STATE OF MICHIGAN

DEPARTMENT OF LABOR

EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF STATUTORY ARBITRATION
BETWEEN:

CITY OF CENTERLINE

-and-

LOCAL 1277 and 1917, COUNCIL 23,
AFSCME, AFL-CIO

O P I N I O N

PANEL MEMBERS:

CHAIRMAN: Mario Chiesa

EMPLOYER DELEGATE: Peter J. Tranchida

UNION DELEGATE: Robert C. Wines

Submitted:

February ____, 1977

INTRODUCTION

Throughout this Opinion the City of Centerline shall be referred to as the City, while Local 1277 and 1917, Council 23, AFSCME, AFL-CIO shall be referred to as the Union.

In order to conserve time, energy and expense, the parties have agreed that both units shall be, for the purposes of this hearing, treated as one party. Thus, it was not necessary to hold a separate hearing for each unit.

APPEARANCES

FOR THE CITY

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FOR THE UNION

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HISTORY

This Opinion is the culmination of an extremely extensive arbitration process in which this panel became involved on July 13, 1976.

The previous Collective Bargaining Agreement had a duration of two years and was to terminate on June 30, 1976. Negotiations aimed at arriving at a new Collective Bargaining Agreement commenced in December of 1975, or if the City's statement is accepted, on or about January 12, 1976. On or about April 14, 1976, the Union requested mediation, pursuant to the applicable statute. On May 26, 1976, the parties had yet to reach an agreement and the Union filed a request for compulsory binding arbitration, pursuant to 312 PA 1969, as amended.

On June 14, 1976, the City Manager notified three patrolmen that they would be laid off due to economic reasons and would be recalled as soon as the financial position of the City allowed. The layoffs were to take effect July 8, 1976. On or about June 28, 1976, the Union filed an action in the Macomb County Circuit Court seeking to enjoin the proposed layoffs. The Honorable Frank Jeannette issued an Order and Judgment of Preliminary Injunction in which it was determined that although the contract was officially terminated on June 30, 1976, the City was enjoined from laying off any police officers until August 5, 1976 and that this arbitration panel had jurisdiction to entertain the dispute. On July 6, 1976, the City informed the police that it would not pay the uniform allowance and shift differential that was provided for in the prior Collective Bargaining Agreement.

The Chairman of the arbitration panel was duly notified and the parties appointed their respective delegates. An informal pre-hearing conference was held on Tuesday, July 13, 1976, with testimony being taken on Friday, July 23, 1976, and on Thursday, July 29, 1976. The hearing was held at the Centerline City Hall.

Pursuant to the Court Order, the panel was clothed with the responsibility of making many initial decisions. First, the Court ordered that the panel should decide "whether the layoffs announced on June 14, 1976, were justifiable under Public Act 312 of the Laws of 1969, MCLA 423.231, et seq., as well as other disputes already in the arbitration process."

In an opinion issued August 12, 1976, this panel determined, inter alia, that the layoffs were improper and prohibited by MCL 423.243, MSA 17.455(43). Also, this panel ruled that the City's withholding of the shift differential and clothing

allowance payments, which should have been made on July 1, 1976, was not allowed in light of the previously mentioned statute.

The hearing was continued on August 19, 1976, August 20, 1976, September 3, 1976, September 17, 1976, September 29, 1976, and October 8, 1976. During the hearings that took place on the aforementioned dates, it became necessary for the panel to take evidence regarding which issues were properly before it and to make such a determination. Further, the panel was also presented with the proposition of implementing a gag rule in order to prevent statements from being made to the press. The panel declined to implement a gag rule and on November 5, 1976, rendered its opinion regarding the issues to be arbitrated. That opinion was formally accepted on the record on November 18, 1976, the next scheduled hearing date. Starting with November 18, 1976 and continuing to November 19, 1976 and December 14, 1976, the panel received evidence regarding the interest portion of this dispute.

The Executive Meeting was held on January 3, 1977. This opinion is being rendered within the time limits agreed to in the record.

ISSUES

Before the list of issues is stated, it is necessary to re-construct the process that was used to arrive at the issues that were litigated.

On August 19, 1976, the Union introduced Union Exhibit 10. It was entitled "Proposals by the Union" and listed the following as Union proposals: wages, rank differential, vacations, holidays, shift differential, uniform allowance, and a statement which said: "No change in contract language." The

City agreed that Union's Exhibit 10 contained some of the issues that were to be litigated. On September 17, 1976, the City introduced City Exhibit I, the proposed patrolmen's contract, and City Exhibit J, the proposed staff officers' contract. The City stated that Exhibits I and J contain its proposals. Subsequently, the Union objected to a number of the proposals that were contained in City Exhibits I and J on the basis that they were never the subject of negotiations and, thus, not properly before the panel. As to other proposals contained in the two exhibits, the Union accepted same. As a result of the objections, this panel was forced to take evidence regarding the arbitrability of the issues that were raised. The City stated that since the contract was terminated, its position was that every provision in that contract was now an issue. The panel disagreed with that proposition. Further, the City took the position that the Union could not accept certain provisions in Exhibits I and J without accepting the entire proposals. The panel again rejected the City's contention. The Michigan Statute, quite unlike the Wisconsin Statute, mandates that the arbitration panel decide each issue rather than accept the total package of one or the other party. This being the case, the panel decided that because of the Union's acceptance, certain issues were settled.

After taking testimony, the panel rendered a written opinion on November 5, 1976, which stated the issues that would be litigated. The opinion also stated that except for those issues which the panel would decide, and the issues of recall procedure, supervisors doing bargaining unit work, management's rights, no strike, no lock out, and physical examination, which the panel ruled the status quo must be maintained, the panel ordered that all other provisions of the new Collective Bargaining Agreements

shall be as stated in City Exhibits I and J.

