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In the Matter of the Impasse

Case No. I-198-89

between

SERGEANTS BENEVOLENT ASSOCIATION, INC

and

THE CITY OF NEW YORK  
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Before: Arvid Anderson, Impasse Panel

APPEARANCES:

For the Sergeants Benevolent Association, Inc.:

Solomon Richman Greenberg & Stein, P.C.

By: Harry Greenberg, Esq.

Fred J. Richman, Esq.

Joseph Toal, President

Gerald Longarzo, Recording Secretary

Thomas Biscione, Financial Secretary

Dan O'Connor, Manhattan South Director

For the City:

Saul G. Kramer, Esq., Special Counsel to the Office of  
Municipal Labor Relations

Marc Z. Kramer, Esq., General Counsel, Office of Municipal  
Labor Relations

James F. Hanley, First Deputy Director, Office of  
Municipal Labor Relations

The Sergeants Benevolent Association, Inc. ("SBA" or  
"the Union") and the City of New York ("the City")  
pursuant to the New York City Collective Bargaining Law,  
submitted to the undersigned as an Impasse Panel ("Panel")  
for final and binding determination issues which they have  
been unable to resolve in their negotiations for a  
contract to replace the one that expired on June 30, 1987.

The New York City Police Department ("the Department")

employs approximately 2,950 Sergeants. It serves more than 7,262,000 residents in an area comprised of approximately 300 square miles.

In the spring of 1987, the City and the SBA commenced negotiations for a contract to replace the Agreement due to expire on June 30, 1987. The parties held a total of fifteen bargaining sessions, including three with the assistance of a mediator appointed by the Office of Collective Bargaining ("OCB"), but were unable to agree on the terms of a new Agreement.

On May 19, 1989, the SBA filed a Request for the Appointment of an Impasse Panel with the Board of Collective Bargaining ("the Board") alleging that the City and the SBA had reached an impasse in their negotiations. on June 15, 1989, the Board determined that an impasse in the negotiations between the parties had been reached. Thereafter, by agreement of the parties, the Board designated the undersigned as a one person Impasse Panel to hear and make recommendations for settlement of the issues in dispute between the parties.

Hearings were held at the Office of the Board on November 15, 16, 17, 20 and 21, 1989.<sup>1</sup> The hearings were stenographically reported and transcribed. The SBA presented its case on November 15 and 16, 1989. The City presented its case on November 17 and 20, 1989. Each party was given an opportunity to present rebuttal testimony and arguments on November 21, 1989.

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<sup>1</sup>The hearings originally scheduled for October 10 through 14, 1989 were postponed due to the illness of counsel to the SBA.

The parties were ably represented, and were afforded a full opportunity to present evidence and arguments in support of their respective positions. The SBA presented the sworn testimony of seven witnesses; the City presented the sworn testimony of four witnesses. In addition, each party filed voluminous exhibits and briefs which the Panel has carefully considered in reaching its decision.

#### STATUTORY STANDARDS

Pursuant to Section 12-311c(3)(b) of the New York City Collective Bargaining Law, the Panel considered and applied the following standards in its decision on the issues submitted for determination:

- (i) comparison of the wages, hours, fringe benefits, conditions and characteristics of employment of the public employees involved in the impasse proceeding with the wages, hours, fringe benefits, conditions and characteristics of employment of other employees performing similar work and other employees generally in public or private employment in New York City or comparable communities;
- (ii) the overall compensation paid to the employees involved in the impasse proceeding, including direct wage compensation, overtime and premium pay, vacations, holidays and other excused time, insurance, pensions, medical and hospitalization benefits, food and apparel furnished, and all other benefits received;
- (iii) changes in the average consumer prices for goods and services, commonly known as the cost of living;
- (iv) the interest and welfare of the public;

(v) such other factors as are normally and customarily considered in the determination of wages, hours, fringe benefits, and other working conditions in collective bargaining or in impasse panel proceedings.

#### POSITIONS OF THE PARTIES

##### UNION'S POSITION<sup>2</sup>

The Union asserts that the reason the SBA and the City are at impasse is because they could not come to a correct cost on the value of certain benefits in the proposed contract, or the value of existing contractual benefits that were offered as savings in order to fund the proposed contract above the 16.99% package deal accepted by the Patrolmen's Benevolent Association ("PBA"). Accordingly, the Union claims, much of the evidence and testimony presented in this proceeding concerns the question whether the Union, represented by its consultants Touche Ross, or the City, used the proper calculations, methodology and manpower models in determining costs and savings.

The Union does not dispute the City's use of the eleven year "present value" approach. To the contrary, it maintains that the present value approach is the approach generally accepted in cases where the parties want to calculate the economic value of benefits to be paid or received at different times in the future. Although the City asserts that it has used this approach consistently

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<sup>2</sup>In its post-hearing brief, the SBA withdrew its request for the release of two (2) additional full time excusals, with full pay, in accordance with the Mayor's Executive Order No. 75. Accordingly, this Panel will not consider that item in preparing its award.

in this round of bargaining to determine the value of all contract terms, the SBA argues that it has at times renounced the present value approach in reaching agreement with different groups of employees. The City accuses the Union of trying to attack the model and of "picking and choosing to get the good but not the costing methodology which underlies it." The SBA claims, however, that it has been "more constant, consistent and faithful than the City in following the model." In any event, the Union argues, there are serious errors in the way the City applies the costing model which results in numbers that favor the City greatly.

In support of its position, the Union notes that the manpower model used by the City assumes that new Sergeants promoted during the life of the model will themselves experience no turnover. This assumption, the Union contends, "is illogical and without any basis in reality." It greatly misstates the seniority of the population and, as a result, understates the number of Sergeants who will be paid from the proposed 6 step Salary Structure and overstates the number of Sergeants benefitting from the proposed increase in longevity bonuses. Furthermore, the SBA argues, the Sergeants group as of December 31, 1986 is unusually more senior due to the problems that were experienced in producing a legally acceptable Sergeants examination and the hiring constraints that were imposed. Therefore, the Union maintains, the Sergeants group as of

December 31, 1986 is not representative of the Sergeants group in general.

The SBA also claims that, while the City properly calculates the changing seniority of the total population to reflect the addition of newly promoted Sergeants and the attrition of the existing group, it inexplicably ceases to compute these changes after five years and, thereafter, simply freezes the seniority characteristics of the group. The Union alleges that this variation in the City's model overstates seniority to the advantage of the City. With regard to the 6 step Salary Structure, however, the Union notes that the City continued to project seniority changes for two more years. Therefore, it argues, the City "used an 11 year period, a 7 year period and a 5 year period to measure the future cost of various contract elements with no explanation for the difference."

Although the City claims that the SBA's calculations are "flawed, have mathematical errors, and a whole series of problems . . .," the Union points out that "when [the City's] claims are investigated they merely demonstrate the City's lack of understanding the SBA calculation." First, the Union notes that the seniority statistics it used for newly promoted Sergeants were provided by the Police Department, as were the attrition and seniority statistics. Moreover, with regard to the City's assertion that the seniority statistics used by the SBA are

incorrect because it assumes an illegal condition, namely that no Police Officer hired after July 1, 1988 will be eligible to be promoted to Sergeant with less than five years of service in the Police Department, the Union argues that the City's assertion "defies what actually occurred."

The Union disputes the City's claim that its calculation of the cost of the three 6% increases and the savings from the 6 step Salary Schedule was incorrect. Instead, the SBA argues, the City simply misunderstood its calculations. The Union notes, moreover, that with regard to the 6 step Salary Schedule its proposal corrects the flaws in the Salary Schedule initially introduced by the City in that it avoids the possibility that Police Officers will earn more than Sergeants in certain years. With regard to the three 6% increases, the SBA points out that the difference in the cost calculation is attributable to the fact that the City and the Union rely upon different manning projections.

