Optical Plan as follows:

Effective January 1, 2000 - \$135.00 per member
Effective January 1, 2001 - \$140.00 per member

In addition, the Majority awards that the Optical Plan benefits should also be available to eligible dependents consistent with the current practice.

6. Uniform/Cleaning Allowance

The expired Agreement provides for a combined Uniform/Cleaning Allowance for uniformed and non-uniformed personnel of \$725.00 and \$825.00 respectively. Other communities provide a combined uniform/cleaning allowance of as much as \$975.00 and \$1,000.00. Therefore, the Majority awards the following increases:

Uniformed Personnel

Effective January 1, 2000 - \$750.00
Effective January 1, 2001 - \$775.00

Non-uniformed Personnel

Effective January 1, 2000 - \$850.00
Effective January 1, 2001 - \$875.00

7. Off-Duty Employment

The Majority does not agree with the Town that substantial restrictions upon off duty employment are justified. Generally speaking, what an officer does on his/her own free time is not subject to control by the

employer.

On the other hand, police officers do function in the public eye. What they do on their own time may have an adverse impact upon job performance or the public perception of their ability to function effectively.

Currently, the Town has no indication of the type of off-duty employment acquired by police officers. Clearly, it should have, if only to be able to alert officers of potential adverse consequences of certain types of off-duty employment upon on-duty performance. This determination should not be viewed as license for the Department to impermissibly intrude into the private lives of police officers. For example, where an officer indicates that he/she occasionally cuts a neighbor's lawn for pay, no further inquiry by the Department would be justified. On the other hand, the Department must be apprised of off-duty employment in case it reasonably believes that such activity might negatively impact upon on-duty performance. Thus the Majority awards that all police officers who engage in off-duty employment shall advise the Chief of Police or designee of the nature and hours and days of work, to the extent known, ten (10) calendar days prior to beginning such employment. The Chief of Police or designee may waive the ten (10) calendar days notice.

Thus, to this extent only, the Town's proposal concerning off-duty employment is granted.

8. Notice of Requests for Time Off

The Majority concludes that the Town's proposal has some merit. The current agreement requires a request for personal leave to be submitted five (5) days prior to the day desired and an answer of availability the day desired to be given at least three (3) days prior to that date. The current practice is the same as the foregoing and applied for other time off (i.e., compensatory and vacation time). Lieutenants, who approve or deny requests for that time off, have a three (3) day weekend every other week. As such, circumstances arise where they may not process the request in accordance with the contract or current practice described. Therefore, the Majority awards that members shall provide at least seven (7) calendar days notice of a request for time off, including tour switches, except in unforeseen circumstances, or when the notice period is waived by the Lieutenant(s). This notice period will allow all requests to be processed timely. To this extent only, the Town's proposal concerning notice is granted.

9. Labor Management Committee

The parties have existing contract language which has specific members appointed, including a member at

large from the community and a chairman who is from the Town Board. The current language is restrictive. The purpose of such a committee is for the parties to attempt resolution of mutual concerns. It's not prudent to have a committee with such formality, including votes without a balance. Therefore, the Majority awards the following:

The PBA President and Town Supervisor shall meet at the request of either party, with no more than two (2) other representatives, respectively, to discuss questions or differences of opinion concerning the administration of this contract or other terms and conditions of employment. The request shall be in writing, addressed to the Town Supervisor or designated representative or PBA President or designated representative at their respective addresses, and shall contain a statement of the specific subject matter or matters to be reviewed.

The labor management meeting shall be scheduled by mutual agreement. In the event the matter relates to a grievance, the parties may mutually agree to suspend and/or expand the time limit to file a grievance as set forth in Article XVI - Grievance Procedure.

Any agreement or understanding reached between the parties shall be reduced to writing and signed by an authorized representative of each party and attached and made a part of this agreement.

