

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD  
INTEREST ARBITRATION PANEL

In the Matter of the Arbitration :  
between :  
THE CITY OF OSWEGO, :  
Public Employer, :  
-and- :  
LAKE CITY POLICE CLUB, :  
Employee Organization. :  
PERB Case No. IA94-013; M93-564 :  
:

OPINION

AND

AWARD

NYS PUBLIC EMPLOYMENT RELATIONS BOARD  
RECEIVED

DEC 13 1995

CONCILIATION

BEFORE: Jeffrey M. Selchick, Esq.  
Public Panel Member and Chairman

Rocco A. DePerno, Esq.  
DePerno, Khanzadian & McGrath  
Employee Organization Panel Member

William M. Wallens, Esq.  
Roemer, Wallens & Mineaux  
Employer Panel Member

APPEARANCES:

For City of Oswego:

Roemer, Wallens & Mineaux  
Liesl K. Zwicklbauer, Esq., of Counsel  
Elayne Gold, Esq., of Counsel

For Lake City Police Club:

DePerno, Khanzadian & McGrath  
Ann McGrath, Esq., of Counsel  
Karen Khanzadian, Esq., of Counsel

BACKGROUND

Pursuant to the provisions contained in Section 209.4 of the Civil Service Law, the undersigned Panel was designated by the Chairperson of the New York State Public Employment Relations Board ("PERB"), to make a just and reasonable determination of a dispute between the City of Oswego ("City") and the Lake City Police Club ("Union").

The City of Oswego is a municipal corporation located in Oswego County, encompassing approximately 7.7 square miles, with a population of approximately 19,200. Within the City is a State University College. The City maintains a Police Department ("Department") of approximately 43 sworn members. The Department operates 24 hours per day, 7 days per week. The Union is the certified bargaining agent for all Police Officers, Sergeants, and Lieutenants employed by the City. The Chief of Police is specifically excluded from the bargaining unit.

The last collective bargaining agreement between the parties covered the period which commenced on January 1, 1992 and ended on December 31, 1993 (Joint Exhibit 3). During the Fall of 1993, and prior to the expiration of the 1992-93 Agreement, the parties began negotiations for a successor contract. After several negotiation sessions, the parties declared the negotiations to be at impasse, and a PERB Mediator was appointed. Mediation did not result in agreement and on July 20, 1994, the Union filed a Petition for Interest Arbitration (Joint Exhibit 1) pursuant to Section 209.4 of the Civil Service Law.

The City filed a Response to said Petition on August 10, 1994 (Joint Exhibit 2), and thereafter, on October 17, 1994 the undersigned Public Arbitration Panel was designated by PERB, pursuant to Section 209.4 of the NYS Civil Service Law, for the purpose of making a just and reasonable determination of this dispute.

An evidentiary hearing was conducted before the undersigned Panel in the City of Oswego on March 15, 1995. At this hearing, both parties were represented by Counsel and by other officials and representatives. Both parties submitted numerous and extensive exhibits and documentation, and both parties presented argument on their respective positions. After the hearing process was completed, both parties submitted additional exhibits and post-hearing briefs to the Panel.

Thereafter, the Panel fully reviewed all data, evidence, argument and issues submitted by both parties. After significant discussion and deliberations at the Executive Sessions, the Panel members reached unanimous agreement on this Interest Arbitration Award.

In arriving at such determination, the Panel has specifically reviewed and considered the following factors, as detailed in Section 209.4 of the Civil Service Law:

a) comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities;

b) the interests and welfare of the public and the financial ability of the public employer to pay;

c) comparison of peculiarities in regard to other trades or professions, including specifically, 1) hazards of employment; 2) physical qualifications; 3) educational qualifications; 4) mental qualifications; 5) job training and skills;

d) the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

The positions originally taken by both parties are quite adequately specified in the Petition and the Response, numerous hearing exhibits, and post-hearing briefs, which are all incorporated by reference into this Award. Such positions will merely be summarized for the purposes of this Opinion and Award.

