

City of New York

Office of Collective Bargaining

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In the Matter of the Impasse between

Captains' Endowment Association

and

City of New York

Case No. I-199-89  
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Report and Recommendations  
of  
Impasse Panel

Impasse Panel: Maurice C. Benewitz

For the Association: Vincent McDonnell, Esq., Counsel

For the City: Marc Kramer, Esq., General Counsel  
Office of Municipal Labor Relations

Saul G. Kramer, Esq., Special Counsel

The Office of Collective Bargaining, by letter of July 26, 1989, informed the undersigned of his designation as a one-man impasse panel to hear and make report and recommendations concerning an impasse in the negotiations between the Captains' Endowment Association and the City of New York. The parties were unable to agree on the terms of a labor agreement to succeed that which expired on June 30, 1987 (Ex. J-2).

The association membership consists of the highest managerial level police department personnel who are subject to organization and collective bargaining. As of September 1989 (Ex. C-44), the 514 members of the unit consisted of 334 captains, 88 deputy inspectors, inspectors, 21 deputy chief inspectors, 23 surgeons, 3 deputy chief surgeons, and 1 chief surgeon.

Hearings were held before the impasse panel on November 6, 8, 9, and 10 and on December 20, 1989. The first two days of these transcribed proceedings were devoted to the union presentation. The next two considered the city's presentation. December 20th was devoted to rebuttal.

The impasse panel carefully has considered the evidence, arguments and sworn testimony of the parties, both of whom were represented by skilled counsel.

Section 1173-7.0 (b) sets forth the following standards to be applied by the impasse panel in making recommendations for terms of settlement:

- (1) 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;
- (2) 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;
- (3) changes in the average consumer prices for goods and services, commonly known as the cost of living;
- (4) the interest and welfare of the public;
- (5) 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.

At a number of places in the transcript, the parties stated clearly that each is willing to settle within the confines of the uniformed forces pattern for the contract period commencing July 1, 1987. (See for example the statement of Captain William Kelly, president of the C. text page 702.) Indeed, the association reluctantly agreed to accept many of the city's cost figures. (Ibid.). What remains at issue is the question of what wages and benefits, within the costing model, the union is entitled to receive. The panel has considered the unwillingness of the CEA to accept less than 100 per cent credit for additional duty tours and the reluctance of the city to extend the contract more than six months beyond June 30, 1990.

Because the uniformed service model to which the parties agree to adhere was developed within the standards set forth by the collective bargaining law, it is not necessary to consider cost-of-living figures, comparisons to other jurisdictions and similar items which normally would be discussed in this report. It suffices to say that by negotiating a 16.99 per cent net cost figure for the contracts effective July 1, 1987, the city was conceded its ability to pay such contracts and its ability to meet that cost in any settlement with the CEA. Similarly, the pattern establishes that the 16.99 per cent figure is fair. and reasonable in light of cost-of-living considerations and in light of the other criteria established by the Collective Bargaining Law. By agreeing that its contract must conform to the 16.99 per cent pattern, the Association has conceded that the pattern meets the criteria established by the law.

The real differences between the parties concern what elements shall enter into a fair and equitable settlement and what items at what valuation shall be surrendered to compensate for any amount above 16.99 per cent which the ordered improvements may cost.

### The Pattern

The uniformed services pattern was established by the PBA settlement of May 1988 dated effective July 1, 1987. Every other uniformed union whose contract was resolved as of the date of the hearings had confirmed to the cost of this PBA settlement. But because the needs of the various units differed and because the items available to balance the costs differed, none of the settlements - whether bargained or arising as the result of impasse proceedings - was exactly the same as any of the others.

There is one common element. Each settlement includes three compounded 6 per cent increases effective July 1, 1987, July 1, 1988 and July 1, 1989. These compounded increases had a cost of 19.1 per cent. Thereafter, the settlements of which the impasse panel had notice all varied.

The cost model which calculated the value of the benefits and of the items surrendered in the prior settlements is set forth at City Exhibit 42. The CEA has agreed to be bound by these costing figures. The costs presented in Union Exhibit 56 were supplied by the city at some time between the hearings of November 10 and December 20, 1989. Those costs have not been challenged by the union because the elements in that compilation do not include estimates of the value of additional tours, an important cost item on which the parties differ. The original city offer evaluated efficiency and value of additional time at less than 100 per cent. As noted, the CEA was unwilling to accept a settlement including surrender of additional time valued at less than 1.00 per cent.

