

JAN 11 1993

CONCILIATION

State of New York

Public Employment Relations Board

Case No. IA-92-001; M91-487

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In the Matter of the Arbitration Between \*

PORT WASHINGTON POLICE DISTRICT \*

and \*

PORT WASHINGTON POLICE BENEVOLENT ASSOCIATION \*

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STATEMENT OF  
CHAIRMAN  
PUBLIC  
ARBITRATION  
PANEL

Pursuant to the provisions of Section 209.4 et seq of the Civil Service Law, the New York State Public Employment Relations Board designated the following individuals on May 5, 1992, to serve as the Public Arbitration Panel in this proceeding:

- Thomas F. Carey, Public Panel Member and Chairman
- Robert P. Yaccarino, Employer Panel Member
- Joseph Rabena, Employee Organization Panel Member

The Panel is charged in such proceedings under Section 209.4 to heed the following statutory guidelines and to specify the basis for its findings.

(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, 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.

The Panel conducted its hearings in Port Washington, New York, in September, October, and November 1992. The Employer and Employee Organization were present, and they were afforded full opportunity during these hearings to present evidence and argument in support of their respective contentions.

The Public Arbitration Panel accepted the stipulation of the Parties that their one (1) Joint, nine (9) Association, and two (2) District submissions would, along with any post-hearing submissions, represent the entire official record of the instant proceedings. The Parties at the close of the hearing jointly requested and mutually authorized the issuance of a three (3) year award.

After the closing of the hearing, the Panel met in executive sessions and deliberated on the open issues, which were presented to it in the Petition for Compulsory Interest Arbitration filed by the Employee Organization, and the Statement of Issues submitted by the Police District. The results of these

deliberations are contained in the Award issued by the Panel on December 30, 1992. The Panel was unanimous on most of its conclusions on key issues, but was split on a few key issues. Some issues were deferred for future negotiations. A contract for three (3) years is awarded, since both Parties sought such a three (3) year Agreement. Mr. Yaccarino, the Employer Panel Member; Mr. Rabena, the Employee Panel Member; and the Chairman were not able understandably, even after considerable discussion, exchange, and review at meetings of the Panel to unanimously agree on all aspects of every open issue. Nonetheless, the Chairman would like to commend both of the gentlemen for the insight and diligence they brought to the task.

The Panel took into consideration the fact that evidence and argument in the record, with respect to all the items involved in the proceedings, had been presented at the hearings and made determinations based upon such evidence and argument.

**BACKGROUND**

The bargaining unit consists of fifty (50) members. The Port Washington Police Benevolent Association, hereinafter called the Association, represents the following:

<u>RANK</u>	<u>NUMBER OF</u>
Police Officers (Patrol & Motorcycle)	34
Sergeant (Patrol)	4
Detectives	7
Lieutenants	5

Two (2) Captains and the Chief of Police are not members of the unit.

**GENERAL PROCEDURES**

1. All requests for economic improvement were evaluated in accordance with the testimony, argument, and data submitted, and weight was given, in addition to other criteria, to salaries, benefits, and contract settlements in comparable communities; salary improvement for other Police District employees; changes in the cost of living, the financial position of the Police District, and the like.

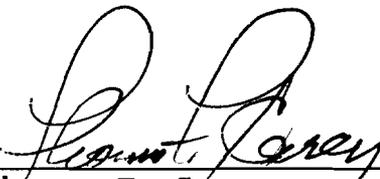
2. In those impasse issues, where one Party requested a change in working of a previously negotiated and accepted non-economic contract provision in the existing contract, and the opposing Party insisted on the status quo, the Panel, in addition to other criteria, has sought to determine from the evidence submitted the extent to which: (a) the Party requesting the change has been harmed by the inclusion of that provision in the contract, or (b) the Party resisting the change has been abusive of the privileges afforded to it by said clause.

3. In those impasse issues, where one Party requested the inclusion of a new contract provision and the other Party opposed it, the Panel, in addition to other criteria, has sought to determine from the evidence submitted the extent to which: (a) the Party requesting the inclusion has been handicapped by its omission, or (b) how the Party resisting would be harmed by its inclusion.

The Panel spent extensive time exploring and testing a wide range of alternatives in an effort to identify a three (3) year viable settlement with mutually acceptable terms and conditions.

