

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the Arbitration :
- Between - : Case No.
VILLAGE OF FLORAL PARK, : M97-300
"Village" : IA98-017
- and - :
FLORAL PARK POLICE BENEVOLENT :
ASSOCIATION :
"PBA" :

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APPEARANCES

For the Village
RYAN & BRENNAN, LLP
John E. Ryan, Esq., of Counsel
Lucille Guardala, Deputy Mayor

For the PBA
CERTILMAN, BALIN, ADLER & HYMAN, LLP
Michael Axelrod, Esq., of Counsel
Daniel Baker, Esq., of Counsel

BEFORE: Howard C. Edelman, Esq., Chairman,
Interest Arbitration Panel
Nancy McLoughlin, Public Employer Panel Member
John Donnelly, Public Employee Panel Member

NY'S PUBLIC EMPLOYMENT RELATIONS BOARD
RECEIVED

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CUNCILIATION

The parties are signatories to a Collective Bargaining Agreement which expired on May 31, 1997. Negotiations and mediation failed to produce a successor Agreement. Consequently, the PBA petitioned the Public Employment Relations Board for Interest Arbitrations pursuant to Section 209.4 of the Civil Service Law. Pursuant to that statute, the undersigned Panel was constituted to hear and decide the matter.

Hearings were held before the Panel on October 8, 1998 and December 14, 1998. At the hearing of October 8, 1998, the parties agreed to waive a stenographic record of the proceedings.

On February 9, 1999, the parties met in executive session. They agreed to invest in the Panel the authority to issue an Award for a term not to exceed five years (see Memorandum of Agreement, dated February 9, 1999). In addition, they agreed that to expedite our findings, the Panel would promptly issue an Award followed by an Opinion and re-issued Award with a reasonable time period. That Award was issued on April 1, 1999. This Opinion and re-issued Award follows.

The Village is situated in parts of three larger municipalities - the Town of North Hempstead, the Town of Hempstead and the City of New York. It is approximately 1.4 square miles in area. The median family income is

approximately \$78,100.

The Village employs thirty five Police Officers headed by a Police Commissioner. Members of the bargaining unit include all members of the force, except those holding the rank above Lieutenant.

As indicated above, the Panel's findings are the result of the parties' failure to agree upon a successor contract to the one which expired on May 31, 1997. Our analysis of the parties' positions and our resolution follows below.

POSITIONS OF THE PARTIES¹

PBA

The PBA seeks a three year Agreement with annual wage increases of six per cent. These increases are justified, it submits, because its members earn substantially less than their counterparts in other comparable jurisdictions. For example, the PBA asserts that the average salary for a Police Officer in 1996 was \$1,285 below the average for other villages and municipalities in Nassau County to which Floral Park has been traditionally compared (Joint Exhibit 30).

In addition, the PBA maintains that as recently as 1990, Floral Park's wages ranked among the highest in the

¹To expedite these findings, parties' positions are summarized.

County. In 1991, Officers took a freeze in wages in recognition of the Village's claim of severe financial stress, the PBA submits. Such a situation no longer exists, in its view.

Also, the PBA maintains that while Floral Park salaries once exceeded those paid to Nassau County's Police Officers, they now fall substantially below that level, in excess of \$3,000 in 1996. There is no basis for such an inequity, in the PBA's view. Hence, it contends, raises of 6 per cent for each of three years will correct in part this imbalance since most recent settlements reflect increases of approximately 4.5 per cent to 5.0 per cent.

In addition, the PBA asserts that substantial increases in night differential and longevity are justified. It insists that virtually every other jurisdiction in Nassau County pays its officers substantially greater longevity and night differential than currently exists in Floral Park (Joint Exhibit 30). Consequently, the PBA proposes the following improvements in these areas:

Night Shift Differential - The contract will be amended to pay all officers ten per cent of a member's salary, including longevity, for night shift differential.

Longevity -

- a. There shall be a \$350 increase after nine years of service.
- b. \$100 per step shall be added to each step thereafter through 14 years.
- c. An additionally \$350 shall be added at the 15th step.
- d. Each year thereafter shall result in a \$300 per year increase.

Concerning clothing and uniform and equipment allowance, the PBA submits that reasonable increases in these allotments are warranted. It notes, for example, that the Nassau County Detectives Association and the Nassau County PBA received substantial increases in these areas via Awards rendered recently. Hence, it asks for the following improvements:

Plain Clothes Clothing Allowance - Increased to \$250 per three month continuous period and to \$1,000 per year.

Uniform and Equipment Allowance - Increased \$100 per year.

