

As executive session was held in Kent on the same date during which time the Panel deliberated on each issue and carefully and fully considered all the data, exhibits and testimony received from both parties. The parties then submitted certain requested data in their post-hearing briefs. The results of those deliberations are contained in the AWARD that constitutes the Panel's best judgment as to a just and reasonable solution of the impasse.

In arriving at this Award, the Panel considered the following statutory guidelines contained in Section 209.4 of the Act:

- (v) the public arbitration panel shall make a just and reasonable determination of the matters in dispute.

In arriving at its determination, the panel shall specify the basis for its findings, taking into consideration, in addition to any other relevant factors, the following:

- a. comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with 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 qualification; (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.
- (vi) the determination of the public arbitration panel shall be final and binding upon the parties for the period prescribed by the panel, but in no event shall such period exceed two years from the termination date of any previous collective bargaining agreement or if there is no previous collective bargaining agreement then for a period not to exceed two years from the date of determination by the panel. Such determination shall not be subject to the approval of any local legislative body or other municipal authority.

BACKGROUND

The Town of Kent, located in Putnam County, NY, has an estimated population of 13,000. The Police Department operates 24 hours per day seven days per week. The bargaining unit at impasse consists of twenty full-time police officers and includes all ranks with the exception of the Chief of Police. The previous Agreement covered the period January 1, 1998 – December 31, 2002.

ISSUES AT IMPASSE

The parties began negotiations for a successor agreement on September 7, 2002. At that time there were approximately twenty items at impasse. Through understandings reached in the mediation process, and by consolidating several issues, six impasse items were left unresolved. At the arbitration hearing the parties agreed to submit the following issues for evaluation and decision by the Panel. Many of the proposals had numerous components; however, for the sake of succinctness, they have been consolidated into their major categories. Where viable, the aforementioned demands and subsequent recommendations have been consolidated to address the needs of both parties. The issues at impasse and submitted to the undersigned included:

POLICE ASSOCIATION PROPOSALS

1. Salary
2. Call-Out Time
3. Part Time Employees
4. Longevity Pay Equality for Employees Regardless of Hire Date
5. Light Duty Policy
6. Training Days

TOWN PROPOSALS

1. Health Insurance contributions for all employees.
2. Random Drug and Alcohol Testing Policy

Due to the length of time that has elapsed from the expiration date of the previous Collective Bargaining Agreement, the Panel Chairman suggested that the parties consider a three to four-year Award; however, unless otherwise authorized by the parties, the Panel is limited by statute to a maximum two-year Award. (Section 209.4(v) of the Civil Service Law). Authorization was forthcoming by the parties and accordingly the term of this Award shall be for three years from January 1, 2003 –December 31, 2005. Additionally, all the benefits provided in this Award shall be deemed retroactive and shall apply to all officers currently on payroll. All provisions and language contained in the prior Agreements are hereby continued, except as specifically modified in this Award.

SALARY DISCUSSION AND AWARD

The Association is seeking wage increases of four and a quarter percent (4.25%) per year for each of three years of the successor contract and additional advances in longevity pay for all employees regardless of hiring date. The Town proposed raises of three percent per year. The Town further submitted that offsets are required in the areas of leave accumulation and health insurance to fund these adjustments. As has been often said, wage and salary determination is far from an exact science; however, the undersigned was guided by the criteria set forth in the Taylor Law. Among other factors those included the:

... 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 employees generally in public and private employment in comparable communities Section 290.4 of the Act.

Additional criteria included:

... (b) the interests and welfare of the public and the financial ability of the public employer to pay. (Section 209.4 of the Act)

As is so frequently the case, negotiated benefits obtained at the bargaining table by either party were afforded presumptive preservation.

