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In the Matter of the
COMPULSORY INTEREST ARBITRATION

between

OPINION AND AWARD

UNITED FEDERATION OF POLICE, INC.
(CARMEL LIEUTENANT'S BARGAINING UNIT),

PERB Case No.
I89-23; M89-166

Petitioner,

and

TOWN OF CARMEL,

Respondent.

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Before: The Public Arbitration Panel
Alfred Fusco, Employer Member
John P. Henry, Employee Organization Member
Jerome Thier, Public Member and Chairman

APPEARANCES

On behalf of the United Federation of Police, Inc.:

Wilson and Franzblau, Esqs.
Michael F. Wilson, Esq. of Counsel

On behalf of the Town of Carmel:

Plunkett and Jaffe, P.C.
John M. Donoghue, Esq., Of Counsel

OPINION

Upon a petition duly filed by the United Federation of Police, Inc. (Union) pursuant to Section 209.4 of the Civil Service Law and Section 205.4 of the Rules of Procedure of the New York State Public Employment Relations Board (PERB), this Public Arbitration Panel was duly designated by PERB to make a just and reasonable determination of the dispute in negotiations between the Union and the Town of Carmel (Town). A hearing was held on February 7, 1990,

at which both parties were afforded a full opportunity to present evidence and arguments.¹ They thereafter submitted briefs.

The panel met to deliberate on April 27, 1990.

In arriving at our determination, the panel has reviewed the evidence presented to it and taken into consideration the criteria contained in Section 209.4 of the Civil Service Law and set forth below:

a. comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with 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.

¹Neither party requested a record of the hearing and none was made. The parties waived the transcript.

The Union was recognized by the Town in December 1988. As a result of their good faith negotiations, they reached agreement on all but five items, which will be set forth below. They requested the panel to include in the award the items agreed to as well as the items awarded by the panel. The panel will do this.

The parties are in disagreement over salaries, a stipend for college credits, overtime, and the provision by the Town of the benefits of Section 375-i of the Retirement and Social Security Law.

Salaries

The Town's proposal in negotiations and request to the panel is that the lieutenants' salaries be increased by 6 percent in 1989 and 6 percent in 1990. The Union seeks to index the lieutenants' salaries to that of detective sergeants, who are in another bargaining unit. The Union proposes that the difference in salaries, which was approximately 10.3 percent in 1988 be raised to 11.8 percent as of July 1, 1989, 13.3 percent as of December 1, 1989 and 15 percent as of January 1, 1990. This represents 5.9 percent, 3.4 percent and 7.6 percent increases respectively, amounting to a compounded increase of close to 18 percent for the two year period of the award.

After considering the wages and increases of comparable employees submitted by both parties, the panel finds a just and fair increase to be 4.5 percent effective January 1, 1989, 2 percent effective July 1, 1989 and 6 percent effective January 1, 1990. These percentage increases will provide the lieutenants with

annual salaries of \$47,781 effective January 1, 1989, \$48,736 effective July 1, 1989 and \$51,660 effective January 1, 1990. The first year's increase is the same as that received by the larger unit of lower grade police officers, who, in the judgment of the panel, are the most closely comparable employees for the purposes of making a wage determination. This is so because in all contracts submitted by both parties for comparison purposes, in those communities in which there are lieutenants in the police departments, lieutenants are in the same units as lower grades of police officers and receive the same percentage increases. For 1990, the increase is based on the increases received by most of the personnel in the communities whose contracts were submitted as comparables by both parties, the Union representing the Town's lower grade police personnel not having reached an agreement with the Town for this year.

The panel has taken into consideration the Town's claim with respect to its ability to pay in making the salary award. The Town has based its claim upon the fact that it is at 54 percent of its constitutional debt limit, its per capita income is lower than certain of the communities used as comparables, and its year end fund balances have been declining. The panel finds that the Town can readily afford this award, which is only one-half of one percent more in the first year than it offered these two employees, and is the same as it offered in the second year.