The SBA also disputes the City's claim that the Sergeants did not apply a "P factor" (pension factor) in calculating the value of a contract extension because it did not believe that individuals would wait to retire until a new pay level was negotiated. The Union submits that "the City not only put words in the mouth of the

witness ... but misunderstood entirely the SBA's point ..."  
Thus, contrary to the City's position, the SBA contends that "pension cost increases are deferred during a contract extension and that the subsequent retirees get only the 5.5% pay increase for which the Sergeant's contract has already been charged because the 1% wage factor includes a spin off cost for pension."

The SBA submits that "the City made many rhetorical points about the errors in the SBA's numbers, yet proved no such errors [in its corrected exhibits]. The City made many rhetorical points about the sanctity of its model, yet spent no time whatsoever explaining, defending or rationalizing the clear mistakes pointed out by the SBA." The Union claims that contrary to the City's assertion, the evidence shows that on numerous occasions the City has violated the model when it meets its needs. For example, it interchanges present value numbers with non-present value numbers which, the SBA maintains, "is completely erroneous on technical grounds." Therefore, the SBA contends, while the City claims that permitting the SBA to secure the contract terms it desires at a value different than that agreed upon in other settlements will create a disaster, the City never bothered to justify its use of "dramatically different valuation methods."

The SBA's contract proposal may be summarized as follows:



## COST

three annual 6% compounded increases

increase in longevity pay:

over 5 years - \$1,000 (an increase of \$670)  
over 10 years - \$2,000 (an increase of \$1,550)  
over 15 years - \$3,000 (an increase of \$2,420)  
over 20 years - \$4,000 (an increase of \$3,300)

increase in uniform allowance of \$45 effective July 1, 1988, an additional increase of \$250 effective July 1, 1989, and an increase in the Civil Legal Defense Fund of \$25 per year per member effective July 1, 1987.

## SAVINGS

The following items could be used selectively to provide the savings necessary to fund the package at a total cost of 16.99%:

1. Rescheduling of tours
2. Educational Credit
3. 4 Month Contract Extension
4. Extra Minutes Per Tour
5. New Salary Schedule
6. 3 Additional Tours for New Hires Effective 7/1/90
7. Elimination of one Personal Leave Day for all Sergeants effective 7/1/90

In considering the cost of the proposed longevity increase, the union contends that the City model is incorrect. First, the City freezes the seniority level in years 1992 through 1998 without any explanation and in contravention of the natural aging process. Secondly, the City model uses the seniority levels in existence in December, 1986 for all future promotions, totally disregarding the fact that 730 Police Officers recently were promoted to Sergeant.

The SBA asserts that contrary to the City's claim,

additional time worked should be credited in the contract at the full value of time, at a rate of 100%. In support of its assertion, the Union notes that during this round of bargaining the City has credited additional time worked by some employees, such as Parking Meter Service Workers and Pharmacists, at the rate of 100% on the value of time. Accordingly, it maintains that any additional time worked by Sergeants Also should be credited as a savings to the package at the rate of 100%.

#### Rescheduling of Tours

The Union notes that Article III, Section 1b of the current Collective Bargaining Agreement provides, in relevant part, as follows:

"In order to preserve the intent and spirit of this section on overtime compensation, there shall be no rescheduling of days off and/or tours of duty."

In addition, Article JII, Section 1a provides for the payment of overtime compensation at the rate of time and one half, in cash or compensatory time off at the employee's sole discretion. The Union points out that the City has submitted no information on the amount of overtime paid in compensatory time off rather than cash. It contends, however, that overtime paid in the form of compensatory time off "runs anywhere for 15% to 20% of the cash overtime." When a tour of duty is rescheduled, the Union maintains, it is unrefuted that, with some limited exceptions, the Sergeant is entitled to overtime compensation for all hours worked before or after the

regularly scheduled tour of duty, in addition to the straight time rate of pay.

In accordance with the contractual limitations on the City's ability to reschedule tours of duty, the SBA proposes that the City be permitted to reschedule, on 24 hours notice, from 6 to 10 tours of duty each year without being required to pay overtime. The SBA's proposal is in addition to the tours the City currently is permitted to reschedule without incurring overtime expense. In addition, the SBA contends that rescheduling should be credited at the overtime rate because it is currently compensated at the overtime rate without any set-offs for replacements.

The SBA maintains that the ability to reschedule tours of duty without the payment of overtime provides the City with the flexibility it requires to meet the operational needs of the Department. Although the City denies that the right to reschedule tours of duty would result in substantial savings to the City, the SBA contends that Chief Markman, testifying on behalf of the City, disagreed. According to the Union, not only did Chief Markman testify that it was possible to reduce overtime by rescheduling beyond that currently permitted under the collective bargaining agreement, but also that such a right would be advantageous to the Department. "To

assume that such flexibility is not beneficial and needed by the Police Department," the SBA argues, "defies logic."

With regard to "Backfill overtime," although it was to stop in March 1989, the Union claims that it is in fact still ordered and, for purposes of the budget, backfill overtime is now placed in one of the overtime "reason codes." The SBA described "backfill overtime" as overtime that is used to insure that there is a supervisor on the desk at all times in every precinct. Inasmuch as no City witness could state which budget code is used for this type of overtime, however, the Union maintains that it cannot determine the amount of backfill overtime that is ordered currently, or the amount of money that could be saved if the City were given the right to reschedule tours of duty on 24 hours notice, thereby avoiding this type of overtime. In any event, the Union states that "the City's argument that overtime for rescheduling should only be valued at a 50% savings is misplaced because the City either didn't understand the SBA's proposal or [chose] not to meet the savings issue for rescheduling head on."

#### Educational Requirement

In addressing the SBA's proposal on educational credit, it notes that in 1988 the City required that a Sergeant promoted from the most recent exam (Summer 1988) obtain 64 college credits before achieving permanent civil service status. If a Sergeant fails to obtain the required credits during the 18 month probationary period,

probation is extended for 6 months after which time the Sergeant is demoted if the 64 college credits are not completed. The SBA proposes that some credit be given in the contract for this new requirement. It notes that 730 Sergeants currently are affected by this requirement, as will all newly promoted Sergeants. In addition, the SBA contends that Sergeants need more time to obtain the 64 credits due to the fact that they work around the clock with rotating days off. The Union submits that this makes it extremely difficult for Sergeants to obtain the required number of credits in the current time permitted.

The SBA acknowledges that during the hearings in this matter the City stated, on the record, that if permitted by law it would agree to permit an additional year - a third year - in which to obtain the 64 credits; or during that year the Sergeant would be on academic probation only insofar as the Sergeant could be demoted for failure to achieve the required number of credits. It notes, however, that since the hearings ended it has contacted the City on numerous occasions without any success to determine if the\*above tentative agreement could be finalized. Accordingly, the SBA proposes that the Panel award Sergeants a third year of probation, for academic reasons only, as a contractual right that can be exercised before the end of the 24 month probation period.

The SBA also proposes that the Panel award credit toward the cost of the contract for the new 64 college credit educational requirement. In support of its position, the Union asserts that its survey of comparable jurisdictions shows that the average education pay for Sergeants in 16 of the top 20 cities is \$1,104. The Union claims that the City should give the contract some credit for this requirement because 730 new Sergeants as well as all future promotees will be required to obtain 64 college credits.