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. (Section 209.4 of the Act)

The Panel has considered all the cited statutory criteria and first addressed the comparability standard. As in most interest arbitration cases, comparability is a major concern. The parties have agreed that comparability is best found among the Carmel Police Department, the Office of Sheriff, and the Town of Kent Police. The Carmel Police Department received annual salary increases of 3.75%; however the Office of Sheriff has yet to conclude a successor agreement and appear heading towards binding arbitration. Moreover, due to the peculiarities of longevity and incremental steps, at various points along the continuum, and when considering total remunerations Kent Police officers are compensated as below their counterparts. These comparables have been in place for several collective bargained agreements and at this time will not be upset by this panel. These three departments are the major police forces in Putnam County and no other department meets the comparability understandings, they are free to so negotiate but for the Panel to upset bargaining history through an interest arbitration award and unilaterally revise comparability standards, is unwarranted at this time.

The Panel has considered county-area comparables and notes that wage and salary adjustment in Putnam County in 2002-2004 for full-time salaried police departments have ranged in the area of three to four percent. In fashioning this recommendation, the Arbitrator was award of the relationship that existed between the Town of Kent Police Association and other police unions within Putnam County. The awarded increase of 3.85% to the base wages for Town of Kent police officers in 2003, 2004 and 2005 should maintain the relative unit wide positions in a comparable County position.

The Panel Chairman further considered the role that CPI has played in interest arbitration. Widely accepted as one of the criteria utilized in the formulation of compensation and benefits, the record demonstrates that for the calendar year 2002-2003 the CPI was 2.6%. Furthermore, since 1990 the parties have either negotiated or have been the recipient of salary adjustments at/or greater than the CPI.

The record documents that the proposals submitted by the Town as opposed to those suggest by the Association are more consistent with the Town's financial condition and that they are able to sustain the awarded increases. The financial condition and

demographics of the Town documents the absence of industry. Of the five Putnam County townships, Kent has the highest assessable rate per thousand and the least amount of tax base rateables. Concomitantly, taxes are above the County median. Yet, according to the Union, there exists a surplus in the Town fund balance. Additionally, said balance has increased over the past several years. The Town's position is said fund balance has decreased over the past several years.

Based on the record and the statutory criteria, including the Town's ability to pay, it is the opinion of the Panel that the salary AWARD herein is fair and equitable. In full consideration of the evidence and arguments presented, the Panel awards the following salary adjustments, see Exhibit A annexed hereto:

- a) For the period January 1, 2003 through December 31, 2003, the current police officers' salary schedule shall be increased by 3.85 percent retroactive to January 1, 2003
- b) For the period January 1, 2004 through December 31, 2004, the current police officers' salary schedule shall be increase by 3.85 percent retroactive to January 1, 2004.
- c) For the period January 1, 2005 through December 31, 2005, the current police officers' salary schedule shall be increase by 3.85 percent.

CALL OUT TIME DISCUSSION AND AWARD

The PBA seeks to increase Call Out Time from the current two hours to five hours. The Town agrees to modify the present Call Out Time from two hours to three hours for all employees.

PART-TIME EMPLOYEES DISCUSSION AND AWARD

The PBA seeks removal of any reference to Part-Time Employees in the successor agreement. The Town agrees to remove any and all language referencing Part-Time Employees from the Collective bargaining Agreement.

LONGEVITY PAY DISCUSSION AND AWARD

The PBA seeks to equal longevity pay for all employees regardless of their hiring date. The Town desires to maintain the status quo as to longevity increases. In an effort





to fund the proposed longevity increases the parties examined the current college tuition program as a source of said funding. The Town maintained that there was no provision for the rollover of unused budgeted college tuition funds in the prior Collective bargaining Agreement. The PBA contends that there is a current roll over provision and that the estimated funds available to the employees is in excess of thirty two thousand dollars (\$32,000.00) and that said excess should be used to fund longevity pay equality for all employees.

The Towns agrees to modify the present college tuition reimbursement plan by continuing to provide tuition expenditures at a capped annual payment of \$10,000.00 without a future rollover provision for the accumulation of the above funds.

The PBA agrees to allow the above current excess rollover funds to provide for longevity pay increases to its members in the hereto attached Exhibit A.