Education and Training Stipend

The Town has offered a \$600 annual stipend for a degree of Associate of Applied Sciences and a \$900 annual stipend for a degree of Bachelor of Science. The Union seeks \$10 for each college credit earned with a maximum of \$900.

The stipend offered by the Town, which is the same contractually paid to the lower grade police officers, is in the judgment of the majority of the panel, a fair and reasonable one. In making this determination, the majority of the panel notes that the Union has not shown that any of the other communities have given their lieutenants preferential treatment in this regard.

Overtime

The Union seeks overtime pay at the rate of time and one half for work in excess of eight hours per day or forty hours per week. The Town, which has never paid overtime to lieutenants, insists that they are management employees for whom overtime should not be paid. The Town argues that the Fair Labor Standard Act does not require the payment of overtime to management positions such as those held by these lieutenants.

In all of the communities submitted as comparables in which there are lieutenants, they receive overtime compensation. In light of this, it is the view of a majority of the panel that absent a compelling reason not to, overtime compensation should be awarded. The Town has offered no such compelling reason. It's argument that these employees are management employees for whom the Fair Labor Standards Act does not require the payment of overtime,

cannot be controlling. For the purposes of Article 14 of the Civil Service Law (commonly known as the Taylor Law), under which this arbitration procedure is mandated, these lieutenants are not management employees. Whether the FLSA requires overtime payment is irrelevant. On the basis of the foregoing, it is determined that overtime compensation should be awarded.

The manner and amount of overtime to be received is another matter. These employees have never received overtime compensation before and it appears that to some extent, the differential they receive above detective sergeants and sergeants, reflects that fact.² The majority of the panel finds that the overtime compensation received by the lieutenants in the Town of Yorktown, who receive the least favorable overtime compensation, is the overtime compensation that should be received by the lieutenants in this Town. The lieutenants shall receive overtime in the form of compensatory time equal to one and one-half times the overtime hours worked to a maximum accumulation of eighty hours of compensatory time due each lieutenant at any given time. The panel has modified the Yorktown language without changing the substance of the overtime provision, for the purpose of conforming this language with other provisions of the contract. Each lieutenant may set aside up to an additional eighty hours of compensatory time for vacation, which must be used within the fiscal year earned or be lost.

²While their differential is the greatest among the comparables, their salaries are not.

In making this award, the panel has carefully considered the Town's claims with respect to its ability to pay. It finds that the Town does have the ability to pay.

Sick Leave

The dispute between the Town and the Union with respect to sick leave involves only the amount that can be accumulated. The Town has offered a maximum accumulation of 400 days, a portion of which will be paid in cash upon retirement or death. This is the same amount as is contractually provided to the lower grade police personnel. In addition to the Town's offer, the Union wants unlimited accumulation of sick leave for the purpose of illness. The lieutenants presently have unlimited accumulation of sick leave but since there has never been a contract for the lieutenants or an occasion for cash payment, it cannot be said that the lieutenants can consider the cash payments a present benefit. Cash payments for a maximum of 400 days are hereby awarded. However, there being no showing why the lieutenants should receive preferential treatment in this regard over lower grade police personnel, unlimited accumulation of sick leave for purposes of illness will not be awarded.

One of the lieutenants has accumulated more than 400 days of sick leave. In the interest of fairness, this award will permit him to keep the excess over 400 days for purposes of illness only.

Retirement and Social Security Law Section 375-i

The Union proposes that the Town make available to employees the benefits provided by Section 375-i of the Social Security Law, provision of which also requires provision of the benefits contained in Sections 375-f and 375-g. The Union conditions its proposal upon the present cost of such benefit not exceeding \$1500 per year for all police personnel. The Town argues that the benefit should not be provided because it is not provided to the police personnel in the other bargaining unit.

