

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

NYS PUBLIC EMPLOYMENT RELATIONS BOARD  
RECEIVED

APR 11 1988

CONCILIATION

-----X

In the Matter of the Arbitration

Between

VILLAGE OF SPRING VALLEY

And

POLICEMEN'S BENEVOLENT ASSOCIA-  
TION OF THE VILLAGE OF SPRING  
VALLEY

PERB Case Nos. IA86-27; M86-331

-----X

OPINION AND AWARD

Public Arbitration Panel:

Jonathan S. Liebowitz, Esq., Public Panel Member  
and Chairman

Kenneth J. Franzblau, Esq., Employee Organization  
Panel Member

Anthony V. Solfaro, Employer Panel Member

Appearances:

For the Village:

Arthur J. Ferraro, Esq., Counsel

For the Association:

John P. Henry, Executive Vice President,  
New York State Federation of Police, Inc.

Hearings: May 14, May 20, July 31 and November 11, 1987; January 6 and February 4, 1988 (Executive Sessions). A verbatim transcript of the evidentiary hearings was made and constitutes the official record of those hearings. The absence of part of the transcript, lost by the reporting service, was waived by both sides as a basis for any objection or further proceeding. The Village filed a post-hearing brief; the Association, a letter in response. The Village responded, as did the Association by letter dated January 4, 1988. With the consent of the parties, rendition of this award was delayed by the Panel Chairman's recovery from surgery.

Review and Award

The panel has carefully considered all of the detailed evidence and arguments developed at these hearings.

They extended over a considerable period of time; a large number of issues were on the negotiating table and considered by parties and panel during the course of these proceedings. The Panel made every effort to assist in a negotiated resolution; there were both progress in negotiations and a narrowing of outstanding issues.

The Panel has made its review consistent with the statutory mandate, Civil Service Law §209.4 (c) (v), setting forth the statutory criteria to be considered in making an interest arbitration determination. The entire record and the post-hearing submissions have been considered.

The PBA's position seeks a catch-up in salary and benefits; it demanded base salary increases of 27.5% over the course of the two years (June 1, 1986 - May 31, 1988) of this award. The Village proposed flat dollar amounts of increases according to a schedule which the Panel finds consistent with the evidence and the statutory criteria.

The most important statutory criteria here are comparison of wages, hours and conditions of employment, and the interests and welfare of the public and the financial ability of the public employer to pay (a and b of subsection (b) of the statute). Also relevant is §d, the terms of collective agreements negotiated between the parties in the past. The expired contract was the starting point for consideration of the issues; the Panel considered the interests of both PBA and Village in updating the salary schedule, including starting salaries, thus assisting in retaining qualified police officers for the Village Police force. The Panel has concluded that this award is consistent with the statutory criteria and is within the financial ability of the public employer to pay. Some funding is provided by benefits adjustments, part of the package to be awarded. It is consistent with the interests and welfare of the public in that it is within the Village's budgetary bounds and will enhance attractiveness of employment on

the Village police force, thus adding stability of employment and assistance with staffing, and through staffing, with workload problems of bargaining unit employees.

They comprised five sergeants, four detectives (counted as police officers) and 23 police officers; 15 of the 23 are at top salary. The budgeted number of positions totalled 43; three police officers were to be hired during the term of the Panel's receipt of evidence and deliberations. The expired contract covered the period June 1, 1984 - May 31, 1986; the top salary for patrolmen (6/1/85) was \$32,644.69; for sergeant, the highest rank in the bargaining unit, \$38,201.52.

The comparability data support this award; they show need for a catch-up; the award includes provisions which modify benefits and are designed to assist the Village in financing the improvements in salaries and benefits awarded. They do so without creating hardship for the bargaining unit. The panel has considered the detailed comparability data, including the submitted interest arbitration

awards (Village of Havestraw, October 21, 1987; Village  
of Stony Point, November 30, 1987; and Town of Ramapo,  
December 10, 1985. The Panel considered the testimony  
of PBA Financial Consultant Edward Fennell, including  
his review of the Village's financial documents, and  
the testimony of Village Mayor Joel Rosenthal and of  
Treasurer and Tax Collector Joanne Cangelosi, and all  
documents introduced in connection with their testimony.

