STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD
INTEREST ARBITRATION PANEL

In the Matter of the Arbitration
between

THE COUNTY OF WESTCHESTER,
Public Employer,

-and-

WESTCHESTER COUNTY DEPARTMENT OF PUBLIC SAFETY POLICE BENEVOLENT ASSOCIATION, INC., (Superior Officers Unit)
Employee Organization,

OPINION

AND

AWARD

PERB Case No. IA 2005-18; M2005-080

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

Michael Wittenberg
Employer Panel Member

Christopher P. Harold, Esq.
Employee Organization Panel Member

APPEARANCES:

For the County of Westchester
Lori A. Alesio, Esq., Deputy County Attorney

For the Westchester County Department of Public Safety PBA
Harold, Salant, Strassfield & Spielberg, Esqs.
Leonard Spielberg, 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 New York State Public Employment Relations Board ("PERB"), to make a just and reasonable determination of a dispute between the County of Westchester ("County") and the Westchester County Department of Public Safety Police Benevolent Association ("Union") for the Superior Officers Unit.

The County of Westchester is a municipal corporation that is a suburban county located just to the north of New York City. It has a population of approximately 925,000 people and encompasses 450 square miles. Westchester's 48 municipalities vary greatly in size with 42% of Westchester's population being located in its four largest cities (Yonkers, New Rochelle, Mount Vernon and White Plains). The County has a large and varied economic base running the gamut from corporate headquarters to research facilities to service industries, with luxury residences throughout the County.

The Union is the certified bargaining agent for the Superior Officers Unit, which consists of all Lieutenants and Captains employed by the Westchester County Department of Public Safety Division of Police, excluding all other County employees. At the present time, the Union represents approximately 17-19 Lieutenants and Captains in this bargaining unit.

The last collective bargaining agreement between the parties covered January 1, 2001 through December 31, 2002, and thereafter the parties have been bound by an

Interest Arbitration Award covering January 1, 2003 through December 31, 2004 (Edelman Award).

Prior to the expiration of the period covered by the Edelman Award, the parties began negotiations for a successor contract, but such negotiations were unsuccessful. Thereafter, acting pursuant to the rules of procedure of PERB, the parties declared impasse on June 20, 2005, and pursuant to the PERB impasse procedure a PERB appointed Mediator met with the parties. Mediation was unsuccessful and on August 10, 2005, the Union filed a Petition for Interest Arbitration (Joint Exhibit 1) pursuant to Section 209.4 of the Civil Service Law.

The County filed a response to said Petition on August 19, 2005 and thereafter, the undersigned Public Arbitration Panel (Joint Exhibit 2) was designated by PERB, pursuant to Section 209.4 of the New York State Civil Service Law, for the purpose of making a just and reasonable determination of this dispute.

Hearings were conducted before the undersigned Panel in the County of Westchester on September 29, 2005. At all hearings, both parties were represented by Counsel. Both parties submitted numerous and extensive exhibits and documentation, including written closing arguments, and both parties presented extensive arguments on their respective positions.

Thereafter, the Panel fully reviewed all data, evidence, argument and issues submitted by both parties. After significant discussion and deliberations at the Executive

Sessions held on January 10 and May 5, 2006, the Panel reached majority agreement on the terms of this Interest Arbitration Award.[1]

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

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 January 1, 2005 through December 31, 2006.

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[1] All references to "the Panel" in this Award shall mean the Panel Chairman and the Employee Organization Panel Member.

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

COMPARABILITY

Section 209.4 of the Civil Service Law requires that in order to properly determine wages and other terms and conditions of employment, the Panel must engage in a comparative analysis of terms and conditions with "other employees performing similar services or requiring similar skills under similar working conditions with other employees generally in public and private employment in comparable communities."

The Union contends that its members should be compared on a primary basis with other police units within Westchester County. Additionally, the Union argues that its members should also be compared to county police officers in Rockland, Nassau and Suffolk counties. This is the case because Westchester County is part of the "downstate" area, which has been defined by PERB, for purposes of its wage comparison data as covering counties including but not limited to Rockland, Nassau and Suffolk counties.