The parties, by written authorization by duly designated representatives, extended the jurisdiction of the Panel and requested that a three (3) year Award be issued. Accordingly, set out herein is the Panel's Award as to what constitutes a just and reasonable determination of the parties' contract for the period commencing January 1, 1994 through December 31, 1996.

This Award consists of many compromises induced by the Panel Chairman and represents a complete package. Neither of the concurring Panel Members would accept each individual recommendation in isolation, however, as only a simple majority is required on each item, the support of all items by at least the Panel Chairman and one other Panel Member results in this binding Award. Accordingly, all references to "the Panel" in this Award shall mean the Panel Chairman and one other concurring Panel Member.

**SALARY**Discussion on Salary

At the center of the instant dispute is the question of the appropriate salary increase to be provided to members of the unit for almost two full retroactive years (1994 and 1995) and for one prospective year (1996). While both parties have attempted to resolve the instant dispute by modifying their original salary proposals, the parties still have been unable to reach agreement on the appropriate salary increase to be provided to Oswego police.

The Union requests that Oswego police be provided with salary increases which would maintain their current wage position when compared to police of other comparable jurisdictions. The Union claims that the Oswego police have dropped in their wage standing since 1993 and that a 9% salary increase for each year of the contract is required in order for Oswego police to maintain their position with other comparable departments. The Union also argues that the number of criminal arrests and the overall police workload has continued to steadily increase since 1991 (Union Exhibit 137), with an increase in all types of criminal offenses (see Union Exhibits 129-136).

The Union argues that the testimony of municipal finance consultant Edward J. Fennell clearly shows that the City has the financial ability to pay the increases sought by Oswego police.

In addition to the financial presentations by Fennell and City Chamberlain Paul Miller, the Panel has reviewed all relevant financial documents of the City, including the 1993 and 1994 Annual Financial Report Update Documents; the 1993, 1994 and 1995 City Budgets (Joint Exhibits 4, 5 and 6); the 1995 City Constitutional Tax Limit Statement; the 1993 NYS Comptroller's Special Report on Municipal Affairs; the 1993 Overlapping Real Property Taxes statement; and the City's Official Statement upon the Sale of \$5,000,000 Bond Anticipation Notes, dated 10/13/94 (Union Exhibit 165). Additionally, the financial summary prepared by the City has been reviewed as well (City Exhibit 3).

While it is true that the City has an overall real property tax rate which is in the upper range when compared to other New York State cities of comparable size, it is apparent to the Panel that the City of Oswego has a taxing margin of \$8,671,285 which represents 41.2% of its limit for fiscal year 1995, and that the City has exhausted only 39% of its constitutional debt limit as of 12/31/94. Further, the total fund equity balance in the City's General Fund as of 12/31/94 was \$7,674,418 of which the unappropriated surplus was \$7,317,505, with a contingency fund in the amount of \$200,000 contained in the 1995 General Fund Budget.

The City indicates that it has the responsibility to balance the wages paid to Oswego police with the realities of budgeting in the public sector during a time of decreasing State aid and loss of additional revenues due to a overall statewide failing economy. Wages paid to police are significant, as the budget of the Department comprises almost 11% of the City's General Fund.

The City indicates that other bargaining units of City employees have already settled their contracts with the City. Council 66, AFSCME reached agreement with the City on a contract for 1/1/93 to 12/31/95 which provided 0% increase in 1993, 3% effective 7/1/94 and 3% in 1995 (Joint Exhibit 8). The Service Employees International Union, Local 200-B reached agreement with the City on a contract for the period 1/1/93 to 12/31/95 with wage increases of 0%, 3% and 3% (Joint Exhibit 9). The Municipal Employees Association for Management and Supervision settled a contract for the period 1/1/93 to 12/31/95 with wage increases of 0%, 3% and 3% (Joint Exhibit 10).

Most relevant herein, the City Firefighters Association, Local 2707, also went to Interest Arbitration and received wage increases of 2% in 1993, 2% in 1994 and 3% in 1995 (see *Matter of City of Oswego Firefighters Association, Local 2707 and City of Oswego, Shapiro, Arb.*; PERB Case No. IA93-028). Based on the fact that Oswego police received 4% in 1993, the City has offered the police 0% for 1994 and 3% for 1995, and maintains that this would provided parity with the Oswego firefighters.