10. Grievance Procedure

Within the parties' existing procedure, there is no specific time requirement as to when a grievance is to be filed, as well as to when the filing of a grievance is to be initially submitted to the immediate

supervisor. There should be a specific time period when a grievance is to be filed. A direct line supervisor should not be responding on behalf of the Town. The grievance procedure requires that a decision of the Chief of Police be submitted to the labor management committee. This is unnecessary and delays the process, especially applying the previous labor management language. A Town representative should hear any appeal of the Chief of Police's determination. That representative should be the full-time Town Supervisor. Also, the existing procedure does not provide for the ability of the parties to mutually agree on a named arbitrator before a demand for arbitration is submitted to obtain a list using the New York State Public Employment Relations Board (PERB). Consequently, the Majority awards the following:

Section 3 - Include the following changes:

A grievance shall be filed no later than ninety (90) calendar days after the PBA President and/or grievant knew or should have known of the violation.

Section 4 - Procedure - Step 1:

Insert "the Chief of Police" where "to his/her immediate supervisor in writing or at the level of the origin of the grievance" appears.

Section 4 - Procedure - Step 2:

Delete the 1st sentence in its entirety.

Section 4 - Procedure - Step 3 - Amend to read as follows:

If the aggrieved and his/her representative, if represented, are not satisfied with the decision of the Chief of Police, the grievance shall be submitted to the Town Supervisor. The Town Supervisor, in consultation with the Town Board, shall render a written decision within fifteen (15) calendar days after receipt of the grievance.

Section 4 - Procedure - Step 4(a) - Amend to read as follows:

If the grievance is not resolved, only the PBA shall be authorized to submit the matter to arbitration as set forth herein. The PBA and the Town shall attempt to mutually agree on a named arbitrator within ten (10) calendar days of receipt of the Town Supervisor's written decision. If the parties are unsuccessful in naming an arbitrator, the PBA shall have thirty (30) calendar days thereafter to file a Demand for Arbitration with the New York State Public Employment Relations Board (PERB) for the selection of an arbitrator in accordance with their rules in effect at that time.

11. Bill of Rights

There is no language currently providing for specific rights of an employee who is interrogated in connection with an official investigation which may lead to charges. An employee should have rights with regard to investigations, but not to impede or delay such an investigation. Based on the foregoing, the Majority awards the following:

- Section 1 - The following provisions which shall be known as a Bill of Rights are hereby established for the unit members covered by this collective bargaining agreement when interrogated by any individual of the Town in connection with an official investigation which

may lead to any type of charges.

- A. Unit members of the force hold a unique status as public officers in that the nature of their office and employment involves the exercise of a portion of the power of the municipality.
- B. The security of the community depends to a great extent on the manner in which police officers perform their duties. Their employment is thus in the nature of a public trust.
- C. The cognizance and control of the government administration, disposition and discipline of the department is the responsibility of the Town and Chief of Police. In administering the department, the law empowers the Town to appoint numerous superiors to exercise various powers to command over subordinates. In addition, they have promulgated various rules and procedures to guide members of the force in the performance of their duties.
- D. The wide ranging powers and duties given to the department and its members involve them in all manner of contacts and relationships with the public. From these contacts come many questions concerning the actions of members of the force. These questions often require immediate investigation by superior officers. In an effort to ensure that these investigations are conducted in a manner which is conducive to good order and discipline, the following guidelines are promulgated:
 - 1. The interrogation of a unit member shall preferably be held when the unit member is on duty, unless the exigencies of the investigation dictate otherwise. When practical, interrogations should be scheduled for the day time and should not interfere with Department operations.
 - 2. The interrogation shall take place at a location designated by the investigating officer.
 - 3. The unit member shall be informed of the

rank and name of the interrogating officer in charge of the investigation and all personnel present during the interrogation. If a unit member is directed to leave his/her post or assignment and report for interrogation to another post or assignment, his/her superior shall be promptly notified of his/her whereabouts by the affected unit member.