The Union argues that the Panel should consider comparative data from the other county police departments not only because they are economically similar but also because a significant difference exists between the services performed by county departments as compared with those of local police departments. For example, the Department performs many specialized services in aid of local police departments such as the bomb squad, helicopter squad, armored personnel carrier, trained hostage team, intelligence and security and counter-terrorism units.

However, the County argues that the appropriate basis of comparison lies solely within the county and its various police departments. The County argues that the

problems faced by Westchester County Police Officers are strikingly similar to the duties, tasks and problems faced by police in local departments in Westchester. Further, since the financial situation and environment faced by members of the Westchester County Police is identical to that of local police departments in Westchester, it is simply not appropriate to compare Westchester salaries with those of other counties.

Panel Determination

The Panel has taken the opportunity to again review the issue of comparability for Westchester Police. While the Panel does note that salaries paid to police in other county departments in the downstate area are of interest generally and provides the Panel with a broad framework and range of police salaries, such county police departments are not found to be appropriate comparables to Westchester County police. This Panel Chairman has previously held in 1993 and again in 1996 that the most appropriate wage comparison is with other police units within Westchester County and this has been followed in the 1993-94, 1997-98 and 1999-2000 Interest Arbitration Awards by Arbitrator Haber as well.

The Panel finds no basis to change the above panel determinations on comparability because the setting, economic environment, people they serve and overall responsibilities for Westchester Police officers are greater in similarity to those of local police departments in Westchester than as compared to those of other county police departments. Accordingly, the Panel finds that pursuant to the statutory criteria, the appropriate comparables to the Union are other police units within Westchester County.

SALARY

Union Position

As in almost every interest arbitration, the appropriate salary increase to be awarded for the statutory period in issue remains at the heart of the dispute. The Union is seeking a 7% salary increase effective January 1, 2005 and a similar increase effective January 1, 2006. The Union contends that the evidence presented at the arbitration clearly establishes that notwithstanding the County's protestations, it continues to maintain a robust financial situation. The Union has also presented economic data regarding other police units in Westchester County and maintains that such comparison strongly establishes that the Union's proposed increases of 7% in each year of the agreement are warranted.

Since the Westchester County police compete with other local departments for its recruits, the Union maintains that the salary should be sufficiently competitive to attract the top candidates who will be able to handle the more sophisticated procedures and operations performed by County police officers. This is a serious concern of the Union's as it submitted evidence showing that pay for Westchester County police officers has become less competitive over the past fifteen years. Specifically, in 1990 Westchester officers ranked 8th in top base pay in the county, but in 2004 Westchester officers ranked 19th in top base pay. The Union further argues that Westchester Police have one of the highest number of show up days each year county wide, creating a much lower and less competitive daily rate of pay.

At the expiration of the 2003-04 Award on 12/31/04, the top salary for a Westchester County Police Officer was $74,125, ranking them 19th out of 39 departments in the County.[2] A review of recent settlements indicates that the Village of Mamaroneck, which paid its officers at the top of the salary schedule approximately $1,500.00 more per year than Westchester County officers in 2004, will be providing its police officers with raises of 4% in 2005, 4.25% in 2006 and 4.25% in 2007. Likewise, Scarsdale, which paid its officers at the top of the salary schedule approximately $700.00 more per year than Westchester County officers in 2004, will be providing its officers with salary increases of 4.5% in 2005, 4.5% (2.25/2.25 split) in 2006, and 4.5% in 2007. As a result, the Union maintains in the instant arbitration that the increases it seeks are justified and necessary in order to allow Westchester police to earn a comparable wage as enjoyed by other police in Westchester County.

The Union presented testimony and documentary evidence prepared by Kevin Decker, Financial Consultant, to support its argument that the County does indeed have the financial ability to pay the increases sought on behalf of the Westchester County police. Decker, a municipal finance expert, testified that he reviewed the County's financial status and ability to pay the wage increase proposed by the Union. Decker testified that Westchester is a major industrial center for corporate headquarters, manufacturing, service industries and that it continues to attract new development.

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[2] The Panel has used top step salaries (generally after 5 years of service) as the benchmark for comparison. When calculating the daily rate of pay, the County Police rank 26th out of 46 departments in Westchester County.