The benefits under Section 375-i have been made available by many of the communities used as comparables by both parties. It provides greater benefits to police officers over age 55 who have accumulated more than 20 years of service. Since the lieutenants are older than at least most of the other police officers, it appears to be of great advantage to them. It may be that requiring Section 375-I to be made available to the lieutenants will, by operation of law, require it to be made available to all police personnel. This cannot deter an award which is otherwise justifiable, especially since the Union has asked that the award be conditioned upon the cost to the Town not exceeding \$1500 per year for all police personnel. The panel finds that this benefit should be awarded. In so finding, the panel has taken into consideration the Town's claims with respect to ability to pay. There is nothing in the record to show that the Town cannot pay this benefit or the total benefits awarded herein.

The panel unanimously agrees that the award, which follows, be for a period of two years.

Public Panel Member and Chairman:

Jerome Thier
JEROME THIER

Date: 7/5/90

Sworn to before me this 5th day of July, 1990.

Joan Gardina
Notary Public
JOAN GUARDINA
Notary Public, State of New York
No. 4753360
Qualified in Westchester County
Commission Expires January 31, 1991

Public Employer Panel Member:

Alfred Fusco
ALFRED FUSCO

Date: 7/5/90

Sworn to before me this 5th day of July, 1990.

Dissents on: Article IV Secs. 2, 3, 4, 5, 6, 7
Article X Sec 2B
Article XI Sec 2
Article XVII Sec 5B

Joan Gardina
JOAN GUARDINA
Notary Public, State of New York
No. 4753360
Qualified in Westchester County
Commission Expires January 31, 1991

EMPLOYEE ORGANIZATION PANEL MEMBER:

John P. Henry
JOHN P. HENRY

Date: 7/5/90

Sworn to before me this 5th day of July, 1990.

John P. Henry
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Dissents on: Article IV, Sections 1 and Article XVII

P.E.R.B. CASE NO. IA89-23;M89-166

INTEREST ARBITRATION AWARD

between

TOWN OF CARMEL

and

UNITED FEDERATION OF POLICE INC
(CARMEL LIEUTENANTS BARGAINING UNIT)

January 1, 1989 - December 31, 1990

Public Panel Member and Chairman: Jerome Thier

Public Employer Panel Member: Alfred Fusco

Employee Organization Panel Member: John P. Henry

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This Award effective the 1st day of January, 1989, by and between the TOWN OF CARMEL (hereinafter referred to as the "Town"), and the UNITED FEDERATION OF POLICE, INC. (Carmel Lieutenant's Bargaining Unit) (hereinafter referred to as the "Federation").

ARTICLE I
RECOGNITION

Section 1: The Town recognizes the Federation as the sole and exclusive representative for members of the Town of Carmel Police Department assigned as Lieutenants (hereinafter referred to as "Employees"), and excluding all others in the Town of Carmel Police Department.

Section 2: The Federation shall act as representative and/or agent in all negotiations with the Town within the scope of this Agreement, and when requested to do so by the Employee or Employees in question, in all grievance proceedings.

Section 3: The Federation affirms that it does not assert the right to strike against the Employer, to assist or participate in any such strike, or to impose an obligation upon its members to conduct, assist, or to participate in such strike.

ARTICLE II
REPRESENTATION

Section 1: The Federation shall represent the Employees listed in Article I, Section 1.

Section 2: The Town agrees that in the event any new classification is established in the bargaining unit, the Town will confer and negotiate classification rates for such new classification with the Federation.

Section 3: The Town shall recognize the form of union security known as "Agency Shop." Any present or future Employee who is not a member of the Federation and who does not make application for membership in the Federation within thirty (30) days from the date that such Employee becomes eligible for membership or, in the case of present Employees, thirty (30) days of the execution of this Agreement, shall, as a condition of employment, have deducted by the Town, an amount of money (to be called the "agency shop fee") equal to the Federation dues, as a contribution towards the administration of this Agreement. The Federation shall be solely responsible to account to such Employees for the disbursement of all funds collected pursuant to this Section.

