

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

APR 11 2011

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In the Matter of Interest Arbitration

COMPTROLLER OF THE STATE

between

Opinion and Award

Seneca County/Seneca County Sheriff

and

(PERB Case No. IA2011-005)

Seneca County Deputy Sheriffs' PBA  
(Affiliated with AFSCME Council 82)

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Having determined that a dispute continues to exist in negotiations between Seneca County/Seneca County Sheriff (hereafter County) and the Seneca County Deputy Sheriffs' Police Benevolent Association (hereafter Union), the New York State Public Employment Relations Board, pursuant to its authority under the Taylor Law, designated a tripartite Public Arbitration Panel for the purpose of making a just and reasonable determination of the dispute. The designated Panel comprises Peter A. Jones, Esq., as the Public Employer Panel Member; Ennio J. Corsi, Esq., as the Employee Organization Panel Member; and Howard G. Foster as the Public Panel Member and Chairperson. This Award constitutes the Panel's determination of the issues in dispute.

**APPEARANCES**

*For the Employer:*

- Colin Leonard, Attorney
- Frank R. Fisher, County Attorney
- Frank Sinicropi, Personnel Officer
- Nicholas Sciotti, Treasurer
- Jack S. Stenberg, Sheriff

*For the Union:*

Matthew Ryan, Attorney, AFSCME Council 82  
Greg Carey, Staff Representative, AFSCME Council 82  
Gary Storrs, Labor Economist, AFSCME National Office  
Frank Eldredge, PBA President  
Robert Lahr, Sheriff's Investigator  
Michael Schell, Sheriff's Sergeant

## **BACKGROUND**

The previous Collective Bargaining Agreement (CBA) between the parties expired on December 31, 2009. Negotiations for a successor agreement began in September 2009 and continued through March 1, 2011, when impasse was declared by the County. Subsequent mediation under **PERB's** auspices was unsuccessful, and the PBA petitioned for interest arbitration on June 17, 2011. A hearing in the matter was held on December 16, 2011, at the Seneca County Office Building in Waterloo, New York. Prior to the hearing, the parties exchanged exhibits and pre-hearing statements. At the hearing, testimony was taken from three County witnesses and four Union witnesses. Upon submission of post-hearing briefs by both sides on January 27, 2012, the record was closed. The Panel's charge under the law is to make determinations on the submitted issues for the years 2010 and 2011.

Under Civil Service Law §209.4(g), the Panel is limited to issues "directly relating to compensation." At the time of the hearing, there were two issues about which there was controversy as to whether they are subject to interest arbitration, and which were before **PERB** for its determination as to arbitrability. **PERB** subsequently determined that the issues were arbitrable, and they are addressed in this Award. There are a total of ten unresolved subjects that are properly before the panel (two of which involve proposals for change from both sides). These are the ten issues:

1. Shift Differential
2. K-9 Pay
3. Court Time Call-in Pay
4. On-Call Pay for Investigators
5. Field Training Officer Pay
6. Health Insurance Opt-Out
7. Uniform Allowance
8. Educational Stipend
9. Longevity Pay
10. Wages

The discussion below will address each topic as follows: the current provision in the CBA, if any; the proposal(s) for change; the positions of the parties on the proposed change(s); the Panel's analysis; and the Panel's award.

Seneca County is a largely rural county in Central New York. It is home to about 35,000 people. The Sheriff's Department is one of three local police agencies in the County, the others being village police forces in Waterloo and Seneca Falls. The present bargaining unit consists of 28 law-enforcement personnel, including deputies, sergeants, lieutenants, investigators, and investigative sergeants.

### **Comparable Communities**

One of the standards that the Taylor Law instructs arbitration panels to consider is the compensation of employees performing similar services in "comparable communities." The parties agree that the benchmark for employees "performing similar services" is law-enforcement personnel in sheriffs' departments. They also agree generally that the benchmark for "comparable communities" is nearby counties. In this regard, the Union would include *all* of the counties contiguous to Seneca County in Central New York, namely, Cayuga, Ontario, Schuyler, Tompkins, Wayne and Yates. The County would limit the comparison to Cayuga, Schuyler, Wayne and Yates. The Union contends that the six neighboring counties constitute the appropriate comparative

universe because they are all close by, operate in the same labor market, and have similar demographics to Seneca County. The County would exclude Ontario and Tompkins Counties from the comparison on the grounds that they are larger, have higher housing values, have higher incomes, and are more densely populated.

