

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the Interest Arbitration

between

THE TOWN OF POUGHKEEPSIE

"Town"

-and-

THE TOWN OF POUGHKEEPSIE POLICE BENEVOLENT
ASSOCIATION, INC.

"Union"

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IA94-002
Case No. M93-424

APPEARANCES

For the Town

ANDERSON, BANKS, CURRAN & DONOGHUE
John Donoghue, Esq.

For the Union

GLEASON, DUNN, WALSH & O'SHEA
Karen L. Kimball, Esq.

BEFORE: Thomas D. Mahar, Jr., Employer Panel Member
Ronald G. Dunn, Esq., Employee Panel Member
Martin F. Scheinman, Esq., Public Panel Member

BACKGROUND

These parties are covered by the terms of an Agreement which expired on June 30, 1993. Sometime prior thereto, they entered into negotiations for a successor Agreement. These negotiations proved unsuccessful.

The Union filed a Declaration of Impasse with the State of New York Public Employment Relations Board ("PERB"), pursuant to Section 209(4) of the Civil Service Law. Pursuant to the rules of PERB, a Panel was designated to hear and resolve the dispute.

A meeting was held on April 14, 1994 at which time Mr. Scheinman attempted to mediate the dispute. This proved unsuccessful. Thereafter, a hearing was held on July 13, 1994.¹ At that hearing, both parties introduced evidence and argument in support of their respective positions. Each side presented voluminous documentation regarding the relevant criteria under the Taylor Law. Thomas D. Mahar, Jr., served as the Employer Panel Member. Ronald G. Dunn, Esq., served as the Employee Panel Member. Martin F. Scheinman, Esq., served as the Public Panel Member.

Thereafter, the parties submitted post hearing briefs. Subsequent to the filing of post hearing briefs, the parties also presented further documentation in support of their positions. Upon our receipt of same, the record was declared closed.

Thereafter, the Panel met in Executive Session. An additional

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At the hearing, the parties agreed that the Panel was authorized to issue an Award of up to four (4) years in length.

Executive Session was held by teleconference on November 28, 1994.

OPEN ISSUES

UNION'S PROPOSALS

1. SALARIES

Across the board increases of five percent (5%) each six months during the term of the Agreement.

2. LONGEVITY

Effective July 1, 1993, longevity increments shall be added to all members' salaries in accordance with the following schedule:

<u># of years</u>	<u>7/1/93</u>	<u>1/1/94</u>	<u>1/1/95</u>
5-8 years	\$280/annum	\$300/annum	\$320/annum
9-14 years	\$400/annum	\$420/annum	\$440/annum
15-19 years	\$650/annum	\$675/annum	\$700/annum
20+ years	\$1080/annum	\$1105/annum	\$1130/annum
Total maximum longevity increment	\$2410/annum	\$2500/annum	\$2590/annum

3. DETECTIVE INCREMENT

An increase in the annual detective increment from \$1300.00 to \$2000.00.

4. ON CALL PAY

An increase in on call pay as follows:

Detective Sergeant \$100.00
Traffic Enforcement Officers \$125.00
Detectives \$150.00

5. SICK LEAVE BANK

The Union proposes the creation of a sick leave bank as follows:

ARTICLE 7

LEAVE PROVISIONS

Section 3. SICK LEAVE BANK

Unit members may contribute two (2) days from their sick leave accumulation reserve at the beginning of each year. These days will be placed in a "sick leave bank" which shall be established to aid unit members who suffer prolonged non-duty -related illness and whose sick leave accumulation has been exhausted. This sick leave bank shall accumulate to a maximum total of 500 days.

A unit member with three (3) years or less in the unit shall be permitted to draw up to forty (40) days against the bank after the member's own accumulation has been exhausted.

A unit member with more than three (3) years of service in the unit shall be permitted to draw up to ninety (90) days against the bank after the member's own accumulation has been exhausted. Only unit members who have contributed to the sick leave bank shall be entitled to draw therefrom.

6. LINE OF DUTY DEATH

The Union proposes a new benefit:

The Town will pay all customary and usual funeral expenses for any employee killed in the line of duty.

7. COMPENSATORY TIME

The Union proposes the following language:

(e) Compensatory Time Off in lieu of Payment of Overtime:

The employee may elect to take time off duty in lieu of payment for overtime worked. Compensatory time off shall be at the rate of one and one-half hours off for each hour of overtime worked. The election to take compensatory time off will be made in writing on forms

prescribed by the Town. In the absence of any such election, the overtime work will be paid for at the regular overtime rate. Requests for compensatory time off shall be granted in the order that they are received. In the event that more than one request is received at the same time, seniority shall govern. Requests for compensatory time off shall be made not more than 30 days in advance. An employee may accumulate up to 480 hours of compensatory time off in lieu of overtime. All accumulated compensatory time shall be paid upon an employee's leaving employment at his/her salary rate at the time of termination or retirement.

TOWN'S PROPOSALS

1. SALARIES

Salary provisions are to be revamped with proviso that there shall be no pay raises or step advancement for 1992, 1993 or 1994 and that the language authorizing a double payment within a year shall be eliminated so that when there would be a step it would be paid on the anniversary, as with any annual raise, but for the current agreement there shall be a freeze.

2. LONGEVITY

The dollar amount shall remain at the current level and longevity payments shall be made in accordance with the schedule therein.

3. OVERTIME

There must be a cap imposed on compensatory time and the Town proposes a cap of 18 hours, all other provisions of compensatory time remaining the same.

POSITIONS OF THE PARTIES

UNION PROPOSALS

1. SALARY

The Union initially proposed wage increases of five percent (5%) for each of the six (6) months during the term of the Agreement. Specifically, five percent (5%) on July 1, 1993, five percent (5%) on January 1, 1994, five percent (5%) on July 1, 1994, five percent (5%) on January 1, 1995, five percent (5%) on July 1, 1995 and five percent (5%) on January 1, 1996. It submits that these wage increases are appropriate, in light of the salaries in comparable jurisdictions.

The Union submits that Poughkeepsie's Police Department is unlike any other department in Dutchess County with the possible exceptions of the City of Poughkeepsie and the City of Beacon. It argues that no other police force in Dutchess County services a population even remotely comparable to the Town of Poughkeepsie's population. No other town or municipality in Dutchess County is in the financial condition which the Town is in. Therefore, the Union maintains that the Town of Poughkeepsie must also be compared with police jurisdictions outside of Dutchess County.

As to those jurisdictions outside of Dutchess County, the Union claims that it has selected jurisdictions that are close in proximity and similar in the size of the police force and resident population. Thus, it has limited the comparable communities to those counties which abut Dutchess County. Therefore, the Union

refers to the following police departments as comparables in support of its wage proposal:

<u>Agency</u>	<u>County</u>	<u>Population</u>	<u>Force Size</u>
Orangetown	Orange	34,617	81
City of Newburgh	Orange	26,454	72
City of Beacon	Dutchess	13,243	36
Town of Greenburgh	Westchester	83,816	102
Town of Clarkstown	Rockland	79,346	145
City of Poughkeepsie	Dutchess	28,844	84
Town of Poughkeepsie	Dutchess	40,143	76

The Union points out that the Town agrees with its comparison to the Cities of Poughkeepsie, Beacon and Newburgh. The Town has also used these jurisdictions. However, the Union disagrees with the Town's use of the communities of Town of Hyde Park, Town of East Fishkill, Town of Putnam Valley, Town of Kent and the Town of Newburgh as comparables. The Union contends that each of these communities is significantly smaller in population than Poughkeepsie.

In addition, the Union argues that the Town inappropriately refers to police departments in the Counties of Monroe, Erie, Suffolk and Onondaga. It contends that each of these Counties are hundreds of miles from Dutchess, have totally different economic conditions, populations and police force size. For these reasons, it submits that it has chosen a fairer selection of comparable

communities.

The Union submits that a review of the salary ranges among its comparables reveals the following:

POLICE OFFICER SALARIES

	<u>Starting</u>	<u>Top</u>
Town of Poughkeepsie	\$22,422.00	\$43,400.00
City of Poughkeepsie	\$29,263.00	\$37,236.00
Newburgh	\$26,157.00	\$38,237.00
Beacon	\$29,213.00	\$40,613.00
Greenburgh	\$29,302.00	\$47,534.00
Clarkstown	\$34,141.00	\$60,482.00
Orangetown	\$36,475.00	\$54,800.00

SERGEANT SALARIES

	<u>Starting</u>	<u>Top</u>
Town of Poughkeepsie	\$43,390.00	\$47,838.00
City of Poughkeepsie	N/A	\$40,960.00
Newburgh	N/A	N/A
Beacon	\$43,355.00	\$43,980.00
Greenburgh	\$51,528.00	\$54,666.00
Clarkstown	\$69,554.00	\$74,090.00
Orangetown	\$63,020.00	\$66,857

LIEUTENANT SALARIES

	<u>Starting</u>	<u>Top</u>
Town of Poughkeepsie	\$47,043.00	\$51,865.00
City of Poughkeepsie	\$41,161.00	\$45,056.00
Newburgh	\$40,047.00	\$44,191.00
Beacon	\$45,922.00	\$46,566.00
Greenburgh	\$58,248.00	\$61,795.00
Clarkstown	\$79,987.00	\$84,523.00
Orangetown	\$72,473.00	\$76,310.00

The Union submits that while its initial position of a five percent (5%) increase every six (6) months during the term of the Agreement may be unrealistic, that proposal would have resulted in the salaries of its members falling in the middle range of comparable communities.

Yet, in light of the trend in interest arbitration awards throughout New York, which range from three percent (3%) to five percent (5%) per year, the Union modified its previous salary proposal, which is justified in the above referenced charts, to an across-the-board increase of five percent (5%) per year. In its view, this increase will adequately compensate its members, while falling within the range afforded other comparable communities. That proposal is also within the Town's ability to pay.

