

Sub. 10/20/95

ACT 312 PROCEEDING BETWEEN
CHARTER TOWNSHIP OF CANTON

AND

FIRE FIGHTERS, LOCAL 2289, IAFF
MERC CASE NO. D94E-1285

Chairperson: Dr. Benjamin Wolkinson
City Delegate: Andrew Baran, Attorney
Union Delegate: Ronald Helveston, Attorney

Canton Township

BACKGROUND

A pre-arbitration conference was held in Detroit, Michigan on December 14, 1994. Hearings subsequently took place in Canton Township on May 15, May 17, May 19, May 22, 1995. The parties submitted final offers on June 16, 1995 and briefs in support of the last best offers on August 5, 1995. Additionally, the panel met in executive session on October 3, 1995. The opinion, interpretation and analysis is that solely of the chairperson and does not necessarily reflect the views of the panel delegates. The award indicates the position taken by the panel members on each issue.

Either prior to or during the course of the hearings, the parties withdrew or resolved the following issues:

- (1) Sick leave payouts.
- (2) Personal days
- (3) Compensatory time for training
- (4) Seniority
- (5) Vacation-staffing
- (6) Minimum manpower staffing
- (7) Work and training schedules
- (8) Sick leave, leave of absence policies

As a result, the panel was presented with the following Union and Employer issues:

Union Issues:

- (1) Wages
- (2) Parity

- (3) Retirement (Age requirement)
- (4) Workers' Compensation
- (5) Dental/Orthodontics - Benefits for Current Employees
- (6) Dental/Orthodontics - Benefits for Retirees
- (7) Optical Benefits for Current Employees
- (8) Optical Retirees
- (9) Hours of Employment
- (10) EMT Allowance
- (11) Vacation
- (12) Longevity

Township Issues:

- (1) Use of Past Record
- (2) Employee Fitness Program
- (3) Workers' Compensation
- (4) Promotions
- (5) Family and Medical Leave Policy

In considering the parties' proofs, the panel must apply the evidence presented by the parties that are related to the statutory criteria for rendering an award. These are identified in Section 9 of the Act 312 and include:

- (A) The lawful authority of the employer.
- (B) Stipulation of the parties.
- (C) The interest and welfare of the public and financial ability of the unit of government to meet these costs.
- (D) A comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages,

hours and conditions of employment of other employees performing similar services with other communities generally.

(i) In public employment comparable communities.

(ii) In private employment comparable communities.

(E) The average consumer prices for goods and services commonly known as the cost of living.

(F) The overall compensation presently received by the employees including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.

(G) Changes in any of the foregoing circumstances presented during the pendency of arbitration proceedings such as other factors not confined to the foregoing which are normally or traditionally taken into consideration in determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation fact finding, arbitration or otherwise between the parties and the public service or in private employment.

WAGES AND PARITY AS ONE OR SEPARATE ISSUES

Prior to the parties' submission of last best offers, the panel had to decide a procedural issue. During the hearing, the parties disagreed over whether (1) wages for the three-year period of the collective bargaining agreement constituted one or three separate issues for the purpose of the last best offer and (2) should parity for command officers be treated as part of a single wage package or as a separate issue for purposes of the last best offer. The Township maintained that wages and parity should be treated as a single issue while the Association contended that the panel should treat each year of the wage proposal and parity as separate and distinct issues.

The Chairman ruled that wages were to be treated as three distinct issues. In making this determination, the Chairman was guided by

Section 8 of PERA which provides that the panel identify the economic issues in dispute. The record indicated that the parties during their negotiations and in arbitration were engaged in a dispute over the amount wages should increase each year of a three-year period to be covered by the new contract. Consequently, it was reasonable that wages for each year of the contract be viewed separately.

This determination was also more consistent with the panel's obligation to consider and apply statutory criteria when adjudicating economic issues. Under Section 9 the panel when addressing an issue such as wages must consider internal comparables, external comparables, CPI and other related factors. Significantly, data on these economic criteria are not static but change over time and consideration of such changes may require a panel to adjust an award on wages in successive years of the collective bargaining agreement. This kind of reasoned flexibility could have been precluded had the parties been required to treat wages over a multi-year period as a single issue.

In making this determination, the panel chairman was aware that the Association listed only the subject of wages in its petition for arbitration and did not explicitly divide wages into three separate issues. Yet, this omission did not bar the Association from having wages for each year of the contract treated as a separate issue. Thus, there is nothing in PERA which suggests that the panel's identification of issues must rigidly mirror the exact manner in which the parties presented the subjects of dispute on the petition itself. The panel's statutory authority to determine economic issues in dispute vested it

with the responsibility to address the economic realities underlying a particular dispute. As wage increases for each year of the three-year agreement constituted issues in dispute, it is appropriate to treat each year as a separate and distinct issue for purposes of the final offer.

Finally, the township's treatment of wages as a single issue in a prior Act 312 proceeding was found not controlling. Parties are free to reach any procedural agreements they desire consistent with their legal obligations. Yet a procedural agreement on an issue in only one other proceeding does not create a binding past practice requiring the Association in future negotiations to treat wages as a single issue.

These same considerations also applied to the issue of parity. When negotiating over wages, the Association introduced its demand for wage parity with police command personnel. This request which was rejected by the Township was separate from and in addition to the Association's demand for a five percent wage increase for each year of the agreement. Consequently, parity legitimately constituted a separate issue that merited consideration. The presence of external and internal comparability criteria unique to this issue also supported adjudicating this disputed subject as a separate issue. Moreover, while parity is not identified explicitly as an issue in the Association's petition for arbitration, this omission was not critical. Wage parity between police and fire personnel was reasonably comprehended by the term "wages" that is identified in the Association's petition for arbitration. As a result, the issue of wage parity was properly before the panel. Given these considerations, the Chairman found that parity constituted a

separate issue for purposes of the parties' final offer.

In reaching the determination that both wages for each year of the agreement and parity are separate issues, the Chairman also found that the Township was not unduly disadvantaged nor was the panel unfairly widening the scope of issues for adjudication. As noted earlier, both parity and wages for each year of the agreement were raised as issues during the course of collective bargaining negotiations. As issues over which the parties reached impasse in negotiations they were properly before the panel. Furthermore, as the Association clearly identified its positions on these issues when exchanging preliminary proposals on February 17 and exhibits at the end of April, the Township had sufficient opportunity to prepare for and present countervailing evidence on these subject matter. Consequently, the Chairman found that his rulings were consistent with the use of the collective bargaining process as a primary means for resolving issues in dispute and for the orderly and rational determination of issues at impasse through the Act 312 process.

WAGES

The first issue is wages to be decided for the period July 1, 1994 through June 30, 1995. Both parties have agreed on a three percent wage increase for the third year of the contract for the period July 1, 1996 through June 30, 1997. As ruled on by the panel chairman, wages for each year of the agreement will be viewed as a discrete issue.

Management has offered a three percent wage increase for the first year. It maintains that under its proposal wages for fire fighters will

exceed the average in comparable communities. It notes that the four percent wage increase sought by the union is excessive and would break the longstanding practice of parity between wages increases granted to fire fighters and township police patrol officers.

The Union maintains that only by comparing all benefits taken as a whole can the panel properly evaluate the compensation received by fire fighters in comparable communities. Taking into consideration all cash benefits received by fire fighters, the union maintains that Canton Township ranks fifth out of all the comparables. As a result, its four percent wage increase is meritorious. Moreover, the four percent wage increase is consistent with the same magnitude of increases given in several comparable communities in 1994. Additionally, its four percent wage increase is justified by the township's granting of wage increases higher than three percent to three other units in 1994 and in 1995.

