



contract. Upon the failure of the parties to reach an agreement, the Association filed a Declaration of Impasse dated August 29, 1991. Four mediation sessions were held by PERB Mediator Karen Kenny. At the second session on October 11, 1991, the Negotiating Committees reached tentative agreement on a new two year agreement. (That agreement is set forth in Appendix A.) When the agreement was submitted to the Union membership for ratification, it was rejected. The City then withdrew its final offer.

Following additional mediation efforts, the Association filed a Petition for Compulsory Interest Arbitration on April 27, 1992. The City filed a response to the Petition on May 13, 1992. An improper practice charge over the Association's submission of non-mandatory subjects of bargaining to interest arbitration was also filed by the City. The PERB proceeding regarding the City's improper practice charge led to the withdrawal of several demands by the PBA. The Public Employment Relations Board thereafter appointed the undersigned public Arbitration panel to hear this dispute.

Hearings were held in Mount Vernon, New York on November 24 and December 7, 1992. At those times, both parties were afforded full opportunity to present testimony, evidence, and argument in support of their respective positions.

Thereafter, the members of the Arbitration Panel held several discussions in executive session. By letter dated February 24, 1993, the Chairperson advised the parties'

representatives that she had been unable to persuade either the City or Union members of the Arbitration Panel to vote with her in order to constitute a majority on the salary issue. She also indicated that the City's current financial condition made it impossible to issue a two-year award that would balance the legitimate interests of both the Employer and the Union. The Chairperson therefore requested that the Arbitration Panel be given the authority to issue an award covering a four-year period and that she be given the opportunity to execute the final award independently, without the concurrence of another member of the Panel.

By letter dated March 3, 1993, the Association authorized the Panel to issue a four-year award and authorized the Chairperson to execute the final award herself without another member of the Panel. By letter dated April 1, 1993, the City advised the Panel that it had adopted an ordinance authorizing the Panel Chairperson to issue a binding award without a majority vote of the Panel and to issue such award for the four-year period of January 1, 1992 through December 31, 1995.

### **The PBA's Proposals**

The PBA has presented the following proposals to change the expired Collective Bargaining Agreement with the City.

1. Contract length - two (2) years (amended to 4 years)
2. Wages: (Article III, p. 2)

- A. Increase top pay by 9% for all members of the unit each year.
  - B. Increase starting salary to \$26,000.
  - C. 20% differential between all ranks - including Inspector.
  - D. Reduce Police Officer escalator to three (3) years.
  - E. Raise Detective Stipend to 5% and 10% respectively for Detectives with fewer than three years and more than three years.
3. Longevity: (Article III, Section D, p. 3)
- Increase increments to 2% after five years, 3% after ten years, 4% after 15 years and 6% after 20 years.
4. Overtime: (Article IV, p. 4)
- A. All members of the unit to receive time and one half for all overtime worked.
  - B. Delete paragraph E.
  - C. Paragraph G to read four (4) hours.
5. Holidays: (Article V, p. 10)
- Section B:
- Six holidays to be paid with the first paycheck in July in a separate check and six holidays to be paid with the first paycheck in December in a separate check.
- Section D:
- Eliminate last sentence.  
Add new Section E (Super Holidays):
- Any member of the unit who works on New Year's Day; Easter; Memorial Day; July 4th; Thanksgiving or Christmas shall receive double time and one half.

6. Uniform Clothing Allowance: (Article VI, p. 10)  
Raise to \$500 for those over two years in unit.

7. Leaves of Absence: (Article VII, p. 11)

1) Three personal days per year for all members who have not reached top pay.

2) Five (5) personal days per year for all other members.

3) Vacation: (Article VII, Section B, p. 12)

Police Officers:	24 work days - across board
Sergeants:	28 work days
Lieutenant:	30 work days
Captain:	32 work days

In all cases - the first vacation day will replace the first working day.

4) Bereavement Leave: (Article VII, Section C, p.13)

Add Grandparents and other family members, as defined by Operations Order 9-89 (Domestic Violence)

5) Maternity Leave:

For all female employees, three months paid leave to commence at a point in time to be determined by the expectant mother.

6) Sick Leave: (Article VII, Section E, p. 14)

Paragraph 2 - Raise 2 to 4 and 4 to 6 (Bonus Days) Establish a sick pool program permitting members to donate up to a maximum of five (5) sick days to any other member who, due to a catastrophic illness or injury, has exhausted all other accumulated leave time; such donation of time to be at the sole discretion of the contributor.

8. Association's Rights: (Article IX, p. 16)

Full administrative leave for PBA President, or in his stead, the acting PBA President.

9. Working Conditions:

- 1) Members shall not be required to operate a marked police car that is in excess of four (4) years old.
- 2) Every regularly manned sector to have a marked police car assigned to such sector, which assigned car shall not be in excess of two (2) years old. In the event a vehicle described in this section is out of service for a period, a vehicle described in Section 1 above may be used. However, in the event that such vehicle remains out of service for in excess of three (3) months and a replacement that conforms to the foregoing is not obtained, members shall not be required to operate such vehicles described in paragraph 1. This requirement shall not be satisfied by moving vehicles from one sector to another in an effort to defeat the spirit of these sections.
- 3) All original equipment and options and all police equipment that is either supplied by the manufacturer or added to the vehicle at a subsequent time shall be required to be maintained in working order. Any defect that impairs the operation of any such equipment, option, or police equipment shall require that such vehicle be placed out of service until such defect is repaired.
- 4) Two marked police cars shall be provided, upon request, to the PBA for the purpose of attending funerals for police officers who were deceased while actively employed by a police department. This shall be limited to services that are no more than 75 miles from the City of Mount Vernon.
- 5) There shall be established a work year which shall be at a rate of 244 for police officers and 231 for superior officers. In calculating overtime and holiday pay, these figures are to be substituted for the 261 day year that is presently in use.