The PBA also believes that payment for sick leave, terminal leave, holidays and overtime should be calculated and based on a 232 day duty chart. It points

out that virtually every other jurisdiction in Nassau County utilizes this 232 day duty charge for such payments. It sees no reason why Floral Park Officers should be treated any differently. It also seeks inclusion into the Agreement the contents of a letter dated December 6, 1995 regarding family illness.

Regarding compensatory time, the PBA maintains that Officers should be permitted to accrue up to 196 hours of compensatory time. In its view, this proposal is fair and ought to be awarded.

The PBA points out that Police Officers are no longer exempt from jury duty. Hence, it insists, consistent with other public employees, its members should suffer no loss in pay if they are required to report for jury duty.

The PBA asserts an increase is needed in the number of sick leave days members can accrue. In its view, the current level of 400 days ranks at or near the bottom of comparable communities. Hence, it contends, an increase to 600 days accumulation, with one half paid at retirement, is reasonable.

Concerning life and dental insurance, the PBA argues that improvements are justified in the Village's contributions for these benefits. As to life insurance, the PBA notes that the current \$10,000 payment by the Village has not increased in ten years. With respect to

dental insurance, the PBA suggests that the \$500 contribution is below levels elsewhere, including Nassau County, Kings Point and Port Washington. Hence, it makes the following proposals:

Life Insurance - The Village shall pay an additional \$10,000 per year toward the PBA's group life insurance plan.

Dental Plan - The Village shall pay an additional \$100 per year per member during the first year, an additional \$100 in the second year, and an additional \$100 per member in the third year toward the dental plan.

Concerning proration of certain benefits, the PBA asks that the current 90 calendar day period be amended to 90 working days. It also asks that no proration be deducted in cases of on-the-job injuries.

Police Officers are expected to upgrade their skills and knowledge of department related issues, the PBA submits. Therefore, it asks that the Village establish a college reimbursement fund of \$10,000 per year, whose balance will not be carried over, for courses deemed relevant to a Police Officer's duties.

The PBA asks that Martin Luther King Day be added as a paid holiday. It also asks that an Opinion and Award by Arbitrator Robert Douglas, dated March 21, 1997 on the

subject of holiday overtime pay be incorporated into the Agreement. In addition, the PBA seeks inclusion of a child care leave provision into the Agreement.

In sum, the PBA contends that its proposals are reasonable in light of all relevant factors including benefits paid other similarly situated officers. It also maintains that the Village can well afford the improvements it seeks without unduly burdening residents. Therefore, it asks that its demands be awarded as presented.

VILLAGE

Initially, the Village contends that an Award covering five years is justified. It points out that when this Opinion is issued approximately two years will have elapsed since the expiration of the prior Agreement. As such, it suggests, a contract of significant duration; i.e. four or five years, is necessary to ensure lasting stability.

As to wages, the Village asserts that Floral Park falls in the mid-range of Nassau County jurisdictions (PBA Exhibit 8). While it does not suggest that this ranking decline, it sees no reason to improve the ranking either.

Also, the Village maintains that current cost of a Police Officer's salary and benefits is \$93,425,

consisting of \$62,606 in base wages and \$30,819 in fringe benefits (See Village's brief, pp 11-12). Thus, the Village urges, any increase must take into account an already high level of compensation.

The Village contends that wage increases for other municipalities are averaging 4.25 per cent to 4.50 per cent per year (See Joint Exhibits 5 and 29). Consequently, it suggests, raises of 4.35 per cent are reasonable. Hence, the Village proposes a five year wage package of 4.35 per cent per year.

With respect to calculations for overtime, holiday, unused sick leave and termination pay calculations, the Village acknowledges that virtually every other jurisdiction calculates these payments on a 232 day duty chart. However, it insists, such a modification would represent a significant increase in cost; i.e. more than \$213,000 on an annual basis. To mitigate this impact, the Village asks that the "232" calculation be phased in prospectively.

Concerning plain clothes allowance and uniform allowance, the Village contends that current stipends are adequate. Specifically, it points out, these stipends exceed those in Freeport (plain clothes), and Rockville Centre and Lynbrook (uniform). Consequently, it contends, no increases are due in either category.

As to night differential, the Village acknowledges

that the current benefit is lower here than in a number of other jurisdictions. However, it maintains, the differential is comparable to that paid in municipalities with flat dollar amounts (e.g. Freeport and Hempstead). Moreover, the Village insists, converting to a percentage would build in costly yearly increments to its financial obligations in this area. Consequently, the Village suggests that the night differential be increased by \$500 per year.