Considerations of internal comparability provide some support for each party's last offer. For 1994, the township has provided a four percent increase to clerical and AFSCME bargaining units. Additionally, nonunion personnel received a 3.5 percent wage increase for 1994. On the other hand the three percent increase the township has offered the fire fighters is consistent with the wage increase extended to the police patrol unit and offered to the police command.

Examining wage data from comparable communities provides the panel with further insight. In engaging in this analysis, the panel chairman agrees that an evaluation of wages across comparable communities should consider all cash benefits received by fire fighters in a given year.

Thus longevity, holiday pay, food and uniform allowances, EMT premiums all afford fire fighters immediate cash payments and merit consideration in determining the compensation received by fire fighters for their services. At the same time the validity of such comparisons is contingent upon evaluating wage data and compensation data for these comparable communities for the same appropriate time periods. To achieve this objective, the panel chairman has identified as best as possible given the limitations of the data, compensation to be received by a five-year fire fighter in 1994 under the parties' last best offer in Canton Township and in the seven remaining comparable communities.

Under the township's last offer, fire fighters would be ranked fourth among the comparable communities in terms of total cash compensation. This ranking fairs favorably with past collective bargaining outcomes. Thus, in 1993 Canton Township ranked fifth among the comparables in terms of total compensation. The employer's proposal would also afford fire fighters \$1,225 more than the average compensation earned by fire fighters in the other comparable communities. Since the township's last offer is reasonably competitive with compensation in comparable communities, it is appropriate for the panel to give weight to management's effort to maintain a practice of parity in the magnitude of increases afforded fire fighters and police patrol officers. Given these considerations, the panel adopts the Employer's last offer on wages for the period July 1, 1994 through June 30, 1995.

CURRENT TOTAL CASH COMPENSATION

5 year Fire Fighter - July 1994

Municipality	Wage	Holiday Payment	Longevity Payment	Other	EMT	Food Allowance	Uniform Allowance	Total
Canton Twp.		1,942 ²	300 ²	--	500	535	200 ³	
Dearborn Hgts.	38,862	1,794	250	--		--	450	41,356
Madison Hgts.	40,901	1,402	818	728		600	450	44,899
Roseville	38,337	3,034	700	2,109	500	750	550	45,980
Royal Oak	40,984	3,710	820	--		600	625	46,739
Shelby Twp. ⁴	41,625	2,241	832	--		475	600	45,773
W. Bloomfield ¹	41,485	2,092	846	--		500	250	45,173
Ypsilanti Twp. ¹	35,380	2,769	1,165	--	1,019	750	200	40,318

Total under Employer's Last offer: 42,067 + 3,477 = \$45,544 Ranking: 4th

Total under Union's Last offer: 42,475 + 3,477 = 45,952 Ranking: 3rd

WAGE INCREASES FOR JULY 1, 1995 THROUGH JUNE 30, 1996

It is difficult to obtain complete and probative data by which to evaluate the parties' final offer positions for the second year of the contract. Thus, for several comparable communities, Roseville, Royal Oak and Shelby Township, whose fire fighters rank among the highest in terms of total compensation no data is available for the period in question. At the same time evaluating available data suggests that the employer's last offer would

¹Annualized wage rates are used for these townships because contractual wages rates become effective January 1 of each year.

²Amount assumes 3% wage increase for 1994.

³Assumes clothing allowance is equivalent to a \$200 cash benefit. Under Article 19 of the parties' agreement, fire fighters are supplied with six shirts, six pants, two sweatshirts, six T-shirts, one pair of boots and two jackets. Clothing is replenished as needed.

⁴Based on expired rate of January 1, 1994.

result in the township's fire fighters continuing to receive compensation well above the average earned in comparable communities. This is reflected in the following table. For this reason, the panel adopts the Employer's last offer on wages for the second year.

JULY 1995 TOTAL CASH COMPENSATION

5 year Fire Fighter

Municipality	Wage	Holiday Payment	Longevity Payment	Other	Food Allowance	Uniform Allowance	EMT Basic	Total
Canton Twp. (3%)	43,009	1,942	300	--	535	200	500	48,806
Dearborn Hgts.	40,417	1,794	250	--	--	450	--	42,911
Madison Hgts.	41,923	1,404	818	728	600	450	--	45,921
W. Bloomfield ¹	42,299	2,092	846	--	500	250	--	45,987
Ypsilanti Twp. ²	36,545	2,769	1,146	--	750	200	1,019	42,498

TWO TIER WAGE STRUCTURE

In its last best offer on wages, the township's proposal incorporated language which would create a second tier for fire fighters hired after the date of ratification. The panel views this part of the township's last offer as a separate wage issue. The panel notes that the township did not offer any proofs nor provide any testimony with regard to this proposal. For this reason the panel will reject the township's last offer on this issue and will uphold the status quo which requires a single tier wage structure for fire fighters with less than five years of service.

PARITY

On this issue the union has presented the following final offer.

¹Wage rate is for calendar year 1995.

²Wages rate used is annualized wage encompassing six months of 1995 and six months of 1996.

Effective July 1, 1996 a parity relationship with respect to wage rates between corresponding ranks of the fire department command personnel and the police department command personnel shall be implemented. For purposes of wage rates only the corresponding ranks shall be as follows...

Fire sergeant - police sergeant.
Fire lieutenant - police lieutenant.
Fire marshal - police captain.

For the first two years of the contract, namely July 1, 1994 through June 30, 1996 the fire department command personnel wages shall be adjusted based on whatever across the board increase is awarded by the panel for those years. For the year commencing July 1, 1996, the fire department command personnel wages will be adjusted to reflect parity with the corresponding ranks in the police department. In the event this offer is not awarded fire command personnel shall receive the same wage adjustment as awarded to the fire department bargaining unit by the panel.

The employer's final offer on this issue is the status quo, and a rejection of any linkage between wages of fire department command personnel and police department command personnel.

In support of its position, the Union has noted that a parity relationship existed in the late 1970s between the police and fire command. Since the termination of this relationship, a serious discrepancy has existed in the base wages received by police lieutenants and sergeants versus fire lieutenants and sergeants. According to the Union, this discrepancy is unwarranted given the essentially similar supervisory duties exercised by both police and fire command personnel.

The record does reveal significant differences between the base wages earned by police and fire command personnel. Yet this date alone is not persuasive. Thus, as noted earlier relative economic compensation of a particular group must consider not only base wages but all other critical fringe benefits such as longevity, food allowances,

holiday pay and other premiums. Not having such data, the panel cannot make a definitive judgment that police command personnel earn significantly more than fire department command personnel.

The union has also maintained that parity is warranted because wages of fire command personnel have fallen behind wages of command personnel in comparable communities. On the other hand, the township has maintained that parity should be rejected because Canton's fire command personnel are already in a very favorable position in comparison to their counter parts in comparable communities. Moreover, it maintains that the wage differential between fire command personnel in Canton and police personnel is smaller than exists in nearly all other comparable communities.

The township's analysis is of suspect validity given the absence of a sufficient foundation that when evaluating wages across comparable communities for command personnel they were comparing employees who were performing the same job duties. Thus, the evidence presented by the union suggests that sergeants and lieutenants cannot always be compared with the sergeants and lieutenants in other comparable communities but with other levels of command personnel.