ARTICLE III
MANAGEMENT RIGHTS

Except as limited by the provisions of this Agreement, all of the authority, rights and responsibilities of the Town are retained by it including the sole right to conduct the business of and carry out the mission of the Town of Carmel Police. Such rights are subject to such conditions, requirements and limitations as may be applicable under law, and must be exercised consistently with the other provisions of this Agreement.

ARTICLE IV
ANNUAL SALARY AND OVERTIME

Section 1: Employees shall be entitled to an annual salary as defined below, on the dates indicated:

Jan. 1, 1989	July 1, 1989	Jan. 1, 1990
<u>-----</u>	<u>-----</u>	<u>-----</u>
\$47,781.00	\$48,736.00	\$51,660.00

Section 2: An Employee, who remains on duty after his/her tour or is recalled and placed on duty or is assigned to court or other like appearances shall receive payment at the rate of one and one-half (1-1/2) times their respective hourly pay, when such time is above forty (40) hours.

Section 3: Employees shall receive overtime in the form of compensatory time equal to one and one-half times the overtime hours worked to a maximum accumulation of eighty (80) hours of compensatory time due such employee at any given time. Employees may set aside up to an additional eighty (80) hours of compensatory time for vacation, which must be used within the fiscal year earned or such compensatory time accumulated for vacation shall be lost. Overtime shall only be compensable, whether in cash or compensatory time, if said overtime was authorized by the Chief of Police.

Employees, upon separation from Town service shall be paid, or in the event that termination is due to the death of the employee the employee's estate shall be paid, for accumulated compensatory time at the rate of the employee in effect on the employee's date of separation.

Section 4: No Employee shall have his/her duty tour rescheduled for the sole purpose of avoiding overtime, unless said Employee has been notified of such changes seven (7) calendar days in advance of the time when the rescheduled duty tour is to begin.

Section 5: The Chief shall request volunteers to work pre-scheduled overtime (when it is know seven (7) days or more in advance).

Section 6: Employees who are directed by the Chief of

Police to perform duties of a higher rank and/or assignment for a period of five (5) days or more during any contract year shall be entitled to receive salary commensurate with such rank and/or assignment for the length of time required to perform such assignment and duties.

Section 7: An Employee who while off-duty assists or initiates police action within the Town limits and such action leads to an arrest or lengthy delay by such Employee shall be entitled to overtime pay for such time of delay for time made necessary by such arrest.

ARTICLE V WORKWEEK AND WORKYEAR

Section 1: The standard workday shall be eight (8) hours, and the standard workweek shall be forty (40) hours.

ARTICLE VI HOLIDAYS

A. All Employees shall have thirteen (13) holidays off per year with compensation. An Employee may elect to receive cash payments in lieu of the time off for any number of these holiday days, subject to the approval of the Chief of Police. Such approval will not be unreasonably withheld.

B. Employees who elect such cash compensation shall be paid in a separate check in one lump sum payment for the number of holidays cashed in on the 1st pay period in December of the year for which time is afforded and due.

C. Employees who work on a holiday will receive an additional day's pay, in addition to the regular holiday pay and regular pay, which shall represent working at least two holidays per year. Payment for these holidays will be incorporated into the payment in B above.

ARTICLE VII PERSONAL LEAVE

Employees shall have four (4) personal days per year with compensation upon written request forty-eight (48) hours in advance, except in an emergency, addressed to the Chief of Police. Unused personal days shall be paid in the last pay period in December of each year. Personal days shall not be unreasonably denied.

ARTICLE VIII
DEATH LEAVE

Section 1: Employees shall be entitled to five (5) workdays, with pay, in the event of the death of the Employee's spouse, child, father, mother, father-in-law, mother-in-law or step-child.

Section 2: Employees shall be entitled to two (2) work-days, with pay, in the event of the death of the Employee's brother or sister.

Section 3: In addition to the Death Leave contained in Section 1 and 2 of this Article and/or in the event of the death of other than those designated persons, Employees, upon request, may be granted time off, with pay, in the event of such death. Such time off shall be deducted, at the choice of the Employee, from said Employee's personal days, paid holidays, vacation or accumulated compensatory time.

