

THE NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the Interest Arbitration

between

THE CITY OF AMSTERDAM, NEW YORK

and

THE AMSTERDAM POLICE BENEVOLENT ASSOCIATION, INC.

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ARBITRATION

: AWARD  
:  
: PERB Nos.  
: IA-46  
: and  
: M77-782  
:  
:

APPEARANCES:

For the Association:

Al Sgaglione, President, Police Conference of  
New York, Inc.

Paul Wollman, Esq., Counsel  
Thomas Brownell, President, Local PBA

For the City:

Joseph A. Igoe, Negotiator, Thelan Associates  
Oswald Grayson, Commissioner of Public Safety

Under date of May 12, 1978, the Association petitioned the New York State Public Employment Relations Board (PERB) to initiate compulsory arbitration proceedings. The City duly responded on May 24, 1978 and the PERB, on June 6, 1978 pursuant to CSL, Sec. 209.4, designated the following to serve as a Public Arbitration Panel:

William A. Hazell, Public Member and Chairman  
Anthony P. DiRocco, Employer  
Panel Member  
William J. Courlis, Employee Organization  
Panel Member

The petition identified the open issues as follows:

1. Term of agreement - one year
2. Continuation of previous contract unless amended
3. Retroactivity for all salary and fringe benefits to  
January 1, 1978
4. Salaries
5. Night differential
6. Longevity
7. Overtime
8. Holidays - method of payment
9. Payment for unused leave on retirement or death
10. Payment for unused sick leave on retirement or death
11. Clothing allowance
12. Cleaning allowance
13. Holidays - one to be added
14. Personal leave
15. Increments and longevity pay to start on anniversary  
date
16. Seniority credit for CETA and/or PEP

In its response the City rejected all of the PBA proposals, and identified the following as open items on which it had made proposals:

1. Doctor examination to certify illness
2. Blue Cross/Blue Shield
3. Delete XV-A (Transfers)
4. Delete XVI E (Walking tours below 0°)

A hearing in this matter was held in Amsterdam, New York on Tuesday, July 18, 1978, by the designated Panel. Both parties had a full opportunity to be heard and to present evidence, testimony and argument in support of their respective contentions.

Witnesses were sworn and a record made of the hearing. The transcript (T) was received August 17, 1978.

At the election of the parties they presented their respective cases in toto rather than issue by issue. For that reason this document will follow the same format for the most part and then consider the separate issues.

#### ASSOCIATION'S POSITION

The Association stated the laws affecting police officers in Amsterdam are applicable throughout the State and police everywhere must meet the same minimum standards. Wearing a uniform and shield and carrying a gun, a police officer faces a hazard regardless of the community he serves (T 9).

As its first witness the Association called Edward Fennell, currently comptroller of the City of Cohoes, who plans to serve as a consultant to labor unions on financial questions as he has on a number of occasions in the past.

The witness testified as to the financial status of the city. It has improved its fiscal policies in recent years and for the current year it is using roughly 65% of its constitutional tax limit (T 42). It was also his opinion that the debt limit is currently at approximately the same level (T 43).

The next witness for the Association was Maurice Felski, Chief

of Police, who appeared under subpoena. The Chief testified that his Department is understaffed (T 53-4); fewer men are available to answer calls or back-up others (T 66).

Introduced in evidence was a Department notice concerning 1978 vacations which the witness acknowledged was issued by his office and under his authority (T 56). A note at the bottom read as follows:

"Due to the serious manpower shortage encountered last year during the vacation period, ONLY ONE patrolman from each shift will be allowed to sign up for any given week"

From the subpoenaed record the witness cited the pattern of arrests as follows:

	<u>1976</u>	<u>1977</u>	<u>6 mos.</u> <u>1978</u>
Felonies	63	78	42
Misdemeanors	278	324	182
Violations	76	113	30
Petty offenses	501	618	308
Parking summons	2,146	3,192	1,501
Accident Investigation	433	464	202

The witness testified that arrests and investigations have increased annually (T 63) and that the shortage of manpower increases the hazard exposure of the individual patrolman (T 68).

The Association introduced a total of 29 exhibits. Among them was Chapter 444, Laws of the State of New York, 1977 (Un.

Ex. 14) which shows that effective April 1, 1978 troopers received \$12,715 as a starting or training annual salary, and with annual increments that takes them to \$15,190 after the fourth year. Sergeants and Investigators (Detectives) have a maximum salary of \$18,004; Lieutenants \$25,433; and Captains \$27,158. In addition troopers receive longevity pay after 9 and 14 years of service and all receive preparation and briefing pay in varying amounts according to length of service.

The contract between the City of Troy and the PBA, showing a range of \$10,450 to \$14,073 over a 42-month period was put in evidence (Un. Ex. 15). Sergeants and detectives receive \$14,973 and captains \$16,157. The contract provides for time and a half for overtime or recall. Attention was called to a provision for payment of unused vacation to next of kin in the event of death. The clothing allowance is \$225 and they have three days personal leave.

The firefighters of the City of Albany, as shown by an arbitration award submitted will receive three 5% increases over a two year period with effective dates November 1, 1977, July 1, 1978 and March 1, 1979. It was stated Albany firefighters receive \$14,000 a year (T 74).