At the same time, the data presented by the union is also not persuasive. Its evaluation of 1993 wages indicates that on the average sergeants in Canton Township receive more than officers performing similar duties in comparable communities. The problem of under compensation appears to exist primarily within the lieutenant's job classification. Yet, as noted earlier evaluation of comparability data

limited to only wages does not provide a fully accurate index of the economic benefits employees receive. By failing to present comparability data on other payments such as holiday, longevity, uniform allowance, food allowance, EMT, the panel has no firm basis for critically determining whether or not lieutenants in Canton Township are under compensated relative to similar command personnel in other communities. Finally, even assuming some under compensation the question is not one of parity but one of presenting a final offer which attempts to bridge directly the gap between the wages of command personnel and the wages of fire fighters in other comparable communities.

At the same time considerations of external comparability and bargaining history argue strongly against the Union's proposal. In none of the comparable communities does parity exist between the wages of police and fire command personnel. Additionally, since at least 1980 the parties have not negotiated parity relationships between the wages of police and fire command personnel. Consequently, acceptance of the union's final offer would conflict with the collective bargaining practices and outcomes the parties themselves have fashioned. Since the Act 312 process is designed to supplement and not to substitute for the parties' own collective bargaining efforts, such a repudiation of long-term bargaining practice and outcomes should not be countenanced unless justified by compelling considerations. Here inadequate evidence has been presented to justify such a radical departure in the parties' bargaining history. For this reason, the panel adopts the Employer's

final offer on this issue rejecting wage parity between police and fire fighter command personnel.

EMT ALLOWANCE

The employer has proposed increasing the EMT allowance from \$500 to \$600 annually. This EMT allowance would be paid on the first payday of December each year. The union has proposed that employees shall receive effective July 1, 1995 an EMT allowance equal to 1.5 percent of their base wage. This allowance would be paid on the employee's anniversary date of state EMT certification.

All Canton Township fire fighters are certified to perform basic EMT services. As part of their training, EMT's are taught how to treat heart attacks, strokes, heat and cold emergencies and other medical crises. In addition, fire fighters operate automatic defibrillator machines which produce an electric shock to reestablish normal heart beat for an individual in cardiac distress or arrest and are trained as well in the use of the intermediate airway device known as IAD or combitube.

There is no dispute that the services provided by EMT fire fighters are critically important to the safety and welfare of the township's residents. The question is one of appropriate compensation. Significantly, there isn't a substantial disparity in the increases for EMT's that would be afforded under either the township's or union's last proposal. Under the employer's last offer, effective July 1, 1995, EMT fire fighters would receive an allowance of \$600. Under the union's last offer, the EMT allowance for a fire fighter would increase to \$663.

Both parties have made strong arguments in favor of their positions. At the same time, the panel finds that the preponderance of the evidence supports the township's last offer. The panel notes that Canton Township is one of only a few communities that provides any compensation for fire fighters performing only basic EMT services. Thus, of comparable communities only Roseville and Ypsilanti besides Canton Township provide such compensation. Furthermore, the EMT compensation in Canton Township is not only greater in amount than that provided by Roseville, but is a benefit available to more employees. In Canton Township the EMT allowance was received by all fire fighters including command personnel while in Roseville it is limited to employees below the rank of sergeant. In Madison Heights and Royal Oak fire fighters perform basic EMT services but receive no allowance for it.

In three comparable communities, Dearborn Heights, Shelby Township and West Bloomfield Township, fire fighters do receive higher levels of allowance. However, in these three cases the allowance is not for performance of basic EMT services. In Dearborn Heights only fire fighters certified as an EMT-specialist receive the allowance of \$800. In Shelby Township and in West Bloomfield Township, only fire fighters certified as advanced EMT's or paramedics receive the additional compensation. In summary, the data from the comparable communities indicate that Canton Township fire fighters are well compensated for the performance of basic EMT services.

In support of its position the union has claimed that the EMT work

load has increased by approximately 62 percent. Thus, it notes that the number of EMT runs has increased from 1,482 in 1987 to 2,400 in 1994. On the basis of this increase it argues for increased compensation. At the same time, the union has not sufficiently considered the increase in the number of fire fighters personnel within Canton Township trained as EMT's and available to perform these runs. The number of such EMT's has increased from 18 in 1987 to 37 in 1994. As a result, the actual number of runs per EMT has decreased from 82.33 in 1987 to 70.5 runs in 1994.

The union has also noted that of the four other comparable communities, Madison Heights, Roseville, Royal Oak and Ypsilanti Township whose EMT services are certified as basic, only Canton Township provides defibrillator, combitube and transporter services to hospitals. While this observation is valid, the record also reveals that Canton Township compensation for EMT services is greater than the allowance available in most of these other communities. Under the employer's last offer the basic EMT allowance is \$600. In Roseville it is \$500 and is available only to personnel below the rank of sergeant. In Royal Oak and Madison Heights there is no EMT allowance. Only in Ypsilanti Township is the EMT allowance greater than that available to Canton Township fire fighters. Given that compensation in Canton Township for basic EMT services is equal to or superior to that available in most other communities, the panel adopts the employer's final offer on this issue.

LONGEVITY

The last best offer set forth by the Union with regard to longevity

pay is as follows:

Section 2. Longevity Pay Amend Article 11, Section 2:

Longevity pay will be paid in accordance with the following schedule:

<u>Initial at 3 years</u>	<u>Additional/Year After 3 Years</u>	<u>Maximum</u>
\$150	\$50	\$1,000.00

Longevity will be paid the last pay of November.

Effective 7/1/95, longevity pay will be paid in accordance with the following schedule:

At three (3) years of service:	1% of base salary
At five (5) years of service:	2% of base salary
At ten (10) years of service:	4% of base salary
At fifteen (15) years of service:	6% of base salary
At twenty (20) years of service:	8% of base salary

Employees hired after 7-1-95 shall receive longevity pay in accordance with the following schedule:

At five (5) years of service:	2% of base salary
At ten (10) years of service:	4% of base salary
At fifteen (15) years of service:	6% of base salary
At twenty (20) years of service:	8% of base salary

Longevity pay will be paid the last pay of November.

The Township's proposal with regard to longevity pay is as follows:

Amend Article 11, Section 2

The Employer agrees to grant the following longevity pay:

- a) Upon completion of three (3) years continuous service, eligible employees will be paid one hundred fifty (\$150.00) dollars.
- b) An additional seventy-five (\$75.00) dollars a year will be paid to eligible employees for each additional year of service (beyond three (3) years) to a maximum of one thousand two hundred and fifty (\$1,250.00) dollars. Effective 7-1-96 the maximum will be increased to one thousand four hundred (\$1,400.00) dollars.

- c) Longevity payments will be made the first pay period of December of each year. An employee must be on the payroll of the Township on the date that the longevity payment is made in order to receive said payment. Longevity pay shall not be prorated.

For employees hired after ratification of this agreement, the Employer agrees to grant the following longevity pay:

- a) Upon completion of five (5) years continuous service, eligible employees will be paid three hundred (\$300.00) dollars.
- b) An additional seventy-five (\$75.00) dollars a year will be paid to eligible employees for each additional year of service (beyond five (5) years) to a maximum of one thousand two hundred and fifty (\$1,250.00) dollars. Effective 7-1-96 the maximum will be increased to one thousand four hundred (\$1,400.00) dollars.
- c) Longevity payments will be made the first pay period of December of each year. An employee must be on the payroll of the Township on the date that the longevity payment is made in order to receive said payment. Longevity pay shall not be prorated.

