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In the Matter of the Impasse

Between

THE CITY OF NEW YORK

-and-

THE CIVIL SERVICE BAR ASSOCIATION
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REPORT

and

RECOMMENDATIONS

of

IMPASSE PANEL

I-42-69

APPEARANCES:

For the City - Joseph A. Mazur, Esq., Associate
Counsel, Office of Labor Relations
John P. Finneran, Esq., Assistant
Director, Office of Labor Relations

For the Association - Reavis & McGrath, Attorneys
By: James P. Durante, Esq.
Laurence Boes, Esq.

This proceeding involves about 400 attorneys employed by the City in a number of departments and agencies. Five titles are represented by the Association: Attorney Trainee, Assistant Attorney, Attorney, Senior Attorney and Supervising Attorney; the City has filed a petition with the Board of certification to remove the Supervising Attorney from the bargaining unit.

The previous agreement expired December 31, 1968, and the Panel is asked to make recommendations for a new agreement effective January 1, 1969. The Association seeks substantial increases in salaries and minimums, establishment of a welfare fund,

expense and educational allowances, increases in promotion increments, advanced degree increments, interest on the back pay, longevity guarantee, and changes in working conditions.

That salary increases are warranted for the lawyers represented by the Civil Service Bar Association is undenied by the City. What is at issue, therefore, are the standards for determining appropriate increases and the amounts which should be granted.

In its presentation the Association cited 1) the entrance salaries of law-school graduates employed by New York City firms, 2) the salaries paid to lawyers by New York City State and the Federal Government, and 3) the salaries paid to lawyers employed by industrial, commercial and financial organizations. While the starting salary given to law-school graduates naturally influences all attorneys' salaries, direct comparison between those \$15,000 lures into competitive law firms and the salaries of City-employed lawyers is not valid.

The private law firm is totally dissimilar from a government jurisdiction as an employer.

Aside from other considerations, this is evidenced by the failure not only of government jurisdictions but even of private industrial or commercial employers to hire graduates anywhere near the \$15,000 figure.

The most meaningful comparison is among government jurisdictions. The parties did not agree in some cases on the

appropriate comparisons with Federal employees. Thus, the City compared its Trainee with Federal grades GS-5, 7 and 9, and the Association to GS-9 alone. While it is true that attorneys may be hired by the Federal Government at GS-5, the evidence establishes that it is extremely rare for a law-school graduate to be hired below the GS-9 level. The difference in approach between the City and Association is significant, for since July 1, 1969, the GS-5 minimum is \$6,176, the GS-7 is \$7,639 and the GS-9 is \$9,320; the City's Attorney Trainee minimum is \$7,500. Similar disparities of approach are reflected in other comparisons.

But there is a common approach by the City and the Association with respect to New York State titles. Both link Assistant Attorney to New York State's Attorney (Grade 19), Attorney to New York State's Senior Attorney (Grade 24), and Senior Attorney to New York State's Associate Attorney (Grade 28). For the Panel's purposes these become the most meaningful comparisons since equivalence of duties and requirements in this series of titles is agreed upon by both parties, and the City closely resembles New York State as an employer.

Using the current State salaries for a 37 ½ hour week, which became effective April 1, 1969, and adjusting them to correspond with the City's 35-hour week, the Panel finds the following differences in minimums:

<u>Title</u>	<u>City Minimum</u>		<u>State Minimum</u>	<u>Difference</u>
Assistant Attorney	\$9,100	(Attorney)	\$9,668	\$568
Attorney	10,800	(Sr. Atty)	12,527	1,727
Senior Attorney	12,650	(Assoc. Atty)	15,466	2,816

Analysis of City and Federal salaries indicates a somewhat similar pattern, if the Federal Government's 40-hour week is translated into a 35-hour equivalent, and if roughly valid comparisons are made. Using the current Federal salaries, which became effective in July, 1969, the Panel finds the following differences in minimums:

<u>Title</u>	<u>City Minimum</u>		<u>Federal Minimum</u>	<u>Difference</u>
Assistant Attorney	\$9,100	(GS-11)	\$9,829	\$729
Attorney	10,800	(GS-13)	13,835	3,035
Senior Attorney	12,650	(GS-14)	16,215	3,565

When average salaries are compared, a rather similar series of differences is shown. Among the data in the record available for such comparisons are the City's median salaries and the Federal "payline", which is the fourth step in the salary range. If July, 1969, Federal salaries are adjusted to a 35-hour level, the following is revealed:

<u>Title</u>	<u>City Median</u>	<u>Federal "Payline"</u>	<u>Difference</u>
Assistant Attorney	\$10,425	(GS-11) \$10,810	\$385
Attorney	12,825	(GS-13) 15,219	2,394
Senior Attorney	15,250	(GS-14) 17,837	2,587

When salaries of attorneys employed by industrial, commercial and financial establishments are compared with those of City attorneys, the differences in average are somewhat greater. Although the cited study, "Professional, Administrative and technical Pay in New York, 1968, "by the Bureau of Labor Statistics goes back to June, 1968, the number of hours per week to which the salaries are applicable is not given. To the extent that the legal employees of private firms work a 37 1/2-hour to 40-hour week, their salaries should properly be deflated by 7% to 12.5% for accurate comparison with the City's lawyers who work 35 hours.

