

NYS PUBLIC EMPLOYMENT RELATIONS BOARD  
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STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of Compulsory Interest  
Arbitration Between

THE GLENVILLE POLICE BENEVOLENT  
ASSOCIATION,

Employer Organization,

and

THE TOWN OF GLENVILLE, NEW YORK,

Public Employer

Pursuant to the Compulsory Interest  
Arbitration Provisions of the Civil  
Service Law, Section 209.4

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FINAL AND BINDING OPINION  
AND AWARD OF TRIPARTITE  
ARBITRATION PANEL

PERB CASE NOS. IA92-034,  
M92-388

**ARBITRATION PANEL MEMBERS:**

CHAIRMAN

THOMAS N. RINALDO, ESQ.  
305 Elmwood Avenue  
Buffalo, New York 14222

PUBLIC EMPLOYER MEMBER

ROBERT A. MOORE, ESQ.  
Town of Glenville Attorney  
341 Mohawk Avenue  
Scotia, New York 12302

EMPLOYEE ORGANIZATION MEMBER: THOMAS J. JORDAN, ESQ.  
Lombardi, Reinhard, Walsh &  
Harrison, P.C.  
5 Computer Drive West  
Albany, New York 12205

**APPEARANCES:**

**FOR THE POLICE BENEVOLENT  
ASSOCIATION:**

RICHARD P. WALSH, ESQ.  
Lombardi, Reinhard, Walsh &  
Harrison, P.C.  
5 Computer Drive West  
Albany, New York 12205

**FOR THE TOWN OF GLENVILLE:**

MARK L. POWERS, ESQ.  
Assistant County Attorney  
68 Milton Avenue  
Ballston Spa, New York 12020

Pursuant to the provisions of the Civil Service Law Section 209.4, Pauline R. Kinsella, Chairperson of the New York State Public Employment Relations Board on February 22, 1993 designated a Public Arbitration Panel to resolve an impasse existing between the Glenville Police Benevolent Association (hereinafter also referred to as the "PBA", the "Union", the "Employees", or the "members") and the Town of Glenville, New York (hereinafter also referred to as the "Town", "Employer" or the "Administration").

The Panel was charged with making a just and reasonable determination to resolve the impasse encountered by the Parties in their efforts to negotiate a successor agreement to the one which expired on December 31, 1992.

The Panel convened and conducted a hearing in the Town Hall on Saturday, March 20, 1993 at which time the Parties were afforded a full opportunity to set forth their positions and supporting evidence, present witnesses and to engage in their examination and cross-examination. The record was closed on March 20, 1993.

The Panel then met in Executive Session on April 12, 1993. In arriving at its decision, this Panel considered the following statutory guidelines:

(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 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 interest 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.

GLENVILLE PBA DEMANDS:

1. Salary (Article 4, Section 1)

16% raise effective 1/1/93  
an additional 16% raise effective 1/1/94

2. Longevity (Article 4, Section 2)

Increase longevity from a sum of \$75 per year after 5 years of service to \$125 per year after 5 years of service.

3. Shift Differential Pay

A & C line shifts will receive 10 cents per hour in addition to their regular salary.

4. Out of Title Pay

Any officer who is required to assume the duties of a higher grade position will receive the regular salary of the higher grade for the entire time he is required to assume those duties.

5. Education Incentive Pay

An annual payment of \$200 per year will be made for each officer who has attained an associate's degree; an annual payment of \$200 per year will be made for each officer and who has attained an EMT certificate; an annual payment of \$400 per year will be made for each officer who has attained a paramedic certification. All payments will be due and payable within thirty (30) days of presentment of proof of attainment of such degree or certificate and thereafter on the anniversary date of the first payment.

6. Holidays (Article 7, Section 1)

In addition to the holidays therein provided, Martin Luther King's birthday will be a designated holiday.

7. Vacations (Article 8, Section 1(c))

Each officer shall continue accrual of vacation days at a rate of one working day per year from 15 to 20 years so that maximum after 20 years of service shall be 30 days vacation.