As to the criteria regarding the ability to pay, the Union disputes the Town's argument that it cannot afford to pay its Officers any increase. In its view, this argument is not supported by any evidence.

Instead, the Union maintains that its financial analysis of the financial picture of the Town concludes that the Town has been able to maintain a positive fund balance and increased its accumulated fund balance in 1993. In support of its position, the Union relies on the Report of its financial expert, Edward J. Fennell (Union Exhibit No. 4). Fennell's Report indicates that Poughkeepsie has an overall real property tax rate which is in the mid-range when compared with other New York State towns of similar size. The tax rates in the following table reflect the Town rate combined with County and school taxes:

OVERALL REAL PROPERTY TAXES

PER \$1,000 FULL VALUE

FISCAL YEAR 1993

<u>New York State Towns of Similar Size</u>	<u>Range Town, County and School</u>
Cortlandt	23.83 - 28.39
Henrietta	21.52 - 24.86
Mount Pleasant	11.28 - 22.41
Orangetown	21.37 - 28.12
Perinton	24.52 - 27.06
Poughkeepsie	20.62 - 23.21
Rye	7.30 - 11.69
Salina	22.10 - 29.15
Southampton	6.30 - 18.79
West Seneca	32.25 - 35.03

The Union also points out that the Town has a number of sources of funds that are available to fund these proposed wage increases. According to the Union, those sources include explicit

appropriations and unappropriated surplus.

As to explicit appropriations, the Union notes that a comparison of the 1992 and 1993 "Actual Police Department Personal Services Account" with the identical appropriation for 1994 reveals that the account is projected to remain relatively stable (Fennell Report, page 11). In 1991, the figure was \$3,817,823, while in 1993 it was \$4,014,841, a 5.2% increase from 1992. The 1994 budget is for \$4,026,932, a 0.3% increase from 1993.

As to unappropriated surplus, the Union contends that, according to the Town's financial statements, it had an unappropriated surplus of \$1,739,946, as of December 31, 1993.

Thus, in the Union's view, an analysis of these figures reveals that the Town has a number of sources available to fund the proposed increases in salaries for its Officers.

The Union also contends that the financial condition of the Town is quite good as reflected in the most recent financial report as of December 31, 1993. The balance of the General Fund was \$1,852,567.

In addition, the Union maintains that for fiscal year 1993, actual revenues were \$813,172 greater than the budgeted amount. While taxes raised \$176,000 less than was anticipated, this is more than offset by expenses being \$194,125 under budget. These results, it argues, combined to produce an actual ending fund equity balance which was \$831,297 greater than the budgeted ending fund equity balance.

In all, the Union insists that the Town's financial condition

at this time is able to manage the wage increases that it seeks here.

In addition, the Union points out that the Town's unemployment rate is much lower than that in the County and of the State (Union Exhibit No. 7, page 13). Those figures are as follows:

Unemployment Rate Statistics

<u>Averages</u>	<u>Poughkeepsie</u>	<u>Dutchess County</u>	<u>NY State</u>
1987	2.2%	2.6%	4.9%
1988	2.2%	2.8%	4.2%
1989	2.4%	3.3%	5.1%
1990	2.5%	3.0%	5.2%
1991	4.1%	5.1%	7.2%
1992	5.1%	6.4%	8.5%
1993 (5 months)	4.4%	6.9%	8.0%

This demonstrates that the Town's residents can afford a salary adjustment well beyond that paid by other communities. Therefore, it alleges that its proposal is the most appropriate.

Finally, the Union points out that the per capita income of the Town's residents is also higher than that of both the County and the State as a whole (Union Exhibit No. 7, page 14). Those figures are as follows:

PER CAPITA FAMILY INCOME

Town **\$18,472**

County **\$17,420**
State **\$16,501**

In sum, the Union submits that the evidence indicates that the Town is in excellent financial condition and can afford the wage proposal that it has set forth.

Accordingly, and for the foregoing reasons, the Union asks that its proposed wage increases be granted.

The Town, on the other hand, asserts that the Union's proposal is excessive. It insists that its Officers are already fairly compensated. In addition, the Town maintains that it does not have the ability to pay any salary increases for the term of the Agreement.

The Town sets forth extensive arguments in support of its position on wages. These arguments are detailed in the section entitled "Town Proposals - No. 1 - Salaries" on pages 28-43.

2. LONGEVITY PAY

The Union requests increases in the longevity increments as follows:

<u># of years</u>	<u>7/1/93</u>	<u>1/1/94</u>	<u>1/1/95</u>
5-8 years	\$280/annum	\$300/annum	\$320/annum
9-14 years	\$400/annum	\$420/annum	\$440/annum
15-19 years	\$650/annum	\$675/annum	\$700/annum
20+ years	\$1080/annum	\$1105/annum	\$1130/annum
Total maximum longevity			

increment \$2410/annum \$2500/annum \$2590/annum

The Union contends that its members lag behind that of officers in comparable communities regarding longevity pay (Union Exhibit No. 1, Tab 2). In support of its position, the Union refers to those departments:

	<u>Number of Years</u>						
	<u>3</u>	<u>5</u>	<u>7</u>	<u>9</u>	<u>10</u>	<u>12</u>	<u>15</u>
Town of Poughkeepsie	N/A	N/A	N/A	280	N/A	N/A	700
City of Poughkeepsie	N/A	N/A	450	N/A	900	N/A	1350
Newburgh	N/A	N/A	350	N/A	900	N/A	1350
Beacon	N/A	N/A	500	N/A	1000	N/A	1350
Greenburgh	N/A	N/A	400	N/A	550	N/A	725
Clarkstown	450	N/A	600	600	N/A	600	750
Orangetown	N/A	N/A	625	N/A	1250	1875	N/A
	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>	<u>20</u>	<u>21</u>	<u>24</u>
Town of Poughkeepsie	N/A	N/A	N/A	N/A	1750	N/A	N/A
City of Poughkeepsie	N/A	1750	N/A	N/A	N/A	N/A	N/A
Newburgh	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Beacon	N/A	2000	N/A	N/A	N/A	N/A	N/A
Greenburgh	N/A	N/A	N/A	1025	N/A	N/A	N/A
Clarkstown	N/A	N/A	750	N/A	N/A	750	750
Orangetown	2500	N/A	N/A	3125	N/A	3750	4375

In all, the Union submits that the longevity increases that it

seeks are warranted in view of the analysis of longevity payments received by Officers in comparable jurisdictions.

Therefore, the Union asks that its proposal for an increase in the longevity payment be granted.

The Town, on the other hand, maintains that while its Officers do not receive the largest longevity payments among those similarly situated jurisdictions which the Union refers to, the sums are comparable to those amounts received by Officers in other jurisdictions ("Town Exhibit T4"). Those figures are as follows:

	<u>Number of Years</u>								
	<u>5</u>	<u>7</u>	<u>9</u>	<u>10</u>	<u>12</u>	<u>15</u>	<u>17</u>	<u>18</u>	<u>20</u>
Town of Poughkeepsie	N/A	N/A	280	N/A	N/A	800	N/A	N/A	1750
Town of Hyde Park	N/A	N/A	N/A	250	N/A	450	N/A	N/A	800
Town of East Fishkill	N/A	700	N/A	N/A	1200	N/A	N/A	N/A	N/A
Town of Putnam Valley	550	N/A	N/A	1250	N/A	1800	N/A	N/A	N/A
Town of Kent	400	600	800	900	1100	1400	1600	1700	1900
Town of Newburgh	350	N/A	N/A	500	N/A	1050	N/A	N/A	1250
City of Poughkeepsie	N/A	450	N/A	900	N/A	1350	N/A	1750	N/A
City of Newburgh	N/A	350	N/A	850	N/A	1350	N/A	N/A	N/A
City of Beacon	N/A	500	N/A	1000	N/A	1500	2000	N/A	N/A

In addition, the Town points out that when these longevity

payments are added to the salaries earned, its Officers still receive the highest compensation package among all Officers in similarly situated jurisdictions. As such, it argues that there is no justification for an increase in the longevity payments currently received by its Officers.

In all, the Town asks that the Union's proposal regarding an increase in the longevity payments not be granted.

3. DETECTIVE INCREMENT

In addition to the wage proposal for all members of the bargaining unit, the Union requests that all Detectives receive an annual increment of two thousand dollars (\$2000.00). It argues that the current Agreement provides for an increment of one thousand three hundred dollars (\$1300.00). In its view, an increase to two thousand dollars (\$2000.00) is warranted. This is especially so in light of the Detective salaries in comparable jurisdictions (Union Brief at page 11). Those salaries are as follows:

	<u>Starting</u>	<u>Top</u>	<u>Increment</u>
Town of Poughkeepsie	\$39,364	\$43,340	\$1300
City of Poughkeepsie	\$39,098	\$40,145	N/A
Newburgh	\$48,815	\$40,601	815
Beacon	\$42,043	\$47,861	1295 to 2041
Greenburgh	\$52,289	\$84,523	4536

Clarkstown	\$65,018	\$84,523	7.5%
Orangetown	\$58,636	\$76,310	7.0%

The Union submits that since it lags behind all comparable communities on this benefit, an increase is justified. It asks that this proposal be granted.

The Town submits that the current Detective pay increment of one thousand three hundred dollars (\$1300.00) is adequate. It submits that given the financial restraints in place at this time, the Union's proposal should be rejected.

4. ON CALL PAY

The Union seeks to amend on call pay as follows. For a Detective Sergeant, an increase from fifty dollars (\$50.00) to one hundred dollars (\$100.00); for Traffic Enforcement Officers an increase from seventy five dollars (\$75.00) to one hundred and twenty five dollars (\$125.00) and for Detectives an increase from one hundred dollars (\$100.00) to one hundred and fifty dollars (\$150.00).

