

\* In the Matter of Compulsory Interest Arbitration \*  
\* \* \* \* \*  
\* between \* \* \* \* \*  
\* \* \* \* \*  
\* TOWN OF CORNWALL P.B.A. \* \* \* \* \*  
\* Employee Organization \* \* \* \* \*  
\* \* \* \* \*  
\* and \* \* \* \* \*  
\* \* \* \* \*  
\* TOWN OF CORNWALL \* \* \* \* \*  
\* Employer \* \* \* \* \*

As the result of the continued impasse in the collective negotiations between the parties in this matter, mediation efforts, and the petition filed by the police organization with PERB, a Public Arbitration Panel was appointed to hear and decide upon the outstanding issues on June 27, 1983. Those designated were David Schlachter, Esq., employee representative; Dr. Charles Ganim, employer representative; Dr. Howard T. Ludlow, public member and chairman.

A hearing was held by the panel in Cornwall, New York, on September 21, 1983, and an executive session was called on October 19, 1983, in Garden City, Long Island, at which the three panelists analyzed the data that had been submitted to them. At the hearing on September 21, witnesses testified under oath and both sides had the opportunity of presenting evidence and argument in support of their respective positions. The two parties agreed in writing to waive their right under the Civil Service Law to a full and complete record of the public arbitration panel hearing, and they acknowledged that their exhibits would constitute the record.

APPEARANCES:

For the P.B.A.:

Edward Fennell, Financial Consultant  
Alexander T. Vanacore, P.B.A. President  
Peter R. Weingaertner, P.B.A. Vice President  
John P. Henry, Tri-County Federation of Police

For the Town:

Herbert Hoelter, Value Management Consultants  
Richard Randazzo, Town Supervisor

BACKGROUND OF THE CASE:

This impasse involves a labor agreement for the year beginning with January 1, 1983, and a police bargaining unit made up of six officers and a sergeant. At the arbitration hearing in Cornwall, both Henry and Hoelter gave the panel extensive presentations of statistical material so as to justify their positions. Although the Town used no witnesses, the P.B.A. obtained testimony from both Fennell and Vanacore, the former on the issue of the employer's fiscal situation and the latter on several aspects of working conditions. At the conclusion of the hearing, it was agreed that the two parties would mail briefs to the panel by October 14. In that a number of improper practice charges had been submitted to PERB, it was understood that the final decision of the panel would most likely pertain to fewer items than had been included at earlier points in the negotiating process.

POSITION OF THE P.B.A.:

Relying upon the testimony and exhibits provided by its expert in municipal affairs, the employee organization stressed that the Town was moderately taxed, well managed, and had large operating surpluses in each of its funds. Not only had Cornwall placed 11.4%

more money in the police payroll account in 1983 than it had during 1982, but there was an unappropriated surplus of \$38,000 and no indication that new personnel were to be hired.

Along with the ability to pay criterion, the statute requires that comparability be addressed by the panel. Accordingly, the P.B.A. approach was to compare the wages, hours, and conditions of employment of this unit with police forces of towns within a 15 mile radius of the Town of Cornwall. Spokesman Henry contended that such communities as were covered by P.B.A. exhibit 5 had similar incomes, housing units, and police job patterns to what was found in Cornwall. He argued that the police function bore no relationship to the size of the department and he criticized the employer exhibits that depended upon communities in various parts of the state. In Henry's view, even if a widespread comparison were to be made of departments within the 5 to 15 size as suggested by the Town's presentation, his unit historically had received more money. Of greater importance to the P.B.A. was the fact that the Town of Cornwall included the Village of Cornwall, whose police were paid a larger salary and who also enjoyed various fringes not available to the Town's officers.

With regard to the CSEA contract covering certain Town employees at lower wage increases than those sought by the P.B.A., Henry pointed out that the CSEA group did not enjoy the legal right to seek binding arbitration. In addition, those workers had traditionally been paid less than the police. As to the Town contention that cost of living now be considered, the P.B.A. position

was that substantial increases were now required in order to bring current salaries up to the level that would have been reached had cost of living been adhered to by the employer in earlier years.

