

Pursuant to the provisions of Civil Service Law, Section 209.4, Pauline R. Kinsella, Chairperson of the New York State Public Employment Relations Board, designated the undersigned on April 15, 1992, as the Public Arbitration Panel for the purpose of making a just and reasonable determination on the matters in dispute between the City of Rensselaer ("City") and the Rensselaer Police Association, Inc. ("Association"). The City of Rensselaer is located in Rensselaer County, across the Hudson River from Albany, New York. It has a population of approximately 8,255. The Rensselaer Police Association represents a bargaining unit consisting of twenty-three full-time police officers employed by the City police department.

The prior Collective Bargaining Agreement between the parties covered the period from August 1, 1988, through July 31, 1991. Negotiating sessions on March 7, March 18, April 9, April 19, June 13, and November 13, 1991, for a successor agreement were unsuccessful, and impasse was declared on November 25, 1991. The Association filed a petition for compulsory interest arbitration on March 11, 1992, and the City filed its response on March 26, 1992. A hearing was held in Rensselaer, New York on August 10, 1992, at which all parties were provided opportunity to introduce evidence, present testimony, summon witnesses, cross-examine witnesses, and otherwise support their respective positions on the outstanding issues. The parties filed post-hearing briefs and reply briefs.

At the hearing the parties submitted approximately sixteen issues, three by the City and thirteen by the Association, for evaluation and decision by the Arbitration Panel. The Association reduced its number of issues for the purposes of the Public Panel Arbitration Award. Those remaining issues, including those of the City are: Salary, Compensatory Time, Longevity, Retirement, Voluntary Overtime, Sick Leave. All issues and their attendant support submitted by each party were carefully considered, as well as the responses by the opposing party. The Public Arbitration Panel met in executive session on October 23, 1992, and deliberated on each of the outstanding issues, carefully and fully considering all the data, exhibits and testimony received from both parties. The results of those deliberations are contained in the AWARD, which constitutes the Panel's best judgment as to a just and reasonable solution of the impasse. Those issues presented by the parties that are not specifically dealt with in detail in this AWARD were also carefully considered by the Public Arbitration Panel, but rejected in their entirety. For each issue, the discussion below presents the positions of the parties and the Panel's analysis and conclusion. The AWARD below must be considered as a totality, rather than issue by issue. The Public Arbitration Panel considered the impact of each item upon the whole, and made its judgment concerning the combination of items that would provide a just and reasonable result for all parties.

In arriving at the determination contained herein, the Public Arbitration Panel has considered the following statutory guidelines with which it was charged by Section 209.4:

- (v) the public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the panel shall specify the basis for its findings, taking into consideration, in addition to any other relevant factors, the following:
 - a. comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities.
 - b. the interests and welfare of the public and the financial ability of the public employer to pay;
 - c. comparison of peculiarities in regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; (5) job training and skills;
 - d. the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.
- (vi) the determination of the public arbitration panel shall be final and binding upon the parties for the period prescribed by the panel, but in no event shall such period exceed two years from the termination date of any previous collective bargaining agreement or if there is no previous collective bargaining agreement then for a period not to exceed two years from the date of determination by the panel. Such determination shall not be subject to the approval of any local legislative body or other municipal authority.

TERM OF AWARD

Both parties are in agreement that because of the date of this Award and pursuant to the provisions of Civil Service Law Section 209.4(vi), the Public Arbitration Panel is limited to a maximum of a two-year Award, the term of this Award shall be from August 1, 1991, through July 31, 1993.

SALARY

The base minimum annual salary for police officers in the City of Rensselaer is \$22,185. Maximum annual salary, exclusive of longevity but including step increment and shift differential, of police officers for the City of Rensselaer currently in effect is \$26,254; when longevity payments are included, the maximum annual salary including step increment and shift differential is \$27,504. Detectives and Sergeants receive an added amount, dependent upon rank and specialized duties.

Position of the Rensselaer Police Association

The Association seeks a salary increase of eleven (11.0%) percent effective August 1, 1991, and an eleven (11.0%) percent salary increase effective August 1, 1992. The Association supports its proposed salary increases on the bases of salaries received by other police officers in similar jurisdictions, the hazardousness nature of the work performed by police officers,

and the pattern of salary increases received in the past in comparison with police units in other cities and in other employee units employed by the City of Rensselaer.