The Panel is inclined to consider all the counties contiguous to Seneca, with appropriate attention to the differences among these counties on variables relevant to comparability. Seneca County is a largely rural county surrounded by other largely rural counties, including Ontario and Tompkins. There is no large or even medium-sized city in any of them. Under these circumstances, a set of comparables consisting of all the *contiguous* counties is intuitively logical. The fact that these counties are operating in a common labor market further supports this conclusion. There are, to be sure, variations in population, income and wealth across the neighboring counties, but a set of comparables will always exhibit some variability in these metrics. Thus while we should and will take the differences among counties into account in making a determination on wages, we should nevertheless include them all in the analysis.

Stated another way, the question here is the appropriate *range* of observations to be included in the analysis. While it is logical to define that range in terms of labor markets, demographic character, and geographic proximity, there are other considerations that will speak to *where* in that range any particular observation (like Seneca) belongs. While it is common to look at comparables and calculate averages, the significance of the mean observation, taken alone, is not unambiguous. Clearly some observations have to be below the average, and within the range of comparables one should arguably expect the better endowed counties to naturally be at the higher end of range. In sum, in assessing the various elements of employee compensation in

“comparable communities,” the Panel will look at compensation in the sheriffs’ departments of the six counties that are contiguous to Seneca County.

We turn now to a discussion of the issues that are in controversy.

**1. Shift Differential**

There is currently no shift differential. The Union seeks to add a section to the CBA providing for an additional payment of \$0.85 per hour for work on the 3:00 p.m. to 11:00 p.m. shift and \$1.35 per hour for the 11:00 p.m. to 7:00 a.m. shift. The County proposes no change in the current contract.

The Union argues that deputies should be compensated for working less-than-desirable shifts. A differential will work to balance out shifts with a mix of experienced and inexperienced officers, instead of having the late shifts staffed mainly by inexperienced officers. Further, most of the comparable jurisdictions provide such compensation.

The County contends that the purpose of a shift differential is to induce officers to choose less desirable shifts. In Seneca County, shifts are assigned through a bid system based strictly on seniority. As there is no choice involved, there is no reason for a differential. Moreover, a shift differential is not warranted by the comparables.

The record, notes the Panel, shows that four of the six comparable counties provide a shift differential in some form. Further, the Panel is persuaded that the inconvenience of working evenings and nights warrants a compensating differential for those who are so assigned, especially since the shifts are not rotated. If they were rotated, it could be said that the off shifts are part of the job, with the inconvenience compensated in the base rate, but here they are clearly not part of the job for everyone.

The shift differentials in the neighboring counties vary, but the levels there generally do not support the Union's demand, especially when one factors in the two counties that have no differential. Further, as it would be burdensome to recreate all shifts worked by all unit members over a two-year period, the benefit should be largely prospective.

**Award.** A provision shall be added to the Collective Bargaining Agreement to pay a differential of \$0.40 for all work on the 3:00-11:00 shift and a differential of \$0.75 for all work on the 11:00-7:00 shift. This provision shall be effective on December 31, 2011.

## **2. K-9 Pay**

There are currently two deputies who work with canine officers. The dogs are housed at the deputies' homes. The deputies are paid for an extra half-hour (at time-and-a-half) per day, at a flat hourly rate of \$11.00, for maintaining the dogs. The Union seeks to increase the extra paid time to one hour (at time-and-a-half) per day. The County proposes no change in the current arrangement.

The Union contends that the current one-half hour per day does not adequately compensate deputies for the care and maintenance of the dogs. Much of the work is done off duty, and many of the comparable jurisdictions allow more than the 3 ½ hours per week that the dog handlers in Seneca County are allowed.

The County notes that deputies volunteer to take dogs home. In addition, the higher pay sought by the Union is not justified by the comparables. The existing compensation is well in line with area standards. Further, with the recent addition of a second dog to the K-9 unit, the duty is actually less burdensome than before.

The Panel observes that, of the comparables, one county provides no K-9 officer pay, one provides less pay than Seneca, two are about the same, one is moderately higher, and one is at the level proposed by the Union. Thus we do not see in the comparables a compelling case for an increase in this stipend. It is also relevant that this assignment is voluntary, and the County has apparently not had trouble retaining or attracting people to take it on. The Panel is not disposed to award a change here.