With respect to longevity, the Village maintains that current stipends are adequate. It points out that amounts paid in Floral Park exceed those in Rockville Centre and Lynbrook (Joint Exhibit 30). As such, it sees no reason to improve this benefit.

The Village asserts that no increase is warranted in the amount of compensatory time a Police Officer may accrue. This is especially so given what it characterizes as Sergeants' abuse in switching tours.

As to Holiday Pay, the Village agrees that Martin Luther King Day should be included in the list of scheduled holidays. It also agrees that the Opinion and Award rendered on March 21, 1997 by Arbitrator Robert Douglas on holiday overtime be incorporated into the Agreement.

The Village sees no need for a contractual provision relating to jury duty. However, the Village asks that if

one is awarded, compensation received by Officers for such service should be returned to avoid double payments.

The Village asks that the current sick leave accumulation and payment therefor remain unchanged. It suggests that the current maximums of 400 days accumulation and 200 days payout is consistent with most other jurisdictions. As to family illness, the Village asks that this provision be eliminated or, in the alternative, that officers be required to give written reasons for taking such leave. In addition, it asks that the number of sick days be reduced from 26 to 20.

The Village sees no need to adopt a college tuition reimbursement plan. It points out that, except for the County of Nassau, no other comparable community provides a similar benefit. Hence, it asks that this proposal be rejected.

The Village maintains that no increase is warranted in life insurance and dental insurance benefits. As to the former, it suggests that the record does not demonstrate that Floral Park's Officers receive lower benefits than their counterparts elsewhere. Similarly, it urges, the record does not indicate that its current dental insurance payment of \$600 per member is less than that paid in a substantial number of other jurisdictions.

Concerning proration of certain benefits, the Village asserts that no change is warranted. The current

provision is intended to minimize its costs to Officers who are accident prone, the Village submits. In its view, there has been no showing that the current provision works a hardship on any Officer. Therefore, it asks that the contract clause remain unchanged.

With respect to maternity leave, the Village agrees with the PBA that the language contained in the Rockville Centre Collective Bargaining Agreement should be incorporated into the Panel's Award.

The Village contends that a major revision is needed with respect to Sergeants' overtime. It points out that the expired Agreement permits a Sergeant to swap tours with another Sergeant. It notes that the Sergeant coming in to work is paid overtime. Moreover, the Village suggests, it has no contractual ability to bar the mutual swap.

As a result, the Village insists, Sergeants' overtime has skyrocketed and as of September 26, 1998 had a dollar equivalent exceeding \$177,000 (Village Exhibit 1). Also, the Village maintains, little or no valid reasons exist for most of the mutual swaps.

Given these data, the Village contends that the relevant Agreement provision should be modified to give the Commissioner the authority to approve requests for tour switches by Sergeants. In the alternative, it asks that overtime payment for Sergeants who switch tours be

limited to their five personal days.

In sum, the Village argues that its proposals are reasonable in light of relevant economic and operational circumstances. Accordingly, it asks that they be adopted as presented.

DISCUSSION AND FINDINGS

Several introductory comments are appropriate. The Panel's determination is limited to the evidence contained in the record as developed at the hearings. We are precluded from any other factors and our findings below are based strictly on that record.

Moreover, the Panel is also limited by the criteria set forth in Section 209 (4)(c)(v) of the New York State Civil Service Law ("Taylor Law"). Thus, we are bound to consider the standards set forth therein, as follows:

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

With these principles in mind we turn to the issues before us.

1. Length of Agreement

The prior contract expired on May 31, 1997. As such, the Award previously issued must be retroactive to June 1, 1997, or approximately two years ago.

Given this circumstance, the Panel finds that an Award of five years' duration makes sound labor relations sense. It promotes the interests of the public and Police Officers by fostering stable employer-employee relations three years into the future. The parties have also expressly authorized this Panel to issue an Award for such duration. Thus, there is no reason to render a finding for any other period of time, we are convinced. Accordingly, we find that the Award shall encompass the period June 1, 1997 to May 31, 2002.

2. Wages

The Panel is convinced that the Village is well able to afford reasonable increases for its Police Officers. Its ability to pay, as contained in Criterion (b) of Section 209 (4)(c)(v) of the Taylor Law, reveals a municipality in sound fiscal condition. For example, for the fiscal year ending May 31, 1995, the Village had utilized 43.84 per cent of its constitutional tax limit, a figure comparable to that of nearby communities such as Lynbrook (48.02 per cent), Malverne (42.45 percent), and

Garden City (39.39 per cent). Joint Exhibit 16. While the utilization figure has increased somewhat since then and is now approximately 54 per cent, the Village is not close to the limit of its capacity to raise taxes.

