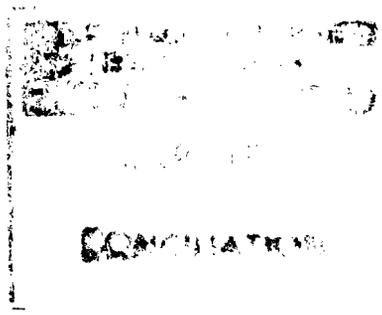


COUNTY OF NASSAU
PUBLIC EMPLOYMENT RELATIONS BOARD



-----X

In the Matter of the Public Arbitration, :

- between - :

COUNTY OF NASSAU, :

Public Employer, :

- and - :

THE SUPERIOR OFFICERS ASSOCIATION :
OF THE POLICE DEPARTMENT OF THE :
COUNTY OF NASSAU, INC., :

Employee Organization. :

-----X

OPINION
AND
AWARD
OF
PUBLIC
ARBITRATION
PANEL

BEFORE THE PUBLIC ARBITRATION PANEL:

Philip J. Ruffo, Esq.
Thomas F. Delaney, Esq.
Sgt. William Pattison

Public Member and Chairman
Public Employer Member
Employee Organization Member

APPEARANCES

FOR THE PUBLIC EMPLOYER:

Edward McCabe, Esq.
By: Peter A. Bee, Esq.

County Attorney
Deputy County Attorney
and Special Labor Counsel

FOR THE EMPLOYEE ORGANIZATION:

Raymond J. Lavellee, Esq.

Counsel

SUMMARY OF AWARD

Set forth below, in summary form, are the economic matters considered and determined by the Panel:

1 - Term of Contract

Two (2) years from January 1, 1979 to December 31, 1980.

2 - Wages

7.6% increase effective January 1, 1979

3.5% increase effective January 1, 1980

4.0% increase effective July 1, 1980

The differential of \$1,000 currently paid to Detectives is to be maintained.

3 - Longevity

Increase of \$100, from \$500 to \$600 after six (6) years of completed service; no increase in the sum of \$400 after ten (10) years of completed service; and an increase of \$100, from \$400 to \$500, after fifteen (15) years of completed service; and no change in the additional \$50 for each year thereafter.

4 - Clothing Allowance

Increased from \$450 to \$500, effective January 1, 1980.

5 - Equipment Allowance

Increased from \$350 to \$400, effective January 1, 1980.

6 - Meal Allowance

Section 8 I., paragraph 1. (Meal Allowance) of the existing contract is modified to the following extent: Meal Allowance is increased from \$5.50 to \$7.50 effective January 1, 1980.

7 - Ability to Pay

Panel concluded that Nassau County does have the financial ability to pay the wage increases and benefits determined to be just and reasonable.

I

Preliminary Statement

By a communication dated June 8, 1979, the Public Employment Relations Board, County of Nassau, designated the above named persons constituting a Public Arbitration Panel, pursuant to Section 209.4 of the New York Civil Service (Taylor) Law and the corresponding provisions of Nassau County's Local Ordinance establishing a Public Employment Relations Board, for the purpose of making a just and reasonable determination concerning the dispute between the parties in the above captioned proceeding as to the matters and issues hereinafter set forth and discussed.

In accordance with the above cited authority, hearings were held on fifteen (15) days on the following dates in 1979: August 2 and 9, September 25, December 5 and 18; and in 1980 on January 4 and 11, February 5, March 5, 7 and 19, and April 1, 2, 21 and 22.

The record, consisting of more than 1,400 pages of transcript of hearings, numerous multi-paged exhibits, including over 1,000 pages of pertinent portions of the transcript in the prior P.B.A. public arbitration hearings, was voluminous. In addition, the parties submitted lengthy post-hearing briefs which addressed the issues unresolved between them.

Subsequent to the close of the hearings, the Panel met in Executive Sessions, on April 29, May 1, 5 and June 3, 1980, for the purpose of discussing and deliberating all of the issues presented for determination by the Panel. After due consideration and deliberation of all of the evidence, including the documents, exhibits, briefs and arguments presented, the Panel's determinations, as hereinafter set forth, are concurred in by a majority of its members with respect to all issues determined by the Panel; and the Public Employer Member concurring and dissenting from so much of the determinations as grants and denies those issues presented by the S.O.A. and the County.

II

Statutory Criteria

Consistent with statutory requirement, the Panel adhered to the criteria set forth in the corresponding sections of the Taylor Law and the County's Local Ordinance to make a just and reasonable determination of the matters in dispute, specifying the basis for its findings and, in addition, taking into consideration any other relevant factors, as follows:

- (a) Comparison of the wages, hours and conditions

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

(b) The interests and welfare of the public and the financial ability of the public employer (Nassau County) 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.

III

The Parties - Their Bargaining Relationship

The Nassau County Police Department has a total uniformed police force of 3,595 (as of 1978) and is the second largest police department in the State of New York and the tenth largest in the United States. As of 1978, Nassau County had an estimated population of 1,457,925 and an area of approximately 300 square miles. Nassau County's population is estimated to be greater than fifteen states, being one of the largest government units in the United States. Only four cities in the United States have a greater population than Nassau County.

Administratively, the Nassau County Police Department, rendering police protection on a twenty-four hour basis, is divided into two units. Unit One Headquarters functions on a county-wide basis, rendering police services to the entire area of the County, and is sustained by a real property tax imposed upon the entire county. Unit Two, Police District, is the largest unit of the Police Department in terms of personnel rendering police services by the uniformed force through eight precincts throughout the District serving about 79% of the population, or approximately 1,151,760 as of 1978. For administrative purposes, the eight precincts are divided into four divisions.

The Superior Officers Association is, and has been since 1975, the exclusive bargaining representative of a bargaining unit consisting of approximately 465 members of the uniformed force in the following ranks and numbers: Sergeant - 255, Detective Sergeant - 69, Lieutenant - 101, Detective Lieutenant - 17, Captain - 20, and Detective Captain - 3.

There is one other line organization - the Patrolmen's Benevolent Association - which is the exclusive bargaining representative of approximately 3,000 Patrolmen and Detectives.

The current dispute stems from an impasse in negotiations for a successor collective bargaining agreement, the prior two year agreement expiring December 31, 1978.

IV

Issues Settled and Issues in Dispute

Prior to the conclusion of the hearings, the parties advised the Panel that they had resolved many matters by direct negotiations between them and, accordingly, were withdrawing all such matters from consideration by the Panel. (Tr. p.

1270, 1272-1274*). The parties thus agreed to reduce the number of issues which, initially, were submitted to the Panel for consideration and, except for those items which the parties jointly agreed should be considered by the Panel, "all other matters other than the items listed on joint Exhibit 1, as amended, are withdrawn or agreed to." (Tr. p. 1274).