ANS 3/20/88  
TOWN OF RAMAPO 3-23-88  
JH VJ 88

The Panel has determined, based on all of the evi-  
dence and the statutory criteria, to award as follows:

1. The term of the agreement shall be June 1, 1986  
through May 31, 1988.
2. Effective June 1, 1986, the base salaries and  
their increases and effects shall be as appears in Appen-  
dix A annexed to and made a part of this award.
3. The term "Probationary" in the salary schedule  
shall be changed to "Fifth Gr."
4. Effective June 1, 1987, the longevity payment  
shall be increased from \$400 to \$450. Effective June 1

1986, the first longevity step, at the beginning of the fourth year of service, shall be deleted, but those employees who have already received that longevity step, or who will receive the deleted longevity step during the term of this award, shall receive that longevity step and <sup>100 (20-2150)</sup> ~~increment~~, subject to the normal granting of the same. <sup>NS 3/24/88</sup> MF 5-23-88 Y JH 45-88

5. Effective on the date of this award, of the 14 holidays in the expired contract, the following shall be deleted: Good Friday, Easter and Yom Kippur; at the same time, Election Day shall be added as a holiday. Effective on the same date, each employee shall have the option to elect the following holidays as time off instead of receiving payment: therefore, New Year's Day, Independence Day, Labor Day, Election Day, Thanksgiving Day, Christmas Day. The time off shall be taken with the prior approval of the Chief of Police; if the employee is unable to take the time off by the following

May 31st of each year, the employee shall be paid for those holidays chosen, pursuant to the contract.

6. As to conversion of sick leave and personal leave, effective June 1, 1986 through May 31, 1987, each employee will be paid at his normal rate of pay, inclusive of base increases. Effective June 1, 1987, each employee shall receive payment for sick and personal leave conversion in the following amounts upon the election of that employee:

1st Grade	\$127.50 per day
2nd Grade	115.00 per day
3rd Grade	105.00 per day
4th Grade	95.00 per day
Sergeant	150.00 per day
Detective	140.00 per day

7. Effective with the date of this award, the bereavement leave definition appearing in the personal leave section of the contract shall be expanded to include mother-in-law and father-in-law.

8. A Bill of Rights Article shall be added to the contract as it appears in Appendix B, annexed to and made a part of this award.

9. An article on Rights and Responsibilities of the Employer is awarded to read as appears in Appendix C, annexed to and made a part of this award.

10. An incident-related or line of duty disability <sup>As of 3/10/88</sup> ~~retiree~~ <sup>retiree</sup>, as determined by the New York State Retirement System shall have his health plan continued by the Village after retirement at no cost to the employee, provided that the employee has 15 years of service with the Village as a police officer, unless other coverage is available upon employment of the employee or employment or continued employment of the employee's spouse.

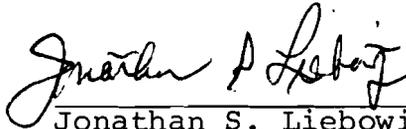
11. Any employee who has been terminated or has resigned after disciplinary charges have been preferred, or resigned in contemplation of the preferring of disciplinary charges, or whose position was forfeited upon a

conviction of a criminal charge, shall not be eligible after such event for any of the benefits of this award.

12. All other bargaining demands are denied.

Those items which were settled between the parties shall remain settled. In all respects other than those stated above, the contract which expired May 31, 1986 shall remain in full force and effect. That agreement, with those settlements and this award, shall constitute the new agreement.

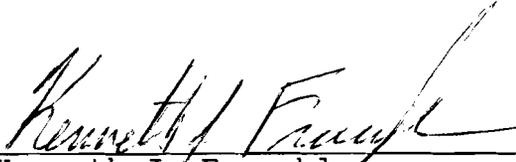
Dated: March 14, 1988



Jonathan S. Liebowitz  
Public Panel Member and Chairman



Anthony V. Solfaro  
Employer Panel Member



Kenneth J. Franzblau  
Employee Organization Panel Member

STATE OF NEW YORK )

ss:

COUNTY OF WESTCHESTER )

On this 14th day of March, 1988, before me personally came and appeared Jonathan S. Liebowitz, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