The City further indicates that State aid has continually declined since 1991 (see City Exhibit 3; Joint Exhibits 4,5 & 6), while City revenues have been stagnant. At the same time, the cost of salaries, health insurance and the running of government generally has continued to increase.

The City indicates that it is currently at over 40% of its constitutional tax limit (City Exhibit 4), and while taxes could be raised, the City believes that taxes are currently high when compared with similar cities in upstate New York. Nor is the City able to collect all taxes, as there is a delinquency rate; unpaid taxes equaled \$279,177 in 1994. While the City does currently have a surplus in the contingency fund, such monies are not to be used for contract settlements, but rather, are held for unforeseen emergencies.

The City anticipates paying any wage increases brought about as a result of this Award out of the General Fund Balance, which the City claims is at 6.4 million dollars and not the 7.6 million calculated by the Union's consultant. Finally, the City argues that not all of this is spendable funds, as some of the money is owed to the County for taxes, and some of the monies in the General Fund are from a non-renewable source of revenue; the Harborfest held in July of 1993, which was more successful than usual, and resulted in higher than anticipated revenue from sales taxes. Nonetheless, the General Fund Balance is significant and can provided funding for the salary increases provided herein.

The parties agree that under the expired Agreement, an Oswego Police Officer reaches the top base pay after 5 years, which at the end of the 92-93 Agreement was \$33,358. The Panel has used this figure as the benchmark herein when comparing Oswego police salaries with those of police in comparable jurisdictions.

As regards the proper comparables for Oswego police, the Panel finds that the cities of Cortland, Plattsburgh, Watertown and Fulton are appropriate cities for comparison with Oswego. Cortland has a population of 19,800 and a police department of 37 sworn members, with a State University College within the city; Plattsburgh has a population of 21,000, a police department of 39 sworn members, and a State University College as well; Watertown is a larger city, with a population of 33,000 and a police department of 58 sworn members, but shares geography and economic similarities with Oswego; and Fulton is a neighboring City, being just 14 miles from Oswego, with a population of 14,100.

While both parties herein have cited many other upstate New York cities as proper comparables, the Panel finds that the above-cited four cities are sufficient for the analysis which has been undertaken herein. The parties have submitted, and the Panel has reviewed, the recent collective bargaining agreements covering police in the comparable jurisdictions.

Further, the Panel has reviewed the recent Interest Arbitration Award received by the City of Oswego and the Firefighters, as an appropriate comparison for Oswego police salaries and other benefits. Additionally, the Panel has reviewed and considered the collective bargaining agreements which include the other City of Oswego employees for the contract period in issue herein, particularly as concerns salaries and benefits.

Notwithstanding the bargaining which has occurred between the City of Oswego and its employees other than police and fire, the average arbitrated salary increase for police in 1994 was 4.68% (Union Exhibit 102). There is no question that Oswego police have in the past earned more than police in Cortland, Plattsburgh, Watertown and Fulton. However, Oswego police are in substantial danger of falling behind the appropriate comparables if a reasonable salary increase is not awarded herein. Such salary increases of course, must be within the ability of the employer to pay, and should not be out of line with what has been received by the Oswego firefighters.

In that regard, a close review of the Interest Arbitration Award for the Firefighters has been undertaken by the Panel. While the Oswego firefighters have received a 2% salary increase for 1994 and a 3% salary increase for 1995, such salary increases do not accurately reflect the entire economic package gained by the firefighters. Additionally, the firefighters gained a 20 year retirement plan under 384-d of the New York State Retirement Law,

which was noted as having substantial cost by the Interest Arbitration Panel in that case (see *Shapiro Award*, p. 44). The Panel estimates that the value of the awarding of a 384-d retirement plan to the Oswego firefighters equates to over a 1% increase in salary per year for the first few years of implementation. It is difficult to determine the cost of the 384-d retirement plan beyond the initial implementation period from the data provided by the parties herein. However, the Panel must clearly consider the overall financial package received by the Oswego firefighters, when determining a fair and equitable contract package for Oswego police officers.