**Award.** No change in the current contract.

### **3. Court Time Call-In Pay**

Under the current arrangement, if an employee is called for a court appearance after his or her shift has ended, he or she is paid time-and-half for actual time worked. If the time worked is less than three hours, the employee may ask his or her shift supervisor for an assignment to bring the work up to three hours. The Union seeks a change in the language to say that the employee will be paid for the actual work time or three hours, whichever is greater, and to remove the requirement that the shift supervisor be asked for an assignment. The County proposes no change in the current arrangement.

The Union argues that deputies should be guaranteed three hours' pay for off-duty court appearances, and should not have to engage in "make-work" for such pay. None of the comparable jurisdictions require three hours of actual work to earn the guarantee. The employee called back to work has to get into uniform, drive to court, make an appearance, and drive home. It is not reasonable to make them work additional time. This proposal recognizes the inconvenience to deputies for having to come in during their off hours.

The County asserts that the Union's proposal would be more burdensome than anywhere in the comparable universe. Under the proposal, a deputy would receive three hours of overtime pay even if the recall lasted for no more than 15 minutes. Such an arrangement is ripe for abuse. The current pay system is reasonable; additional pay for time not worked is outdated and unjustified in the current economy.

The Panel observes that although the CBA refers to a three-hour "guarantee," it appears from the testimony that the three hours are not really guaranteed, and that an employee who is called in may work only a very short time and then be sent home, with pay for only the time actually worked. The comparables are not instructive here, but the Panel is sympathetic to the argument that a deputy who is called in to work should, for his or her inconvenience, have the opportunity to earn at least three hours of pay at overtime rates. At the same time, the Panel is also sympathetic to the idea that if the County is going to pay for three hours of overtime, it should have the opportunity to receive three hours of work in exchange. Thus the employee who is called in for a task that requires less than three hours of work should either be offered additional work sufficient to meet the "guarantee" or otherwise be paid for it anyway.

**Award.** Section 5.14 of the CBA shall be revised to read as follows:

When an employee has completed his regular daily shift, is released, and then recalled for a legal proceeding, he/she shall be paid either:

- (i) Time and one-half premium pay for all hours he or she works; or
- (ii) A guaranteed minimum of three hours' premium pay at time and one-half. In order to receive the guaranteed minimum of three hours' pay, the employee must notify the shift supervisor for assignment up to a total of at least three hours, including the actual time worked. Such assignment must be within the employee's normal work duties. If there is no assignment available to be made, the employee will be dismissed and will receive the guaranteed three hours of premium pay.

**4. On-Call Pay for Investigators**

The Union seeks a new provision requiring the County to pay the six investigators for the time they are on call. One investigator is on call each day, on a rotating basis, for the hours during which he or she is not on duty. Investigators currently receive no compensation for their on-call status. The Union seeks one hour's pay for each on-call period on a weekday and two hours' pay on a weekend.

The Panel is sympathetic to the argument that being on call is a sacrifice for which compensation is warranted. At the same time, as the on-call assignments are rotated, we do not see the rationale for differentiating between a weekday and a weekend. Since all investigators will be on call the same number of weekend days, the extra inconvenience of being on call on one of those days can be compensated through the basic on-call rate.

**Award.** The following provision shall be added to the contract:

**5.16 Investigator On-Call Pay**

Effective December 31, 2011, an investigator assigned to be on call will be paid \$1.54 for each hour he or she is on call. An investigator who is called in to work shall be paid in accordance with the premium-pay provision in Section 5.13 of the contract, where applicable. When called in, the investigator shall no longer receive the on-call pay. An investigator assigned to be on call must be ready and able to work and must respond to the employer's request to work, or will be subject to discipline.

**5. Field Training Officer Pay**

When new deputies are hired, they are assigned to veteran deputies for field training. Some of the veteran deputies are certified as field training officers (FTOs). The rookies accompany the FTOs in the field for a period of time. The Union seeks a

new provision that would pay the FTOs either \$20 or \$25 per day of training, depending on whether the FTO is certified. The County proposes no change.

The Union contends that the additional work involved with preparing new deputies should be compensated. Moreover, the record shows that FTOs are assigned new deputies involuntarily. The extra effort should be rewarded.