POSITION OF THE TOWN:

In its analysis of the union's financial conclusions, the Town referred to taxpayer reaction and emphasized that the P.B.A. had neglected the matter of the tax base, an aspect that put the Town in a bad light even within the 15 mile radius used by the union. As to the possibility of borrowing, Hoelter argued that prudent management of Town affairs dictated otherwise, plus the fact that such borrowed funds led either to increased taxes or to reduced expenses in various municipal areas. With regard to the 11.4% increase in the police salary budget, the employer position was that the money might be intended for additional staffing or to pay for extra hours and not necessarily for wage improvements.

On the matter of comparability, the Town contended that the "geographic nearness" approach was not correct. Rather, the panel should consider such factors as community size, economic levels of residents, special aspects such as age distribution or tourist attractions, and possibly even racial characteristics. In the view of the Town, the nature of a community determined the requirements for police work and the willingness of the citizens to expend tax dollars on the department. At the same time, Hoelter admitted that the Taylor Law did not spell out how comparability was to be determined, but he proposed that the most significant criterion was the size of the police department being studied by the panel.

With reference to the towns used on the P.B.A. list, the employer spokesman stated that the Town of Cornwall had the smallest police force, population, and full value assessment; it also had the third lowest median family income. In the Town's view, salary data submitted at the hearing for New York State police departments with 5 to 15 officers represented a better basis for comparing pay scales.

CONCLUSIONS OF THE PANEL:

Before arriving at its findings, the public arbitration panel carefully examined the numerous exhibits contributed by both sides and analyzed the briefs and oral arguments of the two parties. In accordance with the specific requirements of the law, particularly Section 209.4(v), it was necessary for us to prepare an award that would comply with each of the criteria set down in the legislation.

As to the first point, comparability, it is our view that this unit's job activities and way of life most nearly match the "towns within a 15 mile radius" approach suggested by the union. We do not believe it practical to include police groups from varied parts of the state as proposed by the employer, and we do not see merit in the "5 to 15" or "department size" arrangement because there is no proof that police work in larger organizations is necessarily different from what is done by the Cornwall officers. Of course, a comparison with a large metropolitan department might well be inappropriate, but no one has argued that we should match Yonkers or New York City with Cornwall.

While generally agreeing to use the P.B.A. list of towns for

comparison purposes, we are impressed by the Town's viewpoint that consideration should be given to both the issue of full value assessed valuation and to department size. Accordingly, the tables that follow (based upon both Town and P.B.A. material) formed a major part of our analysis:

Table 1 ---

<u>Town</u>	<u>Dept. Size</u>	<u>Population</u>	<u>Assessed Valuation</u>
Blooming Grove	9	9,959	231,221
Newburgh	26	22,747	861,294
Warwick	10	11,900	516,706
Carmel	27	27,948	567,830
Kent	18	12,433	228,323
Putnam Valley	13	8,994	225,096
Haverstraw	22	31,929	651,412
Stony Point	22	12,838	304,089
Yorktown	41	31,988	650,207

Table 2 ---

<u>Town</u>	<u>1983 Salary</u>	
Blooming Grove	\$20,444	
Newburgh	17,686	
Warwick	18,171	
Carmel	25,424	
Kent	23,000	1983 Average Salary for All Nine Towns: \$23,338
Putnam Valley	24,800	
Haverstraw	26,577	
Stony Point	27,041	
Yorktown	26,902	

Table 3 ---

<u>Towns of 1 to 19 Men</u>	<u>1983 Salary</u>	
Putnam Valley	\$24,800	1983 Average Salary for Towns of 1 to 19 Men: \$21,604
Blooming Grove	20,444	
Warwick	18,171	
Kent	23,000	

Table 4 ---

<u>Towns of Similar Valuation (Within About \$100,000)</u>	<u>1983 Salary</u>	
Putnam Valley	\$24,800	1983 Average Salary for Towns With Similar Full Value Assessed Valuation: \$23,821
Blooming Grove	20,444	
Kent	23,000	
Stony Point	27,041	

It should be noted that one of the towns on the 15 mile radius list, New Windsor, has not been included above because of lack of

data regarding its 1983 salaries. A review of the other information, however, indicates that all three averages substantiate the claim of the P.B.A. that the Town of Cornwall unit is presently below the wages of comparable departments.