The Panel has also considered that there will be some savings realized by the City as a result of the determination made herein regarding the increased health insurance contribution to be made by both active Oswego police officers and those who retire in the future.

Additionally, the Panel has considered the impact of the deployment issue raised as a result of an arbitration case heard by Arbitrator Rinaldo regarding the assignment of overtime [*In the Matter of Lake City Police Club, (Germain and Bateman) and City of Oswego* (Rinaldo, Arb., 9/3/93); PERB Case Nos. A92-173 and A92-342]. The Union alleges, and the Panel does not deny, that this Award (Joint Exhibit 11) has resulted in a significant loss of overtime to each police officer in the bargaining unit.

Finally, the Panel recognizes that additional savings will be achieved due to the determination herein regarding the hiring of civilian dispatchers, as requested by the City.

It is the view of this panel that there are many factors that must be considered under the Taylor Law to reach a just and reasonable determination of the proper compensation to be awarded to Oswego police herein. The issue of the City's ability to pay and potential budgeting and tax revenue issues are important factors that must be given paramount attention, but such must also be viewed against the obvious importance of maintaining an acceptable level of police services which are necessary to protect the citizens and visitors of Oswego.

The ability of the employer to provide for salary increases must be balanced with the public safety and welfare, and the obligation to provide Oswego Police with a fair and equitable wage for the important and in many cases, dangerous work which they perform.

While the Panel acknowledges that the salary increases provided herein may be more than the City had planned to spend to fund the new police contract, there is no question, based on a thorough review of the financial documents of the City, and the current Fund Balance, that the City has the ability to pay the salary increases awarded herein.

The Panel further acknowledges that no other group of municipal employees, with the exception of the firefighters, have the same significance or impact upon public health, safety and general welfare as do the Oswego police. All statistics indicate that crime, and particularly violent crime, has increased greatly within the past few years. Violence is becoming a commonplace event in cities throughout New York State and the United States.

The Panel recognizes that the job of police officer, in such a violent climate, is unquestionably dangerous. Even under routine working conditions, the job of police officer involves the risk of life. Accidents, as well as senseless violence, result in injury and death to police officers on a daily basis throughout New York State and the United States.

It is the view of the Panel that police officers, subject to daily risks to their safety and their lives, provide a necessary and essential service, which cannot be equated to the work performed by other City employees, with the exception of firefighters.

Therefore, the Panel finds that the salary increases provided to Oswego police herein are warranted, and will allow them to maintain their financial position in terms of salary when salaries are viewed against other police officers in comparable upstate New York cities. Such increases are necessary and are within the ability of the City to pay.

However, it is apparent that the entry level salary for Oswego police is high when viewed against the starting salaries of other comparable police departments in upstate New York and in the surrounding Oswego area. The Panel has therefore, excluded entry level salaries from any of the salary increases awarded herein, and has frozen the entry level salary for a Oswego police officer at \$27,040 for the term of this Award, which ends on December 31, 1996.

Accordingly, and after consideration of the extensive exhibits, documentation, and testimony presented herein; and, after due consideration of the criteria specified in Section 209.4 of the Civil Service Law, the Panel makes the following

AWARD ON SALARY

1. Effective January 1, 1994, and retroactive to that date, the base salary schedule, with the exception of the entry level salary, shall be increased by 3%.

2. Effective January 1, 1995, and retroactive to that date, the base salary schedule, with the exception of the entry level salary, shall be increased by 2%.

3. Effective July 1, 1995, and retroactive to that date, the base salary schedule, with the exception of the entry level salary, shall be increased by 2%.

4. Effective January 1, 1996, the base salary schedule, with the exception of the entry level salary, shall be increased by 2%.

5. Effective July 1, 1996, the base salary schedule, with the exception of the entry level salary, shall be increased by 2%.

**HEALTH INSURANCE**Discussion on Health Insurance

At the present time, members of the Oswego police contribute 7.5% of the difference between family and individual medical coverage, as provided in Article 24.1 of the 1992-93 Agreement. It is undisputed that the cost of health insurance has increased at an alarming rate during the past few years, with the majority of the cost burden placed upon the City. The City now seeks to increase the officer's share to 15% of the difference between family and individual health insurance premium costs, and claims that the 15% employee contribution would be more in line with that made by other City employees,. This additional 7.5% contribution will assist the City in maintaining the present level of health benefits provided to Oswego police.