A PERB report of police salaries for 1978 in various jurisdictions was submitted in evidence (Un. Ex. 17). Attention was called to a number of jurisdictions. Albany's contract which expired in June, 1978 showed a range of \$12,115 to \$12,997, with the maximum reached in four years. Detectives start at \$12,745 and reach \$13,627 (T 75).

Similar reference was made to a number of other cities and towns appearing in the report.

The salaries for 1978 for the City of Elmira were shown in their contract (Un. Ex. 18). They start at \$10,874 and reach \$13,288 in the fifth year. Sergeants receive \$16,050, Lieutenants \$17,518 and Captain \$18,948. They have 11-1/2 paid holidays, time and a half for recalls with a minimum of 3 hours. Unused vacation is paid on voluntary separation or death. The contract also calls for payment on retirement of any unused vacation, holiday, sick leave or overtime.

The contract between the City of Utica and the PBA (Un. Ex. 19) shows salaries range from \$10,840 to \$12,925 for patrolmen, \$14,135 for sergeants and detectives, \$15,465 for lieutenants and \$16,930 for captains. They have time and a half for overtime and 3 days personal leave.

Similar data were given for Mechanicville, Schenectady, Bing-

hamton, Rensselaer, Glens Falls, Poughkeepsie and Watervliet.

The PBA submitted a 1978 PERB study of fringe benefits (Un. Ex. 27) (T 90) and called attention to the benefits received in a number of New York cities including overtime, increments, payment for overtime, payment on death or retirement for unused leave, etc.

A clipping from the New York Times dated October 2, 1977, reporting that military and federal government employees were to receive a 7% increase, was submitted in evidence. (U. Ex. 29).

#### CITY'S POSITION

The City reminded the Panel of the criteria contained in Article 14, CSL Section 209.4 (V) and emphasized comparability of communities used in making comparisons of wages, hours and conditions of employment and the history of past negotiations. It contended Amsterdam cannot be compared with Nassau or Erie County cities (T 103).

Only one exhibit was submitted containing in excess of 54 items and it was suggested that reference be made to them in accordance with the index numbers appearing in the exhibit. Number 2 in the binder is a roster of Amsterdam police employees with salary rates for 1977 showing for 35 police an average annual salary of \$10,681. The next item is a salary schedule showing by handwritten

numbers a scattergram placement at the various salary levels (T 106).

The next several items of Consumer Price Indices, PERB reports, etc. support a study of Amsterdam police salary increases over the past five years which the City contended have kept pace with the cost of living and the average negotiated or arbitrated increases in New York State.

From PERB's "First 1978 Report for Police Personnel" are extracted data on salary ranges for patrolmen and higher ranks for a number of area cities (City Ex. Item 10). Another chart shows longevity and when paid in various cities (City Ex. Item 11).

PERB studies are also used to show for various cities the practice of paying a number of fringe benefits that are involved in the current dispute - overtime, holidays, payment of sick leave on retirement, personal leave, uniform and cleaning allowances (City Ex. Items 13 - 24).

A series of arbitration awards were submitted in summary showing salary increases and fringe benefits awarded in various upstate jurisdictions (T 123).

The next item in the City Exhibit is a summary of negotiated settlements reported by PERB, from which it was calculated that the average increases in salaries were 6.5% for 1978 and 5.0% for 1979. (T 138)

A similar study of arbitration awards showed an average increase of 6.4% for 1978 and a single award for 1979, 6%.

The City argued that the reason Amsterdam police salaries appear low in comparison with other jurisdictions is because of the costly retirement plans the City police have. Plan 375 C costs the employer 21.2% and 384 D can cost the City 40.7%. Very few cities in the area have such costly plans and to some extent it explains the present salary schedule (T 143) The City contended that this has to be taken into consideration as a part of the total financial package that the City provides its employees. It noted that the employees do not pay tax on this portion. The Panel is required by statute to consider the history of negotiations and the total picture must be taken into consideration (T 143-144). The City estimated the difference at 5% or 6% (T 149).

To establish that Montgomery County, of which Amsterdam is a major part, is not a wealthy community, the City submitted a New York State Department of Commerce report showing per capita income by counties 1965 - 1973 (City Ex. Items 43-44). Attention was called to the 1973 state average of \$5,657 as compared to Montgomery County average of \$4,471 (T 153).

Another Commerce Department study shows total and per capita personal income for 1974 and 1975 (City Ex. Item 45) and the City

contended that Montgomery County is a relatively poor county in relation to the State or Schenectady or Albany counties.

The City submitted a study (City Ex. Item 46) relating personal per capita income to the midpoint of police salary ranges for a number of cities and concluded that police pay tends to be about twice the average per capita income of the county (T 161) and the area makes a big difference (T 162). Amsterdam's 1.97 ratio compares favorably.

The City stated that unemployment in Montgomery County stood at 9.1% in April 1978 which is the highest of any county in the area and almost 2% higher than the State rate (T 163). This also underlines the City's effort to pay reasonable salaries (T 163)

The City asserted that Schenectady's increase to police of \$600 equals 4.2%, Gloversville police are to receive \$520 or 4.5% and Johnstown \$750 or 6.2%. Montgomery Sheriffs have received \$500 or 5.4%, said the City, and these are the closest jurisdictions in the area (T 166).