The issues which the parties finally submitted for determination by the Panel are:

By the S.O.A.: Reduction of the work year from 260 to 232 days; an increase in clothing allowance for plainclothes duty officers from \$450 to \$1,000; a long-evity increase of 5%; an unspecified increase in meal money; the continuation of existing practices and benefits, constituting mandatory items of negotiations, in the successor agreement; an allowance of \$1,000 for required equipment not furnished by the County; an increase in vacation days from 27 to 40 working days annually; an increase in wages (as hereinafter set forth); and a contribution by the County to the S.O.A. in the sum of \$500.00 annually, for the establishment of a trust fund to provide the following benefits:

*References herein to the transcript are represented by the symbols in parenthesis (Tr. ____, p. ____), "Tr." meaning the transcript, and "p." meaning the page or pages wherein the matter referred to appears.

dental, optical, increased Major Medical, hearing aid and drug prescription plan, and an improved hospitalization rider.

By the County: No general wage increase and no increase or improvement in fringe benefits and/or time and leave provisions. (The foregoing are included under the label "Preface"); the discontinuance of equipment allowance and, instead, all prescribed equipment shall be furnished by the Police Department or purchased by the officer who then will be reimbursed upon showing of a proper voucher; the elimination of compensatory time for donating blood; the correction of sick leave abuse; the reduction of annual vacation days, effective January 1, 1979, from 27 to a maximum of 22 days; placing all personnel, other than detectives, on a rotating tour so that there will be a total of 249 working days in a year by the arrangement of a 5 and 72 schedule in place of the present 4 and 96 schedule; and the exercise of discretion by the Police Commissioner to change tours for the purpose of avoiding overtime pay where the change is based upon "police necessities" or for any reason upon giving seven days notice, thus representing a small savings to the County in consideration of the total wage and benefits now enjoyed by the Superior Officers.

V

Major Existing Working Conditions
Prescribed in the Collective Bar-
gaining Agreement, January 1, 1977-
December 31, 1978

Working conditions of major importance, set forth in the collective bargaining agreement, expiring on December 31, 1978, and currently in force, are as follows:

A - Base Salary (Annual)

Sergeant	\$24,996.00
Lieutenant	27,471.00
Captain	29,728.00

A differential of \$1,000.00 additionally is paid to Detectives in each of the above three ranks.

B - Longevity

\$ 500.00	after 6 years of completed service
400.00	more after 10 years of completed service
<u>400.00</u>	more after 15 years of completed service

\$1,300.00 (Total) after 15 years of completed service.

Plus \$50.00 each year thereafter up to and including year of retirement or termination of service.

C - Equipment Allowance

\$350.00 per member annually.

D - Basic Work Week and Tour of Duty

Basic work week - 40 hours and 8 hour basic daily duty tour. (50% of Sergeants work a steady day shift and the remainder work rotating tours).

Rotating Tours - Officers assigned a regular schedule of 3 rotating tours are scheduled to work 5 days with 72 hours off (swing) between tours.

Detectives work a basic 38.2 hour week when assigned to a Precinct Squad or the number of hours averaging 38.2 hours over 7 full cycles or such charts as approved by the Commissioner conforming to 5 days duty with 72 hours off (swing).

E - Overtime *

Time and one-half is payable for duty in excess of eight hours based upon a 260 day work year. Overtime begins to be earned after one-half hour of working overtime.

F - Holiday Pay *

Twelve (12) paid holidays annually.

G - Vacations and Other Leaves

Vacations	-	27 working days
Personal	-	5 working days
Sick	-	26 working days

H - Night Differential

Based upon 10% night differential pay:

Sergeant:	receives \$1,494 annually
Lieutenant:	receives \$1,660 annually
Captain:	receives \$1,791 annually

*Overtime and Holiday pay are computed to average \$1,612.00 annually for Sergeants, the majority bargaining unit members.

I - Clothing Allowance

\$450.00 per member annually (*For Plain Clothes Assignment only*)

J - Total Annual Cash Paid to Bargaining Unit
Member Based Upon Stipulated Number of
Average Years on Force

In terms of average number of years on the force, the typical Sergeant has 15 years of service; the typical Lieutenant has 22.35 years of service; and the typical Captain has 24 years of service.

The total annual cash paid to the typical officer in each of the above ranks, inclusive of base pay, longevity, holiday (including overtime), night differential, and equipment, who work on rotating tours, is as follows:

Sergeant	-	\$29,752.00
Lieutenant	-	32,969.00
Captain	-	35,549.00

For those who work on fixed tours, the amounts are as follows:

Sergeant	-	\$28,258.00
Lieutenant	-	31,309.00
Captain	-	33,758.00

It will be noted that the above total sums for each rank represent only cash payments received directly by the officer and do not, as stressed by the County, include "hidden" costs such as the County's statutory liability for pen-

sions and social security and contractual liability for Health and Hospitalization. The so-called hidden costs, when added to the direct cash payments, boost the total cost for each officer by approximately 46% of base pay.

VI

Ability to Pay Issue

A - Preface:

The parties agreed that the evidence adduced at the prior PBA proceeding concerning the issue of financial ability to pay would be deemed the evidence on the same issue in the instant case. (Tr. p. 1286).

Strenuously litigated by both the SOA and the County was the issue of "Financial Ability to Pay" constituting a major point of contention stressed by both sides.

The County urges that the burden to establish financial ability to pay rests upon the SOA while the SOA urges that the burden to establish a financial inability to pay rests upon the County.

The Panel is of the view, after a thorough search of the entire record, including the testimony of the expert witnesses of each of the parties, and the numerous exhibits

pertinent to the issue submitted by both sides, that there is an ample evidentiary basis in the entire record enabling the Panel to draw a rational conclusion without the need to resolve the technical issue of burden. Stating it succinctly and to the point, there is an evidentiary basis in the entire record to support a rational finding and conclusion concerning the financial ability to pay issue. Thus, no need exists for an immersion into an evidentiary quagmire regarding which of the parties has the burden of proof, when the burden has been met or overcome, and the burden of going forward. The Panel doubts whether the statute was designed for such a legalistic foray. Rather, the Panel shares the view that the statute was designed to enable a Public Arbitration Panel to arrive at a just and reasonable determination of all issues after weighing and assessing all of the facts and circumstances guided by the statutory criteria.

B. - The SOA's Position:

The SOA contends that the County does have the financial ability to pay the wage increase it demands. (The SOA's demand for a wage increase is approximately 20% for 1979 plus a cost of living adjustment for 1979). In urging the County's financial ability to pay, the SOA advances and relies upon nine factors which it asserts are proper and pertinent as a base upon which to determine the County's financial ability to pay. Those factors are:

1. The Constitutional limitation on tax levy and borrowing in the money market.
2. The percentage of real property tax collection.
3. The Per Capita Income.
4. The Per Capita full valuation of real property.
5. The volume of retail sales.
6. The nature of the community.
7. Economic trends and employment rates.
8. Projections for ensuing years.
9. Impact of any wage increase on the taxpayer.

