

NEW YORK STATE EMPLOYMENT RELATIONS BOARD

In the matter of the interest
arbitration between,

THE COUNTY OF ALBANY, NEW YORK,

Employer,

-and-

THE ALBANY COUNTY DEPUTY SHERIFFS'
POLICE BENEVOLENT ASSOCIATION,

Union.

OPINION AND AWARD

PERB CASE NO.

IA2004-032

M2004-136

Before the following Public Arbitration Panel:

Chairperson: Michael S. Lewandowski
Chairman

Member: Robert Conway, Commissioner, Albany
County Department of Human Resources
Public Employer Panel Member

Member: Edward W. Guzdek, President
Police Conference of New York, Inc.
Employee Organization Panel Member

Appearances:

For the County: Amy E. Joyce, Esq.
Deputy County Attorney

For the PBA: James B. Tuttle, Esq.
The Tuttle Law Firm

On or about March 7, 2005, the Albany County Deputy Sheriffs' Police Benevolent Association ("PBA") filed a petition for compulsory interest arbitration with the New York State

Public Employment Relations Board ("PERB"). The County of Albany, New York ("County") responded to the petition on March 22, 2005. The County and the PBA had reached impasse in their negotiations for a successor Agreement to the Collective Bargaining Agreement ("Agreement") between the parties that expired on December 31, 2003. The unit is composed of 68 members holding the title of Deputy Sheriff.

In accordance with Section 209.4 of the Civil Service Law, the undersigned were designated as the Public Arbitration Panel members by letter dated April 22, 2005 from the New York State Public Employments Relations Board ("PERB"). The panel met and conducted a hearing in the City of Albany on October 4, 2005 and October 5, 2005. The panel held an Executive Session on December 16, 2005.

At the hearing, the parties were afforded a full opportunity to present relevant evidence in support of their positions. Each presented witnesses for examination and cross-examination and documentary evidence including data collected concerning police departments that they considered to be comparable to that of the County.

The content of this opinion and award reflects the results of consideration of the evidence presented against the criteria contained in the Civil Service Law. It also represents a good deal of give and take on the part of both parties. It is

further recognized that the outcome is not what either party would accept as their ultimate position on the issues but instead represents the incrementalism and compromise inherent to instances where more than one person is empowered to decide an outcome.

Specifically considered were the interests and welfare of the public and the financial ability of the County to pay any salary increase or benefit increases awarded; comparable wages, hours and conditions of employment provided employees involved in similar work or requiring similar skills (police); comparison of peculiarities in regard to other professions such as hazards, physical qualifications, educational qualifications, mental qualifications and job training and skills. The panel noted that individuals holding police titles in other Counties/municipalities were comparable to the deputies here. The panel also considered the terms of the collective bargaining agreement negotiated between the parties in the past. The final disposition of the issues is the result of the deliberations of the panel. Although the panel may have been split with regard to certain issues such as the designation of comparable units, shift differentials, health insurance contributions, etc., the panel reached unanimous agreement with respect to this award. While the panel members' expressed disagreement over issues, the members agreed that award would be accepted as a package because the ability to agree on the provisions of the award was based on the general acceptance of the panel that the award contains our

collective best opportunity to provide an award that is fair to both parties and the interests and welfare of the public. Each party understands that the award, when taken in total is not what it would be if only one party had full authority to decide. Despite the differences of opinion, the award contains provisions of salary increases, benefit changes and working condition changes that, in the panel's opinion, meet the criteria contained in the Law.

The evidence presented by the parties was considered against the criteria set forth in the Law including but not limited to a comparison of wages, hours and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions; the interests and welfare of the public and the financial ability of the public employer to pay; the peculiarities in regard to other professions such as hazard, educational qualifications, training and skills and the terms of collective agreements negotiated between the parties in the past providing the compensation and fringe benefit package that currently exists for the bargaining unit members.

There was unanimous agreement that the duties performed and the responsibilities assumed by the members of the PBA are consistent with those performed by employees who hold the title of Deputy Sheriff, Police Officer or associated titles in the jurisdictions offered by the parties for consideration and

comparison by the panel.

DISCUSSION AND ANALYSIS

After extensive review of the significant amount of evidence presented at the arbitration, the panel reached agreement on the Award that follows. The Award is a product of the consideration of all the factors specified in the Civil Service Law. It modifies terms and conditions of employment in a manner which benefits both the PBA and the County.

TERM. The parties reached unanimous agreement on the term of the award. The term of this award shall be for a two year period commencing on January 1, 2004 and expiring on December 31, 2005.