The Association maintains that the proper comparable jurisdictions are those used by compulsory interest arbitration panels in previous years, and other towns and cities in the immediate labor market area. The jurisdictions used by the 1982 arbitration panel were Dunkirk, Elmira, Geneva, Hudson, Ithaca, Johnstown, Kingston, Lockport, Norwich, Troy and Utica. At that time the City of Rensselaer proposed that the following were the comparable jurisdictions: Johnson City, Hudson Falls, Johnstown, Scotia and East Greenbush. The Association had suggested that the appropriate jurisdictions were Troy, Colonie, Rotterdam, Schenectady, Albany, Glenville, Cohoes and the New York State Police. The Association argued that its set of communities represented the local labor market area.

For the current interest arbitration hearings, the Association proposes the following jurisdictions as comparable units within the local labor market area: Albany, Bethlehem, Cohoes, Colonie, East Greenbush, Glenville, Guilderland, Menands, Niskayuna, Rotterdam, Saratoga, Scotia, Troy and Watervliet.

According to the Association, for police officers in the City of Rensselaer to receive an equivalent salary for 1992 as officers in comparable departments, salary increases would have to be as follows:

Comparable Police Department	Percentage Increase Needed by Rensselaer Police Officers to Achieve Equality With Officers in that Department
Albany	35.5%
Bethlehem	33.9%
Cohoes	19.7%
Colonie	53.5%
East Greenbush	12.3%
Glenville	29.6%
Guilderland	23.0%
Menands	28.8%
Niskayuna	34.7%
Rotterdam	43.9%
Saratoga	21.8%
Scotia	29.2%
Troy	26.5%
Watervliet	20.9%

The Association asserts that notwithstanding its proposed comparables, certainly Cohoes and Watervliet meet every standard for comparability. Like Rensselaer, they are small old industrial cities on the Hudson River within a few miles of each other. Cohoes has a population of 19,000; Rensselaer's population is 9,000; and Watervliet's is 11,000. The land area of Cohoes is 5.5 square miles; both Watervliet and Rensselaer are contained within approximate-

ly four square miles each. Cohoes has 33 police officers, Watervliet has 25, and Rensselaer has 24 police officers.

A cursory examination of the data in the table above reveals that the salaries paid to police officers in both Cohoes and Watervliet are approximately twenty percent higher than those received by police officers in Rensselaer. Although it is conceded that Rensselaer is not a wealthy city, neither are Cohoes and Watervliet, yet their police officers are better paid.

Not only are members of the Rensselaer police force underpaid relative to their counterparts in the area, but they work harder. The average yearly calls per man is in the upper half of the comparable fifteen local municipalities. Cohoes has 363 average yearly calls per police officer, Watervliet has 356, and Rensselaer has approximately 500 average yearly calls per police officer. Although the City of Rensselaer is small, it more closely resembles some of the more difficult neighborhoods in the cities of Albany, Schenectady and Troy than it does suburban areas.

In addition to lower salaries, Rensselaer police contribute significantly more to health insurance than do most other police agencies in the area. While most municipalities contribute one hundred percent to health insurance premiums, the City of Rensselaer contributes only \$200.00 per month and eighty percent of the amount beyond that. Depending on the particular carrier (police officers have a choice among three), the cost per police officer per month is between \$32.61 and \$41.55.

The City of Rensselaer must make an effort to narrow the disparity between salaries of its police officers and those of similar communities in the immediate area. The City of Rensselaer is well below its constitutional taxing limit. It has the funds and the resources to meet the Association's reasonable salary proposal, and the proposal should be adopted.

Position of the City of Rensselaer

The City of Rensselaer proposes that there be a zero salary increase for the fiscal year August 1, 1991 through July 31, 1992, and a three (3.0%) per cent salary increase effective August 1, 1992.

The City of Rensselaer suggests that comparable jurisdictions in terms of location, economics and terms and conditions of employment are the Villages of Herkimer and Illion, the Cities of Hudson, Johnstown Little Falls and Watervliet. It states that their bargaining unit sizes and populations are comparable to that of the City of Rensselaer, as well as being "river canal towns." The City argues that some of the Association's choices are not comparable jurisdictions because Towns have no constitutionally imposed tax limit. In addition, some of the municipalities, including Albany, have wealthy real estate bases.

The City defends its salary proposal arguing that it has an impaired ability to pay. General Fund revenues, from which Police Department Salaries are paid, decreased in 1992, to a total of \$2,348,595. The General Fund revenues

were \$2,716,250 in 1991. Causes for the decrease in revenues include cuts in State Aid, losses in assessed property valuation of approximately \$1.3 million, and reductions in fees, interest, and fines.