The Township has proposed increasing the annual longevity accrual from \$50 per year to \$75 per year. Additionally, the Township would increase the maximum accrual from \$1,000 to \$1,250 effective July 1, 1995 and \$1,400 effective July 1, 1996. The union is proposing to implement a percentage formula for purposes of longevity pay. Both the township and union have agreed that employees hired after a certain date shall not receive the first longevity payment at three years of employment but rather must wait until the employee has attained five years of continuous service. This seems appropriate when considering none of the agreed upon comparables receive a longevity payment prior to five years of service.

The union's position is strongly supported by a review of longevity

pay provisions in comparable communities. Of the seven comparables, five utilize a percentage of the base salary as the formula for computing longevity payments. These include Dearborn Heights, Madison Heights, Royal Oak, Shelby Township and West Bloomfield. In the two communities that do not provide a percentage formula, Roseville and Ypsilanti Township, there are nonetheless significant differences in the longevity pay received by fire fighters when compared to Canton Township. For example in Roseville for employees hired before July 1, 1984 \$3600 is added to their base pay at the end of 26 years. For employees hired after July 1, 1984 there is a reduced amount of longevity pay offered but even these amounts are significantly superior to those available to Canton Township fire fighters under the employer's last offer. Thus, whereas the employer's last offer would cap longevity at \$1400, in Roseville under the second tier for employees hired July 1, 1984, the amount of \$2100 is added to the base pay at 16 years of service. Furthermore, command personnel in Roseville receive even greater amounts of longevity payments. Similarly, while Ypsilanti Township does not utilize a percentage of the base as a formula for computing longevity pay, the amounts of longevity increments are substantially higher than those available in Canton Township. Thus, fire fighters at 20 and 25 years of service at Ypsilanti Township receive increases of \$4,659.

In arguing against the union's last offer, the township has noted that its offer would provide longevity amounts that are double what were available to fire fighters in 1988. Furthermore, it maintains that if

the Union's last best offer is adopted, its members would receive longevity pay which would equal or surpass the comparables while continuing to enjoy wages and other benefits which exceed in some cases substantially those provided to fire fighters in comparable communities.

This argument is not persuasive. In evaluating the benefits sought and offered by both sides, this panel has attempted to determine the net economic benefits received by Canton Township fire fighters in comparison with what the fire fighters are receiving in other communities. On this basis, the panel has, in fact, adopted the last best offer of the employer on the issues of wages, parity and EMT allowance. At the same time the record indicates that the adoption of the Employer's last offer on longevity would result in Canton Township fire fighters falling substantially behind fire fighters in other communities in terms of overall cash compensation. The following data calculates the total earnings of a 20 year fire fighter in Canton Township and in the comparable communities. It is based upon longevity pay and other cash benefits that fire fighters in these communities were earning as of 1994-95.

Townships/Cities	Earnings	Ranking
Royal Oak	\$49,197	1
Shelby	\$48,271	2
Roseville	\$48,180	3
West Bloomfield	\$47,645	4
Madison Heights	\$47,353	5
Ypsilanti	\$44,777	6

Dearborn Heights	\$43,826	7
Under Employer's offer	\$46,494	6
Under Union's offer	\$48,609	2

Under the Employer's last offer, Canton Township fire fighters would be ranked sixth among the eight communities. In practice, however, the economic standing of the Canton fire fighters would further deteriorate under the Employer's last offer. Thus, longevity increases based on a percentage of base salary that are available in most other communities in 1995 and 1996 would widen the gap between Canton fire fighters and those employed in comparable communities.

Additionally, while the Union's last offer would apparently result in Canton Township fire fighters being ranked second, the data exaggerates the relative economic ranking of Canton Township fire fighters. Data for Shelby Township reflected a wage rate expiring in January 1995 while the figures for Canton Township is based on rates in effect through July 1, 1995. Even limited increases in base wages for Shelby fire fighters beginning in January 1995 would likely raise its ranking to that of second. Yet whether ranked second or third, the compensation to be received by Canton Township under the Union's last offer is reasonable and consistent with both the quality of services provided by fire fighters and the economic position of the Employer. Moreover, while the increases to be afforded fire fighters under the Union's last offer are significant, they are also justified by the township's own desire to retain senior personnel because of the experience and quality of services they provide. Thus, Canton Township

has resisted efforts to permit fire fighters to retire at 25 years of service with full health benefits. Given the Township's own determination that it requires the services of its most experienced personnel, it is appropriate that it recognize the contributions of its employees by providing longevity payments whose rate of increase is tied to years of service in the department. Given these considerations the panel adopts the Union's longevity proposal.

AGE REQUIREMENT FOR RECEIPT OF FULL HEALTH INSURANCE BENEFITS

Currently in Canton Township a fire fighter is vested in the pension system after four years of service. An employee may elect to leave the employ of the township and receive whatever contributions he/she has made to the system at that time. However, a normal retirement age is considered to be at age 55. If the retiring fire fighter has attained 25 years of service, the fire fighter will have his or her health insurance paid by the township for life. If a fire fighter leaves after age 55 with less than 25 years of service, the township will pay only 50 percent of the cost of group health insurance coverage and the retiring fire fighter must pay the remaining 50 percent. Should an employee leave after 25 years of service but not yet be age 55, he or she would not receive any health benefits.

The Union has proposed the elimination of the age requirement while maintaining the years of service requirement to receive 100% Employer paid health insurance benefits. The Union does not propose any change in the current provision by which employees retiring after age 55 with less than 25 years of service receive 50 percent Employer paid health

insurance. The township has proposed a reduction in the years of service requirement from 25 to 15 years while still maintaining the age requirement of at least 55 years of age.

A review of the external comparability data supports the Union's final offer. In five other communities, fire fighters can retire with full health benefits after 25 years of service with no minimum age requirement. On the other hand, the employer's last offer is supported by examination of internal comparability data. The township's last best offer of full health benefits at age 55 with at least 15 years of service is comparable to the benefits received by police patrol and police clerical units and to the benefits received by the township's non union personnel.

The union has maintained that the township would actually save money by adopting the Union's proposal. Thus, the replacing of a 20 or 25 year seniority fire fighter with a new hire would save the township annually in terms of pension, salary, holiday, vacation, personnel and longevity payments. Yet, these considerations ignore the increased health insurance cost the city would incur. Additionally, encouraging the early retirement may well cause the township to lose some of its most experienced personnel. Under the union's last offer, the township could conceivably lose to retirement within the next seven years 19 of its most experienced personnel from a bargaining unit of only 37 employees.

The panel can appreciate the township's concern over the loss of its most experienced personnel whose presence substantially contributes

to the excellent quality of services provided to the community. This consideration further reinforced the panel's previous decision to provide long-term fire fighters with substantially increased longevity payments. At the same time, the township requirement that fire fighters must be at least 55 years of age before obtaining full health coverage when retiring is not the norm within the comparable communities. Additionally, the change in the longevity formula may significantly increase the amounts saved by the replacement of more senior fire fighters with new hires.

