

OCT 03 1977

CONCILIATION

STATE OF NEW YORK
 PUBLIC EMPLOYMENT RELATIONS BOARD
 Case No. IA90-020; M-90-280

In the Matter of the Arbitration	:	<u>DETERMINATION</u>
	:	
- between -	:	AND
	:	
CITY OF MIDDLETOWN	:	<u>AWARD</u>
	:	
- and -	:	OF
	:	
MIDDLETOWN POLICE BENEVOLENT ASSOCIATION, INC.	:	<u>ARBITRATION</u>
	:	
	:	<u>PANEL</u>
	:	

BEFORE:

Public Arbitration Panel:

Public Member and Chair:	Susan T. Mackenzie, Esq.
Employer Member:	Albert Fusco
Employee Organization Member:	Arthur J. Ferraro, Esq.

APPEARANCES:

For the Association: John P. Henry, Vice President,
 Federation of Police

For the City: Anderson, Banks, Curran & Donoghue,
 by: John M. Donoghue, Esq.
 Richard S. Altman, Esq.

The New York State Public Employment Relations Board, having determined that a dispute continued to exist in negotiations between the City of Middletown and the Middletown Police Benevolent Association, Inc., (hereinafter the "City" and the "Association"), and further that the dispute came under the provisions of Section 209.4 of the Civil Service Law, designated the above Public Arbitration Panel for the purpose of making a just and reasonable

determination of the dispute. A hearing before the Panel was held on May 30, 1991 at which time the parties were accorded full opportunity to present witnesses, testimony, documents and other evidence in support of their respective positions. A transcript of the proceeding was recorded. The parties also elected to file post-hearing briefs. Subsequently, the Panel met in executive session on July 23, 1991, July 31, 1991 (telephonic conference) and September 30, 1991.

The City and the Association have been parties to a collective bargaining Agreement for several years, the last expiring on December 31, 1990. In its December 14, 1990 petition to the Public Employment Relations Board for the appointment of an arbitration panel, the Association listed approximately 15 proposals for negotiations. In its January 9, 1991 response, the City listed 15 proposals for negotiations. The parties had engaged in "package bargaining," and all proposals are now before the Arbitration Panel.

The Panel, in accordance with its obligations pursuant to Civil Service Law, Section 209.4, has taken into consideration, in addition to other relevant factors, the following:

- 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.
- the interests and welfare of the public and the financial ability of the public employer to pay;

- 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;
- 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.

PROPOSAL 1: AGENCY SHOP

Current Position: The parties' 1989-90 agreement provides for dues deduction, but there is no provision for an agency shop.

Association Position: The Association proposes the inclusion of an Agency Shop clause. In support of its position, the Association notes that as the recognized bargaining agent for all police officers, sergeants and lieutenants of the department, it is required to provide services to all members of the bargaining unit irrespective of their status as members of the Union. It maintains that the cost of these services should be distributed equally among the full membership all of whom enjoy the benefits of representation. It notes that in surrounding areas, three jurisdictions have agency shop clauses.

City Position: The City takes the position that there should be no inclusion of a provision for an agency shop.

Discussion and Determination: The record indicates that at present, all members of the bargaining unit are dues paying members of the Union. Thus there is no demonstration at the present time of an unequal distribution of the cost of providing services to the

bargaining unit. Furthermore, only three of 18 municipalities cited by the Union, have such a benefit, and therefore comparability considerations also are persuasive of no change. Accordingly, the Panel determines that there should be no inclusion of an agency shop provision in the parties' new Agreement.

PROPOSAL 2: ANNUAL SALARY

Current Provision: The current salary schedule is set forth in Appendix B of the parties' 1989-90 Agreement.

Association Proposal: The Association proposes a restructuring of the salary schedule, with a reduction of steps from 19 to 6, with 2.5 percent differentials in steps, and an eight (8) percent increase in the first year of a two year agreement and a six percent increase in the second year. It also proposes longevity increments at 7, 10, 13, 16 and 19 years. It notes that the current schedule requires police officers, sergeants and lieutenants to complete 24 years of service to reach the top step, whereas in 19 Orange County police jurisdictions, 63% reach top salary before the sixth year of service, and 80% by the ninth year of service. It also notes that in the City's list of comparable police jurisdictions, 64% reach top salary step in five years or less. The Association's proposal further provides longevity steps based on a percent of the police officer's salary in the fifth year of service in recognition of the value of long service to the City. Similarly, a sergeant's minimum salary, prior to calculation of longevity entitlement, would be 15 percent above a police

officer's in the fifth year of service, and a lieutenant's minimum salary, prior to longevity entitlement, would be 15 percent over the minimum salary of sergeants, which the Association asserts is an equitable differentiation to correct present inequalities in the current structure. It notes that under the current system, after five years of service, the differentials between sergeants and lieutenants and police officers salaries diminishes from 14.3 and 8.5 percent to 11.3 and 8 percent respectively. It further asserts that its proposed salary increase is commensurate with comparable jurisdictions, and that the City has the ability to pay the proposed increases.