10. Meal Periods: (Article XI, p. 17)

- 1) All members shall be entitled to a 45 minute meal period without interruption.

If interrupted prior to completion,  
the entire 45 minutes shall be reissued.

- 2) Members who request a meal period prior to 4 hours after the start of their tour and are refused shall have 1 hour of compensatory time added to their credit.
11. Full Tuition Reimbursement: For criminal justice courses; member must maintain a 3.0 index.
12. Medical Insurance:  
Substantial increase in dental - add eye plan.
13. Safety Equipment:  
The City shall provide new approved bullet proof vests to all newly hired members of the unit, and shall replace all existing vests in accordance with manufacturer recommendations.
14. Disability Retirement:  
Any member of the unit who is retired by the State Pension System shall be entitled to be reimbursed for any and all accumulated time the member has recorded on departmental records.

### The City's Proposals

The City has proposed the following contractual changes:

1. The City agrees to carry forward the provisions of the 1990-91 contract except those provisions modified below. It does not agree to carry forward any items proposed to be changed.
2. Page 1, Article I - Recognition - Clarify that the Chief of Operations is excluded from the unit.
3. Page 2, Article III A - Salaries for Employees Hired Prior to 1/1/81 - Delete this Schedule.
4. Page 2, Article B - Officer Differential - Change Sergeants Differential from 18% to 15%.

5. Page 10, Article V - Holidays - Reduce from 12 to 10.
6. Page 11, Article VII A - Personal Leave - Change so that "two" personal leave days are granted whenever "three" is indicated in the Article.
7. Page 13, Article VII B - Vacation Leave - Selection of vacation should be discussed in light of pending arbitration.
8. Page 14, Article VII D - Terminal Leave - Delete 30 days of Terminal Leave.
9. Page 14, Article VII E - Sick Leave - Change to 12 days for all employees instead of 15.
10. Page 15, Article VIII Health Insurance - provide for 25% contribution for all employees.

Also, amend so that no employees are eligible for health insurance by the City if they are eligible for coverage under the plan of a spouse either in the City, or through another employer.

Delete the "in lieu" payment for those withdrawing from the plan, since this will no longer be applicable since no one will be eligible if their spouse has coverage.

11. Appendix - Work Schedule - Add Sergeants and Lieutenants shall have their work schedules increased by the addition of 5 days for training and 3 plug-in days.
12. Training Agreement - The following Training Agreement shall be incorporated into the contract:  
City's Proposal for Recovery of the Cost of Training

In the event the City is required to provide the basic training course for a police officer and in the event the officer voluntarily separates from the police department within three (3) years of the date of completion of training, the officer shall on demand reimburse the City for all "wages" and "expenses" paid by the City during or in conjunction with his or her basic training.

Wages subject to reimbursement shall be limited to wages paid in excess of the minimum wage required by provisions of the Fair Labor Standards Act.

"Expenses" of training include, but are not limited to, any reimbursement to an officer for the cost of travel, lodging, meals, books, or tuition and any payment made by the City to a third party for a benefit available to the officer during the time of training. With the exception of vacation leave, any authorized or unauthorized absence from work after the completion of training aggregating more than five (5) work days in a calendar year shall not be considered as employment. A voluntary separation shall include a provoked discharge which is hereby defined to be a discharge occasioned by a deliberate or willful act at least partially motivated by an intention to avoid the reimbursement obligation under the terms of this section of the contract. Should an individual separate from service prior to completion of the length of employment required by this section of the contract, the employer shall present the individual with a demand for payment of any monies due and owing to the City. The individual shall reimburse the City for the amount presented. Should it be necessary for the City to initiate litigation in order to secure reimbursement, the individual responsible for reimbursement shall in addition reimburse the City for all its legal expenses associated with the proceeding. A copy of this language of the contract shall be provided to all individuals interviewed for employment with the City; provided, however, the failure of the City to do so shall not affect the obligation of an individual for reimbursement in accordance with the terms of this section of the contract. Actions taken under this section of the contract shall not be arbitrable.

**Contentions of the Association:**

The Association contends that its salary proposal is fair, given that its members work in a high crime area, yet earn salaries that are much below those earned by police in most

Westchester County communities. Mount Vernon consists of only four square miles but it has 60,000 residents with relatively low incomes. The density and socio-economic level of the population are conducive to a high crime rate. In fact, based upon data from the New York State Division of Criminal Justice Services, Mount Vernon has the highest number of crimes against people when compared with the other Westchester cities of New Rochelle, White Plains, and Yonkers.