#### Contract Extension

The Union notes that the City and the SBA differ in their calculation of the 4 month contract extension. The difference, according to the SBA, involves whether or not a "P factor" (pension factor) should be used to reduce the value of a contract extension. The Union does not dispute the City's contention that Sergeants will follow their own economic interest and delay retirement until immediately after the new contract has become effective. It agrees that this delay would be an advantage to the Sergeant due to the fact that Police pensions are based on the last day's pay. Nevertheless, the Union argues, to apply a "P factor" to discount the savings achievable through a contract extension for this reason misses the point entirely.

The Union argues that the City's position, which holds that while a contract extension delays the pay

increase in the next contract, there is no delay in the cost of funding the Police Pension Fund, is obviously wrong. In support of its position, the SBA alleges that the cost of the pension contribution is determined as a percentage of direct compensation, and if an increase in direct compensation is delayed the increase in pension contributions is delayed as well. The union asserts that it is unnecessary to apply a "P factor" because:

- the SBA has added the City's pension cost factor to all of the direct compensation contract elements requested;
- the City's pension cost factor, determined by the City's actuary, assumes an unbroken continuous pay increase of 5.5% per year until retirement. This is exactly what will happen after the contract extension is over;
- Sergeants have, therefore, already paid for the pensions being 5.5% higher after the extension and should not be required to pay the cost again.

Although the City wants the Panel to believe that the SBA is attacking the model, the Union contends that "this is clearly not true." Instead, the Union asserts that "[t]he City's model was evidently prepared with more concern for simplifying calculations than for accuracy, and those inaccuracies substantially disadvantage the SBA."

#### Extended Tours

The Union asserts that, since it has established through the testimony of its witnesses that it is

necessary for Sergeants to work approximately 19 minutes longer than their assigned 8 hour and 57 minute tour in order to perform all of the duties required of them as Desk Officers and Patrol Supervisors, the contract should be credited with a comparable savings in cost. The SBA acknowledges the City's claim that no credit should be given for Sergeants working this extra time because it was performed without Sergeants requesting compensation or grieving the failure to pay overtime for such extra work. The SBA argues, however, that if management requires that specific tasks be performed and those tasks cannot be completed within the normal work day, the extra time required to complete that work should be recognized. Therefore, the Union maintains, credit for the extra minutes worked by Sergeants should be given credit toward the cost of the contract. In support of its position, the SBA notes that the Sanitation Officers Association received credit for an additional 15 minutes of work per tour even though "[n]o evidence was presented that Sanitation Officers grieved the need to work an additional 15 minutes per tour. The City recognized the need and credited a savings toward contract costs." The Union further notes that the Parking Meter Service Workers and Pharmacists agreed to work more time, and they received 100% credit toward the cost of the contract for this time.

#### Salary Schedule

The Union contends that implementation of the new



Salary Schedule for Sergeants promoted on or after July 1, 1990 will result in a savings to the City of 1.71%. The SBA notes that the savings of 1.71% applies to the savings from the new Salary Schedule using the corrected manpower model. The Union notes that the City had proposed its own 6 step Salary Schedule. It argues, however, that the City's schedule is not viable because it "would create an intolerable career salary plan." The City's Salary Schedule, according to the SBA, would have a twenty year Police Officer earning the same amount or more than a new Sergeant with less than ten years of service in the Police Department.

#### Additional Tours; Personal Leave Day

The SBA also proposes that Sergeants promoted on or after July 1, 1990 perform three additional tours each year by the reduction of chart days and, effective July 1, 1990, the removal of one Personal Leave Day for all Sergeants as a means to reduce the cost of its proposed contract. The SBA calculates the value of each additional tour worked by new hires at .13%. Therefore, the Union argues, its proposal with regard to extra time worked by new hires and by incumbent Sergeants would result in a savings credited to the contract of .39%; and .32% respectively. The SBA notes that the City has assigned a lower value to the savings realized from the

implementation of these proposals because it gave less than 100% value for the extra work. The SBA maintains, however, the "[s]uch theory is in contravention of what was calculated for the NYC PBA, Transit PBA, Housing PBA when valuing the vacation reduction for new hires and for additional hours worked for Parking Meter Service Workers and Pharmacists."

According to the Union, the City has maintained throughout this proceeding that the SBA package must conform to the pattern set by prior settlements or impasse panel awards. Later, however, the City qualified that statement by noting that "deals that follow the first pattern setting deal do not have to be identical." Mr. Linn, the City's witness, testified that "if the SBA were to achieve sufficient savings to fund the same or more benefits than the PBA received the City would agree to extra benefits." Therefore, the Union contends, "[c]learly the above testimony shows a sufficiently broad basis to define a pattern to permit different settlement or contract elements in this round of bargaining." Moreover, the SBA maintains, the reasoning adopted by prior impasse panels supports such a finding herein. The SBA claims that it is not asking for more than the PBA received in its settlement. It states that it "is willing to pay in accordance with the theories of the pattern bargaining model. The corrections to the model do nothing more than to calculate costs and savings in accordance with what was

agreed upon with other unions when the City decided to change the elements of the pattern." Furthermore, the SBA maintains that its cost savings proposals, such as rescheduled tours of duty, removal of one personal leave day for incumbent Sergeants and three additional tours for new Sergeants, come within the City's requirements in that they reduce headcount and overtime and, therefore, provide demonstrable budgetary savings.

In conclusion, the SBA asserts that in making its recommendation, this Panel must decide if the corrections to the model fall within the meaning of pattern bargaining as defined by prior impasse panels in their awards. The SBA submits that they do; and urges that the Panel find that they are reasonable, rational and apply the City's theories in a more correct manner.

#### CITY'S POSITION

The City submits that the issue to be decided by this Panel is whether the SBA should be allowed to break the pattern already established in the PBA settlement, and thereafter accepted by the UFOA. To date, the City has reached agreement with nine unions representing more than 57,000 uniformed employees and superior officers, each with a cost to the City of 16.99%. While none of these agreements are identical in that the "offsets" and the wage and benefit constructs have taken several forms, the

City claims that they do not do violence to the basic costing model that underlies the PBA settlement.

The City contends that two things are at issue in the instant matter. First, an attack by the SBA on the underlying costing model, developed initially by the City in its negotiations with the PBA, so that the SBA can obtain the benefits of the PBA settlement without the necessary unit specific cost offsets that were required as part of that settlement. Secondly, the SBA questions the City's calculation of the "value of time" when time is used to offset the cost of the economic package. With regard to the first issue, the City maintains that the Union's attack on the model is without merit. It alleges that "[t]he SBA attacks the City's costing methodology in order to reduce the 'cost' and increase the 'savings' in order to achieve wages and benefits above the 16.99% PBA settlement cost." In any event, the City argues that "[e]ven if it were merited it's too late. The Union can't wait and sit back through nine settlements and then march in here and think that it's going to be able to redo the basic underlying of all of them, get a cost and cost advantages that others have not gotten." To use a different kind of costing methodology in this proceeding, the City argues, would undercut the value of those other settlements and create the very kind of disparity that led to the parity wars in the 1970's. Thus, the City

maintains, "This round should be closed on the basis upon which it began, the PBA pattern and respect for its underlying assumptions even if they could be quibbled and quibbled even effectively -- and we don't think they can. Otherwise the problems will be enormous for all of us and we will all live to regret it."

With regard to the issue of the value of time, the City admits that time can be money. It asserts, however, that it must be time that the City wants. Moreover, since time is being used to deal with cost, the City contends that the time that is given up also must produce a demonstrable budgetary savings based on reductions in head count and overtime.

