

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD  
CASE NO. 1A80-25; M80-242

7/11/81

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IN THE MATTER OF COMPULSORY INTEREST ARBITRATION

—between—

PUTNAM VALLEY POLICE ASSOCIATION  
Petitioner

and

TOWN OF PUTNAM VALLEY  
Respondent

AWARD OF THE PUBLIC

ARBITRATION PANEL

ARBITRATION PANEL

Professor Robert T. Simmelkjaer, Esq., Chairman, Public Panel Member  
John P. Henry, Director of Labor Relations, Tri-County Federation of  
Police, Employee Panel Member  
Terence M. O'Neil, Esq., Rains & Pogrebin, Employer Panel Member

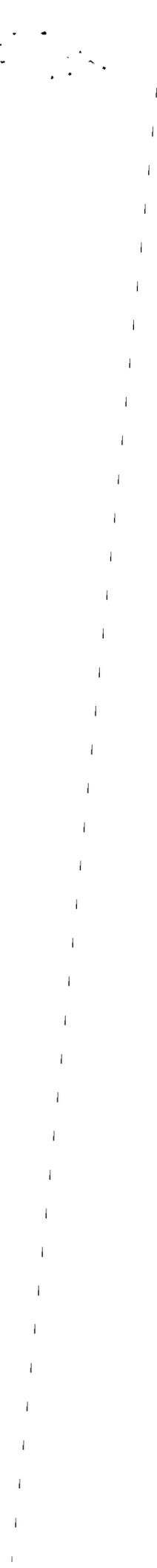
APPEARANCES FOR THE ASSOCIATION

David Schlachter, Esq., Richard Hartman Esqs.  
Edward J. Fennel  
David Ineson, Vice President, P.B.A.

FOR THE TOWN

Frank Tansey, Town Supervisor

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- 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 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.

The Village maintains a fully paid police department. The current bargaining unit, consisting of ten (10) full-time and two (2) part-time employees. The most recent agreement covered the period January 1, 1979 to December 31, 1979, includes all police uniformed and investigatory employees, except the Chief of Police.

#### PROCEDURE

The Panel conducted its formal hearings in Putnam Valley and its Executive Sessions in Hawthorne and Mineola from January to June 1981. The Employer and Employee organizations were represented and afforded full opportunity during these hearings to present evidence, witnesses, and argument in support of their respective positions.

The Public Arbitration Panel accepted into evidence forty-two (42) exhibits from the Association and twenty-seven (27) exhibits from the Town. There were also ten (10) joint exhibits submitted by the parties. At the conclusion of the testimony on January 28th, the Panel gave the parties leave to submit post-hearing briefs by March 12, 1980. The brief submitted, exhibits, and extensive testimony and documentation constitute the entire record of the instant proceeding. At the commencement of the hearing the parties stipulated and agreed to waive a

stenographic transcription of the proceedings and further agreed to be bound by the notes taken by panel members and exhibits accepted into evidence.

After the close of the hearing, the panel met in several executive sessions and deliberated on each of the remaining issues, which were issues presented to it in the Petition for Compulsory Interest Arbitration filed by the employee association or in the response submitted by the Town. The results of these deliberations are contained in the accompanying Award issued by the Panel. This was a very difficult case, in that far-reaching and fundamental changes were sought in the successor agreement and the fact that certain issues received unanimous endorsement of the parties is a tribute to their professional skill and perseverance. The Chairman would like to commend Messers. Henry and O'Neil for the diligent and conscientious manner in which they fulfilled their responsibilities.

In reaching our conclusions, the Panel has been bound by the standards mandated by Section 209.4 (c)(v) of the Taylor Law with particular emphasis given to comparison of wages, hours, and conditions of employment, ability to pay, overall costs, and the C.P.I.

Since the respective positions of the Town and Association impinge on all the economic issues, review of those arguments following the statutory criteria prior to addressing specific items should promote clarity and consistency in the subsequent analysis.

#### ARGUMENTS OF THE PARTIES

##### TOWN POSITION

##### Ability to Pay

The Town has alleged that its ability to pay the economic benefits demanded by the Association has been severely eroded by a series of financial factors that have accrued in recent years. Not only does the Town assert a present inability to provide significant increases in future economic benefits but it also seeks substantial reductions in current benefits.

With respect to its ability to pay, the Town in Exhibit T#3 documented an increase in the property tax rates for Putnam Valley of 68% between fiscal years 1978/79 to 1980/81--34% in each year. According to the Town, the demands of the Association would require further increases, thus engendering taxpayer resistance and possible employee retrenchment. In Town Exhibit, T#4, the effective tax rate for the Town of Putnam Valley from 1979-81 was shown to have increased 79% whereas the neighboring Towns of Carmel and Kent had effective tax rate increases of .3 and 43% respectively. In addition, the Town maintained that its tax base is limited by the exemption of 27% of Town land from the tax rolls which is 2-1/2 times the exemption of Carmel and 7 times the property exemption level of Kent. The Town views its exemption level as a major financial obstacle to meeting the Association's demands, especially when compared to Kent which has similar land value, but only 4% exemption (T#5).

To further support its ability to pay position, the Town provided budgetary analyses which, inter alia, indicate that the Town incurred a \$37,519 deficit during fiscal 1980. Despite the fact the Town acknowledged prior management deficiencies, particularly a lack of expenditure control, as a primary source of the problem, it nevertheless reiterated this factor as contributing to its current inability to pay.

#### Comparability

The thrust of the Town's comparability position was that the Town of Putnam Valley in several essential respects resembled counties in the Hudson River Valley to a greater extent than it did Westchester, Nassau, and Suffolk counties--the Association's comparables. In other words, the Town maintained that Putnam Valley is more like its western and northern neighbors than like its southern neighbors. The Town's case for a different measure of comparability was made via several exhibits.

Using Exhibit #1, Town Supervisor Tansey testified that the population of Putnam County was 6% that of Westchester and 3% of Nassau, its industrial tax base was one-fifth that of Westchester and one-tenth that of Nassau and the per capita personal income of Putnam County residents was \$3,300 per year below Westchester and \$2,900 per year below Nassau as of 1977. Moreover, the total full value of property assessments in Putnam were \$1,267 (in millions) compared to \$15,294 for Westchester and \$21,987 for Nassau. And in terms of tax effort, the property tax per capita (1972-73) was \$435 in Putnam compared to \$470 in Westchester and \$484 in Nassau.

Following its rejection of the Nassau-Westchester comparability criteria, the Town in Exhibit T#2 contended that the counties of Columbia, Greene, Sullivan, Dutchess, Orange, and Ulster provided better comparison data. In terms of population, population density per square mile, percentage of land in commercial or industrial use, total personal income, per capita personal income, and percentage of families with income over \$15,000, the Town sought to demonstrate the similarities of these counties to Putnam and its dissimilarity to Westchester and Nassau. The Town also provided property tax and government revenue data to further buttress its case.

Focusing on the specific functions of the police employee, the Town cited data which it maintained distinguished the Putnam Valley patrolmen from his counterparts in Westchester and Nassau. For example, total criminal indictments in Putnam Valley in 1976 were 57 whereas Westchester and Nassau had 1,280 and 1,606 respectively. Also, total serious crimes known to police in Putnam (1975) were 2,359 whereas Westchester had 37,912 and Nassau 50,027. In contra-distinction, total serious crimes in Putnam was the 3rd lowest among the seven counties cited by the Town; yet, total criminal indictments was still the lowest in this group. Putnam County also ranked 3rd from the bottom in total police officers as of 12/31/75.