With respect to salaries, if six percent increases were awarded for 1992 and 1993, Mount Vernon police officers would still rank comparatively low in the County. Out of forty police departments in Westchester County, Mount Vernon ranks 36th in entry level pay (\$22,419) and 39th in top salary (\$40,522). Furthermore, Mount Vernon is one of only two Westchester communities where it takes five years for a police officer to reach top salary. In all other police departments, it takes two, three, or four years to make top grade.

The PBA emphasizes that as a result of the poor working conditions and low salaries, Mount Vernon police are leaving with increased frequency in order to take jobs in other police departments that compensate their employees more equitably. In fact, many communities view Mount Vernon police officers as very attractive job applicants, given their excellent training and experience in a high crime area. Mount Vernon's Police Commissioner has recognized the disastrous impact of this "badge

drain" and has discussed the issue in the local press. According to the PBA, the exodus of law enforcement officers out of the Mount Vernon Police Department is a situation that can no longer be ignored. Since the commencement of negotiations in the spring of 1991 through 1992, thirteen Mount Vernon police officers left to take jobs with other police departments; of this group, one-third of the Association's negotiating committee transferred to other police departments during the current negotiation process. This number represents more than 7% of the entire department and more than 17% of the patrol force.

The problem is compounded by the fact that, according to the PBA, it cost nearly \$200,000 to train these officers. The City has sought to deal with the ongoing exodus by proposing legislation to prevent other jurisdictions from employing former Mount Vernon police officers. It has also demanded that the Collective Bargaining Agreement be amended to require that police officers who voluntarily leave the department within three years of completing their training must reimburse the City for the cost of that training. In the Association's view, neither of these schemes is an appropriate response to Mount Vernon's "badge drain." The only effective way to stop the exodus is to start paying competitive salaries and benefits.

The Association further notes that as a result of the continuing erosion of the Mount Vernon Police Department, the average seniority of officers in the Patrol Division is only three years. In a high crime area, this situation presents a

danger to both the public and the police officers themselves. New recruits are being trained by young men and women who lack the experience necessary to survive the streets of Mount Vernon. From January 1 through September 21, 1992, there were 304 calls reporting shots fired, 1008 calls of fights in progress, 104 calls involving actual use of a weapon, 4884 burglar alarms, 324 hold-up alarms, and 830 assaults investigated. In the same period, Mount Vernon police made 1562 arrests. In the Association's view, it is unconscionable for the City to ask a young and underpaid force to shoulder this kind of work load.

Also troubling to the Association is the suggestion by the City that what is negotiated with one bargaining unit must be accorded to all other bargaining units. The City's effort to deal even-handedly with all its employee groups is commendable, but it also prevents the City from dealing effectively with the mass exodus of its police force. Given what has occurred in the police department, and the fact that other City departments have not experienced similar turnover, the Association asserts that there is valid reason to treat its members differently than other municipal workers. Furthermore, it is unfair to put the PBA in the position of negotiating not only for its own members, but also for all other City employees.

As to the City's ability to pay, the Association acknowledges that Mount Vernon is beset with serious economic problems, including a low-income population, shrinking tax base, and reduction in State aid. However, based upon a budget

analysis performed by Edward J. Fennell Associates, municipal finance consultants, the PBA submits that the City can afford to pay the requested salary increases. Testifying at the hearing, Edward Fennell indicated that Mount Vernon has an overall tax rate which is in the mid-range when compared with New York State municipalities of similar size. It has a taxing margin of \$11,677,340, representing 38.6% of its limit for fiscal 1992. This margin constitutes a reserve which is 25.7% of the 1992 General Fund Budget. The total fund balance in the General Fund for the fiscal year ending December 31, 1991 was \$6,304,331; unappropriated surplus as of December 31, 1991 amounted to \$142,475. With respect to the impact of a police salary raise, Fennell testified that a 17% increase would have the effect of increasing the 1992 Tax Levy and General Fund Budget by .41% and .19%, respectively. In sum, Fennell stated that although a significant tax hike will be necessary if the City goes forward into 1993 at its current spending level, the City has the capacity to pay higher police salaries through increased taxation and/or budget cuts.

**Contentions of the Employer:**

The City contends that it is in dire economic straits. While it recognizes that its police salaries and benefits are lower than those paid in many Westchester County villages and towns, it submits that it simply cannot afford to meet the PBA's demands.

Economic data introduced by the City show that between 1988 and 1992, the City's fund balance shrunk from over six million dollars to virtually zero. This was in spite of the fact that over the past two years, there were tax rate increases of 33%, and spending was maintained at 1989 levels. According to the City, in 1992, it suffered a \$1.5 million dollar revenue shortage as a result of reductions in state aid, sales tax revenues, interest earnings, and parking fine collections. The loss of New York State revenue sharing dollars has been especially significant. The loss of state aid has been compounded, argues the City, by losses in tax revenues. Taxable assessed values have declined by \$19 million dollars since 1988. Numerous businesses have left the City, and the residential population is among the poorest in the County.

In support of the City's position, Peter Pucillo, the City's Comptroller for the past 15 years, testified about the current fiscal difficulties and the budget process for 1993. Pucillo explained that initially, the City's 1993 working budget was \$49,300,000. This budget contemplated three percent (3%) salary increases for all municipal employees for 1992 and 1993, no layoffs, and substantial increases in pension costs. However, it also represented a tax increase of 52%. Subsequently, the proposed budget was whittled down to \$48,600.00. It still maintained three percent wage increases for 1992 and 1993 and would have required a tax increase of 44%. When the Board of Estimate held its budget hearing in November 1992, there was a

storm of public protest. More than 800 furious taxpayers attended the hearing to decry the proposed tax hike. According to Pucillo, in 20 years of public life, he had never faced such an angry crowd of citizens.