Decker testified that Westchester has the highest per capita income and the highest full value real property per capita in New York State. According to Decker, Westchester's use of its debt limit compares favorably to most jurisdictions in New York and Westchester has seen significant growth in sales tax revenues over the past ten years. Decker testified that the County met its budget for 2004 with a surplus in excess of 24 million dollars and that the County ended 2004 with a total fund balance in the general fund of 163.8 million dollars or 12.6% of expenditures. He also testified that the County had 96 million dollars in unreserved fund balance, representing 7.4% of fund balance, a percentage that is considered desirable by rating agencies.

Decker also testified that the County's real property tax base has increased at an average annual rate of 8% over the past decade. He said when this is considered along with the County's healthy economy and strong fund balance that the County will be able to adequately fund the wage increases sought by the Union.

County Position

The County has proposed a 3% increase in wages for each year. The County argues that its position regarding wages reflects the realities of today's economic climate. It argues that consumer prices in the New York metropolitan area have remained at or below the 3% range for the past several years. It also asserts that it has been required to fund massive increases toward the cost of employee health insurance coverage without any substantial contribution from employees. Finally, it maintains that its salary proposal would allow Westchester County police officers to remain competitively compensated.

The County presented Kathleen Carrano, County Budget Director, who testified as to the current and future financial situation faced by the County. She testified that employee health coverage had increased on average in excess of ten percent per year for the last several years and that this has had an adverse affect on the County's budget. Ms. Carrano also explained that the County had contributed 170 million dollars over the past two years to allow the Westchester Medical Center to continue operating. According to Ms. Carrano, the County has pledged to continue providing financial support to the medical center in the amount of 85 million per year for the foreseeable future, and such amounts will not be repaid to the County. Finally, she testified that the County is sensitive to the substantial tax burden shouldered by its residents. The County maintains that it would be fiscally irresponsible to provide the raises proposed by the Union as it would undoubtedly lead to increased taxes and/or decreased County services.

Panel Determination

As indicated previously, the top base pay for a Westchester County Police Officer as of December 31, 2004 is $74,125. This ranks in the middle of the pack compared with other police departments in Westchester. However, the Panel notes that even though the base pay ranks 19th of 39 departments, base pay provided to Westchester County Police is actually quite competitive for attraction/retention purposes.[3] This is the case because Westchester County police actually earn approximately $3,950.00 less than the highest

[3] When longevity is factored in Westchester Police pay is even more competitive as Westchester Police received the second highest longevity payment prior to the issuance of this Award.

paid department (Hastings at $78,076) and more than ten thousand dollars more the lowest paid department (Mount Vernon at $63,708). Notably, the difference in annual pay between Westchester Police and officers in the villages of Pelham, Ardsley and Tuckahoe, all of whom rank in the top ten county-wide for base police pay, is less than $1,000. This demonstrates to the Panel that Westchester Police Officers remain competitively compensated even if they have dropped some in terms of rankings in the past ten to fifteen years.

The Panel also notes that of the 22 local police departments within the county reporting salary increases for 2005, the increases ranged from a low of 3.25% in Croton to a high of 4.5% in Scarsdale, with an average increase of 3.87%. In 2006, of the 16 police departments reporting salary increases the range is a low of 3.5% in Croton, Bedford, and New Rochelle to a high of 4.5% in Scarsdale. The average increase in 2006 is nearly 4.0%. It must be noted that there is a significant difference between increases which are negotiated and mutually agreed upon by the parties and increases which are the result of an Interest Arbitration proceeding. Generally speaking, negotiated increases are coupled with operational changes and other benefit modifications, as well as other compromises that are not found in Interest Arbitration proceedings. While negotiated agreements are of relevance to the instant dispute, they are not determinative.

Based on the above, and after due consideration of the statutory criteria, the Panel hereby determines that a salary increase of 4% effective January 1, 2005 followed by an additional salary increase of 4.25% effective January 1, 2006, represents a fair and