Regarding property assessments, taxes increased to \$25.04 per thousand for the 1992-93 fiscal year, up from the previous year of \$23.83 per thousand. Special franchise monies (including Niagara Mohawk, New York Telephone and A-R Cable Service) have received decreases to their assessments. For these three, total assessments were reduced from \$6.4 million in 1990 to \$5.3 million in 1991, and to \$4.0 million in 1992. The Railroad Ceiling Assessment in 1990 was \$2,015,513, but dropped to \$1,691,444 in 1991, and is expected to be under one million dollars when it is finalized for 1992.

The City of Rensselaer is currently taxing at 87% of its taxing margin. It is estimated that a safe margin to secure good interest rates is a margin of about 90%. The City's taxing margin last year was 97.6% and, in order to reduce the margin to acceptable levels, the City was forced to reduce spending. The reduction in spending affected all phases of the City's operation, and included limitations on wage and salary increases for all City employees.

The City asserts that considering all the financial difficulties it faces, and the measures it was forced to adopt to meet those difficulties, its wage proposal is a reasonable one. It is not out of line with the wage and salary conditions it imposed or negotiated with all other units in the City.

Discussion on Salary

The issue of appropriate comparable police departments must be addressed first. Both parties employ some of the same cities and towns for comparison purposes, but their general concepts differ. The Association suggested the units used by the 1982 Interest Arbitration Panel may be appropriate, but provides data on fourteen jurisdictions in the Albany-Schenectady-Troy metropolitan area. It further adjusted its selection when it suggested that Watervliet and Cohoes were the appropriate units for comparison.

The City of Rensselaer, on the other hand, chose six jurisdictions "similar in terms of location, economics and terms and conditions of employment." However, the City of Little Falls has a population of approximately 5,800, while the City of Watervliet has a population of 11,000, almost double. A selection of units for wage and salary comparisons must be based on meaningful criteria. In the instant case, police departments of other jurisdictions must be comparable in significant ways to the Rensselaer police department. Most labor economists and other labor practitioners would agree that one critical criterion of comparability is geographical proximity, that is, the relevant labor market area for the occupational group under consideration. If two police departments draw their personnel from the same competitive locality, the criterion of geographical proximity is satisfied. However, geographical proximity is not the

only relevant criterion. If, within a particular geographic area, a small city does not compete with a much larger political subdivision for personnel, geographical proximity is irrelevant. The labor market areas for the two units are separate and distinct. In like manner, two large city police forces may be comparable even if they are relatively distant from each other if size of city, price levels, size of police force, and other factors are relatively equal.

Considering the criterion of similar labor market area, the jurisdictions of Herkimer, Hudson, Illion, Johnstown and Little Falls are not appropriate for comparisons with Rensselaer. However, those jurisdictions are similar in population and size of police force. There is some question as to their comparability regarding other economic criteria.

Considering the criteria of competitive labor market area, population, jurisdiction, size of police force, and other economic factors, an appropriate grouping of jurisdictions for comparison with Rensselaer would be the Cities of Cohoes and Watervliet, and similar small municipalities in the Albany-Schenectady-Troy greater metropolitan area.

The evidence submitted affirms that salaries of Rensselaer police officers lag somewhat behind those of comparable police forces. While not agreeing that this may be accurate, the City asserts that even if a difference exists, the City's finances are such that it cannot afford to increase salaries at this time. There were no wage adjustments made for any City employees in 1991-92. For the 1992-93 fiscal year, the City has budgeted three (3.0%) percent for non-

union employees, negotiated a three (3.0%) percent wage adjustment with its Fire Drivers, and has offered its Public Works employees a three (3.0%) percent wage increase.

The response of the Association to the City's position is that the City's police officers are underpaid and, although the difference cannot be remedied in one year, some progress must be made now.

There is no doubt that the City of Rensselaer is experiencing a difficult financial period. A combination of reduced revenues from the state, the current recession, and rising material, insurance and other costs have contributed to budget difficulties. These difficulties require a tempering of salary increases for police officers, although the Public Arbitration Panel acknowledges the arguments of the Association.

It is the opinion of the Public Arbitration Panel that the salary Award herein is a fair and equitable salary increase when considered in the light of economic and financial conditions, and when evaluated in terms of other awards made herein.

Based upon the evidence and arguments presented by the respective parties, the Public Arbitration Panel **AWARDS** salary increases as follows:

No salary increase is awarded for the fiscal year August 1, 1991, to July 31, 1992.