Using the comparable towns it deemed relevant, the Town proceeded to analyze the Association's proposals. In Exhibits, T#12 and T#13 the Town found the Putnam Valley salary of \$17,178 (12/31/79) to exceed that of ten Dutchess, Orange, and Sullivan County towns by a significant amount even though 1979 Putnam Valley salaries were compared to 1980 salaries of these towns. In addition, the three years required to reach the top of the salary guide in Putnam was the exception with the majority of these towns having four or more steps.

Similarly, the longevity payments to Putnam patrolmen were compared to the Town's comparable region. By converting the percentage longevity to dollars, the Town contended in T#13 that longevity payments of \$858 after 5 years, \$1,717 after 10 years, and \$2,576 after 15 years far exceeded the closest town of Middletown by \$358 (6th year), \$717 (9th year), and \$1,076 (15th year).

With respect to holidays, using its own comparables the Town maintained that 14 paid holidays were 3 days above the Dutchess-Orange average and even exceeded the P.B.A. comparable towns by one or more days (T#15). These additional holidays, according to the Town, were only part of the holiday compensation since those employees who worked them also received an additional day's pay and a compensatory day.

In summation, the Town concluded that the fringe benefits and salaries paid to Putnam Valley policemen when compared to the comparables utilized by the Town were more than generous. Having analyzed salaries, longevity, holidays, vacations, personal days, welfare plans, sick leave, uniform, and cleaning allowances, the Town maintained that basic adjustments were required to place the Association employees in line with similarly situated bargaining units. It also contended that the financial condition of the Town compelled it to correct the "excesses of prior negotiations and restore labor-management equilibrium."

P.B.A. POSITION

Comparability

The Association argues that Westchester County, the county to which the parties have traditionally used for comparability still provides a reasonable basis for comparison. The Association maintains that since Putnam Valley is located on the southern tip of Putnam County contiguous with Westchester and is part of the Metropolitan SMSA it is similar to many villages and towns located in Westchester County. According to the Association, in terms of location, size, economic status, and the nature of the police job Putnam Valley is comparable, despite the fact that police officers in the Town of Putnam Valley are "paid substantially less than police officers throughout Westchester County."

The Association further argued that certain key variables such as: distance from New York City, per capita income, and sharing a common SMSA make Suffolk County rather than Orange and Dutchess counties better measures for comparative purposes. For example, the Putnam County per capita income is \$7,055 whereas in Suffolk County per capita income is \$7,197. In addition, the PBA contended that although Putnam County has a higher full value per capita assessed valuation than Suffolk County (\$17,769 vs. \$15,054) it pays its police officers substantially less. In rejecting the Town's comparison of Putnam Valley to Dutchess, Orange, Sullivan and other Hudson Valley counties, the Association maintained that residents of Putnam Valley because of their proximity look to Westchester for their frame of reference. Here again, the Association cited the Department of Labor's placement of Westchester and Putnam Valley in the same SMSA as additional evidence of their similarity.

In addressing comparability data provided by the Town, the Association contended that statistics regarding county-wide population, highway miles, and the percentages of land in commercial and residential use bore little relevance to the

police officer's job. Beyond this analysis, the Association questioned whether Town data which included county-wide data as distinguished from Town specific data were within the intent of the Taylor Law criteria. As an example, the Association viewed the aggregate financial figures presented by the Town as "somewhat meaningless because they apply to the entire county and because the total size of the county is of no relevance as to the ability of the Town of Putnam Valley to pay." Finally, on the comparability criterion, the Association argued that the significant statistics were the ranking of Putnam County in the top ten counties of the state in per capita income and in per capita full value property valuation.

Ability to Pay

With respect to the Town's position that it lacks an ability to pay the economic demands of the Association, the Association adduced what it viewed as erroneous and mitigating factors. First, it contended that the increased tax rate of the Town was not due to benefits paid the bargaining unit but "irresponsible acts of previous Town administrations in purchasing goods and services for which there was no money in the budget which provided benefits to taxpayers."

Second, the increase in the police force from five (5) officers five years ago to the present force of ten (10) indicates a Town decision to supply additional police services to taxpayers which must be paid for. As the Association put it, "in a Town with a small budget the determination to provide increased police services carries with it a substantial increase in taxes." Nevertheless, the Association maintains that the Town could provide a twenty (20) percent increase in base salary for less than an increase of \$1.00 in the tax rate--at a cost to the owner of a \$100,000 house of \$23.30 per year.

Third, the Association contends that Town exhibits which purport to show that the amount of tax exempt property in Putnam Valley is disproportionate to that of other Towns is "grossly misleading" because the land has been separated from building

Finally, the Association argues that the Town's alleged inability to pay is contradicted by its decision to hire a police consultant for a department of ten (10) employees at \$20,000 per year--a sum which could be used to fund police wage increases--and an agreement to pay CSEA employees a ten (10) percent increase.

#### STATEMENT OF PANEL CHAIRMAN

It should be noted that although the parties focused on the important criteria of ability to pay and comparability, the statute includes other equally important criteria such as: the public interest and the terms of collective agreements negotiated in the past.

The Public Panel Member and Chairman is persuaded that the Town has established at least a prima facie case for the close scrutiny of the current terms and conditions of employment of the P.B.A. as a basis for delimiting the successor agreement. The Town has clearly established that it is confronted with financial problems which required short term relief, especially in those bargaining units whose benefits have far exceeded the prevailing standard. The Chairman is further persuaded that the severity of the fiscal problems has not yet reached crisis proportions and rather than substantially transform the collective bargaining relationship between the parties as the Town would propose the Chairman believes a moderate adjustment is appropriate. This need for moderation is further supported by both parties acknowledgement that the Town's current predicament resulted from years of financial mismanagement and that the P.B.A. was not the sole beneficiary of the Town's largesse. Uncontrolled overspending in the highway fund, for example, contributed significantly to the present deficit. Nevertheless, retirement of the bonded indebtedness which underwrites the deficits in 5 years, acquisition of professional management by the Town, and effective supervision of all Town employees, including the police, should obviate the need for drastic fiscal

measures. And although the Town made an impressive presentation in support of its contention that Putnam Valley was more akin to Dutchess, Orange et al. counties, the data did not conclusively establish that the Town of Putnam Valley is highly correlated with county data on the various measures and is not because of its proximity to Westchester County a unique component of Putnam Valley.

In summation, the weight of the evidence as applied to the statutory criteria would seem to indicate that the successor agreement should be responsive to the real, but short term, needs of the Town by adjusting some of the atypical terms and conditions. In no respect, however, should this effort be interpreted as stressing certain statutory criteria over others or disrupting the pattern of negotiations which has prevailed between the parties. Exigencies far more serious and imminent than the Town has produced would be necessary for such far reaching measures.

Finally, since the parties were diametrically opposed to each other on many issues, this Award cannot fully achieve the objectives of either party. Hopefully, the parties will accept the agreement as one which equitably balances their interest with the larger public interest and the long-term stability of their relationship.