The SOA contends that when the evidence relating to all of the foregoing nine factors is properly analyzed, the conclusion is inescapable that the County does have the financial ability to pay the members of the bargaining unit an equitable wage increase.

C - The County's Position:

The County disputes the applicability of the factors urged by the SOA to determine the issue of financial ability to pay. The County interprets financial ability to pay in terms of circumstances that will best serve "the interest and welfare of the public." The County argues that the financial ability of a public employer to grant a wage increase merges or blends with the interests and welfare of the public. Fin-

ancial ability to pay interrelates with the interest and welfare of the public in such a manner that the impact upon the taxpayers must be considered as an important factor. (Tr. p. 1293).

The County's position, as spread on the record, is as follows:

"It will not be the position of the County that the County lacks, in the legal sense, the ability to pay. We do not. We have not reached our taxing limit. We have the legal power to raise taxes. However, I do not think that the question of ability to pay is one that is answered in general terms. I think it is a question of impact, the relative priority for raising and spending monies, and I think that several relevant comments can be made in that area. I intend to make them." (Tr. p. 1293, 1232). (Emphasis supplied).

Repeating and reaffirming its position, regarding the issue of financial ability to pay, the following appears on page 1359 of the transcript with respect to the evidence adduced before the Panel in the PBA proceeding:

"A reading of the award will indicate the County admitted its legal ability to pay.

The only question that remains for this Panel is to what extent should the Panel impose on the legal ability to pay. I submit and contend in this proceeding, that ability to pay is not a question of legal power but a question of judgment, a question of priority, and that the priorities of this County should not be such that the wages of the Members of this Bargaining Unit are raised beyond what is appropriate for the County to spend its monies in other Departments as it sees fit."

In effect, the County's position is that the financial ability of a public employer to pay a wage increase to its employees does not involve the power (Constitutional or statutory) to raise revenue to sustain its work force. The County urges that the relevant measure of the public employer's financial ability to pay a wage increase to its employees is the impact that such increase, if granted, will have on the taxpayer and the relative priorities set by the County for the raising and spending of moneys.

D - The Panel's Analysis:

The County raises a basic contention concerning the interpretation to be given to the statutory criteria of the public employer's financial ability to pay. In brief, that position, if adopted by the Panel, would require the fusing of financial ability to pay with the interest and welfare of the public so that whenever it may be shown that the grant of a wage increase will require or result in a tax increase, or the rearranging of budgetary priorities, previously set, then the impact preponderates and, concomitantly, the public employer lacks, in whole or in part, the financial ability to pay. As a contention it cannot be denied that there may be merit to what the County argues, though the Panel fails to perceive any eventuality where the grant of wage increases to public employees will not have some impact on the taxpayer

or upon planned or previously set budgetary priorities. In any event, the Panel does not agree with the County's contention believing that it may well be addressed to the Legislature as a criteria for future cases just as the Legislature, in 1978, enacted legislation prohibiting an impasse panel from awarding a wage increase to New York City employees in any particular matter if an increase in the City's real property taxes would result.

If the County's position were to be adopted, it would mean that its budgetary allocations are virtually dispositive unless it can be shown that a wage increase will not impact upon the taxpayer or cause a rearrangement of allocations. The Panel doubts whether the statute supports such a construction for two reasons. First, it would be virtually impossible to satisfy all of the requirements that would be necessary to show that a wage increase would not require a reallocation of previously set budgetary priorities. The statutory mandate to negotiate might well deteriorate into a meaningless ritual if such a limitation were imposed. Secondly, if the Legislature intended the County's position to be binding it could have easily done so. That it did not demonstrates no justification for reading in an interpretation that would restore employer-employee relations to what it was prior to the Taylor Law.

It may, in addition, be argued with equal force

that the interest and welfare of the public renders indispensable the maintenance of an efficient and properly motivated police force for the safety and protection of life and property. Thus, while the cost of police protection may run high there may, concededly, be financial difficulty to pay a wage increase which is not unusual considering the contemporary scene in the public sector. But the financial difficulty to pay a wage increase, impacting upon the taxpayer, does not carry the same connotation as the financial inability to pay a wage increase. As previously stated any succor must, reasonably and logically, come from the Legislature.

It is undeniable that the record as a whole does establish that the grant of a wage increase to the employees involved in this matter will have some impact upon the budget and the taxpayers. It is, however, less than clear in the record to what extent a wage increase will so impact or have on the taxpayers or the relative priorities planned or set for the 1979-1980 and 1980-1981 budgets. Nevertheless, it may be assumed that the budget is not a static document and that latitude does exist for rearranging set priorities. Such decisions inhere in government as a function of government and not as a function of this Panel.

It has been previously noted that the evidence in the prior PBA proceeding is deemed by the parties to be the

evidence in this proceeding regarding the County's financial ability to pay.

The Panel has studied and analyzed the evidence concerning the County's financial ability to pay and concludes that the County does have the financial ability to grant a wage increase and other benefits, as herein determined, to the employees in the bargaining unit. That evidence, the Panel notes, is attempted to be shown by the County as subordinate to the interests and welfare of the public without, however, effectively refuting it.

This Panel is of the view that no useful purpose will be served by reciting in detail or even recapitulating in abbreviated form the evidence which the parties adduced in the prior PBA proceeding and which they agree is the evidence before this Panel for consideration. Suffice it to recite, in pertinent part, the conclusion arrived at by the prior Panel in the following language:

"After a thorough and extensive examination of the record, the panel concludes that Nassau County has the ability to pay a fair and reasonable wage and benefit increase." (Page 25 of Award, dated November 23, 1979).

This Panel has also reviewed the evidence concerning changes in the financial posture of the County since the rendition of the prior Award and finds that in a period of

less than seven (7) months such changes as may have occurred are minimal and do not, in any significant sense, affect the County's financial ability to pay a fair and equitable wage increase to the members of the bargaining unit. In fact, the contrary appears as witnessed by recent collective bargaining settlements directly negotiated between the County and other employee organizations which project increases into 1980 and 1981. Those settlements, introduced in summary form by the County as an exhibit (County Exhibit 'T'), are as follows:

1. The County and the CSEA reached agreement in April 1979. The agreement provides for a \$400 increase in January 1979, \$400 in July 1979, a 7% across-the-board increase in the second year and a C.O.L.A. in the third year of 6% plus 50% of the difference between 6% and 9%, or 7.5%.

2. The County and the NCCFT reached agreement in September 1979 on a three year contract which provides as follows: On September 1, 1979, \$1,000 across-the-board; on September 1, 1980, \$1,000 across-the-board plus an increment of approximately \$450; on September 1, 1981, an increment of approximately \$450 and a 4%-6% C.O.L.A.

3. The County and the AFA reached agreement in December, 1979 on a one year contract which provides for a

wage increase of \$31.25 per contract hour for Instructors, Assistant Professors, Associate Professors and Professors.