The County argues that there is no justification for this proposal. The Department has never had trouble getting volunteers to train new recruits, and the Sheriff properly views officer training to be part of the officer's regular duty, not an ancillary one. Further, FTO compensation is not warranted by the comparables.

The Panel notes that while helping to train new officers may be part of an officer's job, the training itself constitutes an added responsibility during the officer's work shift. Three of the six comparable counties provide the proposed pay in some form, so the County is not being asked to break new ground here. The Panel is persuaded that there is warrant for a new stipend.

**Award.** A provision shall be added to the CBA, effective December 31, 2011, by which deputies assigned to field-train new officers are paid for each day in which the training is done for at least one-half the shift. A deputy who has FTO certification shall be paid \$20 per day of training, and one who does not have the certification shall be paid \$15.

#### **6. Health Insurance Opt-Out**

The County provides health insurance for its employees, paying most of the premium. The Union seeks to add a clause requiring the County to compensate an employee who chooses to forgo the County's health-insurance coverage, in the amount

of 50 percent of whatever premium payment would have been incurred if the employee took the insurance. The County proposes no change.

The Union notes that when an employee forgoes health insurance, there is a significant savings for the County, and the proposal merely seeks a portion of the savings for the employee. Many comparable jurisdictions provide this kind of benefit.

The County argues that this proposal would be unduly burdensome. The suggestion that employees who currently opt out are denied a benefit that others receive ignores the fact that all Union employees have the option to take the County's health plan. Any inequality is the result of an employee's choice. Moreover, the compensation sought by the Union far exceeds the practice in comparable jurisdictions.

The Panel considers that the savings imputed to a health-insurance opt-out are speculative, as the reduced cost from employees who for the first time choose to forgo coverage must be balanced against the increased cost of now paying employees who have forgone the coverage anyway without compensation. And while there is an equitable argument to be made for making the overall compensation package more equal across employees, we are concerned about the consequences of a new benefit for a select group of County employees, as well as the complication that we cannot implement such a benefit entirely prospectively. Thus employees who did not enroll in health insurance at the beginning of 2012 would get a benefit, but it would be too late to incentivize additional employees to forgo the benefit (and the cost to the County) until later. Thus the proposition, at the outset at least, would be all cost and no savings for the County. We are also advised that consideration is being given to a County-wide benefit along these lines. For these reasons, we are loath to include the proposed change in this Award.

**Award.** No change in the current contract.

**7. Uniform Maintenance and Replacement**

The current contract provides an allowance of \$1,000 per year for the maintenance and replacement of uniforms. The Union seeks to increase the allowance to \$1,500. The County proposes a reduction in the allowance to \$800 for new employees.

The Union argues that the cost of maintaining and replacing uniforms has increased, and the current allotment may be exceeded by the cost of dry-cleaning alone. Many comparable jurisdictions actually clean deputies' uniforms for free, with additional compensation for other maintenance.

The County argues that there is no basis in the comparable universe for increasing the payment for uniforms. In fact, the comparables support the County's proposal to reduce the payment for new employees. The County already takes on the cost of replacing malfunctioning and damaged equipment, and the \$800 would compensate employees for normal wear and tear.

The Panel is unpersuaded by the arguments for either of the proposals put forth on this issue. The comparables suggest that the current allowance is reasonably generous by area standards, but not so much so that it represents an unconscionable windfall for unit members that calls out for adjustment. At the same time, the record offers no evidence that \$1,000 is insufficient to clean and maintain uniforms for a year. In sum, we see little warrant for changing the status quo on this subject.

**Award.** No change in the current contract.

## **8. Educational Stipend**

The current contract provides for additional pay for employees holding college degrees: \$200 for an Associate's Degree, \$250 for a Bachelor's Degree, and \$300 for a Master's Degree. The Union seeks to increase these stipends to \$500, \$700, and \$1,000 respectively. The Union also seeks to remove language stating that the degree must be related to the work of a deputy sheriff. The County proposes no change in the current arrangement.

The Union contends that the desirability of having highly educated officers in the County's service should be recognized. Comparable jurisdictions that offer this benefit generally pay more than Seneca County does. A higher stipend would also help officers pay off the student loans they incurred to get their degrees.

