

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the Compulsory Interest Arbitration Between

SARATOGA COUNTY DEPUTY SHERIFF'S POLICE  
BENEVOLENT ASSOCIATION, LOCAL 2096 OF NEW YORK  
STATE LAW ENFORCEMENT OFFICERS UNION,  
COUNCIL 82, AFSCME, AFL-CIO

Employee Organization,

-and-

SARATOGA COUNTY AND SARATOGA COUNTY SHERIFF  
Joint Public Employer,

PERB Case No.: IA 2012-009; M2011-377

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BEFORE: Jay M. Siegel, Esq.  
Public Panel Member and Chairman

Ennio J. Corsi, Esq.  
Employee Organization Panel Member

James E. Girvin, Esq.  
Public Employer Panel Member

APPEARANCES:

For the Saratoga County Deputy Sheriff's Police Benevolent Association  
Council 82 Legal Department  
By: Matthew P. Ryan, Esq., Associate General Counsel

For Saratoga County and the Saratoga County Sheriff  
Girvin & Ferlazzo, P.C.  
By: Jeffrey D. Honeywell, Esq. and Erin Rose-Morris, Esq., Of Counsel

**OPINION**

**AND**

**AWARD**

## BACKGROUND

Pursuant to the provisions contained in Section 209.4 of the Civil Service Law, the undersigned Panel was designated by the Chairperson of the New York State Public Employment Relations Board (PERB) to make a just and reasonable determination of a dispute between the Saratoga County Deputy Sheriff's Police Benevolent Association (Union) and Saratoga County and the Saratoga County Sheriff (County).

The County is 844 square miles. Although a significant portion of the County is rural, it has some suburban and metropolitan aspects to it. Its southern part begins approximately 25 miles north of Albany. Many residents living in the southern part of the County commute to the Capital District on a daily basis.

It has two cities, the City of Saratoga Springs and the City of Mechanicville. In the 2010 census, the County had a population of 219,607, which equates to a population density of 269 people per square mile. In the 2010 census, the median household income in the County was \$67,100.

The law enforcement side of the Sheriff's office is a full-service police agency. It operates on a 24/7 basis. The Union currently represents all certified police officers in a variety of positions such as Deputy Sheriff/Patrol Officer, Deputy Sheriff/Sergeant, Deputy Sheriff/Investigator and Deputy Sheriff/Lieutenant. The bargaining unit currently consists of 107 members.

In certain parts of the County, the Sheriff's office is the primary police agency. In other parts of the County, the Sheriff's office supports but does not supplant other police agencies.

Two other bargaining units have contractual relationships with the County, both of whom have agreements in place for the period covering this Award. However, these bargaining units have collective bargaining agreements with the County that extend beyond the time period covering this award. The County's agreement with the Civil Service Employees Association (CSEA) general unit calls for a one-time non-recurring payment of \$600 in 2010 followed by on-base salary increases of 2% effective January 1, 2011 and 2% effective January 1, 2012. CSEA members hired on or after January 1, 2001 pay 15% of the cost of health insurance and CSEA members hired on or after January 1, 2011 pay 20% of the cost of health insurance.

The County's agreement with the Corrections Unit calls for a one-time non-recurring payment of \$600 in 2011 followed by wage increases of 1.5% effective January 1, 2012, 1.75% effective January 1, 2013 and 2% effective January 1, 2014. Employees hired on or after a certain date in 2013 will pay 20% of the cost of health insurance. Employees who previously did not contribute toward the cost of health insurance will contribute 5% effective January 1, 2014. All other employees will remain at their current 15% contribution.

The last collective bargaining agreement (CBA) between the parties covered the period from January 1, 2005 through December 31, 2009. In 2010, the parties began negotiations for a successor contract. The parties met on nine separate occasions but the negotiations were unsuccessful. Thereafter, acting pursuant to PERB's rules of procedure, a PERB-appointed mediator met with the parties. After several meetings, mediation was unsuccessful. On September 28, 2012, the parties filed a joint petition for interest arbitration pursuant to Section 209.4 of the Civil Service Law.

On October 12, 2012, the undersigned Public Arbitration Panel 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. The term covered by the Interest Arbitration Panel Award covers the period of January 1, 2010 through December 31, 2011.

A hearing was conducted before the Panel at the offices of the County on January 31, 2013. All parties were represented by counsel at the hearing. The parties submitted numerous and extensive exhibits and documentation, including written closing arguments in which all parties presented extensive arguments in support of their respective positions.

Thereafter, the Panel fully reviewed all data, evidence, arguments and issues submitted by the parties. After significant discussion and deliberations at multiple Executive Sessions, the majority of the Panel reached an Award. The Award is a compromise. It does not fulfill all of the wishes of either party. Accordingly, all references to "the Panel" in this Award shall mean the Panel Chair and at least one other concurring member.

The positions taken by both parties are adequately specified in the Petition and the Response, numerous hearing exhibits, and post-hearing written submissions, all of which are 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' Award setting forth the terms and conditions for the period January 1, 2010 through December 31, 2011.

In arriving at such determination, the Panel has specifically reviewed and considered all of the following criteria, 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 and with other employees generally in public and private employment in comparable communities."

### **Union Position**

The Union stresses that comparability is the criterion establishing the market to be used to assess how existing terms and conditions of employment compare to similar

employees within the relevant market. In other words, it is a search for the market within which a comparison of prevailing wages and benefits is to be made.