In addition to the towns discussed in the foregoing section, it is important to examine the contract enjoyed by the police officers in the Village of Cornwall. If one argues that close working and personal relationships exist with those employed by the towns on the preceding tables, simple logic suggests that comparability has to be made with the Village police whose community is part of the Town. Aside from certain benefits that are enjoyed by the Village officers and that are not part of the Town contract, the salary in the 1983 part of their agreement gives them \$19,199, an amount that increases for them to \$20,542 in March of 1984. Thus the Village situation is another area to be considered when comparisons are made.

It cannot be denied that the interests and welfare of the public are well served when the community has sound police protection by a force whose members enjoy a high state of morale. It is also common knowledge that underpaid employees may be lacking in the motivation needed for good job performance. Therefore, in our examination of the Cornwall impasse, the panel looked into the financial ability of the Town and found it well able to afford the monetary improvements required by our award. Not only had the employer budgeted for salary increases in the police account, but surplus funds were also available. True enough, prudent management

of local government does not like to consider the possibility of a potential tax increase and we note that the Town is not high on the list when it comes to full value assessed valuation, but Cornwall would not be hurting if it put our proposals into effect. Even if we grant the likelihood of reduced federal monies, it is our judgment that the employer has the ability to pay as mentioned in the statute.

With regard to the other occupations or trades that the law suggests might be compared to the work of the police officers, it is common knowledge that the hazards of employment, physical qualifications, and unique skills related to law enforcement are not to be found among other municipal jobs. That explains to a large extent our unwillingness to put much emphasis upon the Town's agreement with its CSEA staff. The legislature has itself recognized the specialized character of the police by providing the public interest arbitration procedure involved in this impasse.

As to the last part of Section 209.4(v), reference to the negotiating history of the parties, the panel considered that aspect in each part of the award that follows this explanation of how it arrived at its conclusions. It should be noted that our award covers all of the issues that were not otherwise withdrawn by the parties prior to the time of our deliberations.

AWARD:

1. In order to effectively carry out the salary provisions of item #2 and with recognition that most of 1983 has already gone by, the duration of the agreement shall be two years.

2. As justified and explained on previous pages, there shall be salary increases for the unit as follows: five per cent (5%) effective 1/1/83; four and one-half per cent (4½%) added to the foregoing result on 7/1/83; five per cent added to the foregoing number on 1/1/84; four and one-half per cent (4½%) added to the foregoing result on 7/1/84. With regard to salary differentials for the ranks of Sergeant or Acting Chief, we see no justification to set up such differentials. On the matter of longevity, most of the towns in the area have programs to reward long-service employees, and we see merit in establishing a longevity arrangement for Cornwall. There appears to be wide variation among the programs that are part of our exhibits, and there is reason to believe that longevity benefits become the subject of improvement through negotiation by the parties over a period of years. Therefore, in order to set up a schedule for Cornwall, our award is that it be established starting in the second year of the contract and that it provide the sum of two per cent (2%) of annual salary after the completion of five years of service.

3. With regard to overtime, we see no reason to increase the amount presently paid for regular overtime, but "recall time" for both "call back" and "call in" is to be increased to a minimum of three hours. Court time is to increase in the second year of the contract to \$600.

4. As to the demands of the P.B.A. for changes in personal leave and for cash payment for unused sick leave, this panel does not agree with either request.

5. Although the panel is aware that many communities provide

tuition and fee payments to those who pursue police science courses in the constant effort to upgrade law enforcement standards, we do not believe that the Town has to accept the P.B.A. educational request at this time. Our decision acknowledges the value of such training, but we doubt that it can be instituted without detailed data as to its actual cost for the employer from one year to the next. Without that information, it cannot be budgeted.

6. On the list of union demands, we reject items 16, 17, 18, and 19, and note that the last one mentioned (emergency leave) is of too vague a nature to be workable.

7. In our consideration of the "grievance procedure" arguments that developed during the hearing, we note that both sides are concerned about practical problems that have occurred. In that time is of the essence in the proper adjudication of grievances, we are making one change in Step 1 wherein the thirty (30) days referred to in that step shall mean "the time within which the employee reasonably should have become aware of the grievance."