equitable increase at this time. These increases will allow Westchester County Police Officers to remain competitively compensated for attraction/retention purposes and should assure the Union that its members will not lose any ground in the salary rankings for base pay and should gain ground compared with other police officers in the County. This is demonstrated by a review of the 2005 salary increases of the four police departments with settlements in 2005 who pay less than but are closest in terms of salary rankings to Westchester County. For example, Bedford, which ranks21st in the county, paid its officers $73,914 in 2004 and its officers received a 3.5% increase in 2005. Rye Brook, which ranks 22nd in the county, paid its officers $73,899 in 2004 and its officers received a 3.9% increase in 2005. Tarrytown, which ranks 23rd in the County in 2004, paid its officers $73,835 in 2004 and its officers received salary increases of 3.75% in 2005. Finally, Harrison, which ranks 24th in the county, paid its officers $ 73, 765 in 2004 and its officers received rate increases of 4% in 2005 (3.75/.25 split). Obviously, none of these departments will be paid higher than Westchester Police in 2005 because they started the year with lower salaries than Westchester Police and none of them will receive a greater salary increase than Westchester Police.

Likewise, the 4% salary increase awarded herein for 2005 will allow Westchester County police officers to narrow the gap on several of the departments who paid their officers more than the County in 2004. The 4% increase will change Westchester County police top pay to $77,090 in 2005. Croton, which ranked 12th in pay in 2004 at $74,726 ($701 more than Westchester), paid its police $77, 155 in 2005 after its police received a

3.25% increase. This narrows the difference in compensation between Westchester and Croton in one year from $701.00 to $65.00. Similarly, Eastchester, which ranked 17th in pay in 2004 at $74,336 ($211.00 more than Westchester), paid its police $77,161 after its police received a 3.8% increase in 2005. This narrows the difference in compensation between Westchester and Eastchester to a mere $71 in 2005. Finally, the Town of Mamaroneck, which ranked 18th in pay in 2004 at $74,211 ($186 more than Westchester), paid its police $77,068 after its police receive a 3.85% increase in 2005. Thus, the 4% increase for Westchester Police will vault them ahead of the Town of Mamaroneck in 2005.

The Panel's decision to award Westchester County Police with 4.25% in 2006 will further its progression ahead of the pay of some of the departments who paid its police more than Westchester in 2004. For example, in 2006, after receiving an additional 4.25%, Westchester will be paying its police $80,366. In 2006, Croton, (which had been ranked 7 spots ahead of Westchester in 2004), is paying its officers $79,855, because its officers received a 3.5% in 2006. Similarly, Eastchester, (which had been ranked 2 spots ahead of Westchester in 2004), is paying its officers $80,170, because its officers received a 3.9% increase in 2006. Finally, the Town of Mamaroneck's officers will remain below Westchester Police pay because they started below Westchester in 2005 and they received 4.1% in 2006 compared with Westchester's 4.25%. This analysis makes it abundantly clear to the Panel that even assuming reasonable increases for other departments in the County that have not resolved their contracts for 2005 and 2006, the top police pay for

Westchester of $80,366, when viewed in the context of all other compensation and benefits provided, represents a fair and equitable wage at this time.

The Panel acknowledges the important and dangerous work performed by the Westchester County police. The Panel also notes that Westchester police have unique and specialized skills and that in the current environment there have been increased demands placed on members of the department. This is why the Panel feels they must receive salary increases slightly above the so called "going rate" so that this department can continue to attract and retain highly capable individuals.

At the same time, the hazards of the job and unique skills of the Westchester police must be balanced against the myriad needs of a large county like Westchester serving so many diverse groups. The County must continue allocating resources to maintain infrastructure, roadways, buildings, and other necessary municipal services.

Additionally, in any determination of the appropriate salary increase to be awarded, other benefits provided and the cost thereof must be considered as relevant factors. In awarding the salary increases of 4% in 2005 and 4.25% in 2006, the Panel notes that it has not made a substantial change in reducing health insurance costs for Westchester police, although the County's cost for health insurance continues to increase and represents a very significant continuing financial obligation.

Finally, as for the County's ability to pay, and the impact of the Award on the public, it is clear to the Panel that the evidence presented supports the conclusion that this Award is well within the financial means of the County. Westchester County is in

excellent health with regard to its debt position, has a substantial fund balance and the highest real property full valuation in the downstate region which is comprised of Westchester, Rockland, Nassau and Suffolk County. In addition, the County's economy continues to perform on a very strong level with nearly double digit annual growth in sales tax revenue and continued economic development. There are several significant real estate and construction projects that have been recently completed and many others in the planning and development stage.