ARTICLE IX
VACATION

Section 1: All Employees shall be entitled to vacation leave, with pay, in accordance with the following schedule:

	WORKING DAYS
During the 1st year of employment	14
During the 2nd year of employment	15
During the 3rd year of employment	16
During the 4th year of employment	17
During the 5th year of employment	18
During the 6th year of employment	19
During the 7th year of employment	20
During the 8th year of employment and through the 15th year of employment.....	21
During the 16th year of employment and thereafter	30

Section 2: All Employees shall be entitled to be paid in cash at the time of retirement from the Town's service pursuant to the provisions of the Civil Service Law of the State of New York for the monetary value of the unused vacation time standing to the credit of such Employee at the time of retirement and shall be paid to the Employee or his/her beneficiaries in the case of death.

ARTICLE X
SICK LEAVE

Section 1: All Employees shall be entitled to twenty (20) working days per year with pay for sick leave. Credited sick leave time earned before December 31, 1979 shall be carried

forward subject to the maximum in effect at that time, except as set forth in Section 2,B of this Article.

Section 2: An Employee shall be entitled to accrue unused sick leave days up to a maximum of four hundred (400) days.

A. Sick leave absences shall first be charged against the Employee's yearly entitlement and any unused portion of the annual entitlement shall then be credited to the Employee's accumulated sick leave as of December 31st of each year, up to the maximum accrual of four hundred (400) sick leave days.

B. Employees who have, as of January 1, 1990, accumulated more than four hundred (400) sick leave days shall be permitted to keep such accumulated sick leave days in excess of four hundred (400) days. Such days may be used by the Employee as sick leave, but shall not be used to calculate benefits due an Employee under Section 3 of this Article.

Section 3: An Employee in the Town's service shall, upon retirement from the State Retirement System, or the Employee's beneficiaries in the case of the death of the Employee, be entitled to a cash payment for a portion of unused accumulated sick leave in accordance with the following schedule:

AMOUNT OF ACCUMULATED SICK LEAVE AT RETIREMENT DATE	PORTION OF WORKING DAYS FOR WHICH PAYMENT WILL BE MADE*
350-400	25%
300-349	22%
200-299	20%
100-199	18%
Less than 100	10%

* The number of days for which payment will be made shall be rounded up to the next full day. A working day shall be computed by dividing the Employee's annual salary by 260 days per year to equal the daily rate of pay. The annual salary shall be the Employee's base salary without the addition of overtime, longevity, or educational stipend. This terminal leave pay outlined above is not to be considered as additional salary to be added to the final average salary in the State Retirement System.

Section 4: After three (3) days of successive absence for sickness or injury, or five (5) days cumulative absence for absence for sickness or injury in a calendar year, the Town shall have the right to have the Employee examined by a physician of the Town's choice at the Town's expense.

ARTICLE XI RETIREMENT

Section 1: The Town shall continue, at no cost to the Employee, the following benefits as described in the New York State Retirement and Social Security Law:

Section 384-d: Twenty Year One-Half Pay Retirement Plan
Section 302-9d: Final Average Salary
Section 375-c: Fifty-five Years of Age Retirement Plan

Section 2: The Town shall take immediate action to make available to Employees benefits as provided in Section 375-i, 375-f and 375-g of the New York State Retirement and Social Security Law, provided the cost of such benefit does not exceed fifteen hundred dollars (\$1500.00) per year for all Department employees eligible for coverage.

Section 3: The Town shall take immediate action to make available to Employees benefits as provided in Section 333 of the New York State Retirement and Social Security Law.

Section 4: Any benefits due an Employee by the Town under the terms and conditions of this Agreement shall be paid within thirty (30) days of such Employee's termination of employment with the Town, provided the Employee has given the Town thirty (30) days' notice of his/her intent to terminate his/her employment. If less than 30 days' notice is provided, the Town's time within which to pay said benefits shall be extended by the number of days' notice under 30 not received.