8. In a small department, it is sometimes difficult to permit a P.B.A. official to take time off from his job in order to carry out union duties. However, the negotiation process can be harmed if the employee group lacks proper representation, and it is not unusual to provide some time off for union leaders. Therefore, in recognition of both the P.B.A. need and the constraints of the department, the panel orders that the P.B.A. President or his designee be granted reasonable time off for handling negotiations or grievances when such absence from work will not adversely affect

the needs of the department.

9. We oppose item 24 of the P.B.A. demands because it is a management prerogative. As to item 26 that would (along with 27) improve the clothing and cleaning provisions, we note that Cornwall already is among the leaders in that area of benefits and we reject both items.

10. Finally, we have looked carefully at the requests from both sides concerning the general subject of medical benefits. It is all too true as stressed by the employer that medical premiums continue to climb, and it is understandable that the Town would like employees to bear part of that burden. In like manner, the P.B.A. would enjoy an employer-paid program of dental and optical benefits. On all of these points, we have examined comparable contracts of towns and police units within the general area of our group, and two conclusions can be drawn: (a) it is not common to have either a dental plan of the type suggested by the police and even less common to find an optical plan; (b) one has to look far and wide to locate a health insurance plan that is not fully paid for by the employer, the exceptions being those plans that cover retired police officers in which a share of the premiums are paid by the retirees. On the medical benefits issues, therefore, we rule that there be no contribution by the employees towards health insurance coverage and that there be no employer-paid dental and optical plans.

SUMMARY:

The chairman appreciates the cooperation of his colleagues in

the preparation of this report. Although there was not unanimity of opinion on all of the issues that required our analysis and decision, it is our considered judgment that the awards we have made meet both legislative criteria and the philosophy of public employee negotiations.

Case No. IA83-9; M82-639  
PUBLIC EMPLOYMENT RELATIONS BOARD  
OPINION AND AWARD OF ARBITRATION PANEL

  
\_\_\_\_\_  
DAVID SCHLACHTER  
Employee Representative

STATE OF NEW YORK  
COUNTY OF NASSAU ss:

On this 10<sup>th</sup> day of November 1983, before me, a Notary Public of the State of New York, personally appeared DAVID SCHLACHTER, to me known and known to me to be the individual described herein and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same.

VICTOR M. FINMANN  
NOTARY PUBLIC, State of New York  
No. 33-4625116  
County of Nassau  
Commission Expires March 30, 1984

  
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CHARLES GANIM  
Employer Representative

STATE OF NEW YORK  
COUNTY OF      ss:

On this     day of November 1983, before me, a Notary Public of the State of New York, personally appeared CHARLES GANIM, to me known and known to me to be the individual described herein and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same.

*Howard T. Ludlow*

HOWARD T. LUDLOW  
Public Representative

STATE OF NEW JERSEY    ss:  
COUNTY OF ESSEX

On this eighth day of December, 1983, before me, a Notary Public of the State of New Jersey, personally appeared HOWARD T. LUDLOW, to me known and known to me to be the individual described herein and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same.

*Stanley P. Kosakowski*

STANLEY P. KOSAKOWSKI  
Notary Public of New Jersey  
My Commission expires July 25, 1988

Public Employment Relations Board

Case No. IA83-9: M82-639

DEC 12 1983  
CONCILIATION

In the Matter of Compulsory Interest Arbitration

between

TOWN OF CORNWALL P.B.A.  
Employee Organization

and

TOWN OF CORNWALL

Employer

DISSENTING OPINION

This member of the arbitration panel appointed to deal with this matter respectfully dissents from those parts of the arbitration award that provide for general wage increases, the longevity increment and the denial of the Town request for employee contribution of twenty five (25%) percent of the cost of health insurance.

With regard to wages, the award is based on improper comparisons with other Towns and dubious statistics. The Town in its presentation and rebuttal brief attacked the PBA premise of comparability based solely on geographical proximity. The Town suggested that consideration be given primarily to size of department and that additional relevant factors were population, assessed

valuation, and the relative affluence of Town residents (as measured by median family income). The last factor was completely ignored in the analysis of comparability as presented in the tables on Page 6 of the award. (Note that the award states: "...the tables that follow... formed a major part of our analysis...").