The net present value of the costs and savings are calculated for expenditure and savings streams predicted over the eleven fiscal years 1988 through 1998.

The discount rate used to obtain the present values is 8 per cent. (An assumption used by the retirement systems - that future collective bargaining increases will be 5.5 per cent per year - is adopted for this predictive model.)

The negotiation problem which most of the uniformed units, including the CEA, faced in meeting the PBA settlement was that the PBA was able to achieve a large saving - .878 per cent in terms of present value - by trading a variable supplement fund provision for a defined retirement benefit. For various technical reasons which need not be considered since a CEA resolution is achievable without a VSF trade-in, the city was unable to discuss such a trade-in with this unit. The recommendations contained herein provide for no VSF trade-in because other savings to finance benefits are possible.

As noted above, the parties are unable to agree on the value of time which the union might provide in the form of additional tours, surrender of chart days and the like. Since the cost elements for savings upon which there is no disagreement are sufficient to provide a fair and equitable contract, the impasse panel will not recommend the provision by the unit of a greater number of tours than were worked pursuant to the expired agreement.

### Recommendations

Three improvements in the present agreement were considered by the parties and will be recommended by the impasse panel. The costs of these items will be discussed below as will the savings from two contract changes necessary to reach the net pattern cost of 16.99 per cent.

The panel will recommend increases of 6 per cent compounded to be paid effective July 1, 1987, July 1, 1988, and July 1, 1989. These increases appear in each of the uniformed forces agreements achieved in this round of bargaining.

The impasse panel will recommend that longevity be increased effective July 1, 1989 in the same amounts as the increases granted to the PBA, i.e. \$1000 after five years of service; \$2000 after ten years of service; \$3000 after fifteen years of service; and \$4000 after twenty years of service. Current rules on pensionability will remain in effect. This is an item of great value to the Association and one which should be granted to maintain the relationship with other police-department units.

The impasse panel will recommend the same increases in uniform allowance as those achieved by the PBA. It is recommended that the uniform allowance be increased by \$45 effective July 1, 1988 and by an additional \$250 effective July 1, 1989.

As part of a consolidated item with the uniform allowance for which cost was computed in total, the impasse panel will recommend that effective July 1, 1987, there shall be an additional \$25 contribution per active employee to the special civil legal representation fund.

These were the items for which the costs were computed by the parties after the impasse panel urged further discussions. As will be seen, the savings explored by the parties exceeded the costs of these three items and of the .88 offset to meet the PBA VSF trade by .35 per cent. Therefore, to bring the costs and the savings into balance, a further benefit, to be discussed below, must be recommended.

The uniformed union pattern imposes a net cost increase on the city of 16.99 per cent. To achieve this in other units, the cost of the PBA variable supplement trade must be offset. The .88 per cent VSF trade was considered in view of the fact that had the previous pattern of uniformed union cost to civilian union cost been followed, the cost of the uniformed union package

would have been 17.95 per cent.

The city costed the three benefits set forth above plus the .88 per cent present value VSF trade-in offset as follows. (See Ex. U-56.) The CEA has accepted these computations (expressed in present value terms when appropriate) as valid.

<u>Item</u>	<u>Cost in per cent</u>
Cost of three compound 6% increases above 17.95%	0.88
Cost of longevity effective July 1, 1989	2.66
Cost of uniform allowance and legal fund	0.18
Value of PBA VSF trade	0.88
Total cost of items above	4.60

The discussions suggested by the impasse panel led the parties to consider two areas of saving which were acceptable to the CEA and whose cost the city computed.

The first is a "stretch" of the captain's salary schedule for captains entering the unit effective January 1, 1990. (This new schedule is analogous to the six step schedule negotiated for new patrolmen under the PBA contract.) The savings are computed on the basis that on average, 80 openings arise for captains each year. The new schedule would provide a minimum starting salary for captains which is 2 per cent higher than the highest base salary of a lieutenant (computed on the assumption that the three 6 per cent compounded increases will be received by the lieutenants' unit.)

Instead of the four step schedule shown on page 5 of the 1984-1987 agreement (Ex. J-2), captain's salary schedule effective January 1, 1990 would read as follows. (See Ex. U-52).