Thereafter, the City's administration was under enormous pressure to revise the proposed budget in order to effectuate a more moderate tax increase. What ultimately resulted was a 1993 budget of \$46,067,000. Even though this budget approximates 1990's appropriations, it will still require a tax increase of 25%. Furthermore, in order to reduce the budget to the \$46 million dollar level, all salary increases for 1992 and 1993 were eliminated. According to Pucillo, the 1993 budget assumes the City's receipt of several "one-time only" payments (e.g. a grant from the Mount Vernon Industrial Development Agency) and also contemplates that nine vacant positions will not be filled. The Police Department, however, will not have any layoffs, and the plan is to increase the current complement from 164 to its normal level of approximately 174 officers.

Given the City's current fiscal crisis, the City requests that a wage freeze be imposed for at least 1992 and 1993. Although this may be viewed as a harsh position, the City argues that there is no reasonable alternative. In pressing this point, the City urges the Arbitration Panel to note that police salaries in Mount Vernon are, in fact, comparable to those paid by White Plains and New Rochelle, cities which also have a relatively high crime rate. In the City's view, it is unfair to compare

Mount Vernon police salaries with those earned by police in much wealthier communities that can afford to pay higher wages. In further support of this position, the City cites eleven arbitration awards that purportedly held that for purposes of Section 209.4 of the Civil Service Law, it is proper to compare the cities of Mount Vernon, New Rochelle, and White Plains.

**The Statutory Criteria:** . .

The statutory framework governing police and firefighter negotiations in New York State sets forth the following criteria which the Arbitration Panel must consider in making its determination:

- a. comparison of 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.

Civil Service Law §209(4)(c)(v).

The Chairperson has carefully evaluated the testimony and evidence in the Record in light of the statutory criteria. She has not rested her determination on any one criterion, but rather, has attempted to fairly consider the evidence against all of the criteria, striking an appropriate balance among the statutory factors that must guide a proper determination.

### The Award

For the reasons set forth below, and pursuant to the authority vested in her, the Chairperson hereby awards as follows:

1. Any agreements reached by the parties during negotiations involving uniform clothing allowance and vacation selections shall be incorporated by reference as part of this Award.
2. Recognition - Article I of the Collective Bargaining Agreement shall be amended such that the PBA bargaining unit includes all members of the police force below the rank of Deputy Chief.
3. Bereavement Leave - Article VII, Section C (Death Leave) shall be amended by adding at the end of the first line after "father-in-law" the following: "and one working day of absence to attend the funeral of a grandparent."
4. Sick Pool - Article VII, Section E shall be amended by adding the following:  
  
"Members of the unit may, at their discretion, give up to a maximum of five (5) of their accrued sick days to any other member of the unit who has exhausted all of his/her accumulated leave time due to a catastrophic illness or injury.

5. Health Insurance - Article VIII shall be amended by replacing the present second and third paragraphs (pages 15-16) with the following language:

Members hired on or after January 1, 1992 shall not be eligible for health insurance coverage by the City if they are eligible for substantially equivalent coverage through a spouse.

Members of the unit hired prior to January 1, 1992 shall not be eligible for health insurance coverage by the City if they are eligible for substantially equivalent coverage through a spouse. Such members shall receive \$1,500 provided they remain uncovered under such plan for a period of twelve (12) months. Such payments shall be made at the end of the twelve (12) month period and annually each twelve (12) months thereafter, provided the member remains uncovered under the City's plan. Nothing contained herein shall preclude a member from re-entering the plan if he/she is no longer covered by the substantially equivalent coverage of a spouse provided, however, that in the case of a member who re-enters in less than twelve (12) months no payment shall be made.

6. Association Rights - Article IX (page 17), the last paragraph shall be amended to read as follows:

With the approval and agreement of the Police Commissioner, the President of the Association or his/her designee may be permitted a reasonable amount of time, not to exceed sixteen (16) hours per week, to conduct Association business. The approval of the Commissioner shall not be unreasonably withheld.

7. Wages Plus Leather and Gun Allowance

The following across-the-board wage increases

shall be applied to all steps of the patrolman's schedule.

1/1/92	-	0%
7/1/93	-	3%
7/1/94	-	3%
1/1/95	-	4%
7/1/95	-	4%

In addition, because of the loss of police officers to other departments, an additional two (2) percent shall be added to the above as a leather and gun allowance. The two (2) percent shall be paid as follows:

7/1/93	-	1%
1/1/95	-	$\frac{1}{2}$ %
7/1/95	-	$\frac{1}{2}$ %

A one time only payment shall be made to all members of the bargaining unit who retire between January 1, 1992 and June 30, 1993. Existing differentials for officers and detectives shall be maintained.