As the result of the opinion rendered on November 5, 1976, the panel ordered that the following issues would be heard: wages - economic, rank differential - economic, vacations - economic, holidays - economic, hospitalization, medical and dental - economic, shift differential - economic, uniform allowance - economic, life insurance - economic, overtime rate - economic, longevity pay - economic, funeral leave - economic, false arrest insurance - economic, educational incentive - economic, layoffs - non-economic, grievance - non-economic.

For reasons that will be contained in the specific discussion of retroactivity, retroactivity was also deemed to be an issue in this litigation.

COMPARABLES

The statute in question, MCL 423.239, MSA 17.455(39), states that the arbitration panel shall base its findings, opinions and orders upon certain factors. One of the factors is clearly stated in sub-section (d) of that statute. The language contained in sub-section (d) states:

> "Comparison of the 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 and with other employees generally:
>
> (i) In public employment in comparable communities.
>
> (ii) In private employment in comparable communities."

The language clearly indicates that the panel must look to the wages, hours and conditions of employment of employees working both in the public sector and private sector in comparable communities.

Union Exhibit 19 is the list of communities from which the Union has extracted data regarding wage rates, rank differentials,

vacation data, holidays, shift premium, combined clothing and cleaning, overtime pay, and longevity pay. The document also sets forth the population, size in square miles, and size of department for each of the 56 cities listed therein. The Union maintains that the cities contained in Union Exhibit 19 are in fact comparable to the City of Centerline and should be considered. The Union states that while any one city may not be comparable to the City of Centerline in one or more of the categories listed, nevertheless, the cities should be considered because they are in the Detroit Metropolitan Area and further, because they set standards for the Departments in this area.

The City has introduced its Exhibit D, which it maintains contains the list of cities which should be considered comparable to Centerline for the purposes of this litigation. The City maintains that its list of cities are indeed comparable because they fall within a set of limitations that were established and imposed in selecting the 17 cities offered as comparables. The limitations that were used are as follows:

1. Cities with populations between 5,000 and 20,000 plus.

2. Cities with total square miles from 1.0 to 6.7.

3. Only cities in the Detroit Tri-County Area were considered.

4. Cities with public safety officers were excluded.

5. Total police personnel includes sworn officers, civilians and chief executives (full-time).

6. Cities by patrolmen salary, by sargeant salary, and by lieutenant salary.

Union Exhibit 19 states that the City of Centerline has a population of 10,379, occupies an area of 1.75 square miles and has a department of 20 personnel. City Exhibit D states that

Centerline has a population of 10,200, occupies an area of 1.7 square miles and has a department comprised of 23 personnel. The differences between the figures relating to Centerline and contained in each exhibit is insignificant. It should be noted that perhaps the difference between the size of department figures may be due to the city including civilians and chief executives within its manpower count.

While the statute indicates that the panel must use, as one of the bases of its opinion, the wages, hours and other conditions of employment that exist in comparable communities, the statute does not state what makes a community comparable to the one involved in the litigation. However, the elements that develop comparability are so numerous and in certain cases varying, that it is understandable that the legislature would leave those determinations to the panel. In the past, parties have offered numerous items which they have contended must be analyzed in determining comparability. It has been suggested that population, size in square miles, state equalized valuation, total revenue, proximity, work load, mix of industrial, commercial and residential tax payers, crime rate, size of department, whether a department is organized, along with numerous other items should be considered in determining comparable communities. Nevertheless, the Chairman has never been involved in an arbitration where the parties have offered evidence regarding each of the above items in order to establish the comparables involved. Thus, it becomes necessary to examine the areas that have been offered by the respective parties and from those determine which communities shall be deemed comparable for the purposes of the hearing.

In examining Union Exhibit 19, the panel agrees that the items of population, size in square miles and size of department are three elements that must be considered in determining whether

a community should be considered comparable to Centerline. However, the panel cannot agree that all 56 communities listed in Union Exhibit 19 are comparable to the City of Centerline. For instance, the exhibit shows that the City of Detroit has a population of over 1.5 million. It would be hard to conclude that on the basis of population Detroit is comparable to the City of Centerline, which has a population of just over 10,000. Nor can it be concluded that on the basis of size, the City of Detroit is comparable to the City of Centerline. According to Union Exhibit 19, the City of Detroit occupies an area of 132 square miles, while the City of Centerline occupies an area of 1.75 square miles. Again, the City of Detroit has a department which is comprised of approximately 5,600 individuals. The City of Centerline has a department, according to Union Exhibit 19, which contains 20 personnel. While it may be true that Detroit is a bench-mark community that should be looked to because it sets the wage standard in this area, by no stretch of the imagination can Detroit be considered comparable to the City of Centerline. A further examination of Union Exhibit 19 indicates that there are a number of communities listed therein which cannot be considered comparable to the City of Centerline for the same reasons that have eliminated the City of Detroit as a comparable.

City Exhibit D lists the communities, inter alia, which the City maintains are comparable to Centerline. In arriving at the list, the City has used the previously stated criteria. In examining the list of comparables submitted by the City, the only real questions that arise concern the City of New Baltimore and the Village of Wolverine Lake. New Baltimore has 5 personnel in the police department, while Centerline has 23.

New Baltimore has two patrolmen, while Centerline has eight. Centerline has four sargeants and New Baltimore has none. Lastly, Centerline has two lieutenants and Baltimore has one lieutenant. In addition, Centerline has five corporals and it is unknown whether New Baltimore has any corporals. Thus, it is questionable whether New Baltimore is comparable to the City of Centerline, at least in the area of department size. The Village of Wolverine Lake is also in question. City Exhibit D shows that according to the 1975 Uniform Crime Report Index, the City of Centerline had nine times the number of crimes that were reported in the document than did the Village of Wolverine Lake. When this data is considered, along with the data regarding department size, it is apparent that the work load in Wolverine Lake is much lighter than the work load in the City of Centerline. Therefore, it is extremely questionable whether the Village of Wolverine Lake should be considered comparable to the City of Centerline for the purposes of this hearing.