The Union argues that on call pay was first awarded pursuant to an arbitration award. However, since there has been no increase since 1989, it maintains that an increase is warranted at this time. The Union asks that this proposal regarding an increase in on call pay be granted.

The Town argues that the Union's proposal to increase on call pay is unjustified. It maintains that the Union has not presented

any evidence to indicate that Officers in comparable police departments are receiving on call pay in the amounts that it is proposing here. Therefore, the Town asks that the Union's proposal for increases in on call pay be rejected.

5. SICK LEAVE BANK

The Union seeks the creation of a sick leave bank. It proposes the following language:

Unit members may contribute two (2) days from their sick leave accumulation reserve at the beginning of each year. These days will be placed in a "sick leave bank" which shall be established to aid unit members who suffer prolonged non-duty -related illness and whose sick leave accumulation has been exhausted. This sick leave bank shall accumulate to a maximum total of 500 days.

A unit member with three (3) years or less in the unit shall be permitted to draw up to forty (40) days against the bank after the member's own accumulation has been exhausted.

A unit member with more than three (3) years of service in the unit shall be permitted to draw up to ninety (90) days against the bank after the member's own accumulation has been exhausted. Only unit members who have contributed to the sick leave bank shall be entitled to draw therefrom.

The Union submits that its proposal is justified. It argues that numerous other jurisdictions enjoy this benefit as reflected in a May 12, 1993 membership report of the Police Conference of New York. The police departments in Districts 4 through 9 that have a sick leave bank are as follows:

Agency

City of Poughkeepsie Police Department
City of Rye
Metro-North Police Department
Town of Clarkstown Police Department
Town of Cortlandt Police Department
Town of New Castle Police Department
Town of North Castle Police Department
Hastings on Hudson Police Department
Scarsdale Police Department
City of Newburgh Police Department
Port Jervis Police Department
Fallsburg Police Department
Cohoes Police Department
Watervliet Police Department
Town of Coeymans Police Department
Catskill Police Department
Green Island Police Department
Menands Police Department
Schoharie Police Department
Village of Cobleskill Police Department
Glens Falls Police Department
Saratoga Springs Police Department
Montgomery County Police Department
Glenville Police Department
North Greenbush Police Department
South Glens Falls Police Department
Clayton Police Department
City of Sherrill Police Department
Fulton County Sheriff's Department
Ilion Police Department
Village of Frankfort Police Department

The Union also notes that there is no financial impact upon the Town if this proposal were to be granted. It points out that while the Officer still earns the same number of sick leave days, the only difference is that the days are being put aside into a bank. Accordingly, and for these reasons, the Union asks that its proposal regarding the creation of a sick leave bank be granted.

The Town opposes the Union's proposal for the creation of a sick leave bank for several reasons. Initially, it maintains that the Union's chart on the comparability of other jurisdictions' sick banks is misleading. The Town points out that the Union's chart

lists seventy two (72) jurisdictions, thirty one (31) of which have sick leave banks. In the geographic pool supplied by the Union, only forty three percent (43%) of the comparable jurisdictions have sick leave banks. However, the Town submits that it is important to recognize that the Union's idea of comparable jurisdictions includes police departments such as Watervliet, Coeymans, Green Island and Menands within Albany County, the Fallsburgh Police Department in Sullivan County, the Sherrill Police Department in Oneida County, the North Greenbush Police Department in Renssalaer, the Clayton Police Department in Jefferson County, the Grenville Police Department in Schenectady, the Schoharie and Cobleskill Police Departments in Schoharie County, the Glens Falls Police Department in Warren County, the South Glens Falls and Saratoga Springs Police Departments in Saratoga County, and the Fulton County Sheriff's Department in Fulton County. The Town argues that instead of comparing sick bank benefits in geographically related jurisdictions, the Union compares its sick bank proposal to the sick banks in jurisdictions several hundred miles away.

The Town further notes that while the Union compares its sick leave proposal with jurisdictions as far as Albany and Sullivan Counties, the Union fails to make any kind of comparison between the salaries in the Town and the jurisdictions presented in the sick bank comparison.

Second, the Town argues that the Union's proposal provides for the use of the sick bank for "non-duty related illness". It points out that generally, the concept behind sick banks is to afford an

employee who suffers a catastrophic, long term illness with additional leave should he or she exhaust his or her current and accumulated sick leave benefit. In the Town's view, the term "non-duty related illness" is more expansive than catastrophic illness and could result in attempts to use the sick bank when not warranted.

Third, as testified to on July 13, 1994, by Town Board Member and Chairman of the Negotiating Committee Mike Dunagan, the Union's proposal was briefly brought up at only one negotiation session. At that session, the Town's position was that if a sick leave bank were to be negotiated into the parties' collective bargaining agreement, it would have to provide that, not only sick leave benefits, but also vacation, compensation time and personal leave benefits, would have to be exhausted before applications for withdrawals from the sick leave bank would be considered. Also, it submits that the sick leave contributed to the bank would have to be paid at the salary rate, then in existence, even if it were to be used at a later date.

Finally, the Town argues that the Union's proposal makes no reference as to how the sick leave bank would be administered. It submits that there has been no substantive proposal as to the procedure for applying for and approval of sick bank withdrawals. The Town also argues that the Union's proposal does not address the resolution of disputes that might arise from the allocation of sick leave.

Accordingly, and for the foregoing reasons, the Town asks that

the Union's proposal regarding the creation of a sick leave bank be rejected.

6. LINE OF DUTY DEATH BENEFIT

The Union proposes a line of duty death benefit with the following language:

The Town will pay all customary and usual funeral expenses for any employee killed in the line of duty.

The Union submits that the genesis for this benefit was the recent death of a Dutchess County Deputy Sheriff who was struck and killed by a car when he was answering a call (Union Exhibit No. 5). It argues that the family of a deceased Officer should not be responsible for the costs incurred if the death was in the line of duty.

The Union points out that other jurisdictions provide for payment of the costs incurred for a funeral. Specifically, it refers to the City of Poughkeepsie which has a bank of five thousand dollars (\$5,000) for funeral expenses and the City of Beacon which pays for all funeral expenses (Union Exhibit No. 5). In its view, the Town should be responsible for all of the costs incurred for the funeral of an Officer killed in the line of duty.

The Town argues that the Union's proposal for the payment of all customary and usual funeral expenses for any employee killed in the line of duty is unjustified since Section 16 of the Workers' Compensation Law expressly provides for coverage of funeral expenses for death in the performance of job duties.

The Town submits that under Section 16, the Chairman of the Workers' Compensation Board is obligated to prepare a schedule for maximum charges and fees for funeral expenses after consultation with the President of the New York State Funeral Directors Association. It points out that employers or their workers' compensation insurance carriers are responsible for paying actual funeral expenses up to the maximum established by the schedule. The Statute states that funeral expenses shall be awarded in all cases where the injury sustained in the course of employment causes death. The only exception to the schedule of maximum charges and fees acting as a ceiling on funeral expenses is for firefighters killed in the line of duty, provided such funeral expenses are reasonable. The Statute, however, does not provide a similar exception for police officers.

Accordingly, and for the foregoing reasons, the Town submits that the Union's proposal that the Town pay for all customary and usual funeral expenses for any member killed in the line of duty should be rejected.

7. COMPENSATORY TIME

The Union proposes that the following language to be added to Section 7 of the Agreement:

(e) Compensatory Time Off in lieu of Payment of Overtime:

The employee may elect to take time off duty in lieu of payment for overtime worked. Compensatory time off shall be at the rate of one and one-half hours off for each hour of overtime worked. The election to take

compensatory time off will be made in writing on forms prescribed by the Town. In the absence of any such election, the overtime work will be paid for at the regular overtime rate. Requests for compensatory time off shall be granted in the order that they are received. In the event that more than one request is received at the same time, seniority shall govern. Requests for compensatory time off shall be made not more than 30 days in advance. An employee may accumulate up to 480 hours of compensatory time off in lieu of overtime. All accumulated compensatory time shall be paid upon an employee's leaving employment at his/her salary rate at the time of termination or retirement.

The Union points out that under the Fair Labor Standards Act ("FLSA"), a municipality may allow an employee to accumulate compensatory time off rather than pay overtime for hours worked in excess of his or her regular shifts. It maintains that the only limits are that the employee must earn compensatory time at the rate of at least one and one half hours for each hour of overtime, the employee may only accumulate a total of four hundred and eighty hours (480) hours. The Union also points out that the choice of being paid for the overtime or accumulating compensatory time must remain with the employee.

The Union argues that its proposal contains each of those elements. It contends that its proposal is completely consistent with the FLSA and does nothing more than put the existing practice into the Agreement.

The Union submits that the Town wants to limit the maximum amount of compensatory time that an Officer may accumulate to eighteen (18) hours. In its view, this request by the Town should be rejected for two (2) reasons. First, the Union points out that this same issue was submitted to Arbitrator Lawrence Hammer in a

contract grievance. The Union filed that grievance when the Town imposed a cap on the maximum number of hours an Officer could accumulate at sixteen (16) hours. Arbitrator Hammer held that the Town's actions were a violation of the parties' past practice clause (Union Exhibit No. 3).

Second, the Union argues that the Town's proposal does not make sound financial sense. It submits that the Town has argued that it needs to defer expenses because of its current financial condition. The Union argues that if that is true, then it makes little sense to impose a cap on the time an Officer may accumulate for compensatory leave and replace it instead with a requirement that the Town make cash overtime payments now. The Union submits that it is far more prudent to limit the period of time which an employee may take compensatory leave to those periods when the Town already has the minimum staff in place. In its view, the Officer is satisfied because he or she can take time off, the Department has adequate staff without calling in replacements to work overtime and the Town avoids an out-of-pocket cash disbursement by avoiding paying the Officer for overtime and avoiding calling in an Officer to replace the absent Officer.