The Union contends that its members should be compared with deputy sheriffs in Albany, Dutchess, Orange and Oneida counties, as well as the New York State Police. The Union contends that all of the deputy sheriff departments in its proposed list of comparables share the commonality of being similarly sized. Albany County has 121 full time sworn police, Saratoga has 112, Dutchess and Niagara have 105 and Oneida and Orange have 83. The Union stresses that if Oneida's department fits in with the list of comparables because of its comparable size to Saratoga, then it must follow that Orange County also belongs in the list of comparables. In addition, the Union opines that New York State Troopers should be within the list of comparables because they are the only other jurisdiction that provides countywide police services.

The Union asserts all of the jurisdictions in its list of comparables have similar populations. Indeed, while Orange County's population is the highest at 374,872, the Union stresses that Saratoga County's population is not far off at 220,882. In the Union's estimation, this difference is not significant considering that Albany County is in the list of comparables and its population exceeds 300,000.

The Union avers that a review of median home values supports its contention that Dutchess and Orange should be in the list of comparables. The Union notes that Saratoga County's median home value of \$224,800 is closer to Orange (\$299,500) and Dutchess (\$314,500) than it is to Oneida (\$106,200) and Niagara (\$100,200).

Even more compelling is a review of median household income. This demonstrates that Saratoga County is almost identical to Dutchess and Orange County.

While Saratoga has a median household income of \$67,186, Orange County's is \$70,294 and Dutchess County's is \$71,125. In the Union's view, it is uncontroverted that the incomes of Saratoga County's residents are much more similar to Dutchess and Orange than Oneida and Niagara, which lag approximately \$20,000 below Saratoga. To the Union, this is also demonstrated by the data regarding the percentage of residents below the poverty line. The Union maintains that its data shows that Orange, Dutchess and Saratoga counties all share similar data regarding the percentage of residents below the poverty line.

The Union stresses that Saratoga County is almost identical to Orange and Dutchess County when looking at area in square miles and housing unit density. While Saratoga is 843.81 square miles, Orange is 838.64 square miles and Dutchess is 825.35 square miles. Similarly, Orange, Dutchess and Saratoga are much more comparable in housing unit density compared to any of the other jurisdictions in the proposed group of comparables.

The Union strongly rejects the County's proposal to add Broome, Fulton, Montgomery, Rennselaer, Schenectady, Warren and Washington counties to the proposed list of comparables. To the Union, these jurisdictions cannot be compared with Saratoga County because all of them have road patrols that are less than half the size of Saratoga, except Warren County, which is only half the size. Equally important, when other factors such as median home value and median household income are considered, it becomes abundantly clear that these counties share little in common with Saratoga.

## County Position

The County reminds the Panel that it is statutorily required to compare the County and its patrol officers to comparable communities and that it must assess what is happening with the police forces in those communities. At the outset, the County insists that the Union's proposal to include the New York State Troopers must be summarily rejected. The County notes that other interest arbitration panels have considered and disqualified New York State Troopers as being comparable to a countywide deputy sheriff road patrol. The County stresses that numerous interest arbitration awards support the proposition that other County road patrol units should be considered in the universe of comparables and that New York State Troopers should not.

The County argues that Dutchess County must be excluded from the list of comparables. The County notes that in a July 2012 interest arbitration award between Dutchess County and its deputy sheriffs, the Panel rejected Saratoga as a comparable to Dutchess based on the differing labor markets between the two counties and because the appropriate comparables were those counties bordering Dutchess, i.e., in a similar housing and labor market.

The County maintains that Orange County should be excluded from the universe of comparables because its size, tax base and population are significantly different from Saratoga County. The County stresses that Orange County has 150,000 more people than Saratoga County. Of significant note to the County is the fact that despite the dramatic difference in population size, Saratoga employs 22 more road patrol officers than Orange. This shows that while Saratoga's road patrol is the primary police agency in many parts of its County, Orange County's road patrol certainly is not.

The County argues that Orange County should not be deemed comparable because it is in an entirely different labor market than Saratoga. The County notes that Orange County is 150 miles away from Saratoga County and that Orange County has far greater population density than Saratoga with 459.3 people per square mile compared to 271.1 people per square mile.

In the County's estimation, Broome County and Albany County are the most comparable in terms of population, location, demographics and size. The County stresses that its population and size is almost identical to Broome County. In addition, while Broome County has one city, the City of Binghamton, with a population of approximately 47,000 people, Saratoga County's two cities of Saratoga Springs and Mechanicville have a population of more than 30,000 people.

The County argues that Albany County is in the universe of comparables because of its geographical proximity. Both counties share a border and are part of the Capital Region. Their labor markets and housing costs share many similarities. These counties have similar urban, suburban and rural characteristics. For the very same reasons, the County maintains that the contiguous counties of Schenectady, Rensselaer, Fulton, Montgomery, Washington and Warren County should all be included in the universe of comparables.

#### **Panel Determination on Comparability**

The Panel Chair finds that Albany County is the most relevant comparable to Saratoga County. Saratoga County's road patrol is almost identical in size with Albany County. It has 121 full-time sworn police and Saratoga County has 112 full-time sworn police. Their housing markets are very similar. While Albany County has a median home

value of \$207,000, Saratoga County's median home value is \$224,800. Residents working in the Capital District frequently consider living in both counties when deciding where to live. The cost of living, the similarity of the labor markets, and the geographical proximity to one another make them comparable.