In making the salary determination herein, the Panel has carefully considered all of the financial data and arguments presented by both parties, and have applied such data to the criteria mandated by statute as specified in Section 209.4 of the Civil Service Law.

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, 2005, and retroactive to that date, the base salary shall be increased by 4%.
2. Effective January 1, 2006, and retroactive to that date, the base salary shall be increased by 4.25%.

LONGEVITY PAYMENTS

Discussion on Longevity Payments

Currently, Westchester police receive longevity commencing after 5 years of service in the amount of $2,300. This amount is increased to $2,500 after 10 years of service, to $2,700 after 15 years of service and to $2,900 after 20 years of service. Longevity payments are traditionally analyzed by looking at cumulative longevity earnings over the course of a 20 year career. By example, a Westchester police officer currently earns $37,500 in longevity payments over a 20 year career.

The Union seeks increases of $250 to all longevity payments for both years of this Award. The County proposes no increase to longevity payments for both years of this Award. It notes that the longevity payments to Westchester Police are the second highest in the County and are also substantially higher in amount than almost all of the departments in the County. It contends that the current longevity payments will more than adequately allow Westchester police to maintain its top standing in longevity payments amongst police departments in Westchester County.

Upon review the Panel finds that longevity payments are an integral part of compensation for police officers. The data in the record indicates that Westchester police receive the second highest amount in longevity payments in the County and that Westchester's officers receive at least $20,000 more in longevity payments over a 20 year career than 30 of the 39 police departments in the County.

At the same time, this must be balanced against the fact that Westchester police have not received a longevity increase since January 1, 2002 when they received a $200 per level increase. Furthermore, the parties have previously recognized that longevity is an appropriate area to recognize the unique skills and expertise of the Westchester police officers.

Accordingly, the Panel finds that an increase in longevity for Westchester police is warranted. An increase of $200 to all longevity steps for both years of the agreement will allow the overall compensation paid to Westchester police to be adequate, fair and equitable when viewed against that provided to other departments in Westchester.

AWARD ON LONGEVITY PAYMENTS

Effective January 1, 2005, and retroactive to that date, all longevity payments will be increased by $200.00. Effective January 1, 2006, and retroactive to that date, all longevity payments will be increased by an additional $ 200.00. Thus, during the length of the agreement between the parties longevity payments will be changed to the following:

	Effective 1/1/05	Effective 1/1/06
After 5 years	$2,500.00	$2,700.00
After 10 years	$2,700.00	$2,900.00
After 15 years	$2,900.00	$3,100.00
After 20 years	$3,100.00	$3,300.00

SHIFT DIFFERENTIAL

Discussion on Shift Differential

Currently, Westchester police who have a starting time of one (1:00) o'clock p.m or later or have a regular quitting time of twelve (12:00) noon or earlier receive a shift differential payment of $20.00 per shift.

The Union contends that the current shift differentials paid are inadequate to properly compensate for the burden of working inconvenient shifts which disrupt normal family life. They propose an increase of $2.00 per year for all late tours described above. They also propose that officers with shifts starting at midnight have the differential increased by $4.00 in 2005 and an additional $6.00 in 2006.

The County asserts that the current shift differential provided to Westchester officers compares favorably with virtually all jurisdictions in the County. While it acknowledges that the cities of White Plains and Yonkers pay greater shift differentials than Westchester, it notes that most of the other jurisdictions in the County do not provide any shift differential.

Upon review, the Panel agrees with the County that the shift differential paid to Westchester officers is competitive. Accordingly, the increase proposed by the Union is not warranted but an increase slightly above the cost of living is warranted.

AWARD ON SHIFT DIFFERENTIAL

1. Effective 1/1/05, and retroactive to that date, the current shift differential will be increased to $22.00.
2. Effective 1/1/06, and retroactive to that date, the current shift differential will be increased to $23.00.

WELFARE FUND

Discussion on Welfare Fund

To supplement the benefits of basic health insurance, a Welfare Trust Fund has been established which is used to purchase other benefits for police officers such as dental, optical, etc. There is currently a $1,705 per year per employee contribution made by the County.