Further, read into the record by the SOA (Tr. p. 1361-1362) were pertinent excerpted remarks by the County Comptroller contained in the County's Annual Financial Report for the year ending December 31, 1979. Additional remarks are as follows:

"The General Fund of the County has ended the year 1979 with an operating surplus of \$12,949,075" (Page 3).

"On the whole, we find the County's financial position at the end of 1979 to be excellent, certainly standing out in contrast to many major municipalities throughout the country. In most areas, spending has been held down to levels below the budgetary appropriations, and revenue estimates generally have been surpassed. Particularly notable is the success of the County's investment program which resulted in earnings of over \$38 million in 1979 including over \$20 million earned by the General Fund. As indicated in the statistical data ---- the County's constitutional debt margin and constitutional tax margin continue to be maintained at more than comfortable levels, and the trend beginning in 1975 of maintaining or decreasing the General Fund property tax rate has been continued." (Page 6).

"And while this same inflation spiral will require the County to pay more for its borrowings, there is every indication that the money market will be continually accessible to it for both its long-term and short-term requirements." (Page 6).

"The County administration has reason to be gratified by the results of its operations during 1979. It has managed well and has maintained the County in a strong financial position." (Page 6).

In sum, the evidence, in its totality, establishes the commendable conclusion that the County of Nassau has managed its fiscal affairs showing a surplus, no deficit, in complete control of its management and operations, nowhere near the verge of default, with no need of emergency measures or assistance to extricate it from any financial distress and, very significantly, with its credit rating unimpaired.

E - The Panel's Determination:

Accordingly, based upon an analysis of the entire record, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that the County of Nassau does have the financial ability to pay the Superior Officers, members of the bargaining unit, the wage increases and other benefits as herein determined.

VII

The Term of the Agreement

It is the Panel's judgment, based upon the record in its entirety, that the interests of the parties ^{are} better served by a collective agreement of at least two years. The need for sound fiscal and budget planning is self-evident, particularly in light of the County's statutory obligation to negotiate with the representatives of its police force employees. The general and overall operations and functions of the County are better assured by the stability associated with multiple year commitments. The alternative is a hasty return to the negotiating scrimmage line when the parties should be devoting their time and energies to the needs of the Police Department rather than retracking their efforts at short period intervals in the tedium of see-saw negotiations associated with collective agreements of less than multiple year duration. As it is, the parties will, within a few months of the rendition of this award, be squaring off facing each other across the bargaining table for a successor agreement commencing January 1, 1981.

A studied analysis of the record discloses the presence of factual data and material sufficient to predicate an agreement of two years commencing January 1, 1979 and terminating December 31, 1980.

It may also be noted that the Panel is endowed with statutory authority to determine the period of a collective bargaining agreement not to exceed two years from the termination date of any previous bargaining agreement. (Civil Service Law, Section 209.4 (VI)).

Accordingly, based upon the entire record, and the statutory authority above cited, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that the successor collective bargaining agreement between the parties be for a term of two (2) years, commencing January 1, 1979, and ending December 31, 1980.

VIII

The Economic Issues In Dispute (Including Fringe Benefits)

1. Wages

A - The SOA Position

In order to maintain historic parity between Detectives (Patrolmen) and each of the three ranks by the SOA, the SOA demands an across-the-board increase in 1979, over and above base pay for each rank in 1978, as follows: 19% for Sergeants; and approximately 11% for Lieutenants and Captains. (The County estimates the demand at 20% for each rank).

The SOA's demand is based upon the following factors: (1) Productivity; (2) Comparable wage structures in comparable jurisdictions; (3) the higher cost of living in Nassau County compared to other areas of the country; (4) the cost of living increase; and (5) the hazards and stress of the job and the demands upon family and social life.

(1) As to Productivity, the SOA points out that there are 8 fewer budget lines in 1979 (465) compared to 477 in 1978 and, further, a federal court stay in the appointment of Lieutenants for the past two years requires that Sergeants assume more of the Lieutenant duties and responsibilities.

(2) As for comparable wage structures, the SOA lists 7 jurisdictions for comparison purposes, claiming that Nassau County is behind some of those jurisdictions. The jurisdictions used for comparison purposes are: Los Angeles, Detroit, Seattle, Arlington County (Virginia), Oakland County (California) and New York City. The SOA stresses Suffolk County as the closest for comparison purposes ^gur_^ing that the Superior Officers of Nassau County should be placed on at least the same wage level as their counterparts in Suffolk County.

(3) As to the higher cost of living in Nassau County, the SOA documents that officers of equal rank in the

other jurisdictions have a higher purchasing power than the Nassau County Superior Officers since, among other factors, the County has one of the highest tax rates in the County and, generally, it costs more to live in Nassau County because of the quality of living.

(4) As to the Cost of Living, the SOA points to the constant rise in the CPI Index, double digit inflation and the erosion that the cost of living increase and inflation make into real income.

(5) As to the hazards and demands of the job, the SOA points to the fact that police duty is, in reality, a 24 hour job, fraught with danger, requiring the kind of dedication often subordinating family and social life.

B - The County's Position:

In response to the SOA's position and, affirmatively, in support of its own position, the County points to the following:

(1) As to Productivity, it does not deny that there are less budgeted lines for Sergeant in 1979 than in 1978 or that no Lieutenants have been appointed for the past two years by reason of a federal court order stay. However, the County argues that whatever Lieutenant duties are assumed by Sergeants, such assumption is minimal, not unusual in the operation of a

police department, and therefore, ought not to be a factor in considering a wage increase.

(2) As for comparable wage structures, the County points out that the wage structures submitted of the various jurisdictions are, for the most part, related to 1979 or 1980 and are not, therefore, a true measure of comparability since those wage structures are either one or two years ahead of Nassau County. However, with fringes, the County ranks favorably.

(3), (4) and (5). As to the higher cost of living in Nassau County, the CPI increase, and the hazards and demands of the job, the County does not deny the presence of such factors but questions their substantiality. In this respect, the County notes that the Superior Officers' wages (whether gross or residual) have not only kept pace with the CPI increase, but for 1977 and 1978 have, in fact, slightly exceeded the CPI increase; that the hazards and demands of the jobs are subsumed in the calculation of the wage rate and that night differential and overtime pay are designed to compensate the officer for such job demands.