The City submits that the PBA settlement created the structure for all of the bargaining that followed. It notes that, while each of the uniformed unions may have had specific objections to the model, it was considered fair in that it was applied consistently. Inasmuch as eight additional uniformed union contracts have been negotiated, the City urges that the instant proceeding cannot be considered in a vacuum. Rather, this Panel must consider the totality of the negotiations that have taken place so far. To accept the SBA's costing model, the City alleges, would in effect make all of the previously negotiated uniformed unions settlements grossly unfair. The City notes that it is willing to change things on the model "as long as the overall cost and structure of the

casting [is] consistent." Throughout this round of bargaining, it has allowed groups to negotiate "more" provided they were able to demonstrate that they could pay for the additional benefit within the confines of the costing approach and structure used in this round of bargaining.

The City disputes the SBA's contention that its consultants have prepared a more correct model. Instead, it maintains that "the consultants numbers are fraught with errors" and, contrary to the Union's assertion, "what you have here is not a more correct analysis but a flawed analysis." The City describes the SBA's model as an attempt to "pick and choose" and claims that "in so doing they miss the point that the model and the pattern are inseparable."

In support of its position, the City notes that in computing the savings resulting from the new salary schedule the Union accepts the principle that the average date of promotion is December 1, but computes the savings by assuming that all Sergeants are promoted July 1. As a result of this error, the City claims, savings occur sooner and the Union overstates the potential savings.

The City also notes that in 1988 and 1989 the number of Sergeants was increased from approximately 2,100 to 2,800, the current number. Thus, the City argues, what the union has done in its analysis is rely upon information pertaining to an exceptional period of time and treat it

as though that were the norm. In any event, the City claims, the Union's analysis is incorrect inasmuch as it assumes that Police Officers may reach First Grade, a requirement for promotion to Sergeant, within three years when in fact it will take Police Officers hired after July 1, 1988 five years to reach First Grade. Section 14-114b of the Administrative Code mandates that all police officers hired after July 1, 1988 have at least five years of service in order to be eligible for promotion to Sergeant. Therefore, the numbers used by the SBA are incorrect. In addition, the City argues, the assumption that 89% of the Sergeants in the unit will have less than ten years of service in all future years is "totally inconsistent with what's happened historically over many years, and it seems impossible given the large number of sergeants that were promoted in the expansion of the department in the 1980's."

Finally, with regard to the three 6% increases, the City claims that the Union made another mistake. It argues that under the SBA's model, "people are attritting but the new people replacing them aren't coming in." The City contends that when you correct the SBA's analysis, the savings from the salary stretch is not 1.7%, as they predict, but .9% which is much closer to the City's numbers. It concludes, therefore, that "this more

correct model that [the Panel is] being asked to rely on to upset all of the bargaining that precede[d] it, had fundamental errors and continues to have fundamental errors." In addition, the City notes that each of the assumptions included in its model are items that were negotiated in one form or another with the other groups that used the model. Asking this Panel to undo that, the City asserts, is to give a different valuation for that item to the Sergeants than it gave to the other groups.

The City argues that the Uniformed Fire Officers Association settlement should form the pattern for the Police Superior officers, impasse panel recommendation. Accordingly, it offered the following proposal to the SBA:

three 6% compounded increases on July 1st of each of the three years of the agreement

4 month contract extension (40 month contract)

\$125 uniform allowance payable on 7/1/89

creation of an overtime bank so that the first 21 hours of authorized overtime would not be paid

health and welfare payments consistent with the citywide agreement and other contracts

#### Contract Extension

The City explains that the contract extension in the UFOA agreement, valued at 1.37%, is not calculated on the basis of a present value analysis because there is no new salary schedule or longevity increase. The agreement simply provides the straight 6% increases, compounded, in each of the three years of the agreement. The City submits, however, that the contract extension has an



impact on the timing of retirements. It maintains that employees in the uniformed forces unions will delay their retirement in order to benefit from the salary increase since their retirement benefits are calculated on the basis of their last day of employment. Therefore, the City argues, full pension credit for the contract extension should not be given because there is a reduced value of pension savings based on the extension. For example, the City claims that if the salary increase is given in October there will be an increase in the number of retirements in October, November and December; rather than the more usual situation which is that when there is a salary increase in July, the number of retirements in July, August and September increases significantly. The City faults the Union's analysis because, it claims, the Union assumes full valuation regardless of retirement activity. On the contrary, the City contends that "you cannot possibly have the same pension savings as if there is no impact on behavior." In any event, the City argues that "[t]his was accepted by three other groups; and to undo it for simply the analysis that it's better, the P factor, whatever the analysis that they're going to come in with is a different approach than negotiated by the parties and simply doesn't make sense given the concession that there will be an impact on behavior."

With regard to civilian employees and the calculations used in prior negotiations for contract extensions, the City notes that civilians have a different pension system which is not calculated based on their last day of employment. The City asserts that if the SBA divides out its Tier I and Tier II members and applies a present value analysis, it will find that the approach taken by the City was not unfair to Sergeants.

The City notes that the valuation of the four month contract extension is the same for the UFOA. The assumption for both groups was that the results from the extension and the demographics experience of the two departments were not substantially different with regard to this factor and, therefore, use of the 1.37% was a reasonable approach. The City acknowledges that there has been a change in the law effecting anyone hired on or after July 1, 1973. The change requires that their pension be calculated on the average of the last three years of employment. Since that change effects employees in the Police Department as we'll as the Fire Department, the City asserted that the failure to take this into account in its calculations did not effect the comparison between the Police and Fire Departments.

The City characterizes its current proposal as "a simple approach, continuing (the] parity relationship between the police sergeant and the fire lieutenant..." Moreover, it asserts that it "is the only appropriate

approach in terms of the interest and welfare of the public for subsequent collective bargaining..."

#### Salary Schedule

The City suggests that it does not make sense to have a new salary schedule because of the inter-relationships between Sergeants and Fire Officers. Thus, given the fact that the UFOA settlement is now in place, the City contends that it would be a major mistake to move the salary structure out of line for the Police Sergeants. Therefore, the City argues, at this time "the PBA settlement is the wrong one to look at;" the Union itself argues that the new salary schedule causes problems vis-a-vis salary levels. Furthermore, the City alleges, whatever problems a new schedule starts for Sergeants will be much more "difficult and acute" when applied to Lieutenants and Captains; and incredibly more difficult to deal with for Detectives. The City contends that it was precisely for that reason that the Fire Officers concluded that they should not provide for a new salary schedule and a new longevity, but instead should take a straight 6% increase.

#### Overtime Bank

The City notes that the 39 hours extra work to be performed by the UFOA pursuant to its agreement yields a savings to the City of .75%. The City claims that the City

and the UFOA agreed that although the additional hours of work might allow for a reduction in headcount, staffing exigencies would not allow for the same efficiency as would occur if, for example, Fire Officers agreed to a new chart. Therefore, the City asserts, the parties agreed to use a 60% efficiency factor which resulted in a .75% savings credited to the package for the additional 39 hours of work.

The City defines the "efficiency factor" as the budgetary value of contractual credits or offsets; and states that the budgetary value of contractual offsets or credits must produce real and demonstrable budgetary savings. On the other hand, the City claims that the 21 hour overtime bank proposed for the SBA is a more efficient use of time and, therefore, is valued at a savings of .83% even though fewer hours of extra work would be required of Sergeants.