Effective August 1, 1992, salary shall be increased by three (3%) percent.

Effective February 1, 1993, salary shall be increased by three (3%) percent.

Longevity

The Association proposes a longevity increase for police officers as described below. Currently, the longevity schedule provides the following: \$200.00 payment per annum after five years of service; \$350.00 after eight years of service; \$400.00 after fifteen years of service; \$300.00 after twenty years of service. The Association proposes to adjust that schedule as follows: \$300.00 per annum after three years of service; \$500.00 per annum after six years of service; \$500.00 per annum after ten years of service; \$500.00 per annum after fourteen years of service; \$500.00 per annum after eighteen years of service; \$500.00 per annum after twenty years of service. The maximum to be paid in longevity per person would be \$2,800.00.

The Association argues that because salaries are so low, as police officers gain some experience, they tend to leave for similar positions in higher paying jurisdictions in the area. Such turnover not only costs the City in training and replacement costs, but increases the inexperience of the police force. In addition, the lower salaries at the upper levels of the structure create morale problems. An increase in longevity payments would be an acknowledgement from the City that it appreciates the dedication and loyalty of these long-tenured officers.

The City of Rensselaer resists the proposal of the Association on the grounds of cost. The cost of the Association's proposal is approximately \$22,150.00. The City simply cannot afford to agree to contract revisions such

as this that will place an undue burden on the budget and the taxpayers of the City.

Discussion on Longevity

The top payment on the salary schedule for the City of Rensselaer police officers is lower than those of similar departments in the immediate area. Specifically, top salary, including longevity, of police officers in Cohoes is \$32,922, and top salary including longevity for officers in Watervliet is \$33,252. Top salary, including longevity, for police officers in the City of Rensselaer is \$27,504. There is merit to the concept that competitive salaries are necessary to retain experienced personnel. Although the City has its financial problems, the Public Arbitration Panel believes that some adjustment is necessary at the upper end of the salary schedule. The Award below addresses the two problems of the current City financial problems and the need to increase payments to long-term employees.

Based upon the evidence and arguments presented by the respective parties, the Public Arbitration Panel **AWARDS** longevity increases as follows:

Effective August 1, 1992, an additional longevity step of three hundred fifty (\$350.00) dollars shall be awarded for those with twelve years of experience. Those employees with service of twelve years or more on August 1, 1992, shall receive the payment in a lump sum as soon as practicable upon implementation of this Award.

Retirement

The Association proposes a change in the retirement clause that would provide pension benefits after twenty years of service. Currently, the pension plan in effect is that under Section 384 of the Retirement and Social Security Law of the State of New York, and provides retirement income after twenty-five years service.

The Association argues that "virtually every police department in the State of New York receives the benefits of the 20 year retirement plan..." It also states that the City awarded 20-year retirement benefits to the City's Fire Drivers. The cost of providing the benefit is "modest" according to the Association, and would be approximately \$30,352. The lack of this plan, coupled with below-average salaries, results in the high turnover rate experienced by the City. Costs of replacing officers who have left the force are substantial, and include training costs at the Training Academy, on-the-job training for twenty-six weeks, uniforms, fringe benefits, and overtime payments to current full-time officers who fill in for the person who left while the new recruit is being trained. The net cost to the City of providing the enhanced retirement benefit is even more modest when these cost savings are taken into account.

The City resists the proposal of the Association on the basis of cost. The City calculates the increased cost associated with providing the benefit as approximately five (5%) percent of payroll. The Plan, once awarded, can never be revoked. The City states that its granting of 384-d to Rensselaer Fire Drivers

was in return for substantial concessions including a zero percent salary adjustment for 1991-92 and a reduction in the size of the department down to zero by attrition.

Discussion on Retirement

Most jurisdictions in the Albany-Schenectady-Troy metropolitan area provide Section 384-d retirement benefits to their police officers. The City of Rensselaer provides that retirement plan to its Fire Drivers. Although the City asserts that the Fire Drivers received no salary adjustment for 1991-92 in return for the pension benefit, the City has not offered the Association any increase in salary for 1991-92. The granting of Section 384-d pension plan is necessary for the City to keep its salary and benefits for police officers relatively competitive with those of comparable jurisdictions. The Public Arbitration Panel in its award below recognizes this fact, and also recognizes the financial difficulties of the City.

Based upon the evidence and arguments presented by the respective parties, the Public Arbitration Panel **AWARDS** retirement benefits as follows:

The City of Rensselaer shall provide pension plan 384-d for members of the Police Department, effective July 31, 1993.