The Union seeks an increase of $150.00 in the first year and an additional $250.00 in the second year. It argues that these increases are necessary in order for the fund to remain healthy and to allow it to maintain the level of benefits provided to officers. It also asserts that the parties have recognized over the past several contracts that increases of $100 to $150 per year are necessary in order for the fund to continue providing the same level of benefits to officers.

The County contends that the evidence shows that the County provides the highest welfare trust payments as compared with the rest of the police departments in the County.

It suggests that at most a modest increase in the second year of the agreement would be appropriate.

The County is correct in its assertion that it provides the highest payment per employee for welfare payments as compared with other departments in the County. However, the Panel recognizes that in lieu of welfare benefit payments, there are many departments in the County that continue to pay for the cost of dental and vision insurance for officers. Based upon the Panel's experience in labor relations and familiarity with the costs of dental and vision plans, the Panel surmises that it is likely that those jurisdictions continuing to pay for dental and vision pay nearly the same amount as the County pays toward the welfare fund. Accordingly, the Panel finds that only a modest increase in welfare fund payments is warranted to keep pace with rising expenses and inflationary costs.

AWARD ON WELFARE FUND

Effective January 1, 2005, the annual Welfare Fund contribution shall be increased by an amount of $75.00 per employee.

Effective January 1, 2006, the annual Welfare Fund contribution shall be increased by an amount of $75.00 per employee.

UNUSED SICK LEAVE PAYMENT AT RETIREMENT

Discussion on Unused Sick Leave Payment at Retirement

Currently, at the time of retirement, Westchester County police receive 50% of the value of all unused days up to 240. In order to be eligible for this benefit, officers must have a minimum of 50 sick days on the books at the time of retirement.

The Union proposes that the value of the days be increased from 50% to 60% and to eliminate the requirement that there be a minimum of 50 accumulated sick days in order to be eligible for the benefit. In support of this proposal, the Union asserts that several recent settlements in the County have provided for increases in the payments police receive for unused sick time. Additionally, the Union points out that in an Interest Arbitration Award between Westchester County and the Westchester County Correction Officers Benevolent Association dated October 18, 2004, Arbitrator John E. Sands awarded corrections officers 60% pay for accumulated days 126 through 250.

The County maintains that the current payment for unused sick leave at retirement compares favorably with other police in Westchester and that there is no compelling reason to provide the increases proposed by the Union.

Upon review, the Panel determines that it is appropriate for Westchester police to have the same benefit for unused sick leave payments at retirement as is being provided to members of the Westchester County Correction Officers Benevolent Association.

AWARD ON UNUSED SICK LEAVE PAYMENT AT THE TIME OF RETIREMENT

Effective January 1, 2005, and retroactive to that date, payment for unused sick leave at the time of retirement shall be altered in the same manner as provided in the John E. Sands October 18, 2004 Arbitration Award between Westchester County and the Westchester County Correction Officers Benevolent Association.

SURVIVING SPOUSE/DEPENDENT HEALTH INSURANCE COVERAGE

Discussion on surviving spouse/dependent health insurance coverage

The current Agreement between the parties provides for survivor health insurance coverage only if an officer dies in the line of duty as well as for retirees' survivors. The Edelman Award covering January 1, 2003 through December 31, 2004, enhanced the survivor coverage to provide survivor health insurance coverage for any officer who dies with at least 14 years of service with the County. However, the Edelman Award provided this enhanced benefit only during the term of that Award and the benefit has now expired.

The Union proposes that the enhanced survivor health coverage provided for in the Edelman Award be continued on a permanent basis. It contends that its officers who complete 14 or more years of service deserve to have the peace of mind that their family members will be afforded health insurance coverage upon their death, regardless of the circumstances of death.

The County objects to the Union's request because of the exploding costs of health insurance. It argues that it cannot afford to increase benefits during times when benefit costs are so out of control.

Upon review, the Panel determines that it is appropriate on a permanent basis to adopt the enhanced surviving spouse benefit set forth in the Edelman Award. Protection is properly provided to the families of long term officers who die before reaching retirement age. It is the view of the Panel that it is appropriate to continue this benefit on a permanent basis to those officers who have served at least fourteen (14) years as a member of the Westchester County Police Department.

AWARD ON SURVIVING SPOUSE/DEPENDENT HEALTH BENEFIT

Effective on the date of this Award, the spouse and dependents of a bargaining unit member who dies with at least fourteen (14) years of Westchester County service shall continue to be covered under the Health Insurance Plan.