PBA members will submit their tuition to the town during the month of November and if the amount submitted exceeds the \$10,000 it will be dispersed equally amongst the members. Reimbursement to members shall continue as set forth in the prior Collective Bargaining Agreement.

LIGHT DUTY POLICY DISCUSSION AND AWARD

The present collective bargaining agreement does not provide for a Light Duty Status Policy. The PBA and the Town agree to the implementation of a Light Duty Status Policy as annexed hereto in Exhibit B.

TRAINING DAYS DISCUSSION AND AWARD

The PBA seeks reduction in the present policy of imposing five (5) call out days¹ on its members. The Town seeks modification to the current eight (8) days paid leave afforded the PBA to conduct PBA business.

The Town agrees to reduce the "pay back days" from five (5) to two (2) days, for all members who perform a rotating chart schedule, for the purpose of training of that

¹ These "call out days" are commonly referred to as "pay back days" and were instituted as a local practice by Kent Police Department administrators in 2001.

member only. The PBA agrees to allow elimination of its current 8 PBA days.

Accordingly, it is agreed that the total amount of hours worked by all employees will be 1960 hours.

HEALTH INSURANCE CONTRIBUTIONS DISCUSSION AND AWARD

The Town seeks a contribution in health insurance from its employees. The Union opposes any change in this area. At present the health insurance plan is fully paid by the Town. Proposed is a five percent contribution toward the individual health plan and ten percent toward the plan. The present family plan costs the Town approximately \$7,000.00 per year. Carmel Police Officers receive fully paid health insurance while new members of the Sheriff's Department contribute twenty-five percent. That rate decreases with job seniority.

This issue was contested with the Association seeking the preservation of the status quo while the Town argued for contributions. Relying in part on the presumptive theory, the Panel would have needed compelling evidence to award such a change. That the parties have negotiated an employer-funded health insurance system for many years was noted. Considering the overall financial condition of the town, as well as the raises awarded, no change in health insurance funding was awarded. Thus, the Panel Awards the following:

- a) The present employer health insurance funding formula shall continue.

RANDOM DRUG AND ALCOHOL TESTING POLICY DISCUSSION AND AWARD

The PBA and the Town agree that it is in the best interest of the employees and the Town to institute a Random Drug and Alcohol Testing Policy under the terms and conditions annexed hereto as Exhibit C.

A-W-A-R-D

NOTE: TERM and RETROACTIVITY

Based upon a stipulation from the parties, the term of this Award is from January 1, 2003 to December 31, 2005.

CONCUR _____

DISSENT _____

CONCUR _____

DISSENT _____

1. SALARY AND COMPENSATION

- a) For the period January 1, 2003 through December 31, 2003, the current police officers' salary schedule shall be increased by 3.85 percent retroactive to January 1, 2003
- b) For the period January 1, 2004 through December 31, 2004, the current police officers' salary schedule shall be increase by 3.85 percent retroactive to January 1, 2004.
- c) For the period January 1, 2005 through December 31, 2005, the current police officers' salary schedule shall be increase by 3.85 percent.

CONCUR _____

DISSENT _____

CONCUR _____

DISSENT _____

2. CALL OUT TIME DISCUSSION AND AWARD

The present Call Out Time will be modified from two hours to three hours for all employees.

CONCUR _____

DISSENT _____

CONCUR _____

DISSENT _____

3. PART-TIME EMPLOYEES DISCUSSION AND AWARD

All language referencing Part-Time Employees from the Collective Bargaining Agreement will be removed.

CONCUR _____

DISSENT _____

CONCUR _____

DISSENT _____

4. LONGEVITY PAY DISCUSSION AND AWARD

There shall be longevity pay increases for all employees as annexed hereto in Exhibit A.

CONCUR _____

DISSENT _____

CONCUR _____

DISSENT _____

5. LIGHT DUTY POLICY DISCUSSION AND AWARD

There shall be a Light Duty Status Policy as annexed hereto in Exhibit B.