It is true that no municipality should be at or near its constitutional limit, if at all possible. Surely, the interests of the public are ill served by a municipality that taxes its residents as much as it is legally able. However, the record also reveals that the tax rate in Floral Park has been rising modestly. For 1997-98, the rate advance was five per cent and for 1998-99, the rate remained steady (Joint Exhibits 23, 24). As such, the Village has not imposed large increases upon its citizens, we find. Accordingly, we conclude, the Village's ability to pay does not preclude awarding reasonable salary increases to members of the bargaining unit.

What are "reasonable" increases as contained in the record before us? Criterion (a) of Section 209 (4)(c)(v) of the Taylor Law addresses this issue. It requires the Panel to compare the "wages, hours and conditions of employment of the employees involved in the dispute with the wages hours and conditions of employment of other employees performing similar services...in public or private employment in comparable communities."

This criterion generally involves a comparison

between police compensation in Floral Park and other similarly situated communities. In Nassau County, there are approximately 36 Villages which employ their own police force. The others are serviced by the County's. While comparisons to all of the other County municipalities are valid, certain communities are especially significant.

These are contained in Joint Exhibits 28, 29 and 30, we find. While they include higher income communities such as Kings Point, they also include less economically favored ones, such as Freeport. Taken as a whole, these communities and the County of Nassau yield relevant data in comparing Floral Park's Police salaries with those in similarly situated communities.

These data demonstrate that top grade police officers' salaries in Floral Park ranked 14th of 15 communities in 1994; 13th of 15 for 1995 and 14 of 15 for 1996. (Joint Exhibit 28). Thus, there is no doubt that Police Officers' wages here are not high when compared with their counterparts elsewhere. Thus, criterion (c) of Section 209 (c)(v), which requires consideration of past contracts, suggests that improvements equal to or slightly in excess of raises elsewhere, are warranted.

Against this background future increases must be weighed. The record reveals that increases averaging approximately 4.40 per cent are the norm for 1997-98 and

subsequent years. Consider the following increases, for example:

<u>Municipality</u>	<u>Percentage Increases</u>				
	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>
Lynbrook	4.5	4.5	4.75		
Port Washington	4.5	4.5*	4.5*		
Rockville Centre	4.0	4.5	4.5	5.25	5.5
Malverne	0**	4.5	4.5		
Long Beach	5.0	4.5	4.75	4.9	
Freeport	4.5	4.0	5.0*		

*split raises

**due to the unique fiscal constraints in the Village

Joint Exhibit 29

These figures are not all inclusive. They are intended to be illustrative of the level of increases granted Police Officers for the years in question.

Given these data, the Panel finds that raises should be awarded as follows:

Effective June 1, 1997 - 4.5 per cent
 Effective June 1, 1998 - 4.5 per cent
 Effective June 1, 1999 - 4.5 per cent
 Effective June 1, 2000 - 4.5 per cent
 Effective June 1, 2001 - 5.0 per cent

In reaching this determination, the Panel is mindful of the PBA's claim that it needs six per cent increases to place Floral Park's wages near where they were in the 1980's.

Though the PBA's desire for "catch-up" monies is understandable, the Panel cannot award such increases. Floral Park's economic base does not justify paying its Police Officers at the highest level of other communities in the County. Also, in light of other compensation improvements awarded below, it would be unduly burdensome to grant wage increases of six per cent, we find. Instead, the Panel is convinced, the increases listed above will permit the Police Officers in the Village to maintain and, perhaps, slightly increase their relative standing compared to their counterparts elsewhere. Hence, we find that these wage improvements should be granted as stated herein.

3. Longevity

The Panel is convinced that reasonable increases in longevity are due members of the bargaining unit. Currently Floral Park Officers earn \$2280 after 20 years of service. By contrast, other communities pay substantially more. As of 1997, longevity payments for twenty years of service in other communities were as follows:

Garden City	\$2625
Port Washington	2550
Glen Cove	2250
Hempstead	2350
Nassau County	4900
Malverne	2775
Long Beach	2750
Freeport	2750

While some communities (e.g. Garden City and Lynbrook) offer lower longevity payments than Floral Park, the vast majority exceed the stipend here. Thus, the Panel finds, reasonable increases as indicated below are warranted. However, to reduce the cost impact of these increases we shall order that they be paid effective June 1, 1998 as follows:

<u>Years of Completed Service</u>	<u>Payment</u>
6	\$ 900
7	950
8	1000
9	1050
10	1200
11	1250
12	1300
13	1350
14	1400
15	1980
16	2100
17	2200
18	2300
19	2400
20	2550
21	2700
22	2850

23	3000
24	3150
25 and over	3300

4. Night Differential

The current Night Differential is \$2,750. The PBA seeks an increase in this amount to ten per cent of an Officer's wages, including longevity.