City Proposal: The City proposes a six percent base salary increase on the current schedule, in each of two years, to be structured so that a three percent increase would go into effect after the first six months of 1991 and an additional three percent into effect at the conclusion of 1991. Similarly, another three percent would go into effect after the first six months of 1992 and the final three percent would go into effect at the end of 1992. It maintains that this proposal is in line with comparable jurisdictions and extremely competitive. It further asserts that in both 1989 and 1990, police officers in Middletown received base salaries higher than in any other comparable jurisdiction. It also maintains that the City is financially incapable of paying the proposal of the Association in light of the current economic dilemma of the City -- including loss of State aid, the dramatic increase in tax sale parcels resulting from tax arrears and the

substantial decrease in the number of properties transferred, the increase in the number or senior citizens granted tax exemptions, the decrease in sales tax revenue, and the potential for a 58% reduction in State revenue sharing. It views its proposal as fair and generous.

Discussion and Determination on Salary: The Panel notes that in their prior agreement, the parties established for the first time a 19-step salary schedule, set forth in Appendix B in the parties' 1989-90 Agreement. The Association's proposal calls for a substantial change in that structure, most notably the ability to reach top step in five as opposed to 19 years. While the estimated cost to the City of implementing the new structure was not placed before the Panel, the structural changes proposed by the Association would result in a much more substantial cost increase to the City, particularly in contrast to the City's proposed six percent increase on the current schedule.

The Panel does not find that the data on relevant considerations supports the Association proposal. In the Association's presentation on comparability of salary increases in Orange County police jurisdictions, negotiated increases ranged from a low of 4 percent to a maximum of 11.4 percent in 13 of 20 jurisdictions. However, the majority ranged from five to approximately seven percent. Additionally, only eight of the 20 jurisdictions indicated settlements for the 1992 year, ranging from five percent to nine percent, but the majority are in the six-seven percent range. The comparability statistics submitted by the City were at some

variance---for example, the City of Monroe was listed as negotiating a 7.4 percent increase, effective June 1991, whereas the Association statistics indicate that an eight percent increase went into effect January 1, 1991. Be that as it may, the range of salary increases cited by the City was also from approximately four percent to 7.5 percent in seven cited comparable jurisdictions, one of which was a six percent increase for the CSEA unit in Middletown for 1991.

The Panel also takes particular note of the Association's statistics on annual salaries in the 20 cited jurisdictions for police officers in the first year of service, Middletown officers appeared to be in the upper range, with only approximately five jurisdictions with higher starting salaries for a police officer in the first year. Similarly, police officers in Middletown with five years of service ranked approximately third or fourth in the cited jurisdictions. Salary increases maintaining relative status are deemed appropriate by the Panel.

The Panel has also taken into consideration the current budgetary constraints of the City, and the loss and potential loss of State aide as well as other revenue sources. And, while the Association's proposed salary restructuring may have merit, there is an insufficient basis on which to award such a substantial change in light of the lack of evidence of the projected cost to the City over the next several years of such a schedule. It is a matter best left to the parties to resolve in subsequent negotiations.

Accordingly, the Panel determines that the parties should enter into a two-year Agreement, effective January 1, 1991 through December 31, 1992. The Panel also determines that the current salary schedule, in effect only one contract term, is to be incorporated into the new contract, with the following salary increases:

- effective January 1, 1991: four (4) percent
- effective July 1, 1991: two (2) percent
- effective January 1, 1992: three (3) percent
- effective July 1, 1992: three (3) percent

PROPOSAL 3: OUT-OF-TITLE WORK

Current Provision: Article 4 of the parties' 1989-90 Agreement requires that bargaining unit members assigned to perform the duties of a higher rank for a period of five or more consecutive days, or 10 or more cumulative days in a calendar year, be paid at the higher level for such assignments during that calendar year.

Association Proposal: The Association proposes that bargaining unit members be paid at the higher level for all out-of-title assignments. It maintains that when a member is assigned the responsibility and accountability for a higher rank, it is only fair and equitable that the member receive a commensurate rate of pay beginning at the time the assignment begins.

City Position: The City proposes no change in the current agreement provision.

Discussion and Determination: The Panel finds that there is an insufficient basis for awarding a change in the provisions on out-of-title pay. There was no demonstration of undue harm to any

individual officer by the current provision. Nor was there any indication on the record that comparable units received such a benefit. Accordingly, the Association's proposal on out-of-title pay is rejected.