8. Stress Days (Article 9, new section)

Each officer shall be allowed to take 4 stress days' leave per year at the discretion of the chief. Such discretion shall not be unreasonably withheld.

9. Compensatory Time (Article 9, Section 5(c))

The current limit of 480 hours for accumulating compensatory time shall be raised to a total of 560 hours. All time after 560 hours shall be paid in cash.

10. Retirement Benefit (Article 10, Section 5 - new section)

The employer agrees to provide 20 year (1/60) retirement plan as more specifically described in Retirement and Social Security Law Section 384-d.

11. Life Insurance Premium Reimbursement (Article 11, Section 5(a))

Increase the Town's contribution to the PBA life insurance program from \$125 to \$160 per member.

12. Dental Plan (Article 11, Section 3(c) and (d))

The Town agrees to provide, at no cost to the PBA members, the CSEA Employee Benefit Fund "Horizon" Dental Plan.

13. The "Horizon" Dental Plan will be provided for all retirees.

14. The PBA agrees to represent and be the bargaining agent for the Chief and Deputy Chief.

15. Uniforms & Equipment (Article 8, Section 2)

Increase the annual allowance from \$400 to \$600. The allowance shall be paid in two increments of \$300, one payable in January and a second payable in June of each year.

16. Bullet Proof Purchase Reimbursement (Article 13, new section)

The Town shall reimburse members at least once every 5 years for their purchase of a bullet proof vest. Reimbursement will be made no more than 10 days after submission of the proof of purchase of the vest.

17. Cleaning Allowance

A clothing allowance of \$600 a year will be paid to each officer. Payments shall be made in two installments of \$300 each, one payable in January, and the second payable in June of each year.

18. Bids on Vacations

Vacations will be bid during the current year the first round of picks to be completed prior to March 31 of that calendar year. The following blocks of vacations to be posted within a reasonable amount of time thereafter. (the rest of the section to remain the same). Article 8, Section 4.

For purposes of blocks of leave, vacation leave and holiday leave in any combination of five days shall constitute a BLOCK of leave and therefor treated as such under the rules of vacation and holiday leave blocks.

19. The PBA reserves the right to add to, delete or revise the list of demands above.

**THE TOWN'S DEMANDS:**

1. 3% salary increase for 1993.
2. The Town's contribution to health and dental insurance coverage premiums to remain at 1992 levels. Any increase in the costs of health and dental insurance to be paid by the employee, whether the employee has the Empire Plan, MVP or CHP.
3. The Town's contribution to health and dental insurance coverage premiums for retirees is to remain at 1992 levels. Any increase in the costs of health and dental insurance to be paid by the retiree, whether the retiree has the Empire Plan, MVP or CHP.
4. Holidays: Lincoln's and Washington's birthday to be consolidated into one holiday and that being President's Day. Martin Luther King's Day to be added to the holiday list.
5. The clothing allowance is not to be recipient until that person gives a receipt to the Town.

**BACKGROUND FACTS**

The Town of Glenville Police Department is a full-time, professional police department located in Schnectady, New York. The Town of Glenville had 28,771 residents in 1990 and encompasses a land area of 49.9 square miles.

Part of the Town lies within the village limits of the Village of Scotia. The Village of Scotia maintains its own police department covering village residents.

The main sources of funding for the Town of Glenville Police include the property tax and county-imposed sales tax. Both revenue sources are heavily dependent on the general economic conditions within Schnectady County.

SALARY

UNION POSITION

The Union asserts that the most appropriate comparisons to Glenville for salary purposes are other towns. The Union contends that cities and villages generally have less dynamic local economic bases and less affluent residents than towns and also face revenue constraints that many towns do not.

According to the Union within the universe of New York State towns, there is no reason to go beyond the boundaries of Schnectady County when looking for appropriate comparisons. The Towns of Niskayuna and Rotterdam are the other Town governments maintaining police departments within the County, and have similar demographic, income, and property wealth characteristics. Because part of the Town lies within the village limits of the Village of Scotia, the Union has submitted the Village of Scotia in their comparative analysis but only to serve as a minimum point of reference.

The Union posits that the Glenville Police should be the highest paid department in the County.