The Panel cannot grant this proposal. It would more than double the current stipend and would have an enormous impact on the Police budget, we find.

On the other hand, substantial increases in Night Differential are warranted, as reflected in the following data:

Rockville Centre	\$2.52 per hour (over \$3,700)
Garden City	\$2.62 per hour (over \$3,800)
Port Washington	\$3,950
Glen Cove	\$3,900+
Hempstead	\$2,450
Nassau County	12% for hours worked
Malverne	10% of base pay
Freeport	\$4,450
Long Beach	10%

(Joint Exhibit 30)

With the exception of Hempstead, every other cited community pays more Night Differential than does Floral Park. Moreover, the difference in Night Differential for Officers in this community and their counterparts elsewhere is large, even vast. Of all the benefits accorded Police Officers, Night Differential payments demand the greatest redress. Consequently, the Panel finds that increases should be awarded to the extent

indicated below. They will substantially improve Floral Park's relative ranking in this area, though by the start of the 2001 fiscal year the stipend of \$4,000 may not appear as high, relatively speaking, as it is now. Accordingly, the Panel awards the following Night Differential stipends:

Effective June 1, 1997 - \$3,000
 Effective June 1, 1998 - \$3,250
 Effective June 1, 1999 - \$3,500
 Effective June 1, 2000 - \$3,750
 Effective June 1, 2001 - \$4,000

5. Clothing Allowance

The current stipends for clothing and equipment allowances are reasonable. Modest improvements in this area will keep pace with the rate of inflation and safeguard against extraordinary increases in the cost of purchasing and/or maintaining clothing and equipment. Accordingly, the Panel awards the following stipends:

Clothing Allowance - Article X, Sections 3 (c) and 3 (d)

shall be modified as follows:

Section 3 (c):

<u>Date</u>	<u>Maximum Allowance</u>
Effective June 1, 1999	\$875
Effective June 1, 2000	900
Effective June 1, 2001	925

Section 3 (d):

<u>Date</u>	<u>Maximum Allowance</u>
Effective June 1, 1999	\$725
Effective June 1, 2000	750
Effective June 1, 2001	775

6. Overtime and Paid Leave Computation

As noted above, virtually every other Nassau County jurisdiction compensates for overtime and paid leave based upon a 232 day duty chart. There is no evidence in the record to suggest that Floral Park should grant these benefits in a different manner from the rest of the County.

However, the Panel is mindful of the considerable cost impact of such a provision. Consequently, we shall direct that the holiday and overtime calculation be implemented effective June 1, 1999, while sick leave and termination pay is to be computed based upon a 232 day chart, effective June 1, 1997. Also, paid leave should be utilized on a first in/first out basis so that sick leave accruals in effect prior to that date will be expended before sick leave accumulated thereafter.

7. Holidays

The parties are in agreement that Martin Luther King Day is to be added as a holiday. They also are in agreement that the findings of Arbitrator Robert Douglas in an Award dated March 21, 1997 are to be incorporated into Agreement. The Panel sees no reasons why these agreements should not be adopted, especially in light of the widespread acknowledgment of Martin Luther King Day

as a holiday. Accordingly, those agreements are to be incorporated into this Award.

8. Sick Leave

The Panel has reviewed the relevant data on this issue. It is true that the majority of municipalities permit a payout of 200 days of sick leave. However, it is also true that the average number of days exceeds 200 (See Joint Exhibit 30). Also, it is likely that the average payout will increase as time goes by. Thus, given these factors and the length of the successor agreement, the Panel finds that a modest increase in permissible accumulation is justified. Hence, we shall direct that effective June 1, 1999, the cap on accrual is to be increased to 210 and, effective June 1, 2000, to 220.

In addition we note that the parties have agreed to incorporate the relevant sections of a letter agreement dated December 6, 1995 into the successor contract. It is so ordered.

Finally, on this issue, we reject the Village's request that family sick leave be eliminated. While the potential for abuse of this provision may exist, the Village has not presented compelling evidence to warrant the elimination of this benefit. Consequently, the Village's proposal to do so is denied.

9. Life Insurance

The record reveals that the Village's contribution of \$10,000 has remained constant for many years. With insurance premiums continuing to rise, the Panel finds that some increase in the Village's contribution is justified. Accordingly, we shall direct that, effective June 1, 1999, the Village is to pay \$13,000 per year to the PBA for the purchase of life insurance.

