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EX "PP"

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# Mosca got pension windfall

## County in apparent violation of state rules; \$87,000 at issue



Anthony Mosca: "This is not going to be a boondoggle"

By Cameron McWhirter  
Staff Writer

Westchester's top police official received an extra \$17,472.36 annually for the last five years, thanks to an apparent violation of state regulations by the county.

An investigation by Gannett Suburban Newspapers has found the county submitted seemingly misleading applications to the state Civil Service Commission, allowing Commissioner of Public Safety Anthony M. Mosca to collect a New York City police pension while getting his county salary.

Mosca stopped drawing the city

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pension in July after he switched to a different pension plan.

The applications, submitted every two years since 1984 and signed by County Executive Andrew P. O'Rourke, implied the county had abided by state law by looking for other candidates who wouldn't need a pension but could not find anyone qualified. State regulations would permit Mosca to draw both a pension and a salary only if Westchester had conducted a search for other candi-

dates.

Under the New York State Civil Service Code, government employees normally cannot collect their pension if they leave one government job and take another. They get their pensions only after they retire.

But governments can apply to the state for a two-year waiver for employees under Section 211 of the civil service law. If the state Civil Service Commission approves the application, the employees collect their pension and a salary until that two-year period ends.

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Roger Biagi

### Taxpayers pick up Biagi's \$7,085 food tab

Taxpayers have been billed \$7,085 since 1990 by Westchester Deputy County Executive Roger Biagi for lunches and dinners. Those meals have been eaten at some of Westchester's poshest restaurants with lunches sometimes costing more than \$30 per person, dinners as high as \$70 per person.

Details, A15

If the local government wants to keep the employee after the two-year period, it has to conduct another search for another job candidate and make another application.

The waiver can be renewed as long as the government can show every two years that it couldn't find other qualified candidates who didn't need a pension.

Last week, O'Rourke said the county had not conducted a search since 1984.

But the latest document filed with the state, in 1990, and bearing O'Rourke's signature, stated "... we are still unable to attract interested candidates with comparable qualifications."

"Maybe the state is assuming that I'm going out on some kind of search," O'Rourke said in an interview. "But I'm not going on the search, and as far as I know I'm not required to do so. They might say 'Well, you should always be looking.' I guess that's true."

**'I stand by what I signed'**

Asked about the apparent contradiction between the document and his interview response, O'Rourke said, "I stand by what I signed."

Linda Decker, spokeswoman for the state Civil Service Commission in Albany, said the pension applications were approved because the commission thought the county had conducted searches.

"That's why it comes up every two years," she said. "They can't say 'when we hired him two years ago ... we couldn't find anybody.' They have to justify, to show they made efforts to find a qualified candidate for the position."

When a reporter brought Decker's attention to the Mosca case last week, she said the commission's staff would be in touch with the county Personnel Department.

"Evidence (of misleading information) would have to be provided which we would investigate," she said.

Decker would not speculate on possible actions against Mosca, O'Rourke or the county if it were discovered the state had been misled. She said any evidence of perjury or other criminal activity would be turned over to the local district attorney.

Under Section 211 of the New York State Civil Retirement and Social Security Law, the commission "may rescind approval grant for the employment of a retired person upon finding that such approval was obtained by deception or misrepresentation of any material fact."

**'The normal thing to do'**

Mosca said last week that the pension waiver had been given to previous county police commissioners and that it was "the normal thing to do."

O'Rourke confirmed that waivers had been obtained for former Commissioners Thomas Delaney and Daniel Guido, Mosca's predecessor.

Mosca said he had switched out of the city pension program in July in favor of a state pension that will get him more money when he retires. Under the new pension plan, he no longer collects

Due primarily to local cost of living considerations, we are still unable to attract interested candidates with comparable qualifications.



qualified to perform the duties of such position.

I... hereby affirm that I have determined that the retiree is duly qualified, competent and physically fit to perform the duties assigned and that there are not readily available for recruitment non-retired persons

— From a 1980 document signed by Andrew O'Rourke, Westchester county executive, and submitted to the state

Maybe the state is assuming that I'm going out on some kind of search. But I'm not going on the search, and as far as I know I'm not required to do so.

— O'Rourke in an interview last week

his police checks and will eventually have to pay all the pension money he has already received into his new system.

"This is not going to be a boondoggle for anyone," he said.