While appreciating the Union's concerns and interest, on balance, the panel does not see a compelling need to make a major change. The panel notes that in 1995 and 1996 there would be no fire fighter eligible to retire under the union's last offer. The effect would first commence in 1997. Additionally, the panel believes that it is appropriate for the parties to re-examine this issue in future negotiations. In anticipation of such negotiations, the parties could more objectively and thoroughly evaluate the effect of early retirement on health insurance costs as well as potential savings to be enjoyed by the replacement of more senior personnel with new hires. The effect on productivity and costs could also be better assessed by soliciting information from bargaining unit personnel on the number of employees who would likely take advantage of retirement at 25 years of service. In short, the parties through constructive negotiations should be able to resolve this issue themselves. For this reason the panel will adopt the Employer's last offer on this issue.

DENTAL/ORTHODONTICS

Currently the fire fighters have a dental plan which provides for a 60/40 copay (sixty percent paid by the dental policy and 40 percent paid by the members) on all dental services excluding orthodontics up to a maximum of \$800 per member per year. Orthodontic coverage provides for a 50/50 copay basis with \$1,000 lifetime maximum per member. The union has proposed to increase the dental coverage effective January 1, 1996 to an 80/20 copay plan with \$1,000 per member per year maximum. The township has proposed to maintain the 60/40 copay provision but has offered to increase the annual maximum to \$1,000 per member. Neither party has proposed to change the orthodontic coverage.

Essentially the only difference between the union's last best offer and that of the township's is whether the plan shall be one of 80/20 coverage as proposed by the union or 60/40 copay as proposed by the township. A review of the comparables provides mixed support for both positions. The township's last best offer would provide fire fighters with dental coverage identical to that offered nonunion personnel and all other bargaining units within the township with the exception of the police command officers. Yet this exception is not decisive. The record indicates that the police command obtained a superior dental package as part of an Act 312 proceeding in which they also obtained Blue Cross CMM100 health insurance plan. This plan is inferior to that currently enjoyed by the fire fighters as it requires of participants larger deductibles and copays. Essentially then a review of internal comparability data supports the township's last best offer.

On the other hand, external comparability data provides support for the last best offer of the union particularly for Class I benefits. These are benefits by which employees are reimbursed for prophylactic dental measures such as dental cleanings. All seven comparables provide more comprehensive coverage and typically at a minimum level of 75 percent than is currently available to the Canton Township fire fighters. At the same time for Class II benefits whereby employees are reimbursed for typically more expensive restorative work such as fillings, oral surgeries, bridge work, the township's last best offer is more competitive. Thus in five townships all or part of Class II expenses are paid on a 50-50 copay basis. In two townships, West Bloomfield and Shelby wherein part of the Class II expenses are reimbursable at an 85/15 basis, the annual maximum of \$800 and \$500 respectively is significantly less than the annual maximum available to township employees. Acceptance of the union's last best offer would in fact afford fire fighters superior dental benefits for Class II repairs than is available in any other comparable community.

Given that the township's last best offer is consistent with internal comparability data and since it provides Class II benefits that are consistent with that available to fire fighters in other communities, the panel adopts the employer's last best offer on this issue.

DENTAL/ORTHODONTICS-RETIREES

Currently when an employee retires from the Canton Township Fire Department, all dental coverage received by that employee for both

himself or herself and their family ceases. The union has proposed that a retiring fire fighter should be afforded the same benefit they receive as an active employee. The township opposes granting any benefit in this area.

The panel can appreciate the importance of dental care for retirees. Such coverage may be burdensome to some retirees who enjoy only a fixed income upon the cessation of their employment. At the same time both internal and external comparability data support the township's last offer. The township provides no other employee group with this benefit. Additionally in five of seven comparable communities retirees do not receive dental benefits.

It may well be that the township ought to consider providing this important benefit to retirees. Yet, at this time an Act 312 proceeding is not the appropriate basis for its adoption. No data has been introduced identifying the number of employees who would receive such a benefit or its cost implications for the township. Whether retirees should receive the same level of benefits as current employees is another issue meriting examination. Given these considerations, the panel believes that this issue should be the subject of further discussion and negotiation by the parties in the collective bargaining arena. For this reason the panel will adopt the township's last offer on this subject.

OPTICAL INSURANCE FOR CURRENT EMPLOYEES

Currently the members of the Canton Township Fire Department are provided with optical insurance or coverage in the form of a

reimbursement program up to a maximum of \$100 (or \$40 for examination and \$60 towards corrective lenses) per person every two years. The union has proposed an increase in the reimbursement program to provide for reimbursement of up to \$200 (or \$80 for an examination and \$120 for corrective lenses) per person every two years. The township position is for the status quo to be maintained.

The parties have again resorted to comparability data to support their respective positions. The township has relied on internal comparability data. It shows that no other bargaining unit group within the township receives more than the \$100 for an examination and accompanying corrective lenses within a two-year period.

On the other hand the union has cited external comparability data which strongly supports its position. Six of the comparable communities provide clearly superior benefits than what is available to fire fighters in Canton. While the policies of each community may vary, it is evident that the total optical benefit exceeds the maximum allotment offered by the township. For example, Roseville provides \$300 of reimbursement per year. Shelby Township fire fighters receive complete optical coverage at apparently no cost to the employee. In Dearborn Heights and Royal Oak while paying a modest copay employees receive full reimbursement for an eye exam and glasses at least once within a two-year period. In Madison Heights and Ypsilanti Township employees are fully reimbursed for an eye examination and are allotted \$135 for frames and lenses.

Fire fighters should be in excellent physical condition to perform

their duties satisfactorily. As appropriate eye care is indispensable to a fire fighter's physical health, fire fighters should be encouraged to maintain the health of their eyes by utilizing the appropriate ophthalmological and optometric services. The union's last offer best promotes this important objective. Given this consideration and the consistency of the union's last best offer with benefits available to fire fighters in other comparable communities, the panel awards the union's last best offer on this subject.

OPTICAL BENEFITS-RETIREEES

Currently when an employee retires from the township optical coverage ceases for the newly retired employee and their eligible family members. The union proposes that effective January 1, 1996 the township shall provide the same optical reimbursement program that is afforded to active employees to a retiree and eligible members of their family. The township's position is for the status quo to be maintained.

This panel again is faced with equity considerations that must be juxtaposed against the collective bargaining practices and outcomes both internally within the township and in other comparable communities. As noted with regard to the union's demand for retiree dental benefits, the effort to achieve for retirees optical benefits is contrary to internal comparability data. Thus, no other bargaining unit or non-union group within the township has this benefit for its retirees. Similarly in only two of the five comparable communities do retirees enjoy this benefit. This consideration does not address the need for retirees to receive such benefits as they get older. At the same time the same

considerations that the panel noted with regard to dental benefits for retirees relate to this issue as well. For this reason the panel will adopt the employer's last offer on this subject.

WORKERS' COMPENSATION

Currently employees off work due to an injury or illness arising out of and in the course of employment are entitled to receive 100 percent of base weekly earnings for a period of one year. A portion of the wages come from the workers' compensation fund and the remaining portion is provided by the city. Under the union's proposal employees for a period of up to two years would be entitled to the same benefit. The township proposes that the status quo be maintained.

Under the Workers' Compensation Act employees are entitled to 80 percent of after tax average weekly wages. The union maintains there is no justification for the reduction in wages after the first year, and that it's unfair for the employee to bear the economic cost of an on-the-job injury in the second year. For this reason extension of 100 percent reimbursement is appropriate. Furthermore, it notes that the township's risk of incurring greater costs is nominal as there has been no history of a fire fighter off on a work related injury for a period of more than one year.