Accordingly, and for the foregoing reasons, the Union asks that its proposal regarding compensatory time be granted and that the Town's proposal regarding a limit of eighteen (18) hours be rejected.

The Town objects to the Union's proposal that an Officer be provided with the option to take compensatory time off in lieu of

receiving overtime payment, and that, if he or she elects to take compensatory time off, it shall be given at the rate of one and one half hours off for each hour of overtime worked, up to a maximum of four hundred and eighty (480) hours.

Instead, the Town proposes that a cap be established on the accumulation of compensatory time for its Officers at sixteen (16) or eighteen (18) hours. Any overtime earned after the accumulation of the sixteen (16) or eighteen (18) hours would be paid in cash (Town Exhibit No. T2).

The Town submits that if the Panel should include the proposal for compensatory time, as requested by the Union, then the proposal should be modified to condition approval of requests for use of compensatory time by its Officers upon a determination that the use would not unduly disrupt the police operations of the Town. It points out that this limitation is expressly provided for under the Fair Labor Standards Act.

In addition, the Town argues that the Union's proposal should be modified to provide that if an employee is to be paid compensation for accrued compensatory time off, such compensation shall be paid at the regular rate earned by the employee at the time the employee receives such payment, as authorized by Statute.

TOWN'S PROPOSALS

1. Salaries

The Town contends that the salaries of its Officers should be maintained at current levels throughout the term of the Agreement. The Town points out that during the term of the prior Agreement, Officers received a four percent (4%) increase in 1991, a five percent (5%) increase in 1992 and a five percent (5%) increase in 1993. As of January 1, 1993, the base salary range for Officers ranged from \$32,960.37 to \$51,865.17 for Lieutenants.

The Town submits that its Officers currently receive salaries which are competitive with those given in similarly situated jurisdictions. It argues that the geographically related jurisdictions are the Towns of Hyde Park, East Fishkill, Putnam Valley and Kent, and the Cities of Poughkeepsie, Newburgh and Beacon.

In the Town of Hyde Park, as of January 1, 1992, base salaries for Officers ranged from \$23,328.00 for starting Officers to \$35,890.48 for Lieutenants with at least five (5) years of service. A successor agreement has not been negotiated or ratified and the salary scale as of January 1, 1992 continues in place.

In the Town of East Fishkill, as of July 1, 1993, base salaries for Officers ranged from \$26,724.72 to \$37,463.43, depending on years of service. On June 13, 1994, the parties reached an Agreement for the period of January 1, 1994 through December 31, 1996. That Agreement provides for a three percent

(3%) increase in 1994, a three and one half percent (3.5%) increase in 1995, a two percent (2%) increase on January 1, 1996 and a two percent (2%) increase on July 1, 1996.

In the Town of Putnam Valley, the Agreement for the period January 1, 1990 through December 31, 1992 provides for base salaries for Officers ranging from \$22,348.00 to \$49,221.00 for Sergeants. The parties have not reached agreement on a successor contract.

The Agreement between the Town of Kent and the Town of Kent PBA covers the period January 1, 1991 through December 31, 1994. As of June 1, 1993, base salaries for Officers range from \$24,884.00 to \$39,498.00 depending upon years of service. As of January 1, 1994, these salary figures will be increased by the same percentage reflected in the U.S. Department of Labor Cost of Living Index for the period of December 1, 1992 through December 1, 1993 for the Metropolitan, New York, Northern New Jersey area (This shall not be less than three percent (3%) or more than six percent (6%)).

The Agreement between the Town of Newburgh and the Town of Newburgh PBA, which covers the period from January 1, 1993 through December 31, 1995, provides that as of January 1, 1995, base salaries for PBA members range from \$29,227.00 for starting Officers to \$49,292.00 for Sergeants on the maximum salary step.

The Agreement between the City of Poughkeepsie and the Poughkeepsie PBA which covers the period January 1, 1991 through December 31, 1993, provides that as of January 1, 1993, base

salaries for Officers range from \$29,263.00 for Officers to \$45,056.00 for Lieutenants. The parties have not yet reached a successor agreement.

The Agreement between the City of Newburgh and the Newburgh PBA, which covers the period January 1, 1992 through December 31, 1993, provides that as of July 1, 1993, base salaries for Officers range from \$26,157.00 for starting Officers to \$40,601.00 for second year Detectives. The parties have yet to reach a successor agreement.

The Agreement between the City of Beacon and the Beacon PBA, which covers the period January 1, 1992 through December 31, 1994, provides that as of January 1, 1994, base salaries for Officers range from \$32,208.00 for starting Officers and \$47,861.00 for Detective-Lieutenants.

In all, the Town submits that its Officers receive salaries that are more than comparable to Officers in similarly situated jurisdictions. It maintains that its Officers receive both the highest minimum and maximum salaries among those jurisdictions referred to above.

In addition, the Town notes that it has spent more on its police force salaries relative to the salaries it pays for other budget items. Over the five (5) year period from 1989-1994, the budget for police salaries has increased by forty three percent (43%). In 1989, the budgeted total cost of police salaries was \$2,448,695. In 1994, the budgeted total cost was \$3,495,761. It submits that over that same period, the portion of the Town's

budget which is generated from tax revenues has grown by only thirteen percent (13%).

In addition, the Town argues that between 1990, the year immediately prior to the last Collective Bargaining Agreement, and 1993, the last year of the Collective Bargaining Agreement, the budget for police payroll rose by 34.6%, or 11.5% per annum. Over that same period, the portion of the Town's budget generated from tax revenues increased only by seven percent (7%), or 2.3% per annum (Town Exhibit No. 3). Those figures are as follows:

TOWN'S BUDGET FOR POLICE OFFICERS (1989-1994)

Police Officer Salaries

1989	\$2,448,695
1990	\$2,626,343
1991	\$3,105,844
1992	\$3,322,645
1993	\$3,535,603
1994	\$3,495,761

Portion of Town Budget Generated from Tax Revenues

1989	\$11,892,415
1990	\$12,990,117
1991	\$13,902,717
1992	\$13,690,765
1993	\$13,899,029
1994	\$13,433,227

In addition, the Town submits that there has been a substantial increase in the budgeted cost of health, optical and life and workers' compensation insurance premiums incurred by the Town of Poughkeepsie on behalf of the Officers. In 1989, the budget for health, optical and life and workers' compensation insurance costs incurred by the Town for the Police was \$314,752, which constituted 2.6% of the portion of the Town's budget generated from tax revenues. In 1994, the total budgeted cost of such insurance skyrocketed to \$645,112, which constitutes 4.8% of the portion of the Town's budget derived from tax revenues (Town Exhibit No. 4). This is an increase of one hundred and five percent (105%) over a five (5) year period. The figures are as follows:

TOWN'S BUDGET FOR INSURANCE PREMIUMS FOR POLICE (1989-1994)

Budgeted Insurance Premiums

1989	\$314,752
1990	\$330,616
1991	\$334,066
1992	\$518,256
1993	\$607,854
1994	\$645,112

Portion of Town Budget Generated from Tax Revenues

1989	\$11,892,415
1990	\$12,990,117
1991	\$13,902,717
1992	\$13,690,765
1993	\$13,899,029
1994	\$13,433,227

Additionally, the Town asserts that another indicator of the increasing sums expended on its Officers is the growth in actual wages earned. In 1990, the average income earned by its Officers was \$41,700, while in 1993, that figure grew to \$47,857 (Town Exhibit No. 5). Those figures are reflected in the following chart:

TOWN OF POUGHKEEPSIE PBA PAYROLL (1990-1993)

Total Payroll for PBA Members

1990	\$3,023,188.62
1991	\$3,101,445.24
1992	\$3,462,460.04
1993	\$3,529,421.27

Number of PBA Members

1990	72.5
1991	73.25
1992	74
1993	73.75

Average Gross Income

1990	\$41,699.18
1991	\$42,340.55
1992	\$46,790.00
1993	\$47,856.56

The Town further points out that the growth in earnings potential for its Officers with less than five (5) years experience is even more pronounced. Specifically, it argues that in 1989 and 1990, seven (7) new Officers were hired, six (6) of whom were hired in 1990. In 1991, the first year of the last Collective Bargaining Agreement, the average income earned by those seven (7) Officers was \$34,045.00. By 1993, the average income earned by these same Officers grew to \$41,389.00 (Town Exhibit No. 6). This represented an actual growth in income of 10.8% per annum, well in excess of the five percent (5%) per annum increase according to the salary scale of the last Agreement. This is reflected in the following chart:

**TOWN OF POUGHKEEPSIE PAYROLL FOR PBA MEMBERS WITH LESS THAN 5
YEARS EXPERIENCE (1991-1993)**

<u>Date of Hire</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>
8/17/90	\$31,876.96	\$37,820.51	\$41,711.95
8/17/90	\$32,255.17	\$35,702.06	\$38,945.14
8/14/89	\$34,647.97	\$40,705.19	\$44,339.51
2/23/90	\$34,391.23	\$38,897.72	\$40,443.12
8/17/90	\$34,611.11	\$38,024.09	\$40,533.65
2/23/90	\$33,952.13	\$37,391.89	\$40,169.95
8/17/90	\$36,581.31	\$38,483.13	\$43,579.57

Thus, the Town maintains that because its Officers are currently receiving generous and increasing salaries in a period in which the Town's economic climate has worsened. As such, it insists that the Officers should not be awarded any increases for the period of this Agreement.

The Town also argues that its ability to pay is limited. There are a number of economic factors effecting ability to pay. Specifically, it refers to school district taxes, town taxes, net taxable assessments, Medicaid costs, certioraris, unemployment, social service caseload, commercial and residential construction, home sales and State aid. All of these, insists the Town, demonstrate that no increase in police remuneration is appropriate.