PROPOSAL 4: UNIFORM ALLOWANCE

Current Provision: Article 5.2 of the parties' 1989-90 Agreement provides for reimbursement for uniforms for up to \$500.00 for each year.

Association Proposal: The Association proposes that the \$500.00 reimbursable amount not be changed, but rather that members receive the \$500.00 in a lump sum payment annually, paid by a separate check, on or about January 15 of each calendar year. It further proposes that the City supply newly hired police officers in their first year of service with all necessary equipment and a complete uniform (winter, summer and fall) in lieu of the \$500.00 payment. The Association notes that members must pay cash for uniforms or uniform replacements, and that reimbursement for uniforms has been abandoned by the vast majority of municipalities employing police officers. It also maintains that the current system generates unnecessary paper work and accounting for the City. With respect to new police officers, it notes that new hires receive the lowest annual salary, and that \$500.00 does not cover the expense of purchasing the complete set of the summer, winter and fall uniforms required by the City. It maintains that the City should therefore pay the full cost of new hires' uniforms.

City Position: The City proposes no change.

Discussion and Determination: The Panel finds that the Association's proposal has merit to the extent indicated herein. It was acknowledged by both parties that uniforms for new officers can cost more than \$500.00, and that replacement uniforms must be paid for by the officers. Accordingly, the Panel determines that the following should be included in Article 4 of the parties' Agreement: That each officer receive the \$500.00 annual allowance for uniforms in a lump sum, to be paid as soon as possible but in any event not after the first quarter of the fiscal year. Additionally, for new hires, the uniform allowance for the first year should be \$750.00 toward clothing, and the City is to supply, at its expense, all required equipment.

PROPOSAL 5: APPEARANCE PAY

Current Provision: Article 6.4 calls for a minimum of two hours pay at time-and-one-half for grand jury or other governmental appearances on off-duty time.

Association Proposal: The Association proposes that the two-hour minimum pay be provided for all court appearances and any appearance related to employment required on off-duty time. It notes that 15 other police contracts in Orange County provide for a minimum call-back of at least two hours at time-and-one-half for all court and governmental appearances.

City Position: The City proposes no change.

Discussion and Determination: The language of Article 6.4 on its face indicates an intent of the parties to compensate officers for work performed in the line of duty during off-duty hours. Furthermore, court appearances are mandatory for police officers. Accordingly, the Panel determines that Article 6.4 should be amended to include a specific reference to "court" appearances as follows: "...actual appearances before a grand jury, court or other governmental agencies..."

PROPOSAL 6: OFF-DUTY TRAINING

Current Provision: Article 6.6 of the parties' 1989-90 Agreement provides for payment at the normal hourly rate for all police officers who participate in training authorized by the Chief of Police during scheduled time off.

Association Proposal: The Association proposes an amendment to include payment at overtime rates for all off-duty training. It maintains that 14 of 17 comparable police jurisdictions pay time-and-one-half for off-duty training, and that these eight pay overtime rates for off-duty training.

Discussion and Determination: While the Panel recognizes that off-duty training authorized by the Chief of Police benefits the City, given the current economic climate and the Panel's emphasis on salaries, and further that officers do receive compensation for off-duty training, the proposal is rejected.

PROPOSAL 7: REPORT TIME

Current Provision: There is no provision in the parties' Agreement for report time.

Association Proposal: The Association proposes that the Agreement provide for a 15-minute report time period prior to a scheduled tour of duty, to afford the Department the opportunity to advise police officers of what transpired during the last tour and what might warrant special attention during the tour of duty.

City Position: The City proposes no change.

Discussion and Determination: The Association did not offer any specific information on comparable police jurisdictions, or other data to support the award of such a benefit. Accordingly, the Panel determines that there is insufficient evidence to include a provision for report time in the new Agreement.

PROPOSAL 8: VACATION

Current Provision: The current vacation schedule is set forth in Article 9 of the parties' Agreement.

Association Proposal: The Association proposes the inclusion of the following vacation schedule:

- 10 work days after one year of service
- 15 work days after five years of service
- 20 work days after 10 years of service
- 25 work days after 15 years of service

City Position: The City proposes no change in the vacation schedules.

Discussion and Determination: The Association's data on comparable benefits in other police jurisdictions in Orange County demonstrate that the Association's proposal is reasonable. Only four of the 18 cited jurisdictions have a benefit less than 10 days after one year of service. Accordingly, the Panel determines that the parties include the following vacation schedule: proposed by the Association in their collective bargaining Agreement.