**Supporting Opinion:**

**Introduction**

This is an extraordinary case. The PBA has clearly demonstrated that its members perform demanding and dangerous work on a daily basis. Mount Vernon has a young police force, doing a big job, in a high crime area. Yet salaries and benefits are lower than those earned by police in many surrounding Westchester communities where working conditions are luxurious, by Mount Vernon standards. Morale in the department is low, as each year experienced police officers leave in order to take better paying jobs in neighboring villages and towns. On the other hand, the City also has proved by clear and convincing

evidence that it is in the midst of a deep economic crisis, which has been aggravated by the national recession as well as politics in Albany. This crisis has neither a quick nor easy solution. The City appreciates that the steady exodus of experienced police officers out of Mount Vernon has negatively affected everyone in the City -- the residents, the Police Department, and the law enforcement officers themselves. It argues compellingly, however, that it cannot spend money it does not have; nor can it simply tax its way out of its dilemma because the population is already suffering under a heavy tax burden.

Clearly, such a situation is not easily addressed in labor negotiations. Nor is it properly dealt with through the awarding of a standard two-year labor agreement. To the contrary, this kind of crisis requires a creative response that is sympathetic to the needs and goals of both parties. The Chairperson's request for authorization to issue a four-year award reflects her desire to fashion such a response. Manifestly, her determination has had to take into account the harsh realities of the City's current economic situation. Her award also recognizes, however, that the City cannot expect to solve its long-term financial problems by indefinitely depriving its employees of reasonable wage increases. The four-year contract awarded strikes the proper balance. The 18-month wage freeze gives the City much needed time to address its financial difficulties. At the same time, the salary increases awarded in the second half of the

Agreement guarantee the PBA's members a reasonable pay adjustment and a fair base on which the successor contract can build.

As to the Panel's specific findings of fact, the Record leaves little doubt that Mount Vernon is coping with a genuine economic crisis. The financial data introduced by the City show that between 1988 and the end of 1992, the City's fund balance went from more than six million dollars to almost zero. In 1992, the City experienced a \$1.5 million dollar revenue shortage comprised of: \$654,000 in State aid; \$150,000 in sales tax receipts, \$350,000 in interest earnings, and \$400,000 in parking fines. The loss of State revenue sharing has been particularly devastating: a \$2.8 million dollar decline, or 44.2%, since 1989.

The City has responded to the loss of revenues by increasing taxes and by maintaining spending at 1990 levels. In fact, Mount Vernon has had a 33% increase in its tax rate over the past two years and has one of the highest tax rates in Westchester County despite the fact that its population is among the poorest in per capita and family income. One of Mount Vernon's major problems is the decline of its taxable assessed values. There have been several factors contributing to this situation, including: lower assessments on utilities such as Consolidated Edison and New York Telephone, the general decline in the real estate market, and the loss of several major businesses from the City. The end result is that taxable assessed values have

declined by \$19 million dollars since 1988, which has meant a loss of \$2 million dollars in tax revenues.

These facts are irrefutable. Even Ed Fennell, the Association's financial consultant, had to concede that it appeared the City would have a \$2 million shortfall in 1992, and even if spending in 1993 remained at 1992 levels, a 40-50% tax increase would be required. In his words, "There are no assets in the City to bridge the gap. Taxes must go up."

Granted, the City has the legal ability to raise taxes by 40-50% in 1993. To ask the City's residents to shoulder such an enormous burden, however, is unconscionable. Since the arbitration hearings, a 1993 budget of \$46,067,000 has been approved. Even though it is a "bare bones" budget, it will still result in a 25% tax increase. Clearly, Mount Vernon's taxpayers are making an effort to support their municipal government and maintain city services. But there are limits to what a relatively poor population can do. Mount Vernon needs legislative assistance from the federal and state governments. Without such aid, the City will continue to deteriorate, and it will become even more difficult to provide basic municipal services and retain an adequate work force.

Already, it is becoming apparent that unless Mount Vernon improves the wages and benefits paid to its police force, the badge drain will continue. The unchallenged comparative salary data submitted by the PBA show that out of 40 police departments

in Westchester County, Mount Vernon ranks 36th in entry level pay and 39th in top salary pay.

The Chairperson is mindful that the picture improves when Mount Vernon police salaries are compared with those paid by New Rochelle and White Plains. In fact, as of December 31, 1991, the top grade annual salaries paid in each of these three cities were as follows: Mount Vernon - \$40,522; New Rochelle - \$41,422; and White Plains - \$39,081. Most arbitrators have held that for purposes of Section 209.4 of the Civil Service Law, it is appropriate to make comparisons among Mount Vernon, New Rochelle, and White Plains. Certainly, these three cities have more in common with each other than they do with the small, affluent, suburban communities that comprise most of Westchester County. In fact, all three cities are quite similar with respect to size, number of police officers, police department budget, and salaries. For this reason, the Chairperson has relied heavily on Mount Vernon's standing relative to New Rochelle and White Plains in fashioning her award regarding salary increases.

However, regardless of what comparisons are made for purposes of an arbitration award, the fact remains that Mount Vernon police officers work in a county where most police officers earn higher salaries than they do. More importantly, they are increasingly being lured away to nearby towns and villages where they can enjoy better wages, benefits, and working conditions. The tragedy is that the City loses the money it

invested in training its police officers, and the citizenry loses an experienced police force. If this trend continues, Mount Vernon will be left with a young, unseasoned force at a time in its history when it most needs experienced, professional and mature law enforcement personnel. This fact is as irrefutable as the City's current economic plight, and it has had to be taken into consideration by the Chairperson. In fact, the significant loss of Mount Vernon police officers to other police departments prompted the Chairperson to award a special leather and gun allowance of 2% over the life of the Agreement. This leather and gun salary supplement is a specific response to the badge drain and high turnover, which do not exist in the City's other units. It is hoped that by making Mount Vernon police salaries more competitive with those paid in neighboring communities, the stability and morale of the department will be improved.