C - The Panel's Analysis:

(1) As to Productivity, the Panel believes that there is an evidentiary basis to the SOA's position. The Panel must assume that there is a valid reason for the Table

of Organization of the Police Department which requires a certain number of officers in the Lieutenant rank to assume the efficient operation of the command function. Indeed, budgetary allocations are made providing for budget lines for the number of Lieutenants required and, accordingly, each budget line represents tax levy moneys raised to pay the wages of a Lieutenant. The Panel is aware that there may be occasions when budget lines are not filled, or there may not be sufficient budget lines for the number of personnel needed to operate an agency or department. Those occasions, usually of a temporary nature, justify having a lower rank employee perform the work of the higher rank employee. This does not, of course, constitute a promotion since promotions in the Civil Service rest on the constitutional predicate of a written examination wherever practicable. However, it is permissible under certain circumstances to direct a lower rank employee to temporarily perform the work of an employee in a higher rank. (Allowance is also made for a provisional appointment for a specific time period during which a regular Civil Service examination is held, an eligible list promulgated, and appointments made therefrom). However, as previously stated, all appointments of Lieutenants are barred by an extant federal court order. When the lower rank employee does actually perform the work of the higher rank employee, the consideration is usually equal pay for equal work. Thus, the answer is not

an increase in the regular pay of the lower rank employee but, rather, the pay of the higher rank employee so long as the work of the higher rank employee is being performed. The principle of equal pay for equal work is a Civil Service concept designed, as a matter of equity, to compensate an employee performing work out of his/her title or classification for which he/she is capable of performing on a temporary basis.

Thus, the Panel does not believe that the assumption of Lieutenants' duties by Sergeants can be a proper factor in the consideration of an increase in the regular wage rate of a Sergeant. Perhaps some other basis may be agreed upon between the parties to compensate Sergeants who regularly perform Lieutenants' work. In this respect the non-appointment of Lieutenants for two years provokes the question as to who, other than Lieutenants, is doing the Lieutenants' work and if some of the Sergeants are, then to that extent the County may be saving money.

Out-of-title pay is negotiable. However, as stated, the Panel cannot consider this factor as a legitimate basis to grant a regular wage increase. If tomorrow all necessary Lieutenants were appointed, there would be Sergeants, who though granted a wage increase to perform Lieutenants' duties, are no longer performing those duties.

(2) As for comparable wage structures, the Panel has analyzed the evidence and concludes that, as a general matter, the base pay of the SOA Sergeant (\$24,996) is scaled below five other jurisdictions and above two jurisdictions as follows:

Higher Base Pay

1. Los Angeles - \$28,647 for 7/1/79- 6/30/80
2. Detroit - \$28,467 for 7/1/79- 6/30/80
3. Suffolk - \$26,722 for 1/1/79-12/31/79
4. Seattle - \$25,488 for 7/1/78- 6/30/79
5. Arlington - \$25,108 for 1/1/79-12/31/80

Lower Base Pay

6. New York City - \$23,507 for 6/1/79- 6/ 1/80
7. Oakland - \$23,792 for 7/1/79- 6/30/80

An underlying common factor in the base pay of the higher jurisdictions, noted by the Panel, is that they are all at least one or more years ahead of Nassau County and, therefore, any increase for the SOA members would bring them closer to the wages received by their colleagues in the higher paying jurisdictions, reducing the wage levels between them. This would be particularly true of Suffolk County whose wage status is a target of the Superior Officers.

However, what is of substantial significance

is the total cash amount actually received by the SOA Sergeant, as compared to his colleagues in all of the other jurisdictions. When the total cash amount is considered (fringes such as longevity, holiday night differential pay, and supplemental cash such as equipment allowance, etc.), the Nassau County SOA Sergeant is scaled third highest and favorably poised to forge ahead for the years 1979 and 1980. The comparisons are:

1. Suffolk County - \$31,210
2. Detroit - \$30,413
3. Nassau County - \$29,764
4. Los Angeles - \$28,647
5. Seattle - \$27,527
6. Arlington - \$27,527
7. New York City - \$27,326
8. Oakland - \$27,264

What has been noted in the case of Sergeants is, generally, applicable to the rank of Lieutenant, though the Sergeants' comparable position is more favorable.

The SOA's brief (see "General Comparability") characterizes the SOA salary and benefits package received by its members as "not overly generous and, in fact, is deficient in a number of areas". Generosity, however, is not the standard imposed upon this Panel but, rather, a fair and

equitable standard yielding a fair and equitable wage structure. As for the total package being deficient in some areas, the Panel notes that in other areas Nassau County is ahead. For example, in longevity and holiday pay for Sergeants, Nassau County ranks second among all of the jurisdictions used for comparison purposes.

(3) and (4) As for the increase in the Consumer Price Index and the Cost of Living in Nassau County, as compared to other areas, three factors may be noted:

(a) The Consumer Price Index (CPI) has increased dramatically during 1979 having risen to 14.1% nationally and 11.1% for the New York area.

(b) Though the CPI has not risen in the New York area as high or as much nationally, it costs more to live in Nassau County than in other areas. (This conclusion seems to be supported by a recent survey conducted by "Newsday" which, in pertinent part, stated: "Long Island workers are among the lowest paid in the nation now when their salaries are adjusted to reflect their real purchasing power." - Newsday, Sunday, May 18, 1980).

(c) However, despite the rise in the CPI, the residual income of SOA members (gross salary less federal and state income taxes and Social Security taxes or FICA) was in 1977-78 5% ahead of the CPI for the typical Sergeant,

slightly ahead by 1-1/2% for the typical Lieutenant, and just about even for the typical Captain. (Tr. p. 54-65; 70; 804-817). (This factor seems also to be borne out by the same Newsday survey which, in so far as it is relevant, shows that the real wages of a 20 year Nassau County Policeman - \$24,350 - the pay in relation to the cost of living - compared to his counterparts across the country, is on an index of 102, that is, 2 percentage points above what it takes to maintain a Long Island family of four. A wage of \$23,856 on Long Island is indexed at 100).

(5) As for the hazards and stress associated with the job of being a police officer and the demands made upon his family and social life, there can be little, if any, doubt that, to paraphrase Gilbert and Sullivan, "the life of a policeman is not a happy one". However, the Panel is of the view that the hazard, stress and job demands of a police officer are inseparable from the nature of the job and, therefore, the wage rate is a built-in compensable factor. Accordingly, hazard and family and social dislocations are substantial factors which are considered in the deliberation of a wage increase.

There is no magic formula for determining wage or salary levels in the public sector. Certainly, no single criterion can be relied upon for a conclusive answer. Persons with equal intelligence and integrity might well differ

as far as the applicability and weight to be given any one criterion. The Panel has taken all statutory criteria into consideration and has concluded that the Superior Officers of the Nassau County Police Department are entitled to a fair and equitable upward adjustment in their current base pay.

D - The Panel's Determination:

Accordingly, based upon the analysis of the evidence in the entire record, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that the following across-the-board wage increases be granted to the Nassau County Police Department Sergeants, Lieutenants and Captains, on the dates set forth below, as follows:

7.6% effective as of January 1, 1979

3.5% effective as of January 1, 1980

4.0% effective as of July 1, 1980

N.B. The differentials between detectives and officers in the corresponding ranks in the sum of \$1,000 shall be maintained.

The Panel directs that the 1979 wage increase be paid expeditiously.