The Union submitted the following comparative data for this Panel's consideration:

**INCOME CHARACTERISTICS**  
**SCHENECTADY COUNTY MUNICIPALITIES**

**1989 Per Capita Money Income:**

1.	Niskayuna	\$23,732
2.	Glenville (Town Outside Village)	\$17,806
3.	Scotia	\$14,701
4.	Rotterdam	\$14,654

Note: Total Glenville Town Per Capita Income in 1989 was \$17,012.

**1990 Family Income:**

1.	Niskayuna	\$59,552
2.	Glenville (Town Outside Village)	\$47,388
3.	Scotia	\$39,446
4.	Rotterdam	\$38,665

Note: Total Glenville Town Family Income in 1990 was \$45,264.

**1990 Household Income:**

1.	Niskayuna	\$51,063
2.	Glenville (Town Outside Village)	\$40,551
3.	Scotia	\$34,215
4.	Rotterdam	\$32,135

Note: Total Glenville Town Household Income in 1990 was \$38,164.

**PROPERTY WEALTH CHARACTERISTICS**  
**SCHENECTADY COUNTY MUNICIPALITIES**

**1982-1991 Growth in Market Value of Taxable Property:**

1.	Niskayuna	126.9%
2.	Glenville (Town Outside Village)	113.0%
3.	Scotia	80.5%
4.	Rotterdam	73.1%

Note: Total Glenville Town Growth in Market Value of Taxable Property Between 1982 and 1991 was 105.1%.

**1991 Market Value of Taxable Property Per Resident:**

1.	Niskayuna	\$44,085
2.	Glenville (Town Outside Village)	\$31,989
3.	Scotia	\$31,062
4.	Rotterdam	\$18,776

Note: Total Glenville Town Market Value of Taxable Property Per Resident in 1991 was \$28,610.

**1991 Average Single Family New Home Price:**

1.	Niskayuna	\$148,148
2.	Glenville (Town Outside Village)	\$131,818
3.	Scotia	\$ 92,141
4.	Rotterdam	\$ 57,143

Note: Total Glenville Town Average Single Family New Home Price in 1991 was \$131,818.

**TOP LEVEL PATROLMAN'S SALARY**  
December 1992 and December 1993

<u>Municipality</u>	<u>December 1992</u>		<u>December 1993</u>	
	<u>Top Level Salary</u>	<u>Years to Maximum</u>	<u>Top Level Salary</u>	<u>Year to Maximum</u>
Rotterdam	\$36,586	3	\$40,011	3
Niskayuna	\$35,280	4	\$36,515	4
Scotia	\$34,728	5	\$34,728*	5
<u>Glenville</u>	<u>\$34,517</u>	<u>4</u>	<u>\$34,517**</u>	<u>4</u>

\*1993 Scotia Top Level Salary Based on Contract Ending May 31, 1993.

\*\*1993 Glenville Top Level Salary based on Contract ending December 31, 1992.

**TOP LEVEL POLICE SALARY DIFFERENTIALS**  
Percent Difference From Glenville  
December 1992 and December 1993

<u>Municipality</u>	<u>1992</u>	<u>1993</u>	<u>Effective 1993 Increase</u>
Rotterdam	5.99%	15.92%	9.93%
Niskayuna	2.21%	5.79%	3.58%
Scotia	0.61%	0.61%	NA**

\*As part of contract settlement for 1992-1995, Niskayuna police were granted enhanced retirement benefits.

\*\*Scotia contract expires May 31, 1993.