Although both parties cited numerous other jurisdictions as comparable, there is no single jurisdiction that is very similar to Saratoga County. For example, although the Union cites the counties of Orange and Dutchess, the Panel Chair does not find them to be directly comparable. Dutchess and Orange are in a completely different area of the State and labor market than Saratoga County. Some of the population in Orange and Dutchess County commute to New York City for work. The median home value in these counties is nearly \$100,000 greater than Saratoga County. The population of these counties greatly exceeds Saratoga County. Indeed, Dutchess County has nearly 80,000 more residents than Saratoga County and Orange County has nearly 150,000 more residents.

In a 2012 interest arbitration involving the County of Dutchess and its Deputy Sheriffs, the Panel Chair rejected Dutchess County's contention that Saratoga County was comparable with Dutchess County. He sees no logical basis to deviate from that determination. As the Panel Chair has previously noted, these counties are approximately 150 miles apart and are in completely different regions of the State. Their economies and their housing markets are completely different. They do not really share enough in common to be considered comparable with one another.

Although the Panel Chair finds Albany County to be comparable to Saratoga County, the fact remains that there are some distinguishable characteristics that require Saratoga to be considered on its own. For example, Saratoga County residents have a far greater income than Albany County residents. While the median household income in Saratoga is \$67,186, the median household income in Albany County is \$57,715. Albany County has a much greater population density, housing density, and overall population than Saratoga County. Saratoga County is wealthier, less populated and more rural than Albany County. Since Saratoga County is truly unique when compared to other counties in the Capital District, the Panel Chair finds that the manner in which it handles its negotiations with other bargaining units, both currently and historically, has some relevance to this dispute insofar as comparability is concerned.

The Panel Chair has considered several other jurisdictions in the Capital District in close proximity to Saratoga County. Counties such as Fulton, Rensselaer and Schenectady cannot be considered comparable because their road patrols are miniscule when compared to Saratoga. For example, Schenectady County has 10 full-time sworn police in its road patrol, Fulton County has 24 full-time sworn officers and Rensselaer County has 33 full-time sworn police in its road patrol.

Accordingly, pursuant to the statutory criteria, the main universe of comparables is Albany County and other bargaining units in Saratoga County.

## ABILITY TO PAY

### Union Position

The Union stresses that tales of economic gloom and doom and how the recent recession has affected the private and public sectors has little relevance to this dispute. The Union points out that the County has been on sound financial footing in the past and continues to be in good financial shape. Many of its residents are not struggling and are not overtaxed. Its housing market has remained solid. In the Union's view, the County's claim that it is suffering tremendous financial strains is a gross exaggeration.

The Union asserts that the County bears the burden of showing that it has the inability to pay for the raises the Union seeks. To the Union, this must be based on much more than mere speculation. Rather, it must be considered in light of the County's financial reserves, fiscal management practices, debt rating and other objective factors.

The Union maintains that the County has failed to demonstrate that it has reached the limits of its revenue generating capabilities or that its general fund cannot withstand paying for the proposed salary increases. The Union observes that the general fund's unrestricted net assets represented about 7% of fund spending, which is a reasonable amount to have set aside. Of significant note to the Union is the data showing that while revenues in 2011 were \$12.3 million below budget, expenditures were even further below budget at \$13.5 million. Other data showing the County to be on the financial upswing in 2011 includes property tax growth of 1.6% and sales tax growth of 4.6%. Snapshots of quarterly growth in 2012 shows that revenue is growing even more robustly in 2012 than it did in 2011.

The Union stresses that the County's positive financial outlook was highlighted when the County administrator spoke with the *Daily Gazette* in 2012. He stated that "people are starting to spend money" and that "We are seeing a rebound in housing and construction building in this County."

The Union objects to the County's claim that the extra costs it has absorbed from its nursing home have left it financially strapped. The Union notes that the County is selling the nursing home, which will arguably improve its financial condition. Moreover, the nursing home is reported as a separate "proprietary fund" of the County. As such, its results do not directly enter into the general fund calculations.

While the Union is not suggesting that the County overtax its residents, the Union maintains that it is quite telling that the County has over 94% of its borrowing capacity and over 85% of its constitutional taxing limit available.

The Union asserts that any small decrease in County revenue due to the ripple effect of the recession has been managed by the County such that it has the ability to pay its officers an increase in salary and benefits. Equally important, even though health insurance and pension costs have increased on a per capita basis, the County's overall costs for these benefits are small when considered in the context of the County's \$200 million budget.

The Union asserts that the County does not remotely resemble any of the municipalities that are struggling to stay afloat and that any claims of that nature are ludicrous. The Union maintains that the elected officials in the County may have chosen to do the same with more or less for political reasons. However, this is not a justification for denying its members the increase in salary and benefits they deserve.

The Union stresses that after an extensive review of the County's own financial records, Gary Storrs, its financial expert, testified that the County had an ability to pay. The Union contends that the accuracy of Mr. Storrs' testimony was not undermined in any way. As such, the Union insists that Mr. Storrs' analysis is objective and supported by compelling economic statistics that make it abundantly clear that the County has the ability to pay for a fair and reasonable increase to salary and benefits.

For all of the reasons above, the Union urges the Panel to find that the County has the ability to pay for its economic proposals.