The record herein reveals that the City has sought and achieved additional health insurance contributions from all City employees: management employees currently contribute 15% of the difference between family and individual health coverage; AFSCME contributes 12.5% but limited the retroactivity of the 1994 salary increase to July 1, 1994; SEIU currently contributes 2% of the difference between family and individual health coverage, but funds its own dental insurance program, at a significant savings to the City.

Most notably, the Oswego firefighters, as a result of the 1993-95 Interest Arbitration Award, have since January 1, 1995 contributed 15% of the difference between family and individual health coverage.

The Panel agrees that the costs of health insurance continue to rise at a high rate. In determining the appropriate increase in the employee contribution for Oswego police, the Panel has considered what other police officers are paying in the comparable police departments in upstate New York, as well as what the Oswego firefighters, and other City employees are contributing towards their health insurance costs. The Panel finds that the modest increase sought by the City for the difference between family and individual health coverage is warranted.

AWARD ON HEALTH INSURANCE

1. Effective January 15, 1996, Article 24.1 of the 1992-93 Agreement shall be amended to read as follows:

Effective January 15, 1996, all employees shall contribute 15% of the difference in cost between individual and family coverage, including health, dental and optical coverage.

**RETIREE HEALTH INSURANCE**Discussion on Retiree Health Insurance

Under Article 24.2 of the expired 1992-93 Agreement, the City currently pays 100% of the cost of health insurance for all police officers who retire with at least twenty (20) years of service. The current premium for family retiree health insurance is \$475 per month (City Exhibit 10). The City indicates that retired Oswego firefighters contribute 15% as a result of the 1993-95 Interest Arbitration Award; retired SEIU and AFSCME members contribute 50%; and retired management employees contribute 25%.

While the Panel acknowledges the significant impact of rising health insurance costs upon the City, it does not deem it appropriate to now change the retirement budgets and plans of police officers who are nearing retirement. Accordingly, the Panel grants the City's request to have a contribution for health insurance from police retiree's, but excludes from such contribution upon retirement those police officers who have fifteen (15) or more years service on January 15, 1996, and further excludes those police officers who retire with 25 years of service or more. This is in accord with the present retiree health insurance contribution paid by Oswego firefighters. Further, the Panel excludes from the retiree health insurance contribution those police officers who retire with less than 25 years of service as a result of a line of duty injury or sickness.

AWARD ON RETIREE HEALTH INSURANCE

1. Effective January 15, 1996, Article 24.2 of the 1992-93 Agreement shall be amended to read as follows:

Those employees who have fifteen (15) or more years of service on January 15, 1996, and retire with less than twenty-five (25) years of service, and those employees who retire as a result of a line of duty injury or sickness, shall not be required to contribute to their health insurance upon retirement.

Except as provided above, any employee who retires on or after January 15, 1996 with at least twenty (20) years of service, but less than twenty-five (25) years of service, shall contribute 15% of the cost of Blue Cross/Blue Shield with Major Medical health insurance for themselves and their dependents, as long as the employee or the employee's spouse is alive. Any employee who retires with at least twenty-five (25) years of service, shall have his/her health insurance fully paid by the City, with no contribution by the employee.

**CIVILIAN DISPATCHERS**

Discussion on Civilian Dispatchers

The City proposes that a new article be added to the contract which would allow the City to hire Civilian Dispatchers. Currently, Oswego police officers function as dispatchers and desk officers. The City claims that if able to hire civilian dispatchers, it would free police officers to work patrol or other duties, and would result in a significant cost savings for the City. The City maintains that not only would civilian dispatchers be paid less than police, but the increased productivity due to additional police being available to perform patrol or other police duties would represent a cost saving to the City.

The City has indicated that it recently applied for a Federal grant referred to as a "COPMORE" grant. This Federal program provides reimbursement to a municipality for up to 75% of the salary and benefits of civilian dispatchers hired for the purpose of freeing police officers from desk duty and resulting in additional police on patrol or other police assignments. If such grant is approved, the City's savings in this area is only increased by the hiring of civilian dispatchers.