**DETECTIVE PAY**  
**Differential From Glenville**  
**December 1992 and December 1993**

<u>Municipality</u>	<u>Detective Pay in 1992</u>	<u>% Diff. From Glenville</u>	<u>Detective Pay in 1993</u>	<u>% Diff. From Glenville</u>
Rotterdam	\$39,813	+10.9%	\$43,408	+20.9%
Niskayuna	\$36,080	+ 0.5%	\$37,315	+ 4.0%
Scotia	NA	NA	NA	NA
Glenville*	\$35,896		\$35,896	

\*1993 Glenville Detective Salary Based on Contract Ending December 31, 1992

Note: Scotia does not have rank of detective

**SERGEANTS PAY**  
**Differential From Glenville**  
**December 1992 and December 1993**

<u>Municipality</u>	<u>Sergeant Pay in 1992</u>	<u>% Diff. From Glenville</u>	<u>Sergeant Pay in 1993</u>	<u>% Diff. From Glenville</u>
Rotterdam	\$42,350	+13.6%	\$46,601	+25.0%
Niskayuna	\$38,411	+ 3.0%	\$39,755	+ 6.6%
Scotia*	\$38,665	+ 3.7%	\$38,665	+ 3.7%
Glenville**	\$37,277		\$37,277	

\*1993 Scotia Sergeants Pay Based on Contract Ending May 31, 1993.

\*\*1993 Glenville Sergeants Pay Based on Contract Ending December 31, 1992

**LONGEVITY PAY, 1992**  
**Longevity Pay Received Over 20-year Career**

<u>Municipality</u>	<u>Total Cash Received</u>	<u>Present Value</u>
Rotterdam	\$20,000	\$8,361
Niskayuna	\$15,000	\$5,870
<u>Glenville</u>	<u>\$ 9,000</u>	<u>\$3,522</u>
Scotia	\$6,600	\$2,583

Note: Present Value is computed using a discount rate of 7%.

**LONGEVITY PROVISIONS, 1992**

Rotterdam:	\$ 500 after 4 years \$1,000 after 8 years \$1,500 after 12 years \$2,000 after 16 years \$2,500 after 20 years \$3,000 after 24 years
Niskayuna:	\$125/year after 5 years
Glenville:	\$ 75/year after 5 years
Scotia:	\$ 55/year after 5 years (through 20th year max)

The Union contends that the Town is in better financial shape than either the Towns of Niskayuna or Rotterdam. This financial well being should make the Town of Glenville Police Department the highest paid police department in the County. The Union submitted the following fiscal data for the Panel's review:

Fiscal Year 1993  
Town of Glenville

SALES TAX BUDGET VS. ESTIMATED

FUND	BUDGET	ACTUAL	VARIATION
Town Outside	\$1,250,000	\$1,462,000	\$212,000
Highway	\$ 250,000	\$ 288,000	\$ 38,000
Total	\$1,500,000	\$1,750,000	\$250,000

N.B. THE ASSUMPTIONS OF THE ABOVE ARE:

1. FISCAL 93 SALES TAX INCOME WILL EQUAL 92 INCOME
2. FISCAL 92 SALES TAX INCOME ADJUSTMENT AMOUNTS TO  
-\$350,000

Fiscal Year 1992  
Town of Glenville

SALES TAX BUDGET VS. ACTUAL

FUND	BUDGET	ACTUAL	VARIATION
Town Outside	\$1,200,000	\$1,804,285	\$604,285
Highway	\$ 200,000	\$ 300,715	\$100,715
Total	\$1,400,000	\$2,105,000	\$705,000

N.B. APPROXIMATELY \$350,000 OF THE CURRENT YEAR ACTUAL AMOUNT  
IS ATTRIBUTABLE TO ONE TIME RETROACTIVE ADJUSTMENTS

FISCAL YEAR 1993  
TOWN OF GLENVILLE  
TOWN OUTSIDE VILLAGE FUND

TAX LEVY

TAX LEVY	\$169,621
TAX RATE	\$0.260899
ASSESSED VALUE	\$650,140,476
AMOUNT PER \$.10	\$65,014
POPULATION	\$21,412
PER CAPITA IMPACT OF \$.10 PER \$1,000 ASSESSED VALUE	\$3.04

CURRENT POLICE DEPARTMENT SALARIES &  
THE FINANCIAL IMPACT OF FUTURE RAISES

RANK	NUMBER OF POSITIONS	1992 SALARY
Patrolman (3 years)	3	\$31,242
Patrolman (Over 4 Yrs)	8	34,517
Detective	2	35,896
Detective Sgt.	1	37,277
Sergeant	3	37,277
TOTAL	17	\$590,762
1992 Police Department Salaries		\$590,762
ADD: Cost of Benefits @ 23%		135,875
TOTAL SALARIES & BENEFITS		726,637
Each One Percent Raise		7,266
1993 Town of Glenville Town Outside Village Budget		2,207,844
Impact of 1% Raise On The 1993 Budget		0.329%

The PBA also argues that the work load of a police officer and the hazards of employment have increased significantly in recent years. The following report was submitted to demonstrate the work load changes of a Glenville Police Officer since 1990.