## I. Holidays

### Town Position

The Town proposes that Article VI, Sections 1 through 3 be changed to read as follows:

Employees shall be entitled to ten (10) days holiday pay per year at straight time, payable in the first pay period in December, regardless of whether or not the employee worked on the holiday. The holidays shall accrue on the basis of one (1) per month during the calendar year up to a maximum of ten (10).

The Town supported its position with exhibits T#15 and #17 which indicate that the number of paid holidays received by P.B.A. members exceeds those granted jurisdictions which the Town cites as comparable by one or more days as well as those the P.B.A. has utilized for comparison purposes. To enumerate: Kent has 10 holidays, Carmel 13, Yorktown 11, Bedford 12, Beacon 11, Wappinger Falls 12, and Liberty 11. The Town further justified its demand for a substantial reduction in the number of holidays by comparing the provisions in the current agreement wherein the employee who works the holiday receives in addition to the lump sum payment an additional day's pay and compensatory time off or an additional day of vacation.

#### Association Position

The Association has proposed that P.B.A. members be entitled to an additional paid holiday any time other employees are given off time not specified in these employees' collective bargaining agreement. The Association also rejects the Town's proposal to reduce the number of paid holidays, denying that the Putnam P.B.A. benefits are atypical when the proper comparisons are made with Westchester and Suffolk Counties.

#### Analysis/Discussion

A majority of the Panel conclude that the holiday provisions in the expired agreement deviate from the norm to an extent that warrants adjustment in the arbitration award. Article VI currently reads as follows:

#### ARTICLE VI

##### HOLIDAYS

Section 1: Employees shall be entitled to fourteen (14) paid holidays. Such paid holidays shall be:

New Years Day  
 Lincoln's Birthday  
 Washington's Birthday  
 Independence Day  
 Labor Day  
 Columbus Day  
 Thanksgiving Day

Christmas Day  
 Easter Sunday  
 Memorial Day  
 Veterans Day  
 The Employee's Birthday  
 Good Friday  
 Christmas Eve Day

For any of the holidays enumerated above, Employees shall receive eight (8) hours pay at their normal rate in addition to their normal rate for that day. "

Section 2: Pursuant to Section 63 of the Public Officers Law as amended, Employees who are Veterans as defined in said section shall also be entitled to a holiday on Memorial Day; and Veterans Day.

Section 3: A holiday is deemed worked if the Employee's tour of duty starts on any portion of the holiday. For any holiday worked, the Employee shall get compensatory time off or an additional day of vacation.

The effect of this provision is to provide three (3) days compensation for every holiday worked. In surveying this term of employment in other agreements-- both those cited by the Town and Association--the Panel could find few jurisdictions as generous as Putnam Valley. Yorktown, for example, provides eleven (11) holidays which can be taken in compensatory time or cash, with certain holidays compensated at time and one-half. Kent provides ten (10) paid holidays at straight time. Carmel, which both parties agree is sui generis in terms of benefits provides thirteen (13) holidays with an employee election to take either compensatory time or cash payment. Thus, by any reasonable comparison Putnam Valley is unique regarding the holiday benefit. To restore equilibrium to this term of employment, a majority of the Panel awards as follows:

#### Award

New language should be included in the successor agreement, effective 7/1/81, to read as follows:

#### Article VI

Section 1: Employees shall be entitled to thirteen (13) paid holidays. Such paid holidays shall be mutually determined by the parties.

Section 2: No change.

Section 3: A holiday is deemed worked if the employee's tour of duty starts on any portion of the holiday. Each employee who works on New Year's Day, Easter, July 4th, Thanksgiving and Christmas shall receive time and one-half for all time worked.

Analysis

The effect of this Award is to first: reduce the total number of paid holidays by one (1) to thirteen (13). Virtually no other jurisdiction using Town and P.B.A. comparables has fourteen paid holidays. Second, the Award, allows straight time payment for eight (8) of the thirteen (13) holidays, eliminating an additional day's payment and compensatory time for these eight (8) days. For the five (5) remaining holidays that are worked the employees would be entitled to time and one-half. With respect to the five (5) family holidays, the assumption is that Town compensation for these days will be reduced from 3:1 to  $2\frac{1}{2}$ :1. With respect to the eight (8) holidays, the assumption is that Town compensation will be potentially reduced from 3:1 to 1:1. Using \$60 as the average pay per holiday, and assuming that an employee works 7 holidays of the thirteen, he would get seven times \$60 in pay for \$420 and 7 days compensatory time for a total of \$840 above the lump sum payment of 14 days (\$840) for a grand total of \$1,680. Under the new system, an employee working 7 holidays would receive a maximum of 5 family holidays times 1-1/2 for \$450 and two straight time holidays at \$60 each for a total of \$570, without any compensatory days. Thus the maximum holiday compensation becomes \$450 (1-1/2 for 5 holidays), plus \$120 for 2 days at straight time, plus 13 days at \$60 per day (\$780, lump sum) for a grand total of \$1,350. This is the maximum benefit. For those employees whose family holidays are less than five, the cost to the Town would be less.

Through this Award, a majority of the Panel maintain that a substantial and necessary saving will accrue to the Town.

VOTE:

CONCUR: John Henry 9/29/81

DISSENT: Terence M O'Neil 9/3/81

11. Longevity

Town Position

The Town has proposed that Article IV, the Longevity Schedule be adjusted to read as follows:

Full-time employees shall receive longevity payments according to the following schedule:

After five (5) years of service	\$300
After ten (10) years of service	\$500
After fifteen (15) years of service	\$500

The Town supported its proposal with Exhibit T#17 which indicates that in comparable regions cited by the Town, the longevity payments of Putnam Valley far exceed those of several jurisdictions. Currently, longevity payments in Putnam Valley are calculated on a percentage basis with the following result: \$858 (after 5 years); \$1,717 (after 10 years) and \$2,576 after 15 years. Using the Town comparables, the following illustrative examples are presented:

	<u>5 Years</u>	<u>10 Years</u>	<u>15 Years</u>
Beacon	0	\$1,000	\$1,500
Liberty	None		
Wappinger Falls	None		
Catskill	0	200	400
Hudson	\$250	500	750

Association Position

The Association proposes no change in the longevity provision but compares Putnam Valley longevity provisions to Westchester and Nassau jurisdictions where the provisions are as follows:

	<u>5 Years</u>	<u>10 Years</u>	<u>15 Years</u>
Bedford	\$250	\$ 500	\$ 750
Yorktown	200 (7)	400 (11)	800 (17)
Nassau County	600 (6)	1,000	1,500
Kent	400	800	1,300

The P.B.A. has also contended that in those Towns with lower rates of longevity than Putnam Valley, the 384-d 20 year retirement plan is frequently the compensating factor.

#### Analysis/Discussion

The evidence presented by the parties indicates that Putnam Valley's longevity benefits are excessive. In addition to the substantial amounts given the use of percentage longevity formulas seems least supportable in that very few jurisdictions presented employ this escalating device. Moreover, this extra longevity is only partially correlated with the provision of the 384-d retirement plan. For example, the town of Kent, which admittedly enacted a "catch-up" agreement recently has far lower longevity than Putnam Valley without the 20 year retirement plan. Here again, depending upon which comparables are used, one has, on the one hand, the Westchester towns of Peekskill, Ossining, and Yorktown with 384-d, salaries similar to Putnam Valley, and lower longevity and, on the other hand, Hudson Valley jurisdictions such as Beacon and Liberty with lower salaries, longevity, and no 20 year retirement.