The Town submits that school district taxes represent the bulk of the average citizen's real property tax bill. In addition, it

notes that it has no control over the school district budget and thus has no control over the increase in school district tax rates.

The Town contends that the school district taxes for residents and businesses have steadily increased (Town Exhibit No. 7). Specifically, in the Spackenkill Union Free School District, school district taxes increased by approximately seventeen percent (17%) between 1989-90 and 1993-94, from \$10.77 per one thousand dollars of assessed valuation to \$12.60. Non-homestead owners have seen their school taxes increase over the same period approximately twenty four percent (24%), from \$14.84 per one thousand dollars of assessed valuation to \$18.42. Moreover, although the school tax rate for the 1994-95 school year has not been fixed, it is anticipated that there will be a steep increase due to the certiorari settlement for the IBM property on South Bend.

In the Arlington Central School District, school district taxes for residents increased by approximately 23.5% between 1989-90 and 1993-94, from \$10.66 per one thousand dollars of assessed valuation to \$13.17. Over the same period, non-homestead owners have been subjected to a nearly thirty one percent (31%) increase in school tax rates, from \$11.66 per one thousand dollars of assessed valuation to \$15.26.

In the Wappingers Central School District, school district taxes for residents increased by over twenty nine percent (29%) between 1989-90 and 1993-94, from \$10.27 per one thousand dollars of assessed valuation to \$13.27. Over the same period, non-homestead school tax rates rose by twenty one percent (21%), from

\$14.59 per one thousand dollars of assessed valuation to \$17.66.

In the Hyde Park Central School District, residents have had their school district tax rates rise by nearly twenty percent (20%) between 1989-90 and 1993-94, from \$12.71 per one thousand dollars of assessed valuation to \$15.22.

Thus, the Town argues that the enormous tax burden on citizens, due to school taxes, mandates that Police salaries not be raised.

As to town taxes, the Town points out that, for the period 1989-1994, there has been an eleven percent (11%) increase for homesteads and more than a twenty eight percent (28%) increase for non-homesteads (Town Exhibit No. 8). It submits that it is anticipated that the IBM certiorari settlement will result in substantial tax rate increases for both homesteads and non-homesteads over the next several years.

The Town further points out that according to its Assessor, the Town has, for the last two years, experienced a negative growth in net taxable assessments (Town Exhibit No. 9). In the 1993 fiscal year, the taxable assessments totalled \$2,079,440,304. In 1994, the taxable assessments totalled \$2,076,518.198. For 1995, the taxable assessments are \$2,045,851,160. Thus, since the 1993 fiscal year, net taxable assessments have declined by more than \$33 million.

Moreover, the Town argues that the impact of certiorari proceedings on net taxable assessments is substantial. It submits that in the past year, the IBM certiorari settlement was reached,

which reduced the assessed valuation of the property located at South Road by \$93 million over the next three (3) years. The impact of that settlement, which begins to take effect in the current fiscal year, will be, assuming tax rates remain constant, a reduction in 1995 anticipated tax revenues of \$180,973; a reduction in 1996 anticipate tax revenues of \$361,946; and a reduction in 1997 anticipated tax revenues of \$552,919. Furthermore, the Town has settled with IBM, regarding assessments on two other properties, the net result being a loss of \$10 million of taxable assessments over the 1995 and 1996 fiscal years. Town residents and business owners will be expected to offset the loss of tax revenues generated from the IBM property by having their Town tax rate increased drastically in order to maintain the current levels of Town operations and services.

Finally, relating to Town taxes, the Town asserts that according to its Assessor, there are tax certiorari proceedings where Town taxpayers are seeking an aggregate reduction in assessed valuations of over \$65 million. It points out that new Article 7 proceedings filed in 1993 seek a reduction in assessed valuations in excess of \$10 million. Thus, both the school tax and Town tax burden, which have increased steadily over the past five (5) years, will dramatically increase over the next several years due to the reductions on tax revenues attributable to certiorari settlements with IBM.

As to home sales, the Town submits that, according to the Mid-Hudson Multiple Listing Services and the Multiple Services of

Dutchess County, the average sale price for houses in Dutchess County has declined since 1990 (Town Exhibit No. 10). In 1990, the average sale price of a Dutchess County house was \$152,800, in 1993 the sale price was \$147,154 and thus far in 1994, \$129,000. It maintains that this significant drop has been attributed to the cost cutting measures taken by IBM, including the layoffs of employees who reside in the Town.

Also, Social Services costs have risen due to the Town's economic condition. The Town points out that according to the Dutchess County Department of Social Services the average number of cases per month caseload has increased by sixty percent (60%) during the period 1989-1994. The caseloads cover such items as food stamps, medical assistance, supplemental security income and aid to dependent children (Town Exhibit No. 11). The figures are as follows:

MONTHLY AVERAGE NUMBER OF CASES
DUTCHESS CO. DEPT. OF SOCIAL SERVICES

1989	ADC	1,423	1990	ADC	1,697
	HR	520		HR	841
	MCD	2,657		MCD	2,873
	SSI	3,062		SSI	3,169
	FS	<u>1,425</u>		FS	<u>1,489</u>
	TOTAL	9,087		TOTAL	10,069
1991	ADC	2,088	1992	ADC	2,264
	HR	1,178		HR	1,240
	MCD	3,178		MCD	3,588

SSI	3,247	SSI	3,369
FS	<u>1,743</u>	FS	<u>2,106</u>
TOTAL	11,434	TOTAL	12,567

1993	ADC	2,489	1994	ADC	2,587
	HR	1,273		HR	1,252
	MCD	3,864		MCD	3,929
	SSI	3,628		SSI	3,874
	FS	<u>2,586</u>		FS	<u>2,957</u>
	TOTAL	13,840		TOTAL	14,599

NOTE: 1994 numbers are monthly average for January - May.
There is an average of 2.9 family members per case.

ADC = Aid to Dependent Children
 HR = Home Relief
 MCD = Medical Assistance
 SSI = Supplemental Security Income
 mostly single member families who have Medicaid
 FS = Food Stamps

There has also been a substantial increase in the number of those receiving governmental income support. In 1989, 5,050 people received income support. In 1993, 8,742 people received income support. This is a seventy three percent (73%) increase in a four (4) year period.

In addition, the Town asserts that there has been a drastic increase in the number of Dutchess County residents eligible for Medicaid assistance, as well as the number of Medicaid expenditures (Town Exhibit No. 13). Since 1989, the number of Medicaid eligibles has risen from 15,463 to 23,657, an increase of fifty three percent (53%). Over this same period, Medicaid expenditures have increased from \$58,926,274 to \$113,350,787, an increase of

over ninety two percent (92%).

According to the Dutchess County Department of Planning and Development, unemployment rates in Dutchess County have increased dramatically since 1990. In 1990, Dutchess County had one of the lowest unemployment rates in New York State. However, in 1993 and 1994, it has had one of the highest unemployment rates. In 1990, unemployment rates averaged approximately 2.9%. The average unemployment rate for 1993 has been 7.9%, and thus far in 1994, 7.95% (Town Exhibit No. 14). It points out that the 1993 and 1994 unemployment rate is more than two and one half times what it was in 1990.

These increases in the number of citizens needing social services and government aid demonstrate that the citizens of the Town are unable to afford any more costs attributable to police protection.

In addition, the Town submits that the employment figures in the Town of Poughkeepsie are not good. For example, the civilian labor force has declined by nearly fourteen percent (14%) since 1990. In 1990, Dutchess County had an average civilian labor force of 133,100. In 1993, the labor force declined by more than ten thousand (10,000) people. Furthermore, as of April 1994, the civilian labor force has further declined and is at a low of 116,700 (Town Exhibit No. 15).

The Town argues that the recent increase in unemployment figures is, in part, due to the downsizing of large corporations. According to the New York State Department of Labor, nine thousand

four hundred (9,400) non-agricultural jobs and eight thousand three hundred (8,300) manufacturing jobs were lost in the Town due to the impact of cutbacks at IBM during the period from June 1992 through March 1994. This is an 8.54% decrease for non-agricultural jobs and a 43.58% decrease in manufacturing jobs (Town Exhibit No. 16).

Building has also declined in the Town. The Town points out that building permit activity is the primary indicator of the health of the construction industry. It argues that these figures are used to measure annual housing starts. According to the Town of Poughkeepsie's Annual Report, the total value of the new construction projects for which building permits were issued have dramatically declined. In 1991, the total value of new construction projects were approximately \$43 million. In 1993, the values were approximately \$21 million (Town Exhibit No. 17).

The Town further maintains that there has been a substantial decrease in the amount of money expended for construction contracts (Town Exhibit No. 18). Those figures are as follows:

CONSTRUCTION CONTRACTS (\$ MILLIONS)

	<u>TOTAL</u>	<u>RESIDENTIAL</u>	<u>NON-RESID.</u>	<u>NONBUILDING</u>
1989	200	111	69	20
1990	164	67	66	31
1991	169	88	63	19
1992	192	86	79	27
1993	182	93	42	47
1/93-4/93	56	26	15	15
1/94-4/94	41	16	16	9

In 1989, a total of \$200 million was spent for construction contracts. In 1993, \$182 million was spent in construction contracts. This is an \$18 million increase in a four (4) year period, further exacerbating the Town's economic plight.

Over the past four (4) years, the Town has lost over \$660,000 in State aid (Town Exhibit No. 19). Those figures are as follows:

STATE AID

<u>YEAR</u>	<u>STATE AID</u>
1989	\$838,967.99
1990	\$747,933.25
1991	\$209,135.00
1992	\$176,928.00
1993	\$176,928.00

As stated above, in 1989, the Town received nearly \$840,000 in State aid, while in 1993, the Town received only \$177,000 in State aid, a significant decrease.