With respect to the new health insurance language, clearly, it is designed to save the City money without imposing any hardship on bargaining unit members. The amended language provides that members hired after January 1, 1992 will not be eligible for health insurance coverage if they are eligible for substantially similar coverage through a spouse. The prior agreement contained a similar provision for employees hired after June 28, 1985.

Bargaining unit members hired before January 1, 1992 are also mandatorily excluded from health insurance coverage if they

are eligible for substantially equivalent coverage through a spouse. Such members, however, shall receive a \$1,500 "in lieu of" payment annually. This includes the employees hired after June 28, 1985. In effect, all incumbents hired prior to the effective date of the contract are excluded from dual coverage but shall receive the \$1,500 payment while new employees hired after January 1, 1992 will not receive the "in lieu of" payment since they were never eligible for such coverage and never "gave up" anything.

The new health insurance language was part of the tentative agreement reached by the parties on October 11, 1991. Also included in that agreement were provisions dealing with bereavement leave,<sup>2</sup> sick pool,<sup>3</sup> and Association rights.<sup>4</sup> Those provisions, negotiated directly by the parties, have been incorporated in the final Award herein. They are neither costly nor controversial. The Chairperson has included these substantive terms in her Award because she believes it is appropriate to uphold what the parties themselves had agreed upon in collective bargaining.

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<sup>2</sup>This provision adds one day of bereavement leave for the death of a grandparent in order to attend the funeral.

<sup>3</sup>At the member's discretion, five days of his/her accrued sick leave may be donated to another unit member who has exhausted his/her accumulated leave time due to a catastrophic illness or injury.

<sup>4</sup>The new language provides that with the approval of the police commissioner, the Association president or his/her designee may be permitted up to sixteen hours per week to conduct PBA business. The approval of the commissioner shall not be unreasonably withheld.

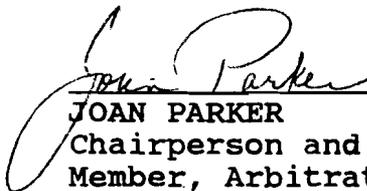
The remaining issue that is the subject of this Award is the contract's Recognition Clause. The Chairperson has sustained the City's position that the Deputy Chief should not be considered a member of the bargaining unit. Suffice it to say that a person holding the title of Deputy Chief has significant decision-making responsibilities and managerial authority. As such, it is inappropriate for this individual to be a bargaining unit member.

**CONCLUSION:**

As stated at the outset of this Opinion, the Chairperson is issuing this Award on her own, without the concurrence of either the City or PBA Panel members. In so doing, she has attempted to fashion a fair solution to a difficult problem. Undoubtedly, the Association will be disappointed with the 4% awarded during the first two years of the Agreement. However, during 1994 and 1995, unit members will receive a total wage increase of 12%, including the leather and gun allowance, which assuredly will cause the City some disappointment. Thus, the Award requires effort and sacrifice from both parties. The City will gain time to find new sources of funds; the PBA's members will be guaranteed that if they remain in the Department through the term of the Agreement, their salaries will be (1) commensurate with current cost of living increases and (2) competitive with those salaries paid by New Rochelle and White Plains. Given the City's

present fiscal circumstances, this is the best result that either party could reasonably hope to achieve in these proceedings.

May 10, 1993

  
\_\_\_\_\_  
JOAN PARKER  
Chairperson and Neutral  
Member, Arbitration Panel



**TENTATIVE CONTRACT AGREEMENT**

**ACTUAL INCREASE**

A. POLICE OFFICERS SHALL BE PAID THE WAGE RATES LISTED BELOW FOR THE DURATION OF THIS AGREEMENT:

	2%	3%	3%	3%
EFFECTIVE	01/01/92	10/01/92	01/01/93	10/01/93
P.P.O. (1st year)	\$22,867.38	\$23,553.40	\$24,260.00	\$24,987.80
\$ increase	\$448.38	\$171.50	\$691.16	\$177.97
1992 INCREASE	\$619.88			
1993 INCREASE	\$869.13			
TOTAL INCREASE	\$1,489.01			
4th Grade P.O.	\$27,482.88	\$28,307.36	\$29,156.58	\$30,031.27
\$ increase	\$538.88	\$206.11	\$830.65	\$213.89
1992 INCREASE	\$744.99			
1993 INCREASE	\$1,044.54			
TOTAL INCREASE	\$1,789.53			
3rd Grade P.O.	\$32,099.40	\$33,062.38	\$34,054.25	\$35,075.88
\$ increase	\$629.40	\$240.74	\$970.20	\$249.82
1992 INCREASE	\$870.14			
1993 INCREASE	\$1,220.02			
TOTAL INCREASE	\$2,090.16			
2nd Grade P.O.	\$36,714.90	\$37,816.35	\$38,950.84	\$40,119.36
\$ increase	\$719.90	\$275.36	\$1,109.70	\$285.74
1992 INCREASE	\$995.26			
1993 INCREASE	\$1,395.44			
TOTAL INCREASE	\$2,390.74			
1st Grade P.O.	\$41,332.44	\$42,572.41	\$43,849.58	\$45,165.07
\$ increase	\$810.44	\$309.99	\$1,249.97	\$321.68
1992 INCREASE	\$1,120.43			
1993 INCREASE	\$1,571.65			
TOTAL INCREASE	\$2,691.38			