CONCUR _____

DISSENT _____

CONCUR _____

DISSENT _____

6. TRAINING DAYS DISCUSSION AND AWARD

The "pay back days" will be reduced from five (5) to two (2) days, for all members who perform a rotating chart schedule, for the purpose of training of that member only. The total amount of hours worked by all employees will be 1960 hours.

CONCUR _____

DISSENT _____

CONCUR _____

DISSENT _____

7. HEALTH INSURANCE DISCUSSION AND AWARD

The present employer health insurance funding formula shall continue.

CONCUR _____

DISSENT _____

CONCUR _____

DISSENT _____

**8. RADOM DRUG AND ALCOHOL TESTING POLICY
DISCUSSION AND AWARD**

There shall be a Random Drug and Alcohol Testing Policy as annexed hereto in Exhibit C.

CONCUR _____

DISSENT _____

CONCUR _____

DISSENT _____

THOSE ISSUES PRESENTED BY THE PARTIES THAT ARE NOT SPECIFICALLY
ADDRESSED IN THIS AWARD WERE ALSO CAREFULLY CONSIDERED BY THE
PUBLIC ARBITRATION PANEL, BUT REJECTED IN THEIR ENTIRETY.

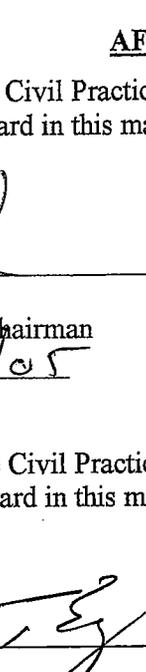
AFFIRMATION

Pursuant to Article 75 of the Civil Practice Law and Rules, I hereby affirm that I executed the
foregoing as and for my Award in this matter.



Joel M. Douglas, Ph.D.
Public Panel Member and Chairman
Dated: 6/13/05

Pursuant to Article 75 of the Civil Practice Law and Rules, I hereby affirm that I executed the
foregoing as and for my Award in this matter.



Pat Bonanno, Esq.
Employee Panel Member
Dated: 2/3/05

Pursuant to Article 75 of the Civil Practice Law and Rules, I hereby affirm that I executed the
foregoing as and for my Award in this matter.



Timothy J. Curtiss, Esq.
Employer Panel Member
Dated: 2/3/06

STATE OF NEW YORK
COUNTY OF

On this 13 day of June 2004 before me personally came
Joel M. Douglas to me personally known and known to me to the same person described in
and who executed the foregoing instrument, and he acknowledges to me that he executed the
same:

2 J. Mann
487 3554
exp 10/31/07
WEST CO

STATE OF NEW YORK
COUNTY OF

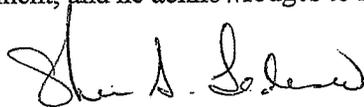
On this 3rd day of February, 2005
2004 before me personally came
Pat Bonanno, Esq., to me personally known and known to me to the same person described in
and who executed the foregoing instrument, and he acknowledges to me that he executed the
same:



SHARON A. TEDESCO
Notary Public, State of New York
No. 4394415
Qualified in Putnam County
Commission Expires May 26, 2007

STATE OF NEW YORK
COUNTY OF

On this 3rd day of February, 2005
2004 before me personally came
Timothy J. Curtiss, Esq., to me personally known and known to me to the same person
described in and who executed the foregoing instrument, and he acknowledges to me that he
executed the same:



SHARON A. TEDESCO
Notary Public, State of New York
No. 4394415
Qualified in Putnam County
Commission Expires May 26, 2007

TERMS RE: LIGHT DUTY

An employee who has been absent from duty on sick leave for a period of fifteen calendar days or more shall be assigned to light modified/light duty in the Police Department, subject to the conditions stated herein. The employee assigned to modified/light duty pursuant to this agreement shall be removed from sick leave (that is, no longer have sick leave charged) for the period of time the employee works modified/light duty.