In the City's proposal for an overtime bank, there is no question that the time is needed or the Sergeants would not be assigned to work the overtime. Therefore, the City has assumed 100% efficiency for each hour of overtime worked, meaning that the City would avoid the budgetary cost of compensating those overtime hours. The Police Department records showed that 84% of all Sergeants worked at least 25 overtime hours and that 16% of all Sergeants worked between 0 and 25 overtime hours for an average of 12.84 overtime hours. Accordingly, the City assumes that

this results in a departmental efficiency of 92.32% for the value of savings that could be achieved from an overtime bank. The City further reduces the efficiency rate by 25% because of the alleged need to back fill a Sergeant for a Lieutenant. The City then makes still another adjustment for the fact that most Sergeants will work more than 25 hours of overtime hours even without a Lieutenant shortage. The City, then multiplied 92.32% x .875, the factor attributed to back fills, for a net efficiency of 81% of time and one half, which is equivalent to 121.5%. The City then takes the value of one overtime hour of .04903 and multiplies it by 92.32%, the Departmental efficiency figure from above, and then multiplies that by .875 for a result of .039606. This figure is then multiplied by 21 hours to produce an estimated savings of .83%.

The City maintains that the employee groups referred to by the SBA in support of its claim that it should be credited with savings valued at 100% for all of the time it proposes to give back to the City are not comparable to the Sergeants. With regard to Parking Meter Service Workers, the City points out that the work week was extended to 40 hours for those employees who were working 35 hours; and a salary increase of 14.3% was granted to incumbents. According to the City, this agreement was

separate from the 1987-90 contract negotiations and was reached when the title was reclassified in the Labor Class of positions. The City notes, however, that every new Parking Meter Service worker coming into service is working five hours more for less than 3%, which, is less than 19 cents on the dollar for the value of time. With regard to Pharmacists, the City points out that there was a dramatic difference between the salaries of city Pharmacists and those working in the voluntary hospitals, with which the City is in direct competition. By expanding the work week from 35 hours to 37.5 hours and, in addition, increasing their salary by 7.14% effective January 1, 1989, the City asserts that it will be able to ease the critical shortage of Pharmacists. With respect to the Sergeants, there is no such compelling argument to be made. In fact, the City asserts, quite the opposite situation exists. Almost 15,700 applications were received for the 1988 sergeants examination, and approximately 12,800 police officers took the written examination. All of these individuals were seeking to be placed in the nearly 400 slots available per year.

#### Extended Tours

The City contends that the extra 16 or 19 minutes a day offered by the SBA is obviously something that cannot be valued seriously as a basis of providing money for the contract. First, the City argues, it should not be the City's obligation to accept more time if that time does

not meet it's operational needs. Second, since the only way to value additional time is to calculate real budgetary savings in terms of the reduction in headcount and overtime costs, to calculate the value of this extra time at 100% efficiency would depart from the costing methodology used with the other Uniformed forces unions. Inevitably this would lead to a damaging reduction in services in the Police Department as well as other city agencies. The City further noted that Sergeants' tours were increased from 8 hours to 8 hours and 57 minutes because they found it impossible to complete all of the tasks required of Sergeants in a shorter period of time.

The City's witness, Chief Markman, testified that contrary to the SBA's assertion, Sergeants do not have a problem completing their tasks within the currently allotted amount of time. In any event, the City notes that to the extent time is worked by some Sergeants before their contractually negotiated tour begins only means that the City could not require them to perform this work. While it has undeniably benefitted from the additional time put in by some hardworking and ambitious Sergeants, the City asserts that to now attach a value to that work and offer it as a means to fund their package defies reason. The City states that "[s]imply put, if one credits the SBA's testimony that Sergeants (though not required to) already work an additional nineteen minutes, the SBA's

proposal would not change the status quo and thus could not improve efficiency."

#### Rescheduling

With regard to the SBA's proposal for six or ten rescheduled tours at the City's discretion on 24 hours notice, the City claims that the savings such a proposal would produce is very small because it does not provide an efficient way of using time. "This is not nearly as valuable to us," the City claims, "in terms of reducing overtime cost as having these additional 21 hours." The City contends that its response has always been that "unless [the] use of time can actually save us budgetary costs, then the implications of giving you credit for that time will be reducing services." Additionally, the City contends that, if the SBA is asking the Panel to credit the package with an additional time and a half, what the union is requesting is that a Sergeant be paid for 5 days of work, while the package is credited with savings valued at 6 ½ days. The City disputes the SBA's contention that this proposal is based on its current contractual benefit. At the present time, the City argues, if the Department assigns Sergeants 21 days and brings that Sergeant in to work a sixth tour, the City pays 6 ½ days for 6 days work; not 6 ½ days pay for 5 days work as the SBA is now proposing.

The City admits that, if it could reschedule tours of



duty to avoid overtime, it would be advantageous in that it would add to the flexibility of the Department. In considering the potential savings that could be realized from six or ten rescheduled tours of duty, the City noted it analyzed the Union's proposal in terms of the Detective's rescheduling rules, which provides rescheduling within a 24 hour workday. It also claims, however, that due to the nature of the assignment of members of the SBA bargaining unit, it would be impossible to achieve 100% efficiency in the use of the additional tours proposed by the SBA. In this regard, the City notes that there is no minimum manning, there is no post-coverage provisions in the SBA agreement, and for the most part members of the bargaining unit are not replaced on overtime when they are not present. Accordingly, the City estimated that out of the six or ten tours offered by the Union, it could use a maximum of 1.2 tours per year per Sergeant. The City costs this savings at a net present value of .17%.

It is the position of the City that in these negotiations time is being used in a very special way. It is being used as money, to provide demonstrable savings through a reduction in headcount and overtime. The City asserts that this kind of issue cannot be dealt with in the absence of the operational realities of the

Department. The City notes that if the Union wants to give back 5 days, or the equivalent of 44 hours, it would amount to a savings of .85% which is comparable to the savings that would be realized from the City's offer of an overtime bank of 21 hours. Therefore, the City stated, "if the sergeants would rather receive the time in day intervals as opposed to an overtime bank, they could receive costing on virtually the identical basis as that received by the UFOA..."

#### Educational Requirement

With regard to the SBA's request for free tuition in order to comply with the educational requirements established by the New York City Department of Personnel, the City contends that it has never negotiated a salary increase or any other type of monetary increase to offset educational requirements with any group of uniformed employees. It notes, however, that there have been times when it has tried to work it out, to make it easier for employees to fulfill those requirements. Since all Police Officers are credited with 25 college credits in the New York City University System upon graduation from the Police Academy and, in addition, Sergeants receive 3 college credits for the Basic Management Orientation Course which they are required to attend upon promotion to Sergeant, the City points out that all the Sergeants really need to meet the 64 college credit requirement is an additional 36 credits.

### Comparability

The City claims that no other city in the United States approaches its size. Nevertheless, if comparisons are to be made, it submits that the most appropriate comparison is between New York City and the nations twenty-five largest cities in the area of total compensation. According to the City, the total cost for a Sergeant with five years of police service is \$74,681; for a Sergeant at maximum, the total cost is \$81,171. Thus, the city maintains, in the area of total compensation, out of the 21 cities that responded to its survey New York City Sergeants ranked first at minimum and second at maximum. The City noted that in the area of total compensation, New York City Sergeants at maximum ranked second, behind San Francisco which currently has an employer pension contribution rate of 246% for employees hired prior to November 2, 1976. Therefore, the Union cannot rely upon comparability to support a claim for a wage increase that is greater than that received by other uniformed employees in this round of bargaining. Moreover, inasmuch as Sergeants salaries have outpaced inflation by 44.6%, the City also argues that the change in the CPI past and present should not be a factor in justifying a wage increase beyond that being offered by the City.