After analyzing all the evidence, it becomes apparent that all the cities listed in City Exhibit D, with the exception of New Baltimore and the Village of Wolverine Lake, should be considered as comparable to the City of Centerline, for the purposes of this hearing. It should be noted, that the majority of the communities that are listed in City Exhibit D are also listed in Union Exhibit 19. The only exception to that statement are the communities of Rochester, Woodhaven, Melvindale, Riverview, River Rouge and Ecorse. The testimony shows that the City Manager at the City of Centerline suggested that Lathrup Village and Utica, as listed on Union Exhibit 19, were also comparable to the City of Centerline and, thus, should be included in the list of comparables. However, Lathrup Village and Utica must be excluded for the same reasons that New Baltimore and Wolverine Lake were excluded. A further

examination of Union Exhibit 19 indicates that Hazel Park should be included in the list of comparables. Its population is negligably higher than that set in the City's standards, but its area and size of department are within the patterns established by the comparable communities listed in City Exhibit D. Thus, the communities that will be considered comparable for the purposes of this hearing are as follows: Berkley, Clawson, Flat Rock, Grosse Pointe, Grosse Pointe Farms, Grosse Pointe Park, Harper Woods, Hazel Park, Mount Clemens, Plymouth, Rochester, Woodhaven, Melvindale, Riverview, River Rouge, and Ecorse.

There are a few guidelines that the panel will use in analyzing the data that is presented by the evidence. First, when trying to detemine the wage rate for 1976-1977, only those figures that reflect a 1976-1977 wage rate will be used. This would exclude all data from a comparable that is in negotiations, or where it is known that the figure presented represents a previous contract rate that is no longer relevant in 1976-1977. This is not to say that the previous contract rate is not relevant to other issues. It is always helpful to have previous pay rates in order to ascertain the pattern of increases that have evolved over periods of time. Further, when confronting the question of retroactivity, it is helpful to know prior rates. Further, many of the communities used as comparables have contract terms which do not coincide with the contract terms used in the City of Centerline. This must be kept in mind when analyzing the evidence. For instance, if any given city has a contract which begins on January 1 and ends on December 31, it is apparent that the data or wage contained in that contract

must be analyzed in light of the fact that the Collective Bargaining Agreement between the herein parties begins on July 1 and ends on June 30.

ABILITY TO PAY

The statute mandates that one of the elements that must be considered is the financial ability of the unit of government to meet the costs involved. Specifically, sub-section (c) of MCL 423.239, MSA 17.455(39), states:

> "(c) The interest and welfare of the public and the financial ability of the unit of government to meet those costs."

In the instant hearing, the City maintains that the most important consideration is its financial condition. The City states that it is in a perilous economic situation and cannot afford the demands placed upon it by the Union and in fact must seek cut-backs in a number of areas.

The vast majority of the evidence regarding ability to pay was introduced through the testimony of Mr. John Crawford, the City Manager for the City of Centerline. Mr. Crawford spent a substantial amount of time giving testimony and explaining exhibits regarding the City's financial condition. In order to accurately discuss this area, it is necessary to summarize herein the substance of Mr. Crawford's testimony. It is as follows:

> Mr. Crawford started his testimony by identifying City Exhibits A, B and C and stating that those exhibits were copies of letters that were sent to three patrolmen on the Centerline Police Department. Mr. Crawford indicated that the purpose of the letters were to inform the patrolmen that they were going to be laid off as of July 8, 1976 because of economic reasons. Mr. Crawford testified that this was necessary because the general fund budget of the City, as approved by the City Council, did not contain sufficient revenues to maintain the pre-layoff department size. Because of the Court Order and the subsequent opinion rendered by this panel, the layoffs were not realized. Mr. Crawford

stated that this constituted an extraordinary drain from the police budget for the current fiscal year. In fact, he stated that the City was running approximately $2,885 per pay period over budget, and that it was anticipated that by approximately May 1, the entire police budget would be exhausted. He further stated that the police budget was to continue until June 30, 1977. He indicates that the budget will be exhausted by May 1, simply by maintaining the status quo without any increase in benefits whatsoever.

Mr. Crawford also explained City Exhibit E. The exhibit contains a wealth of data regarding the approved budget, the portion of the approved budget that is applicable to the Union's contingency fund and a number of other items. The exhibit shows that the total budget available for organized personnel in the Police Department amounts to $453,269.00. The exhibit also shows that if the Union's offer, as known by the City at the time the exhibit was prepared, were accepted, the City would be forced to spend $60,633.00 more than the amount budgeted for organized personnel in the Department.

In explaining City Exhibit F, Mr. Crawford stated that the exhibit shows a comparative analysis of the work effort as compared to the work cost of the per hour basis. The cost contained therein included both direct compensation and fringe benefits for the members of the Police Department. The comparison stated is between the 1976-1977 City budget, and the Union's last on-record demand. The exhibit indicates that per the City budget and based on a 2,080 hour work year, the cost per hour per four year patrolman would be $11.44. The exhibit further shows that if the calculations were based on the actual 1,800 hour work year, the cost per the City's 1976-1977 budget would be $13.22 per hour for a four year patrolman. The exhibit goes on to show that if the calculations were based on the Union's last on-record demand, the cost based on a 2,080 work year would be $12.24 per four year patrolman and $14.14 per four year patrolman if the cost were based on the actual 1,800 hour work year.

Mr. Crawford went on to explain City Exhibit G stating that it was a report regarding the Police Department salary account. He stated that the conclusion that could be drawn from the report indicated that the City was running approximately $2,885.00 per pay period over the budget approved by the City Council. He indicated

that on January 1, 1977, thru June 30, 1977, that it would be necessary to lay off seven police officers in the Department in order to keep within the budget approved by the Council. He indicated that City Exhibit G does not take into account any of the proposals submitted by either party, but merely reflects a continuation of the status quo.

Mr. Crawford explained that City Exhibit H was a copy of the Charter for the City of Centerline. He indicated that the Charter limits operating millage to 15 mills and that currently the City is levying at that 15 mill limitation. He indicated that while operating at the 15 mill limitation, the City is also levying additional millage as allowed for the purposes of trash removal. Mr. Crawford indicated that certain personnel were transferred from one department to the Solid Waste Department and, thus, the millage levied for trash removal was in effect paying for some of the operating costs incurred by the City. He further indicated that it is impossible to raise other revenues by taxation for the operation of the current fiscal budget.