Negotiations with other unions representing City employees went through factfinding which resulted in recommendations of 5% - 5.5% increases for 1978 and 5% for 1979. (City Ex. Item 50). Final negotiated settlements for 1978 were 5.5% for two unions and somewhat higher for one (City Ex. Item 54).

The City reviewed the demands made by it in the negotiations. They included the right to send a doctor to certify an illness on the first day. It based this on the shortage of manpower (T 179). It also would like to hold the City's share of Blue Cross premiums to the 1977 level (T 180). This change it would be willing to move into the second year of the contract (T 181).

Another City demand would add to a contract provision the words "The City shall make transfers and assignments as it deems appropriate for the needs of the City and the Department. Such assignments shall not be subject to the grievance procedure." This also was supported by reference to the shortage of manpower and the Chief's need for flexibility (T 182).

The City would also delete from the contract the provision for dispensing with walking tours when the temperature falls below zero (T 185).

Attention was called to the fact that the expired contract covered both police and firemen. This no longer applies as they are negotiating separately (T 188).

The City argued that the Panel should note the increases in area jurisdictions and argued that it not go backward and make up for the failure of the Union to make selective gains over previous years (T 190).

## DISCUSSION AND FINDINGS

The Panel met in executive session on Friday, September 15 and Friday, September 22, 1978. By a majority vote of the Panel a determination was made with respect to the issues presented for resolution and the Chairman was authorized to draft this award.

It may be noted that the majority was not always composed of the same members with respect to particular issues or the reasoning behind the decisions on the issues, and at times there was unanimity.

### GENERAL

It was the PBA's position that police work is very much the same wherever performed within the boundaries of New York State (T 7 - 9). However it focused generally on area jurisdictions for significant comparisons.

The City argued that the wealth of the community made a big difference. Remote counties such as Nassau or Erie are not appropriate for comparison purposes (T 103); and such comparisons should be made with neighboring communities (T 116, 190-191) excluding those that are wealthier, it said.

Both parties cited lengthy lists of cities for particular purposes so the Panel felt it was reasonable to pay special attention to those that appeared at one time or another on the lists of both

sides, that are in close proximity to Amsterdam and bear some resemblance to it. We found that these include Albany, Cohoes, Gloversville, Johnstown, Mechanicville, Rensselaer, Watervliet, Troy and Schenectady.

All are older Mohawk or Hudson valley cities and our tendency was to give greater weight to the smaller ones rather than the larger cities of Albany, Troy and Schenectady. Suburban towns were not included because many of them represent higher income levels and although it is impossible to know the degree, a number of them depend on state and county law enforcement assistance to meet many of their police needs.

All the cities mentioned have a mix of manufacturing and retail trade, are reasonably close in median family income, and in the percentage of the population in the labor force, as can be seen from the following data from the New York State Commerce Department's "Business Fact Book" Parts 1 and 2:

	<u>1970 Population</u>	<u>Median Family Income (1969)</u>	<u>Percent in Labor Force</u>	<u>Mfr Payroll (In Millions)</u>	<u>Retail Trade (in Millions)</u>
Amsterdam	25,524	\$8,807	58.0	30,800	62,277
Albany	115,781	9,947	57.6	65,000	300,253
Cohoes	18,653	9,207	59.20	16,400	22,992
Gloversville	19,677	8,407	61.1	25,000	51,072
Johnstown	10,045	8,818	60.8	14,400	42,333
Mechanicville	6,247	9,637	54.9	4,900	23,559
Rensselaer	10,136	9,935	58.8	25,400	19,842
Schenectady	77,958	9,318	55.8	NA	195,449
Troy	62,918	9,111	53.9	45,600	142,036
Watervliet	9,232	9,534	59.2	44,000	18,108

While the City stressed personal and family income as the only indicators of wealth in making comparisons between cities, it did not reveal the percentage of the tax enrollment that is represented by commercial and industrial property in Amsterdam.

It should be noted that the City specifically did not argue inability to pay. The question of concern according to it is, "how much?" (T 34). As cited above, unchallenged testimony of a PBA witness was to the effect that there is a comfortable leeway before the constitutional tax or debt limits are reached (T 142-43)

Under general comments, mention might also be made of the fact that the contract which expired December 31, 1977 was between the City and the Teamsters Union and covered firemen as well as police. A change of the Union's name as well as deletion of references to firemen and provisions relating solely to that group will have to be made.

1. Term of contract:

The demand of the PBA for a one year contract was changed late in the hearing. It stipulated that a two-year contract, as requested by the City, would be agreeable provided salaries and fringe benefits were satisfactorily adjusted (T 192).

Although neither side submitted much in the way of significant evidence for 1979, the Panel agrees that a two year term is in

order, because of the long delay in settling the 1978 agreement. It would be unreasonable to put the parties through the burden of negotiating a renewal contract so quickly.

2. Continuation clause:

The PBA sought a clause that would serve to continue the contract in effect in the event a renewal agreement had not been completed by the expiration date.

It is the view of a majority of the Panel that the statute under which it operates precludes it from complying with such a request. The statute says: "but in no event shall such period exceed two years from the termination date of any previous collective bargaining agreement."

A continuation clause that serves to perpetuate the contract for any period beyond two years, even though such a provision may be negotiated without offending public policy, cannot be awarded or directed through compulsory arbitration, in our opinion.