The Panel endorses the City's proposal, and believes that the release of police officers from dispatch duties will work to the benefit of all members of the public, and will result in saving to the City even beyond the period which may be covered by the Federal grant. However, the Panel only approves the hiring of civilian dispatchers with the limitation that no police officer position shall be eliminated by the hiring of civilian dispatchers.

AWARD ON CIVILIAN DISPATCHERS

Effective January 1, 1996, the City may hire Civilian Dispatchers to work for the Police Department. No police officer position shall be eliminated by the hiring of such Civilian Dispatchers.

## **DISCIPLINARY PROCEDURE**

### Discussion on Disciplinary Procedure

Currently, under Article 5 of the 1992-93 Agreement, an Oswego police officer is entitled to the protection of Section 75 of the New York Civil Service Law, when the City seeks to discipline or discharge that employee. In addition to providing for a due process hearing and a statute of limitations of 18 months for charges which may be brought, the distinguishing feature of the Section 75 disciplinary procedure is that the final decision as to discipline and the appropriate penalty remains with the appointing authority. In the case of Oswego, which is a charter driven City, the appointing authority is the Mayor.

The Union seeks to modify Article 5 to allow an officer against whom disciplinary charges have been brought, to have the matter heard by an independent arbitrator, mutually selected pursuant to the rules of Public Employment Relations Board, with the arbitrator having the authority to make a final and binding decision on the disciplinary charges. The City is opposed to binding arbitration of police disciplinary matters and maintains that as a matter of public accountability, it is the Appointing Authority which must take full responsibility for the discipline of Oswego police.

The Panel has carefully considered this issue and notes that the many of the upstate police departments provide for either independent arbitration or a Section 75 hearing with an independent and neutral hearing officer selected by the Appointing Authority<sup>1</sup>. While the Panel recognizes that for many years the Section 75 proceeding has served as the benchmark for disciplinary hearings, there is currently a clear trend toward final and binding impartial arbitration.

Regardless of the result or the number of cases which have occurred, the current disciplinary procedure utilized by the City promotes the perception that a charged member will not receive a neutral due process hearing. While there is no evidence that the current process has produced an unfair or unjust result in prior disciplinary cases, the Panel is of the view that members of the Oswego Police Department are entitled to a due process hearing before an independent hearing officer. The Panel can however, accept the City's strong view that the ultimate responsibility for determining the appropriate penalty for misconduct or incompetence must remain with the Appointing Authority.

The Panel believes that the Section 75 process under the Civil Service Law allows for the City to maintain overall accountability, while the use of an independent hearing officer under Section 75 allows for a fair and impartial hearing.

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<sup>1</sup> Albany, Cortland, Plattsburgh, Rochester, Syracuse, Utica and Watertown, among others.

AWARD ON DISCIPLINE

Effective January 1, 1996, Article 5.1 of the 1992-93 contract shall be amended to read as follows:

Any discipline of an employee covered by this Agreement shall be in accordance with the provisions of Section 75 of the Civil Service Law. The procedure for a due process hearing specified in Section 75 shall apply, however, a neutral Hearing Officer for any hearing held under Section 75 shall be appointed by rotation from a three (3) member panel of neutrals agreed upon by the parties. The costs and expenses of such neutral Hearing Officer shall be paid by the City, and the Hearing Officer shall conduct a hearing pursuant to Section 75 of the Civil Service Law and shall forward his/her Findings and Recommendations to the Appointing Authority for decision in accordance with the provisions of Section 75.

**SECTION 207-c GENERAL MUNICIPAL LAW PROCEDURE**

Discussion on Section 207-c GML Procedure

Section 207-c of the New York General Municipal Law provides, *inter alia*, that police officers who are injured in the performance of their duties or are taken sick as a result of the performance of their duties so as to necessitate medical or other lawful remedial treatment shall be paid by the municipality by which they are employed the full amount of their regular salary or wages until their disability arising therefrom has ceased, and, in addition such municipality shall be liable for all medical treatment and hospital care necessitated by reason of such injury or illness. Section 207-c further provides that if able, an officer may be required by the municipality to work a light duty assignment consistent with his status as a police officer.