### **County Position**

The County insists that the Panel cannot ignore the fact that this Award covers a time period when the Town was suffering the effects of one of the greatest economic recessions in this country's history. It asserts that its ability to pay has been adversely affected by forces outside of its control, such as a genuine decline in the County's tax base, a weaker housing market and flat sales tax revenue. In the County's view, the Panel must be sensitive to its taxpayers because the proposals sought by the Union are well beyond the County's ability to pay.

The County stresses that the recovery has been lukewarm and the County still faces significant limits on its ability to increase revenue today and for the foreseeable future. The County maintains that its economic realities require it to tighten its belt so it does not become one of the municipalities that are forced to engage in large scale layoffs and reduce its services.

The County argues that counties are unique in that they are required to maintain expensive mandated programs at fixed costs. To the County, the social services programs

it maintains are the largest components of its budget. It earmarked \$52.9 million for unfunded programs mandated by the State, such as Medicaid and special education programs. This makes up a whopping 22.9% of the General Fund and 108.2% of the tax levy. To make matters worse, as a result of the recession, the number of individuals in need of social services has risen by over 4,000 new clients from 2009 to 2012.

The County stresses that, during the term of this Award, pension and health insurance cost increases have become unbearable. Pension costs for unit members increased from \$634,999 in 2009 to \$1.14 million in 2010. Health insurance costs for the unit ran \$1.79 million in 2010, an increase of \$246,078 from 2010. In total, from 2010 to 2012, the County's budget has increased from \$278.85 million in 2010 to \$305.63 million in 2012.

This is particularly problematic to the County because its revenues have been decreasing while its costs have risen. Real property tax revenue decreased by \$380,000 from 2009 to 2011. State aid decreased by \$1.5 million and sales tax revenue amounted to less than the amount projected. The County stresses that in an effort to raise additional revenue, it petitioned their New York State legislatures to raise its sales tax rate from 3% to 4%. This request was ultimately denied. It deprived the County of approximately \$11 million in potential annual revenue.

The County avers that its struggles are also evident by the dramatic decline in its fund balance since 2008. The County states that its fund balance has dropped from \$28.95 million in 2008 to approximately \$7.1 million in 2012. The County concedes that some of the drop is attributable to its subsidization of its nursing home. It further concedes that it anticipates selling the home. Nonetheless, even when the sale is

achieved, the County will still have significant legacy costs to pay for retiree health insurance for former employees of the nursing home.

The County argues that its consistent use of surplus to make ends meet has had a detrimental impact on its credit rating. Standard and Poor's lowered the County's rating on general obligation bonds from AA+ to AA-, with a negative outlook in 2012. Moody's Investors Service affirmed the Aa1 rating on the County's general obligation bonds with a negative outlook for 2012.

The County notes that its taxpayers have had to contend with significant real property tax levy increases during the time period covering this Award. According to the County, between 2010 and 2013, real property tax rates increased by 5.6%. While this was occurring, the County saw unemployment increase from 4.6% in 2008 to 6.8% in 2012.

The County argues that it has real restrictions on its ability to increase revenues due to the 2% property tax cap. The County contends that its revenues simply cannot keep pace with its ever-increasing expenses and that this fact cannot be ignored. Although the County has taken several actions to contain costs, the fact remains that increases to health insurance, pension and other mandated program costs alone are taking a substantial bite out of the County's tax levy. In the County's estimation, the Panel needs to make a determination that takes the County's need for fiscal prudence into consideration. The County insists that the Union's proposals are excessive and do not remotely resemble a fair and reasonable award.

### Panel Determination on the County's Ability to Pay

The Panel Chair has carefully considered the statutory criteria regarding ability to pay as provided through the positions of the parties from the testimony, exhibits and post-hearing briefs filed, which form the record in this matter.

The Panel Chair is cognizant that during the term of this Award, the national, New York State and local economy went into a tailspin unlike anything seen in recent history. Revenues went down and unemployment substantially increased. The housing market dipped significantly for the first time in years and numerous companies went out of business or struggled to stay afloat. New York and its municipalities have clearly been affected by the uncertainties caused by this recession.

The County has also been impacted by the difficult economy. It has had to contend with some decreases in its tax base, State aid and other important revenues while having to come up with money to fund substantial increases to pensions and health insurance. The fact remains that the County revenue has been increasing at a much slower pace than some of the unfunded mandated expenses. Of significant note to the Panel Chair is the large number of new social service clients in the County, as well as the extra money the County has been spending to keep its nursing home afloat. The economic challenges facing the County are real and require fiscal prudence.

On the other hand, the Panel Chair finds that the record establishes that the fundamental economic conditions of the County are strengthening. Sales tax revenue has been strong. Real estate activity has been strong. While unemployment is higher than it was prior to 2008, the County's unemployment rate is not very high when compared to other parts of the State.

The County has done an excellent job of managing its financial situation. Although the County's fund balance has been significantly reduced, the fund balance remains at a reasonable level based on the opinion of virtually all municipal finance experts. In addition, there are also very positive signs of greater economic activity in the County. Finally, while the bond rating agencies reduced the ratings for the County, the fact remains that its bond ratings are in categories commonly labeled as strong insofar as investments in concerned. In short, the Panel Chair is confident that the County's fiscal management, along with its improving economic conditions, will allow it to maintain a stable position as long as its expenses grow at a reasonable pace. The Panel Chair finds that the County has the ability to pay for this Award and that the wage increases awarded herein constitute a fair and reasonable Award.