Sick Leave

The City proposes to limit the number of sick leave days that can be taken each year. Currently, there is no limit on the number of sick leave days an employee may take each year. The City proposes a total of fifteen sick days per with, with a maximum accrual of 165 unused sick leave days.

The City argues that unlimited sick leave days is an inordinate expense on the City, and that few, if any, other jurisdictions provide such a generous sick leave policy. In fact, none of the six jurisdictions listed as comparables by the City provide more than eighteen sick leave days per year.

The Association opposes the City's proposal. It argues that this is just another give back which has no underlying basis. There is no evidence of sick leave abuse. The City is attempting to save money by asking its employees to give back benefits gained by hard-fought negotiations in the past. The City's proposal should be rejected on that basis.

Discussion on Sick Leave

The City admits that its proposal is intended to save money for the City. However, it believes that its proposal is not out of line with terms and conditions of employment which already exist in other similar jurisdictions. It is true that very few jurisdictions provide unlimited sick leave days. At the same time, current employees are asked to forsake certain salary and other

benefits because the City is having financial difficulties. Current employees should not be deprived of benefits that they have negotiated in the past. The Public Arbitration Panel recognizes all the arguments by both the City and the Association in its Award below.

Based upon the evidence and arguments presented by the respective parties, the Public Arbitration Panel **AWARDS** retirement benefits as follows:

Employees hired after the implementation of this Award may accrue up to fifteen (15) sick leave days per year, with a maximum accumulation of 165 days. Those employees will be covered by New York State Disability for non-duty connected injury or illness.

Accrual of Compensatory Time Off For Overtime

The City proposes to reduce the number of hours that an employee may accrue in compensatory time off. Currently, employees may receive overtime payment in cash or compensatory time off, except that a maximum of 104 hours of compensatory time off may be accrued. The City seeks to reduce that number of hours from 104 to 80.

The City states that reducing the number of hours to 80 will save approximately \$11,232, a not insignificant amount. The Association objects on the grounds that it is another erosion of benefits.

Discussion of Accrued Compensatory Time Off

Employees are not restricted in the number of voluntary overtime hours they may work per week. When they work overtime, they may take payment (at time and-a-half) in the form of cash or compensatory time off. The City's proposal would simply restrict the form of payment after an employee accrues a certain number. It does not prevent the employee from volunteering from overtime, nor does it deprive him of payment. It simply restricts the number of hours of compensatory time off that can be accumulated. Although there are advantages to some employees of taking overtime in the form of compensatory time off, the proposal of the City, under the financial circumstances it faces, is not unreasonable. Employees lose no overtime or payment, but simply lose flexibility in the form in which overtime payment is made after a certain number of hours are accrued.

Based upon the evidence and arguments presented by the respective parties, the Public Arbitration Panel **AWARDS** compensatory time off accruals as follows:

Beginning August 1, 1992, compensatory time off for overtime shall be limited to a maximum of 96 hours. Beginning July 31, 1993, compensatory time off for overtime shall be limited to a maximum of 88 hours.

All other provisions and language contained in the Agreement are hereby continued, except as specifically modified in this Award.

Respectfully submitted,



Date: 12-29-92

Peter A. Prosper
Public Panel Member and Chairman

(concur) (do not concur) with the Above Award

Date: 12/9/92



William M. Wallens, Esq.
Employer Panel Member

(concur) (do not concur) with the Above Award

Date: 12-22-92



Peter Killian
Employee Organization Panel Member

STATE OF NEW YORK)
COUNTY OF Albany) SS:

On this 9th day of December, 1992, before me personally came and appeared WILLIAM M. WALLENS, Esq., 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.

CATHY R. LANAHA
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ALBANY COUNTY SARATOGA
REG. NO. 4905423
COMMISSION EXPIRES SEPT. 14, 1993

Cathy R. Lanahan

STATE OF NEW YORK)
COUNTY OF) SS:

On this 22 day of Dec, 1992, before me personally came and appeared PETER KILLIAN, 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.

Notary Public State of N.Y.
County of Cayuga #4687332
My Commission Expires 5/31/93

Peter Killian

STATE OF NEW YORK)
COUNTY OF) SS:

On this 29th day of December, 1992, before me personally came and appeared PETER A. PROSPER, 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.

Rita M. Michalec

Notary Public, State of New York
Qualified in Saratoga County
No. 7926990
Commission Expires June 30, 1994