The City disagrees with the conclusions reached by the SBA in its comparability study, and claims that there are a number of "inconsistencies". First, the City maintains that in its analysis the Union mixed together salaries from three different years. Inasmuch as New York City's salary rate is the oldest listed, the City argues, New York's ranking was artificially low. The City also claims that there were many errors-in the Union's calculation of total compensation for New York City Sergeants, including scheduled hours worked, night shift differential, annual leave and personal leave. In addition, the Union's calculations omitted four benefits - health insurance, welfare fund, pensions, and Social Security coverage - which have an annual total cost to the City of \$4 billion. Finally, the City contends that the Economic Research Institute model used by the Union in its analysis does not adequately describe a New York City Sergeant at all.

#### Ability to Pay

The City contends that, since the central issue in this case is the pattern already established in negotiations with the other uniformed unions, and the computations and approaches that were used in formulating that pattern, ability to pay may not be as important in this proceeding as it has been in other cases. Still, the City notes, as a result of a sagging economy, declining revenues, pending lawsuits and other factors, the City's

ability to pay even at the established pattern is in doubt. Therefore, "[t]he City is troublesome condition must be given considerable weight by the panel and should result in an award by the Panel which adopts the City's position and uphold the pattern."

In conclusion, the City contends that the thrust of this proceeding is the SBA's attempt to break the pattern that has already been established in this round of negotiations. "Any kind of splitting", the City contends, "will do precisely that, by divorcing the model and the costing from the pattern and changing it." The City maintains that a union should not be free to sit back and wait, let the other unions take the risk, let the other unions make a settlement and then come in and analyze what has been done over the course of a year or more and say we'll take a little of this and a little of that. Accordingly, it urges the Panel to adopt its proposal.

#### DISCUSSION

The parties are in agreement on the basic annual wage increases to be awarded to the Sergeants, namely three compounded 6% wages increases, the first to be effective on July 1, 1987. The parties also had agreed on the cost of an increase in the uniform allowance of \$45.00 effective July 1, 1988 and \$250.00 effective July 1, 1989. However, the City's proposal, in order to conform to the UFOA settlement, would increase the uniform allowance by \$125 in the third year of the contract. The parties are

also agreed on a \$25.00 contribution for each active employee to the special Civil Legal Representation Fund effective July 1, 1987. In conformity with the City wide pattern, the parties are also agreed on a \$50.00 per employee increase in the City's contribution to the employees welfare fund in each of the three years of the contract. The parties also agree that the cost of the settlement, when balanced out against savings, should equal 16.99%, the cost to the City of the PBA settlement. However, the parties disagree on the value of the savings required to achieve the net cost of 16.99%.

The City's final proposal is valued as follows:

Costs

Three six percent increases	19.10%
Uniform allowance (\$125 in year three.)	<u>.10%</u>
	19.20%
Total Costs over 16.99%	2.21%

Savings

Four month extension	1.37%
Savings from 21 hour overtime bank	<u>.83%</u>
Total Savings	2.20%

The SBA's costs on a net present value basis are as follows:

Three 6% wage increases	1.33% P.V.
Longevity	2.76% P.V.
Uniform allowance & Civil Legal Defense Fund	<u>.27%</u> P.V.
Total Costs	4.36%

The City's costs on a net present value basis are as follows:

Three 6% wage increases	1.61% P.V.
Longevity	3.34% P.V.
Uniform allowance & Civil Legal Defense Fund	<u>.27%</u> P.V.
Total Costs	5.22%

The SBA also has proposed a series of options from which the necessary savings can be achieved among which are the following:

	<u>City Value</u>	<u>SBA Value</u>
1. Tour rescheduling		
six tours	.17	1.837
ten tours	.17	3.063
2. Contract extension	.87	1.21
3. New Salary Schedule	.83	1.71
4. Three additional tours for new hires effective 7/1/90	.21	.39
5. Personal Leave Day all Sergeants effective 7/1/90	.16	.32

This, discussion will focus on the differences in the values of the projected costs and savings.

Because of the nature of this particular impasse, the parties also recognized that the employer's ability to pay is not an issue in this proceeding. This does not mean that costs are not significant; clearly they are. However, the issue in the instant matter is what is the proper value to be assigned to the proposed benefits and savings since the basic pattern of wage increases and benefits has already been established for this round of bargaining. As will be demonstrated, the differences in the final costs are too minimal to have any real meaning with respect to the City's ability to pay.

Considerable attention was paid in the hearing and in the parties, briefs to the statutory criteria of comparability with the earnings of other police departments. In this proceeding, comparability data is largely irrelevant, because the basic wage increase and benefit pattern has been established. Instead the focus is on how those elements should be costed and the required savings achieved.

In their presentation the parties discussed several options for savings including savings from a City proposed overtime bank, in which the first 21 hours that a Sergeant works overtime would not be paid. Another option to deal with overtime savings concerns the rescheduling of tours. The SBA has proposed that the City be permitted to reschedule on 24 hours notice, from six to ten tours of duty each year, in addition to the tours already permitted by contract to be rescheduled, without the requirement to pay overtime.

The SBA also has proposed an educational credit whereby Sergeants would receive credit towards a salary saving for achieving the required 64 college credits to be earned in order to qualify as a Sergeant. Both parties have proposed an extension of four months of the existing collective bargaining agreement, but disagree as to the amount of cost savings this would generate. The Sergeants also have proposed that the extra 19 minutes per day,



which Sergeants work on average, should be credited towards the cost of settlement. The parties also have proposed new salary schedules be applicable for new hires, but disagree on the levels to be paid. The City subsequently withdrew its proposal with regard to a new salary schedule in accordance with its position that the appropriate pattern to be followed in this proceeding is the UFOA settlement. The SBA has proposed that new hires be required to work three additional tours effective July 1, 1990 and that all Sergeants lose one personal leave day effective July 1, 1990. The issues will be discussed seriatim.

#### EDUCATIONAL REQUIREMENT

The Panel has determined that no additional monetary credit should be awarded for the educational requirement. However, there is merit in the SBA's proposal that the time period allowed for Sergeant's to acquire 64 credits be extended, if need be, to 36 months.

#### EXTENDED TOURS

The Panel has decided that no value should be credited for the 19 extra minutes per day that the Sergeants work, because the City does not require them to perform this duty.

Accordingly, the discussion, herein will focus on the value of overtime, including the rescheduling of tours,

the value of the contract extension, the value of the new Salary Schedule, the value of three additional tours for new hires effective July 1, 1990, and the value of the elimination of one personal leave day for all Sergeants effective July 1, 1990.

#### OVERTIME BANK

Central to this proceeding is the valuation of time. The SBA insists that all time worked should be valued at 100%, except that overtime should be valued at 150%. The City places a different value on time depending upon whether the offered time is time which the City needs and whether the offer gives the City substantial flexibility. But the City's value as explained above is only .83%. The Panel would place a different value on the savings if the overtime bank were to be accepted. The Panel accepts as valid the assumption of 92.32% efficiency for crediting the overtime hours because apparently that has been a fairly consistent pattern. Since the savings benefits would apply overall, it would be inequitable to grant a greater value when 16% of Sergeants work an average of 12.84 hours. When the value of 100% rate, which is conceded by the City to be .03481 per hour, is multiplied by 150% to get the value for time and one half, the figure is .0522. When that value is multiplied times the City's proposal for an overtime bank, the result is a savings of 1.096%, which can then be reduced by the 92.32% factor for a net savings of 1.0118%. Thus the Panel

believes the figure of 1.0118% is a realistic value because all the hours would be worked. Since the Sergeants would otherwise be paid time and a half for such work, it is appropriate to credit them with the equivalent savings.