DIRECT COMPENSATION: The PBA proposed increasing wages eight percent (8%) in each year of a two-year award. The County proposed increasing wages four percent (4.0%) effective January 1, 2004 and two percent (2.0%) effective January 1, 2005.

Any review of proposed salary increases should begin with a review of the employer's ability to pay. The panel received into evidence a significant amount of data addressing this issue. Both the data presented by the PBA and the data presented by the County showed that the County had the ability

to pay an increase; the parties differed only on the amount of increase. Each side asserted that its data represents the data upon which the panel should rely. The panel took particular note of the fact that the County had agreed to increases in salary for 7 of its 13 bargaining units (CSEA, Sheriff Non-Security Personnel, CSEA Mental Health, CSEA DPW, CSEA DGS, CSEA DSS, CSEA Health and CSEA DCYF) of four percent (4%) in their 2004 contract year and four percent (4%) in their 2005 contract year. The County thus had agreed it had the ability to pay 4% each year to those bargaining units. Those units do not have binding interest arbitration. The panel viewed the data regarding the ability to pay increases to other County units as significant.

The County and the PBA both submitted lists of what they considered comparable police departments agreeing only on the Columbia County, New York Sheriff's Department as comparable to the department in the County.

The data presented shows the following salary increase for the mutually selected department as follows.

	2004	2005
Columbia County	3.0%	no data

*Obviously, there was insufficient data for the panel to make a determination using this one comparable alone.

As noted above, there is insufficient data to use the agreed to comparable department to address salary.

The panel additionally noted that other Sheriff and police departments, offered by the PBA but not mutually agreed to paid their employees in comparable titles more than the current salaries paid and more than the salaries that would be achieved as a result of this award for the period covered by this award.

St2004	Starting Salary	5 Year Salary	10 Year Salary
Albany, City	\$36,985	\$49,036	\$49,036
Cohoes	\$34,163	\$47,606	\$47,606
Columbia County	\$31,827	\$42,695	\$42,695
Saratoga County	\$32,427	\$41,925	\$41,925
Watervliet	\$32,145	\$47,966	\$50,070
Average	\$33,511	\$45,846	\$46,266
Albany County	\$35,002	\$39,179	\$45,963
* pre-award salary			

The above is the PBA proposed comparable employers adjusted by the neutral arbitrator by eliminating communities with demographics felt to be clearly dissimilar to the County.

2005 Salary Data	Starting Salary	5 Year Salary	10 Year Salary
City of Albany	\$38,834	\$51,488	\$51,488
City of Cohoes	\$35,168	\$49,034	\$49,034
Watervliet	\$33,110	\$49,405	\$51,572
Albany County	\$37,037	\$40,736	\$47,801

Albany County data includes a 4% 2004 increase.
Data includes only those units that have settled.

The above data shows that at the end of a 2 year agreement that would provide increases of 4% each year, the PBA would have a starting salary that is \$38,518 as compared to the average starting salary of the above units (\$35,711); a mid-range, 5 year salary of \$42,365 as compared to the average 5 year salary of 49,976 (the PBA salary is significantly lower) and a 10 year salary of \$49,713 or a 10 year salary that is below the average salary of \$50,698 as shown above.

The data thus provides a justification for the increases herein proposed both by comparison of comparable salaries and the ability of the County to pay. Salary increases of four percent (4%) in each of the two years covered by this award are appropriate.

Based on the foregoing, the panel makes the following award.

Effective on, and retroactive to:

January 1, 2004, wages shall be increased 4.0% across the board.

January 1, 2005, wages shall be increased 4.0% across the board.

The data showed a one percent increase would cost the County approximately \$31, 714 or \$0.0018 per thousand dollars of full value assessment.

HEALTH CARE: The County made two proposals in this area. One concerning Health Insurance premium contribution and the other addresses prescription co-payments.

First, the County proposes increasing the prescription drug co-payment from a flat; \$10 Generic/Retail co-pay to a tiered co-pay as follows; Generic, \$5, Preferred Formulary Brand, \$15, and Non-Formulary Brand, \$30. The County would retain the zero co-pay benefit for mail order of maintenance drugs. Next, the County proposed increasing the contribution for all employees over a period of time to 20% of premium. Employees in this unit currently pay 10 percent of premium except that employees hired pre-1989 make no contribution.

The Union opposed the County's proposals.