The County contends that there is no basis for the increases demanded by the Union, nor do the comparables support them. Some counties provide *no* advanced-degree compensation. The Union's proposal would require Seneca County to pay more than any of the comparables. Further, the demand to pay for degrees in any field is unjustified. There is no evidence that the Sheriff has been stinting in applying the "related" requirement, and it is certainly reasonable to limit the payment to relevant study.

The Panel judges that the comparables do not support this proposal. Of the six neighboring counties, only two provide the benefit at all, and only one provides a benefit appreciably greater than the current stipend in Seneca County. On the requirement that the degree be work-related, the Panel deems it reasonable and certainly not abused in practice. In sum, we do not see the case for a change here.

**Award.** No change in the current contract.

## 9. Longevity Pay

The current contract provides for a longevity supplement of \$300 after 10 years of service, \$600 after 15 years, \$900 after 20 years, and \$1,200 after 25 years. The Union proposes to change the longevity payment to a percentage scale, ranging from 3.5 percent of annual salary after 10 years to 11.0 percent after 25 years, with the percentage increasing by 0.5 points each year. The County proposes that longevity be eliminated entirely for new employees, and held unchanged for continuing employees.

The Union contends that its proposal is supported by the levels of longevity pay in comparable jurisdictions. Indeed, the proposed schedule mirrors that currently existing in Wayne County. Hence the proposed increases are "reasonable and just" and reward loyal service.

The County contends that the economic realities warrant the elimination of longevity pay for new employees, not the substantial increase sought by the Union. The current longevity structure in Seneca County is superior to those in comparable jurisdictions. The Union has provided no basis for the drastic increase that it proposes.

The Panel observes that eliminating this stipend for new employees would not address today's "economic realities," as the County desires, since the change would have no effect on any economic variable for at least ten years. The Panel is also cognizant of the potential cost in employee morale from establishing differential conditions for employees doing the same work with largely the same skills and experience. Thus the case for such a "two-tier" arrangement on this subject is wanting. As for the Union's proposal, we note that the current longevity payments are generally in line with most area contracts, with only a single jurisdiction having adopted the model that the Union now proposes. There is a case, however, for increasing longevity pay in

line with a general wage increase, since longevity is essentially a part of the wage package, just as step increments are. Accordingly, a modest increase in the amount of the longevity payment is warranted here.

**Award.** Longevity payments shall be increased by \$25 at each longevity step, so that employees will receive a payment of \$325 after 10 years, \$650 after 15 years, \$975 after 20 years, and \$1,300 after 25 years. This increase shall be retroactive to January 1, 2010.

#### **10. Wages**

The current contract contains seven-step wage schedules for deputies, investigators, sergeants, investigative sergeants, and lieutenants. The starting pay ranges from \$33,511 per year for deputies to \$44,685 for lieutenants. Pay at the top step ranges from \$44,279 for deputies to \$55,584 for lieutenants. The Union proposes across-the-board increases of 4.0 percent for 2010 and 5.0 percent for 2011. The County has not specified any changes in the wage schedules for either year.

The Union contends that its proposal is justified by the prevailing salaries in neighboring counties. Even with a nine percent increase over two years, the County will continue to lag behind its neighbors, and very significantly behind some of them. Moreover, other units within the County received pay increases in the years covered by this arbitration. In addition, the County's own data show relatively healthy wage growth in some nearby counties, including Cayuga, Yates and Wayne. Thus the record demonstrates that Seneca County needs to make up significant lost ground.

The Union further argues that the County is well able to pay the increases in the Union's proposal. The cost of all its proposals would total about \$365,000. This is a small amount relative to the County's unreserved fund balance, as demonstrated by the

testimony of the Union's expert witness. In fact, County revenues have increased in 2008, 2009, and 2010, and its general fund balance remains strong. And while budgeted expenses exceeded budgeted revenues in 2011, the fact is that for the previous three years the County budgeted for major losses yet experienced sizable surpluses. In sum, the County has not and cannot demonstrate an inability to pay the increases sought by the Union in this arbitration.

The County contends that the relevant wage comparisons demonstrate that the members of this bargaining unit are already fairly compensated, and that no significant wage correction is called for. At the ten-year level, Seneca County deputies earn more than the average for the comparative group [excluding Ontario and Tompkins]. Only Wayne County officers earn more in all employee categories, and Wayne is a larger jurisdiction with more violent crime. Further, recent increases for other public employees in Seneca County, and indeed state-wide, have been much lower than the increases sought by the Union. This is true of both negotiated and awarded increases.