However, the Panel has decided to reject the City's proposal of an overtime bank for the reason that, while it would permit maximum flexibility in assignments, the proposal is open ended. There is almost no limit on the number of times that a Sergeant could be assigned overtime. Thus, there could be an almost unlimited number of opportunities to assign officers to overtime on an unscheduled basis without the penalty of overtime. While the Panel recognizes that it has the authority to limit the number of such assignments, it does not consider it appropriate to do so.

#### RESCHEDULING

The Panel has determined that the SBA's rescheduling proposal is more reasonable and will adopt the SBA's proposal which permits the City to reschedule up to 10 tours of duty per year on 24 hours notice. The Sergeants presented persuasive argument, testimony, and evidence as to why such rescheduling would be advantageous to the City, and in addition would add considerable flexibility to the Department's ability to assign Sergeants at minimal cost.

However, the Panel will sharply reduce the SBA's value of such tours and will also substantially increase the City's assigned value for such rescheduling. The SBA's value per tour is .306328 at straight time and .45936 at overtime. Since the whole purpose of the rescheduling is to avoid the 50% premium, the Panel rejects the SBA's 150% value as unrealistic. Rescheduling is quite different than an overtime bank where there is no option. The Sergeant would have worked the overtime and thus charging time and one half for the value of savings is appropriate.

Deputy Chief Markman, a City witness, testified that there are at least thirteen pre-planned special events where Sergeants are likely to be rescheduled and, based on City Exhibit No. 59, estimated that the SBA's rescheduling proposal has an efficiency factor of 40%. While the SBA proposal for rescheduling is not limited to special events, the Panel has decided to accept the 40% figure as conservative and has multiplied that figure against the ten tour figure of 3.063% for a net savings of 1.225%.

The Panel cannot accept the City's assertion that such rescheduling would only result in a savings of .17% or an average of 1.2 tours per Sergeant. The value to the City of rescheduling is significant. Under present conditions, the City, in effect provides six and one half days pay when it is forced to reschedule Sergeants. Under the proposal for rescheduling on 24 hours notice, the City would be required to pay only for five days.

The value of the rescheduling proposal was testified to by Ex-Deputy Police Commissioner Patrick Murphy, a highly respected officer with comparatively recent Police Department experience. Furthermore, the Commissioner also had served as a management representative in labor management relations for the City for a long period of time and, clearly, understands the value of rescheduling. Accordingly, the Panel accepts Commissioner Murphy's statement that it would be "a very good thing" for the Police Department to be able to, reschedule on 24 hours notice without any premium. While it is clear that not all tours would be fully utilized and not all Sergeants would be assigned to such rescheduling, both Deputy Chief Markman, the City's witness, and Ex-Deputy Commissioner Murphy, the SBA's witness, recognized that the savings to the Department would be substantial. Thus, there is reason to believe that a significant portion of the average of 25 hours overtime worked by 84% of the Sergeants and the average of 12.84 hours worked by 16% of the Sergeants is attributed to the City's present inability to reschedule without paying a premium. Accordingly, the Panel has accepted the City's 40% efficiency factor for rescheduling which will result in substantial flexibility and savings to the City.

### CONTRACT EXTENSION

Both parties have proposed a four month contract extension which would result in a 40 month contract, effective July 1, 1987 through October 31, 1990. The principal difference in the two proposals concerns the value each assigns to the contract extension. The difference in the valuation centers on the appropriate pension factor used to reduce the value of the contract extension. Both parties agree that in order to measure the cost of a contract extension the value of 16.99% should be divided by 36 months and then multiplied by the additional four months, yielding a credit of 1.89%. By applying the net present value method, that value is reduced to 1.21%.

However, the parties disagree over the impact of the pension factor. The City states that by virtue of the contract extension, members of the bargaining unit would receive annual wage increases at a later date than if the term of the contract was 36 months. The City acknowledges that this translates into savings for the City. The City would reduce the .47% per month credit for the contract extension by the marginal pension contribution, which means a division by 1.435 yielding a result of .33% which is the monthly credit for any pension savings. The pension savings are added to this credit by using the proportion of employees that have retired prior to a collective bargaining wage increase during the past six years. Then the City takes a factor of .33% per month, multiplying it by 4 months for a total of 1.32%. It then

takes the marginal pension contribution of 43.5% and multiplies it by 8.76%, the number of all retirees who were expected to retire in the four months of the extension, which yields a pension credit sub-total of 3.8%. The total credit for the 4 month extension is obtained by multiplying the 1.32% wage factor by the 1.038, the weighted pension factor, to equal 1.37%. The City then attaches a value of 1.37% for fiscal year 1991 credit. For fiscal 1988, on a net present value basis, the City only attributes a value of .87%. The SBA's analysis for fiscal year 1991 is 1.89% and for fiscal year 1988 the net present value is 1.21%.

The SBA sharply criticizes the City's valuation. It argues that the City has noted that, while a contract extension delays their next pay increase and the commencement of the subsequent contract, there is no delay in the cost of funding the police pension fund. The SBA argues that this is incorrect, in that the cost of pension contributions are determined as a percentage of direct compensation and, if an increase in direct compensation is delayed, the increase in pension contribution is delayed as well. The SBA agrees with the City's reasoning that Sergeants will delay And postpone their retirement based on a contract extension, but notes that the Sergeants have added the City's pension costs factor to all of the direct

compensation elements that it has proposed. The SBA state's that its calculations assume, as do the City's, an unbroken continuous pay increase of 5.5% a year until retirement. Accordingly, the sergeants insist that they've already paid for the pension factor as a result of the 5.5% assumption after the extension and should not have to pay that cost again. The Sergeants point out that the City has not made any effort to counteract the Union's claim that it's being asked to pay for the pension factor twice.

The Panel finds the SBA's argument more persuasive and thus accepts it's net present value of 1.21% as the value to be credited for the contract extension.

#### SALARY SCHEDULE

The next significant difference involves the value of the new salary schedule. The SBA proposes a salary effective on July 1, 1990 for newly promoted Sergeants of the following:

Grade 6	\$43,987
Grade 5	\$45,060
Grade 4	\$45,918
Grade 3	\$46,347
Grade 2	\$46,776
Maximum	\$49,898

The City's proposal as of September 26, 1989 for the same effective date of July 1, 1990, would have been

Grade 6	\$40,149
Grade 5	\$40,500
Grade 4	\$40,956
Grade 3	\$41,366
Grade 2	\$41,779
Maximum	\$49,898



However, as noted above, the City withdrew the proposal to conform to the UFOA settlement which did not adopt a new salary schedule. The City's proposal would also assume that the Sergeants would receive the longevity increases proposed. The SBA states that it's salary schedule would save 1.7%. The SBA also notes that the City never attached a value to the most recent SBA's proposal. The SBA also criticizes the City's proposal because it would permit newly promoted Sergeants with under fifteen years of service to earn less than a Police Officer with twenty years of service.

The City maintains the SBA's proposal ignores the assumption that salaries will increase by 5.5% beginning in year 1.991. The City contends that because that factor was not costed, the SBA's assumed savings are overstated by .80%. The City assigns a value of .83% for its salary schedule savings.

The Panel notes the problem here is that the UFOA did not opt for a six step salary schedule. But that is no reason why the SBA cannot follow the PBA example and must opt for the UFOA model. The Panel accepts the SBA's figure as more realistic, since the City's proposal would allow senior patrolmen to earn more than newly promoted Sergeants with less than 15 years of longevity. Therefore,

the SBA's numbers are accepted.

