

OFFICE OF COLLECTIVE BARGAINING

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In the Matter of the Impasse

between

File No. I-55-70

THE CITY OF NEW YORK

and

LOCAL 3, AMERICAN NEWSPAPERS  
GUILD

(Photographer - Senior Photographer)

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REPORT and RECOMMENDATIONS  
of  
IMPASSE PANEL

BENJAMIN H. WOLF  
Impasse Panel

On February 11, 1970, the Office of Collective Bargaining determined that an impasse existed in the collective bargaining between Local 3, American Newspaper Guild, and the Office of Labor Relations of the City of New York, and appointed the undersigned as an impasse panel to assist the parties in resolving the dispute.

Hearings were held at the offices of the OCB on March 11, March 27 and July 2, 1970, at which the parties were given full opportunity to present testimony, evidence and argument in support of their respective positions. The City was represented by Robert N. Pick, Assistant Director of Labor Relations. The Guild was represented by Cooper, Ostrin, De Varco & Ackerman, Attorneys, David Kreitman, of counsel, and by Thomas J. Murphy, Executive Vice-President. Also present at the hearings were the following:

For the City:

Michael Davies, Research Assistant

For the Union:

Arthur Houghton, Photographer Police Department  
Charles Howard, Photographer Department of Sanitation  
Daniel McPartlin, Photographer Parks Department  
Willis Allen, Photographer Department of Sanitation  
Vincent Stiebler, Photographer Transit Authority  
Milton Kurtz, Photographer Bronx Municipal Hospital Center  
James J. Conaughton, Senior Photographer Department of Health

This dispute is concerned with the photographers' occupational group, which consists of two civil service titles, "Photographer" and "Senior Photographer. As of January 1, 1970, there were 61 Photographers and ten Senior Photographers employed in various departments in the City. Included among the Senior Photographers are some who are known as Rule X Photographers. The distinction between them and Senior Photographer is of no importance in this proceeding.

The impasse developed over the wage schedule to apply in a new labor agreement effective from January 1, 1970, to December 31, 1971. Although the Guild made 13 demands, all of the demands except that of salary have been agreed upon or are subject to City-wide bargaining now in process and therefore beyond the scope of these proceedings.

The salary range of the incumbent Photographers runs from \$7,250 to \$9,900 and that of the Senior Photographers including the Rule X Photographers runs from \$8,350 to \$10,500.

The Guild seeks a rate of pay for the Photographers equal to the rate paid for Now York Times photographers. The Guild contends that the City photographers and the Now York Times photographers are basically the same in skill and ability and at times the skills of the municipal photographers are even greater than those of the Times photographers. The Guild argued that the City ought to pay equal wages for equal skills, and stated that the fact that there are many vacancies in positions for photographers in the City is due, in the main, to the low pay given this position.

In general, the City's position is that the Photographers have been properly paid in the past. "It agrees that they are entitled to an increase but not on the basis of prevailing wages in the private sector. While prevailing wages must be considered they are not the sole determinant of City salaries. Other factors must be considered, such as how the Photographer and Senior Photographer positions relate to other jobs in the City salary structure and what other government Civil service systems are paying for photographers.

More specifically, the Guild demanded the following rates effective as of January 1, 1970:

To Start:	\$226 per week
After 1 year:	\$238 per week
After 2 years:	\$255 per week

In addition, the Guild stated that it was about to enter into new negotiations with the City newspaper publishers and expected that their rates will rise as a result.

The Guild submitted the testimony of a photographer on the New York Times and of photographers working for various departments in the City to support its claim that work done by City photographers was comparable to that of press photographers.

The City rejected the wage rates set in the publishers' contract with the Guild as the standard that the City must meet. It argued that working for the City is a different matter from working for the publishers. It asserted that work for the publishers in New York City was exceptional work and not the kind of competition that the City must face. If press photographers are to be considered, the City pointed out that photographers under the contract between the Guild and the Associated Press start at \$137.50 per week effective January 1, 1970 and reach \$235 per week after six years in New York City and other cities. Its contract with UPI starts at \$136 and rises to \$234. The City maintained that the present starting salary for Photographer and the maximum for Senior Photographer meet the standards of those contracts.