On cross-examination, Mr. Crawford indicated that the amount of money allocated for salaries in the police budget for 1976-1977 was less than the amount allocated in the 1975-1976 budget. He indicated that the reduction could be approximately $40,000.00. Further, Mr. Crawford stated that the total amount budgeted to Fire Department salaries increased in 1976-1977 as compared to 1975-1976. Further, he testified that the budget for salaries in the City Assessor's Office was larger in 1976-1977 than it was in 1975-1976. He further stated that both the Fire Department and the Assessor's Office were contained within the general fund budget. Further, he stated that the total amount appropriated for salaries in the Recreation Department increased in 1976-1977 from that budgeted in 1975-1976.

Mr. Crawford did state that Congress has passed a revenue sharing bill which provides approximately one hundred thousand dollars for the City of Centerline. He indicates that the bill is a promise and that he does not know whether the President will allow that money to be appropriated as stated in the bill. He also indicated that the City had considered borrowing money in order to maintain services and that it had no contingency accounts and was in fact running at a deficit.

When again questioned by the City's attorney, Mr. Crawford stated that there was an overall decrease in the current fiscal period budget for all departments. He stated that this was necessary because there was an overall decrease in the anticipated revenues. The reason for the decrease

in anticipated revenues was stated as such:

> "We were compelled to reduce the level of assessments in the City by approximately three million dollars or more, and in addition thereto, we were compelled to Act 242 of 1976, I believe, or 1975 -- I am not certain which -- to give back any revenues that we might obtain through an increase in state equalized evaluation."

He stated that in addition to the above, the City did not receive approximately one hundred thousand dollars in general revenue sharing money that it had anticipated. He indicated that the average homeowner was paying more taxes this year. However, the City lost revenue because the City's evaluation is made up approximately 71% industrial and thus the greatest bulk of tax dollars are paid by industry. He stated that consequently when there is a reduction of valuation, the residents don't receive any lower property taxes. Further, Mr. Crawford indicated that to his knowledge the only way that the City could exceed the 15 mill limitation would be to ask for a charter revision. He stated that this would have to be in the form of a referendum to ask the citizens to consider a charter revision appointment. However, he stated that because of the state constitutional limitations, he didn't think that could be done. Further, he stated that the only other way revenues could be increased would be through the levy of an income tax or some other form of tax, but not through the advalorem property tax. However, on December 14, 1976, Mr. Crawford testified that the City recently received $25,000.00 in anti-recessionary funds. He further stated that the City anticipates additional funds, but the amount cannot be determined.

DISCUSSION:

The evidence clearly shows that the financial condition of the City, to the extent that it is reflected in the police budget, is extremely tenuous. The evidence has convinced the Chairman that the police budget reflects dire economic problems. While the evidence is not as clear or as voluminous, the record does indicate that the general operating aspects of the City's financial picture are also a source of grave concern.

However, the evidence further indicates that there is an expectation of $100,000.00 in additional revenue that should be received via recent federal legislation. While there is no

guarantee, the probability is that the money will be received.

Also, while the testimony shows that other departments have been forced to accept financial cutbacks, there is no indication that the City has cut manpower in any other areas, or has reduced the services that it is rendering to the public. These considerations are important, for it would be totally inequitable to demand that this union and this union alone absorb the reductions that may be necessary in order to protect the City's financial state. Thus, it is necessary to carefully scrutinize the evidence before the persuasive power thereof be judged. In making that determination, it is necessary to scrutinize the position that other boards and panels have taken in these matters. For instance, in the City of Detroit and Detroit Firefighters Association, compulsory arbitration arising pursuant to Act 312, Michigan Public Acts of 1969, (1970), Harry H. Platt, Chairman, the opinion contained the following:

> "Apart from the financial data that has been presented, what adds great credence to the City's claim of inability to pay the amount of increase requested by the Association and to give that factor considerable weight is the testimony of City witnesses regarding several steps which have already been taken by the City Administration in the direction of cutting operation costs. These steps provide that the City does unquestionably believe that the existing fiscal situation is indeed desperate. They must be viewed as previews of further actions of comparable severity if costs of operation do increase.
>
> "For example, City witnesses testified that the current financial condition has prevented the filling of many budget positions, including those in essential service areas. Subsequent published figures update this testimony and disclose that there were in mid-November some $2,365 unfilled positions on the City's tax supported payroll. This figure we believe is directly translatable into discontinued and reduced municipal services to the citizens of Detroit.
>
> "Even more indicative of the validity of the City's claim is the information which it has presented relative to layoffs. There is evidence that some

> 539 City employees have been laid off from their jobs in recent months solely for budgetary reasons and that the City has not as yet been able to recall most of them or to place them in other positions.
>
> "Perhaps most important, evidence was offered that the layoff of some 329 City employees was announced on July 2, 1970, in an effort to reduce costs and that an additional 214 employees were similarly dropped from the payroll following an announcement on July 30."

Further on that opinion, the following was stated:

> "The implication of this testimony was that the cost of meeting firefighters' demands was translatable in terms of additional layoffs in reductions in municipal services. City witnesses held no hope that additional impositions on the budget could be borne without this type of response. It is these substantial reductions in services and the layoff of employees which convinces this Board that the City's ability to meet the costs of the fire fighters demands is indeed limited. We know of no other community in which the effort to cut costs has been nearly so drastic. Having taken these steps, the City's leadership has demonstrated to our satisfaction that it does consider its fiscal condition to be most precarious and that it does not see the possibility of acquiring additional funds as a solution to its dilemmas."

Yet, the Board in the above mentioned case, ordered that the City continue to pay parity between the police and fire services, although it did delay the firefighters' parity relationship for a period of six months.