ARTICLE XII WELFARE BENEFITS

Section 1: The Town shall continue to provide hospitalization insurance with extended coverage through the Statewide Plan for all Employees and their eligible dependents, said coverage shall be fully paid by the Town.

Section 2: The Town shall contribute to the Town of Carmel Police Benevolent Association, Inc. Welfare Fund \$500.00 per Employee annually. Said Welfare Fund shall be administered, as to benefits provided, by the Carmel P.B.A., but shall be subject to financial audit by the Town on reasonable notice. Such financial audit shall be at the Town's expense.

The Welfare Fund shall be used to purchase benefits for bargaining unit members through the Town of Carmel Police Benevolent Association, Inc. Welfare Fund.

Section 3: The number of Employees for which payment shall be made, shall be determined monthly based on the number of Employees in the Town's service for that month and such payments shall not be made for temporary Employees, summer aides and seasonal Employees. (The Chief and any other managerial/confidential classified Police Officers, although not in the bargaining unit, shall be beneficiary of this Welfare Fund, payment for them to be made into the Fund by the Town.)

ARTICLE XIII
MEMBERS' RIGHTS

Section 1: The Town recognizes the right of the members to designate representatives of the Federation to appear on their behalf to discuss salaries, working conditions, grievances and disputes as to the terms and conditions of this contract and to visit Employees during working hours. Such Federation representatives shall also be permitted to appear at Public Hearings.

Section 2: The Officers of the Federation shall have the right to visit the Employer's facilities by appointment for the purpose of adjusting and administering the terms and conditions of this contract.

Section 3: The President of the Carmel Lieutenants Bargaining Unit or his designated representatives shall be allowed reasonable time without loss of pay or benefits, when necessary to transact legitimate Federation business pertaining to the administration of this Agreement, subject, however, except in emergencies to reasonable advance notice to the Chief of Police.

Section 4: The President of the Carmel Lieutenants Bargaining Unit or his/her designee shall be allowed a maximum of five (5) workdays to attend the United Federation of Police, Inc., conventions and meetings on thirty (30) days' notice, setting forth the date, time, place and organization to the Chief of Police.

Section 5: The President of the Carmel Lieutenants Bargaining Unit or his/her designee, when engaged in legitimate Federation business during normally scheduled duty time, shall be entitled to all rights and benefits and shall be recorded as "Special Assignment, Federation," for purposes of insurance coverages provided by the Town.

Section 6: An Employee, acting as a Police Officer by the authority of law anywhere in New York State shall be entitled to all rights and privileges to which he is entitled to as a Police Officer in the Town, whether on or off duty.

Section 7: Employees who are members of the National Guard and/or Military Reserve of the Armed Forces of the United States or the State of New York shall be entitled to all benefits contained in this Agreement when in military duty. Such Employee shall turn over to the Town any military pay received during the period that said Employee is on military duty and the Town shall continue to pay said Employee the salary due according to said Employees years of service, rank and assignment.

Section 8: Employees are entitled to a lunch period of one (1) hour during their scheduled tour of duty, but Employees are subject to call during lunch period.

In the event that an Employee, while on lunch period, is called out prior to thirty (30) minutes of the expiration of said Employee's lunch period and during the balance of the workday does not receive the remainder of lunch period, said Employee will be credited with one (1) hour of compensatory time.

Section 9: A. The Town shall pay the full cost of a yearly physical examination for each Employee. Employees shall be scheduled for the physical examination while on duty. In the event that the physical examination is impossible to schedule while the Employee is on duty, the examination will be scheduled on such Employee's off-duty time and said Employee shall not be paid by the Town for such time. The scheduling of Employees for physical examination on off-duty time shall not be done in an arbitrary manner.

B. Effective January 1, 1989, all Employees shall be obligated to apply for reimbursement from their health insurance carriers for the costs of these examinations and they shall further be obligated to turn over to the Town all reimbursement payments received from their insurance carriers.