4. The unit member shall be informed of the nature of the investigation before interrogation commences. If it is known that the member of the force being interrogated is a witness only, he/she should be so informed at the initial contact.
5. The questioning shall not be overly long. Reasonable respites shall be allowed. Time shall be also provided for personal necessities, meals, telephone calls and rest period as are reasonably necessary.
6. The complete interrogation of the unit member shall be recorded by audiocassette or by a stenographer, with a copy provided to the unit member(s) within a reasonable time after the conclusion of the interrogation.
7. If at any time prior to or during the questioning of a unit member, the individual conducting the interview becomes or should be aware that the unit member being questioned may be or may become the subject of a criminal investigation, that member shall be provided with all their constitutional rights. Thereafter, the unit member shall not be required to provide a voluntary statement. However, if the unit member is then ordered by the Chief of Police or his designee to answer the question(s) put forth to him/her, the unit member shall answer and is entitled to immunity from criminal prosecution based upon the answer(s) or information derived from the answer(s) given by him/her during such questioning.

8. The aforementioned guidelines shall be observed by the Town in conducting investigations of alleged actions of any unit member who is the subject of a disciplinary matter.

12. Personnel Files

There is no language currently providing for an orderly mechanism for placement of material into an employee's personnel file, as well as a right to respond and inspect his/her file. Based on the foregoing, the Majority awards the following:

An employee shall be entitled to review his/her personnel file, maintained at the Police Department, in the presence of the Chief of Police or designee, on five (5) calendar days notice. No complaint, report, memoranda or material, except pre-employment material and normal payroll and attendance records shall be placed into an employee's personnel file until such time as the employee has had an opportunity to read same and to provide a response to be filed therewith. An employee shall be entitled to copies of items therein, not previously provided, at the Employer's expense. The employee shall be required to initial and date the times reviewed in a place that shall not cause the item to be illegible. The employee shall have the right to respond to any item intended to be placed into his/her personnel file that is adverse to them and made a part of the file.

13. General Municipal Law Section 207-c Procedure

There is no formal procedure currently providing for the Town or employees' rights and obligations regarding General Municipal Law Section 207-c benefits. The parties are well served by having such a procedure which provides for an orderly

administration in processing applications and hearing rights thereunder. Based on the foregoing, the Majority awards the following which is attached hereto as Appendix "A" and made a part of this award.

14. Other Proposals

The Majority rejects all other proposals of the parties, whether or not specifically addressed herein. The Panel has reviewed the other proposals submitted by the parties. The majority of the Panel find insufficient evidence in the record to support their inclusion into this award. In addition, we make the following observations concerning some of them:

a. Town's Proposals concerning Sick Leave

Nothing in the Agreement bars the Town from seeking to curb excessive sick leave use. However, it is unfair to institutionalize bargaining unit procedures where the Town believes that one (1) or two (2) individuals may be chronic sick leave users.

b. Detective On-Call Procedures

The parties are encouraged to revisit this issue on their own. It may well be that an appropriate procedure, including safeguards and compensation, can be mutually agreed

upon. However, based upon the record before us, the Majority of the Panel finds insufficient evidence to award the Town's proposal.

- c. Health Insurance Premium Payments - It is true that some jurisdictions provide for some limited form of premium payment for new hires but not existing employees. The Majority of the Panel is persuaded that the Town's proposal is not warranted. Accordingly, it is denied.

AWARD

1. Term of the Award - The term of this award shall be January 1, 2000 through December 31, 2001.
2. Wages - Wages shall be increased as follows:
Effective January 1, 2000 - 3.7%
Effective January 1, 2001 - 3.7%
3. Longevity - Longevity payments shall be increased by \$25.00 on each level effective January 1, 2000.
4. Welfare Fund - Effective January 1, 2000, the Town shall contribute \$240.00 per member.
Effective January 1, 2001, the Town shall contribute \$250.00 per member.
The \$55,000 life insurance cap shall be eliminated.
5. Optical Fund - Effective January 1, 2000, the Town shall contribute \$135.00 per member.
Effective January 1, 2001, the Town shall contribute \$140.00 per member.
Optical Benefits shall be made available to eligible dependents.
6. Uniform/Cleaning Allowance
The Uniform/Cleaning Allowance shall be increased to the following amounts:
Uniformed Personnel
January 1, 2000 - \$750.00
January 1, 2001 - \$775.00

Non-Uniformed Personnel

January 1, 2000 - \$850.00

January 1, 2001 - \$875.00

7. Off-Duty Employment

Effective the date of the execution of this award, all police officers who engage in off-duty employment shall advise the Chief of Police or designee of the nature and hours and days of work, to the extent known, ten (10) calendar days prior to beginning such employment. The Chief of Police or designee may waive the ten (10) calendar days notice.