- 10 work days after one year of service
- 15 work days after five years of service
- 20 work days after 10 years of service
- 25 work days after 15 years of service.

PROPOSAL 9: HOLIDAYS

Current Provision: Article 10 of the parties' Agreement sets forth the provisions on holidays.

Association Proposal: The Association seeks extra compensation for officers who work on a paid holiday.

City Position: The City proposes no change.

Discussion and Determination: While other jurisdictions do provide some type of extra compensation for work performed on paid holidays---for example, additional cash or extra cash compensatory time off---it is noted that officers who work on holidays receive the holiday pay in addition to the pay for work on that day. The Panel also notes its emphasis in this contract term on salary increases. Accordingly, the Panel rejects the proposal on holidays.

PROPOSAL 10: SICK LEAVE

Current Provision: The sick leave provisions are set forth in Article 11 of the parties' Agreement.

Association Proposal: The Association seeks to increase the current payment for accumulated sick leave from 40% to 50%.

City Proposal: The City proposes that employees earn sick leave credit at the rate of one day per month, rather than starting each calendar year with an accumulation of 12 sick days. The City also seeks to place a cap on the sick leave accumulation to 220 days, except for employees with more accumulation as of December 31, 1990, who would not lose days but who would not be able to accumulate more.

Discussion and Determination: The parties's current provision on sick leave accumulation as well as its practice of 12 sick days per year is not inconsistent with similar benefits afforded in comparable jurisdictions. Nor has there been any demonstration of abuse by officers of the current sick leave provisions. Therefore an additional incentive does not appear to be necessary or supportable. Accordingly, the Panel determines that the Article 11 provisions on sick leave should remain as set forth in the 1989-90 Agreement.

PROPOSAL 11: PERSONAL LEAVE

Current Provision: Article 13 of the 1989-90 Agreement sets forth the provisions on personal leave.

Association Proposal: The Association proposes that the number of personal days afforded officers be increased from three to five personal days.

City Position: The City proposes no change in the current Agreement provisions.

Discussion and Determination: The data submitted on comparable police jurisdictions indicates that approximately 12 of 15 jurisdictions have at least three personal days annually. Officers also work on rotating schedules which may impact adversely on their ability to conduct certain personal business. Accordingly, the Panel determines that the number of personal days provided for in Article 13 be increased to four.

PROPOSAL 12: BEREAVEMENT LEAVE

Current Provision: Article 13 of the parties' Agreement sets forth the provisions on bereavement leave.

Association Proposal: The Association proposes that the definition of "family members" set forth in Article 13.4 be expanded to include both brother-in-law and sister-in-law, and that Article 13.1 be amended so that the reference to "calendar" days be excluded. It cites the contract provisions on bereavement leave in several other jurisdictions, noting that only one includes "day" as opposed to "calendar day." It further maintains that close family members such as a spouse's sister or brother should be included in the definition of family.

City Position: The City proposes no change in the bereavement leave provisions.

Discussion and Determination: The Article 13.4 definition of family is broad and includes family members such as aunts and uncles. The Panel finds that within this broad definition, specific reference to brother-in-law and sister-in-law is appropriate. With respect to the proposal to delete the reference to "calendar" in Article 13.1, it is noted that the purpose of bereavement leave is to afford protection against unforeseen circumstances where a family death occurs during scheduled work time. In light of the other Agreement determinations herein, the Panel finds that the Article 13.1 provision should remain unchanged. Accordingly, the Panel determines that Article 13.4 be amended to include a reference to brother-in-law and sister-in-law in the definition of family for purposes of that provision.

ISSUE 13: LIFE INSURANCE

Current Provisions Article 14.4 provides that the City shall provide \$30,000.00 life insurance, self insured by the City.

Association Proposal: The Association proposes that the benefit be increased to \$50,000.00. It maintains that the increase in coverage, for the majority of bargaining unit members, would equal less than two times annual earnings, while most insurance companies recommend that the primary wage earner in a family, such as the bargaining unit members, be two to three times annual earnings. It also asserts that the law enforcement profession has many,

attendant greater risks than other professions, and that this benefit would not result in a substantial increase in cost to the City.

City Position: The City proposes no change in life insurance benefits.

Discussion and Determination: The increase in life insurance benefits proposed by the Association would result in an additional cost to the City, where, as previously indicated, the Panel has determined that emphasis should be placed on salaries. However, the Panel has also considered the potential risk factors of the law enforcement profession, particularly where a death is the result of a line of duty injury. The Panel deems it appropriate, and in line with other comparable jurisdictions, to increase life insurance benefits to \$50,000.00 in the event of such a tragedy. Accordingly, the Panel recommends that Article 14.4 be amended to include a provision that in the event of a death of a bargaining unit member as a result of a line-of-duty injury, the City shall provide \$50,000.00 life insurance.