To be eligible to be assigned to modified/light duty and removed from sick leave, the employee must provide to the Police Chief in advance of the assignment, a certification by the employee's physician of the tasks and functions the employee is physically/medically/psychologically capable of performing. The physician certification must state whether the employee is capable of performing the tasks and functions for an eight hour period, and if not, the duration of time the employee is capable of performing the tasks and functions. The Police Chief may require that the employee have the physician complete a questionnaire provided by the Department for purposes of the statement of the employee's capabilities. The employee may make application for a light/modified duty assignment prior to the conclusion of the thirty-day period provided they have obtained certification from their physician changes in the status of their medical condition is not anticipated.

The Police Chief may consult with a medical consultant retained by the Department for purposes of evaluating and/or confirming the statement of the employee's capabilities and to resolve issues identified by the Chief. In this connection, the employee will provide to the Police Chief such information, including medical records, as the Chief and/or the Department's medical consultant may require, including duly executed appropriate authorizations for release of medical information and such other information as may be deemed protected from disclosure by privacy laws. The employee shall not be assigned to modified/light duty and removed from sick leave unless and until the Department's medical consultant has received all the information requested by the Chief and/or medical consultant for purposes of evaluation and/or confirming the statement of the employee's capabilities. In the event that the Chief decides that an evaluation and/or confirmation by the Department's medical consultant is not necessary or does not request such within five days of receiving the employees request, this provision shall not apply.

If the Department's medical consultant provides an opinion to the Chief that the employee is not capable of performing the indicated tasks and functions, and/or that the employee is not capable of performing the indicated tasks and functions on a regular and continuing basis, and/or that the employee is not capable of performing the indicated tasks and functions for a reasonable period of time each work shift, then the employee shall not be assigned to light/modified duty, and the employee shall not be removed from sick leave. This provision shall apply if the Department's medical consultant shall provide such opinion(s) at any point, including after the employee has been assigned to light/modified duty and removed from sick leave.

The chief shall have the right to assign the employee to perform any task or duty within the employee's capabilities regardless whether the task or duty is consistent with the position description for the title held by the employee.

The Chief shall have the right to require the employee to provide additional information and/or reports by the employee's physician throughout the course of the light/modified duty assignment, and to require the employee to submit to evaluation by the Department's medical consultant.

An employee who has been assigned to light/modified duty continuously for a period of one calendar year may at the discretion of the Police Chief be removed from the light/modified duty assignment and returned to sick leave.

The provisions of this Light/Modified duty assignment agreement, and action or decision made pursuant hereto, shall not be subject to review under the contract's grievance and arbitration clause, and shall be subject to review only pursuant to an Article 78 proceeding. Prior to commencing any such proceeding, the employee and/or the employee's representation shall raise the issue with the Town Supervisor for the purpose of seeking resolution of a dispute under the terms of this agreement. If during the review process the employee is granted a light/modified duty assignment, by either the Town Supervisor or through an Article 78 proceeding, they will be credited with all sick leave retroactive to the date when it is determined the employee was eligible for such assignment.

**TOWN OF KENT POLICE INTEREST ARBITRATION
DRAFT TERMS RE: SALARY INCREASE**

Article IX shall be amended to provide for an across the board increase in the police officer salary schedule of 1.35% effective January 1, 2003.

The police officer annual salary schedule shall be increased by an additional 1.35% effective January 1, 2004.

The police officer annual salary schedule shall be increased by an additional 1.35% effective January 1, 2005.

In addition to the foregoing, the annual salary schedule for a police officer and/or sergeant assigned to the uniform patrol division and who actually works a shift schedule on a 24 hour rotation basis (hereafter "rotating tour schedule") or sergeant who is assigned to an administrative position but still available for call out duty shall be increased as follows:

Effective January 1, 2003 – an additional 2.5% annual salary increase.

Effective January 1, 2004 – an additional 2.5% annual salary increase.

Effective January 1, 2005 – an additional 2.5% annual salary increase.