The panel notes that the current level of benefits available to Canton Township fire fighters is superior to that available to fire fighters in most other communities. In four communities employees do not receive 100 per reimbursement even for the first year while in one other the 100 per reimbursement level as in Canton Township is limited

to the first year only. The Union's proposal seeks to afford fire fighters with the level of benefits available only in Shelby and Ypsilanti Township. Additionally, there is no compelling justification for the change as no bargaining unit employee has ever been off work due to a work related injury for a period longer than one year. Furthermore, if necessary, employees off on leave beyond a one year period, could conceivably utilize their sick leave, 240 days of which are accruable, to cover absences not fully reimbursed by workers' compensation. Given these considerations, the panel adopts the employer's last offer on this subject.

VACATION

The union has proposed that effective January 1, 1996 an additional sixth step be added to the current vacation accrual schedule so that an employee in the fire fighting division (24 hour personnel) who has attained over 20 years of seniority receive an additional two days. Currently a 24 hour fire fighter is granted a maximum of 15 days of vacation leave after he or she has served over 15 years in the department. The township's position is that the status quo be maintained.

The Union has supported its proposal by noting that fire fighters in Royal Oak reach an accrual of 15 vacation days much sooner than fire fighters in Canton Township, and that the addition of two additional days would still result in Canton Township fire fighters receiving fewer days off than available to Royal Oak fire fighters with 20 years of service. While the observation is correct, it is also true that

currently the vacation benefits of Canton's 20 year fire fighters are equal or superior to those provided fire fighters in all other comparable communities. Additionally, the evidence suggests that at current levels, many fire fighters do not utilize available vacation leave. Under the parties' agreement employees have the option of cashing out unused vacation time. In 1994, 27 of 37 bargaining unit employees cashed out part or all of their vacation leave. Given these considerations, the panel adopts the employer's last offer on this issue.

HOURS OF EMPLOYMENT (FIRE SUPPRESSION)

Under Article 11, Section 3 of the parties' agreement, fire fighters in the suppression division work an average of 56 hours per week yielding 2,912 hours worked per year. The union proposes that there should be a reduction in the average scheduled hours worked per week by members of the fire suppression division to 50.4 hours a week. The last offer of the township is to continue the status quo.

The union has noted that fire fighters in three of the seven comparable communities work fewer than the 2,912 hours per year worked by Canton Township fire fighters. At the same time it is also true that in a majority of the comparable communities including Roseville, Shelby Township, West Bloomfield Township and Ypsilanti fire fighters work the same number of hours, 2,912 per year as fire fighters in Canton Township. Furthermore, the union's proposal of 50.4 hours a week will result in Canton Township fire fighters working 2,620.8 hours a year, an amount which is less than that worked by fire fighters in six of the

seven comparable communities. Given these considerations, the comparability data do not support the union's final offer.

In support of its position, the union has also noted the substantially more hours per year that a fire fighter works as compared with a Canton Township police personnel. Yet such comparisons are of limited probative value. Fire fighters unlike police personnel work on a 24 hour system which includes down time. When not responding to runs, fire fighters after 5:00 P.M. may read, watch television and rest. In contrast, police personnel are not compensated for such activities. Given the significant differences in the work day responsibilities of police and fire suppression personnel, the number of hours worked by police personnel provides minimal guidance for determining fire fighters' hours of employment.

Under the union's proposal each bargaining unit member would receive one additional day off per cycle or 13 additional days off per year. At the same time, a large majority of the bargaining unit members already do not use all of their available time off. Thus, the evidence suggests that many bargaining unit members cash in their unused vacation time. This consideration suggests that there is no significant justification for the increased amount of days off sought by the union.

The union has contended that by decreasing the number of hours worked in a 28 day period, the employer would no longer be obliged to pay overtime under the Fair Labor Standards Act. No data has been presented by the union as to the actual amount of economic savings to be enjoyed under its proposal. Furthermore, there is some question as to

whether its proposal would result in lower costs for the township. Fire Chief Rorabacher has testified that by reducing the number of hours worked by fire fighters, the township may be required to call in members to work on an overtime basis or to hire new fire fighters to meet the minimum manning requirement which exists under this contract.

Given all these considerations the panel finds that the weight of the evidence supports the township's retention of the status quo. For this reason the panel will adopt the employer's last offer on this issue.

TOWNSHIP ISSUES

WORKERS' COMPENSATION: COORDINATION OF BENEFITS

The township has proposed to add a new section 5(d) to Article 13 of the contract. Under this provision there would be a new coordination of benefits clause that would provide that all no-fault work loss benefits will be coordinated with workers' compensation benefits. While the union did not object to the coordination of benefits clause, its final offer would provide that only work loss benefits derived from an employer paid insurance policy would be coordinated with workers' compensation benefits. At the hearing the township's Dan Durack testified that its proposed language was intended to encompass only employer provided insurance. Nonetheless the language of its final offer did not articulate this limitation. In its brief the township indicated its willingness to accept the union's last best offer. For this reason the panel will award the union's last best offer on this issue.

EMPLOYEE FITNESS ALLOWANCE

Under the expired contract employees who successfully complete a six part fitness test receive a \$250 bonus. The test is voluntary. In 1994 eight members of the fire bargaining unit attempted to complete the fitness test.

The township has proposed several revisions to the fitness exam. The new exam would consist of only three events, pushups, situps and a two mile run. The union has also proposed that the physical skills test be reduced from six to three events. However, it proposes that the two mile run be changed to a one mile run.

The township notes the proposed test is the same as given to all other township employees including patrol officers. Given that the test is voluntary, there is no substantial basis for treating the fire fighters differently than any other group of employees. On the other hand, the Union maintains that the two mile run is not job related, as it is rare that a fire fighter will have to run a continuous distance of two miles within a specified time period when suppressing a fire.

The panel chairman can appreciate the Union's concern not to impose irrelevant or arbitrary physical requirements on fire fighters. Yet, there is inadequate evidence to support the conclusion that a two mile run is not job related. Mr. Durack noted that fire fighters may have to run two miles during the course of suppressing a fire. Promoting one's running abilities through a voluntary physical fitness program should enhance a fire fighter's physical endurance. Moreover, the panel is concerned that one mile requirement is significantly below the 1.5 mile

run that has been recommended under NFPA standards. (See Legault v. Arusso, 842 F. Supp. 1979, 1994). Given these considerations, the panel adopts the Employer's last offer on this issue.

USE OF PAST RECORD

Under the current agreement the township can take into account those prior infractions which occur within the past 12 months when deciding what disciplinary penalties may be imposed on an employee for a work related infraction. The township proposes to change this provision to allow consideration of written reprimands which occurred within two years of a current infraction and other disciplinary action which occurs within four years of a current infraction. The union has proposed a uniform 24 month standard.

A review of external comparability data provides some support for the employer's proposal. In five other communities there are no limitations on the use of past practice in imposing disciplinary penalties while in Shelby Township the infractions that occurred within a three-year period may be considered. Reviewing internal comparability data shows no clear pattern within Canton Township. For police patrol officers for infractions other than minor there is no time limitation on the employer's use of a past record in imposing disciplinary penalties and police lieutenants and sergeants have a four-year limitation comparable to what is now proposed by the township. On the other hand in the AFSCME and clerical bargaining units there is a two-year limitation on past records of an employee that may be considered by the township when assessing discipline.