The Chairman of the Panel, in developing the final Award, attempted to concentrate on the issues which were judged to be most essential. The Parties must, in the not too distant future, once again commence negotiations for a successor contract. Accordingly, several unresolved issues were remanded to the bargaining table to be addressed and resolved by the Parties themselves in future subsequent contract negotiations.

Based upon the various factors which the Panel is charged to consider, it is my opinion that the Award of the Panel was fair, equitable, and warranted by the evidence presented at the arbitration hearings.

  
\_\_\_\_\_  
Thomas F. Carey  
Public Panel Member and Chairman

DATED: December 30, 1992

STATE OF NEW YORK

PUBLIC EMPLOYMENT RELATIONS BOARD

CASE NO. IA-92<sup>001</sup> M-91-487

\* \* \* \* \*

In the Matter of Impasse Between

PORT WASHINGTON POLICE DISTRICT

and

PORT WASHINGTON POLICE  
BENEVOLENT ASSOCIATION

\* \* \* \* \*

AWARD OF PUBLIC  
ARBITRATION  
PANEL

NY'S PUBLIC EMPLOYMENT RELATIONS BOARD  
RECEIVED  
JAN 11 1993  
CONCILIATION

**ARBITRATION PANEL**

THOMAS F. CAREY, Chairman, Public Panel Member

ROBERT YACCARINO, Employer Panel Member

JOSEPH RABENA, Employer Panel Member

**APPEARANCES**

Police District

Vito A. Competiello                      Labor Consultant

Association

Michael Axelrod, Esq.                      Counsel for the P.B.A.  
Wayne Shaefer, Esq.                      Co-Counsel

**INTRODUCTION BY CHAIRMAN**

Bargaining and negotiation for new collective bargaining agreements in both the public and private sector have been faced with the realities of a significant economic recession. The resultant negative impact on jobs, earnings, the tax base, and wage adjustments has been far reaching. The new contract settlements for state and local public employees negotiated since 1991 show sharply reduced annual percentage adjustments in wages and benefits from contract terms negotiated prior to 1991.

Most state and local governmental agencies and their Unions have had to come to grips with the fiscal realities of this period. Zero increases in the basic wage rates are not at all unheard of in these negotiations. In most cases, the Parties have approached their mutual dilemma with moderation and attempted to limit and balance equitable wage adjustments against the economic restraints that governmental entities face.

A comparison of wages paid to Police Officers in various other police jurisdictions in Nassau County and in New York City reveals the following:

	<u>SALARY</u>	<u>END OF CONTRACT</u>
Malverne	\$53,493	6/92
Glen Cove	52,884	1/92
Lynbrook	54,163	6/92
Kings Point	57,091	6/92
Hempstead	53,348	6/93 (New)
Port Washington	50,939	1/91
Sands Point	50,198	6/91
Nassau County	59,522	1/95 (New)

	<u>SALARY</u>	<u>END OF CONTRACT</u>
Garden City	53,370	6/92
Floral Park	54,461	6/94 (New)
Old Brookville	50,687	6/91
Old Westbury	56,832	6/93
Rockville Centre	56,221	1/93
Long Beach	54,395	7/93
Freeport	54,260	3/93 (New)
New York City (5th yr)	40,679	--

Only Hempstead, Floral Park, Freeport, and Nassau County have recently negotiated multi-year agreements which indicate the following wage adjustments:

	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>
Long Beach	0%	2%-2%	2-2-2%	--	--
Floral Park	0%	5%	5%	--	--
Freeport	2%-2%	4	4	--	--
Nassau Co. (old CBA)		0%	4.75% (1.5%)	4.75% (1.55%)	4.75% (1.55%)

Based upon the record before this Panel, whatever statistical assumptions and/or comparative analysis were used to arrive at the mutually agreed upon negotiated settlement between the County and its P.B.A. can not be fathomed. Suffice it to say, the end result as projected does not appear to be consistent on its face with other recent settlements in the County and, therefore, is not relied upon as a valid comparison.

Those other settlements do, however, provide the comparative basis for a reasonable adjustment in wages and some other terms and conditions for Port Washington Police Officers. For the

reasons heretofore set forth, not all of the P.B.A. and/or <sup>4</sup> District ~~County~~ proposals are awarded, and this award reflects that fact.