Following extended discussions and the concerted effort of the Chairman to reach a unanimous Award via several proposals, a majority of the panel is persuaded that a downward revision in the longevity payments be made for new employees hired after July 1, 1981. The immediate short term benefit to the Town is negligible when compared to the fact that the parties mutually agreed to this benefit in prior negotiations. The following Award should give the Town some planning flexibility while not severely penalizing employees who are currently receiving such benefits or would receive them based on current contract provisions.

Award

The longevity schedule in the 1980-82 agreement should be adjusted to read as follows:

Full-time employees hired after July 1, 1981 shall receive longevity payments according to the following schedule:

After 5 years	\$ 500
After 10 years	1,200
After 15 years	2,000

Note: This AWARD will reduce the 20 year future earnings of the average new employee by \$7,250--a substantial but necessary adjustment. These employees will still have a significantly superior longevity benefit when compared to the vast majority of other units.

VOTE:

Concur: John Henry 6/29/81  
Dissent: Terence M. O'Neil 9/3/81

III. SalariesP.B.A. Position

The P.B.A. has proposed an increase in each year of a two year agreement equal to the Consumer Price Index for the metropolitan area plus five (5) percent. The Association maintains that the cost of living for the past two years has been extremely high and that Putnam Valley, a part of the Metropolitan New York SMSA, has been directly affected by these economic factors. The Association further argued that existing Putnam Valley police officer salaries are "extremely low and do not provide for a reasonable standard of living" for the members of the unit.

In addition, the Association rejected the Town's proposal to increase the steps in the salary guide, as well as its offer of a \$1,500 wage increase over two years. According to the Association, increasing the number of years required to reach top step would have "a substantial adverse impact upon presently employed police officers."



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VOTE:

*Concur: John Henry 6/29/81* 2-0, Employer member abstained

III. SalariesP.B.A. Position

The P.B.A. has proposed an increase in each year of a two year agreement equal to the Consumer Price Index for the metropolitan area plus five (5) percent. The Association maintains that the cost of living for the past two years has been extremely high and that Putnam Valley, a part of the Metropolitan New York SMSA, has been directly affected by these economic factors. The Association further argued that existing Putnam Valley police officer salaries are "extremely low and do not provide for a reasonable standard of living" for the members of the unit.

In addition, the Association rejected the Town's proposal to increase the steps in the salary guide, as well as its offer of a \$1,500 wage increase over two years. According to the Association, increasing the number of years required to reach top step would have "a substantial adverse impact upon presently employed police officers."

Town Position

The Town proposes to increase the number of steps in the salary schedule from four to six and change the schedule as follows:

	<u>7/1/80</u>	<u>1/1/80</u>
During first year of service	\$12,103	\$12,103
After one (1) year of service	13,196	14,196
After two (2) years of service	14,971	15,971
After three (3) years of service	17,178	17,678
After four (4) years of service	17,678	18,178
After five (5) years of service	18,178	18,678

The effect of the Town's proposal on the base wages of the ten (10) police employees affected would be as follows:

Base Salaries Under Town's Proposals

(Each Employee)

	<u>1/1/79</u>	<u>1/1/80</u>	<u>7/1/80</u>	<u>1/1/81</u>	<u>Change</u>
Babnick	\$11,628	\$13,196	\$14,971	\$15,971	+37.4%
Srutting	12,721	14,971	17,178	17,678	+39%
Tuervo <sup>1</sup>	16,703	17,178	17,678	18,178	+8.8%
Deronda	N.A.	12,103	13,196	14,196	+17.3%
Harmke	12,721	14,971	17,178	17,678	+39%
Ineson	11,628	13,196	14,971	15,971	+37%
Kuleda	N.A.	12,103	13,196	14,196	+17.3%
Ruth <sup>1</sup>	16,703	17,178	17,678	18,178 <sup>1</sup>	+8.8%
Ryan <sup>2</sup>	16,703	17,178	17,678	18,178	+8.8%
Zagorski	11,628	13,196	14,971	15,971	+37%

<sup>1</sup>Plus longevity of \$858 = total straight salary of \$19,036.

<sup>2</sup>Plus 10% differential a detective and \$858 longevity for straight salary of \$20,850.

The Town's proposal includes increments and excludes overtime, longevity, and detectives differential. Under the Town's proposal a top grade patrolman currently receiving \$17,178 would get \$18,178 or a increase of 5.8% over the contract period. A first step patrolman currently receiving \$12,103 would be increased by \$14,196 under the Town's proposal for an increase of \$2,093 or 17%. However, this entire amount is due to increments which the employee would receive if the current agreement was extended without change which the Town proposes to do. A third step employee currently receiving \$14,971 would increase to \$17,678 for a increase of \$2,707 or 18%; however, all but \$500 or 3% is built into the incremental structure of the present contract.

The Town also proposes to add two additional steps which would increase the period of time required to reach top step. Finally, the Town proposes to freeze the starting salary for the two year duration of the agreement. It should also be noted that the net effect of the Town's holiday, longevity and wage proposals would be a substantial loss in real wages for all employees. For example, a first year employee would lose four paid holidays, payment and compensatory time for fourteen holidays, a reduction in longevity, and a real wage freeze in that increments alone would be applicable.

#### OPINION AND AWARD

Having carefully reviewed the arguments and documents presented by the parties, the Panel, recognizing the difficulty of satisfying the divergent demands of the Town and PBA Awards as follows:

Salary Schedule 1/1/80 through 12/31/81

	<u>1979 Base Salary</u>	<u>1/1/80</u>	<u>4% 7/1/80</u>	<u>4% 1/1/81</u>	<u>8% 7/1/81</u>
Start	\$12,103	\$12,103	\$12,587	\$13,090	\$13,613
After 1 year	13,196	13,196	13,723	14,270	14,840
After 2 years	14,971	14,971	15,570	16,192	16,840
After 3 years	17,178	17,178	17,865	18,580	20,066

In 7/1/80 the employees will receive a 4% wage increase. Of this increase the net payout for the Town would be 2%. For example, in the case of a top grade patrolman, the base salary would increase by \$687 to \$17,865, but the employee would receive \$344 for the balance of 1980.

Salaries will be frozen until 7/1/80 at their present rates to enable the Town to stabilize its financial condition. Also, the present rates of compensation for Putnam Valley police officers using composite comparative data from its northern and southern jurisdictions would remain favorable, despite the six month freeze.

Although the base salaries across the board will increase 16.7% for the period 1/1/80 to 12/31/81, the Town's payout will be 12% for the following reasons:

1. The 6-month wage freeze in 1980 will cause the town to payout only 50% of the 7/1/80 increase on an annual basis. Thus, top grade patrolmen will receive \$344 out of a \$687 increase in the base salary.
2. Only 50% of the 1/1/81 increase will be payable through the duration of the contract i.e. 12/31/81. For example, of the \$715 increase in the base salary payable to top grade patrolmen, only 50% or \$308 will be received during 1981.
3. The 8% wage increase given in 7/1/81 would be applicable for 6 months; therefore, of the \$1,486 increase in the base salary only \$744 would be received. Thus, the total payout of \$344 X 3 or \$1,031 plus \$308, plus \$744 = \$2,083 or 12%.