ISSUE 14: DISCIPLINARY PROCEDURE

Current Position: The current disciplinary procedure is set forth in Article 17 of the 1989-90 Agreement.

Association Proposal: The Association proposes that the grievance procedure be expanded to include review of disciplinary charges by a neutral arbitrator, with a final and binding decision, as well as Section 75 of the New York State Civil Service Law, the procedure now used for review of disciplinary matters. It maintains that the

Section 75 procedure is subject to political pressure, noting that the City receives only recommendations of a hearing officer as opposed to a final and binding decision of a neutral. Thus political pressures and personality conflicts can influence such decisions.

City Position: The City proposes no change in the current disciplinary procedures.

Discussion and Determination: While the Association's position on this demand has some theoretical persuasiveness, there was no demonstration of any problems under the parties' current procedure. There was no evidence of any disciplinary actions against officers that had resulted in any improper or tainted determination. Thus there is an insufficient basis on which the Panel can determine that a change is warranted. Accordingly, the Panel determines that there be no change in the Article 17 provision on disputes and grievance procedure.

ISSUE 15: CITY HALL CLOSING

Current Position: Article 10.2 provides that in addition to 13 paid holidays, officers are entitled to "equal time off for any other day that City Hall is closed."

City Position: The City seeks to delete the provision for equal time off when City Hall is closed. It maintains that in 16 comparable jurisdictions only one agreement provides for special holidays in addition to scheduled holidays and that the number of paid holidays in Middletown is substantial compared to comparable jurisdictions. It asserts that only two of 17 jurisdictions

provide for a greater number of paid holidays, and five others have the same number of paid holidays.

Association Proposal: The Association proposes that the provision remain unchanged. It contends that officers should be compensated if required to work when other employees are provided time off, without loss of any contractually approved time off.

Discussion and Determination: The Panel finds that there is an insufficient basis for changing the current provision on City Hall closing. There was no evidence that City Hall had ever been closed, and thus there is no experience on which to base a change. Accordingly, the Panel determines that there be no change in the Article 10.2 provisions on City Hall closing.

ISSUE 16: COMPENSATORY TIME

Current Position: Article 6.1 of the parties' Agreement sets forth the provisions on compensatory time.

City Proposal: The City proposes that earned compensatory time be taken with a six-month limit, unless extended by the Chief of Police. It maintains that eight of 17 comparable jurisdictions expressly provide for the substitution of compensatory time for overtime, and that, for example, the Middletown CSEA contract provides that compensatory time must be taken within 90 days after the time it is earned. It also notes the Town of Newburgh contract's reference to "within a reasonable time." It views its proposal as squarely in the middle of two extremes in comparable jurisdictions. Furthermore, because it can be extended by the

Chief of Police in extenuating circumstances, members are protected.

Association Position: The Association proposes no change in the Article 6 provisions on compensatory time.

Discussion and Determination: The current provisions on compensatory time, which requires its use by January 31 of the year following its accrual, has been in effect for several years. Furthermore, there was no demonstration of any hardship caused by that system. And, while the Middletown CSEA contract contains a limit, none of the contracts in comparable police jurisdictions contain any such restriction on compensatory time. Accordingly, the Panel determines that no change should be made in the current provision on compensatory time.

ISSUE 17: RETIREMENT PLAN CHANGES

Current Provision: The current provisions on retirement payments are set forth in Article 22 of the parties' Agreement.

City Proposal: The City proposes that employees requesting a change in retirement plan coverage be required to absorb any and all cost associated with that change. It maintains that while this is an innovative proposal, it is reasonable given that employees should be encouraged to remain with the retirement plan established with the Union through the process of collective bargaining, and the City should not be forced to assume the substantial costs related to such changes.

Association Position: The Association proposes no change.

Discussion and Determination: The City has recently adopted a procedure whereby new police officers are advised on the selection of a retirement plan. These new procedures should in part safeguard the City and bargaining unit members against the likelihood of changes in retirement plans for individual officers, but such circumstances can arise. Given that the current retirement plan was adopted by the Association as bargaining representative for Unit employees, it is not unreasonable for an individual employee who elects to change his or her the plan to pay for reasonable costs associated with that change. Accordingly, the Panel recommends that Article 22 include a provision that an individual officer requesting a change in the current retirement plan is to absorb reasonable costs associated with that change.

ISSUE 18: CO-PAYMENT OF HEALTH INSURANCE COST

Current Provisions: The provisions on health plans is set forth in Article 14 of the parties' Agreement.