10. Dental Plan

The PBA has convinced the Panel that the level of the Village's contribution is barely adequate to maintain current benefits. On the other hand, we recognize that the wage and benefit increases awarded above must be taken into account when deciding whether additional benefit increases are justified. Weighing these competing factors leads to the conclusion that a modest increase in Dental Plan contributions is justified. Accordingly, we shall direct that the Village's payments be raised to the following levels:

Effective June 1, 1999 - \$625 per member

Effective June 1, 2000 - \$650 per member

Effective June 1, 2001 - \$675 per member

11. Jury Duty

As the parties are aware, the automatic exemption from jury duty for Police Officers no longer exists. As

such, and consistent with the general practice in public and private employees, it is fair to mandate that Police Officers should not lose wages if they are required to report for jury duty during their tours. Jury duty fees, excluding travel expenses, are to be returned to the Village.

With respect to jury duty for those Officers who work evening or night shifts and must report for jury duty, the Panel remands this issue to the parties for resolution. They are best able to determine how this matter should be addressed.

12. Proration of Certain Benefits

The Panel notes the PBA's request that the prorating of benefits clause be amended to change the waiting period from ninety calendar days to ninety working days. We do not find ample evidence in the record to support this proposal. However, we are convinced that it is reasonable to eliminate the proration of benefits for those Officers who have incurred on-the-job injuries. It is inherently unfair to reduce benefits for those individuals, we find. Thus, the Agreement is to be modified to reflect this change.

13. Child Care Leave

The expired Collective Bargaining Agreement does not reflect the current state of the law with respect to child care leave. A gender neutral provision is

required. Consequently, we shall direct that the following language be incorporated into the successor Collective Bargaining Agreement:

All permanent employees shall be entitled to child care leave without pay for a period of one year with additional time allowable by consent of the Village. An employee may choose that any portion of the child care leave be subtracted from his/her accrued sick leave so as to insure pay for that period of sick leave. For time spent on sick leave and five months thereafter, the employee shall be entitled to all the benefits he/she would ordinarily receive had he/she been on a pay basis.

14. Swing Sergeants

The Village's proposal on this issue is reasonable. It would give the Village the discretion to utilize a Swing Sergeant to cover a 7:00 a.m. to 3:00 p.m. shift or a 3:00 p.m. to 11:00 p.m. shift during the Swing Sergeant's 10:00 a.m. to 6:00 p.m. tour. Such provision permits more flexible deployment of manpower. Thus, we award it.

15. Overtime

The PBA's proposal for an increase in the number of accumulated overtime hours which Officers may replenish warrants implementation on a trial basis. Thus, we shall

direct that up to sixty overtime hours may be replenished, except that on or about June 1, 2001, either party shall have the right to petition the Panel to revisit this issue and to issue an appropriate finding thereon.

16. Sergeants' Overtime

This issue engendered much controversy during the proceedings. We recognize that for many years Sergeants have been permitted, pursuant to the Collective Bargaining Agreement, to replace another Sergeant and to be paid overtime therefor, resulting in twelve hours' pay for eight hours' work. However, the Village has presented compelling evidence which demonstrates that such swapping of tours has increased dramatically, resulting in substantial overtime cost. The record reveals that Sergeants' overtime has nearly doubled from 1995 to 1998. Indeed, the amount of overtime paid to the Village's six Sergeants is almost equal to the amount of overtime paid to the remaining twenty-nine Police Officers.

The Panel recognizes that a reduction in the number of Superior Officers may have resulted in some increase in tour switching. However, we are persuaded that the substantial increases in Sergeants' overtime, as noted above, requires some remediative measures,

notwithstanding the reduction in the number of Superior Officers.

Under these circumstances, the Panel shall direct that Sergeants shall be entitled to replace another Sergeant when no Lieutenant is working up to twelve tours per year. Such replacement shall be at the discretion of the Sergeants involved. As such, the benefit previously enjoyed shall be retained, albeit to a more limited extent.

In addition, we shall permit Sergeants to request additional tour swaps. However, the decision to grant those requests shall reside in the sole discretion of the Chief and may not be arbitrated.

The Panel notes the PBA's "strong dissent" to precluding arbitration of denials which exceed twelve tour changes. The PBA and the Village retain the right to petition the Panel to revisit this issue on or about June 1, 2001. Thus, should abuses of discretion occur in the interim, a mechanism will exist to provide an appropriate remedy therefor. Consequently, effective June 1, 1999, Article X, Section 4 (b) is to be amended as indicated above.