FISCAL YEAR 1993  
TOWN OF GLENVILLE  
TOWN OUTSIDE VILLAGE FUND

OPERATING RESULTS (ESTIMATED)

FUND BALANCE	1/1/92	\$ 926,032
REVENUES		\$2,342,213
EXPENSES		\$2,068,245
BALANCE	12/31/92	\$1,200,000
APPROPRIATED 1993		\$ 661,021

BASED ON A REVIEW OF PRELIMINARY COMPUTER REPORTS OF THE TOWN FOR THE PERIOD 1/1/92 TO 12/31/92 AND CONSULTATION WITH THE TOWN COMPTROLLER ON 3/19/93

THE TOWN'S POSITION REGARDING SALARY

The Town contends that they are fairly compensating their Police Department and further that their offer of a 3% pay raise for 1993 is generous considering the current state of the economy and the fiscal obligations of the Town. Councilman Joseph LiRosi testified that the Town of Glenville is almost entirely residentially driven with a large number of senior citizens in the

Town who are on a fixed or limited income. Mr. LiRosi admitted that the surrounding Towns of Niskayuna and Rotterdam have had to increase property taxes while the Town of Glenville has been able to resist property tax increases despite its residential base. Councilman Frank Quinn also testified concerning the fiscal limitations of the Town of Glenville to grant any pay increase other than the 3% provided for in the current budget for raises.

Bookkeeper Michael Strenka testified that the sales tax surplus was because of a retroactive adjustment amounting to approximately \$350,000 which the Town has been advised will not reoccur.

The Town also submitted a comparison of base pay including the Towns of Guilderland and Bethlehem in addition to Rotterdam, Niskayuna, Scotia,

BASE PAY FOR 1992

	Patrolman (starting)	Patrolman (after 4 yrs.)	Sergeant
Glenville	\$26,761.00	\$34,517.00	\$37,277.00
Rotterdam	25,731.57	36,585.99	42,350.15
Niskayuna	19,000.00	35,280.00	38,411.00
Scotia	26,575.00	33,098.00	38,665.00
Guilderland	20,213.00	31,459.00	34,284.00
Bethlehem	24,956.00	32,287.00	37,844.00 (Step 1, starting)

BASE PAY FOR 1993

	Patrolman (starting)	Patrolman (after 4 yrs.)	Sergeant
Niskayuna	\$19,000.00	\$34,507.00	\$39,755.00
Guilderland	21,224.00	33,032.00	35,998.00
Rotterdam	28,632.51	40,100.77	46,601.40

Lastly, the Town submits the following historical data of the pay raises paid by the Town to the Highway Department, CSEA, PBA and compared those raises to the National Consumer Price Index.

RAISES FOR GLENVILLE'S UNIONS AND CPI

	Highway	CSEA	PBA	National CPI
1987	5%	5%	8.4%	3.6%
1988	5.5%	5.5%	8.4%	4.1%
1989	6%	6%	6.5%	4.8%
1990	6%	6%	6%	5.4%
1991	6%	6%	6%	5.4%
1992	*	4.65%	5.75%	3.0%

\*Not Settled.

OPINION AND AWARD

After carefully examining the salary comparisons submitted by the Parties, the Panel determines the Towns of Niskayuna and Rotterdam are fair comparisons to consider for analysis because both Towns are located within the County of Schnectady and have similar demographic, income and property wealth characteristics. The Towns of Guilderland and Bethlehem while similar in many characteristics are located in Albany County, a substantially different taxing base than Schnectady County.