Further, the following appeared in the Detroit Police Officers Association and City of Detroit, findings and recommendations and unresolved economic and other issues (February 27, 1968):

> "We may take it as clearly established that, as matters now stand, Detroit lacks the ability to pay higher wages to any substantial group of City employees in the next and ensuing fiscal years without enlarging its prospective deficits. In the long run, how much weight should be given the ability to pay factor in wage determination for municipal employees? Judge Leonard provided us with an answer from his own extensive background and thinking, as follows:

"'Generally speaking, favorable consideration for pay increases for municipal employees is often rejected by the City on the grounds that it is unable to pay. This is rather an illogical position to assume. A city would not suggest to a private contractor that they reduce the pay to employees performing work under the contract because the city is not in a position to pay the higher rate, nor would the city suggest that discounts be provided for commodities to be purchased by the city on the ground that they could not meet a fairly established price. Neither should the temporary financial position of the city be a controlling factor, as there are means of leveling off obligations, or providing for additional revenue. In the last analysis, the city should be a fair and model employer. This, of course, does not suggest that city employees be paid substantially more than outside employees performing the same general type of service, as this would be an unjustified gratuity that the taxpayer should not be expected to provide.'"

Further on in that opinion, the following was stated:

"As we read the record now before us, the wages of the Detroit police force have been lagging below the levels called for by the labor market for a number of years. The comparison with wage levels in the Michigan State Police, set forth at some length above, illustrates the point. This lag has tended to grow larger, now smaller, during the past decade. The lag has now contributed to the development of a manpower crisis in the Detroit Police Department. In these circumstances, continued reliance on inability to pay the salary levels that are clearly justified is not only unfair to the men and women directly affected; it is also a clear and present danger to the welfare of the community. The first order of business must be the adjustment in police salaries that is now urgently required. The second order of business must be to make those budgetary adjustments that are necessary, including the seeking of new revenue sources."

In rendering the awards that are contained herein, this panel has carefully considered the City of Centerline's ability to pay. However, it must be kept in mind that the element of ability to pay does not, in of itself, warrant consideration in excess of that amount of consideration that is given the other elements as they are listed in the statute.

In each of the awards contained herein, the panel has considered the element of ability to pay and where necessary has commented specifically thereon.

ISSUE: WAGES - ECONOMIC

LAST OFFERS OF SETTLEMENT:

In this section the panel will concern itself with patrolmen's wages. Since the command unit's compensation is based on a rank differential, it will be handled separately in the next section.

The prior Collective Bargaining Agreement and the current payment schedule in force appears as follows:

July 1, 1975 to June 30, 1976

Start	1 Year	2 Years	3 Years*	4 Years
11,557	13,078	13,741	14,430	15,171

The Union's last offer of settlement proposes a 7.5% wage increase at all levels of experience. Thus, the Union's offer would appear as such:

July 1, 1976 to June 30, 1977

Start	1 Year	2 Years	3 Years	4 Years
12,424	14,059	14,772	15,512	16,309

The City's last offer of settlement proposes a 5% wage increase at all levels of experience. The City's offer appears as such:

? to June 30, 1977

Start	1 Year	2 Years	3 Years	4 Years
12,135	13,732	14,428	15,152	15,930

EVIDENCE AND DISCUSSION:

Together, Union Exhibits 13 and 14 purport to be the current Collective Bargaining Agreement that exists between the City of Centerline and the International Association of Firefighters, Local 1587. It is interesting to note that the City and the Firefighters entered into a letter of agreement dated June 30, 1976, indicating that in consideration of the bargaining unit accepting the City's offer of 5% wage increase, the City pledges

that it shall institute a no layoff policy within the firefighter bargaining unit for the period commencing July 1, 1976 through June 30, 1977. However, when examining 13 and 14 together, it appears that the firefighters have received a wage increase of approximately 7.7% rather than the 5% that is stated in the June 30, 1976 letter of agreement. According to Union Exhibit 14, the maximum wage for a fireman receiving the top rate was $14,794. However, Union Exhibit 13 shows that the maximum wage paid to a fireman from July 1, 1976 through June 30, 1977 is $15,938. The increase calculates to 7.7%. Apparently the document contradicts itself, for even though the letter of agreement states a 5% wage increase, the signed agreement lists a 7.7% wage increase.

Union Exhibit 18 lists the cost of living increases from July, 1972 through and including September, 1976. Both the Detroit and the All Cities Index are used and the year 1967 equals 100. The exhibit appears as such:

Cost of Living Increases

	All Cities	Detroit
July 1972	125.5	126.7
July 1973	132.7	133.8
July 1974	148.0	149.4
July 1975	162.3	160.8
July 1976	171.1	169.2
Sept. 1976	172.6	171.3

Source: U.S. Department of Labor
Bureau of Labor Statistics
1967=100

Union Exhibit 20 contains the wage rates that were paid in 1972, 1975, and 1976 in the communities which the Union alleged were comparable. City Exhibit D contained the salaries that were paid as of September 15, 1976, by those communities which the City

alleged are comparable. When following the guidlines established in the comparability section of this opinion, and combining Union Exhibit 20 and City Exhibit D, the information appears as such:

City	1972 Max. Salary	1975 Max. Salary
Berkley	12,800	16,200
Clawson	12,700	16,097
Flat Rock	-	-
Grosse Pointe	-	-
Grosse Pointe Farms	-	-
Grosse Pointe Park	12,600	15,700
Harper Woods	-	-
Hazel Park	13,300	16,376
Mt. Clemens	-	-
Plymouth	12,840	16,642
Rochester	-	-
Woodhaven	-	-
Melvindale	-	-
Riverview	-	-
River Rouge	-	-
Ecorse	-	-
AVERAGE	12,848	16,203
Centerline	12,753	15,171