As for ability to pay, the County argues that its financial outlook has been clouded by the recent recession and the well-known fiscal challenges to New York State, rendering the need to control spending on local services. Seneca is not a wealthy county, with an average household income well below that of the State and national medians. Its resources are further constrained by the 2011 Tax Cap implemented in New York State. This legislation has largely eliminated the discretion of taxing entities and will dramatically undermine the ability of counties like Seneca to provide services. Moreover, sales tax revenues have been flat, property has been leaving the tax rolls, and federal funding for Medicaid went down in 2012. On the other side of the ledger, expenses for fringe benefits, especially health insurance and

pensions, continue to skyrocket. In recognition of these factors, other unions across New York State have agreed to wage freezes and other wage concessions. Finally, notes the County, in recent years deputies in Seneca County received wage increases that met or exceeded those received by other County employees.

*Discussion.* The Panel sees its tasks, as defined by the statutory criteria, as addressing three questions: (1) What increases, if any, are suggested by a comparison of the wages of the officers in Seneca County with those of officers in comparable communities, who perform similar services under similar working conditions using similar skills? (2) Are there any environmental factors unique to Seneca County that would argue for greater or lesser increases than those suggested by the comparables? (3) Are the increases suggested by the comparables constrained by the County's ability to pay? The overall conclusion of the Panel is that some increase is suggested by the comparables, but not one as high as that proposed by the Union; that there are no unique factors in Seneca County that would call for a departure from the standard established by the comparables and other indicators; and that the financial condition of the County does not suggest an inability to pay the "going rate."

As noted earlier, we are persuaded that the relevant range for deputies in Seneca County is established by the wages seen in the sheriff's departments of six contiguous counties. The County argues for essentially a two-year pay freeze based on the wages of only four of these counties, and by comparing Seneca's 2009 wages with the 2009 wages of those other counties, even though the other counties all saw increases in subsequent years. If one looks at the six neighboring counties and their pay in 2011, a different picture emerges. With no pay increases, Seneca County would (along with Schuyler) be at the very bottom of the range, and below other jurisdictions

that even the County acknowledges are comparable, and much below Ontario and Tompkins.

Although Seneca's position vis-a-vis the other counties varies across the several employee categories included in the bargaining unit, we have centered our analysis on the maximum rate (not including longevity) applying to deputies and investigators, since employees in those groups comprise a substantial majority of the bargaining unit here. After due consideration, we have concluded that an across-the-board wage increase of 2.85 percent in both 2010 and 2011 would result in pay levels that are appropriate and fair to both the employees and the County taxpayers. Those increases would put Seneca a little above Schuyler and Cayuga, about the same as Wayne, somewhat below Yates, and still considerably below Ontario and Tompkins. As discussed earlier, the gap with Ontario and Tompkins may reasonably be explained by reference to the greater resources of those jurisdictions.

Based on the record, then, we consider the 2.85 percent increases as appropriate and fair. While it is clear that we are in an era of historically modest pay increases for public employees in New York State, we decline to freeze the pay of Seneca County deputies for 2010 and 2011. The County has not asked its other employees for a two-year freeze, or in most cases even for a one-year freeze. And while there is evidence of significant Union concessions in other jurisdictions, pay freezes are still not common. Indeed, the County's citation of a number of other arbitration awards shows only one zero for one year, and the evidence on wages in the comparable sheriff's departments show no zeroes in the most recent settlements or awards.

At the same time, increases of 4 and 5 percent are not prevalent at this moment in history and in this fiscal environment either. While the Union points to 2010 and 2011 increases in the neighborhood of its proposal in some area jurisdictions, these are generally increases that were negotiated some time ago in long-term contracts. There is no evidence of a contract or award of four to five percent executed in 2011 or 2012. To be sure, higher-than normal increases might be justified in a specific case as a form of "catch up," where a bargaining unit clearly lags its peers generally for no persuasive reason. But such an argument would have to be based on the comparables, and, as we have seen, the comparables here cannot carry this burden. An increase along the lines of prevailing settlements and awards that keeps Seneca in the middle of the range of comparables seems reasonable to us.