### **THE INTERESTS AND WELFARE OF THE PUBLIC**

#### **Union Position**

In the Union's view, this consideration encompasses the fact that the County's taxpayers benefit from having a professional, well-trained police agency representing the Sheriff. In the Union's estimation, there can be no question that the work performed by all members of this unit play an enormous role in the interest and welfare of the public. Its members protect life and property by fighting crime or providing life-saving intervention services to the County's residents.

The Union asserts that the evidence establishes that its members overwhelmingly handle the majority of index crimes in the County. An analysis of the crime data shows that the Saratoga Sheriff's office is the primary law enforcement agency in the County.

The Union stresses that the critical public safety role played by its officers mandates that its members' wages and benefits be competitive so that the County can attract and retain quality employees. The Union opines that the Panel must issue an Award that allows its members to retain its competitive ranking compared to others in Saratoga County so as to ensure that its members will not leave the Sheriff's office for other law enforcement positions in the County.

### **County Position**

The County stresses that the Panel is obligated to consider the fact that this Award will directly affect the citizens and taxpayers of the County and the economic future of the County for years to come. It must also consider the fact that citizens in the County are struggling with increased tax burdens and concerns about the ability of its County government to remain on sound financial footing. These considerations, along with the fact that the economic forecast is guarded, mandate that the Panel exercise its power with great care and caution while fashioning its Award.

### **Panel Determination on Interests and Welfare of the Public and Financial Ability of the Public Employer to Pay**

The Panel has carefully considered the statutory criteria regarding the interests and the welfare of the public and financial ability of the County to pay, as provided through the positions of the parties from the testimony, exhibits and post-hearing briefs forming the record in this matter. In looking at this specific issue, the Panel Chair finds that the Union's argument that the public benefits by having a competitively compensated staff of police officers must be given credence. It influences the Panel Chair's determination that there is a need for a wage adjustment in both years covered by this

Award. The Panel Chair's Award in the area of salary is premised on the recognition that it is prudent for the County and beneficial to the public for its deputies to be competitively compensated.

At the same time, except for salary, all of the other economic proposals advanced by the Union have been rejected by the Panel Chair because he is concerned about the detrimental effect that any new long-term financial commitments may have on the County's bottom line. It is not in the interest of the public to significantly augment the economic package provided to police officers as this could have a detrimental impact on the County's budget.

#### **COMPARISON OF PECULIARITIES OF THE POLICE PROFESSION**

The Panel has also carefully considered the statutory criteria regarding the comparison of the police profession with other trades or professions, including specifically: (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; and (5) job training and skills. The PBA asserts that the police profession is so unique that no other useful comparison can be made with other trades or professions.

The parties do not dispute the fact that appropriate weight must be given to the especially hazardous nature of police work and the unique training, skills, pressures and dangers that police officers face each day. The Panel finds that the peculiarities of the profession mandate a direct comparison with police officers.

## BASE WAGES

### Union Position

The Union is seeking a number of changes to base wages. It proposes a \$600 payment off base salary for 2010 followed by a 2% increase on the current base for 2011. The Union also proposes that a payment of \$1,500 be added to base salary for hazardous duty pay for all members at Step 2 of the salary schedule or above. In the context of these increases as well as longevity increases proposed by the Union, the Union is willing to have the hiring rate and the 1<sup>st</sup> step frozen for the period of the award.

The Union avers that its willingness to accept a wage increase of \$600 off schedule for 2010 and 2% in 2011 is premised on its recognition that the County have some consistency in its pattern of settlements among the County's bargaining units. In other words, since the County reached this exact settlement with the CSEA bargaining unit, the Union recognizes that there is some logic to it having a similar settlement with the County.

However, due to the hazardous nature of the work performed by its members, the Union insists that it should receive salary increases in excess of the monies paid to CSEA bargaining unit members. To the Union, this is consistent with the parties' historical pattern as its bargaining unit has often received a higher salary increase than the amount received by other bargaining units in the County. This is also reasonable to the Union due to the dangerous crime prevention and crime fighting work its members perform each and every day.

The Union maintains that a hazardous duty payment of \$1,500 should be added to base salary effective January 1, 2010. The Union asserts that this payment is supported by

the record due to the variety of dangerous situations that deputy sheriffs face each day. The Union reminds the Panel about the testimony in the record regarding the hazardous nature of its members' work ranging from car accidents, drug investigations to domestic dispute calls that turn violent against the deputies. The Union stresses that its investigators are not immune from danger. They are hands on and while working alone they frequently come into direct contact with dangerous suspects.

The Union contends that its proposal is warranted because most of the deputies in the universe of comparables it deems relevant are paid more than deputies in Saratoga. More specifically, deputy sheriff salaries in Dutchess, Niagara, Orange and State Troopers' salaries outpace the salaries of deputies in Saratoga County. Similar trends are found when a review of deputy sheriff sergeant and deputy sheriff lieutenant salaries is considered.

Similarly, the Union maintains that the reasonableness of its proposal is evident when one considers the recent wage adjustments to police officers in the universe of comparables. To the Union, the data clearly demonstrates that its proposed raises would be consistent with the market and reasonable.