In comparing Glenville Patrolman's salary to that of Rotterdam and Niskayuna, the Town of Rotterdam pays 5.99% more in salary at the top level which is reached by a Rotterdam police officer after three years of service and the Town of Niskayuna pays 2.21% more in salary to its police officers who reach the top level after four years of service. For 1993 after factoring in pay increases, a Town of Rotterdam Police Officer at top level will be paid 15.92% more than a Town of Glenville police officer and a Town of Niskayuna police officer will be paid 5.79% more than a Town of Glenville Police Officer. Detectives and Sergeants in the Towns of Rotterdam and Niskayuna are also paid more than Detectives and Sergeants in the Town of Glenville. Both Rotterdam and Niskayuna pay more in longevity pay to their Police Officers than the Town of Glenville. Glenville awards longevity pay after five years of

service of \$75.00 while Niskayuna awards \$125.00 to their Patrolman after five years. Rotterdam has a sliding scale that goes from \$500.00 after four years to \$3,000.00 after 24 years. By comparison, Glenville is paid substantially below that of Rotterdam and/or Niskayuna.

Salary comparisons are not the only criteria for this Panel to consider. Section 209.4 mandates that the interest and welfare of the public and the financial ability of the public employer to pay be considered. As required, this Panel has carefully studied the revenue data submitted by the parties as well as the testimony of Councilmans LiRosi and Quinn. The data supports the conclusion the Town has been fiscally prudent in administering its resources. The Town for fiscal year 1992 budgeted \$1,400,000 for sales tax revenue when in fact actual revenue amounted to \$2,105,000 for a surplus of \$705,000. While admittedly, the \$705,000 surplus includes a one time retroactive adjustment of \$350,000, the Town still realized \$355,000 in surplus sales tax revenue. It is anticipated that fiscal 1993 sales tax income will equal that of 1992 although the Town has budgeted only \$1,500,000 in anticipated revenue. Because of sales tax surpluses and fiscal prudent management, the Town has not had to increase real property taxes for 1992 while the neighboring Towns of Niskayuna and Rotterdam have had to increase their real property taxes. The Union posits that the facts clearly support the conclusion that the Town has the ability to pay the 16% per year salary increase requested by the Union.

This Panel is persuaded that the Town does not have the fiscal problems that many municipalities have had to face in recent years. Total debt per capita for a Town of Glenville resident is \$48.15 while in Rotterdam it is \$324.95 and Niskayuna is \$396.73 (See Association #6). The full value tax rate in Glenville is 2.44 per thousand (\$1,000) of assessed valuation while Rotterdam is 3.07 and Niskayuna is 2.71 (See Association #7). Glenville has only increased taxes from 1986-1992 6.9% while Niskayuna has had a 20.8% increase in taxes for the same period. Rotterdam has had a 11.7% decrease in tax levies (See Association #8). And, lastly, the Glenville tax rate has decreased 0.3% for the 1992-92 period while Rotterdam has increased their rate by 11.3% while Niskayuna has increased by 6.1% (See Association #9). However, responsible fiscal management should not be rewarded by granting pay increases of some 32% as requested by the Association.

This Panel in arriving at its conclusion also considered the service demands and responsibility of a police officer. The work of a police officer is very difficult and demanding and often a police officer is required to jeopardize his or her own personal safety to protect the safety and welfare of the citizens of the community. This work load and responsibility must be fairly compensated for.

We, therefore, make the following:

AWARD

All bargaining unit employees shall receive a 6% increase in salary for calendar year 1993.

All bargaining unit employees shall receive a 5.5% increase in salary for calendar year 1994.

This Panel will also award an increase in longevity of \$25.00 effective January 1, 1994.

The above awarded salary increase will bring a patrolman in the Town of Glenville equal to a patrolman in the Town of Niskayuna but below a police officer in the Town of Rotterdam. Said Award is clearly within the Town's ability to pay without adversely affecting the Town's resources or unduly burdening the taxpayers of the Town of Glenville.