Median Family Income is an extremely important measure in that it is an indicator of the relative ability of Town residents to absorb tax increases as the cost of services rise and the price that can be paid for such services.

Using data submitted to the panel, I have ranked the nine (9) Towns used in the tables on Page 6 of the award on the basis of (a) median family income, and (b) 1983 salaries for patrolmen reveals the following:

<u>Town</u>	<u>Median Family Income</u>	<u>MFI Rank</u>	<u>1983 Salary</u>	<u>Salary Rank</u>
Yorktown	\$31,024	1	\$26,902	2
Stony Point	27,494	2	27,041	1
Carmel	26,164	3	25,424	4
Putnam Valley	24,766	4	24,800	5
Blooming Grove	24,041	5	20,444	7

<u>Town</u>	<u>Median Family Income</u>	<u>MFI Rank</u>	<u>1983 Salary</u>	<u>Salary Rank</u>
Kent	\$23,475	6	\$23,000	6
Haverstraw	23,206	7	26,577	3
Newburgh	22,779	8	17,686	9
Warwick	22,166	9	18,171	8

If we remove Haverstraw from this ranking, on the basis that the salary is an anomaly for some unknown reason(s), we have the following near-perfect correlation in rank order.

<u>Town</u>	<u>Median Family Income</u>	<u>MFI Rank</u>	<u>1983 Salary</u>	<u>Salary Rank</u>
Yorktown	\$ 31,024	1	\$26,902	2
Stony Point	27,494	2	27,041	1
Carmel	26,164	3	25,424	3
Putnam Valley	24,766	4	24,800	4
Blooming Grove	24,401	5	20,444	6
Kent	23,475	6	23,000	5
Newburgh	22,779	7	17,686	8
Warwick	22,166	8	18,181	7

This comparison completely supports the position advanced by the Town that comparisons with more affluent communities in other counties should be rejected by the panel.

The median family income for the Town of Cornwall is \$22,518 which places it between Newburgh and Warwick. Given the demonstrated correlation between income and salary, this member feels the Cornwall 1983 salary should be between the salaries paid in these Towns i.e. \$17,950. Further, the 1984 increase should be limited to the average increase projected for private sector salaried workers in 1984 or 6.9%.

In addition to the concern over the disregard for the most salient factor, if we are to use the "Towns within 15 mile radius" approach advanced by the Union, I also object to the spurious statistics used in the award on Page 6. Given sample sizes of 4 and 9 Towns and the disparity of the data, the use of a simple average as representative of the data is a completely arbitrary judgement.

With regard to the longevity increment contained in the award I have two concerns. The first objection relates to the issue of comparability as discussed in the preceding paragraphs. The second objection is with the award of an increment based on percentage (%) of salary. If I were to accept the nine Towns used in the pay comparison, it would follow that I would then assume that a preponderance of these Towns provide a similar percentage adjustment. An examination of the relevant contracts reveals this is not the case. Indeed, none of these Towns provide

a percentage increment. One Town has no increment; the remaining eight provide flat dollar amounts.

With regard to health insurance benefits, the award fails to give proper consideration to the rapid and continuing escalation of the cost of health insurance. The Town testified that the monthly cost for family coverage has increased from \$79.32 per employee in January, 1981 to \$153.61 in July, 1983, an increase of 94%. This is the equivalent of \$891 per year of added cost and added benefit to the employee. The cost for single plan coverage increased by 109% in the same period. Additional increases in 1984 in excess of 10% are anticipated. The cost of health care services is the fastest rising component in the health care industry. While it may be true that a majority of contracts call for the employer to cover all the costs for such insurance, this is only one factor to be considered. Of equal, or perhaps greater significance, is the impact of this escalating cost burden on the Town and the recognition of this by an arbitration panel with the wisdom and courage to say it is time employees shared these costs with the taxpayers.

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CHARLES GANIM  
Employer Representative

STATE OF NEW YORK    ss:  
COUNTY OF ERIE

On this    day of November 1983, before me, a Notary Public of the State of New York, personally appeared CHARLES GANIM, to me known and known to me to be the individual described herein and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same.