In summation, although the base salaries of the unit will have increased 16.7% over 2 years, the effect is mitigated for the Town by conditions which require a 12% payout. For example, while the base salaries of top grade

patrolmen will increase from \$17,178 to \$20,066 or 16.7% the Town payout will be \$2,073 or 12%. Similarly calculations can be made for the other categories.

The Panel did not concur with the Town's request to increase the number of steps in the guide because the steps had recently been increased in a previous agreement and the average of steps to the top is near average. In Town exhibit, T#2, the average was 4.7 among its comparables. Also, the more proximate jurisdictions of Carmel and Kent have four and three steps respectively.

In addition, the Panel's analysis of the wage increments reveal that for the most proximate communities the increment percentages, while substantial, were not extreme. From the following chart, it can be seen that after two increments Kent patrolmen have received an additional 24%, whereas Putnam Valley patrolmen receive 22% over the same period. Yorktown and Peekskill have smaller increments, but higher starting salaries. It is also recognized that jurisdictions such as Saugerties and Beacon generally have smaller increments, lower salaries, and more steps, but these towns are less proximate to Putnam Valley than Kent and Carmel. Interestingly, Beacon has increments of 19% over the first two years which obviously cannot be isolated from other factors.

<u>Kent</u>	<u>1/1/80</u>	<u>Increment</u>	<u>Carmel</u>	<u>1/1/80</u>	<u>Increment</u>
Start	\$14,134	10%	Start	\$14,361	25%
1 to 2 years	15,621		1 year	17,862	
2 years & over	17,701	14%	2 years	19,023	14.5%
			3 years	20,447	7%
<u>Yorktown</u>					
Start	\$15,505	8%	Start	\$16,022	5%
After 1st year	16,827		1 year	16,833	
2nd year	18,177	8%	2 years	17,436	4%
3rd year	19,936	9%	7/31/71 top	20,535	

<u>Beacon</u>	<u>1/1/81</u>	<u>Increment</u>	<u>Saugerties</u>	<u>1/1/81</u>	<u>Increment</u>
Start	\$13,705		Start	\$10,900	
1 year	15,746	15%	1 year	11,900	9%
2 years	16,330	4%	2 years	12,400	4%
3 years	16,913		3 years	12,900	
4 years	17,204		4 years	13,400	
5 years	17,496		5 years	13,900	
<u>Putnam Valley</u>	<u>7/1/79</u>				
Start	\$12,103				
1 year	13,196	8%			
2 years	14,971	14%			
3 years	17,178	15%			

The Panel believes the foregoing AWARD is a reasonable application of the statutory criteria which will afford the Town some fiscal relief while not penalizing the P.B.A.

✓ VOTE: *concur John Henry 6/29/81* 2-0, Employer member abstained

#### IV. Educational Benefits

##### Town Position

The Town has proposed that Article XIV, Education Program Section I (D) be changed to read:

The total payments pursuant to this provision shall not exceed \$1,000 per year for the entire department.

##### Association Position

The Association has proposed that Article XIV be changed to add Section I D which would read as follows:

The Town shall pay the full cost of tuition, books, and reasonable expenses incurred by Employee to maintain a degree in Police Science and/or Criminal Justice. Such expenses to be paid each semester.

##### Analysis

The current contractual language regarding educational benefits reads as follows:

<u>Beacon</u>	<u>1/1/81</u>	<u>Increment</u>	<u>Saugerties</u>	<u>1/1/81</u>	<u>Increment</u>
Start	\$13,705	15%	Start	\$10,900	9%
1 year	15,746		1 year	11,900	
2 years	16,330	4%	2 years	12,400	4%
3 years	16,913		3 years	12,900	
4 years	17,204		4 years	13,400	
5 years	17,496		5 years	13,900	
<u>Putnam Valley</u>	<u>7/1/79</u>				
Start	\$12,103	8%			
1 year	13,196				
2 years	14,971	14%			
3 years	17,178	15%			

The Panel believes the foregoing AWARD is a reasonable application of the statutory criteria which will afford the Town some fiscal relief while not penalizing the P.B.A.

VOTE:

*concur John Henry 6/29/81*  
*DISSENT TERENCE M. O'Neil 9/3/81*

IV. Educational Benefits

Town Position

The Town has proposed that Article XIV, Education Program Section I (D) be changed to read:

The total payments pursuant to this provision shall not exceed \$1,000 per year for the entire department.

Association Position

The Association has proposed that Article XIV be changed to add Section I D which would read as follows:

The Town shall pay the full cost of tuition, books, and reasonable expenses incurred by Employee to maintain a degree in Police Science and/or Criminal Justice. Such expenses to be paid each semester.

Analysis

The current contractual language regarding educational benefits reads as follows:

Section 1: The Town shall pay the cost of tuition and books incurred by full time employees who take police-related educational courses approved by the Chief of Police and/or the Town Board.

- A. Employees shall submit to the Chief of Police, for his and/or the Town Board's approval a list of the courses to be taken, as well as the tuition cost and cost of any required books, if known.
- A. Upon approval of the Chief of Police and/or the Town Board, the Town shall pay one half (1/2) of the cost of tuition and books.
- C. Upon receipt of proof of successful completion by the Employee, the Town shall pay the balance of the cost of tuition and books required by the number for successful completion of the approved courses.

The effect of the Town's proposal is to limit the amount of tuition reimbursement to \$1,000 per year. The effect of the Association's proposal is to eliminate the approvals required in Sections A, B, and C.

Award

A post-hearing document obtained at the request of parties indicates that the annual expenditures for educational benefits over the last three (3) years have not exceeded an average of \$1,500 per annum.

Having reviewed the respective positions of the parties, we Award as follows:

Language shall be included in the successor agreement, adding Section I, D to read as follows:

The total payments pursuant to this provision shall not exceed \$1,500 per year for the entire department. To be eligible for education program benefits, the employee must apply for available tuition benefits. The Town shall inform the membership of available tuition benefits.

VOTE: 2-1, Employee member dissenting.

Dissent John Henry 6/29/81  
 CONCUR: Terence M. O'Neil 7/3/81

V. Personal Days

Town Position

"

The Town has proposed that Article VIII, Section 3 be changed to read: "The notice shall contain the reasons for which the personal leave is requested." It has also proposed that Section 5, part-timer's Personal Leave be deleted from the agreement.

Association Position

The Association has proposed that employees be entitled to seven (7) personal leave days per year.

Award

Article VIII, Section I shall remain unchanged. The Panel finds no basis for increasing the number of personal days, given the favorable position of the P.B.A. vis a vis other jurisdictions.

Section II shall be changed to read: "An employee shall give his immediate superior at least five (5) days prior written notice before taking personal leave days. The immediate superior (e.g. Chief) shall respond in writing within two (2) days of such submission for personal leave. These time limits shall be waived in the event of an emergency. Personal days shall not be unreasonably denied and the written denial shall contain the reason(s) for denial.

Section III shall be changed to read: "Written notice shall contain the specific purpose of taking personal leave. Specific reasons shall include, but not be limited, to such matters as: the graduation of a relative in the immediate family, a 50th wedding anniversary, or the closing of a house. Personal leave may only be used for important personal, family, or business matters which cannot be handled during non-working hours.

Sections IV and V shall remain unchanged.