8. Notice of Requests for Time Off

A member shall provide at least seven (7) calendar days notice of a request for time off, including tour switches, except in unforeseen circumstances, or when the notice period is waived by the Lieutenant(s).

9. Labor Management Committee - see text.

10. Grievance Procedure - see text.

11. Bill of Rights - see text.

12. Personnel Files - see text.

13. General Municipal Law Section 207-c

See Appendix A.

14. Other Proposals - see text.

	<u>Concur</u>	<u>Dissent</u>
1.	<i>XVS</i>	
2.	<i>XVS</i>	
3.		<i>XVS</i>
4.	<i>XVS</i>	
5.	<i>XVS</i>	
6.	<i>XVS</i>	
7.		<i>XVS</i>
8.		<i>XVS</i>
9.	<i>XVS</i>	
10.	<i>XVS</i>	
11.	<i>XVS</i>	
12.	<i>XVS</i>	
13.	<i>XVS</i>	
14.	<i>XVS</i>	

DATED:
11/8/01

Anthony V. Solfaro

 ANTHONY V. SOLFARO
 EMPLOYEE ORGANIZATION PANEL MEMBER

STATE OF NEW YORK)
) s.s:
 COUNTY OF ORANGE)

I, Anthony V. Solfaro, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is my award.

DATED:
11/8/01

Anthony V. Solfaro

 ANTHONY V. SOLFARO
 EMPLOYEE ORGANIZATION PANEL MEMBER

APPENDIX "A"

GENERAL MUNICIPAL LAW SECTION 207-C PROCEDURE

Section 1. Applicability

Section 207-c of the General Municipal Law provides that any Police Officer of the Police Department of the Town of Bedford

"who is injured in the performance of his duties or who is taken sick as a result of the performance of his duties so as to necessitate medical or other lawful or remedial treatment shall be paid by the municipality by which he is employed the full amount of his regular salary or wages until his disability arising therefrom has ceased and, in addition, such municipality shall be liable for all medical treatment and hospital care necessitated by reason of such injury or illness."

The following procedures shall regulate the application and benefit award process for 207-c benefits.

Section 2. Definitions

- a) **Employer:** The Town of Bedford
- b) **Chief:** The Chief of Police of the Town of Bedford
- c) **Claimant:** Any Police Officer of the Town of Bedford who is injured in the performance of his/her duties or who is taken sick as a result of the performance of his/her duties.
- d) **Claims Manager:** The individual designated by the Employer who is charged with the responsibility of administering the procedures herein which may include the Chief of Police.

Section 3. Application for Benefits

1. (a) Any Claimant who is injured in the performance of his/her duties, or is taken sick as a result of the performance of his/her duties, shall file an application for benefits with the Claims Manager within ten (10) calendar days after the incident

giving rise to the injury or sickness or within ten (10) calendar days after the Claimant should have become aware of the injury or illness. Upon good cause shown, an application for Section 207-c benefits may be entertained in the discretion of the Claims Manager, notwithstanding the failure to file the necessary application within the required ten (10) calendar days.

(b) The Claimant shall be permitted to file documentation to supplement the original application for benefits under the following circumstances:

- (i) after filing the application, but before the determination of the Claims Manager and
- (ii) as set forth in Section 11 of this procedure.

(c) All applications for Section 207-c benefits shall be in writing, using official application form(s), which shall include the following:

- (i) the time, date and place where the injury or illness producing incident occurred;
- (ii) a detailed statement of the particulars of the incident;
- (iii) the nature and extent of the Claimant's injury or illness;
- (iv) the Claimant's mailing address;
- (v) the names of any potential witnesses; and
- (vi) the name and address of all of the Claimant's treating physicians.