15. Tuition Reimbursement

The PBA has not demonstrated the widespread incorporation of a tuition reimbursement plan in Collective Bargaining Agreements in other, similarly

situated jurisdictions. Thus, we reject the PBA's proposal for a \$10,000 fund to be utilized for this purpose.

16. Other Proposals

All other proposals of the parties, whether or not specifically addressed herein, are rejected.

In sum, the Panel concludes that our findings herein fairly reflect the interests of the Village and the needs of the PBA. Hence, they are awarded as indicated in this Opinion.

AWARD

1. **Term of Award** - The Award shall be effective for the period June 1, 1997 to May 31, 2002.

2. **Wages** - Wages shall be increased as follows:

Effective June 1, 1997 - 4.5 percent

Effective June 1, 1998 - 4.5 percent

Effective June 1, 1999 - 4.5 percent

Effective June 1, 2000 - 4.5 percent

Effective June 1, 2001 - 5.0 percent

3. **Longevity** - Effective June 1, 1998, bargaining unit members shall be entitled to longevity payments in accordance with the following schedule:

<u>Years of Completed Service</u>	<u>Payment</u>
6	\$ 900
7	950
8	1,000
9	1,050
10	1,150
11	1,200
12	1,250
13	1,300
14	1,350

<u>Years of Completed Service</u>	<u>Payment</u>
15	1,980
16	2,100
17	2,200
18	2,300
19	2,400
20	2,550
21	2,700
22	2,850
23	3,000
24	3,150
25 and over	3,300

4. Night Differential - Article X, Section 10 shall be modified to provide for the payment of Night Differential as follows:

Effective June 1, 1997 - \$3,000

Effective June 1, 1998 - 3,250

Effective June 1, 1999 - 3,500

Effective June 1, 2000 - 3,750

Effective June 1, 2001 - 4,000

5. Clothing Allowance - Article X, Sections 3(c) and 3(d) shall be modified as follows:

Section 3(c):

<u>Date</u>	<u>Maximum Allowance</u>
Effective June 1, 1999	\$ 875
Effective June 1, 2000	900
Effective June 1, 2001	925

Section 3(d):

<u>Date</u>	<u>Maximum Allowance</u>
Effective June 1, 1999	\$ 725
Effective June 1, 2000	750
Effective June 1, 2001	775

6. Overtime and Paid Leave Computation - Overtime and Paid Leave Computation shall be implemented as follows:

Effective June 1, 1997, sick leave and termination pay shall be calculated and paid to Officers based upon a 232 day duty chart.

Effective June 1, 1999, holiday pay and overtime shall be calculated and paid to Police Officers based on a 232 day duty chart.

Paid leave shall be utilized on a first in/first out basis. Thus, for example, sick leave accruals in effect prior to June 1, 1997 will be utilized before sick leave accumulated after that date.

7. **Holidays** - Article V, Section 1 shall be amended to add Martin Luther King Day as a holiday.

In addition, Article V, Section 7 shall be modified by incorporating the findings of Arbitrator Robert Douglas in an Award dated March 21, 1997 into this provision.

8. **Sick Leave** - Article VII, Section 4 shall be amended as follows:

Effective June 1, 1999, the maximum payout shall be 210 days.

Effective June 1, 2001, the maximum payout shall be 220 days.

9. **Life Insurance** - Article X, Section 5 shall be amended to provide that, effective June 1, 1999, the Village shall provide \$13,000 for the PBA to purchase life insurance coverage.

10. Dental Plan - Article X, Section 6 shall be amended to require payments by the Village as follows:

Effective June 1, 1999 - \$625 per member

Effective June 1, 2000 - 650 per member

Effective June 1, 2001 - 675 per member

11. Jury Duty - A new provision shall be added to the Collective Bargaining Agreement to provide for no loss of wages to members required to report for jury duty during scheduled tours. Jury duty fees, excluding travel expenses, shall be remitted to the Village.

The issue of jury duty for those members who work evening or night shifts is remanded to the parties for resolution.

12. Proration of Certain Benefits - Article XVI, Section 4 shall be amended by the addition of the following sentence:

In cases of on-the-job injuries, no proration shall be deducted.

13. Family Sick Leave - Article VII, Section 1 shall be amended by adding the following sentence:

The Commissioner of Police may request justification of the family illness when he/she has a reasonable belief that the

request for such leave is not legitimate and he/she articulates that reasonable belief to the individual officer involved.

14. Child Care Leave - Article X, Section 2 shall be amended by substituting the following language for the current provision:

All permanent employees shall be entitled to child care leave without pay for a period of 1 year with additional time allowable by consent of the Village. An employee may choose that any portion of the child care leave be subtracted from his/her accrued sick leave so as to insure pay for that period of sick leave. For time spent on sick leave and five months thereafter, the employee shall be entitled to all the benefits he/she would ordinarily receive had he/she been on a pay basis.