Currently, all determinations made regarding coverage and applicability of Section 207-c are made by the City, acting by its Personnel Director. Any further review of determinations made under Section 207-c must be made through an Article 78 proceeding under the Civil Practice Law and Rules, requiring a showing that such determination was arbitrary or capricious. Not only is such a court review process expensive, but it can take a prolonged period of time until final resolution.

The Union proposes that the contract incorporate the Section 207-c procedure into the contract, with a final determination to be made by a fair and impartial neutral.

The Panel agrees with the Union that determinations under Section 207-c of the General Municipal Law should be subject to appeal to an impartial arbitrator, selected and agreed upon by the parties. Arbitral review of claims and determinations made under Section 207-c are increasingly coming before impartial arbitrators, by agreement of the parties. It is a method of resolution being utilized by many upstate New York police departments, and represents a expeditious and cost effective method of allowing an employee to present evidence in support of his/her claim.

AWARD ON SECTION 207-C GENERAL MUNICIPAL LAW

Effective January 1, 1996, the parties shall amend the existing Section 207-c procedure applicable to Oswego police, to provide that any appeal from an adverse determination shall be heard and decided by an impartial arbitrator, appointed from a panel of three (3) neutrals mutually agreed upon by the parties. The arbitrator shall conduct an arbitration hearing, and shall issue a final and binding decision. The arbitrator shall be bound by the determination of the City unless he finds that the determination is not supported by a preponderance of the evidence. The fees and expenses of the arbitrator shall be divided equally between the parties.

**WORKING CONDITIONS**

Discussion on Working Conditions

Article 11.1 of the 1992-93 Agreement provides that the City shall notify the Union at least seven (7) days in advance of any change in working conditions or methods, except where such change is required because of an emergency or major disaster over which the City has no control.

The Union seeks to modify said provision to clarify that the City cannot change those working conditions or methods which are mandatory subjects of negotiation under the Taylor Law. The City is opposed to any change in this provision.

The Panel finds that the only correct interpretation of Article 11.1 is that matters covered by the collective bargaining agreement cannot be changed unilaterally by the City, and any changes sought must be the result of negotiations between the parties. The Panel has revised the language of Article 11.1 to reflect such interpretation.

AWARD ON WORKING CONDITIONS

Effective on the date of this Award, Article 11.1 of the 1992-93 Agreement is amended to read as follows:

The employer shall notify LCPC at least seven (7) days in advance of any change in working conditions or methods not specifically provided for by this Agreement. The notice requirement shall not apply where such change is required because of an emergency or major disaster over which the employer has no control.

**REMAINING ISSUES**

Discussion on Remaining Issues

The Panel has reviewed in great detail all of the demands and proposals of both parties, as well as the extensive and voluminous record in support of said proposals. The fact that these proposals have not been specifically addressed in this Opinion and Award does not mean that they were not closely studied and considered in the overall context of contract terms and benefits by the Panel members.

In interest arbitration, as in collective bargaining, not all proposals are accepted, and not all contentions are agreed with. The Panel, in reaching what it has determined to be a fair result, has not addressed or made an Award on many of the proposals submitted by each of the parties. The Panel is of the view that this approach is consistent with the practice of collective bargaining. Thus, we make the following award on these issues:

AWARD ON REMAINING ISSUES

Except for those proposals and/or items previously agreed upon by the parties herein, any proposals and/or items other than those specifically modified by this Award are hereby rejected.

**RETENTION OF JURISDICTION**

The Panel Chairman hereby retains jurisdiction of any and all disputes arising out of the interpretation of this Opinion and Award.

**REVISION OF CONTRACT**

The Panel recommends that the parties herein revise the 1992-93 Agreement in accordance with the provisions of this Award, and prepare and execute a document which reflects the provisions of this Award.

**DURATION OF CONTRACT**

The Panel has been specifically authorized by the parties to exceed the two year maximum contract duration as provided by the Taylor Law in Section 209.4(c)(vi).