HEALTH INSURANCE

Discussion on Health Insurance

Currently, under the 2003-04 Edelman Award, officers are required to pay $15.00 as a co-pay under the existing health insurance plan. The County proposes that this co-pay be increased to $16.00 effective 7/1/06, as has been increased in the CSEA bargaining unit. The Union objects to any increase in the health insurance co-pay.

Upon review, the Panel finds that since no other requested changes have been made to the health insurance plan, notwithstanding increased cost, that the County's proposal to increase the co-pay to $16.00 effective 7/1/06 is reasonable and should be granted.

AWARD ON HEALTH INSURANCE CO-PAY

Effective 7/1/06 the health insurance co-pay shall be increased to $16.00.

GENERAL MUNICIPAL LAW SECTION 207-C PROCEDURE

Discussion on General Municipal Law Section 207-c Procedure

Currently in the collective bargaining agreement, there is a procedure concerning implementation, administration and appeals regarding benefits provided pursuant to General Municipal Law Section 207-c. However, the County proposes to eliminate the existing procedure and replace it with a procedure that the County recently agreed to with the Westchester County Correction Officers Benevolent Association. The County contends that this change is justified because the procedure is expedited and because it allows a medical doctor to make decisions regarding whether an employee is capable of working. The County also argues that its proposal establishes more streamlined procedures for an employee to return to work while he or she is out of work receiving GML §207-c benefits.

The Union objects to the County's proposal to change the language in the Agreement regarding GML §207-c benefits. It contends that the County reached agreement on a new Section 207-c procedure with correction officers specifically to address what the County perceived as abuse of the prior procedure by corrections officers. The Union asserts that there is no compelling need for a change because its members have not abused the existing 207-c procedure. This observation is not disputed by the County. The Union also argues that the proposed procedure is less favorable to its unit members.

Upon review, the Panel finds that it is appropriate for the parties to replace the current GML §207-c procedure with the one agreed to between the County and the Westchester County Correction Officers Benevolent Association. This procedure is more expedited than the existing procedure and is comprehensive in that it addresses the myriad of issues that arise under Section 207-c of the General Municipal Law.

AWARD ON GENERAL MUNICIPAL LAW SECTION 207-C PROCEDURE

Effective on the date of this Award, the parties shall implement the same General Municipal Law Section 207-c procedure as agreed to between the County and the Westchester County Correction Officers Benevolent Association.

Arbitrator Selchick shall expressly retain jurisdiction to resolve any and all disputes concerning the adoption, adaptation and implementation of the General Municipal Law Section 207-c procedure provided herein.

USE OF ILLEGAL SUBSTANCES

Discussion on Use of Illegal Substances

The County proposes that language be added to the Agreement providing that any officer who uses illegal substances will be subject to immediate termination. It asserts that any officer who uses illegal substances ceases to be a role model and should not be eligible to continue working for the Police Department.

The Union objects to the County's proposal. It argues that the current agreement emphasizes treatment rather than punishment, and thus the County's proposed modification of the existing policy represents a significant change in approach.

Upon review, the Panel determines that it is appropriate for a zero tolerance drug policy to be established. For obvious reasons, it should be understood by all officers that their use of illegal drugs constitutes grounds for immediate termination.

AWARD ON USE OF ILLEGAL SUBSTANCES

Effective on the date of this Award, the Agreement shall be modified to provide that any officer using illegal drugs will be subject to immediate termination. Any disputes regarding the modification of the current procedure to comply with this Award will be resolved by Arbitrator Selchick, who expressly retains jurisdiction.

WILD CARD DAYS

Discussion on Wild Card Days

The County seeks to have the freedom to reschedule unit members on an as needed basis. The County proposes to accomplish and implement this managerial right through the Panel awarding the County the discretion to reschedule employees as needed, with appropriate notice, on a limited number of occasions each year.

The Union objects to the County's proposal on the basis that the granting of such "wild card days" would disrupt the lives of its members, and could be used to avoid the payment of overtime.

Upon review, the Chairman has indicated to both parties that such issue is more appropriately addressed in the negotiations forum and would not generally be resolved through the interest arbitration process.