The City argued that more relevant criteria are what other governments pay and the City sets those criteria. It asserted that in Federal civil service the benchmark for photographers is GS-7 which ranges from \$7,639 to \$9,934 for 40 hours and when converted to a 35-hour equivalent, which is the standard number of hours for City employees, the range would be \$6,684 to 8,692. The Senior Photographers are equivalent to GS-9 which ranges from \$9,320 to \$12,119. Converted to 35 hours, the range would be \$8,155 to \$10,604.

New York State Pays photographers for working a 37 ½ hour week \$6,485 to \$8,267, the 35-hour equivalent of which would be \$6,052 to \$7,716. On April 1, 1970, the State increased these rates by 7.5% with \$250 deferred to October 1.

The City of Philadelphia pays its photographers for a 37 ½ hour week \$7,258 to \$8,132 which is equal, when converted to 35 hours, to \$6,774 to \$7,590. Its senior photographers receive \$7707 to \$8657, which at 35 hours is equivalent to \$7,193 to \$8,080.

For the year January 1 to December 31, 1970, Nassau County will pay its photo specialists \$7351 to \$9,392.

The City is concerned with the relation between the photography titles and other jobs in the City salary structure. When they were part of the Career

Salary Plan, the Photographers were at Grade 16 and the Senior Photographers at Grade 19. Another position which was at Grade 19 was the Electrical Inspector, represented by Local 3 of the I.B.E.W. Its range is now \$8,300 to \$11,250 and the agreement covering that job calls for a \$400 increase across-the-board for the half year beginning January 1, 1970, which indicates an acceptance of an increase at the rate of \$800 for 1970. Another Grade 19 position is that of Pipe Lay Inspector represented by District Council 37. Their contract with the City calls for an \$800 increase as of January 1, 1970, which would raise their range from \$8650 to \$11,650. They are presently at the range of \$8,300 to \$10,850.

Among the City jobs that were at C and S Grade 16 were the Traffic Device Maintainers whose range as of January 1970, was \$7800 to \$9700. Another is the Announcer at WNYC represented by AFTRA whose agreement calls for an across-the-board increase of \$700 as of July 1, 1970, when their salary range will be \$8,400 to \$11,650.

The City rejects the Guild's proposed standard of the press photographers in New York City because the fringe benefits provided by the City are vastly superior to that of the press photographers. The most glaring difference, it said, is in the Pension rights enjoyed by City employees. Effective July 1971, the City pension will be based upon an amount equal to 2 1/2% per year of employment, computed on the basis of the last year's employment or the last three years employment, at the Pensioner's option. It is possible for employees of the City to retire with more than 100% of their final salary. On the other hand, the maximum that an employee of the publishers in New York City could receive is 39% of an average of their final ten years salary.

In rebuttal, the Guild argued that photographers at the New York Times will be basing their pensions on much higher salaries than the City will pay which would reduce the advantage of the City pension system. It also argued that photographers at the New York Times enjoy other benefits such as more adequate grievance machinery and protection against discrimination available under the National Labor Relations Act.

## DISCUSSION

This proceeding is concerned with determining what should be the proper salary scale for Photographers and Senior Photographers working for the City of New York. Basically the measure of a salary schedule is how it compares with other salary schedules. Essentially, the problem in this proceeding is to decide with whom City photographers should be compared. The Guild argued that it is proper to compare City photographers with the photographers employed by the New York Times and other New York City newspapers. The testimony it introduced does confirm that many functions of the City photographer and the newspaper photographer are similar. However, there are differences between them which cannot be ignored. New York City press photographers seem to be an elite group, the cream of their profession, who have intangible skills and qualities exemplified by Guild witness, Robert Walker, a photographer employed by the New York Times who has won many photo-journalism awards. For the run-of-the-mill, journeyman photographer the City points to the wire service photographers who are paid about the same as City photographers.