*RPJ*  
*JD*

However, those issues which the Panel found most significant, if a fair, equitable, reasonable, and realistic contract is to be implemented for the three (3) year period jointly sought by the Parties, have been included in the Award. The undersigned Arbitrators, having been designated pursuant to the provisions of Section 209.4 of the New York State Civil Service Law, and having duly heard the proofs and allegations of the Parties, hereby make the following

**A W A R D**

The terms and conditions of employment specified as "not agreed upon" in the petition for Compulsory Interest Arbitration filed by the Association and responded to be the Police District are decided as follows:

**ISSUE #1 DURATION AND SALARY**POSITION OF ASSOCIATION

The Association initially proposed a one (1) year Agreement with an 8% across the board for all employees.

POSITION OF DISTRICT

A. One (1) or two (2) year agreement with a fair and equitable increase provided, however, in exchange for the Police District be granted its proposals to offset the spiraling increases of providing police services to its residents without increasing the tax base during these recessional times.

B. (1) Section 4--Add two (2) additional steps from starting to 7th grade still maintaining the minimum and maximum salaries.

(2) Section 6, Night Shift Differential--Shall not apply to employees working a fixed day tour.

The basic annual salary shall be increased as follows:

Effective January 1, 1992	2%
Effective July 1, 1992	2%
Effective January 1, 1993	4%
Effective January 1994	4%

AWARD

Wages:	January 1, 1992	4%
	January 1, 1993	4%
	January 1, 1994	4½%

Wages shall be modified to add a "NEW HIRE SALARY" of \$22,500 effective December 31, 1992. After completion of their academy training, they shall be moved to Starting Salary in accordance with the salary provisions of the contract.

The contract shall be for the three (3) year period commencing January 1, 1992 and ending December 31, 1994.

**ISSUE #2 BASIC WORK WEEK, MOTORCYCLE CHART, WORKING CONDITIONS, EXCUSAL TIME, MATERNITY POLICY, AND MISSED MEAL PERIODS POSITION OF ASSOCIATION**

Motorcycle Chart--the current motorcycle chart shall be incorporated into the contract. All members assigned, because of the increased need for equipment, shall receive an additional \$300 per year.

Excusal Time--If an employee works in excess of 16 hours or more consecutively, they shall be excused from their next tour of duty.

There shall be no limitation on the prior notice required for the granting of an excusal day.

Missed Meal Periods--A member shall receive one hour or more comp time for each missed meal period which a member misses as a result of his regular duties. (This proposal is submitted without prejudice to the P.B.A.'s existing position or its current law suit, but is submitted for clarification purposes only.)

Each member that works a minimum of four hours overtime shall receive an additional one hour meal period and \$10 for a meal check.

The District shall adopt a maternity policy.

**POSITION OF DISTRICT**

Section 19, Basic Work Week

(1) All new employees shall work a five (5) day on and 72 hours of tour of duty.

(2) Delete in its entirety all of subsection (e) which references those employees not working a rotating chart.

(3) Section k, last sentence revised to read "mutual switches may occur between equal rank only".

(4) (NEW) The Chief of Police shall, in the case of Police necessity, change the tour of duty for detectives provided the detective is given a two-week notice.

Section 23, Working Conditions

(1) Subsection (c), delete in its entirety all references to when appropriate uniforms are to be worn. This is an administrative decision that should be made by the Chief of Police.

(2) Subsection (e), delete "departmental meetings and authorized meetings".

AWARD

All new Police Officers shall attend Academy Training.

New employees hired after December 31, 1992 shall work a schedule of three (3) changing tours as follows:

Five days on duty--8 am to 4 pm, 7~~2~~-hour swing;

Five days on duty--4 pm to 12 pm, 72 hour swing;

Five days on duty--12 pm to 8 am, 72 hour swing;

Employees shall work the above chart for one (1) year following their academy training period. Thereafter, such employee shall work the schedule as all other employees working a twenty-four hour chart.

Child Care Leave

An employee may request an unpaid leave of absence, no more than three (3) months duration, for the birth or adoption of a

child. No time and leave benefits may be utilized unless proper medical confirmation is presented which then can be confirmed by the Employer. Employees on such paid leave shall be obligated to pay the monthly premiums of the health insurance plan to the employer, if they wish it continued during said leave.

The remaining items listed above are not recommended.

### ISSUE #3 VACATION AND SICK LEAVE

#### POSITION OF ASSOCIATION

Sick Leave--Up to five sick days per year may be designated for a family illness.

No change in current vacation provision.