City Proposal: The City proposes that it provide the Empire Plan-Core Plan, plus enhancements, but to pay only 50 percent of the cost to officers and their dependents under the basic plan, and further that officers selecting optional coverage available through an approved HMO should pay 100 percent of the additional premium. It notes that the City's contracts with both CSEA and Firefighters have a similar provision on additional HMO premiums. With respect to co-payment by unit members for health insurance costs, it maintains that there is a significant trend in this direction

because of the need to assist municipalities in absorbing skyrocketing health insurance costs. It also notes the contracts of the Village of Cornwall-on-the-Hudson, in which any increase in premiums after an effective date is payable by individual unit members; the Newburgh police contract, in which employees hired after a certain date contribute 10 percent of the cost of health insurance; and the City of Port Jervis police contract, in which health benefits by a police officer hired after a given date are made on a contributory basis related to years of employment.

Association Position: The Association proposes no change in the health insurance provisions.

Discussion and Determination: The Panel notes that the City is required by law to offer bargaining unit members the option of participation in an HMO, as opposed to the negotiated medical insurance coverage. It would appear reasonable that where an individual employee opts to participate in an HMO, any additional costs, above the negotiated plan costs, should be assumed by the individual.

With respect to co-payment on medical insurance, it is undisputed that medical insurance costs have increased dramatically in the last several years, and that the medical insurance cost is not a fixed cost. There is also a growing trend for employees to assume some part of the burden of these increased costs. Accordingly, the Panel determines that the City continue to pay 100 percent medical insurance premiums for all current officers, but any new officer

hired after October 1, 1991 is to pay 10 percent of medical insurance costs.

ISSUE 19: EXTENSION OF HEALTH PREMIUM COVERAGE

FOR FAMILIES UPON EMPLOYEE DEATH

Current Position: There is no provision for such coverage.

City Proposal: The City proposes that in the event an employee dies while in service, the City will pay the full health insurance premiums for the spouse and eligible dependents for up to one year. It notes that such coverage is provided by the City under the CSEA contract.

Association Position: The Association is in agreement with this proposal.

Discussion and Determination: Both parties are in agreement on this provision, and it appears reasonable and just. Accordingly the Panel determines that Article 14 on health benefits be deemed to include a provision that in the event of an employee death while in service, the City will pay full health insurance premiums for the spouse and eligible dependent for up to one year.

ISSUE 20: WELFARE FUND AUDIT

Current Provision: Article 14.3 on the welfare fund contains no provision for an audit.

City Proposal: The City proposes that the Welfare Committee be required to prepare an annual financial statement of the Welfare Fund and distribute it to all six Welfare Fund Committee members,

and further that and upon request of either party, an independent audit of the Welfare Fund financial records will be conducted.

Association Position: The Association is in agreement with this proposal.

Discussion and Determination: Both parties are in agreement on the value of such financial statements, and accordingly the Panel determines that Article 14.3 be amended to include a provision that, upon request, the Welfare Committee is to prepare an annual financial statement for the Welfare Fund and distribute such statement to all six Welfare Fund Committee members, and that upon request of either party, an independent audit of the Welfare Fund's financial records will be required.

ISSUE 21: LIMIT ON ANNUAL WORK HOURS

Current Provision: Article 8 sets forth the provisions on work day and work week.

City Position: The City proposes that the annual working hours of police officers be limited to 2,080 hours.

Association Position: The Association proposes no change in the current provisions of Article 8.

Discussion and Determination: At present, the parties' Agreement calls for patrol officers to work five-day tours of duty, 72 hours off, five evening tours of duty, 72 hours off, five night tours of duty, 72 hours off, for a total of 1,994 hours per year. Other officers work 40 hours per week, for a total of 2,088 hours per

year. The City cited no comparable provision where there was a limit on the annual number of working hours, and in fact the City's proposal could result in an additional 96 hours of work, or 11-and one-half working days, without additional compensation. Nor was there any demonstration of undue hardship as a result of the current working-hour schedule. Accordingly, the Panel determines that no change is justified in the current provision on working hours.

ISSUE 22: METHOD TO ESTABLISH SCHEDULES

AND NOTICE

Current Provision: Scheduling matters are set forth in Article 8 of the parties' Agreement.

City Proposal: The City proposes that police officers' schedules be established by the Chief of Police and made expressly subject to the needs of the City as determined by the Chief of Police, and that the City give the Association seven days notice of a change in the police officer's schedules.

Association Position: The Association proposes no change in the Article 8 provisions.