For purposes of illustration, taking the Sergeant

rank as illustrative, the following computation is set forth:

<u>12/31/78</u>	<u>1/1/79</u>	<u>1/1/80</u>	<u>7/1/80-12/31/80</u>
\$24,996	\$26,896	\$27,837	\$28,950*
	(7.6% = \$1,900)	(3.5% = \$941)	(4% = <u>\$1,113</u>)
			2

The Panel is aware that the increase granted for 1979 is somewhat below the CPI increase of that year (approximately 70%). However, the Panel notes that wage increases do not, generally, keep pace with the CPI increase. The federal guidelines illustrate the point. Further, the Panel is persuaded that the record as a whole does not demonstrate that the County may realistically be viewed as a reservoir of inexhaustible affluence whose fiscal coffers may be replenished with ease. To this extent, the Panel has, in its judgment, balanced the equities and has not ignored the impact that a wage increase may have upon the County's total fiscal posture.

2. Longevity

The longevity benefit is hereinabove set forth in Part V of this Award.

The SOA demands 5% of base pay after five years of

 *Though the actual cash received at the end of 1980 will be \$28,393 (\$27,837 + \$556), the percentage increase will place the Sergeant on a bargaining plateau for 1981 of only \$23/ below his Suffolk counterpart at the end of 1980 - the most comparable target aimed at by the SOA.

completed service and 1% of base pay for every year of completed service thereafter.

A. SOA Position: In support of this demand the SOA contends that longevity pay is not only viewed as a bonus for long years of dedicated service but, in addition, is an inducement to experienced officers to remain on the job and that such experience benefits the County.

B. County Position: The County opposes any Longevity increase contending that there is no evidence in the record to support the conclusion that experienced officers are induced to remain in service because of Longevity pay alone. Rather it is the totality of benefits which, according to the County, are generous motivating the Superior Officers to stick with the job.

C. Panel's Analysis: The Panel has reviewed the evidence and finds that the Longevity structure is in need of a fair upward adjustment.

It is the Panel's view that the present Longevity structure should, fairly and reasonably, be brought in line with its basic purpose, as expressed by the SOA, but not, as the County contends, cause an undue distortion in the totality of the economic package awarded to the SOA.

The Panel has compared the County's Longevity

benefit with other jurisdictions and finds that the Superior Officers, while not disadvantaged, should be granted an equitable improvement consistent with the views as expressed above by the Panel.

D. Panel's Determination: Accordingly, based upon the record in its entirety, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that Longevity pay be as follows:

1. An increase of \$100 after six (6) years of completed service - from the present \$500 to \$600.

2. No change in Longevity pay after ten (10) years of completed service, i.e. Longevity pay of \$400 remains the same.

3. An increase of \$ 100 after fifteen (15) years of completed service - from the present \$400 to \$500.

All other Longevity payments are to remain in effect. The effective date of the increases shall be January 1, 1980, and the entitlement to such increases, based upon completed years of service, shall be determined as of December 31, 1978.

It will be noted that the Longevity improvement will entitle the Nassau County Superior Officers to \$1,500 in Longevity pay after fifteen (15) years of completed service placing

them above their counterparts in Suffolk County and New York City.

3. Clothing and Equipment Allowance

The SOA demands an increase in clothing allowance from \$450 to \$1,000, annually, and an increase in equipment allowance from \$350 to \$1,000, annually.

Upon consideration of the respective contentions of the parties and a comparison of the pertinent jurisdictions regarding clothing and equipment allowance, the Panel concludes that a modest increase is warranted in both instances.

The Panel points out that the comparisons referred to indicate that Nassau County ranks favorably in clothing and equipment allowance. However, the Panel deems it important that the wage increases herein determined are not eroded by the need of the Superior Officers to purchase clothing and equipment at the present inflationary prices. The Panel does, however, feel that the wage and longevity increases the County is expected to bear for the two year period of the collective bargaining agreement requires recognition of the impact of those increases upon the fiscal posture of the County. Consequently, the Panel is of the view that an appropriate balance requires a modest increase of \$50, annually, effective January 1, 1980, for clothing allowance and a like amount for

equipment allowance, effective January 1, 1980.

Thus, the sums of \$500 and \$400, respectively, for clothing and equipment allowances, place the Nassau County Superior Officer in a position ahead of his counterparts in Suffolk County and New York City where prices to purchase the same items are virtually the same as in Nassau County.

Accordingly, based upon an analysis of the evidence in the entire record, it is the

JUST AND REASONABLE DETERMINATION of the Panel that, effective January 1, 1980, the clothing allowance for the Superior Officers be, and it is hereby, increased from \$450 to \$500; and that, effective January 1, 1980, the equipment allowance for the Superior Officers be, and it is hereby, increased from \$350 to \$400.

4. Other SOA Demands:

a) Basic Workweek and Tour of Duty (Schedule)

At the present time, the fixed tour officers work a 40 hour week, 260 days a year. The rotating tour officers work less than 40 hours a week and are scheduled to work 8 hour tours, 232 days a year.

The SOA demands that all tours be scheduled so that all Superior Officers work no more than 232 days a year. (Tr. p. 230-233).

The County opposes the demand contending that the cost factor to the County in a reduced work year would be substantial and, further, a comparison with the basic work year in other jurisdictions do not justify the reduction of the present work week and, by extension, a reduction in the number of days constituting the work year.

The Panel has reviewed the evidence with respect to the SOA demand and finds merit to the County's position. A comparison with other jurisdictions does not indicate that the Nassau County Superior Officer is at a disadvantage - particularly in the light of other time leave benefits which accrue to the officer whose tour schedules are based on 261 work days in the year.

However, of dispositive significance to the Panel, is the self-evident fact that a reduction in the number of days constituting the work year is a proportionate wage increase.

The Panel has previously indicated that the wage increase herein determined is just and reasonable. By granting a work reduction schedule without a corresponding wage reduction would, in effect, be granting, by indirection, a wage increase and thus, in effect, nullify, in substantial part, the wage increase determination made herein by the panel.

Accordingly, based on the record in its entirety,
it is the:

JUST AND REASONABLE DETERMINATION of the Panel that
the SOA's demand for a uniform 232 day work year be, and the
same hereby is, DENIED.

b) Meal Allowance and Vacation Days Increase

The Panel has reviewed the evidence with respect
to the SOA's demand for an increase in meal money and an
increase in vacation benefits.

Though there is a paucity of evidence with which to
compare this benefit with other jurisdictions, it is a self-
evident fact that the cost of eating meals on the outside has
increased.

The Panel concludes that the amount for meal allow-
ances now provided is inadequate and should be increased by
an amount commensurate with the cost of living increase.

The Panel notes, too, that the present amount for
meal allowances was fixed as of 1975 and has not since been
modified. The Panel believes that since that time a suffi-
cient period of time has transpired to more accurately measure
the rising cost of eating outside meals and, therefore, an
increase in meal allowance is justifiable, effective January
1, 1980.

Accordingly, it is the JUST AND REASONABLE DETERMINATION of the Panel that Section 8 I. paragraph 1. (Meal Allowance) of the existing contract be modified to the following extent: That Meal Allowance be INCREASED from \$5.50 to \$7.50, effective January 1, 1980.