#### POSITION OF DISTRICT

All new employees shall receive 15 vacation days per year for their first five years of employment. Thereafter, they shall receive twenty days per year.

#### AWARD

Vacation (new Hires):	after 1 year	12 days
	after 2 years	15 days
	after 3 years	18 days
	after 4 years	20 days
	after 5 years	23 days
	after 6 years	27 days

Sick Leave: 1st year - 18 days

Thereafter, in accordance with the provisions of the contract.

### ISSUE #4 DETECTIVE'S PAY

#### POSITION OF ASSOCIATION

Detectives and Detectives Supervisors shall receive \$8,000 above and beyond their scheduled pay scale.

POSITION OF DISTRICT

Same position as stated under "Duration and Salary".

AWARD

(a) 1st grade Police Officers assigned Detectives after January 1, 1993, shall be compensated as follows:

1st year	\$53,200 <sup>*</sup>
2nd year	\$54,400 <sup>*</sup>
3rd year	\$55,839 <sup>*</sup>

*RR  
RPL  
JMR*

(b) Prior to being assigned to the detective division, Police Officers shall have attained the rank of 1st grade Police Officer status with Department.

(c) Detective Sergeant Salary shall be added to contract of \$65,550<sup>idk</sup> (plus wage percentage increases as outlined under "WAGES" above.)

*RR  
RPL  
JMR*

ISSUE #5 LONGEVITY

POSITION OF ASSOCIATION

Longevity pay shall be amended to provide that a member shall receive \$750 after six years of completed service and an additional \$150 per year for each year of completed service thereafter.

POSITION OF DISTRICT

No change.

AWARD

Longevity shall be increased as follows:

January 1, 1993	10 years of service--add \$50
	15 years of service--add \$50
January 1, 1994	10 years of service--add \$50
	15 Years of service--add \$50

ISSUE #6 NIGHT SHIFT DIFFERENTIAL

POSITION OF ASSOCIATION

Ten percent additional pay for hours worked for all members of the Department between 3:00 p.m. and 3:00 a.m.

Night shift differential shall be added to the hourly rate when calculating overtime for hours spent during tours which qualify for night shift differential.

POSITION OF DISTRICT

Shall not apply to employees to employees working a fixed day tour.

AWARD

Shall be increased as follows:	January 1, 1993	\$100
	January 1, 1994	\$100

ISSUE #7 TERMINATION PAY AND UNUSED SICK LEAVEPOSITION OF ASSOCIATION

Members who retire from the Police Department shall receive 50% pay for all accumulated, unused sick leave.

POSITION OF DISTRICT

Termination Pay--A maximum of 20 years of service is to be used in computing the number of days (100 days maximum).

Unused Sick Time--Sick leave to be posted at the rate of two (2) days per month with a maximum accumulation of 400 days.

Delete subsection (c), sick leave bonus days.

AWARD

Unused Sick Time--An employee who is absent due to a line of duty injury shall not be eligible to receive any bonus days while classified in such category.

The remaining items listed above are not recommended.

**ISSUE #8 WELFARE PLAN, HEALTH INSURANCE, EMPLOYEE BENEFITS,  
DEPARTMENT MEDICALS, DRUG TESTING**

**POSITION OF ASSOCIATION**

Welfare Plan--The Welfare Fund shall be amended to increase the yearly amount to \$1,200 per member for the first year of the contract and \$1,500 per year in the second year of the contract.

Department Medicals--No member shall be ordered to take a Departmental medical on a day not scheduled as a regular day of work. (This proposal does not prejudice the P.B.A.'s existing position nor its current law suit, but is submitted for clarification purposes.)

Drug Testing--The District and the P.B.A. shall enter into negotiations to provide safeguards for reasonable suspicion testing.

**POSITION OF DISTRICT**

Health Insurance--Effective January 1, 1992, and thereafter, any additional increases in health insurance shall be borne by the employee.

Employee Benefits--Delete in its entirety all references to past practices.

**AWARD**

Welfare fund shall be increased as follows:

January 1, 1993	\$50
January 1, 1994	\$50

The remaining items listed above are not recommended.

**ISSUE #9 UNIFORM ALLOWANCE****POSITION OF ASSOCIATION**

The uniform allowance will be increased by \$150 per year, and uniform maintenance shall be increased by \$150 per year.

The language permitting the Port Washington Police District to adopt a quarter master system shall be deleted from the contract.