In all, the Town submits that its wage proposal takes into consideration the wages earned by Officers in comparable jurisdictions. It submits that since the Town's economic climate has worsened over the last several years, its Officers should not be granted a salary increase during the term of this Agreement.

OPINION

The Panel is required to follow the relevant statutory criteria set forth in Section 209 (4) (c) (v) of the Taylor Law. These criteria are:

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 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 the 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.

With these factors in mind, we turn to the specific circumstances of this dispute.

1. DURATION

The Union proposed a contract term of three (3) years. The Town suggests a longer term. Given the date of this Award by the Panel, it would be counterproductive and illogical for the Panel to issue an Award for a short period. After all, it has been approximately sixteen (16) months since the parties' Agreement expired. For this reason, we are compelled to issue an Award for

the period July 1, 1993 through December 31, 1996. This length of contract falls between the requested durations proffered by each party. Thus, this duration closely approximates each party's position. It must also be noted that an Agreement for this period of time will provide the parties with a period in which they might be able to resume their relationship free from the strain of collective negotiations and interest arbitration.

In addition, it is because this Award covers a forty two (42) month period of July 1, 1993 through December 31, 1996 that the wage increases discussed below will be able to be incorporated. Had this not been the case, this Award, as it pertains to wage increases, would have been significantly different. We would not have provided the length of the wage freeze - ten (10) months - without an agreement covering a significant period of time.

Therefore, in light of these considerations, the term of this Award shall cover the period of July 1, 1993 through December 31, 1996.

2. SALARIES

The Union initially proposed wage increases of five percent (5%) on July 1, 1993, five percent (5%) on January 1, 1994, five percent (5%) on July 1, 1994, five percent (5%) on January 1, 1995, five percent (5%) on July 1, 1995 and five percent (5%) on January 1, 1996. However, after reconsideration, the Union modified its proposal as follows. It proposed increases of five percent (5%) in 1993, five percent (5%) in 1994, five percent (5%) in 1995 and five

percent (5%) in 1996.

In support of its proposal, the Union pointed to salaries of Officers in the City of Poughkeepsie, Newburgh, Beacon, Greenburgh, Clarkstown and Orangetown. It argued that the starting salary for its Officers is \$22,422.00, the lowest among those cited. The starting salary for the other jurisdictions ranges from \$26,157.00 in Newburgh to \$36,475.00 in Orangetown. The top salary for a Poughkeepsie Officer is \$43,400.00, while the top salary for a Clarkstown Officer is \$60,482.00.

The Town, on the other hand, proposed that the salaries of its Officers should be maintained at the current levels throughout the term of the Agreement. It based this proposal on the current fiscal condition of the Town and the salaries of Officers in comparable jurisdictions.

The Town used, as a basis of comparison, police salaries in the following jurisdictions - Towns of Hyde Park, East Fishkill, Putnam Valley and Kent and the Cities of Poughkeepsie, Newburgh and Beacon. It asserted that these are departments which perform similar functions to those performed by its Officers.

We find that the Union's proposed comparables are more appropriate. After all, villages and towns located in Dutchess County or which abut Dutchess County are most comparable in a geographic sense. Obviously, the citizens of those communities are often affected by the same economic climate as are their neighbors in the Town of Poughkeepsie. They also, generally, face the same circumstances regarding their need for police protection. Thus, in

reaching our decision below, we have relied, in part, upon the wages, hours and conditions of employment of officers in these towns.

On the other hand, the Town's proposed comparables are less telling. The Towns of Hyde Park, East Fishkill, Putnam Valley, Kent and Newburgh are significantly smaller in population than the Town of Poughkeepsie. The Town also referred to police departments in the Counties of Monroe, Erie, Suffolk and Onondaga. These Counties are hundreds of miles from Poughkeepsie, have totally different economic conditions, populations and police forces. Therefore, those comparables cited by the Town must be viewed as less persuasive in our decision.

The evidence indicates that, under the terms of the prior Agreement, Officers received increases of four percent (4%) in 1991, five percent (5%) in 1992 and five percent (5%) in 1993. These numbers indicate significant increases during that three (3) year period. Therefore, considering the financial condition of the Town, we are persuaded that the Town needs a "breather" from any immediate salary increases.

In addition, the Panel must consider the Town's ability to pay. There has been a great deal of evidence presented by both parties on this issue. For example, the Town referred to numerous problems regarding its financial condition. Briefly, these include an increase in school district taxes, a negative growth in net taxable assessments, a decline in the average sale price for homes, an increase in the number of Social Services caseloads, an increase

in Medicaid expenditures and a rising unemployment rate.

There can be no dispute but that these factors are relevant ones that must be considered in the Panel's determination. There is no doubt that the Town of Poughkeepsie is facing a period of difficult economic times.

However, we are not persuaded that the increases awarded here will be an undue hardship on the taxpayers. Nor are they beyond the Town's "ability to pay". Instead, the Union has met its burden of establishing that the Town and its citizens and taxpayers have the ability to pay the increases awarded here.

However, considering the economic condition of the Town and the salaries of Officers in comparable jurisdictions, the Panel is persuaded that a wage freeze is necessary. The wages of Police Officers shall be frozen at their current level for all of 1993. Given the relatively high level of overall compensation received by Poughkeepsie Officers, this freeze will not unduly affect the economic standing of the Officers.

As to 1994, the Panel notes that the economic climate appears to have improved, after April 1, 1994. Therefore, we conclude that the freeze awarded for 1993 shall continue for the first quarter of 1994. Thus, no wage increase shall be issued during the period July 1, 1993 through March 31, 1994. This constitutes a nine (9) month wage freeze.

At that point, effective April 1, 1994, wages shall be increased four percent (4%). This amounts to a cost of one percent (1%), as it pertains to wages for 1993-1994. This increase closely

approximates the data regarding the cost-of-living for 1994.

As to the remaining years of the Agreement, additional increases are appropriate. Without such increases, the Officers will fall behind that of comparable jurisdictions. In addition, considering the fact that the Officers were subject to a nine (9) month freeze, they are entitled to increases in the remaining years of the Agreement. While the Town proposed no increases for the duration of the Agreement, we are persuaded that such a proposal is inadequate and unreasonable given the relevant comparables and the other statutory criteria. Also, the Town's economic circumstances do not justify the Town's proposal for a wage freeze during the entire term of the Agreement.

For 1995, so as to keep the rates comparable, a four percent (4%) increase is warranted. However, in order to lessen the economic impact on the Town, this increase will be delayed until April 1, 1995. This constitutes a cost of four percent (4%) for 1994-1995.

In awarding a wage increase for 1995, and the remainder of 1996, we remain mindful of the financial climate in the Town. The Town's claim of economic difficulty is real. It cannot be ignored. In light of this data, we have concluded that "split" raises are the most appropriate way in which to award salary increases in 1995 and 1996.

Those increases, besides the four percent (4%) awarded on April 1, 1994 are as follows:

Effective April 1, 1995	4%
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Effective January 1, 1996 2.5%

Effective July 1, 1996 2%

The Panel is convinced that this manner of providing wage increases addresses the legitimate financial concerns of the Town. We have been persuaded by that data. It is precisely because of the Town's financial condition that we granted a wage freeze for nine (9) months, and instituted split increases in the last two (2) years.

Under this Award, the rate of salary increases on base wages, over the term of the Agreement is 12.5%. This is an increase that is justified when considering the salaries, over the next several years, of Officers in surrounding jurisdictions and the other relevant data. This amounts to an annual increase of 3.57%, or 10.7% over a three (3) year period. Clearly, such a rate of increase is appropriate.

However, it must be pointed out that the cost, in cash terms, will be less to the Town. There will be no cash cost to the Town for the first nine (9) months of the Agreement due to the wage freeze. The cash cost, over the term of the Agreement, will be 11.5%, or 3.29% annually. Such an increase is very favorable to the Town and comports closely with the cost-of-living increase. The non-compounded cost to the Town is as follows:

July 1, 1993 - June 30, 1994	1%
July 1, 1994 - June 30, 1995	4%
July 1, 1995 - June 30, 1996	4.25%
July 1, 1996 - December 31, 1996	<u>2.25%</u>
Total	11.5% ²

In all, the wage increases awarded are supported by the record evidence and statutory criteria. They are reasonable and fall within the Town's ability to pay. They are so awarded.

3. DETECTIVE INCREMENTS

Under Article 5, Section 4 of the current Agreement, all Detectives receive a total annual increment added to their salary base each year in the amount of one thousand three hundred dollars (\$1300.00). The Union's proposal is for an increase in the increment to two thousand dollars (\$2000.00).

In support of its position, the Union referred to the increments granted to Detectives in comparable jurisdictions. Some of those Departments received amounts ranging from \$815.00 for Detectives in Newburgh to \$4536.00 for Detectives in Greenburgh. Still other Departments award increments in percentage terms, a mechanism which is quite favorable to the Detectives. For example, Clarkstown Detectives received an increment of seven and one half percent (7.5%). Orangetown Detectives receive a seven percent (7%)

2

The remaining cost of one percent (1%) from July 1, 1996 is payable in the period after the Agreement expires.

increment. The Town opposed any type of Detective increment increase. It vehemently opposed to converting the Detective increment to percentage terms.

After reviewing the evidence submitted by the Union regarding the increments received by Detectives in comparable jurisdictions, we are persuaded that some increase in Detective increments is warranted. However, we find that the Union's proposal for a seven hundred dollar increase, to two thousand dollars (\$2000.00), is excessive. We also find the request to convert to a percentage increment ill advised.

Instead, we are persuaded that an increase in the increment is justified. An increase is necessary so as to remain competitive with Detectives in other comparable jurisdictions. As a result of this a Town of Poughkeepsie Detective will not receive the lowest increment when compared to comparable jurisdictions, nor will he or she receive the highest. Instead, the increment will be in the mid-range.