VOTE: 3-0, Unanimous

Concur John Henry 6/29/81  
Concur Terence M. O'Neill 7/3/81

## VI. Vacations

### Town Position

The Town has proposed that Article VII, Vacations be changed to read as follows:

After one (1) year of service	5 days
After two (2) years of service	10 days
After five (5) years of service	15 days
After ten (10) years of service	20 days

The Town also proposed that language in Section 6, Vacation Picks, line 1 be added after "by seniority" to read "at the discretion of the Chief."

### Association Position

The Association has proposed that employees be entitled to an annual vacation based on the following schedule:

After one (1) year of service	12 days
After two (2) years of service	16 days
After five (5) years of service	24 days
After eight (8) years of service	28 days
After thirteen (13) years of service	32 days

At least two (2) employees shall be permitted to be on vacation at any time of the year.

VOTE: 2-1, Employer Member Dissenting.

### Award

Having reviewed the vacation schedules of comparable jurisdictions, the Panel finds no basis for either increasing or decreasing the current vacation schedule; therefore, we Award that no change in Article VII be made.

*Comment, John Henry 6/29/81*

## VII. Welfare Benefits

*Dissent Terence M. O'Neil 9/3/81*

### Association Position

The P.B.A. proposes that the "Town contribute \$325 per member per year to the Welfare Fund."

### Town Position

The Town took no position on this issue.

Award

The Panel is persuaded that an increase of thirty-eight (\$38) dollars per year, equal to the increase in the dental plan, be awarded. The Panel AWARDS that this increase be effective as of July 1, 1981.

VOTE: 2-1, Employer Member Dissenting.

concur John Henry 6/29/81  
Dissent: Terence M. O'Neil

VIII. Sick LeaveTown Position

The Town proposed that Article XI, Sick Leave be changed to read as follows:

Employees shall be entitled to unlimited sick leave at the discretion of the Chief of the Department and subject to the rules and regulations established by the Department.

Association Position

Other than opposing the Town's proposal, the Association took no position on this issue.

Award

The Panel finds that the Town's arguments for the proposed change provides insufficient evidence of sick leave abuse. Moreover, evidence that the Town has adopted rules and regulations pursuant to its sick leave objectives indicates that its concerns have been and will continue to be handled under the present language as they have been in the past. Accordingly, we AWARD that no change be made in Article XI.

VOTE: 3-0, Unanimous.

concur John Henry 6/29/81  
concur Terence M. O'Neil 9/3/81

IX. Night DifferentialArguments of the Parties

The Association proposed that "Employees who work between the hours of 4 PM and 8 AM shall receive, in addition to their normal salary, an additional 10% for such time worked." The Town, other than opposing the P.B.A. proposal, took no position on this issue.

Award

The Panel finds that the P.B.A. position lacked sufficient evidence to justify changing the existing provision which does not include night differentials.

Accordingly, we AWARD that the Association's demand be denied.

VOTE: 2-1, Employee member dissenting

X. Health Insurance *Dissent John Henry 6/29/81*  
*CONCUR TERENCE McNeil 9/3/81*

Arguments of the Parties

The Association proposed that "the Town shall pay the full cost of an improved health insurance plan on each Employee and the Employee's eligible dependents." The Town rejected the Association's demand.

Award

The Panel finds insufficient evidence to support the Association's request. Given the AWARD of increased dental benefits via the welfare plan, the Panel AWARDS that no changes be made in the Health Insurance Plan.

VOTE: 3-0, Unanimous.

XI. Uniform and Cleaning Allowance

Town Position

The Town proposed that Article XII, Uniform Allowance, Section I be changed from \$375.00 to \$300.00 and that the second sentence relating to part-timers be deleted and a new sentence added to read as follows:

Upon inspection by the Chief of Police, and officer may be required to replace his/her uniform or equipment.

The Town also proposes to delete in Section 2, the phrase "(182.50 per check)."

The Town further proposed that Article XIII, Cleaning Allowance be changed from "\$150.00 to \$100.00" and that the second sentence relating to part-time employees be deleted."

Association Position

The Association proposed that the "present clothing allowance shall be increased to \$425 per year."

Award

The Town has argued for a decrease in the uniform and clothing allowance, the Association has argued for an increase. The Panel's review of comparable benefits in comparable jurisdictions indicates that Putnam Valley benefits are fair and equitable; accordingly, it is AWARDED that the status quo prevail.

VOTE: 2-1, Employer member dissenting.

XII. Work Schedule, Article X *CONCUR John Henry 6/29/81*  
*Dissent Terence M. O'Neil*

Town Position

The Town proposed that the specific tours of duty be deleted. According to the Town, the current provision does not provide the Town with sufficient scheduling flexibility.

Association Position

The Association proposed that "Employees shall work an average of 32 hours per week.

Award

The Panel finds some justification for greater flexibility in scheduling while, at the same time, not increasing the total number of hours of work. Accordingly, the Panel AWARDS that the annual work schedule shall remain unchanged and continue to consist of an average of 1,990 hours per year based upon a twenty-two (22) day cycle of seven (7), seven (7), and eight (8) days.

VOTE: 2-1, Employee member dissenting.

XIII. Retirement, Article XVIII *Dissent John Henry 6/29/81*  
*CONCUR Terence M. O'Neil*

Arguments for the Parties

The Association has proposed that "The Town shall adopt at no cost to the employees, Section 384-d of the New York State Retirement Social Security Law." The Town rejected this proposal.

Award

Association Exhibit #28 indicates that the majority of jurisdictions have the 20 year retirement plan; however, from the P.B.A. exhibits and testimony, the Panel was not able to determine the relationship of the retirement benefit to other benefits nor the total costs of all economic benefits in those jurisdictions which have 384-d. The Panel concludes that an actuarial analysis from the pension system is necessary before this proposal can be properly assessed. In addition, preliminary analysis indicates that the 20 year plan would cost the Town 43.8% of payroll as compared to 26% for the current 25 year plan. Given the financial predicament of the Town, despite the fact the benefit is prospective, the Panel opts for caution in this area. Accordingly, we AWARD that no change be made in Article XVIII.

VOTE: 2-1, Employee member dissenting.

XIV. Premium Time, Article V *Dissent John Henry 6/29/81* CONCUR: Terence M. O'Neil

Town Position

The Town proposes to change Article V, Sections 1 and 2 to read as follows:

Page 3, Article V, Overtime, Section 1:

- A. Change to read as follows: "Full-time employees who work in excess of 40 hours during a normal workweek shall be compensated at the rate of time and one-half."
- B. Call-back--Change to read as follows: "Employees who are called back to work after having completed their regular tour of duty shall be compensated for a minimum of two (2) hours at the applicable rate."
- D. Holiday Pay--delete.

Section 2. Court Hearings:

Change from time and one-half to straight time.

Association Position

The Association opposed the changes in the existing agreement sought by the Town.

Award

The Panel concludes that insufficient evidence was presented by the Town to justify the proposed changes in Article V; therefore, we AWARD that the status quo prevail.

VOTE: 2-1, Employer member dissenting.

*Concur John Henry 6/29/81*  
*Dissent: Terence M. Council 7/3/81*

XV. Previous Practice Clause, Article XXII

The Town sought to delete ~~the word "non-mandatory"~~ from Article XII. The P.B.A. sought to amend the existing Article. The Panel AWARDS that Article XII be replaced by the following clause:

The Town shall not alter or amend any existing terms and conditions of employment which are not specifically covered by this agreement without prior negotiations with the Association. If the parties fail to reach an agreement on the proposed change in the term and condition of employment, the dispute shall be subject to the impasse procedures of the Taylor Law.