3. Guaranteed retroactivity for successor agreement:

A majority of the Panel is of the opinion that such clauses can encourage delaying tactics when perceived as advantageous to either party and unnecessarily interfere with free collective bargaining in the negotiation of such a successor agreement. It will not be awarded.

4. Night differential:

The PBA sought a provision that would grant a 7% differential in pay to those police assigned to the second and third shifts.

We find no evidence that any of the jurisdictions used for the purposes of comparison provide this extra compensation. No persuasive evidence was presented to convince us that Amsterdam should take the lead in adding such a supplement to its wage structure.

5. Overtime compensation:

The PBA would have the City pay time and one-half after an eight hour tour or 40 hours a week or at the rate of double time in compensatory time off at the option of the member.

Of the cities used for comparison, four out of eight pay time and one-half for overtime with Albany not reporting; two have straight time; one has compensatory time off; and one grants either straight time pay or one and a half compensatory time.

Time and a half for overtime has been mandatory in the private sector for some forty years and has grown to be rather common place in the public sector for employees (T 117) below the executive or managerial levels.

Amsterdam has admitted to a shortage of police manpower (T

179 and 182) and a PBA witness testified to the same effect (T 3). Paying for overtime in additional time off only serves to compound the problems resulting from under-staffing.

In view of the evidence a majority of the Panel inclined to award the payment of time and one half rather than double compensatory time off. Because of the time that has elapsed since the expiration of the previous contract it is possible as the City contended, that retroactivity could have a significant impact. This change will become effective January 1, 1979.

6. Longevity:

PBA asked that longevity payments be increased from the present \$100 to \$200 upon the completion of ten years; \$400 after fifteen years; and \$600 after twenty years.

Proof was lacking that payments of such amounts are prevalent in the area. Only Schenectady totals \$1,200, and Mechanicville equals \$1,000. Cohoes' four longevity payments total \$600.

A majority of the Panel awards an increase of \$50 in the longevity payments effective January 1, 1978. That will make the payments \$150 each after 10, 15 and 20 years.

7. Holidays:

A change was requested in the holiday clause so that each member shall have the option of accepting cash payment or time off.

Evidence is not completely clear in our area cities as to the method of payment. A majority of the Panel will award effective January 1, 1979, an additional holiday (Good Friday) for which the member may elect to take cash payment or compensatory time off. The rest of the holiday clause will remain unchanged.

8. Unused leave:

A demand was made that upon retirement, each member of the department shall be paid for accumulated leave time at the rate of time and one-half in cash and in the event of death, the officer's beneficiary shall be paid for any such time also at the rate of time and one-half.

It was found to be fair and equitable to pay for unused vacation or holiday leave at straight time upon the death or retirement of the member, but evidence was lacking to support bonus payments on such occasions.

The Panel will award accordingly.

9. Unused sick leave:

The PBA sought inclusion of a clause to provide payment of two-thirds of the member's sick leave bank upon death or retirement.

While it was found that this practice occurs in some jurisdictions, the evidence was not persuasive for its adoption here.

10. Clothing Allowance:

The PBA asked that each member receive a clothing allowance

annually in the amount of \$365 effective January 1, 1978.

This allowance was increased 10% in 1977 to \$165. In view of inflation and the pattern elsewhere, the Panel will increase the clothing allowance to \$190 effective next year.

11. Cleaning allowance:

A cleaning allowance of \$150 per annum was sought by the PBA.

In the absence of supporting evidence, this request is rejected by the Panel.

12. Holidays:

It was requested that the number of paid holidays be increased from eleven to twelve and the additional one labelled Officer's Birthday.

This matter was dealt with in No. 7 above.

13. Personal leave:

The PBA sought to have the number of personal leave days increased from one to three.

It is found that the cities in the area vary from none to three days personal leave.

The Panel agreed to amend Art. XIII to provide two days personal leave effective January 1, 1979.

14. Payment of Increments:

The PBA asked that each member be paid salary increments and longevity payments on the anniversary date computed from date of appointment.

A majority of the Panel felt that while this has some merit, the ramifications of the proposal have not been sufficiently explored to warrant a change in current procedures. The largest employer in the area, the State Government, does not follow this practice.

15. Seniority:

The request for seniority credit for CETA time was withdrawn at the hearing. (T 196)

16. Sick leave:

Before proceeding to the salary issue the City proposals will be considered.

Under sick leave the City asked that it have the right to send its designated doctor to certify the illness of an employee on the first day of absence. It based this request on the shortage of manpower.

There was no showing of abuse of sick leave privilege so the need for such a change in procedure is not apparent.

A majority of the Panel rejected this proposal.

17. Blue Cross/Blue Shield premiums:

The demand to freeze the City share of health insurance cost at the 1977 level is rejected in the absence of evidence to support it.

18. Transfers and assignments:

The City asked for a clause that would give the City the right to make transfers and assignments without having them subject to the grievance procedure (T 181-182).

Evidence to support this demand was lacking and a majority of the Panel rejected it.

19. Foot patrols in sub-zero weather:

The City had sought to delete from the contract a provision that dispenses with walking tours after 10:00 p.m. when the temperature falls below 0° F. (Art. XVI E)

While such a provision is not commonly found in police contracts, the Panel was of the opinion that no grounds were shown for its deletion.