(d) A copy of the Department line of duty incident report shall be attached to the application.

2. An application for Section 207-c benefits may be filed by either the Claimant or by some other person authorized on behalf of the Claimant where the Claimant's injury or illness prevents him/her from filing the Department line of duty incident report or Section 207-c benefits application.

Section 4. Authority and Duties of Claims Manager

1. The Claims Manager shall have the sole and exclusive authority to determine whether a Claimant is entitled to Section 207-c benefits. In making the determination, the Claims Manager shall examine the facts and circumstances giving rise to the application for such benefits.
2. The Claims Manager's authority shall include, but not be limited to, the following:
 - (a) employ experts and specialists to assist in the rendering of the determination of eligibility;
 - (b) require the production of any book, document or other record that pertains to the application, injury, or illness;
 - (c) require the Claimant to submit to one (1) or more medical examinations related to the illness or injury;
 - (d) require the Claimant to sign forms for the release of medical information that bears upon the application;
 - (e) require the attendance of the Claimant and all other witnesses for testimony upon reasonable notice; and
 - (f) do all that is necessary or reasonable in the processing of said application.
3. A Claimant must cooperate with the Employer and provide all necessary information, reports and documentation.
4. A determination of initial eligibility by the Claims Manager shall be made within a reasonable time, based upon the investigation, without holding a hearing.

The Claims Manager shall mail a written copy of his/her decision to the Claimant and the Chief within ten (10) calendar days of his/her determination. The written determination shall set forth the reasons for the Claims Manager's decision.

A written request for a hearing to appeal from an

initial determination of the Claims Manager must be filed with the Claims Manager within ten (10) calendar days after mailing of the determination to Claimant. The Claims Manager shall arrange for a hearing to be held pursuant to Section 11 of this procedure.

Section 5. Time Off Pending Initial Determination

1. Pending the initial determination of benefit eligibility, any time off taken by the Claimant that he/she claims is the result of the injury or illness giving rise to the application, shall be charged to the Claimant's sick leave time. If the Claimant is granted Section 207-c benefits, the sick leave time used will not be applied to the Claimants use of sick leave.

Section 6. Medical Examinations and Treatment

1. After the filing of an application, the Claims Manager may require a Claimant/Recipient to submit to such medical examinations as may be directed by the Claims Manager, including examinations necessary to render an initial or final determination of eligibility, to determine if the Claimant/Recipient is able to perform his/her regular duties or light duty assignments as set forth in Section 7 of this procedure, and/or examinations required to process an application for ordinary and accidental disability retirement. The Claims Manager may also require a Claimant/Recipient to submit to medical treatment. Such treatment may include, but is not limited to, medical and/or surgical techniques deemed necessary by the appointed physicians. Any Section 207-c recipient who refuses to accept such examination(s) and/or medical treatment shall be deemed to have waived his/her rights under Section 207-c after such refusal. The Claims Manager shall provide written notice to the Claimant/Recipient that his/her benefits are being terminated pursuant to Section 10 of this procedure, on the basis of the refusal. A Claimant/Recipient contesting the termination must make written request for a hearing to appeal to the Claims Manager within ten (10) calendar days after mailing of the termination notice, and the Claims Manager shall arrange for a hearing pursuant to Section 11 of this procedure. The Claimant/Recipient shall cooperate in scheduling of the examination(s) and treatment, providing

medical records relating to the injury or illness to the Employer's examiner, and in answering questions placed by the health care provider relating to the injury or illness.