In examining both final offers it is important to consider that disciplinary action is rare in the fire department. Additionally, the director of public safety, John Santomauro has acknowledged that he could not recall any situation within the last three years where the employer was unable to put prior infractions into evidence or to bring them up. Consequently, there has been no showing that even the current 12 month limitation has imposed any undue burden on management. Additionally, the panel questions the relevance of short duration suspensions (one day or less) implemented up to four years earlier whose consideration would be possible under the township's last offer. The panel also notes that the township's last offer omits the obligation found in the current agreement requiring the employer to provide to the union a copy of the employee's disciplinary record upon request. This omission could operate to impose serious difficulties for the Union especially under the township's last offer which would afford it the right to consider discipline accumulated over a lengthy time period. Finally, given the absence of disciplinary problems within the department, the Union's willingness to extend to 24 months the period within which previous discipline may be considered should protect management interests. In view of these considerations, the panel adopts the union's position on this issue.

PROMOTIONS

Under the current contract, promotions are made strictly on the basis of seniority. At the same time all fire fighters who are promoted must serve a one-year probationary period before any promotion becomes

final. During this one-year period the probationary officer is subject to formal evaluations every three months which are conducted by the fire chief or other superior officers. At the end of the probationary period or at any time during this period the probationary officer is subject to disqualification by the township. Any disqualified officer can challenge his removal in the grievance procedure.

In its last best offer the township seeks what it calls a "merit promotion policy". Under its offer every fire fighter with a minimum of five years of seniority would be eligible to take a promotional examination for a vacant fire sergeant position. Qualification for promotion will be determined on the basis of a written examination and oral assessments. The top person on the promotional eligibility list would be selected to fill the vacancy. The union proposes retaining the present system without any change.

The employer notes that members of this bargaining unit are the only employees in Canton Township who are still promoted on the basis of seniority rather than merit. Among the external comparables only one, Shelby Township, utilizes the seniority system currently in place in Canton Township. All the other comparables rely in whole or in part on written examinations and oral assessment as the township proposes to do.

This arbitrator has given substantial weight to considerations of internal and external comparability when it has assessed the reasonableness and credibility of the employer and union's last offers on economic issues. With respect to an issue such as seniority and promotions the panel finds that both internal and external

comparabilities do not merit such significant consideration. On economic issues, an examination of comparables helps determine whether fire fighters in one township or community are being reasonably compensated when performing the same kind of activity. Equity in effect underlies the search for comparability. On the other hand the nature of a promotion system raises questions of efficiency and fairness that are best addressed by examining how has the seniority and promotion system has worked within Canton Township.

The employer has cited statements and studies suggesting the inadequacies of a seniority based promotional system. These include observations from a study of the National Fire Prevention Association and a report prepared by Ronald J. Engle, the chief of the Livonia Fire Department. These studies too are of limited probative value because they do not identify specifically the experiences within the Canton Township Fire Department. Thus, for example, the observation "that seniority may tend to push some members into positions beyond their ability with adverse effect to themselves (National Fire Prevention Association, Employer Exhibit 70) has not been demonstrated to have been a problem within Canton Township Fire Department. Moreover the evidence indicates that under the current promotional system command personnel have delivered an excellent level of service to the community. Thus, the Canton Township Fire Department is ranked second among all township departments in terms of the quality of services provided to the community. Director of Public Safety Santomauro has acknowledged that the fire department produces responsible, appropriate, and efficient

command officers.

This is not to deny that some improvement may be warranted. Director Santomauro indicated that the number one priority for command personnel is that they be capable of providing effective leadership. Command personnel should be good communicators, capable of influencing change, able to evaluate themselves critically as well as the organization, and forward looking. Selecting individuals exclusively on the basis of seniority may not result in the selection of individuals who best reflect these qualities.

While this panel can appreciate the concern and interest of the township in allowing merit to be a consideration in the promotional process, the panel finds that the township's last offer is seriously weakened by its failure to address relevant equity considerations. Seniority has been the mechanism by which promotions have been based within the township over at least the last 20 years. As a result, employees have deeply developed expectations concerning their promotional opportunities. As noted by Sergeant Davidson, they know how the seniority system operates, the amount of seniority they possess, and the knowledge to ascertain when they would be promoted to successive positions once vacancies develop. By going to a merit system which essentially ignores seniority, the township proposal operates to eradicate the accrued job expectations of employees.

Furthermore, years of service merit consideration in determining job fitness. As indicated by Sergeant Davidson experience on the job is a critical factor in one's ability to master both fire fighter and

command officer positions. For example, a sergeant will fill in during the time a lieutenant is off on vacation. The years of experience a sergeant has in his or her position in performing such tasks should weigh in favor of a person's ability to be promoted to a higher level position. Furthermore, morale might suffer if considerations of seniority were ignored. Sergeant Davidson expressed concern that a fire fighter would have difficulty following orders of employees who are much junior to them in terms of seniority. Thus, having an employee with only five years of seniority direct fire suppression personnel with 12 and 13 years of seniority may result in situations where fire fighters begin to second guess the directives they receive.

In summary, Canton Township provides a level of superior services to community residents. Its command personnel are successfully performing their job duties. A promotional system based in part on merit might enable the township to select command officers with better leadership abilities. Yet, the township's last offer does not merit acceptance because its basic rejection of seniority as an element in the selection process eradicates the accrued job expectations of employees and may well create serious problems of morale within the organization. For these reasons the panel will adopt the union's last offer on this issue.

FAMILY AND MEDICAL LEAVE POLICY

The township proposes to add the following language as Article 18 new section 7:

An employee who receives leave under the Family and Medical Leave

Act (FMLA) shall be covered by the township's then existing FMLA policy in addition to all other relevant sections of this contract.

The township's proposal seeks to implement in the fire fighters bargaining unit the same policy that exists for all other township employees. The union's proposal modifies the township's policy in several key areas. Under the union's provision the township would be required to make employee pension contribution to the fire fighter's defined contribution plan as if the employees were working during the time employees were on leave pursuant to the Family Leave Act policy. Additionally, under the union's proposal the employer would not be able to require employees to substitute their accumulated compensatory time for leaves taken under the Family Medical and Leave Act. Finally, under the union's proposal fire fighters would not be required to satisfy any notice and certification of illness requirements when taking paid leave.

Considerations of internal comparability strongly support the employer's position. Thus, all other township employees including the patrol and command bargaining units are treated alike for purposes of family and medical leave. Uniformity in the administration of benefits and requirements will promote administrative efficiency in the township's implementation of its statutory requirement under the Family Medical and Leave Act.

According to the union the primary reason the township's proposal should be rejected is that it grants the township the authority to unilaterally alter the terms under which the FMLA leave may be taken. The township proposed contract amendment provides that an employee who

receives leave under the FMLA "shall be covered by the township's then existing FMLA policy". According to the union in order to change the terms that govern FMLA leave, the township need only unilaterally adopt a new FMLA policy.

The panel finds little if any basis for the union's concern. The language in the township's proposal that fire fighters receive leave under the Family Medical Leave Act in accordance with the township's "then existing FMLA policy" only reflects the township's intent to provide fire fighters with the same benefits it currently provides other employees. Nothing in the language suggests a desire or the authority to unilaterally change the policy. Once a family medical leave policy has been adopted by this panel, it becomes part of the collective bargaining agreement and it cannot be subject to unilateral change.

Moreover the panel finds the union's last offer less acceptable because it seeks additional benefits for fire fighters not available to any other employee in the unit. Moreover there is inadequate support for the nature of some of the benefits sought. For example, the union seeks to require the township to provide pension contributions during the period employees are on unpaid leave. Pension benefits are typically viewed as a deferred wage to be received by employees for having worked. As a result, the panel finds no justification for requiring the payment of these pension benefits during periods of unpaid leave.