The following table compares City median salaries with the median salaries of lawyers in establishments with 1000 or more employees:

<u>Title</u>	<u>City Median</u>	<u>Median in Private Industry</u>	<u>Difference</u>
Assistant Attorney	\$10,425	(Attorney III) \$13,992	\$3,567
Attorney	12,825	(Attorney IV) 16,416	3,591
Senior Attorney	15,250	(Attorney V) 18,948	3,698

Thus the only source which reveals differences of such magnitude in each title is outside the public sector, where the hours of work are unknown and where the value of non-salary benefits is also unknown. In the Panel's judgment, the public-sector comparisons are pertinent and valid in determining New York City salaries.

It is largely based on the foregoing public-sector data that the Panel has arrived at its recommendations for adjustments in salaries and minimum rates. The "Attorney" is a key title in the City's series and the comparisons with its State and Federal counterparts show an inequity averaging well over \$2,000 by mid-1969 in both minimum and average. An increase of \$2,700 over two years for this title therefore appears proper. This gives effect both to the increased granted State and Federal employees in April and July respectively, as well as to the justification for some additional amount over a two-year period.

Although the \$1,350 increase for Attorney made effective on January 1, 1969, superficially appears to be far below the

differences noted above in State and Federal salaries, it is not. On that date, the salaries in both these jurisdictions were substantially less, having been increased during 1969. As a consequence no further increase will be received by State and Federal attorneys until well into the second year of the City's agreement with the Association, after the effectuation of the January, 1970, increase recommended herein.

Increases commensurate with those for Attorney are recommended for the titles other than Attorney Trainee, for whom we recommend a larger percentage increase. Realistically viewed, the attorney Trainee is only a brief, transitory step on the way to Assistant Attorney. A larger disparity between the minimums for the two titles would not be rational and would be a great disservice to the City's recruitment efforts. To avoid increasing the existing gap between the two minimums, the Panel therefore recommends the same dollar increase for the Trainee as for the Assistant Attorney, even though this amounts to a substantially larger percentage increase.

The increase over the two years granted titles other than Trainee total from 21% to 23% of present median salaries. Not only do they bring salaries into line with cited government jurisdictions, but they also take account of such factors as cost-of-living changes and prevailing patterns of salary increases.

The Association's demand for a Welfare Fund is upheld, although not in the amount sought. Similarly, adjustment is

made in the promotion increment to reflect the higher minimums, although the recommendation is lower than the Association's proposal.

Other issues either concern matters asserted by the City to be non-bargainable, which become subject to determination by the Office of Collective Bargaining, or are denied. The latter include such demands as expense allowance, educational allowance and advanced degree increments which were not shown to be benefits generally accorded attorneys by other government jurisdictions.

RECOMMENDATIONS

1. There shall be a two-year contract term, commencing January 1, 1969.

2. Both salaries and minimum rates shall be increased for the specified titles in the following manner:

<u>Title</u>	<u>January 1, 1969</u>	<u>January 1, 1970</u>	<u>Two-year Total</u>
Attorney Trainee	\$1,150	\$1,150	\$2,300
Assistant Attorney	1,150	1,150	2,300
Attorney	1,350	1,350	2,700
Senior Attorney	1,600	1,600	3,200

3. A Welfare Fund shall be established at \$85 effective July 1, 1969, and \$110, effective July 1, 1970.

4. The increment upon promotion to the position of Attorney shall be \$900 or to the minimum rate, whichever is greater. The increment upon promotion to Senior Attorney shall be \$1,000 or to the minimum rate, whichever is greater.

5. The grievance procedure has been agreed upon.

6. Issues held by the City to be non-bargainable are outside the jurisdiction of the Panel and must be referred to the Office of Collective Bargaining by the Association.

7. Recommendations are not made herein which are applicable to the title of Supervising Attorney. The question of Supervising Attorney's inclusion in the bargaining unit is before the Board of Certification. If the Board denies the City's application to exclude Supervising Attorney from the unit, the Panel will make recommendations for that title.

8. All other proposals shall be denied.

Milton Friedman, Chairman

George Moskowitz

Michael I. Sovern

October 20, 1969