2. **Medical Reports.** All physicians, specialists and consultants treating a Claimant/Recipient of Section 207-c benefits shall be required to file a copy of any and all reports with the Claims Manager. The Claimant/Recipient shall execute all necessary releases and shall be responsible for the filing of said reports. The Claimant/Recipient shall receive a copy of the medical reports filed with the Claims Manager. The medical reports which are filed shall remain confidential and only released for purposes of administering the procedures herein, Workers' Compensation and applications made pursuant to the Retirement and Social Security Law.
3. **Payment for Medical and Related Services.** A Claimant approved to receive Section 207-c benefits must notify the Claims Manager of expenses for medical services, hospitalization, or other treatment alleged to be related to the injury or illness giving rise to the claim. Unless in an emergency, notice shall be made prior to the incurring of the expense.
4. Any claim for surgical operations or physiotherapeutic procedures (i.e., chiropractic care or physical therapy) must be pre-approved by the Claims Manager, unless it was required in an emergency. Determinations of the Claims Manager under this paragraph shall be based upon medical documentation.
5. Bills for medical services, drugs, appliances or other supplies will require filing a copy of the medical bill and/or prescription by a doctor with the Claims Manager for the particular items billed, stating thereon that the items were incurred as a consequence of the injury or illness upon which claim for benefits is based. The Employer reserves the right to arrange for alternate methods for the Claimant to receive prescriptions, applications and supplies (For example: prescription drug card).

Section 7. Light Duty Assignments

1. Any recipient may be examined by a physician chosen by the Claims Manager to determine the recipient's ability to perform specified light duty. Any recipient deemed able to perform specified light duty by the Claims Manager, based upon medical documentation, may be directed by the Chief, in his/her sole discretion, to perform such light duty.
2. A recipient who disagrees with the order to report for light duty and has conflicting medical documentation that he/she is unable to undertake light duty shall submit the medical documentation to the Claims Manager within ten (10) calendar days of mailing of the order to report for light duty. The Claims Manager shall review said medical documentation and within ten (10) calendar days of its receipt shall issue to the Chief and recipient a decision as to whether the order to return to light duty should be confirmed, modified or withdrawn. If the recipient is dissatisfied with the decision, he/she may request, in writing, a hearing to appeal from the decision within ten (10) calendar days after mailing of the decision. The Claims Manager shall arrange for a hearing to be held pursuant to Section 11 of this procedure.
3. Payment of full Section 207-c benefits shall be continued with respect to a recipient who submits conflicting medical documentation with the order to report to light duty, until it is determined whether the recipient is capable of performing the light duty. Where a determination has been made by the Claims Manager that the recipient can report to and perform light duty and that individual fails or refuses to perform light duty that recipient's Section 207-c status shall be discontinued.

Section 8. Changes in Condition of Recipient

1. Every Section 207-c recipient shall be required to notify the Claims Manager of any change in his/her condition which may enable the recipient to return to normal duties or be classified as eligible for light duty. This notice shall be made in writing within forty-eight (48) hours of any such change.

Section 9. Right of Perpetual Review and Examination

1. The Claims Manager shall have the right to review the eligibility of every Section 207-c recipient throughout the period during which benefits are received. This right shall include, but shall not be limited to:
 - (a) requiring recipient to undergo medical examination(s) and treatment by physician(s) or medical provider(s) chosen by the Claims Manager;
 - (b) requiring recipient to apprise the Claims Manager as to his/her current condition; and
 - (c) requiring recipients or any other involved parties to provide any documentation, books or records that bear on the recipient's case.

Section 10. Termination of Benefits

1. If, for any lawful reason, including, but not limited to, all those reasons specified in these procedures, the Claims Manager determines that a recipient is no longer or was never eligible for benefits, the Claims Manager shall notify the recipient in writing of the termination and reason for the termination. Notice of such termination, and the reasons therefore, shall be served by mail upon the recipient and the Chief. If the recipient requests a hearing pursuant to Section 11 of this procedure, pending a determination by the Claims Manager with respect to the recipient's eligibility, the recipient shall continue to receive Section 207-c benefits.

Section 11. Hearing Procedures

1. Hearings requested under the provisions of this procedure shall be conducted by a neutral Hearing Officer. The following individuals shall serve as Hearing Officers:
 - A. Ben Falcigno
 - B. Rosemary Townley
 - C. Joel Douglas
 - (a) The above named Hearing Officers shall be used on a rotational basis. The hearing shall be conducted within sixty (60) calendar days of the request. In the event the Hearing Officer

next on the rotation cannot conduct the hearing, the rotation of the list shall continue until a Hearing Officer is reached who can comply with this time limit. In the event none of the Hearing Officers are available within sixty (60) calendar days, the Hearing Officer who has the first available date will be assigned.