Discussion and Determination: In prior agreements the parties negotiated a schedule for 24-hour coverage, and there was no evidence of any significant problems or difficulties in the functioning of that negotiated scheduling method. The Chief of Police has the authority and responsibility to ensure smooth operations in the administration of the Department---which would include formulating schedules in conformity with City needs---but

there was no demonstration that the scheduling negotiated by the parties did not meet City needs or that it improperly impinged on the managerial prerogatives of the Chief of Police. It is also noted that the rotation schedules in police work impose difficulties on individuals and their families. Nor was there a sufficient demonstration that in comparable jurisdictions, a practice similar to that proposed by the City. Accordingly, the Panel determines that there should no change in the Article 8 provisions on scheduling.

ISSUE 23: EDUCATION AND TRAINING
AND UNIFORM REIMBURSEMENT

Current Provision: No current provision in Article 5 on uniforms or in Article 6.6 on training.

City Proposal: The City proposes that employees reimburse the City for education, training and uniforms if the employee resigns within three years of appointment. It cites three jurisdictions with some provision for reimbursement, including the Middletown Firefighters.

Association Position: The Association proposes no inclusion of a provision for employee reimbursement.

Discussion and Determination: There was no demonstration of any significant problem or undue hardship as a result of police officers obtaining uniforms and training at the expense of the City and then leaving employment. Nor was there a substantial demonstration of such a provision in comparable jurisdictions. While one contract, the Town of Newburgh, provides for reimbursement of clothing allowance on a proportional basis if an employee leaves within 90 days, and the Village of Chester provides for reimbursement of the initial cost of uniforms if an employee

completes less than one year of service, there is no significant trend in police jurisdictions. Nor is the provision in the Middletown Firefighters contract (providing that the City may recoup on a pro rated basis the clothing allowance of a retiring, resigning or terminated employee, and that an employee who leaves for employment with another fire department within three years of appointment will reimburse the City for all education, training and uniforms and equipment up to \$1,000.00) sufficient to award this change. Additionally, the change would not result in great savings to the City, and it would be difficult to quantify. Accordingly, the Panel determines that there should be no inclusion of reimbursement for education, training and uniform allowance in the new Agreement.

ISSUE 24: VOLUNTARY TIME

Current Provision: No provision on voluntary time.

City Proposal: The City proposes that each officer be required to volunteer 12 hours per year in organized youth-related activities. The City cites no contract provision in any comparable jurisdiction, but it believes such a requirement places little burden on each officer but would immeasurably enhance the public image of the Department as well as assist disadvantaged young people.

Association Position: The Association rejects the City's proposal.

Discussion and Determination: While voluntary activities in youth-related organizations is certainly a goal to be fostered by the Police Department and its administration, it is not appropriate

that such activity be mandated in an officer's off-duty time. This would constitute an improper infringement on an individual's personal activity as opposed to work time. There was no indication that the City intended to release officers from work time for such activity, and, as noted by the Association, any mandatory service would belie the very essence of volunteerism, personal choice. Accordingly, the Panel determines that the new Agreement not include a provision mandating volunteer work by police officers.

In summary, the Panel rejects the parties' proposals on agency shop, out of title pay, off-duty training, report time, holiday, sick leave, disciplinary procedure, City Hall closing, compensatory time, limit on annual work hours, method of establishing schedules and notice, education, training and uniform reimbursement, and volunteer time.

The Panel determines that the parties should enter into a two-year agreement, effective January 1, 1991 through December 31, 1992, incorporating the terms of the 1989-1990 Agreement with the exception of the following changes, which reflect the foregoing discussions. The Panel directs the parties to incorporate the following changes in the 1991-92 Agreement:

- That each officer receive the \$500.00 annual allowance for uniforms in a lump sum, to be paid as soon as possible but in any event not after the first quarter of the fiscal year. Additionally, for new hires, the uniform allowance for the first year should be \$750.00 toward clothing, and the City is to supply, at its expense, all required equipment;
- That Article 6.4 be amended to include a specific reference to "court" appearances as follows: "...actual appearances before a grand jury, court or other governmental agencies...;"

- That the following vacation schedule be included:
 - 10 work days after one year of service
 - 15 work days after five years of service
 - 20 work days after 10 years of service
 - 25 work days after 15 years of service;
- That the number of personal days in Article 13 be increased to four;
- That Article 13.4 be amended to include a reference to brother-in-law and sister-in-law in the definition of "family" for purposes of that provision;
- That in the event of a death of a bargaining unit member as a result of a line-of-duty injury, the City shall provide \$50,000.00 life insurance;
- That Article 22 include a provision requiring an individual officer requesting a change in the current retirement plan to absorb reasonable costs associated with that change;
- That any individual officer who opts for participation in an HMO will assume any additional costs above the negotiated plan costs.
- That the City continue to pay 100 percent medical insurance premium for current employees, but any new officer hired after October 1, 1991 is to pay 10 percent of medical insurance costs.
- That Article 14 on health benefits be amended to include a provision that in the event of an employee death while in service, the City will pay full health insurance premiums for the spouse and eligible dependents for up to one year;
- That Article 14.3 be amended to include a provision that, upon request, the Welfare Committee will prepare an annual financial statement for the Welfare Fund and distribute such statement to all six Welfare Fund Committee members, and that upon request of either party, an independent audit of the Welfare Fund's financial records will be conducted;
- That the current salary schedule be incorporated into the new contract, with the following salary increases:

effective January 1, 1991:	four (4) percent
effective July 1, 1991:	two (2) percent
effective January 1, 1992:	three (3) percent
effective July 1, 1992:	three (3) percent

The Panel determines that the above changes constitute a just and reasonable determination of the dispute based on its consideration of relevant factors including comparison of wages, hours and conditions of employment, the interests and welfare of the public and the financial ability of the Employer to pay, and comparisons of peculiarities in regard to other professions, and the terms of the parties' prior negotiated agreements.

AWARD:

The undersigned, duly constituted as the Public Arbitration Panel, and having duly heard the proofs and allegations of the parties, hereby render the following Award:

- That the parties enter into a two-year agreement, effective January 1, 1991 through December 31, 1992, incorporating the terms of the 1989-1990 Agreement with the exception of the following:
- That each officer receive the \$500.00 annual allowance for uniforms in a lump sum, to be paid as soon as possible but in any event not after the first quarter of the fiscal year. Additionally, for new hires, the uniform allowance for the first year should be \$750.00 toward clothing, and the City is to supply, at its expense, all required equipment;
- That Article 6.4 be amended to include a specific reference to "court" appearances as follows: "...actual appearances before a grand jury, court or other governmental agencies..."
- That the following vacation schedule be included:
 - 10 work days after one year of service
 - 15 work days after five years of service
 - 20 work days after 10 years of service
 - 25 work days after 15 years of service;
- That the number of personal days provided for in Article 13 be increased to four;
- That Article 13.4 be amended to include a reference to brother-in-law and sister-in-law in the definition of "family" for purposes of that provision;
- That in the event of a death of a bargaining unit member as a result of a line-of-duty injury, the City shall provide \$50,000.00 life insurance;
- That Article 22 include a provision requiring that an individual officer requesting a change in the current retirement plan to absorb reasonable costs associated with that change;

- That any individual officer who opts for participation in an HMO will assume any additional costs above the negotiated plan costs.
- That the City continue to pay 100 percent medical insurance premiums for current employees, but any new officer hired after October 1, 1991 is to pay 10 percent of medical insurance costs.
- That Article 14 on health benefits be amended to include a provision that in the event of an employee death while in service, the City will pay full health insurance premiums for the spouse and eligible dependents for up to one year;

That Article 14.3 be amended to include a provision that, upon request, the Welfare Committee will prepare an annual financial statement for the Welfare Fund and distribute such statement to all six Welfare Fund Committee members, and that upon request of either party, an independent audit of the Welfare Fund's financial records will be conducted;

- That current salary schedule be incorporated into the new contract, with the following salary increases:

effective January 1, 1991:	four (4) percent
effective July 1, 1991:	two (2) percent
effective January 1, 1992:	three (3) percent
effective July 1, 1992:	three (3) percent

Thomas G. Farrell
THOMAS G. FARRELL
Notary Public, State of New York
1168558
Qualified in Orange County
Commission Expires December 31, 1991

Date: *September 30, 1991*

[Signature]
Susan T. Mackenzie
Public Member and Chair

Appeared before me this ³⁰th day of September, 1991, Susan T. Mackenzie, to me known who did swear and affirm that she has executed the above and that all statement herein are true and correct to the best of her knowledge and belief.

Date: *Sept 30, 1991*

[Signature]
Albert Fusco
Public Employer Member
Concur
Dissent

Thomas G. Farrell
THOMAS G. FARRELL
Notary Public, State of New York
1168558
Qualified in Orange County
Commission Expires December 31, 1991

Appeared before me this ³⁰th day of September, 1991, Albert Fusco, to me known who did swear and affirm that he has executed the above and that all statement herein are true and correct to the best of his knowledge and belief.

Date: *9/30/91*

[Signature]
Arthur Ferraro
Public Employee Member
Concur
Dissent

Appeared before me this ³⁰th day of September, 1991, Arthur Ferraro, to me known who did swear and affirm that he has executed the above and that all statement herein are true and correct to the best of his knowledge and belief.

Thomas G. Farrell
THOMAS G. FARRELL
Notary Public, State of New York
1168558
Qualified in Orange County
Commission Expires December 31, 1991