B. SUPERIOR OFFICERS SHALL BE PAID THE WAGE RATES LISTED BELOW FOR THE DURATION OF THIS AGREEMENT:

	2%	3%	3%	3%
EFFECTIVE	01/01/92	10/01/92	01/01/93	10/01/93
SERGEANTS 18% above 1st grade P.O.	\$48,772.32	\$50,235.48	\$51,742.55	\$53,294.82
\$ increase	\$956.32	\$365.79	\$1,474.14	\$379.59
1992 INCREASE	\$1,322.11			
1993 INCREASE	\$1,853.73			
TOTAL INCREASE	\$3,175.84			
LIEUTENANTS 15% above Sergeant	\$56,087.76	\$57,770.39	\$59,503.50	\$61,288.60
\$ increase	\$1,099.76	\$420.65	\$1,695.25	\$436.52
1992 INCREASE	\$1,520.41			
1993 INCREASE	\$2,131.77			
TOTAL INCREASE	\$3,652.18			
CAPTAINS 15% above Lieutenant	\$64,501.74	\$66,436.79	\$68,429.89	\$70,482.79
\$ increase	\$1,264.74	\$483.76	\$1,949.56	\$502.01
1992 INCREASE	\$1,748.50			
1993 INCREASE	\$2,451.57			
TOTAL INCREASE	\$4,200.03			

C. SICK POOL:

AT EACH MEMBERS DISCRETION, FIVE (5) DAYS OF ACCRUED SICK TIME MAY BE DONATED TO ANOTHER MEMBER OF THE UNIT WHO HAS EXHAUSTED ALL OF HIS/HER ACCRUED SICK/LEAVE TIME DUE TO A CATASTROPHIC ILLNESS OR INJURY.

D. BEREAVEMENT:

ADD ONE (1) DAY BEREAVEMENT LEAVE FOR THE DEATH OF A GRANDPARENT TO ATTEND THE SERVICES.

E. ASSOCIATION RIGHTS:

WITH THE APPROVAL AND AGREEMENT OF THE POLICE COMMISSIONER, THE PRESIDENT OF THE ASSOCIATION AND HIS/HER DESIGNEE MAY BE PERMITTED A REASONABLE AMOUNT OF TIME, NOT TO EXCEED SIXTEEN (16) HOURS PER WEEK, TO CONDUCT POLICE ASSOCIATION BUSINESS. THE APPROVAL OF THE COMMISSIONER SHALL NOT BE UNREASONABLY WITHHELD.

F. HEALTH INSURANCE:

- 1) CURRENT EMPLOYEES- NO DUAL COVERAGE IF SPOUSE HAS SUBSTANTIAL EQUIVALENT COVERAGE - \$1500 ANNUAL PAYMENT TO BE PAID AT THE END OF THE CALENDAR YEAR.
- 2) EMPLOYEES HIRED AFTER 01/01/92 - NO DUAL COVERAGE IF SPOUSE HAS SUBSTANTIAL EQUIVALENT COVERAGE.

G. WORKING DAY VACATION:

TO TAKE EFFECT 01/01/93

CALENDAR DAY ENTITLEMENT	WORKING DAY ENTITLEMENT
15 Days	11 Days
20 Days	16 Days
30 Days	22 Days
32 Days	24 Days
35 Days	26 Days
37 Days	29 Days

LETTER OF AGREEMENT TO BE ATTACHED TO CONTRACT.

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

-----X

In the Matter of the Compulsory  
Interest Arbitration

Between

Case Nos. 1A 92-2;  
M91-220

THE POLICE ASSOCIATION OF THE  
CITY OF MOUNT VERNON, INC.

-and-

CITY OF MOUNT VERNON

-----X

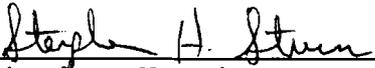
OPINION OF PANEL MEMBER  
STEPHEN H. STURM

To paraphrase Charles Dickens, this is indeed the worst of times for both the police officers of the City of Mount Vernon and the City itself. As a result of this sad economic fact, and the long deadlock between the parties, they have agreed to allow the neutral Panel Member to issue the Award herself, and have also given her authority to issue an Award covering a four year period. The emphasis in the Award on delaying real salary increases until the last two years of the contract reflects the foresight of the PBA in approving such an extension.

The primary victim of this dispute is the individual police officer in Mount Vernon, who works harder in a more dangerous environment, and is simultaneously paid less. In their quest for equitable treatment, many members are forced to leave Mount Vernon. They are attractive prospects as they are well-trained, skilled professionals with a wealth of experience. The result is that Mount Vernon police officers are leaving with increased frequency to join other police departments who compensate more equitably. The tragic irony inherent in this situation is that large sums of money are spent on training officers for other police departments.