20. Right to cancel leaves:

A provision was sought to give the Chief the right to cancel leaves, holidays and other time off in order to maintain a full shift

This proposal would negate important benefits that normally accrue with length of service. The City's desire to have the police absorb the disadvantages of its short-staffing policies goes a little beyond reason. There are legal requirements for police to report for emergencies, but as worded, this proposal

would apply in any situation. The Panel will reject it.

21. Salaries:

The PBA proposed the following salary schedule for police members effective January 1, 1978:

Starting Salary	\$10,065
Completion of 1 year service	10,775
Completion of 3 years service	11,815
Completion of 4 years service	13,000
Investigator or Detective	13,550
Sergeant and/or Det. Sgt.	14,100
Police Lieutenant	15,000
Police Captain	15,900

The present schedule (Un. Ex. 2) provides for patrolmen as follows:

Base Salary level	\$10,063.75
1 = yr \$100	10,163.75
3 = yrs \$200	10,363.75
5 yrs Maximum salary \$200	10,563.75

The City had offered to increase salaries by 1% in 1978 and 2% in the second year of a two-year contract (T 101).

As indicated above the Panel elected to focus on area cities for comparison purposes. The following information was obtained from the "First 1978 Report of Salaries for Police Personnel in New York State", published in February, 1978, supplemented by the number of uniformed police personnel taken from a New York State Policy Study. It is understood that CETA personnel if uniformed are included. It was necessary also to use actual contracts for two cities.

<u>Uniformed Personnel</u>		<u>Rank</u>	<u>Period</u>	<u>Entry Level</u>	<u>Top of Scale</u>	<u>No. Yrs. to top</u>
387	Albany	Patrolmen	6/25/77-6/24/78	\$12,115	\$12,997	4
		Patrolmen-Detective	"	12,745	13,627	4
34	Cohoes	Patrolmen	1978	10,525	11,731	3
		Sergeant	"	12,471	same	0
		Lieutenant	"	13,146	"	0
		Captain	"	13,820		
Note: In addition a cost of living payment is to be made on difference between 6% and 10/1/78 CPI up to 2% of salary						
45	Gloversville	Patrolmen	"	8,988	12,039	3
		Sergeant	"	13,152	same	0
		Lieutenant	"	14,240	"	0
21	Johnstown	Patrolmen	"	11,030	12,484	2
		Sergeant	"	13,287	same	0
		Patrolmen-Detective	"	(additional \$400 per year)		
12	Mechanicville	Patrolmen	"	11,067	12,978	3
		Sergeant	"	13,508	same	0
		Lieutenant	"	14,040	"	0
24	Rensselaer	Patrolmen	"	9,700	11,800	4
		Sergeant	"	differential of \$750		

<u>Uniformed Personnel</u>	<u>Rank</u>	<u>Period</u>	<u>Entry Level</u>	<u>Top of Scale</u>	<u>No. Yrs. to top</u>	
26	Watervliet	Patrolmen	1978	\$10,171	\$13,065	6
		Sergeant	"	14,008	same	0
		Lieutenant	"	14,298	"	0
Note: 1% of 1977 salary to be paid in lump sum						
147	Schenectady*	Patrolmen	"	10,186	14,772	4
		Investigator	"	\$300 above Patrolmen		
129	Troy*	Patrolmen	"	10,450	14,073	3½
		Sergeant	"	14,973	same	0
		Captain	"	16,157	same	0
45	Amsterdam*	Patrolmen	1977	10,063	10,563	5
		Sergeant	"	10,621	11,121	
		Lieutenant	"	10,934	11,434	
		Captain	"	11,143	11,634	
Patrolmen averages excluding Amsterdam				10,470	12,882	

\*Data from contracts; not in PERB study

At the entry level the average of the nine other cities is \$10,470 as against Amsterdam's \$10,065. Amsterdam is not the lowest at this level and for the first phase of adjustment it may be allowed to remain at the 1977 figure.

Both sides have acknowledged that police salaries here are low and the above comparative data clearly shows where the principal weakness lies. It takes five years for an Amsterdam patrolman to reach the top of the range, that is reached in two or three years in other cities, and then he is more than \$1,100 below the lowest salary paid at that level in the area and \$2,319 below the average.

The City argued strongly that it should be credited for the cost of liberal 384 D (20 year) retirement plan it provides its police and that this in effect justifies the lower salaries. Beyond that, it said, there is no need to make up for past inadequacies resulting from negotiations with the union then representing the police (T 190). It contended comparisons should be limited to increases (T 190) and most importantly, increases the City has negotiated with its other unions. "There is no community more comparable to Amsterdam than Amsterdam itself," it said (T 171).

Taking them in order, the matter of a costly retirement plan

justifying lower salaries is first. A majority of the Panel was sympathetic to this view within limits. Some time in the past, through negotiations or arbitration, this group made a trade-off between a twenty year retirement plan and other benefits, probably salaries. The total monies allotted to police costs was somehow divided among the various elements of the total compensation for the job in a manner perceived to be satisfactory to those then in control on both sides of the table. We cannot reverse their decision in the matter of retirement plan, but we may put any credit for the costs in more reasonable perspective.