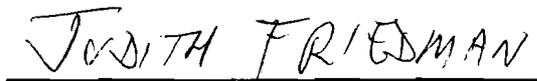
  
SIDNEY BRAZILLER  
Notary Public, State of New York  
No. 44 5431275  
Qualified in Rockland County  
Term Expires December 31, 1989

STATE OF NEW YORK )

ss:

COUNTY OF ROCKLAND )

On this 21<sup>st</sup> day of March, 1988, before me personally came and appeared Anthony V. Solfaro, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

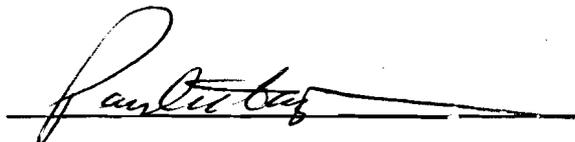
  
JUDITH FRIEDMAN  
NOT. PUBLIC  
STATE OF N.Y.

STATE OF NEW YORK )

ss:

COUNTY OF WESTCHESTER )

On this 23 day of March, 1988, before me personally came and appeared Kenneth J. Franzblau, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.



PAUL D. HARTMAN  
Notary Public, State of New York  
No. 4741118  
Qualified in Westchester County  
Commission Expires March 30, 1989

APPENDIX A

SPRING VALLEY BASE SALARY

	<u>1st Gr.</u>	<u>2nd Gr.</u>	<u>3rd Gr.</u>	<u>4th Gr.</u>	<u>Probationary</u>
5/31/86	32,645	29,266	27,016	24,188	18,196
6/1/86	33,145	29,766	27,516	24,688	18,696
	(+500)	(+500)	(+500)	(+500)	(+500)
	(+1.53%)	(+1.71%)	(+1.85%)	(+2.07%)	(+2.75%)
1/2/87	33,795	30,416	28,166	25,338	19,346
	(+650)	(+650)	(+650)	(+650)	(+650)
	(+2.0%)	(+2.18)	(+2.36%)	(+2.63%)	(+3.48%)
6/1/87	36,645	31,266	29,016	26,188	22,196
	(+2850)	(+850)	(+850)	(+850)	(+2850)
	(+8.43%)	(+2.8%)	(+3.0%)	(+3.35%)	(+14.73%)
1/2/88	38,645	32,266	30,016	27,188	24,196
	(+2000)	(+1000)	(+1000)	(+1000)	(+2000)
	<u>(+5.46%)</u>	<u>(+3.2%)</u>	<u>(+3.45%)</u>	<u>(+3.8%)</u>	<u>(+11.1%)</u>
Total \$ Effect	+6,000	+3,000	+3,000	+3,000	+6,000
Total % Effect	+18.38%	+10.25%	+11.11%	12.40%	+32.97%

	<u>Sergeant</u>	<u>Detective</u>
56/31/86	38,202	35,428
6/1/86	38,724	35,934
	(+522)	(+511)
	(+1.37%)	(+1.44%)
1/2/87	39,374.00	36,584
	(+650)	(+650)
	(+1.68%)	(+1.81%)
6/1/87	42,245.00	39,445.00
	(+2871)	(+2861)
	(+7.29%)	(+7.82%)
1/2/88	44,245	41,445
	(+2000)	(+2000)
	(+4.73%)	(+5.07%)
	<hr/>	<hr/>
Total \$ Effect	+6043	+6022
Total % Effect	+15.82%	+17.00%

## APPENDIX B

### BILL OF RIGHTS

#### Bill of Rights

The following provisions which shall be known as a Bill of Rights are hereby established for members of the Police Department when interrogated by a superior of the Department in connection with an official investigation on formal charges.

1. Members of the force hold a unique status as public officers in that the nature of their office and employment involves the exercise of a portion of the power of the municipality.

2. The security of the community depends to a great extent on the manner in which police officers perform their duties. Their employment is thus in the nature of a public trust.

3. The cognizance and control of the government, administration, disposition and discipline of the department is the responsibility of the Town Board and the Chief of Police. In administering the department, the law empowers the Town Board to appoint numerous superiors to exercise various powers to command over subordinates. In addition, they have promulgated various rules and procedures to guide members of the force in the performance of their duties.