Section 10: Employees will not be expected to use their personal vehicles for Town business unless there are no police vehicles available and/or police vehicles are not otherwise needed. In the event the employee agrees to use his/her personal vehicle, the employee will be reimbursed at the annual mileage rate set by the Town Board, for the distance travelled on Town business, which shall be not less than twenty cents (\$.20) per mile.

ARTICLE XIV INVESTIGATION AND DISCIPLINE

Section 1: Administrative Disciplinary Charges - Non-Criminal Matters

1. An employee shall not be subject to administrative disciplinary charges more than ninety (90) days after the Town became aware of, or should have become aware of, the incident which gave rise to said administrative disciplinary charges.

2. An employee who is being investigated by the Town for administrative disciplinary matters shall be notified by the Town within thirty (30) days of the inception of the investigation, and then every thirty (30) days thereafter and at the conclusion of the investigation.

Section 2: Criminal Investigations

If the employee is involved in a criminal investigation and said investigation does not result in the employee being criminally charged, then Section 1.1 above shall apply; however, the time limit specified, within which the Town must proffer administrative disciplinary charges based upon incidents which were the subject of the criminal investigation, shall commence from the date the Town receives official written notification that the employee is not being criminally charged.

Section 3: Criminal Charges

An employee that is faced with criminal charges and administrative disciplinary charges as a result of the same incident shall not, unless the employee agrees, be subject to a hearing on the administrative disciplinary charges until such criminal charges are resolved, or 12 months have elapsed since the inception of the investigation giving rise to such criminal charges. The Town does not waive the right of suspending the employee with or without pay pending said administrative disciplinary hearing.

Section 4: Suspension

1. An employee who is suspended with pay may be required to report in person during the term of the suspension during the normal business hours of 9:00 a.m. to 5:00 p.m. An employee suspended without pay shall not be required to report in person.

2. An Employee, if suspended, shall continue to be covered by hospitalization insurance and welfare benefits. Such coverage shall be paid in full by the Town.

3. An Employee, who after an administrative disciplinary hearing, is suspended, fined, or dismissed and if thereafter that determination is lessened or set aside by a court of competent jurisdiction, shall be required to reimburse the Town any compensation earned by the employee during the period of such suspension, fine, or dismissal

ARTICLE XV
DEATH BENEFIT

Section 1: All Employees shall be granted the added protection of Section 208-b and 208-c of the General Municipal Law.

Section 2: The Town shall assume all reasonable expenses to cover the cost of the funeral of an Employee who dies in or as a result of performance of duty as a Police Officer.

ARTICLE XVI
LONGEVITY

Section 1: The longevity payments set forth below shall be based on years of continuous service with the Town as a Police Officer. The amounts set forth below are not cumulative.

	1989	1990
	-----	-----
5 years	\$ 350	\$ 371
8 years	\$ 575	\$ 610
12 years	\$ 800	\$ 848
16 years	\$1025	\$1087
19 years	\$1600	\$1696

ARTICLE XVII
EDUCATION AND TRAINING

Section 1: The Town shall grant a stipend for approved college credits according to the following schedule:

Degree of Associate of Applied Sciences:
six hundred (\$600.00) dollars annually

Degree of Bachelor of Science:
nine hundred (\$900.00) dollars annually

Section 2: An Employee must be on the force one (1) year in order to be eligible to be paid the degree stipend.

Section 3: The stipend shall only be paid after the Town Board determines, in its sole discretion, that the fields of study of the degree area are police related; however, such approval will not be denied in order to save money.

Section 4: The stipend shall be paid on the 1st payday following November 1st only for those members eligible for such stipend, in accordance with Sections 1-5, on or before November 1st.

Section 5: The Town shall provide, at no cost to the Employee, firearms training at least once per calendar year.

A. Such firearms training shall be at Camp Smith or at another adequate facility designated by the Chief of Police.

B. Employees who are required to attend Town instituted firearms training on off-duty time shall receive payment at such Employee's overtime rate.