City	1976 Max A	B	C
Berkley	17,000	17,000	17,000
Clawson	17,000	17,000	17,000
Flat Rock	15,475	-	-
Grosse Pointe	14,300	-	-
Grosse Pointe Farms	14,400	-	-
Grosse Pointe Park	16,800	16,800	16,800
Harper Woods	15,500	15,500	15,500
Hazel Park	17,891	17,891	17,891
Mt. Clemens	16,642	16,642	16,642
Plymouth	17,495	17,495	17,495
Rochester	15,800	15,800	15,800
Woodhaven	16,779	16,779	16,779
Melvindale	15,475	17,023	-
Riverview	17,150	17,150	17,150
River Rouge	15,900	15,900	15,900
Ecorse	17,315	17,315	17,315
AVERAGE	16,307	16,792	16,773
Union's Offer	16,309	16,309	16,309
City's Offer	15,930	15,930	15,930

As indicated above, where the figure was available, the average salary for the comparable communities in 1972 was $12,848 as opposed to the maximum salary available in Centerline, which was $12,753. Again, where the information was available, the average salary for 1975 for the comparable communities calculated to be $16,203. The maximum salary available to a patrolman in the City of Centerline for the same year was $15,171. Column A of the 1976 data contains the figures for each respective city that is shown in City Exhibit D with the exception of Hazel Park, which was taken from Union Exhibit 19. Also, the figures for Riverview, Woodhaven and Rochester were adjusted pursuant to the testimony and updated figures. It is apparent that the average salary paid by the comparable cities is $16,307. Column B contains the same figures that exist in Column A, except that Flat Rock and Grosse Pointe were eliminated because they are currently in negotiations; Grosse Pointe Farms was eliminated because the figure contained in Column A is a 1974-1975 figure and the city is currently in arbitration; the figure of $17,023 is used for Melvindale pursuant to the supplemental information offered by the Union. The average salary paid by the comparable cities, using Column B information, is $16,792. Column C contains the same figures as Column B, with the exception of Melvindale, which is completely eliminated from the calculations because of a slight uncertainty regarding that figure. The average of Column C is $16,773. It must be kept in mind that the Union's last offer of settlement is $16,309, while the City's last offer of settlement is $15,930.

If the comparison format contained in City Exhibit E is utilized for comparing the approximate cost of the two last offers of settlement, the information would appear as such:

City 5%

4 Patrolmen at 15,930	$ 63,720
2 Patrolmen at 15,152	30,304
1 Patrolman at 14,428	14,428
1 Patrolman at 13,732	13,732
TOTAL	$122,184

Union 7 1/2%

4 Patrolmen at 16,309	$ 65,236
2 Patrolmen at 15,512	31,024
1 Patrolman at 14,772	14,772
1 Patrolman at 14,059	14,059
TOTAL	$125,091

It is apparent from the figures that $2,900 is the approximate amount which separates the parties regarding the patrol unit.

The comparable data indicates that in 1972 the salary for Centerline police officers was approximately $95 less than the average for the cities whose figures were available. In 1975, the difference increased to approximately $1,000. The average of Column A regarding the 1976 data is $2.00 less than the Union's last offer and is $377 higher than the City's last offer. Stated in another manner, the Union's offer exceeds the average paid by the comparable communities by $2.00, while the City's offer falls short of the average salary paid by the comparable communities by some $377. If the average for Column B is considered, the City's offer falls short of the average by $862, while the Union's offer is $483 less than the average. Finally, if Column C data is used, the Union's offer falls $464 short of the average, while the City's offer is $843 less than the average.

For the communities where the figures are available for both 1975 and 1976, a comparison of the percentage increase in wages between 1975 and 1976 would appear as such:

City	1975-1976 to 1976-1977 Percent Increase
Berkley	4.93%
Clawson	5.61
Grosse Pointe Park	7.01
Hazel Park	9.25
Plymouth	5.13
AVERAGE	6.39%

The average percentage increase for the above mentioned communities is 6.39%, while the City's offer herein is 5% and the Union's is 7.5%.

It is obvious that at this point, all the evidence, with the exception of ability to pay, supports the Union's last offer of settlement to a much greater degree than it does the City's.

In order to adequately explore this and all the other issues, it is necessary to more specifically analyze the element of ability to pay. The analysis contained in this issue applies equally to the other issues that are contained herein.

The testimony shows that the City was compelled to reduce the level of assessment by approximately three million dollars. However, the testimony also shows that at the point the City lost three million dollars of assessed valuation, it increased its operating millage by three mills, up to the fifteen mill limitation. Thus, the exact amount of money lost is unknown. In fact, the City never stated the amount of money that it lost when the assessed valuation was reduced and when the revenue sharing money was not received. Further, the substantial bulk of the evidence was directed at the police budget and even though the testimony indicates that certain general fund personnel were transferred to

the Solid Waste Department, relieving the general fund of the burden of paying their salaries, and further that the City has considered borrowing the money in order to maintain services and that it has no contingency accounts and was running at a deficit, the general fund budget, including all other departments contained therein, was not presented as evidence. Thus, it is very difficult to evaluate the City's financial condition. While the evidence indicates that the City's financial picture is gloomy, the extent of that gloom is unknown. The big question is whether or not the financial problems are chronic or acute.

The evidence clearly shows that the wages paid to Centerline police officers, both in 1972 and 1975, were below the average paid by the comparable communities. Further, the facts show that even if the Union's proposal were adopted for the current contract, the officers would not be overpaid, but in fact would receive a wage rate that is comparable or less than what is being paid in the comparable cities. It is very difficult to ignore that evidence and rely solely on the City's ability to pay.

Another point which puzzles the Chairman is that Union Exhibits 13 and 14 indicate that the firemen receive a 7.7% increase in salary and at the same time were guaranteed that there would be no layoffs for a one-year period, terminating on June 30, 1977. True, the letter of agreement that contains the no-layoff policy also states that the firemen have accepted the City's offer of 5%. However, the figures contained in Union Exhibit 13, as compared to those contained in Union Exhibit 14, indicate a 7.7% increase in wage and not the 5% stated in the letter of agreement. Further, it appears that the agreement, which was signed on June 30, 1976, was in fact executed after the City became aware of the financial situation.