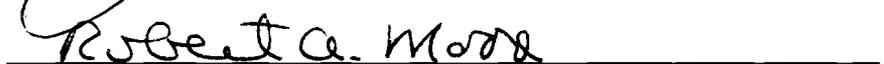
This Panel has rejected all other Union and Town proposals except for the Union out of title proposal which this Panel has modified as follows:

Any officer who is required by the Chief and/or Deputy Chief of Police to assume the duties of a higher grade position will receive the regular salary of the higher grade for the entire time he is required to assume those duties.

There is currently no out of title provision in the Contract. This Panel determines that it is reasonable to compensate a police officer at the higher rate of pay if the officer is required by the Chief of Police to assume the duties and responsibilities of a

higher position. This provision can have little or no cost effect on the Town because assignments are within the control of the Chief of Police.

  
THOMAS N. RINALDO, ESQ., PANEL CHAIRMAN

  
ROBERT A. MOORE, ESQ. - PUBLIC EMPLOYER MEMBER  
(~~CONCUR~~ - DISSENT)

  
THOMAS J. JORDAN, ESQ., EMPLOYEE ORGANIZATION  
MEMBER (CONCUR - DISSENT)

STATE OF NEW YORK )  
COUNTY OF ERIE ) SS.:  
CITY OF BUFFALO )

I, THOMAS N. RINALDO, do hereby affirm upon my oath as Panel Chairman that I am the individual described in and who executed the within Arbitration Award on 5/11, 1993.

  
THOMAS N. RINALDO, ESQ., PANEL CHAIRMAN

STATE OF NEW YORK )  
COUNTY OF Schenectady ) SS.:

I, ROBERT A. MOORE, do hereby affirm upon my oath as Public Employer Member that I am the individual described in and who executed the within Arbitration Award on May 5, 1993.

Robert A. Moore  
ROBERT A. MOORE, ESQ., PUBLIC EMPLOYER MEMBER

STATE OF NEW YORK )  
COUNTY OF Albany ) SS.:

I, THOMAS J. JORDAN, do hereby affirm upon my oath as Employee Organization Member that I am the individual described in and who executed the within Arbitration Award on 27<sup>th</sup> of April, 1993.

Thomas J. Jordan  
THOMAS J. JORDAN, ESQ., EMPLOYEE ORGANIZATION MEMBER

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of Compulsory Interest  
Arbitration Between

THE GLENVILLE POLICE BENEVOLENT  
ASSOCIATION,

Employer Organization,

and

THE TOWN OF GLENVILLE, NEW YORK,

Public Employer.

DISSENTING OPINION

PERB CASE NOS.  
IA92-034 & M92-388

Pursuant to the Compulsory Interest Arbitration  
Provisions of the Civil Service Law, Section 209.4

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DISSENT BY ROBERT A. MOORE, ESQ., PUBLIC EMPLOYER MEMBER OF  
THE ARBITRATION PANEL:

I do not agree with the majority members of this arbitration panel.

The majority determined that the Towns of Niskayuna and Rotterdam are fair comparisons as "comparable communities" citing that they have similar demographic, income and property wealth characteristics with the Town of Glenville. The majority did not consider the Towns of Guilderland and Bethlehem in Albany County, which the employer urged were better comparable communities than were the Towns of Niskayuna and Rotterdam. The majority opinion states only that the Towns of Guilderland and Bethlehem are located in Albany County, "a substantially different taxing base than Schenectady County".

Section 209 of the Subdivision 4(c)(v)(a) mandates that the arbitration panel take into consideration a comparison of the ages, hours and conditions of employment of the employees involved in the arbitration proceeding with the ages, hours and conditions of employment of other employees ... in comparable communities. The law does not limit the comparison to comparable communities

within the same county. It is my opinion that the majority have failed to adequately and properly address the statutory criteria by limiting its comparison of comparable communities to the same county.

The majority found the Towns of Guilderland and Bethlehem to be similar in many characteristics with the Town of Glenville.<sup>1</sup> The majority, however, did not consider those towns, because they were located in Albany County, "a substantially different taxing base than Schenectady County". The phrase "a substantially different taxing base" makes no sense to me in this context. The main source of revenue for any municipality is its real property tax. The real property tax is based solely upon the real property within the boundaries of the municipality. Every municipality or community, therefore, has a different taxing base from every other municipality. To follow the majority opinions finding to its logical conclusion, there would be no community in the State of New York which is comparable as every community has a different taxing base.