In determining the increase to be awarded, we conclude that the Detective increment shall be increased by the dollar amount equivalent to the percentages granted to the Officers in their base wages.

That is, the Detective increments shall be as follows:

April 1, 1994	\$1352.00
April 1, 1995	\$1406.00
January 1, 1996	\$1441.00
July 1, 1996	\$1470.00

As stated in our decision regarding salary increases, given the legitimate financial concerns of the Town, we conclude that it would be improper for the increases to begin in 1993 and the beginning of 1994. Instead, the increases shall become effective on the same dates that base wages are adjusted. It is so awarded.

4. LONGEVITY

Article 5, Section 3 of the Agreement provides for longevity increments. As of January 1, 1993, Officers with nine (9) to fourteen (14) years of service receive \$280.00 per annum. Officers with fifteen (15) to nineteen (19) years of service receive an additional \$520.00 per annum. Officers with twenty (20) years of service receive an additional nine hundred and fifty dollars (\$950.00) per annum.

The Union proposed increases in the longevity increment as follows:

<u># of years</u>	<u>7/1/93</u>	<u>1/1/94</u>	<u>1/1/95</u>
5-8 years	\$280/annum	\$300/annum	\$320/annum
9-14 years	\$400/annum	\$420/annum	\$440/annum
15-19 years	\$650/annum	\$675/annum	\$700/annum
20+ years	\$1080/annum	\$1105/annum	\$1130/annum
Total maximum longevity increment	\$2410/annum	\$2500/annum	\$2590/annum

After reviewing the evidence submitted by the Union regarding the longevity received by Officers in the City of Poughkeepsie, Newburgh, Beacon, Greenburgh and Clarkstown, we are persuaded that some increase in longevity is warranted. However, we find that the Union's proposal for an increase of one hundred and thirty dollars (\$130.00) in 1993, an additional twenty five dollars (\$25.00) in 1994 and another twenty five dollars (\$25.00) in 1995, is excessive. Instead, we are persuaded that the following increases are justified:

<u>SERVICE CATEGORY</u>	<u>APRIL 1, 1995</u>	<u>JANUARY 1, 1996</u>
9-14 years	\$350.00	\$400.00
15-19 years	\$600.00	\$650.00
20+ years	\$1050.00	\$1100.00

While we recognize that this increase does not bring Poughkeepsie Police Officers on the same level as either the City of Poughkeepsie, Newburgh or Beacon, it is competitive for most police departments in surrounding jurisdictions.

In order to address the concerns of the financial impact upon the Town, these increases in longevity shall become effective April 1, 1995 and January 1, 1996. In this way, there is less financial burden placed upon the Town.

5. ON CALL PAY

Article 5, Section 9 of the Agreement specifies the additional compensation received by individuals who are assigned to "on call"

duty. Under the terms of Section 9, Detective Sergeants receive fifty dollars (\$50.00) per week, Traffic Enforcement Officers receive seventy five dollars (\$75.00) per week and Detectives receive one hundred dollars (\$100.00) per week.

The Union has proposed an increase of fifty dollars (\$50.00) per week to each of the individuals who are compensated for being on call. The payments would be increased as follows: Detective Sergeants would receive one hundred dollars (\$100.00) per week, Traffic Enforcement Officers would receive one hundred twenty five dollars (\$125.00) per week and Detectives would receive one hundred and fifty dollars (\$150.00) per week.

The Union argued that there has not been an increase in the on call payment since 1989. We are persuaded by the Union's argument that an increase over the current on call payments is warranted. However, the increases sought by the Union are excessive.

Instead, effective April 1, 1995, an increase of seven dollars and fifty cents (\$7.50) per week will be awarded. An additional seven dollars and fifty cents (\$7.50) per week will be awarded effective January 1, 1996. Therefore, the payments will be as follows:

	<u>April 1, 1995</u>	<u>January 1, 1996</u>
Detective Sergeant	\$57.50	\$65.00
Traffic Enforcement Officer	\$82.50	\$90.00
Detective	\$107.50	\$115.00

However, given the financial condition of the Town, we

conclude that there would be less of a financial impact if the increases were to be delayed. Therefore, as stated above, the increases in on call pay shall become effective April 1, 1995 and January 1, 1996.

6. COMPENSATORY TIME

The Union proposed that the following language be added to Article 7 of the Agreement:

(e) Compensatory Time Off in lieu of Payment of Overtime:

The employee may elect to take time off duty in lieu of payment for overtime worked. Compensatory time off shall be at the rate of one and one-half hours off for each hour of overtime worked. The election to take compensatory time off will be made in writing on forms prescribed by the Town. In the absence of any such election, the overtime work will be paid for at the regular overtime rate. Requests for compensatory time off shall be granted in the order that they are received. In the event that more than one request is received at the same time, seniority shall govern. Requests for compensatory time off shall be made not more than 30 days in advance. An employee may accumulate up to 480 hours of compensatory time off in lieu of overtime. All accumulated compensatory time shall be paid upon an employee's leaving employment at his/her salary rate at the time of termination or retirement.

The Union argued that its proposal is consistent with the provisions of the FLSA which provides a municipality with the option of allowing an employee to accumulate compensatory time off rather than being paid overtime. The only limitations are that the employee must earn compensatory time at the rate of time and one half and a cap of four hundred and eighty (480) hours.

The Town objected to the Union's proposal and instead proposed

that a cap be established on the accumulation of compensatory time at sixteen (16) hours. The Town argued that at least from 1986 to the present, Officers could accumulate up to sixteen (16) or eighteen (18) hours of compensatory time and would have to use this time before any additional time could be accumulated. Under its proposal, any overtime earned after the accumulation of the sixteen (16) or eighteen (18) hours would be paid in cash.

The Union's proposal would defer the Town's obligation to compensate an Officer in the form of a cash payment until after he or she reached the four hundred and eighty hour (480) hour accumulation of compensatory time. Instead, if an Officer worked overtime, he or she would have the option of choosing whether to be paid for those hours or to accrue compensatory time.

It is quite common in police collective bargaining agreements, that an officer who works overtime be allowed to choose whether to be compensated in the form of a cash payment or to accrue compensatory time. In addition, the cost of overtime is deferred since the Officer is not receiving a cash payment, but instead, taking time off that is requested by the Officer and is agreeable by the Department.

Under the provisions of the FLSA, an employee is allowed a maximum accumulation of four hundred and eighty (480) hours. The Town's proposal that the maximum accumulation be changed to sixteen (16) or eighteen (18) hours is unreasonably low.

Therefore, while we are persuaded that the Union's proposal regarding the option of choosing compensatory time in lieu of a

cash payment is reasonable, we conclude that the requested amount is excessive. Instead, the maximum accumulation that an Officer is allowed to accrue shall be two hundred (200) hours. This is an adequate figure.

In all, Section 7 (e) of the Agreement shall be added as follows:

(e) Compensatory Time Off in lieu of Payment of Overtime:

The employee may elect to take time off duty in lieu of payment for overtime worked. Compensatory time off shall be at the rate of one and one-half hours off for each hour of overtime worked. The election to take compensatory time off will be made in writing on forms prescribed by the Town. In the absence of any such election, the overtime work will be paid for at the regular overtime rate. Requests for compensatory time off shall be granted in the order that they are received. In the event that more than one request is received at the same time, seniority shall govern. Requests for compensatory time off shall be made not more than thirty (30) days in advance. An employee may accumulate up to two hundred (200) hours of compensatory time off in lieu of overtime. All accumulated compensatory time shall be paid upon an employee's leaving employment at his/her salary rate at the time of termination or retirement.

7. LINE OF DUTY DEATH BENEFIT

The Union has proposed the development of a line of duty death benefit whereby the Town would pay all customary and usual funeral expenses for any employee killed in the line of duty. The Union submitted this proposal subsequent to the death of a Dutchess County Deputy Sheriff.

The Union's proposal that the Town pay all customary and usual funeral expenses for any employee killed in the line of duty is not unreasonable. We note that the Union presented evidence indicating

that the City of Poughkeepsie has a bank of five thousand dollars (\$5,000) for funeral expenses and the City of Beacon pays for the cost of all funeral expenses.

The Town, on the other hand, argued that the Union's proposal was unnecessary as Section 16 of the Workers' Compensation Law provides for a schedule of charges and fees for funeral expenses for any employee who dies in the course of his or her employment.

The Panel finds that while Section 16 of the Workers' Compensation Law provides a schedule for maximum charges and fees for funeral expenses, the possibility exists that this schedule may not cover the expenses incurred by an Officer's family. If the Officer is killed in the line of duty, protecting the citizens of the Town of Poughkeepsie, the Town should be held responsible for those "customary and usual" expenses. It is the appropriate thing to do.

We do not intend for the Town's payment of the funeral expenses to duplicate those expenses paid for under Workers' Compensation Law. Instead, the Town should provide payment for those "customary and usual" funeral expenses that are not paid for under Section 16 of the Workers' Compensation Law.

Accordingly, and for the foregoing reasons, the Union's proposal is granted. The following language shall be added to the Agreement:

The Town will pay all customary and usual funeral expenses for any employee killed in the line of duty.

8. SICK LEAVE BANK

The Union seeks the creation of a sick leave bank for its members. The language sought is as follows:

Unit members may contribute two (2) days from their sick leave accumulation reserve at the beginning of each year. These days will be placed in a "sick leave bank" which shall be established to aid unit members who suffer prolonged non-duty -related illness and whose sick leave accumulation has been exhausted. This sick leave bank shall accumulate to a maximum total of 500 days.

A unit member with three (3) years or less in the unit shall be permitted to draw up to forty (40) days against the bank after the member's own accumulation has been exhausted.