- (b) The review of the Hearing Officer shall be limited to the record before the Claims Manager in making the determination under review. No new evidence, in medical reports or otherwise shall be allowed to be presented by either party, except that testimony of the person(s) whose reports were reviewed by the Claims Manager shall be permitted.
- (c) After requesting a hearing, the Claimant/Recipient shall be permitted to submit additional information to the Claims Manager as long as said submission is made no later than thirty (30) calendar days prior to the date of the scheduled hearing. The Claims Manager shall review the documentation and inform the Claimant/Recipient in writing within seven (7) calendar days of the submission, as to whether the determination that is the subject of the hearing will be modified. So long as the Claimant/Recipient meets the time requirements in this provision, should the Claims Manager's determination remain unchanged, the record before the Hearing Officer may include the additional submission of Claimant/Recipient.
- (d) The scope of review of the Hearing Officer shall be whether the Claims Manager had a reasonable basis for his/her determination.
- (e) The Claimant may be represented by a designated representative and may subpoena witnesses. Each party shall be responsible for all fees and expenses incurred in their representation. The hearing shall have a transcribed record, which shall be the official record of the proceeding. The Employer shall provide a copy to the Claimant/Recipient or his/her designated representative and Hearing Officer upon receipt. The Hearing Officer shall render and submit to the Town Board, with a copy to the

Claimant/Recipient's representative, written Findings and Recommendations within thirty (30) calendar days after the close of the hearing. The Town Board shall provide its written determination within ten (10) calendar days after receipt of the Findings and Recommendations. Any such determination of the Town Board shall be reviewable pursuant to the provisions of Article 78 of the Civil Practice Law and Rules. The fees and expenses of the hearing, including transcript costs and fees of the Hearing Officer, shall be paid by the Employer.

2. In the event there is a sole medical dispute between the employee's doctor and the Employer's doctor as to whether the employee is or was disabled and unable to perform his/her regular duties, the parties agree to select a third (3rd) mutually designated physician whose medical opinion will be binding upon the parties as to disability. If the parties are unable to agree upon a third (3rd) neutral physician, he/she will be appointed from an appropriate board certified medical list by the parties. The fees and expenses of that physician shall be paid equally by the parties.

Section 12. Coordination with Worker's Compensation Benefits

1. Upon payment of Section 207-c benefits, any wage or salary benefits awarded by the Worker's Compensation Board shall be payable to the Employer for periods during which a Claimant received Section 207-c benefits. If the Claimant shall have received any Worker's Compensation benefits hereunder which were required to be paid to the Employer, the Claimant shall repay such benefits received to the Employer, or such amounts due may be offset from any Section 207-c benefits thereafter. Upon termination of Section 207-c benefits, any continuing Worker's Compensation benefits shall be payable to the Claimant. The parties shall not be bound by a determination of the Worker's Compensation Board.

Section 13. Discontinuation of Salary and Wage Benefits Upon Disability Retirement

1. Payment of Section 207-c benefits shall be discontinued with respect to any Claimant who is

granted a disability retirement pension as provided by law.

Section 14. General

1. Any reference related to General Municipal Law Section 207-c benefits is informational only, and is not intended to reduce, add or enlarge the benefits or rights contained in the statute or any amendments made thereto, unless so specified. The intent is to read this procedure in conformity with General Municipal Law Section 207-c. The procedure is not intended to increase, diminish or impair the level of benefits and/or terms and conditions of employment currently received by General Municipal Law Section 207-c recipients pursuant to the statute, expressed provisions of the collective bargaining agreement or practice.
2. The only issues applicable to a Hearing Officer are determinations of initial eligibility, order(s) to return to light duty based on conflicting medical documentation or termination of Section 207-c benefits.
3. After returning to full duty from a Section 207-c injury or illness, a claim for benefits based on a recurrence of the injury or illness shall be treated as a new application for Section 207-c benefits.