I am disappointed with the 4% first half of the Award. However, I do fully support the 12% total wage increase from July 1, 1994 to July 1, 1995. While I continue to refuse to sign the Award, I must concede that it does reflect the realities of the economic plight of both our members and the

City in light of the applicable statutory criteria. It is also highly creative. The 16% four year increase exceeds the past and current cost of living increases in the area and keeps us competitive with other Westchester cities. It will also serve as a base upon which to build in the future.

  
\_\_\_\_\_  
Stephen H. Sturm  
Union Designated Panel Member

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

-----X  
In the Matter of the Compulsory  
Interest Arbitration between

THE POLICE ASSOCIATION OF THE  
CITY OF MOUNT VERNON, INC.

Case Nos. IA 92-002;  
M91-220

- and -

CITY OF MOUNT VERNON

-----X

OPINION OF PANEL MEMBER  
TERENCE M. O'NEIL

## BACKGROUND

The difficult position of the police officers of the City of Mount Vernon and the City itself has resulted in this unusual Award. Because of the inability of the Panel to reach a majority on the major issue of wages, the parties mutually agreed to grant the neutral Panel Member the authority to make the Award on this issue herself, and, also, granted the Panel the authority to issue an arbitration award covering a four year period.

### A. The Police Officers

The plight of the Mount Vernon police officer has been accurately portrayed in what has become known as the "badge drain." Unlike any other department in the City, the Police Department has in recent times consistently lost its trained officers to other departments. The commonly accepted reason for these moves has been higher wages and better working conditions in other smaller Village and Town Departments. While Mount Vernon compares somewhat favorably with its comparable neighboring cities in Westchester (New Rochelle and White Plains), its wages and benefits are generally lower than the surrounding villages and towns who have a superior financial ability to compensate its police officers. Also, the City's police officers' work load is generally greater than in the surrounding villages and towns.

### B. The Plight of the City

The economic plight of the City was well documented during the arbitration proceeding. Its tax rate is among the highest in

the County and its citizens are among the poorest in median family income. (City Exhibit 10).

Its fund balance has shrunk from close to six million dollars (\$6,000,000) to almost zero. (City Exhibit 1). In 1992 the City experienced revenue shortages of close to \$1.5 million in combined State Aid, sales tax shortfalls, lower interest earnings and reduced parking fines. Since 1989, its revenue sharing has decreased by approximately 44%, with a loss of approximately \$2.8 million. (City Exhibit 3). The City's tax revenues have shrunk by close to \$2 million dollars because of a decrease in assessments of approximately \$19 million dollars. (City Exhibit 4). Many of the City's major businesses have closed or are in the process of moving out of the City. (City Exhibit 9).

Consequently, while the City's budget appropriations for 1993 remain close to their 1989 levels, the City has suffered through tax rate increases of approximately 33% in the last two years alone just to fund spending which is at the same level as it was three years ago. Indeed, the first draft of the City's 1993 budget which contained modest three percent (3%) salary raises for employees for 1992 and 1993 resulted in a 44% tax increase.<sup>1</sup> Consequently, those proposed salary increases were eliminated and other cuts were made to lower the tax rate increase to "only" 25%. Even the 25% tax increase was "held" at that amount only because of some one time revenues.

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<sup>1</sup> Indeed, the Mayor, Comptroller and City Council have had no increases in their salaries for four to five years.

If the economic plight of the City were examined in a vacuum, a wage freeze could be justified for the entire four (4) year period of the Award. However, the economic plight of the City cannot be solved entirely on the backs of its employees. This is especially true when lower salaries result in a drain of our trained police officers to surrounding communities.

C. The Public Panel Member's Award

The opinion of the Public Panel Member recognizes the City's plight to the extent that she has imposed a total wage freeze for the first eighteen (18) months of the Award. Indeed, the total cost to the City over the first two (2) years is only 2% when the leather and gun allowance is considered. She has also recognized that the increases granted to this unit should not automatically be matched by the other units in the City but are uniquely tailored to address the "badge drain" experienced in the Police Department.

The Award also recognizes that some savings should be realized in the area of health insurance by eliminating dual coverage. While an argument could be made for contributions, I believe this would only exacerbate the "badge drain." Also, contributions in surrounding comparable communities are generally limited to new hirees - a solution which may hurt the City's efforts to attract quality replacements. Also, in light of the low wage gains in the first two years, greater concessions in this area can be sought in the next round of negotiations.

The third year of the Agreement also has a limited financial impact (approximately 3.5%) on the City and will probably be

attainable without any major layoffs. The fourth year, however, commits the City to raises which it will have difficulty funding unless new sources of revenue materialize, or major cuts in services are accomplished. While I recognize that the fourth year really compensates for the first three years of the Award, I had difficulty voting for it because of the uncertain economic future. While I am optimistic that new sources of revenue will materialize, they are too uncertain to me to fully make that commitment. I also recognize the Arbitrator's rationale to continue to keep our police officers' salaries competitive, at least with the surrounding comparable cities, which this Award will accomplish. If our police officers stay until 1995, they will be competitive with New Rochelle and White Plains. Only time will tell if the raises granted in 1995 can be funded without serious reductions in the work force or cuts in other services.

While I could not concur with the Award of the neutral Arbitrator for the reasons outlined above, it certainly strikes a fair balance when all the applicable statutory criteria are applied. It is a creative and fair solution to a difficult, and perhaps unsolvable, dilemma.



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Terence M. O'Neil  
City's Panel Member