15. Swing Sergeants - Article III, Section 1(c) shall be amended to provide that the Village may require a Swing Sergeant to cover for another Sergeant who is excused from either the 7:00 a.m. to 3:00 p.m. shift or

the 3:00 p.m. to 11:00 p.m. shift during the Swing Sergeant's 10:00 a.m. to 6:00 p.m. tour.

16. Overtime - Article III, Section 2 shall be amended effective June 1, 1999 to permit members to replenish accumulated hours of overtime up to the maximum sixty hours. On or about June 1, 2001, either party may petition the undersigned Panel to issue an Interest Arbitration Award pursuant to Section 209(4) of the Civil Service Law, with respect to this provision, which Award shall be effective June 1, 2001, or on such other date as the parties may agree.

17. Sergeants' Overtime - Effective June 1, 1999, Article X, Section 4(b) shall be amended by the addition of the following language:

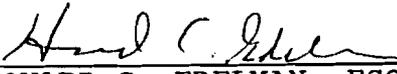
A sergeant may replace another sergeant and be paid overtime pursuant to this provision up to a maximum of twelve tours per year during which no Lieutenant is on duty. On or about June 1, 2001, either party may petition the undersigned Panel to issue an Interest Arbitration Award with respect to this provision, which

Award shall be effective June 1, 2001, or on such other date, as the parties may agree.

18. All modifications to the expired Collective Bargaining Agreement shall be implemented effective the date of this Award, unless otherwise indicated herein.

19. All other proposals of the parties are rejected.

DATED: April 1, 1999



HOWARD C. EDELMAN, ESQ., CHAIRMAN
INTEREST ARBITRATION PANEL

STATE OF NEW YORK)
) s.:
COUNTY OF NASSAU)

I, Howard C. Edelman, Esq., do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is my Award.

DATED: April 1, 1999



HOWARD C. EDELMAN, ESQ., CHAIRMAN
INTEREST ARBITRATION PANEL

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

In the Matter of the Arbitration

- Between -

VILLAGE OF FLORAL PARK,

"Village"

- and -

**FLORAL PARK POLICE BENEVOLENT
ASSOCIATION,**

"PBA"

**OPINION OF EMPLOYEE
PANEL MEMBER
JOHN DONNELLY
CONCURRING IN PART
AND DISSENTING IN
PART**

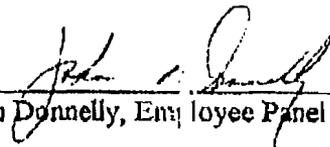
**Case No.
M97-300
IA98-017**

As a member of the panel, representing the Floral Park Police Benevolent Association, and after a review of the written opinion of panel Chairman, Howard C. Edelman, I wanted to add the following comments. The negotiations between the parties, a long drawn out affair, proceeding to arbitration, with an award issued on February 24, 1999, twenty-one (21) months after the contract expired, convinced me to consent to this award being issued for a five (5) year term. Although, the PBA concurs with almost all of the final determination of the panel, there is one issue which we feel constrained to agree with wholeheartedly, and must therefore dissent. The issue in question is number 17 of the award, "Sergeant's Overtime". The Village's allegation that Article 10, Section 4(b) of the Contract was being abused, was addressed by placing a cap on the number of tours per year that a Sergeant may replace another Sergeant, pursuant to Section 4(b), at twelve times. This, in and of itself, is a tremendous step in favor of the Village, in that there has never before been a limitation attached to this section.

While we were disappointed with the limitation attached to Section 4(b), it is the next step which the panel took in regard to this section with which we must strongly dissent. The panel determined that after the twelve (12) tour per year maximum has been reached, a Sergeant may request permission from the Chief of Police to replace another Sergeant pursuant to this provision. While we do not necessarily object to such a determination being solely within the discretion of the Chief, we strongly object to such a decision not being subject to the grievance or arbitration procedure of the Contract. This scenario leaves the door open for favoritism at the sole discretion of the Chief. The Chief, at any time, may deny a Sergeant's request pursuant to Section 4(b), with no opportunity for the Sergeant to contest such a decision.

While the PBA acknowledges that this term of the award sunsets on May 31, 2001, based upon the difficult negotiations surrounding this issue, we are inclined to believe that the framing of this term of the award will create disharmony until such date that it can be reopened.

As for the other terms of this award, the PBA fully concurs.


John Donnelly, Employee Panel Member

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