While many estimated and actual percentage of payroll costs for various plans were cited, the nearest estimate of the difference between the cost of retirement plans 384 (25 years) and 384D (20 years) was about 6% (T 146). Of the cities used in our comparison study two of the others also have retirement plan 384D and the remainder have 384 in combination with other plans. To the best of our knowledge no study exists that shows a comparison of actual retirement costs in the various jurisdictions. Any ceiling that such 384D costs should put on police salaries in Amsterdam would be modest and not nearly the difference that presently exists at the top of the patrolmen's salary range when compared to other nearby cities.

Next is the matter of a make-up for the inadequacies of the past. If the term "make-up" contemplates in effect a re-writing of past low salary contract clauses, or the payment of a sum to recompense for past under-payments, we agree that we have neither the information nor the scope of authority to accomplish it. If, however, the term is intended to challenge the Panel's authority to include in its award higher compensation for the future to catch up to a reasonable extent with patterns in comparable communities, we strongly disagree.

Another contention of the City was that the Panel should confine itself to comparisons of increases (not actual salaries) with the emphasis on other negotiated Amsterdam contracts (T 190).

We reject this for a number of reasons, including the results of its own negotiations with other unions. It is noted that inequities have been dealt with and larger than normal increases have been granted retroactively to January 1, 1978. One mechanic received a 19% raise, eight drivers 15%, and eight water treatment employees 11% (City Ex. Item 54).

The general increases portrayed as granted in the other City contracts were 5.5% in 1978 and 5% in 1979 (City Ex. Item 54). It is hardly logical to say that it is reasonable to bring 17 non-police employees up to what was apparently agreed upon as a

fair level and to deny similar adjustments to the police. We find the Panel would be derelict if it accepted the above constraints the City would impose on its actions. We find nothing in the statute that compels comparisons only with increases rather than actual wages. On the contrary it mandates that we take into consideration a "comparison of wages. . .of employees performing similar services. . .in comparable communities." (CSL Art. 14, Sec. 209)

Data obtained from a U.S. Bureau of Census study of average October 1972 earnings for common municipal functions (Vol. 3, Public Employment, No. 1, Employment of Major Local Governments) suggests that other Amsterdam municipal employees have fared reasonably well when compared with nearby cities. Despite the downward drag of admittedly low police salaries in the study, it shows that Amsterdam municipal employees generally, from the lowest paid to the higher echelons, received monthly earnings respectably close to the average of our comparison cities. The data are as follows:

	<u>Average Monthly Salary</u>
Albany	\$504
Cohoes	681
Gloversville	702
Johnstown	646
Mechanicville	NA
Rensselaer	620
Schenectady	733
Troy	658
Watervliet	625
Amsterdam	635

Average of others    \$646

The police have merely kept pace with the cost of living increases since 1972 (T 113) and (City Ex. Items 7 and 8) so it is reasonable to infer that the remainder of the City employees have done at least as well. The above data indicates that the City was willing to pay its other employees wages commensurate with those generally paid in area cities in 1972 and presumably still does. The police in Amsterdam, however, have not fared as well either in comparison with other area cities or even with Amsterdam employees in its other departments.

Each side blamed the other for delay in reaching a contract settlement. The City argued that the Union should not be rewarded for dalliance by having the terms apply retroactively (T 177). The PBA argued that it should not be penalized since the City refused to make an offer of more than 1% (T 193).

Since a part of our award will be a catch-up of some size it would have a significant impact on City finances to make it fully retroactive. In the public interest and welfare it will provide for gradual salary improvements over a two year period and defer the effective date of some fringe benefit changes to 1979.

Because Amsterdam has its own type of schedule we will preserve its basic structure and leave any revamping of that document to the parties themselves in future negotiations.

Vertical differentials for higher ranks will be unchanged although the totals will change through adjustments by reference to basic salaries of patrolmen. Horizontally salaries will change for the same reason as well as the granting of increased longevity payments.

A decision therefore was reached to focus on patrolmen's salaries (as the City suggested was rather customary (T 111-112)) and allow the existing differentials and adjusted longevity payments to provide the increases for the other ranks.

Pursuing this process, a majority of the Panel will provide for a new patrolmen incremental schedule with retention of the present entry level in the first phase, and the number of years required to reach the top, but increasing the increments to \$500 each. A \$500 across-the-board raise will be made, not to duplicate increases but to insure that all members will receive at least that sum at that time.

The higher ranks will maintain differentials over patrolmen in accordance with rank, as noted, and adjusted longevity payments will be paid.

The second phase will be effective July 1, 1978 and will provide a 5% increase in the patrolmen's increment schedule, including the entry level to maintain a reasonable balance between that and succeeding steps.

At this point, the Amsterdam top of the range police will still be behind the average top patrolmen in our comparison cities so that continued improvements appear to be in order and again they will occur in two phases in 1979.

As noted above, the evidence available provides no sure grounds for a settlement for 1979. With inflation increasing, and the certainty that our comparison cities will again adjust salaries upward it was decided to continue to improve the base line salaries represented by the patrolmen's increment schedule. Effective January 1, 1979 the steps will be adjusted by 4% and effective July 1, 1979 by 3%.

A majority of the Panel believes that the increases will represent a fair and equitable settlement of the salary dispute. At the same time the gradual phasing in of the increases and the retention of the general salary schedule structure will lessen the financial impact on the City.