VOTE: 3-0, Unanimous.

*Concur John Henry 6/29/81*  
*CONCUR: Terence M. Council*

XVI. Grievance Procedure, Article XIX

The Panel AWARDS that the following changes be made in the Grievance Procedure--Section I changed to read as follows:

A grievance shall be defined as a claim involving an alleged violation of a provision of this agreement.

1. Change to read as follows:

Grievances shall be filed within thirty (30) days of the events giving rise to the alleged violation. The grievance shall be submitted in writing to the Chief and shall set forth the nature of the grievance, including the specific provision of the contract allegedly violated.

The Chief, or his designee, shall meet with the representatives of the Association within fifteen (15) days of the filing of the grievance.

In Section 1(2) change the two "seven" days to "fifteen" days and the "eight" days to "fifteen" days.

In Section 1(3) change "then any dispute . . . hereof may" to "grievance."

VOTE: 3-0, Unanimous.

concur John Henry 6/29/81  
concur Terence M. O'Neil  
CONCLUSION

Except as changed or modified by this AWARD, the terms and conditions of the expired contract shall continue in force and effect over the term of the new agreement.

Dated: June 24th, 1981

Terence M. O'Neil 9/3/81  
Terence O'Neil, Employer Member

6/29/81  
Ralph Martin Purdy  
Notary Public, State of New York  
No. 60-3176269  
Qualified in Westchester County  
Term Expires March 30, 1982

John P. Henry  
John P. Henry, Employee Member

Robert T. Simmelkjaer  
Robert T. Simmelkjaer, Chairman and Public Member

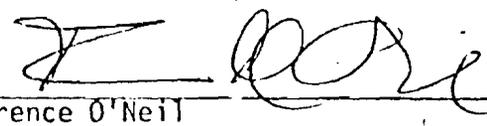
STATE OF NEW YORK )  
COUNTY OF WESTCHESTER )

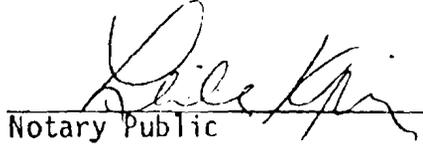
NASSAU

ss:

September

On this 3<sup>rd</sup> day of June, 1981 before me personally appeared Terence O'Neil, to me known and known to be the individual described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same.

  
Terence O'Neil

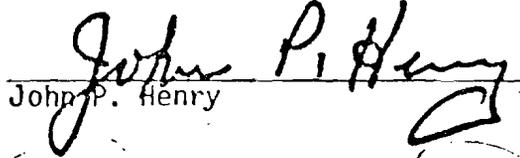
  
Notary Public

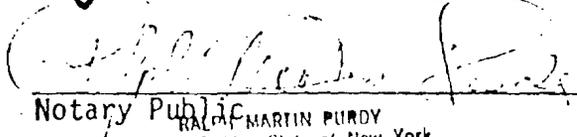
LEILA KRIM  
Notary Public, State of New York  
No. 30-4729622  
Qualified in Nassau County  
Commission Expires March 30, 1982

STATE OF NEW YORK )  
COUNTY OF WESTCHESTER )

ss:

On this 27<sup>th</sup> day of June, 1981 before me personally appeared John P. Henry, to me know and known to be the individual described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same.

  
John P. Henry

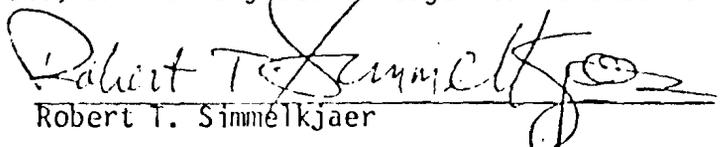
  
Notary Public

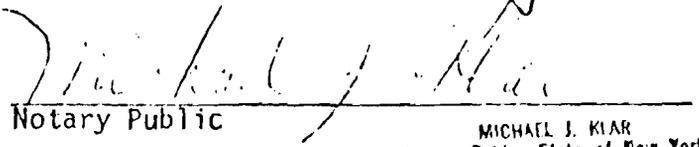
RALPH MARTIN PURDY  
Notary Public, State of New York  
No. 60-3176260  
Qualified in Westchester County  
Term Expires March 30, 1982

STATE OF NEW YORK )  
COUNTY OF WESTCHESTER )  
NEW YORK

ss:

On this 24<sup>th</sup> day of June, 1981 before me personally appeared Robert T. Simmelkjaer, to me known and known to be the individual described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same.

  
Robert T. Simmelkjaer

  
Notary Public

MICHAEL J. KIAR  
Notary Public, State of New York  
No. 4625956  
Qualified in Rockland County  
Certificate Filed in New York County  
Commission Expires March 30, 1982



## STATEMENT OF EMPLOYEE PANEL MEMBER

As Employee Panel Member I have concurred with the Public Arbitration Award in the areas of Paid Holidays and Longevity. However, I feel that the majority award of the Panel is inequitable to the present and future members of the bargaining unit. My concurrence as to these benefits is merely to ensure that they will not be further reduced in an attempt to obtain a concurring vote from the Town Panel Member. I could not fail to sign and risk further emasculation of the benefits previously enjoyed by members of the P.B.A.

The members of the bargaining unit through direct negotiations with the town have gained a substantial longevity benefit over the years. This benefit was gained by foregoing large salary increases. While the Award does continue the longevity benefit for present employees it establishes a drastically reduced benefit for employees hired after July 1, 1981. I feel very strongly that the longevity benefit should have been continued as in the previous negotiated agreements between the Town and the P.B.A. Again I emphasize I was faced with the same problem; concur with the Neutral Member of the Arbitration Panel or cause a more drastic reduction of the longevity benefit to procure the signature of the Employer Panel Member.

Similarly, my concurrence as to the reduction in Paid Holidays was motivated by the same fear. Accepting a reduction of one paid holiday seemed far wiser than risking a further reduction by the Neutral Member to obtain the vote of the Employee Panel Member who sought a reduction to ten (10) paid

holidays whether worked or not in a lump sum payment.

It is important to note that the Town and the P.B.A., since their first negotiated agreement, have reached at least five contracts through negotiation and the mutual agreement of the parties. Prior to this Arbitration Panel Award all terms and conditions of employment as set forth in the contract which expired on December 31, 1979 were ratified by the Town Board and the members of the bargaining unit in good faith. It is obvious that the Public Arbitration Panel Award has failed to give proper weight to the collective bargaining history between the parties. The fact that all the previous contracts between the parties were negotiated mutual agreements is deserving of far greater weight than it is accorded here.

July 2, 1981

  
Employee Panel Member

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

-----X  
In the Matter of Compulsory  
Interest Arbitration

- between -

PUTNAM VALLEY POLICE ASSOCIATION,  
Petitioner,

DISSENTING OPINION OF  
EMPLOYER PANEL MEMBER

CASE NO. IA80-25; M80-242

- and -

TOWN OF PUTNAM VALLEY,  
Respondent.