The Union stresses that its members have earned their competitive compensation levels because they are the primary law enforcers in the County. The Union maintains that it is uncontroverted that they shoulder the vast majority of the law enforcement workload in the County. Indeed, the evidence demonstrates that they are responsible for policing almost 90% of the County's area as their primary jurisdiction. They have several specialized units and need to possess expertise in handling a myriad of law enforcement activities. This includes a full service investigative branch to investigate major felonies,

including homicide. Their investigators handle cases from start to finish and do not hand anything off to other agencies. They also have specialized units such as ATV, Marine and a Tactical Entry Team.

The Union insists that the County's proposal to have no increase to base salary in 2010 is patently unfair. In the Union's view, the County has no claim that its financial condition is worse than the vast majority of comparables, let alone all of them. The County is arguably in a period of recovery. It has money available to fund a settlement. The Union maintains that, just as the other comparable jurisdictions have done, this County can and should fund reasonable salary increases during the term of this Award. Thus, the Panel must reject the County's proposal.

#### **County Position**

The County maintains that the Panel should deny the Union's salary proposal. While acknowledging the tremendous law enforcement work that deputies perform, the County asserts that the Union's proposal should be wholly rejected because it is completely unaffordable given the County's fiscal restraints. The County notes that if granted, the County would endure an additional cost of \$222,900 for 2010 and \$350,541 for 2011. This would amount to a total cost of nearly \$600,000, an amount that is simply not sustainable at this time.

The County asserts that the Union's proposal would deplete a substantial portion of any additional revenue the County is able to raise under the tax cap. The County maintains that the proposed salary increase alone would deplete more than half of the monies permitted to raise taxes under the tax cap.

In the County's estimation, the Union's proposal to add a \$1,500 payment to base is completely excessive in this economic climate. The proposal is would amount to an increase of nearly 3% in 2010, in addition to the \$600 lump sum payment being proposed by the Union.

The County claims that awarding the proposed wage increases would be completely unfair to other County employees who did not receive a base wage increase in or near the years that covered the term of this Award. To make matters worse, deputies already receive much better salary than other County employees. In the County's estimation, any additional increase to deputies would further distort and exaggerate the differences between deputies and other County employees in a way that would be insulting to other County employees.

The County maintains that there is no need for a base wage increase in 2010 because the wage comparisons show that deputies are paid a higher base wage than deputies in Broome, Montgomery, Niagara, Oneida, Rennselaer and Fulton, Schenectady, Albany, Warren and Washington counties. Of significant note to the County is the fact that Saratoga's base wage greatly exceeds the base wage paid to deputies in Albany even though Albany County has a much larger population and a drastically higher crime rate. In stark contrast, Saratoga County is quite peaceful and crime is relatively low.

The County does not dispute that the public benefits from a competitively paid police force. However, since the data shows that its deputies are competitively compensated without any additional salary increase, the County opines that its proposal should be granted by the Panel. This is even more compelling when one considers the

County's citizens who are struggling with increased tax burdens and higher unemployment.

For all of these reasons, the County urges the Panel to reject the Union's demand.

### **Panel Determination on Base Wages**

The Panel Chair has carefully considered the statutory criteria balancing the reasonable economic needs of the County's deputies, with the obligations of the County in the context of what is fair and reasonable in a more challenging economy.

Wages are one of the most important elements in any labor agreement. Employees have the utmost concern about the wages they will be paid and wages represent a significant expenditure for the County.

The record contains data that supports both parties' positions. The County faces genuine economic concerns. It has had to contend with flat revenue streams and an economy that is more fragile than has been seen in this area for many years. The County has had to utilize millions of dollars of fund balance to keep its nursing home afloat. These factors along with increases in the costs of health insurance, pension and other social service mandates have required the County to use a significant amount of fund balance to meet its obligations. The objective evidence demonstrates that the County is not in as robust a position as it was in in 2008. These are genuine economic issues that cannot be ignored.

The general state of the economy and the overall tax burden faced by taxpayers, whose burden has increased substantially in recent years, leads the Panel Chair to conclude that the wage proposal made by the Union must be significantly moderated.

The record demonstrates that the County's budget has been strained by increases to health insurance and pensions. At the same time, lower sales tax growth and a limited ability to increase revenue attributable in part to the 2% tax cap, mandates a much more moderate economic settlement than the one being proposed by the Union.

In the Panel Chair's view, the changed economy, coupled with some of the specific challenges facing the Town, requires an award that is less than 1.5% per year on average so that the County can manage its resources carefully and limit the impact of this Award on its taxpayers.

The Panel Chair finds that the hazardous duty pay proposal should not be granted in this economic climate. This would amount to an increase of approximately 3% alone for 2010. While the Panel Chair recognizes the important and dangerous work deputies perform each day, a 3% wage increase in 2010 cannot be supported in light of the competitive salaries deputies receive vis-à-vis the comparables. It also does not comport with the other settlements the County has reached with the other bargaining units in the County.

The Panel Chair finds that a salary increase of 1% effective January 1, 2010 and 1.5% effective January 1, 2011 is the most appropriate way to handle salary increases for this unit at this time. This will allow unit members to maintain their relative standing vis-à-vis the list of comparables with a limited impact on the County's overall budget.

The Panel Chair also finds it appropriate to grant the County relief on wages by freezing the base step and Step 1 for both years of the Award. This will provide some economic relief to the County and should not have an adverse affect on hiring as the wages at these levels will still be competitive.

In awarding these salary increases, the Panel Chair finds that the County has the ability to pay for a fair increase in wages overall.