There are unexplained deviations between the schedule (City Ex. Item 3), the roster (Un. Ex. 2) and the rates of compensation shown in City Ex. Item 2. For example, a sizeable number of Police listed in Item 2 apparently receive annual amounts not shown on the schedule. If such deviations are merited from something that happened in the past it is not our intention to change them. If

they are accounting errors, they should be treated as such.

For these reasons, it is difficult to calculate the actual cost of the changes, but it is our opinion that it is within the City's capacity to pay adequate and reasonable police salaries and that such a revision of them is overdue. An underpaid police force does not well serve the public interest or welfare.

#### A W A R D

After full and careful consideration of the evidence and the arguments of both parties, the Public Arbitration Panel, duly designated by the New York State Public Employment Relations Board, by a majority vote of its members, awards as follows:

1. The contract between the City and the predecessor union which expired December 31, 1977, shall be revised for the purposes of this bargaining unit by deletion of the name of the prior union and the insertion of the name of the present employee bargaining agent, by deletion of references to firemen and provisions relating solely to that group; and by updating and renumbering articles as appropriate. It will then be renewed with negotiated changes, if any, and the following revisions:

1. The new contract shall be for a period of two years from January 1, 1978.
2. Effective January 1, 1979 the words "and shall receive compensatory time

off for overtime", (Art. XVI D) will be deleted and the following provision substituted: Overtime worked over and above the normal eight-hour tour of duty or 40-hour week shall be paid for at the rate of time and one-half.

3. Effective January 1, 1978 the salary schedule shall be revised to provide longevity payments of \$150 at 10, 15 and 20 years length of service.
4. Effective January 1, 1979 the number of holidays shall be increased by one, Good Friday, and for that one holiday only the member shall have the option of compensation in cash or compensating time off.
5. The contract shall provide that upon retirement a member shall be paid for unused leave, holiday, vacation or other time owed by the City, at the rate of straight time and in the event of his death, his beneficiary shall receive the monies due at the same rate.
6. Effective January 1, 1979, the clothing allowance for members of the Police Department shall be increased to \$190 (Art XIV B).
7. Effective January 1, 1979 the personal leave section of the contract shall be revised to provide two days personal leave (Art XIII E).
8. Effective January 1, 1978 all members will receive a minimum increase of \$500 or an increase based on a change

in the basic incremental salary schedule for patrolmen, whichever is larger. That schedule will be changed to provide \$500 between steps as follows:

Phase 1

Base or entry level	\$10,063
One year	10,563
Three years	11,063
Five years	11,563

Phase 2

Effective July 1, 1978 the same portion of the salary schedule will be increased by 5% to provide the following:

Base or entry level	\$10,566
One year	11,091
Three years	11,616
Five years	12,141

Phase 3

Effective January 1, 1979 the same portion of the salary schedule will be increased by 4% to provide the following:

Base or entry level	\$10,988
One year	11,534
Two years	12,080
Five years	12,626

Phase 4

Effective July 1, 1979 the same portion of the salary schedule will be increased by 3% to provide the following:

Base or entry level	\$11,317
One year	11,880
Three years	12,442
Five years	13,004

In addition to the above changes the Panel of Arbitration, either unanimously or by a majority vote, determined that the remaining issues listed in the petition or response shall be disposed of as follows:

1. The Petitioner's request for a continuation clause in the contract is rejected.
2. The request for an automatic retroactivity clause to be effective after the expiration date of the contract herein provided, is rejected.
3. Petitioner's demand for payment of a portion of accumulated sick leave credits on death or retirement is denied.
4. Petitioner's demand for an annual clothing cleaning allowance is denied.
5. Petitioner's request for a provision to require payment of salary increments and longevity payments on the anniversary date computed from date of appointment is denied.
6. The Responder's request for the right to send its designated doctor to certify illness of an employee on the first day of absence is denied.
7. The Responder's request to keep the employer's share of health insurance at the 1977 dollar amount is denied.
8. The Responder's request for deletion of the transfer clause and to permit the Chief of Police to make transfers and assignments as deemed appropriate and without recourse to the grievance procedure is denied.

9. The request for deletion of an existing provision relating to walking tours in sub-zero weather is denied.
10. Responder's request for a clause to permit the Chief of Police the right to cancel leaves, holidays and other time off in order to maintain full shifts is denied.



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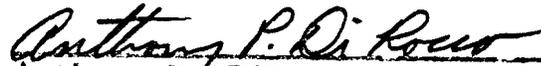
William A. Hazell, Chairman  
and Public Panel Member



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William J. Courlis  
Employee Organization Panel Member

Dissent Attached

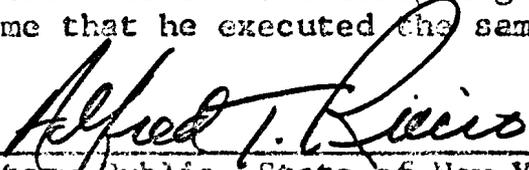


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Anthony P. DiRocco  
Employer Panel Member

STATE OF NEW YORK)  
COUNTY OF ALBANY ) ss.:

On this 8 day of November, 1978, before me personally appeared WILLIAM A. HAZELL, to me known and known to me to be the person described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