This Award therefore provides for an Agreement for the period commencing January 1, 1994 and ending December 31, 1996.

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**SUMMARY OF AWARD**

1. Term

3 year contract  
Begins 1/1/94 through 12/31/96

2. Salary

Freeze starting salary at \$27,040 during term of this Award.

Effective 1/1/94 general salary increase of 3%  
Effective 1/1/95 general salary increase of 2%  
Effective 7/1/95 general salary increase of 2%  
Effective 1/1/96 general salary increase of 2%  
Effective 7/1/96 general salary increase of 2%

3. Health Insurance

Effective 1/15/96 employee shall pay 15% of difference between individual coverage and family coverage, if family coverage has been selected.

4. Retiree Health Insurance

Except for those employees who have 15 or more years of service on 1/15/96, any employee who retires on or after 1/15/96, with 20 years of service, but less than 25 years of service, shall pay 15% of the cost of BlueCross/BlueShield with Major Medical health insurance.  
Excludes those employees who retire with less than 25 years of service due to line of duty injury or sickness.

5. Civilian Dispatchers

Effective 1/1/96, the City may hire Civilian Dispatchers. No police officer position shall be eliminated by the hiring of such Civilian Dispatchers.

6. Section 75 CSL Disciplinary Procedure

Effective 1/1/96 a neutral Hearing Officer shall be appointed for all Section 75 proceedings, from 3 person panel of neutrals agreed upon by parties within 30 days of this Award. Neutral Hearing Officer shall conduct full due process hearing pursuant to provisions of Section 75 and upon completion of such hearing, shall forward his/her Findings and Recommendations to the Appointing Authority for decision in accordance with the provisions of Section 75.

7. Section 207-c GML Procedure

Effective 1/1/96

Final and binding decision to be made by mutually selected arbitrator, from 3 person panel of neutrals agreed upon by parties within 30 days of Award.

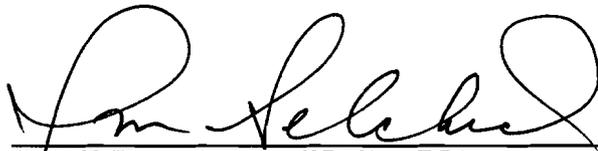
8. Modification of Article 11 Working Conditions

Effective Date of Award

Article 11.1 of 92-93 Agreement is amended to read:

The employer shall notify LCPC at least seven (7) days in advance of any change in working conditions or methods not specifically provided for by this Agreement. The notice requirement shall not apply where such change is required because of an emergency or major disaster over which the employer has no control.

**IN AGREEMENT:**



JEFFREY M. SELCHICK, ESQ.  
Public Panel Member and Chairman

12-11-95  
Date



ROCCO A. DEPERNO, ESQ.  
Employee Organization Panel Member

12-18-95  
Date



WILLIAM M. WALLENS, ESQ.  
Employer Panel Member

12/11/95  
Date

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

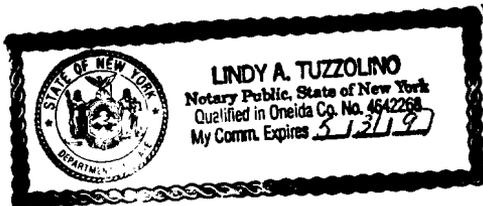
On this 11<sup>TH</sup> day of December, 1995, before me personally came and appeared Jeffrey M. Selchick, Esq., to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.

CATHY L. SELCHICK  
NOTARY PUBLIC STATE OF NEW YORK  
NO. 4830518  
QUALIFIED IN ALBANY COUNTY  
COMMISSION EXPIRES NOVEMBER 30 1997

*Cathy L. Selchick*  
Notary Public

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

On this 11<sup>TH</sup> day of December, 1995, before me personally came and appeared Rocco A. DePerno, 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.



*Rocco A. DePerno*  
Notary Public

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

On this 11<sup>TH</sup> day of December, 1995, before me personally came and appeared William M. Wallens, 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.

*Andrea S. Naseman*  
Notary Public

ANDREA S. NASEMAN  
Notary Public, State of New York  
No. 4773541  
Qualified in Albany County  
Commission Expires 10/21/96