Accordingly, and after careful consideration of the statutory criteria, testimony, exhibits, documentation, and post-hearing briefs filed, forming the record in this matter, the Panel makes the following:

**AWARD ON BASE WAGES**

**ARTICLE 3 – COMPENSATION**

1. Effective January 1, 2010, all steps of the January 1, 2009 salary schedule except the base step and Step 1 will be increased by 1% to create a new salary schedule effective January 1, 2010. Effective January 1, 2011, all steps of the January 1, 2010 salary schedule except for the base step and Step 1 will be increased by 1.5% effective January 1, 2011.
2. The base step and Step 1 will not be increased in 2010 and 2011.
3. The Union's hazardous duty pay proposal is rejected.

✓ _____	_____	✓ _____	_____
Concur Ennio J. Corsi, Esq.	Dissent	Concur James E. Girvin, Esq.	Dissent

**HEALTH INSURANCE FOR ACTIVE EMPLOYEES**

**County Position**

The current agreement requires deputies hired on or after July 1, 1998 to contribute 15% toward the cost of health insurance premiums. Employees hired prior to January 1, 1998 do not contribute toward the cost of health insurance. The County

proposes that employees hired prior to January 1, 1998 contribute 5% toward the cost of health insurance premiums and that contribution for employees hired on or after July 1, 1998 increase to 20%.

The County insists that its proposal is warranted for several reasons. First and foremost, health insurance has been increasing at astronomical rates over the past several years. Second, the County opines that its deputies receive a more generous health insurance benefit than deputies in other comparable counties. Even more important, the County reached agreement with the other two bargaining units that provide premium contributions that are consistent with the County's proposal. In the County's most recent settlement with CSEA, it was agreed that employees hired on or after January 1, 2011 would contribute 20% toward the cost of health insurance. In the most recent settlement with the corrections unit, it was agreed that anyone hired on or after a certain date in 2013 would contribute 20% toward the cost of health insurance and that employees who are not currently contributing would start contributing 5% toward the cost of health insurance premiums effective January 1, 2014.

The County contends that its health insurance proposal must be adopted to account for the rapid and continued rise in health insurance. It asserts that requiring new hires to contribute on a higher percentage basis and requiring pre-July 1, 1998 hires to contribute will help absorb some of the County's skyrocketing costs and ensure that the burden is more equitably shared between the County, its taxpayers and deputies. In the County's view, greater cost sharing on health insurance is a necessity to assure the County's long-term sustainability.

### **Union Position**

The Union insists that all of the County's health insurance proposals should be rejected. It asserts that the demands ignore the County's strong economic position and represent a dramatic and unduly burdensome cost shift on the backs of deputies. While healthcare concessions may be appropriate in municipalities that are struggling, there is no evidence that the County is suffering financially to the point where it needs greater cost sharing than it already has, i.e., 15% contribution for all employees hired on or after July 1, 1998.

The Union points out that the County's healthcare proposals must also be rejected because they would wipe out any anticipated wage increase provided by the Panel. Employees will be going backwards, a circumstance that is unjustified and untenable in the Union's view. The Union contends that the County does not need the healthcare concessions. It simply wants them. Since the County's healthcare proposals are not justified and would have devastating effects on each deputy's bottom line of take home pay, the Union urges the Panel to reject the County's proposal.

### **Panel Determination on Health Insurance for Active Employees**

Health insurance continues to be one of the most difficult and contentious labor-management issues due to its importance to employees and their families, and its cost, which has been increasing over the past several years.

The Panel Chair agrees with the County that the health insurance increases over the past few years have been staggering and that there is no reason to believe this will change in the future. There is no doubt that if some form of greater premium contribution

is not implemented at some point in the near term, that it will have an adverse effect on the County's budget and its ability to deliver services in the future.

In fact, the County's approach regarding health insurance with the other two bargaining units is noteworthy and foretells what is coming down the road for the deputy sheriffs. In the last settlement with CSEA, the County agreed that employees hired on or after January 1, 2011 would contribute 20% toward the cost of health insurance. The quid pro quo for this agreement were wage increases of 2% in 2011 and 2012 after the \$600 lump sum payment that was provided in 2010. In the last settlement with the corrections unit, new hires will contribute 20%. Most noteworthy is the fact that effective January 1, 2014, all employees who currently not contributing will start paying 5% of the cost of the premium. This compelling evidence makes it abundantly clear that in the immediate future, the deputies' bargaining unit will have to come to grips with the realities of having all of its bargaining unit members contribute toward the cost of their health insurance premiums.

However, the Panel Chair is persuaded that it is not just and reasonable to impose the premium contributions that are proposed by the County at this time. It is noteworthy that the Corrections Unit made the concessions on health insurance in the context of a four year agreement covering the years of 2011-2014 with the health insurance contribution increases going into effect in 2013 and 2014. Those years are well past the years covered by this Award, i.e., 2010 and 2011. In other words, the Panel Chair is convinced that if this Award covered the years of 2013 and 2014, that he and virtually any other arbitrator would determine that the health insurance contributions made by corrections employees would be appropriate to impose on deputies. However, they are

not appropriate to impose for the years in question because this Award precedes the recent corrections settlement by a few years.