As for ability to pay, there is no doubt that public jurisdictions in New York and elsewhere are facing historically difficult challenges, but there is nothing in the County's data to show outright distress, especially in light of the money it has accumulated in surpluses in recent years. Factors like the tax cap may be arguments for greater moderation in 2012 and beyond, but we are dealing here with 2010 and 2011, and our charge is to produce an outcome that is appropriate for those years, years when there was no tax cap and still no tax increases. It is also notable that, according to the County Treasurer, County property taxes have been stable over the past seven years. It is much to the County's credit that it has managed its resources well, but it is difficult to discern from this record that wage increases at the level discussed here will cause undue strain to its coffers.

**Award.** All the 2009 wage schedules shall be increased across the board by 2.85 percent retroactive to January 1, 2010, and by an additional 2.85 percent retroactive to January 1, 2011.

**Summary of Award (changes only)**

- A provision shall be added to the Collective Bargaining Agreement to pay a differential of \$0.40 for all work on the 3:00-11:00 shift and a differential of \$0.75 for all work on the 11:00-7:00 shift. This provision shall be effective on December 31, 2011.

- Section 5.14 of the CBA shall be revised to read as follows:

When an employee has completed his regular daily shift, is released, and then recalled for a legal proceeding, he/she shall be paid either:

- (i) Time and one-half premium pay for all hours he or she works; or
- (ii) A guaranteed minimum of three hours' premium pay at time and one-half. In order to receive the guaranteed minimum of three hours' pay, the employee must notify the shift supervisor for assignment up to a total of at least three hours, including the actual time worked. Such assignment must be within the employee's normal work duties. If there is no assignment available to be made, the employee will be dismissed and will receive the guaranteed three hours of premium pay.

- A new Section 5.16 shall be added to the contract as follows:

**5.16 Investigator On-Call Pay**

Effective December 31, 2011, an investigator assigned to be on call will be paid \$1.54 for each hour he or she is on call. An investigator who is called in to work shall be paid in accordance with the premium-pay provision in Section 5.13 of the contract, where applicable. When called in, the investigator shall no longer receive the on-call pay. An investigator assigned to be on call must be ready and able to work and must respond to the employer's request to work, or will be subject to discipline.

- A provision shall be added to the CBA, effective December 31, 2011, by which deputies assigned to field-train new officers are paid for each day in which the training is done for at least one-half the shift. A deputy who has FTO certification shall be paid \$20 per day of training, and one who does not have the certification shall be paid \$15.

- Longevity payments shall be increased by \$25 at each longevity step, so that employees will receive a payment of \$325 after 10 years, \$650 after 15 years, \$975 after 20 years, and \$1,300 after 25 years. This increase shall be retroactive to January 1, 2010.
- All the 2009 wage schedules shall be increased across the board by 2.85 percent retroactive to January 1, 2010, and by an additional 2.85 percent retroactive to January 1, 2011.

The foregoing Award is concurred in by all members of the Public Arbitration Panel, whose signatures are affixed below.

4/17/12  
(dated)

Howard G. Foster  
Howard G. Foster  
Public Panel Member and Chairperson

4/5/12  
(dated)

Peter A. Jones  
Peter A. Jones  
Public Employer Panel Member

4-16-12  
(dated)

Ennio J. Corsi  
Ennio J. Corsi  
Employee Organization Panel Member

STATE OF NEW YORK )  
COUNTY OF ERIE ) ss:

On this 17<sup>th</sup> day of April, 2012, before me personally came and appeared HOWARD G. FOSTER, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

Laurie Foster

Laurie Foster  
NOTARY PUBLIC, State of New York  
Qualified in Erie County  
My Commission Expires Dec. 31, ~~2013~~ 2014

STATE OF NEW YORK )  
COUNTY OF ONONDAGA ) ss:

On this 5<sup>th</sup> day of April, 2012, before me personally came and appeared PETER A. JONES, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.



DONNA L. HURN  
Notary Public, State of New York  
Qual. in Onondaga Co. No. 4720232  
Commission Expires June 30, 20 14

STATE OF NEW YORK )  
COUNTY OF ALBANY ) ss:

On this 16<sup>th</sup> day of April, 2012, before me personally came and appeared ENNIO J. CORSI, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.



MATTHEW PATRICK RYAN  
Notary Public, State of New York  
No. 02RY6080868  
Qualified in Albany County  
Commission Expires September 23, 20 14