The Panel has also reviewed the evidence regarding the SOA's demand for an increase in vacation days from 27 to 40 days, annually.

Based upon a comparison with other pertinent jurisdictions, the Panel finds that the Nassau County vacation benefit ranks second out of eight jurisdictions, being exceeded by Suffolk County and Arlington which have 30 vacation days annually. However, when personal days off are considered and added to vacation days, the Panel finds that the combined benefits total 32 days for Nassau which ranks it in first place.

Accordingly, based upon the evidence in the entire record, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that the SOA's demand for an increase in the number of vacation days be, and the same hereby, is denied.

c) Past Practice Clause:

The SOA demands that all terms and conditions of the 1977-1978 agreement constituting mandatory subjects of bargaining, other than those modified by the parties, be included in the successor agreement effective January 1, 1979. The SOA expresses concern that in the absence of an actual agreement, executed by the parties, the Panel's award is the only binding

instrument that may be relied upon to establish the terms and conditions of employment between the parties. The County opposes the demand on the ground that to grant it "would be the equivalent of a rejection of all of the County demands" (County's brief, page 14).

The Panel believes that the County misapprehends the SOA's demand. In the first place, it is noted that the SOA does not demand an automatic inclusion of all mandatory subjects in the successor agreement, but only those subjects which are not modified by the parties. Secondly, the Panel understands that the parties agreed to submit for the Panel's consideration certain specific matters, all others having been either "withdrawn or agreed to" by the parties. (Tr. p. 1274). Thirdly, unless the parties have jointly indicated to the Panel that they desire to negotiate, or to continue negotiations, on all matters not directly disposed of by this Award, it makes for little or no sense, from a labor relations aspect, to be left with an *Open Sesame* situation on major mandatory subjects. Finally, the ultimate objective sought to be established by the interest arbitration statute would be frustrated if the Panel failed to complete the task of adjusting mandatory terms and conditions of employment which either party requests it to do. In this case, the SOA has so requested the Panel. The County's opposition is unclear. The County's fear that the grant of the SOA's demand

would be the equivalent of a rejection of all of its demands is groundless. The Panel will treat with the County's demands and to the extent that any one of those demands is granted, the same would constitute, in effect, a modification of the pertinent provision in the prior 1977-1978 agreement. If so, the particular provision, as modified by this Award, would then be included in the 1979-1980 successor agreement. The objective is to spell out a final and complete accord which would consist of the determinations made by this Award, which may or may not modify the provisions of the prior agreement, and those matters which have been agreed to by the parties. Thus, in effect, the SOA's demand is one which seeks to effectuate the intent of the parties and which this Panel believes makes for good labor relations to oblige by effectuating such intent.

Accordingly, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that all terms and conditions of employment, mandatory in nature, contained in the prior 1977-1978 collective agreement be, and the same hereby are, incorporated in the successor 1979-1980 collective agreement except to the extent that such provisions are otherwise directly modified by the parties or by this Award, and, as so modified, such provisions shall constitute the terms and conditions of employment covering the bargaining unit members for the 1979-1980 term of the successor collective agreement.

d) The Welfare Fund

The SOA demands that the County make contributions to a Health and Welfare Trust Fund in the sum of \$500 for each bargaining unit member for the purpose of dispensing the following benefits: dental plan, optical plan, a hearing aid plan, a drug prescription plan, increased Major Medical coverage with a non-deductible clause, and a hospitalization rider for increased benefits.

In support of its demand the SOA offered the testimony of an expert in the field, the purpose of the testimony being to establish that both the County and the County's Superior Officers and their families would benefit. According to the testimony, the establishment of such a Fund would save the County money and, at the same time, would provide the Superior Officers and their families with improved and new benefits coverage. The SOA points to the fact that such trust funds have been established in adjoining jurisdictions: Suffolk County and New York City.

The County's opposition to the establishment of such a Fund was based mainly on the contentions that: 1) the County now provides adequate health and medical coverage for all of its employees and that to establish a separate and distinct method of coverage would single out the Superior Officers as a special group of County employees; 2) that the SOA has not

established a need for improved or added coverage; and 3) that the propriety of placing substantial funds "into the hands of union officials with unfettered discretion on potentially duplicative health benefits" is questionable.

While the Panel, for the reasons hereinafter mentioned, has decided to deny the SOA's demand for a Trust Fund, the denial is not based on any of the contentions made by the SOA.

Though the Panel's views, as expressed herein, are not to be construed as mandatory, the Panel believes that a period of transition is advisable during which the parties may undertake a joint study regarding the feasibility of the establishment of such a Fund and its results objectively evaluated in terms of benefit both to the County and the Superior Officers. Under the circumstances, an abrupt departure from existing plans is not advisable.

The Panel does not otherwise believe that the novelty of a demand requires rejection if it otherwise is a mandatory subject of negotiations under the statute. As for the administration of such a Fund, the Panel notes that its control and supervision is under the aegis of trustees - not union officials - whose legal status is necessarily different than the SOA officers. Further, the property and assets of such a Fund constitute no part of the union treasury and can-

not legally be treated as part of the union treasury.

However, based on the record in its entirety, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that the SOA's demand for the establishment of a Trust Fund, for the purposes mentioned, is hereby DENIED.

IX

County Demands

1 - Preface

Under the label "Preface" the County has indicated its position with respect to a status quo on wages and fringe benefits.

Since the Panel has previously treated with these matters, no further elaboration is required. To the extent that the subject of wage increases and fringe benefits (longevity and clothing allowance) has been determined by the Panel, the determination effectively disposes of the County's "Preface".

2 - Equipment Allowances and Vacation Decrease

The County demands a discontinuance of equipment

allowance and a decrease in vacation days. The Panel has previously treated with both matters and no further elaboration is required.

To the extent that the subjects of equipment and vacation benefits have been determined by the Panel, the determination effectively disposes of the County's demands.

3 - Blood Days

The County demands a discontinuance of granting compensatory time off to Superior Officers up to a maximum of 4 days, annually, for donating blood. The benefit is not contractual but is apparently a practice now constituting a term and condition of employment which cannot be unilaterally discontinued unless first negotiated and, if at impasse, subject to disposition by a Public Impasse Panel.

The County argues that there should be no special inducement to "our highly motivated officers to save the lives of others by providing necessary blood through the payment of 'blood money'."

The Panel notes that the donation of blood is voluntary and that while the motivation to save others is sustained by its own virtue, the Panel would hope that the County is no less motivated and would, therefore, share and participate in the virtue of saving the lives of its citizens.

Accordingly, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that the County's demand to discontinue compensatory time off for the donation of blood by the Superior Officers be, and the same hereby is, DENIED.

4 - Sick Leave Abuse

The present contract provides that an officer who is on sick leave is required to remain at home only between 9:00 A.M. and 5:00 P.M. on the day that he was scheduled to report for work and that he may be visited by a police surgeon only during those hours.