-----X

BACKGROUND

A reading of the Opinion of the Chairman of the Panel makes reference to an Executive Session held on April 15, 1981. The Opinion, however, misstates the substance of that session, along with the events following that date.

At the April 15 session, lengthy discussions took place concerning two of the issues submitted to the Panel - holidays and longevity. At that time, the Chairman made certain recommendations relating to changes in the holiday schedule and in the longevity provision. As the representative of the Town, I concurred with these recommendations, assuming - as I learned subsequently, erroneously - that these issues had been resolved.\* The only topic before the Panel which was not discussed by the end of the April 15 meeting was the issue of salaries.

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\* In view of the "resolution" of these issues, the remaining items before the Panel (with the exception of wages) were quickly resolved.

In his Opinion, the Chairman fails to mention that a lengthy (approximately two hours) three-way telephone conversation was subsequently held among the arbitrators to discuss the issue of salaries. It was then that the Chairman was directed to draft an opinion covering all of the issues I believed had been resolved, along with the best solution he could come up with on the issue of wages.

It should also be noted that in light of the "settlement" of the holiday and longevity issues at the April 15th meeting, the Town's representative did not vigorously pursue other Town proposals which could have justifiably been granted under the appropriate statutory criteria, i.e., vacation and clothing allowance. My negotiating experience made me realize that even though changes in the vacation schedules and the clothing allowance provisions were clearly justified, all could not be accomplished in one negotiations.

The initial draft of the agreement produced considerable shock on my part. The longevity portion of the Award, which had been recommended by the Chairman, was drastically altered in the Union's favor in his written document. The Chairman's original recommendation had called for the following longevity schedule:

After 5 years of service	\$ 500
After 10 years of service	\$1,000
After 15 years of service	\$1,500*

The written award, however, increased the ten-year step to \$1,200 and the 15-year step to \$2,000.

Equally disturbing was the Chairman's written determination concerning holidays, which again "upped the ante" significantly in favor of the Union from his original recommendation at the April 15 Executive Session.

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\* This new schedule would still have been the best overall longevity provision among comparable communities.

In more than ten years of negotiating, mediating, interest " arbitrating and fact-finding in the public sector, I have never experienced a neutral creating a solution, resolving an issue, and then totally upsetting "the applecart" by undoing the solution.

Quite predictably, I strenuously argued against these positions at the subsequent Executive Session held on June 11, 1981. At that time, the Chairman indicated that no "formal" votes had been taken at the April 15th session and that he had been somehow persuaded (apparently, in some ex parte conversations with the employee representative) that he had gone too far on these issues. Although he indicates in the Award, and in a covering letter forwarding the Award to me, that his decision was based on a further examination of the record, it should be noted that all exhibits and briefs were examined prior to the April 15 meeting and that reference was made specifically to them at that session.

It became so difficult to determine the exact position of the Chairman at the June 11th session, that I specifically requested a formal vote on the draft he had forwarded to us. He finally indicated he would indeed vote for his own draft. While I was in the process of securing approval to vote in favor of that Award, he proceeded to change the retroactive effect of the longevity changes and the holiday changes. As upset as I was over the entire process, nonetheless I reluctantly consented to vote for the Award as drafted/ <sup>and amended by the Chairman.</sup> Indeed, I went through the process of having "hands raised" in favor of the issues so a "formal" vote was secured.

In view of the difficult and trying circumstances surrounding these proceedings, the parties consented to pursue the possibility of a three-year negotiated agreement in lieu of an Award. If these

discussions were unsuccessful, the Chairman was to proceed with the drafting and execution of the final Award. I subsequently advised the Chairman that efforts for a three-year negotiated settlement were unsuccessful and awaited the final document so that it could be executed by the parties.

The final document was forwarded to me and to my astonishment and dismay it contained a further change in the longevity recommendation. The Chairman's final version limited the changes in the longevity to "new hirees." This was done even though the Chairman's Opinion states that the new longevity is more than generous in comparison to comparable communities.\* My shock with this procedure has still not worn off. Quite understandably, I asked for another meeting to discuss the Award but to my amazement learned that it had already been "scooped up" and signed by the employee panel member and thus it was deemed final by the other two panel members. Indeed, I have delayed writing this dissenting opinion in an effort to mitigate my reaction to these proceedings.

#### DISCUSSION

The specific issues which require discussion in this dissent have been outlined below:

##### I. HOLIDAYS

As mentioned previously, the Chairman made an initial recommendation at the April 15 Executive Session to leave the holidays at 14 but to eliminate all extra compensation in the event of work on those days. The Chairman's "final" award on holidays reduces them from 14 to

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\* The Award states at Page 16 as follows: "These employees (new hirees) will still have a significantly superior longevity benefit when compared to the vast majority of other units." (emphasis added).

13 but provides an extra half-day's compensation for those members of the force who work on certain designated "family" holidays. This award is not "just and reasonable" as required by Section 209.4 of the statute, nor does it take into account the Employer's financial ability to pay. Even using the Union's figures on comparability, the average number of holidays is 11.85. Under the Award, Putnam Valley police officers can end up with the 13 paid holidays plus an extra two-and-one-half days' pay for the five family holidays, if worked. This makes their total far in excess of any "fair and reasonable" holiday provision, regardless of the criteria applied.

## II. LONGEVITY

The longevity issue has been discussed at length above. The compromise proposed by the Chairman on April 15 was reasonable - the provision included in his next draft, although procedurally deficient, was still rational - the final result is unfair, inequitable and unprecedented. Again, even using the Union's comparables, the Town's longevity provision is double that of Kent, more than four times as great as Carmel's and almost twenty times as great as Peekskill's.\* More incredulous is the final award to limit the change to new hires. Despite the Town's admitted fiscal problems, the award contains the best longevity provision of all the Union's Westchester comparables for new hires. I believe the only way this can be explained is that the Chairman, at that stage of the drafting process, changed only the wording and failed to review the figures. If a fringe benefit is to be limited in application to new hires, it is generally done in a fashion so that it is comparable with

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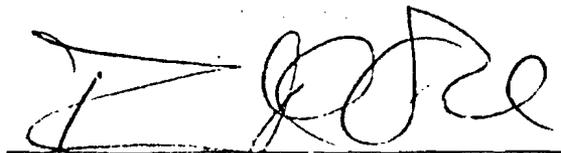
\* The longevities of Bedford, Yorktown, Ossining and Buchanan fall somewhere in between Peekskill's and Kent's.

surrounding communities. The longevity award of the Chairman will, still give the Town's new hires the most costly longevity provision despite the Chairman's recognition of our economic plight. Indeed, his first draft on the issue of longevity stated that "the longevity payments of the PBA justify downward revision." One can only guess as to the reasons behind his changed position. Any possible rationale lies beyond logic.

### III. SALARIES

The Chairman's analysis of the salary issue fails to take into account the significant impact of increments on members of this unit and on the Town. A large portion of the members of this unit will be receiving in-grade increases and the financial impact on the Town is significant. More upsetting is his granting of an 8% increase effective on July 1, 1981. Coupled with the 2% rollover from 1980 and the 4% increase effective on January 1, 1981, the resultant impact is a 10% increase in 1981. In light of his findings relating to the Town's ability to pay, such an increase is startling. In addition, it will have a dramatic effect for 1982 - a 4% rollover increase before negotiations even begin.

September 8, 1981.



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Terence M. O'Neil  
Employer Panel Member