If jobs are to be compared, more than salary is involved. There are advantages in working for the City which press photographers do not enjoy. They do not have the same vacation benefits nor do their pension benefits equal that of the City.

I note that the salaries now paid City photographers were agreed to by the Guild in the present contract, which means that two years ago the Guild was satisfied with the salaries the City was willing to pay. Thus, it accepted salaries more comparable with the wire services than the New York Times. If so, what should concern us is to keep pace with the accepted standards rather than to change to a different standard. The Guild did not demonstrate that comparison with the wire service photographers was wrong and that only comparison with New York press photographers was right.

The Guild, however, does not accept this analysis. It argued that two years ago it agreed to the current salaries because that was as far as it could

go in reducing what it considered the inequity between City photographers and press photographers. In my opinion, the point made by the Guild is a good one but if an inequity exists, the Guild recognized that it was an objective which may take many years to accomplish. In my salary recommendation, I have taken this factor into account and have included an amount which somewhat reduces the inequity.

In the main, however, it must not be forgotten that the photographers are part of the City salary structure and that if any element of that structure is put out of line it inevitably affects other titles and might start a new round of readjustments throughout the City.

In fashioning my recommendation have tried to balance the need to keep the Photographers and Senior Photographers in relation to comparable titles in the City salary structure while at the same time providing some movement towards the curing of what the Union regards as an inequity in comparison with the prevailing rates among the New York City press photographers.

One could not help being Impressed during the hearings by the fact that some of the City photographers are regularly called upon to do work of a nature far beyond that required in their job description, I refer to the testimony of Milton Kurtz, a photographer at the Bronx Municipal Hospital Center, who after 17 years is now paid \$8,904.25. Although repeatedly recommended for advancement by his superiors, he was never advanced to Senior Photographer because he does not have other photographers to supervise, a basic requirement of that position. But the kind of work he is daily required to do is far beyond "work of ordinary technical difficulty and responsibility", to quote the job description of Photographer. It is even more than "work of moderate technical difficulty and responsibility" required of a Senior Photographer. He has had to develop unique skills in the art of medical photography. He has done pioneering work which has made his photographs sought after by medical journals throughout the world. Other work that he performs which is beyond "work of ordinary technical difficulty" is the following: He trains pathologists in the use of the camera in taking gross

specimen photographs. He teaches courses in photo-micrography and photo-macrography. He is required to attend weekly or monthly conferences with doctors to provide photographic illustrations for their examination.

In my opinion, the work done by Mr. Kurtz is much beyond that required by the City and merits additional compensation. I, therefore, have recommended that he be paid a differential of \$600.

In my opinion, whenever a photographer is called upon regularly to perform medical photo-micrography and photo-macrography and teach the same to doctors, he should be entitled to a similar differential.

RECOMMENDATION: I recommend that all Photographers be given an across-the-board increase of \$750 effective January 1, 1970, and a similar increase of \$750 effective January 1, 1971; and that the appointment rate of Photographer presently \$7,250 be increased to \$7900 on January 1, 1970, and to \$8550 on January 1, 1971.

I recommend an across-the-board increase of \$900 for Senior Photographers including equivalent Rule X Photographers, effective January 1, 1970, and an additional increase of \$900 effective January 1, 1971; and that the appointment rate of Senior Photographer which is presently \$8,350 be increased to \$9,150 on January 1, 1970, and to \$9,500 on January 1, 1971.

I recommend that those Photographers such as Milton Kurtz who are regularly called upon to perform medical photo-micrography and photo-macrography and to teach the same be given a differential of \$600.

Dated:        October 7, 1970.

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BENJAMIN H. WOLF, IMPASSE PANEL