The employer provided to the panel in Town Exhibits 1, 2, 3 and 4 evidence concerning the characteristics of the Towns of Glenville, Niskayuna, Rotterdam, Guilderland, Bethlehem and the Village of Scotia (within the Town of Glenville).

In my opinion, the comparable town that is closest to the Town of Glenville in terms of median household income, median housing value that is owner occupied and the per cent of the population that is over the age of fifty-five is the Town of Rotterdam<sup>2</sup> I believe, however, that Rotterdam should be excluded from consideration as a community comparable to the Town of Glenville because its real property, the base that provides the source for most of its revenue, is used and assessed in a substantially different manner than the use and assessment of real property in any of the nearby communities. As can be seen in Town Exhibit 4, over

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<sup>1</sup>Page 18 of Opinion and Award

<sup>2</sup>Town Exhibit 1 (Appendix 1 attached hereto)

one-half of its taxable land value is commercial or industrial. Less than one-half of its taxable land value is residential. In contrast, over eighty-one per cent of the Town of Glenville's taxable land value is in 1, 2 or 3 family residential property.

Excluding the Town of Rotterdam because of its "substantially different taxing base", the communities which are closest in comparison to the Town of Glenville are Guilderland and Bethlehem. I exclude the Town of Niskayuna, the town the majority adopts as the base comparison, because of its substantially greater wealth. The comparative data cited by the majority<sup>3</sup> and submitted by the union shows Niskayuna having more per capita income, more family income, more household income, greater growth in market value of taxable property, greater market value of taxable property per resident, and a higher average single family new home price than any of the other communities offered by the union as comparable. In all categories, the Town of Niskayuna is substantially wealthier than the Town of Glenville.

Finding that the Towns of Guilderland and Bethlehem are better comparable communities to the Town of Glenville than the Town of Niskayuna, a review of the pay of police officers in those towns show that the Town of Glenville police officers are paid a comparable or greater amount at present.<sup>4</sup> Since the union members are already in a more favorable position than those of the comparable communities of Guilderland and Bethlehem, there is no need for this panel to award any increased sum to the union members for "make up" purposes.

The question then becomes one of what, if any, raise should the union members receive. In my opinion, there is no justification for a raise greater than the cost of living increase for 1992 of three per cent<sup>5</sup>.

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<sup>3</sup>Page 8 and 9 of Opinion and Award

<sup>4</sup>Pages 16 and 17 of Opinion and Award

<sup>5</sup>Page 17 of Opinion and Award

The Town of Glenville town board has the authority to raise taxes and make it police officers the highest paid officers in the state. Having the authority and using it responsibly is the issue. As responsible stewards of its authority to raise taxes from the residents of the Town of Glenville, over twenty-eight per cent of which are over the age of fifty-five years, the Town Board could not agree to the union demands during contract negotiations. I cannot agree to the award made by the majority of this panel,

Signed this 5<sup>th</sup> day of May, 1993, in Scotia, New York.



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Robert A. Moore  
Public Employer Panel Member

Appendix 1

**COMPARISON OF COMMUNITIES  
1990 CENSUS**

	Square Miles	Population	Number of Households	Median Household Income	Median Housing Value (Owner occupied)	% Population over 55
<b>Glenville</b>	50	21,412	7,725	\$38,164	\$ 96,800	28.96%
<b>Niskayuna</b>	13.9	19,048	7,076	\$51,063	\$137,400	25.83%
<b>Rotterdam</b>	36.3	28,395	11,044	\$34,215	\$ 91,200	29.09%
<b>Scotia</b>	1.75	7,359	3,026	\$32,135	\$ 84,100	24.31%
<b>Guilderland</b>	54	28,764	11,450	\$42,519	\$122,600	21.47%
<b>Bethlehem</b>	80	27,552	10,341	\$47,572	\$134,800	23.37%