Mosca, 51, started drawing the city pension and county salary in 1984, when he retired from the

## 16 pension waivers received in past 2 years

The Westchester County personnel department applied to the state and received 16 pension dispensations in 1990 and 1991, according to county documents obtained through the Freedom of Information Act.

County spokeswoman Kara Bennorth said the list took almost two months to compile because the dispensations were a common occurrence throughout every level of county and Westchester municipal government, though only 16 were found.

The county personnel department is responsible for the dispensation applications to the

New York City Police Department upon being appointed the county's public safety commissioner. He had worked for the city department for 23 years but had been on leave for several years while serving as Mount Vernon's police commissioner. When Mosca was appointed commissioner, the county first applied for the state's permission for him to receive his pension of \$17,472.36 a year on top of his county salary.

The county told the state he was the only qualified candidate for the job and had to receive his pension so he could afford to live in Westchester.

When he started as commissioner, Mosca's salary was \$71,155; this year it was \$104,460.

From July 1984 to July 1986, Mosca received \$34,944.72 in pension payments. In 1986 and again in 1988 the county applied for waivers for Mosca without conducting a search. Each time the county said in its application that it could not find any other candidate for the job, without mentioning that it wasn't looking.

**Another application, no search**

O'Rourke said he never ordered searches for new candidates for commissioner because he did not think the waiver required it.

In 1990, the county applied for the third time without conducting any search for candidates. This application was obtained from the county through the Freedom of Information Act.

In the section asking for proof of efforts at recruitment, the county application states, "Due primarily to local cost of living considerations, we are still unable to attract interested candidates for the position."

O'Rourke signed the document under a section that reads in part, "I, the appointing authority, hereby affirm under penalties of perjury" that "there are not readily available for recruitment non-retired persons qualified to perform the duties of such petition."

Mosca received \$87,361.80 from his pension from July 1986 to July 1991.

This year, Mosca will earn \$104,460 plus the \$17,472.36 pension, giving him an overall gross income of \$121,932.36. He heads a department of 299 employees with a budget of \$12.7 million.

state for all county employees, as well as all municipal and school board employees in Westchester.

Of the 16 people granted the waiver, seven were school bus drivers, one was a Somers police officer, two were local municipal employees, and six — including Mosca — were Westchester County employees.

Mosca was the only one of the county's 39 commissioners and directors to receive the pension waiver.

— Cameron McWhirter

### ANTHONY M. MOSCA

■ Titles: Public Safety Commissioner and Sheriff of Westchester County

■ Annual salary: \$104,460

■ Years on the job: 1984 to the present

■ Age: 51

■ Career: Joined the New York City Police Department in 1961 at the age of 21 after leaving a job in a supermarket; took leave as a New York City detective in 1982 to become Police Commissioner of Mount Vernon; appointed county commissioner in 1984.

By comparison, New York City Police Commissioner Lee P. Brown — who heads a department of more than 27,000 with an annual budget of \$1.6 billion — earns \$104,500.

**Panel criticized Mosca in '89**

In 1989, one year before the county's latest application to the state to keep Mosca on the job, the commissioner was criticized after a two-year state ethics investigation.

Among the allegations investigated by the state Commission of Investigation was one that Mosca had tried to fix the drug case of a friend's son who was arrested by county narcotics detectives.

The state commission found that "Mr. Mosca's conduct amounted to a gross departure from acceptable professional standards ... Citizens may conclude that justice in Westchester County depends on who you know, an attitude which in turn, breeds resentment and disrespect for the entire criminal justice system."

The commission's report, while critical, carried no penalties.

Responding to calls for Mosca's dismissal from county legislators and others, O'Rourke placed the commissioner on probation for six months.

Mosca said he switched from the city to a state pension program in July because he would end up with more money in the long run.

He no longer receives annual pension payments, but once he retires the money he receives will equal 2 percent of his final salary for every year he has worked. At present, with about 30 years of work, he would get more than \$60,000 if he retired today.

Under the new plan, Mosca said he must now pay the money he received in pension checks since 1984 to his new pension program. He will be able to collect it only when he retires. The money will be paid in installments to the state plan. The installments have not been worked out.

County spokeswoman Claire Palermo Flower said Mosca's switch out of the waiver program had nothing to do with the Gannett Suburban Newspapers investigation. She said it was simply a coincidence.

"Sometimes the truth is odd-looking," she said.