4. The wide ranging powers and duties given to the department and its members involve them in all manner of contracts and relationships with the public. From these contacts come many questions concerning the actions of members of the force. These questions often require immediate investigation by superior officers. In an effort to ensure that these investigations are conducted in a manner which is conducive to good order and discipline, the following guide lines are promulgated:

(a) The interrogation of a member of the force shall be at a reasonable hour, preferably when the member of the force is on duty, unless the exigencies of the investigation dictate otherwise.

When practical, interrogations should be scheduled for the day time and the reassignment of the members of the force to another shift should be employed. If any time is lost, the members of the force shall be compensated.

(b) The interrogation shall take place at a location designated by the investigating officer.

(c) The members of the force shall be informed of the rank and name of the interrogating officer in charge of the investigation and all persons present during the interrogation. If a member of the force is directed to leave his post and report for interrogation to another post, his superior shall be promptly notified of his whereabouts.

(d) The member of the force shall be informed of the nature of the investigation before an interrogation commences, including the name of the complainant. The address of the complainant and/or witnesses need not be disclosed. However, sufficient information to reasonably apprise the member of the allegations should be provided. If it is known that the member of the force being interrogated is a witness only, he should be so informed at the initial contact.

(e) The questioning shall not be overly long. Reasonable respites shall be allowed. Time shall be also provided for personal necessities, meals, telephone calls and rest periods as are reasonably necessary.

(f) The member of the force shall not be subjected to any offensive language, nor shall he be threatened with transfer, dismissal or other disciplinary action. No promises of rewards shall be made as an inducement to answering questions.

(g) The complete interrogation of the member of the force shall be recorded mechanically or by a stenographer. There shall be no "off the record" questions, except at the request of the officer accused. All recesses called during the questioning shall be recorded.

(h) If a member of the force is under arrest or is likely to be, that is, if he is a suspect or the target of a criminal investigation, he shall be given the rights pursuant to the Miranda decision.

(i) In all other cases, the law imposes no obligations legal or otherwise, on the department to provide an opportunity for a

member of the force to consult with counsel or anyone else when questioned by superior officer about his employment or matters relevant to his continuing fitness for police service. Nevertheless, in the interest of maintaining high morale of the force, the department shall afford an opportunity for a member of the force, if he so requests, to consult with counsel before being questioned concerning the violation of the rules and regulations, provided the interrogation is not unduly delayed. However, in such cases, the interrogation may not be postponed for purposes of counsel past 10:00 a.m. of the day following the notification of interrogation. Counsel, if available, and a representative of the Patrolmen's Association may be present during the interrogation of a member of the force.

(j) A patrolman will be notified of any charge or complaint made against him, the nature of the complaint and the name of the complainant within a reasonable time.

(k) Basically, the aforementioned guide lines will be observed by all superior officers or other officers of the department conducting investigations of actions of members of the force.

## APPENDIX C

### RIGHTS AND RESPONSIBILITIES OF THE EMPLOYER

All management functions, rights, powers and authority, whether heretofore or hereafter exercised, shall remain vested exclusively in the Employer. It is expressly recognized that these functions include, but are not limited to:

- (a) full and exclusive control of the management and the operation of the Village;
- (b) direct supervision of the working force;
- (c) scheduling of work;
- (d) the right to introduce new and improved methods or facilities;
- (e) the right to hire, promote, transfer, assign and retain employees and to appraise, train, suspend, demote, charge or take disciplinary action against employee(s);
- (f) the reduction or increase of the working force and work;
- (g) the right to abolish or change existing jobs, including the right to establish new jobs, consistent with New York State Civil Service Law and Rockland County Civil Service Rules and Regulations;
- (h) the right to formulate any reasonable rules and regulations, not inconsistent with the terms of this Agreement.

All functions, rights, powers and authority which the Employer has not specifically abridged, terminated or modified by this Agreement are recognized by the Union as being retained by the Employer.

The intent and purpose of the within Article is to set forth the rights and responsibilities of the Employer. Nothing contained herein shall deprive the Employer and the Union of any protection and/or rights they have under this contract, the New York State Civil Service Law and any other applicable law and/or rule and regulations.