Further, the evidence indicates that this year was the first year in a number of years where the City budget has decreased over the preceding year. While this information doesn't conclusively determine whether the problem is chronic or acute, it does tend to indicate that at least it is relatively new and has not been present in prior years.

After completely analyzing the evidence, the panel feels that the Union's last offer of settlement compares much more favorably with the comparable cities than does the City's offer. Further, while the City is involved with current financial problems, the panel is not persuaded that the problems are of such a magnitude that they should prevent an equitable increase in wages.

AWARD:

The panel orders that the Union's last offer of settlement be implemented.

_____
CHAIRMAN

_____
UNION DELEGATE

_____
EMPLOYER DELEGATE

ISSUE: RANK DIFFERENTIAL ECONOMIC

LAST OFFERS OF SETTLEMENT:

The addendum regarding Section 39 of the Union Exhibit 12, the prior Collective Bargaining Agreement between the City and the Staff Officers provides for the following rates of pay:

Classification	7/1/75-6/30/76
Corporal	16,328
Sergeant	17,589
Lieutenant	18,941

The Union's last offer of settlement states:

"The Union proposes a 8.5% differential between each of the ranks."

When the Union's proposal is calculated, based upon the prior award regarding patrolmen, the dollar figures applicable to the staff officers would appear as such:

Classification	Rate
Corporal	17,695
Sergeant	19,199
Lieutenant	20,831

The City's last offer of settlement states:

"Rank differential -- 7 1/2%."

When the City's offer is applied to the prior award regarding patrolmen, the rates for the staff officers appear as such:

Classification	Rate
Corporal	17,532
Sergeant	18,847
Lieutenant	20,261

EVIDENCE AND DISCUSSION:

When Union Exhibit 21 and City Exhibit D are combined, and the data concerning the comparable communities extracted therefrom the information appears as follows:

City	Corporal	Sergeant	Lieutenant
Berkley	?	18,360	19,462
Clawson	?	19,040	N/A
Flat Rock	?	-	16,244
Grosse Pointe	?	16,090	18,629
Grosse Pointe Farms	?	17,900	19,500
Grosse Pointe Park	?	19,152	20,501
Harper Woods	?	17,050	18,855
Hazel Park	19,859	-	22,044
Mt. Clemens	?	18,000	19,800
Plymouth	?	18,298	19,752
Rochester	?	17,160 (15,679)	N/A
Woodhaven	?	17,839 (16,518)	19,000
Melvindale	?	18,398 (16,725)	17,825
Riverview	?	In negotiations (16,850)	19,400
River Rouge	?	17,000	18,200
Ecorse	?	18,266	18,948
Average	19,859	17,889 (17,494)	19,154
City Proposal	17,532	18,847	20,261
Union Proposal	17,695	19,199	20,831

As the above indicates, whether the City's figures are used or whether the Union's figures are used, there is no question that the City's proposal is much closer to the average than is the Union's proposal.

When the cost of the two proposals are considered, the information will appear as follows, using the format established in City Exhibit E1:

Classification	Cost (City)	Cost (Union)
2 Lieutenants	40,522	41,662
4 Sergeants	75,388	76,796
5 Corporals	87,660	88,475
Total	203,570	206,933

Difference in cost: $3,363

As the data indicates, the difference between the two proposals is $3,363.00.

If the City's and the Union's proposals are compared on a percentage basis to the present salary scale, the information would appear as such:

	Percent Increase Over Present Salary	
Classification	City	Union
Corporal	7.4%	8.4%
Sergeant	7.2%	9.2%
Lieutenant	7.0%	10.0%

The Union argues that the record supports adoption of its 8.5% rank differential proposal because most of the communities listed have a rank differential which is greater than 8.5%. However, when looking at the amount of dollars received, it is obvious the City's last offer of settlement is much closer to the average of the comparable communities than is the Union's.

Along with the fact that the dollars received via the City's last offer of settlement compares more favorably with the comparable data, it must also be noted that the City's offer contemplates a 7.5% rank differential. The rank differential that existed in the prior Collective Bargaining Agreement approximated 7.7%. When the amount of salary received is compared to that received in comparable communities, the two-tenths of one percent difference is very insignificant.

It may be true that the comparable cities provide a rank differential that is based on a percentage greater than the current percentage or the percentage contained in the City's proposal; however, the salary received by the officers, when compared to the comparable cities, is much more acceptable under the City's last offer than the salary received under the Union's last offer.

The evidence demands that the City's last offer of settlement, i.e., 7 1/2 percent rank differential, be adopted.

AWARD:

The panel orders that the City's last offer of settlement be implemented.

CHAIRMAN

UNION DELEGATE

EMPLOYER DELEGATE

ISSUE: VACATIONS - ECONOMIC

LAST OFFERS OF SETTLEMENT:

Section 34 of the prior Collective Bargaining Agreements state:

"The First of July shall be used as the basis for computing vacation and shall accrue as follows:

1. Sixteen (16) days per year for the first five (5) years of employment.

2. Twenty (20) days per year after six (6) years of employment and continuing at that same rate until the Employee's fifteenth (15th) anniversary of employment.

3. Twenty-five (25) days after fifteen (15) years of employment.

"SEE LETTER OF AGREEMENT ON VACATIONS ATTACHED HERETO AND MADE A PART OF THIS CONTRACT.

"Vacation days shall not be allowed to accumulate beyond thirty (30) days. Holidays applied towards vacation benefits shall be counted as applying against the aforesaid thirty (30) days accumulation."

The letter of agreement referred to above states:

"In consideration of an additional four (4) vacation days received by Local 1277 through contract negotiations in the 1972/73 Police Department Staff Officers Contract, we, the membership of Local 1277, have agreed not to request further consideration of either Vacations or Compensatory Time Off for the ensuing four (4) years commencing July 1, 1972."

The Union's last offer of settlement states:

"The Union proposes that two (2) vacation days be added to those in the 1973/76 contract, bringing the total to eighteen (18) days after five (5) years, twenty-two (22) days after six (6) years and twenty-seven (27) days after fifteen (15) years."