ARTICLE XVIII
SAFETY

In the event that an Employee feels that the patrol vehicle assigned is unsafe, the Employee shall immediately submit to the Chief of Police a written report on the condition of said vehicle. If, in the opinion of the Chief of Police, the vehicle is unsafe, then the Chief of Police shall remove the vehicle from service.

ARTICLE XIX
GENERAL

Section 1: Inspection of Personnel Record:

A. An Employee may review his/her Personnel Record which is maintained at Police Headquarters within fifteen (15) days of the submission of a request. Such review shall take place in the presence of an appropriate official of the department and shall take place during the Employee's off-duty

time. The Personnel Record shall include the Employee's employment application, performance appraisal forms, all letters of commendation, reprimand, suspension, fines, promotions and demotions. Such review shall not include pre-employment investigation reports nor shall the identity of an informant or complainant be revealed when the information furnished or allegation made against a member was supplied on a confidential basis, is contained in written reports, and was not used as evidentiary proof in a disciplinary action. An Employee shall be allowed to place in said file a response of reasonable length to anything contained therein which such Employee deems to be adverse.

B. Any Employee denied such inspection may grieve such denial pursuant to Article XXI.

Section 2: Each Employee shall be provided with false arrest and imprisonment insurance protection in the amount of one million dollars (\$1,000,000.00). If such insurance is not available through ordinary insurance channels, the Town shall provide the maximum amount available at all times.

Section 3: The Town will provide an errors and omissions insurance policy in the amount of one and one-half million dollars (\$1,500,000.00), for the benefit of the Employees of the department to insure and indemnify them in any action, suits or claims for their alleged negligent acts arising out of and during the course of their employment.

Section 4: The town shall replace all uniforms and equipment which are required to be replaced by normal usage, procedure, wear and tear in the performance of the duties of the Employees.

Section 5: In lieu of cash uniform cleaning and mending allowance, the Town agrees to pay for the cleaning and mending of three (3) uniforms per week per Employee during each calendar year at the place designated by the Town.

Section 6: The Town agrees not to unilaterally change or alter any "term or condition of employment."

ARTICLE XX DISPUTES

Any dispute arising concerning the interpretation or application of the terms of this contract or the rights claimed to exist thereunder shall be processed in accordance with the following procedure:

1. Such dispute by an Employee or group of Employees shall be presented to the Carmel Lieutenants Bargaining Unit Grievance Committee, who shall determine the validity of the grievance and may then present it to the Chief of Police for possible resolution. Such dispute must be presented in writing to the Chief of Police within thirty (30) calendar days of the

act or event which gave rise to the dispute.

2. In the event such dispute is not satisfactorily resolved or adjusted within thirty (30) calendar days after receipt in writing of the grievance by the Chief of Police or his designee, then the Federation may present same to the Town Board or their designee for hearing and settlement.

3. In the event that any dispute is not then satisfactorily disposed of within thirty (30) calendar days, it may be referred by either party to arbitration before an impartial arbitrator, under the Voluntary Labor Arbitration Rules of the AAA. The cost of the arbitrator and the AAA's filing fee shall be borne equally by the Town and the Federation.

ARTICLE XXI SEPARABILITY

Should any part hereof or any provision herein contained be rendered or declared illegal and/or unfair labor practice by reason of any existing or subsequently enacted legislation or by any decree of a court of competent jurisdiction or by the decision of any authorized government agency, such invalidation of such part, or portions thereof, shall not effect the remaining portions and provisions of this Agreement. Upon such invalidation, the parties agree immediately to meet and negotiate substitute provisions for such parts or provisions rendered or declared illegal or unfair labor practice, the remaining parts or provisions shall remain in full force and effect.

ARTICLE XXII NOTICE PURSUANT TO SECTION 204-a OF THE CIVIL SERVICE LAW OF THE STATE OF NEW YORK

IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS FUNDS THEREFOR, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL.

ARTICLE XXIII DURATION

The terms and conditions of this Agreement shall become effective the first (1) day of January, 1989 and shall terminate at the close of business of the thirty-first (31) day of December 1990.