AWARD ON WILD CARD DAYS

The Panel declines to grant the County's proposal.

OUT OF TITLE WORK GUARANTEE

Discussion on Out of Title Work Guarantee

Currently, superior officers only receive out of title pay when they work out of title "on a regular basis for more than 15 consecutive days." The Union proposes to eliminate this provision. It contends that its officers should be entitled to additional compensation if they perform the duties of a higher title for even one day. It also asserts that this change should be made for equity reasons. In this regard, it notes that those in the rank of Police Officer receive out of title pay on their first day of out of title work.

The County objects to any change in the current out of title provision. It argues that the realities of supervisory police work are such that supervisors in different titles often share similar tasks. It argues that the existing provision provides maximum flexibility and that it does not wish to incur any additional out of title costs.

Upon review, the Panel hereby determines that some modification to the provision is warranted. In the view of the Panel, after a supervisor has performed the duties of a higher title on a regular basis for ten (10) consecutive days, he should receive out of title pay at the higher rank.

AWARD ON OUT OF TITLE WORK GUARANTEE

Article III, Section 3.2 of the SOU Agreement shall be modified effective the date of this Award to reflect that out of title shall be paid after a superior officer performs the duties of a higher title on a regular basis for more than ten (10) consecutive days.

INSPECTORS AND CHIEF INSPECTORS

Discussion on Inspectors and Chief Inspectors

Currently, under Article 5.1 of the SOU Agreement, Captains assigned to the position of Inspector is paid additional compensation of $5,000.00 per year above the Captain salary. A Captain assigned to the position of Chief Inspector is paid additional annual compensation of $5,000.00 above the annual compensation of the rank of Inspector.

The record indicates that there has been no increase in the additional compensation paid to Captains serving in the positions of Inspector and Chief Inspector for over ten years. Accordingly, the Union proposes that there be an increase in the additional compensation paid to such Captains.

AWARD ON INSPECTORS AND CHIEF INSPECTORS

Effective on the Date of this Award, which shall be the date the Award is executed by the Chairman of the Panel, such additional compensation shall be increased as follows:

Captains assigned to the position of Inspector shall be paid additional compensation of $7,500.00

A Captain assigned to the position of Chief Inspector shall be paid an additional annual compensation of $7,500 above the annual compensation of the rank of Inspector.

REMAINING ISSUES

Discussion on Remaining Issues

The Panel has reviewed 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 studied and considered in the 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 lead to agreement. The Panel, in reaching what it has determined to be 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

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.

DURATION OF CONTRACT

Pursuant to the provisions of Civil Service Law Section 209.4(c)(vi) (Taylor Law), this Award provides an Agreement for the period commencing January 1, 2005 and ending December 31, 2006.

JEFFREY M. SELCHICK, ESQ.
Public Panel Member and Chairman
Date: 7/5/06

[~~Concur~~]
[Dissent]
MICHAEL WITTENBERG
Employer Panel Member
Date: 7/19/06

[Concur]
[~~Dissent~~]
CHRISTOPHER HAROLD, ESQ.
Employee Organization Panel Member
Date: 7/19/06

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

On this 5th day of July 2006 before me personally came and appeared Jeffrey M. Selchick, Esq., to be known and known to me to be the individual described in the foregoing Instrument, and he acknowledged the same to me that he executed the same.

Carole H. Van der Veer
Notary Public

CAROLE H. VAN DER VEER
Notary Public, State of New York
Qualified in Saratoga County
No. 4723326
Commission Expires March 30, 2010

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

On this 19 day of July 2006 before me personally came and appeared Michael Wittenberg to be known and known to me to be the individual described in the foregoing Instrument, and he acknowledged the same to me that he executed the same.

Notary Public

CHRISTOPHER HAROLD
Notary Public, State of New York
No. 4667127
Qualified in Putnam County
Commission Expires 11/30/2006

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

On this 19th day of July, 2006 before me personally came and appeared Christopher Harold, Esq., to be known and known to me to be the individual described in the foregoing Instrument, and he acknowledged the same to me that he executed the same.

P. CHRISTOPHER OTTAVIANO
NOTARY PUBLIC, State of New York
No. 60-4510238
Qualified in Westchester County
Commission Expires 8-31-09

Notary Public