The County demands that a police surgeon be allowed to visit the officer at his home beyond the hours now provided for in order to assure against abuse of sick leave privileges.

The SOA takes umbrage at the County's demand and the implication that the Superior Officers would abuse the sick leave privilege.

The County points to the recent contract with the P.B.A. which provides that whenever the Police Commissioner "identifies an employee as a sick leave abuser" he may require an officer to remain at home and be visited beyond the hours of 9:00 A.M. and 5:00 P.M. The SOA refers to this practice as

a form of "forced imprisonment" reflecting on the integrity of Superior Officers.

At the outset, the Panel notes that the County has adduced not a scintilla of evidence supporting any inference that Superior Officers, either individually or collectively, have, or are, abusing sick leave privileges. There is, therefore, no evidentiary basis whatever establishing that Superior Officers are taking advantage of the sick leave contractual benefit. Thus, the Panel concludes that the integrity of the Superior Officers is not involved; nor is it in question based on the present record.

The Panel, however, understands the County's demand as one which aims at the prevention of possible abuse in terms of its status as a public employer and its obligation to the County's taxpayers. To this extent, and only to this extent, does the Panel find, up to a point, merit to the County's demand.

The Panel believes that vesting the Police Commissioner with the sole discretion of identifying a so-called sick leave abuser is an excess of discretion which may also lead to an abuse of discretion. The solution, fairly and reasonably, must be a balance between two extremes involving the possibility of abuse.

The Panel suggests, without deciding, that the par-

ties continue to negotiate this matter on the basis of defining "abuse" in terms of the number of days that an officer reports sick. For example, an absence of two or more continuous days for illness may justify the visit of a police surgeon at any reasonable time of the day to the home of an officer. Until this subject is resolved in negotiations, the present contractual provision remains in force and effect.

5 - Basic Work Week

The County demands that the basic work week for all personnel, other than detectives, on a rotating ~~four~~ shall be five (5) days on and seventy-two (72) hours off.

The Panel refers the parties to its treatment and consideration of the SOA's demand for a change in the "Basic Work Week and Tour of Duty (Schedule)". In considering the SOA demand the Panel concluded that to decrease the basic work week for the fixed duty tour officers, to that of the rotating tour duty officers, would, in effect, constitute an indirect increase in wages beyond the direct amount fixed by the Panel. Thus, the County demand is, in reality, the obverse of the SOA's demand resulting, however, in a decrease in the wage increase granted by the Panel. Obviously, increasing the length of the work week without a commensurate increase in wages is, in actuality, a wage decrease.

Based upon the rationale with respect to the SOA's

demand, and by a parity of reason, it is the:

JUST AND REASONABLE DETERMINATION of the Panel that the County's demand be, and the same hereby is, DENIED.

6 - Change of Tours and Its Impact on Overtime

The County demands that no premium pay be given to an officer where the Police Commissioner alters the tour based on "police necessities" and, in addition, to change the tour "for the purpose of avoiding overtime with seven (7) days notice". The foregoing would constitute two circumstances by reason of which no overtime pay would be due to the officer working overtime.

The Panel notes the legal status of the County as a government with the duty and right to govern, to direct its work force and to determine the delivery of County services. Having to pay premium pay for overtime work does not, in the Panel's view, contrary to the County's contention, deprive the County of "flexibility". It simply means that the County must pay extra for work beyond tour duty, i.e. beyond a day's work. Of course, to the extent that the County does not pay for overtime work there is a savings to the County. But there is also a corresponding diminution in wages to the police officer. Obviously, if a police officer is required to work for a certain sum of money for a certain fixed number of hours and then the fixed hours are lengthened

for the same pay, it follows that the police officer is working for less money. He may be working ten (10) hours for an eight (8) hour day receiving pay for only eight (8) hours for working ten (10) hours. The County apparently attempts to justify its demand by characterizing the total package of benefits as "generous". The Superior Officers might take issue with such a characterization and the Panel does not believe that any useful purpose is served by characterizing the total wage and benefit package by any other label except "fair and equitable" or "just and reasonable" under all of the facts and circumstances.

Accordingly, based upon the record in its entirety, it is the:

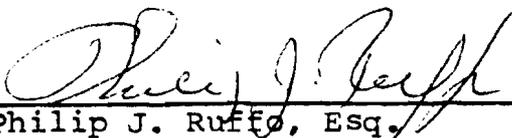
JUST AND REASONABLE DETERMINATION of the Panel that the County's demand to avoid the payment of overtime pay under certain specified circumstances be, and the same hereby is, DENIED.

Conclusion

In rendering the several determinations herein, the Panel has made a good faith effort to understand and weigh the fiscal posture of the County and the services rendered to the County by the County's Superior Officers. The Panel has con-

cluded that (a) the County does have the ability to pay the wage increase and other benefits herein granted and (b) that such wage increases and benefits granted constitute a just and reasonable determination of all issues submitted to the Panel based upon all of the facts and circumstances, supported by a rational analysis of the evidence contained in the record. While the Superior Officers may be asked to share some of the burden in considering the fiscal posture of their employer, Nassau County, they cannot reasonably be expected to bear the full burden of such fiscal problems and that it would be inequitable to foist that burden solely, or substantially, upon the Superior Officers. It is in the interest of the County's taxpayers that the County have a well organized and properly motivated police force whose compensation meets the objective standards of fair and equitable and just and reasonable.

Dated: June 1, 1980


Philip J. Ruffo, Esq.
Chairman

Concurs:

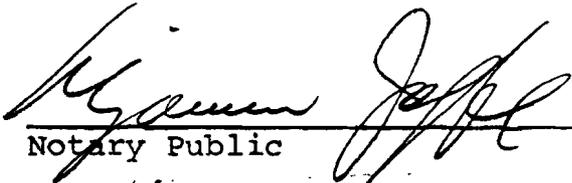
William Pattison
Employee Organization Member

Concurs and Dissents:

Thomas F. Delaney, Esq.
Public Employer Member

STATE OF NEW YORK)
)
COUNTY OF ~~NEW YORK~~) SS:

On this ~~10~~¹¹ day of June, 1980, before me personally appeared PHILIP J. RUFFO, to me known and known to me to be the Chairman of the Panel who executed the foregoing Award and he duly acknowledged to me that he executed the same.



Notary Public

BENJAMIN JAFFE
Notary Public, State of New York
No. 41-7065900 Queens County
Term Expires March 30, 1982

STATE OF NEW YORK)
)
COUNTY OF) SS:

On this day of June, 1980, before me personally appeared WILLIAM PATTISON, to me known and known to me to be the Employee Organization Member of the Panel who executed the foregoing Award and he duly acknowledged to me that he executed the same.

Notary Public

STATE OF NEW YORK SS:
COUNTY OF

On this day of June, 1980, before me personally appeared THOMAS ANEY, to me known and known to me to be the Public Employer of the Panel who executed the foregoing Award & duly acknowledged to me that he executed the same.

Notary Public