Accordingly, and after careful consideration of the statutory criteria, testimony, exhibits, documentation, and post-hearing briefs filed, forming the record in this matter, the Panel makes the following:

**AWARD ON HEALTH INSURANCE FOR ACTIVE EMPLOYEES**

The County's health insurance proposal is rejected.

	_____	_____	
Concur	Dissent	Concur	Dissent
Ennio J. Corsi, Esq.		James E. Girvin, Esq.	

**REMAINING ISSUES**

The Panel has reviewed in great detail all of the demands of both parties, as well as the extensive and voluminous record in support of those demands. The fact that those demands have not been specifically addressed in this Opinion and Award does not mean that they were not closely studied and considered in the context of terms and benefits by the Panel members. In interest arbitration, as in collective bargaining, not all proposals are resolved, and not all contentions are agreed with. The Panel, in reaching what it has determined to be fair result, has not made an Award on all of the demands submitted by each of the parties.

**AWARD ON REMAINING ISSUES**

Except as set forth in this Award, the County's demands are hereby rejected.

	_____	_____	
Concur	Dissent	Concur	Dissent
Ennio J. Corsi, Esq.		James E. Girvin, Esq.	

Except as set forth in this Award, the Union's demands are hereby rejected.

✓  
\_\_\_\_\_  
Concur  
Ennio J. Corsi, Esq.

\_\_\_\_\_  
Dissent

✓  
\_\_\_\_\_  
Concur  
James E. Girvin, Esq.

\_\_\_\_\_  
Dissent

### RETENTION OF JURISDICTION

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

✓  
\_\_\_\_\_  
Concur  
Ennio J. Corsi, Esq.

\_\_\_\_\_  
Dissent

✓  
\_\_\_\_\_  
Concur  
James E. Girvin, Esq.

\_\_\_\_\_  
Dissent

### DURATION OF AWARD

Pursuant to the agreement of the parties and the provisions of Civil Service Law Section 209.4(c)(vi) (Taylor Law), this Award is for the period commencing January 1, 2010 through December 31, 2011. The terms of this Award shall be effective on such dates as set forth herein.

### IMPLEMENTATION AND PAYMENT OF RETROACTIVITY

The County shall pay retroactivity to each individual who worked during any period on or after January 1, 2010, as soon as possible, but in no event later than 60 calendar days following the date of the signature of the Panel Chair to this Award.

✓  
\_\_\_\_\_  
Concur  
Ennio J. Corsi, Esq.

\_\_\_\_\_  
Dissent

✓  
\_\_\_\_\_  
Concur  
James E. Girvin, Esq.

\_\_\_\_\_  
Dissent

Accordingly, the Panel, after consideration of the record evidence and after due consideration of the statutory criteria, executes this instrument which is our award.

*Jay M. Siegel*

JAY M. SIEGEL, ESQ.  
Public Panel Member and Chairman

*8/15/13*

Date

*James E. Girvin*

JAMES E. GIRVIN, ESQ.  
Employer Panel Member

*8/15/13*

Date

*Ennio J. Corsi*

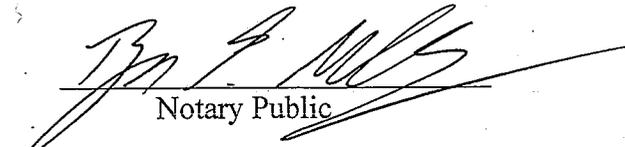
ENNIO J. CORSI, ESQ.  
Employee Organization Panel Member

*8/15/13*

Date

STATE OF NEW YORK )  
COUNTY OF PUTNAM ) ss. :  
*New York*

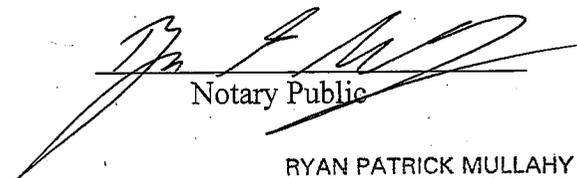
On this *13<sup>th</sup>* day of August 2013 before me personally came and appeared Jay M. Siegel, Esq., to be known and known to me to be the individual described in the foregoing Instrument, and he acknowledged the same to me that he executed the same.

  
Notary Public

RYAN PATRICK MULLAHY  
Notary Public, State of New York  
No. O2MU6187338  
Qualified in Rensselaer County  
My Commission Expires May 19, 20*16*

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

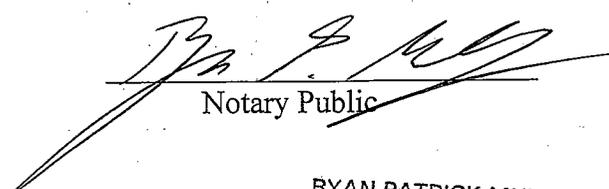
On this *15<sup>th</sup>* day of August 2013 before me personally came and appeared James E. Girvin, Esq. to be known and known to me to be the individual described in the foregoing Instrument, and he acknowledged the same to me that he executed the same.

  
Notary Public

RYAN PATRICK MULLAHY  
Notary Public, State of New York  
No. O2MU6187338  
Qualified in Rensselaer County  
My Commission Expires May 19, 20*16*

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

On this *15<sup>th</sup>* day of August 2013 before me personally came and appeared Ennio J. Coris, 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.

  
Notary Public

RYAN PATRICK MULLAHY  
Notary Public, State of New York  
No. O2MU6187338  
Qualified in Rensselaer County  
My Commission Expires May 19, 20*16*