In accordance with the foregoing, the following annual salary rates shall apply to a police officer assigned to the uniform patrol division who does not actually work a rotating tour schedule:

Police Officer:

	1/1/2003	1/1/2004	1/1/2005
Start	\$35,872.68	\$36,356.96	\$36,847.78
After 1 year	\$41,233.92	\$41,790.58	\$42,354.75
After 2 years	\$46,614.08	\$47,243.37	\$47,881.15
After 3 years	\$51,031.13	\$51,720.05	\$52,418.27
After 4 years (Top pay)	\$56,940.23	\$57,708.93	\$58,488.00

Police Sergeant:

A police sergeant assigned to the uniform patrol division and who does not actually work a rotating tour schedule shall be paid an annual salary of 15% above the top pay annual salary rate set forth above.

1/1/2003	1/1/2004	1/1/2005
\$65,481.27	\$66,365.27	\$67,261.20

In accordance with the foregoing, the following annual salary rates shall apply to a police officer assigned to the uniform patrol division who does actually work a rotating tour schedule:

Police Officer:

	1/1/2003	1/1/2004	1/1/2005
Start	\$36,757.55	\$38,172.72	\$39,642.37
After 1 year	\$42,251.04	\$43,877.71	\$45,567.00
After 2 years	\$47,763.91	\$49,602.82	\$51,512.53
After 3 years	\$52,289.92	\$54,303.08	\$56,393.75
After 4 years (Top pay)	\$58,344.78	\$60,591.05	\$62,923.81

Police Sergeant:

A police sergeant assigned to the uniform patrol division and who does actually work a rotating tour schedule and/or is assigned to an administrative position but is still available for call out duty shall be paid an annual salary of 15% above the top pay annual salary rate set forth above.

1/1/2003	1/1/2004	1/1/2005
\$67,096.50	\$69,679.71	\$72,362.38

Detective:

An employee who has been appointed to the position of Detective shall be paid an annual rate in accordance with the following schedule. The annual salary rate for the first year of appointment as Detective is established at 7% above the top pay of a police officer who actually works a rotating tour schedule; for the second year of appointment as Detective, 8% above the top pay of a police officer who actually works a rotating tour schedule; and for the third year of appointment as Detective and thereafter, at 9% above the top pay of a police officer who actually works a rotating tour schedule. The annual salary rates stated for a Detective includes a differential of an additional 2.5% increase during each year provided to a Detective as compensation for being on call and available to report for duty during non-scheduled hours.

	1/1/2003	1/1/2004	1/1/2005
First Year Detective	\$62,428.91	\$64,832.43	\$67,328.47
Second Year Detective	\$63,012.36	\$65,438.34	\$67,957.71

Third Year Detective	\$63,595.81	\$66,044.25	\$68,586.95
-------------------------	-------------	-------------	-------------

Detective Sergeant:

An employee who has been appointed to the position of Detective Sergeant shall be paid an annual rate at 18% above the top pay of a police officer who actually works a rotating tour schedule. The annual salary rates stated for a Detective Sergeant includes a differential of an additional 2.5% increase during each year provided to a Detective Sergeant as compensation for being on call and available to report for duty during non-scheduled hours.

1/1/2003	1/1/2004	1/1/2005
\$68,846.84	\$71,497.44	\$74,250.09

Lieutenant:

An employee who has been appointed to the position of Lieutenant shall be paid an annual rate at 25% above the top pay of a police officer who actually works a rotating tour schedule. The annual salary rates stated for a Lieutenant includes a differential of an additional 2.5% increase during each year provided to a Lieutenant as compensation for being on call and available to report for duty during hours other than regular hours for administrative employees in the Police Department, such as, for example, meetings with community members and/or members of the Town Board and response to special assignments or emergency situations.

1/1/2003	1/1/2004	1/1/2005
\$72,930.97	\$75,738.82	\$78,654.76

Members of the bargaining unit shall still be entitled to overtime pay once they are called out for duty and the above stated differentials which pertain to call out shall only mean that those members are regularly available for call out.

All differentials shall remain in effect for members entitled to them unless they did not meet the requirements of said differential for one calendar year. Time spent in the Police Academy, training, or temporary assignments shall not affect an employee's salary differential.