<u>Steps</u>	<u>Salary</u>
6	\$ 58,421
5	58,567
4	58,713
3	58,860
2	59,007
1	74,579

This schedule not only increases the number of steps, it reduces the value of the increments until the last step.

The present value of this changed schedule attributable to the captains alone is 2.18 per cent. Spread over the entire unit, the present value of this "stretch" is 1.33 per cent.

The second area of savings discussed by the parties was based on a model developed in the Uniformed Fire Officers Association negotiations. (See Ex. C-62.) The value of wages and pensions which would be saved if the contract were extended beyond June 1990 without any increase beyond the three increases of 6 per cent compounded was computed. This computation assumed that UFOA retirements would follow the monthly pattern established in fiscal years 1983 to 1988. Monthly savings differed over-the year because the number of retirements are greatest just after a wage increase becomes effective and are least just before the next increase. The savings in salary and pension under the UFOA-pattern, which the parties agreed it was appropriate to apply to the CEA unit, were 1.37 per cent for a four month contract extension, 2.18% for a six month contract extension, and 5.66 per cent for a twelve month contract



extension. (These figures have not yet been reduced to present value.) (In its offer to the CEA, the city had originally proposed a four month extension. When the impasse panel asked for another cost estimate of the final offer which did not require additional tours from the CEA unit members, the city discussed a six month extension.)

To conform these numbers to the present value pattern, the percentage savings set forth in the UFOA model must be discounted pursuant to the eleven year-8% discount rate model. The present value of the savings which would be achieved if the contract were extended without further wage increase for one year after June 30, 1990 would be 3.62 per cent.

The city contended that a one year extension of the contract would complicate future bargaining because uniformed unit contracts would expire at widely different times. However, the four and six month extensions offered by the city would create similar, if lesser, complications. And, a one year extension would provide savings sufficient to allow the offer of the improved longevity schedule to the CEA unit. In the opinion of the impasse panel, the ability to fund that important benefit within a cost model consistent with the other already executed uniformed services settlements is highly important. The longevity improvement should be provided. Therefore, the impasse panel shall recommend a one year contract extension without a pay increase in the fourth year so that this fair-and equitable item can be provided.

Thus the two areas of savings discussed by the parties and which the impasse panel shall recommend are:

<u>Item</u>	<u>Present Value of Savings in per cent</u>
New Salary Schedule for Captains effective January 1, 1990	(1.33)
Extending the contract one year	(3.62)
Total of Savings	(4.95)

It is apparent the 4.95 per cent savings from these two items would reduce the net cost of the contract below 16.99 per cent by .35 per cent since the total of cost items is 4.60 per cent and the total of-proposed savings is .35 per cent.

A further benefit is available which has a present value of .35 per cent and which will exactly balance cost and savings. The impasse panel will recommend an increase in the current annuity fund by \$1.75 per day effective July 1, 1987.

In summary the impasse panel recommends

Three 6 per cent compounded salary increases effective July 1, 1987, July 1, 1988; and July 1, 1989.

Longevity payments of \$1,000 after five years of employment; \$2000 after ten years of employment; \$3000 after fifteen years of employment; \$4000 after twenty years of employment effective July 1, 1989. Current rules on pensionability will remain in effect.

An increase in the uniform allowance of \$45 effective July 1, 1988, and a further increase in the uniform allowance of \$250 effective July 1, 1989.

An increase of \$25 per active employee to the special civil legal representation fund effective July 1, 1987.

An increase in the current annuity fund of \$1.75 per-day effective July 1, 1987.

A four year contract commencing - on July 1, 1987 and terminating on June 30, 1991 (leading to present value savings of 3.62 per cent in wage and pension cost).

A new captain's salary schedule effective January 1, 1990 which shall read as follows

<u>Step</u>	<u>Salary</u>
6	\$58,421
5	58,567
4	58,713
3	58,860
2	59,007
1	74,579

The three \$50 increases in welfare benefits granted to other units will be granted to the CEA.

STATE OF NEW YORK     )  
                                   ss:  
 COUNTY OF NASSAU     )

I, Maurice C. Benewitz, do hereby affirm upon my oath as arbitrator that I am the individual described in and who executed this instrument, which is my award.

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Maurice C. Benewitz  
 Impasse Panel

Dated:     February 6, 1990