**POSITION OF DISTRICT**

In the event an employee retires, resigns or is terminated, the cost of clothing and maintenance allowance shall be prorated.

**AWARD**

No change in the present provisions.

**ISSUE #10 P.B.A. RELEASE TIME****POSITION OF ASSOCIATION**

The P.B.A. President shall be released for all P.B.A. business, including, but not limitation, general meetings and committee meetings for the Nassau Police Conference, PCNY, Metropolitan Police Conference and National Association of Police Organizations. When the President is excused, he shall be excused for his entire tour of duty. (This proposal is submitted without prejudice to the P.B.A.'s existing and current position that the contract is applicable but submitted for clarification purposes.)

**POSITION OF BOARD**

No change.

**AWARD**

No change in the current provision.

Remanded to the Parties for contract negotiation in the future.

**ISSUE #11 PAY FOR RETIRED POLICE OFFICERS**

**POSITION OF ASSOCIATION**

For any police officer who retires from the Department who is subsequently subpoenaed to testify in any proceeding, including administrative, civil, criminal, departmental, grievance, etc., shall receive that pay which the retired member otherwise would have received had they still been a member of the Department. (This proposal shall not prejudice the P.B.A.'s existing position, but is submitted for clarification purposes.

**POSITION OF DISTRICT**

No change.

**AWARD**

No change in the current provisions.

**ISSUE #12 OVERTIME AND HOLIDAY PAY**

**POSITION OF ASSOCIATION**

Overtime Rate--The overtime rate of pay and the holiday rate of pay shall be paid based upon an hourly rate devised by dividing the member's base pay by 1,856 hours.

The compensatory time limitation shall be amended to 480 hours per employee. Section 22(i) of the current contract shall be deleted.

An overtime policy shall be implemented to direct that overtime is equally distributed to those employees who desire to work additional hours.

Holidays--Section 17c, holiday pay, shall be amended to include all members of the unit.

POSITION OF DISTRICT

Overtime--Sick leave and personal leave time shall not be credited for time worked in an overtime situation.

AWARD

No change in present contract provisions.

ISSUE #13 GRIEVANCE PROCEDURE, PUNITIVE DAMAGE INDEMNIFICATION, POLICE OLYMPICS, 207c GENERAL MUNICIPAL LAW HEARINGS, SPECIAL RETIREMENT PLAN

POSITION OF ASSOCIATION

Grievance Procedure--A grievance procedure providing for binding arbitration as a final step shall be added to the contract. (This proposal does not prejudice the P.B.A.'s existing position nor its current law suit, but is submitted for clarification purposes.)

The grievance procedure shall also be the final step for the resolution of disciplinary matters.

Punitive Damage Indemnification--The District shall either purchase insurance or self-insure each officer for punitive damages rendered in any Court of competent jurisdiction, provided the officer was acting within the scope of his employment, pursuant to his proper duties. The indemnification procedure shall be in conformity with Chapter 587 of the Laws of 1986.

Police Olympics--Each individual who is qualified to attend the New York State Police Olympics shall be excused for up to two days while otherwise scheduled to work and have the salary paid by the District for attendance at the Olympics. (This proposal is submitted without prejudice to the P.B.A.'s existing position or its current law suit, but is submitted for clarification purposes only.)

Kevin F. Carey  
Concur on Issues 1-13  
Dissent on Issues \_\_\_\_\_

THOMAS F. CAREY  
Chairman of the Panel

Dated: 12/30/92

STATE OF NEW YORK  
COUNTY OF SUFFOLK

On this 30 day of December 1992, before me personally came and appeared 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.

Kevin F. Carey  
KEVIN F. CAREY  
Notary Public, State of New York  
No. 31-4992229  
Qualified in New York County  
Commission Expires February 24, 1994

Robert F. Yaccarino  
Concur on Issues 1-13  
Dissent on Issues \_\_\_\_\_

ROBERT YACCARINO  
Employer Panel Member

Dated: 1/5/93

STATE OF NEW YORK  
COUNTY OF NASSAU

On this 5<sup>th</sup> day of January 1992, before me personally came and appeared 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.

Joseph Rabena  
Concur on Issues 1 thru 13  
Dissent on Issues \_\_\_\_\_

JOSEPH RABENA  
Employee Panel Member

Dated: Jan 5, 1993

STATE OF NEW YORK  
COUNTY OF

On this 5 day of January 1992, before me personally came and appeared 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.