The panel considered data that showed the County has seen a significant increase in the cost of providing health insurance and drug coverage. County exhibit #7 shows costs are projected to rise 15.01% in 2005 alone if the current plans are continued without change. The majority of the panel also considered that two other County units (PEF Probation Department and NYSUT as well as the non-union employees have already adopted the prescription co-payments proposed by the County. No other group of County employees pays greater than a 10% contribution towards health insurance premiums. The data presented by the County concerning other Sheriff's departments shows that the majority of the units cited pay a 10% contribution towards premium. There is insufficient data to determine the drug co-pays for most comparables proposed.

Considering the sizable increase in cost, the majority of the panel found that relief in the area of health insurance and drug co-payments is appropriate. Therefore, the panel agreed to accept the County's prescription drug co-pay proposal and to require all members of the unit, regardless of date of hire to contribute 10% towards the health insurance premiums. Such provisions are effective January 1, 2006, however members in the unit hired before the date in 1989 previously referenced in the collective bargaining agreement as exempt from payment, shall contribute 2% of the total monthly premium for health for 2006.

Such percentage shall increase 2% per year until a total of 10% of premium is reached.

SHIFT DIFFERENTIAL: The PBA proposed adding a shift differential of \$1,900/year for the C-Line and \$2,100 for the A-Line. The County opposed the proposal. The County currently pays shift differential to three other units, \$390 annually and \$1.75 Weekend Shift Differential for the RN unit and the Service and Maintenance Unit and \$487.50 maximum with a \$1.75 per hour Weekend differential for the NYSUT RHCF unit.

The data presented by the County for other Sheriff units shows that out of 6 comparables submitted by the County, five proposed comparable units have shift differentials ranging from \$.35 per hour to \$1.50 per hour. The average shift differential for the units previously cited as comparable for wage purposes by the neutral arbitrator is \$832 (\$.40 per hour).

The data supports the acceptance of a shift differential but not at the level proposed by the PBA.

Considering the data and the County's ability to pay, the panel voted to provide a shift differential effective January 1, 2004 of \$832/year for Deputies working the C-Line and \$1046 for Deputies working A-Line.

LONGEVITY:

The PBA proposed increasing longevity payments as follows.

<u>Years Completed</u>	<u>Current Increment</u>	<u>Proposed</u>
5-9	\$ 650.00	\$1,000.00
10-14	\$ 1,000.00	\$1,300.00
15-19	\$ 1,100.00	\$1,650.00
20-24	\$ 1,400.00	\$2,100.00
25 +	\$ 1,700.00	\$2,650.00

The data presented shows that the City pays essentially the same Longevity payments proposed by the PBA to the Sheriff's Department Corrections Supervisors Unit. Additionally, several other County units have a longevity payment schedule that provides payments in excess of \$2,250.00 for completed service over 25 years. Half of the Units submitted by the County as comparable Sheriff department units pay increments in excess of that currently paid in this unit.

Considering the above, the panel voted to increase longevity payments to this unit to more closely resemble that paid the Correction Supervisors unit. The new schedule is effective January 1, 2005. The awarded schedule follows.

<u>Years Completed</u>	<u>Increment</u>
5-6	\$ 750.00
7-9	\$ 1,000.00
10-14	\$ 1,300.00
15-19	\$ 1,650.00
20-24	\$ 2,100.00
25 +	\$ 2,650.00

AWARD

1. The term of this award shall be for two years commencing January 1, 2004.
2. Salaries will be increased as follows.

Effective on and retroactive to:

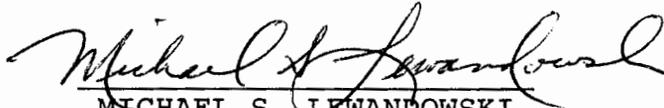
January 1, 2004, wages shall be increased 4.0%
January 1, 2005, wages shall be increased 4.0%
3. Effective January 1, 2006, the drug proposal described earlier in this award will be put into effect and there will be the phase in, at 2% per year of health insurance premium for those employees in this unit who do not currently contribute. The phase in will increase by 2% per year until the maximum of 10% of premium is reached.
4. Effective, January 1, 2005, the longevity payment schedule listed above shall be implemented and paid.
5. Effective January 1, 2004, the shift differential schedule described herein shall be implemented and paid.

AFFIRMATION

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

We, the public arbitration panel identified above, do hereby affirm upon our oath as Arbitrators that we are the individuals described in and who executed this instrument, which is our award.

Date: 1/8/06


MICHAEL S. LEWANDOWSKI

Date: 1/11/06


EDWARD W. GUZDEK

Date: 1/11/06


ROBERT CONWAY