The union's proposal is also less acceptable because it would eliminate all notice and certification requirements under the Family

Medical and Leave Act. The purpose of such notice is to give the employer the opportunity to adjust working schedules to ensure that when an individual is off work the employer can make necessary accommodations. Additionally, certification is designed to ensure that individuals do not abuse their leave entitlements. These appropriate administrative safeguards would be eliminated under the union's last offer.

Finally, according to the union the Family Medical Leave Act does not permit the employer to require the substitution of accumulated compensatory time. Yet the panel's review of the provisions cited by the Union under the FMLA and FLSA reveal no statutory barrier to the requirement that employees use compensatory time off before taking unpaid leave. Moreover, compensatory time under the FLSA is time off at a rate of one and a half hours for each hour of employment worked overtime and is received in lieu of overtime compensation. To this panel, the application of compensatory time off for either vacation or medical leave is as equally valid usage of this benefit.

Given all these considerations the panel adopts the township's last offer on this issue.

AWARD

The panel chairman's decisions and votes of the delegates on the issues are as follows:

Union Issues

Issue 1: Wages July 1, 1994 through June 30, 1995.

Effective July 1, 1994, the employees shall receive a 3 percent wage increase.

Township ATB Agree

Township _____ Disagree

Union _____ Agree

Union RPA Disagree

Issue 2: Wages July 1, 1995 through June 30, 1996.

Effective July 1, 1995, the employees shall receive a 3 percent wage increase.

Township ATB Agree

Township _____ Disagree

Union _____ Agree

Union RPA Disagree

Issue 3: Wages July 1, 1996 through June 30, 1997.

Effective July 1, 1996, employees shall receive a 3 percent wage increase.

Township ATB Agree

Township _____ Disagree

Union RPA Agree

Union _____ Disagree

Issue 4: Two tier wage structure.

The panel sustains the status quo by rejecting the two tier wage structure.

Township ~~ATB~~ Agree

Township ATB Disagree

Union RPA Agree

Union _____ Disagree

Issue 5: Parity

The panel affirms the status quo by rejecting the requirement for wage parity between police and fire command personnel.

Township ATB Agree

Township _____ Disagree

Union _____ Agree

Union RPA Disagree

Issue 6: EMT Allowance

Effective July 1, 1995 the EMT premium will be increased to \$600.

Township ATB Agree

Township _____ Disagree

Union _____ Agree

Union ~~ADA~~ Disagree

Issue 7: Longevity.

Effective 7/1/95, longevity pay will be paid in accordance with the following schedule:

At three (3) years of service:	1% of base salary
At five (5) years of service:	2% of base salary
At ten (10) years of service:	4% of base salary
At fifteen (15) years of service:	6% of base salary
At twenty (20) years of service:	8% of base salary

Employees hired after 7-1-95 shall receive longevity pay in accordance with the following schedule:

At five (5) years of service:	2% of base salary
At ten (10) years of service:	4% of base salary
At fifteen (15) years of service:	6% of base salary
At twenty (20) years of service:	8% of base salary

Longevity pay will be paid the last pay of November.

Township _____ Agree

Township ADB Disagree

Union ~~ADA~~ Agree

Union _____ Disagree

Issue 8: Age and service requirements for receipt of full health insurance benefits.

Fire fighters who have attained the age of 55 and who have a minimum of 15 years of service are eligible at retirement to receive full health benefits.

Township ADB Agree

Township _____ Disagree

Union _____ Agree

Union ~~ADA~~ Disagree

Issue 9: Dental/Orthodontics Active Employees

The Employer will provide a 60/40 dental plan with a \$1,000 per year maximum per person, with 50-50 orthodontic coverage with a \$1,000 lifetime maximum. The Employer reserve the right to select the insurance carrier including self-insurance. The Employer shall pay for only one dental insurance coverage per family.

An employee, after verifying to the Employer that he is covered by dental insurance through his spouse, may elect not to participate

in the dental insurance plan currently offered to employees in the bargaining unit.

1. In such event, those employees who elect not to participate in such plan shall be paid a sum of one hundred twenty dollars (\$120.00) annually which shall be paid in equal monthly amounts.
2. If an employee elects not to participate in the dental insurance plan, he will be allowed to re-enter the plan until the regular scheduled enrollment period. However, if an employee loses dental insurance coverage through his spouse, the employee will be allowed to re-enter the dental insurance plan offered by the Employer on the first day of the succeeding month after verifying said loss of coverage to the Employer.

Township AOB Agree

Township _____ Disagree

Union _____ Agree

Union PPA Disagree

Issue 10: Dental/Orthodontics - Retirees

The status quo will be maintained.

Township AOB Agree

Township _____ Disagree

Union _____ Agree

Union PPA Disagree

Issue 11: Optical Insurance - Active Employees

Effective January 1, 1996 the Employer will reimburse employees up to \$80 for an examination, up to \$120 for corrective lenses or up to \$200 for an examination and accompanying corrective lenses for each eligible person.

Township _____ Agree

Township AOB Disagree

Union PPA Agree

Union _____ Disagree

Issue 12: Optical - Retirees

The status quo will be maintained.

Township AOB Agree

Township _____ Disagree

Union _____ Agree

Union PPA Disagree

Issue 13: Workers' Compensation

The status quo will be maintained.

Township ATB Agree

Township _____ Disagree

Union _____ Agree

Union PPA Disagree

Issue 14: Vacation

The status quo will be maintained.

Township ATB Agree

Township _____ Disagree

Union _____ Agree

Union PPA Disagree

Issue 15: Hours of Employment

The 56 hour work week will be maintained.

Township ATB Agree

Township _____ Disagree

Union _____ Agree

Union PPA Disagree

Township Issues

Issue 1: Workers' Compensation: Coordination of Benefits

Effective 7-1-95 no employee shall receive more than 100% of his base salary while on a leave of absence due to duty related disability. In the event an injured employee becomes entitled to no fault work loss benefits through an Employer paid policy and workers' compensation benefits, the benefits will be coordinated and the Township's obligation to supplement wage loss benefits under this Article will be limited to bringing the employee to his regular base wage rate.

Township ATB Agree

Township _____ Disagree

Union PPA Agree

Union _____ Disagree

Issue 2: Employee Fitness Program

The physical fitness test shall consist of three events: pushups with a 3 minute time limit, situps with a 2 minute time limit, and a 2 mile run within a specified time period.

Township ATB Agree

Township _____ Disagree

Union _____ Agree

Union RPA Disagree

Issue 3: Use of Past Record

Effective 7-1-95 in imposing a disciplinary penalty on a current charge, the Employer will not take into account any prior infractions which occurred more than twenty-four (24) months previously. (Upon request of the Union, the Employer shall supply a copy of the employee's disciplinary record.)

Township RPA Agree

Township AOB Disagree

Union RPA Agree

Union _____ Disagree

Issue 4: Promotions

The status quo will be maintained.

Township ~~AOB~~ Agree

Township AOB Disagree

Union RPA Agree

Union _____ Disagree

Issue 5: Family or Medical Leave Policy

An employee who receives leave under the Family and Medical Leave Act (FMLA) shall be covered by the Township's existing FMLA Policy in addition to other relevant sections of this contract.

Township AOB Agree

Township _____ Disagree

Union _____ Agree

Union RPA Disagree

October 20, 1995

Benjamin Wolkinson
Benjamin Wolkinson
Act 312 Chairman