#### ANNUAL INCREASES

As for the net present value of the amount needed to achieve the difference between 16.99% base settlement and the three compounded annual 6% increase. (19.1%), the SBA's value is 1.33% and the City's is 1.61%. The SBA points out that the City's model uses an eleven year period and places newly promoted Sergeants with the incumbent group at the incumbent seniority experience, and does not provide for the ultimate attrition of newly promoted Sergeants. The SBA states that the City's model uses the seniority levels of December 1986 for all future promotions and disregards the fact that there were 730 recent promotions. When the SBA places a newly promoted Sergeant at the seniority levels reflected by the last 730 promotions, and takes into account the attritions of newly promoted Sergeants in accordance with the City's rates, the SBA arrives at a cost of 1.33%. The City however, charges that the SBA forgot the second group of Sergeants for which there is a cost. That is, all Sergeants promoted into the title after July 1, 1990 who began reaching their maximum salary five years later, sometime after July 1, 1995. Because of this omission, the City calculates it's net present value at 1.61%.

The Panel believes that the two figures should be reconciled by compromise, since both parties are estimating so far out on an eleven year basis it is

possible for both estimates to be in error. The Panel, therefore, has decided to split the difference and attach a value of 1.47% to the value of the three 6% increases on a net present value basis. By splitting the difference the Panel will offset the erroneous assumption of both parties with respect to the proper value to be given to seniority.

#### LONGEVITY

The same methodology should apply to the longevity increases. The City's model would cost a net present value of 3.34% versus the SBA's value of 2.76%. The City's model uses the seniority levels of December 1986 for all future promotions and disregards the actual seniority history of 730 recent promotions. The City points out that the SBA proposal with respect to longevity is in error since they assume that over 25% of all promotions would have under five years of service, over 89% would have under 10 years of service and less than 2% would have 10 to 14 years of service. This low seniority assumes a reduced cost of longevity. On the other hand, applying the City's figures also results in a distortion because using December 1986 as a base disregards the 730 recent promotions. Accordingly, the Panel again has chosen to split the difference of .58%. Half of the difference is .29% which results in a figure of 3.05% as the cost of

longevity. The Panel again asserts that it's assumptions are as reasonable as either the City's or the SBA's.

#### ADDITIONAL TOURS

With respect to the savings resulting from three additional tours of duty for new hires proposed by the SSA in effect as of July 1, 1990, the Union has calculated the value of each additional tour at .13%. Multiplying by 3, it arrives at a point value of .39%. The City, however, in evaluating the same proposal, gave a value for a day at only .07% or .21% for three days, which is distinctly less than the actual value of a work day. The SBA also criticizes the City's proposal because it gives less value than was placed on the value of a day by the City's settlements with the New York City PBA, the Transit PBA and the Housing PBA, when valuing vacation reductions for new hires and the additional hours worked. While the Panel acknowledges that all values beginning in July 1990 must be somewhat speculative, it does not accept the City's assumption that less than a days value should be put on a requirement that an employee work an additional tour. The additional tours can be scheduled at the option of the City which will result in actual cash savings. Therefore, there is no basis for assuming that a days work is not equal to a days pay.

#### PERSONAL LEAVE DAY

As for the value of the elimination of one personal leave day for all Sergeants to be effective beginning in

1990, the SBA has valued that proposal at .32%. The City does not dispute the SBA's computation, but merely chooses to place a lesser value on a personal leave day by not giving 100% value, and only values it at .16%. The Panel does not agree with the City's assumption, since the personal leave day is most often taken at the option of the employee rather than of the City, although clearly the City must consent. Therefore, it is reasonable to assume that the City may often have to replace a person on leave on an overtime basis. Thus, the Panel finds no basis at all for a value of less than a day for the elimination of one personal leave day by every Sergeant effective July 1, 1990.

In arriving at these conclusions, the Panel recognizes that it's figures cannot be totally verified anymore than can the assumptions of present value based on an eleven year projections by both of the parties. However, the Panel is persuaded that its assumptions are reasonable.

As for the City's argument that the SBA must be bound totally by the UFOA pattern, the Panel rejects that contention. There is a police pattern as well as a superior officers pattern for Fire and Sanitation. The Panel believes it is logical to follow a police example rather than the Fire Officer example. Furthermore, the

Panel was not totally apprized of all of the considerations which motivated the UFOA and the City to agree to their settlement as contrasted to the factors which have been presented here. The Panel is confident that it has been afforded a more complete and balanced exposition of the factors contributing to the composition of the Police settlement.

As has been noted above, the pattern for the uniformed forces unions settlements in this round of bargaining was set in the PBA negotiations. In virtually all of the other settlements and Impasse Panel awards that followed there have been only minor variations addressed to the particular needs of the union involved. None of these variations has been of such significance as to constitute an abandonment of the basic PBA pattern. This Panel is convinced that the same is true of the dispositions set forth herein and, moreover, that they are consistent with the purposes of the New York City Collective Bargaining Law.

#### SUMMARY

To summarize, the Panel concludes that the appropriate costs in this case over and above the 16.99% base settlement are: 1.47% for the wage increase, 3.05% for the value of longevity, and .27% for the uniform allowance and civil defense fund for a total cost of 4.79%. The savings are 1.225% for the value of the tour rescheduling, 1.21%

for the contract extension, 1.71% for the new salary schedule, .39% for the three extra tours for new hires, and .32% for the personal leave day for a total of 4.855%.

SUMMARY OF COST AND SAVINGS

Cost

Three 6% wage increase	1.47%
Longevity	3.05%
Uniform allowance and civil defense fund	<u>.27%</u>
Total	4.79%

Savings

Rescheduling of ten tours of duty per Sergeant per year on 24 hours notice	1.225%
Contract extension	1.21 %
New Salary Schedule	1.71 %
3 additional tours for new hires effective 7/1/90	.39 %
Elimination of one personal leave day for all Sergeants effective 7/1/90	<u>.32 %</u>
Total	4.855%

When the total cost is added to 16.99% the result is 21.78%. When the total savings are subtracted the result is 16.925%, which the Panel finds is well within the City pattern of 16.99%.

For the reasons stated above the Panel

A W A R D S

1. Three annual 6% wage increases the first to be effective 7/1/87.
2. The following longevity schedule:

After five years	\$1,000	(an increase of \$ 670)
After ten years	\$2,000	(an increase of \$1,550)
After fifteen years	\$3,000	(an increase of \$2,420)
After twenty years	\$4,000	(an increase of \$3,330)

3. That for Sergeants promoted on or after July 1, 1990 the following pay schedule shall be effective:

Grade 6	under 1 year	\$43,987
Grade 5	over 1 year	\$45,060
Grade 4	over 2 years	\$45,918
Grade 3	over 3 years	\$46,347
Grade 2	over 4 years	\$46,776
Maximum		\$49,898

4. That the following uniform allowance shall be effective:

Increase \$45	7/1/88
Increase \$250	7/1/89

5. The Civil Legal Defense fund shall be increased \$25 for year effective 7/1/87.
6. That effective with this award the City shall have the right to reschedule up to ten additional tours of duty per Sergeant each year upon 24 hours notice without payment of premium.
7. That effective 7/1/90 all newly promoted Sergeants shall be required to work three additional tours per year.
8. That effective 7/1/90 all Sergeants will have one less personal leave day.
9. That the probationary period for educational purposes may be extended one year to a maximum of three years, effective with this agreement.
10. The agreement shall be effective from 7/1/87 through October 31, 1990.

January 8, 1990  
Fort Myers, Florida

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Arvid Anderson  
Impasse Panel

STATE OF FLORIDA  
COUNTY OF LEE

Sworn to and subscribed before me this 8th day of  
January, 1990.

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Notary Public  
My commission expires September 20, 1991.