A unit member with more than three (3) years of service in the unit shall be permitted to draw up to ninety (90) days against the bank after the member's own accumulation has been exhausted. Only unit members who have contributed to the sick leave bank shall be entitled to draw therefrom.

The Union has presented documentation regarding the existence of sick leave banks in other police departments. It pointed to the May 12, 1993 membership report of the Police Conference of New York in which numerous police departments provide for a sick leave bank.

The Town opposed the Union's proposal for a sick leave bank for several reasons. It asserted that the Union's chart regarding other comparable jurisdictions was misleading. The Town also argued that the usual concept behind sick leave banks is to afford an employee who suffers a catastrophic, long term illness with additional leave should he or she exhaust his or her current and accumulated sick leave benefit. The Town argued that the Union's proposal for the use of the sick leave bank for "non-duty related" illness is too expansive and could result in attempts to use the

sick leave bank when not warranted. Finally, a concern of the Town regards the fact that the Union's proposal does not provide for the manner in which the sick leave bank is to be administered.

We are persuaded that the Union's proposal regarding the creation of a sick leave bank is a reasonable one. However, we are also mindful of the Town's concerns regarding this sick leave bank. The Town raised an issue as to the use of the phrase "non-duty related illness" in its proposal. The Town rightfully was troubled that the inclusion of this language could result in an abuse of the sick leave bank. The Town also referred to the fact that there was no language in the Union's proposal which would address the administration of the sick leave bank.

We do not believe that the phrase "non-duty related illness" would necessarily lead to an abuse of sick leave from the bank. A sick leave bank is precisely for a "non-duty related illness". In order to address the Town's concern that such language would lead to abuse of the sick leave bank, we direct the parties to draft language which would provide for a system whereby the Officer would need to provide medical documentation regarding his or her illness. In addition, the parties' language should also provide for the manner in which the sick leave bank is to be jointly administered. Such language shall be created within ninety (90) calendar days of this Award. We shall retain jurisdiction should the parties be unable to reach language that is agreeable.

However, the language as proposed by the Union shall be granted in order to provide for the initial creation of the sick

leave bank. The language awarded is as follows:

Unit members may contribute two (2) days from their sick leave accumulation reserve at the beginning of each year. These days will be placed in a "sick leave bank" which shall be established to aid unit members who suffer long term non-duty-related illness or injury (i.e. at least two (2) work weeks) and whose sick leave accumulation has been exhausted. This sick leave bank shall accumulate to a maximum total of five hundred (500) days.

A unit member with three (3) years or less in the unit shall be permitted to draw up to forty (40) days against the bank after the member's own accumulation has been exhausted.

A unit member with more than three (3) years of service in the unit shall be permitted to draw up to ninety (90) days against the bank after the member's own accumulation has been exhausted. Only unit members who have contributed to the sick leave bank shall be entitled to draw therefrom.

In sum, we award the changes in the parties' current Agreement as specified above. In our view, they balance the rights of the members of the bargaining unit to fair improvements in their terms and conditions of employment with the legitimate needs of the Town to prudently budget its economic resources.

AWARD

1. DURATION

The Agreement shall commence on July 1, 1993 and expire on December 31, 1996.

2. SALARIES

Salaries shall be increased as follows:

April 1, 1994	4%
April 1, 1995	4%
January 1, 1996	2.5%
July 1, 1996	2%

3. DETECTIVE INCREMENTS

Article 5, Section 4 - Detective Increments shall be increased by the same percentage as wages. The increased amounts shall be as follows:

April 1, 1994	\$1352.00
April 1, 1995	\$1406.00
January 1, 1996	\$1441.00
July 1, 1996	\$1470.00

4. LONGEVITY

Article 5, Section 3 - Longevity shall be increased as follows:

<u>Service Category</u>	<u>April 1, 1995</u>	<u>January 1, 1996</u>
9-14 years	\$350.00	\$400.00
15-19 years	\$600.00	\$650.00
20+ years	\$1050.00	\$1100.00

5. ON CALL PAY

Effective April 1, 1995, there shall be an increase of \$7.50 in each category. Effective January 1, 1996, there shall be an additional increase of \$7.50 in each category. The payments will be as follows:

	<u>April 1, 1995</u>	<u>January 1, 1996</u>
Detective Sergeant	\$57.50	\$65.00
Traffic Enforcement Officer	\$82.50	\$90.00
Detective	\$107.50	\$115.00

6. COMPENSATORY TIME

Article 5, Section 7 (e) of the Agreement shall be added as follows:

(e) Compensatory Time Off in lieu of Payment of Overtime:

The employee may elect to take time off duty in lieu of payment for overtime worked. Compensatory time off shall be at the rate of one and one-half hours off for each hour of overtime worked. The election to take compensatory time off will be made in writing on forms prescribed by the Town. In the absence of any such election, the overtime work will be paid for at the regular overtime rate. Requests for compensatory time off shall be granted in the order that they are received. In the event that more than one request is received at the same time, seniority shall govern. Requests for compensatory time off shall be made not more than thirty (30) days in advance. An employee may accumulate up to two hundred (200) hours of compensatory time off in lieu of overtime. All accumulated compensatory time shall be paid upon an employee's leaving employment at his/her salary rate at the time of termination or retirement.

7. LINE OF DUTY DEATH BENEFIT

The Town will pay all customary and usual funeral expenses for any Police Officer killed in the line of duty.

8. SICK LEAVE BANK

Unit members may contribute two (2) days from their sick leave accumulation reserve at the beginning of each year. These days will be placed in a "sick leave bank" which shall be established to aid unit members who suffer long term non-duty-related illness or injury (i.e. at least two (2) work weeks) and whose sick leave accumulation has been exhausted. This sick leave bank shall accumulate to a maximum total of five hundred (500) days.

A unit member with three (3) years or less in the unit shall be permitted to draw up to forty (40) days against the bank after the member's own accumulation has been exhausted.

A unit member with more than three (3) years of service in the unit shall be permitted to draw up to ninety (90) days against the bank after the member's own accumulation has been exhausted. Only unit members who have contributed to the sick leave bank shall be entitled to draw therefrom.

We direct the parties to draft language which would provide for a system whereby the Officer would need to provide medical documentation regarding his or her illness. In addition, the parties' language should also provide for the manner in which the sick leave bank is to be jointly administered. Such language shall be created within ninety (90) calendar days of this Award. We shall retain jurisdiction should the parties be unable to reach language that is agreeable.

Concur In items 1, 2, 3, 4, 5, 7 and 8

Dissent Item 6 - see attached decision



Ronald G. Dunn, Employee Panel Member

Concur Items 1, 5, 6, 7, 8

Dissent 2, 3, 4



Thomas D. Mahar, Jr., Employer Panel Member

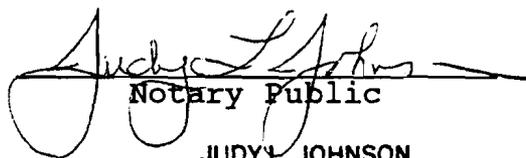


Martin F. Scheinman, Esq., Public Panel Member

December 2, 1994

STATE OF NEW YORK)
COUNTY OF DUTCHESS) ss.:

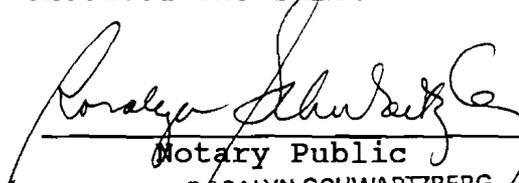
On this 30th day of November, 1994, before me personally came and appeared THOMAS D. MAHAR, JR. Esq., to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.


Notary Public

JUDY L. JOHNSON
Notary Public, State of New York
Reg. No. 5022167
Qualified in Ulster County
Commission Expires Jan. 03, 1995

STATE OF NEW YORK)
COUNTY OF ALBANY) ss.:

On this 28th day of November, 1994, before me personally came and appeared Ronald G. Dunn, Esq., to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.


Notary Public

ROSALYN SCHWARTZBERG
Notary Public, State of New York
No. 9878855
Qualified in Aibany County
Commission Expires 11/30/94

STATE OF NEW YORK)
COUNTY OF) ss.:

On this 2 day of December, 1994, before me personally came and appeared MARTIN SCHEINMAN, ESQ, to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.


Notary Public

RONALD F. DUNN, ESQ.
Notary Public, State of New York
No. 9878855
Qualified in Dutchess County
Commission Expires October 31, 1995

I write separately to address two parts of the award.

On the issue of the increases in base salary, detectives pay, longevity, and on call pay, I reluctantly concur in the award. I agree that the amounts of the increases are fair under the circumstances presented. However, the delay in implementing the increases in my view is longer than the proof warrants. In my view, a more just award would implement the increases on January 1, 1994, January 1, 1995, January 1, 1996 and July 1, 1996. This more modest delay would address the Town's legitimate financial needs while affording the members of the PBA their well deserved raises. Balanced against the delay is what I consider to be a fair increase in the compensation. These increases will, for example, result in a top grade Police Officer (after 5 years) receiving \$49,076.84 per year by the end of this award. Because these increases are fair, I reluctantly concur even though the delay in receiving the increases is in my view too long.

My view of the accumulation of compensatory time is different. The issue of accumulated compensatory time has consumed the parties for the last three years. Both parties expended a great deal of time and resources in submitting this issue to a contract arbitrator. That arbitrator found that the FLSA limit of 480 hours was the appropriate cap for compensatory time. The record in this case contains no evidence that a change in the cap awarded by the previous arbitrator is appropriate. Indeed, an arbitrary cap in compensatory time will almost certainly hamper the ability of the Police Department to implement the long awaited addition of a canine unit. For this reason, I dissent from the Panel's award modifying the cap on accumulated compensatory time.