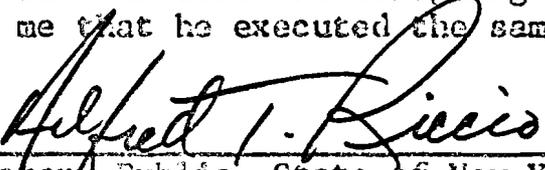
  
Notary Public, State of New York  
My commission expires 1979

ALFRED T. RICCIO

NOTARY PUBLIC IN THE STATE OF NEW YORK  
QUALIFIED IN MONTGOMERY CO. #4506454  
MY COMMISSION EXPIRES MARCH 30, 1979

STATE OF NEW YORK)  
COUNTY OF ALBANY ) ss.:

On this 8 day of November, 1978, before me personally appeared WILLIAM J. COURLIS, to me known and known to me to be the person described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

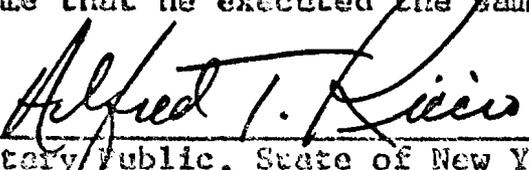
  
Notary Public, State of New York  
My commission expires 1979

ALFRED T. RICCIO

NOTARY PUBLIC IN THE STATE OF NEW YORK  
QUALIFIED IN MONTGOMERY CO. #4506454  
MY COMMISSION EXPIRES MARCH 30, 1979

STATE OF NEW YORK)  
COUNTY OF ALBANY ) ss.:

On this 8 day of November, 1978, before me personally appeared ANTHONY P. DI ROCCO, to me known and known to me to be the person described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

  
Notary Public, State of New York  
My commission expires 1979

ALFRED T. RICCIO

NOTARY PUBLIC IN THE STATE OF NEW YORK  
QUALIFIED IN MONTGOMERY CO. #4506454  
MY COMMISSION EXPIRES MARCH 30, 1979

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In the Matter of the Interest Arbitration  
Between:

The City of Amsterdam

- and -

Amsterdam Police Benevolent Association  
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Case No: IA-46; M77-782

DISSENTING OPINION

The panel, having made its award in the instant case, the representative of the City of Amsterdam on the arbitration panel takes exception and dissents on the following areas of said award:

OVERTIME PAID AT TIME AND ONE HALF

A majority of the panel concluded that the overtime request of the PBA was in keeping with the comparable benefit accorded to most other police units in the area. It is respectfully submitted that the majority has imposed on the city a very costly fringe benefit. At the present time, overtime is paid through compensatory time off. It is true that in many other jurisdictions police units are paid time and one half for overtime. The majority has chosen to set aside the testimony which shows that there is a great deal of overtime in the City of Amsterdam. This is due, in part, to the size of the police force. The city may not reduce overtime if it expects to continue to provide adequate protection to its citizenry. Consequently, the cost of police protection at present levels will rise accordingly.

Further, to make this award along with the other monetary items awarded, is, in my judgement, not justified at this time and is not in keeping with the public interest.

## PROPOSALS OF THE CITY OF AMSTERDAM

The city of Amsterdam made several proposals in bargaining which were presented for the judgement of the panel. The majority chose not to award any city proposal or part thereof. I must dissent on the failure to award two of these demands. The city sought in its proposals: (1) the right to send a representative to the home of a police officer who called in sick to determine if that officer was actually ill and (2) a revision of the contract to gain greater control over the transfer and assignment of police personnel.

Both of the proposals of the city were supported in the record by testimony that these were founded in the need to provide the greatest police protection to the citizens of Amsterdam with available personnel. For the panel not to award even a modicum of control to the city to assist it to better control staffing and maximize utilization of personnel is to ignore an essential part of the statutory criteria governing the panel's actions.

Comparability is one of the major criteria used by the panel. On the two cited issues the panel should have remembered that it was also to consider the "interests and welfare of the public." The city testified that it needed these items to do just that. I believe that some form of the city's proposals in these areas should have been awarded.

## SALARY

Everyone agrees that police need a fair and equitable settlement. The city representative agrees with that assessment. However, it is my judgement that the panel's salary award is slightly excessive for the following reasons:

1. The award ignores the data which shows that the two year pattern of negotiated settlements with other units in Amsterdam is between  $10\frac{1}{2}$  and 11 percent. The award of the panel to the police over a

a two year period will be cost-equivalent to 12.78%. While it is acceptable to pay the police more than other units, due to the nature of the job and hazard exposure, it is not in the public interest to so far exceed negotiated settlement in other units. This may have serious impact on future city negotiations with units that do not have arbitration as the final step in the process.

2. The panel made several other awards which have both a direct and indirect monetary advantage to the unit: increased longevity, increased uniform allowance, increased holiday and personal leave, and overtime at time and one-half. Given these benefit increases with the very generous retirement plan accorded the police in Amsterdam the direct salary award of the panel is excessive.

#### SUMMARY

The record shows that the police in the city of Amsterdam are behind most of the other comparable units. However, as was pointed out on the record, it is not the duty nor statutory obligation of the panel to attempt to make up in one award for salary and contract benefits which resulted from the very serious financial problems of the city over the years. Additionally, the retirement benefit accorded to this unit is the most generous available. That compensated for other benefits.

For the above reasons and to the extent stated I dissent from the award of the panel in the instant case.

By Anthony P. Di Rocco  
Anthony P. Di Rocco  
Representative of Public  
Employer, City of Amsterdam