The City's last offer of settlement states:

"The first of July shall be used as the basis for computing vacation and shall accrue as follows:

1. Sixteen (16) days per year for the first five (5) years of employment.

2. Twenty (20) days per year after six (6) years of employment and continuing at that same rate until the employee's fifteenth (15th) anniversary of employment.

3. Twenty-five (25) days after fifteen (15) years of employment.

4. Vacation days shall not be allowed to accumulate."

EVIDENCE AND DISCUSSION:

As can be seen from the above proposals and offers, the City's last offer of settlement is identical with the provisions contained in the prior Collective Bargaining Agreements, with the exception that the City seeks to eliminate the accumulation of vacation days.

Union Exhibit 22 is the only exhibit which contains data from comparable communities. When the communities which were declared comparable were extracted from Union Exhibit 22, the data appeared as such:

City	Number of Days	After Years of Service
Clawson	10	1
	15	7
	20	15
	25	20
Hazel Park	10	1
	11	6
	12	7
	13	8
	14	9
	15	10
	16	11
	17	12
	18	13
	19	14
	20	15
	25	25
Centerline	16	1-5
	20	6
	25	15

As can be seen from the comparable data, the current provisions in the City of Centerline compare very favorably with those in Clawson and Hazel Park. In fact, even if each city listed in Union Exhibit 22 was declared comparable, Centerline's present

vacation schedule would still compare very favorably. In fact, only four out of twenty-three cities provide a maximum number of vacation days in excess of what is received in Centerline. Thus, it is difficult to conclude, even when the four-year moratorium is considered, that the Union's offer regarding the addition of two additional days at each step be accepted.

However, it must be noted that at no time did the City address itself to the elimination of the provision in the prior Collective Bargaining Agreements regarding accumulation of vacation days. While there is no question that the City's offer regarding the number of vacation days is more acceptable than that proposed by the Union, that portion of the offer which deals with the elimination of the accumulated vacation days is unsupported by the record. There is nothing to indicate whether it would conserve funds, or if so, how much. Nevertheless, the statute states that the panel must choose that economic offer which is in greater alignment with the evidence. Unlike other issues litigated herein, the City's vacation offer does find some support in the evidence. Thus, since the portion of the City's offer which relates to accumulated vacation days cannot be severed from the total last offer of settlement, the inescapable conclusion is that the City's entire offer must be accepted. If it were not for the language contained in the statute, the Chairman would severe that portion of the offer that dealt with accumulated vacation days. However, because of the language in the statute, the Chairman does not have the power to do so.

AWARD:

The panel orders that the City's last offer of settlement be implemented.

_____
CHAIRMAN

_____
UNION DELEGATE

_____
EMPLOYER DELEGATE

ISSUE: HOLIDAYS - ECONOMIC

LAST OFFERS OF SETTLEMENT:

Section 33 of the prior Collective Bargaining Agreements contain the following language regarding holidays:

> "Employees shall receive their regular rate of pay for twelve (12) holidays to be paid in one lump sum during the month of December of each year. In Lieu of said payment, Employees may elect to apply the entire twelve (12) days or full amounts thereof toward their vacation benefits. Employees shall notify the City Manager in writing of their choice as set forth by no later than December 1 of the year said lump sum payment is due."

The Union's last offer of settlement seeks the addition of one holiday; thus, bringing the total to 13.

The City's last offer of settlement seeks a continuation of prior language.

EVIDENCE AND DISCUSSION:

Union Exhibit 23 is the only exhibit which lists alleged comparable cities and the number of holidays enjoyed therein. The average number of holidays calculated from the 20 cities listed is 12.72. However, the only city that appears on the exhibit and which has been declared comparable in the prior section, is the city of Hazel Park. In Hazel Park the officers enjoy 10 1/2 to 12 1/2 holidays.

The Union argues that the additional holiday is needed in order to balance the lower than average wage that is received by Centerline patrolmen.

The City argues that: "By comparison with comparable communities, our cost exceeds that of the average comparable community and, therefore, the City's position is justified." The record does not establish the basis for the City's contention; however, the panel does agree that the Union's proposal should not be accepted.

After analyzing the available evidence, it becomes obvious that what little deviation there is from the average number of holidays granted in the comparable communities, as compared to the 12 holidays granted in Centerline, does not justify the imposition of additional cost. Thus, the Union's position cannot be accepted.

AWARD:

The panel orders that the City's last offer of settlement be implemented.

_____
CHAIRMAN

_____
UNION DELEGATE

_____
EMPLOYER DELEGATE

ISSUE: HOSPITALIZATION, MEDICAL, DENTAL AND FALSE ARREST INSURANCE
ECONOMIC

LAST OFFERS OF SETTLEMENT:

Section 35 of the prior Collective Bargaining Agreements states:

> "The Employer shall provide hospitalization - insurance and surgical fee benefits for qualified Employees and for their dependents to include MVF-1 with Master Medical and the Obstetrician (OB) and X-Ray Riders along with the Prescription Drug Program with a Two Dollar ($2.00) deductible provision as provided in the contract between the Employer and Michigan Hospital Service (Blue Cross) and Michigan Medical Service (Blue Shield) by assuming the monthly premiums for each eligible Employee and his dependents.
>
> "The Employer will provide, effective July 1, 1975, dental insurance protection for the Employee and his family by assuming one hundred percent (100%) the cost of the annual premium.
>
> "If in its judgment the Employer considers it advisable in the interest of the Employees, another type of local plan or a plan insured by an insurance company or other plan selected by the Employer may be substituted for the plan currently in effect upon agreement with the Union Representative.
>
> "In addition to the above coverage, the Employer will furnish each Employee a Dread Disease Policy."

Further, Section 26 of the same Agreements state:

> "The Employer shall provide protection against loss by reason of liability imposed by law upon the Employee by reason of any false arrest, detention or imprisonment or malicious prosecution."

The Union proposes that the above-stated language continue without change.

The City's last offer of settlement regarding the hospitalization, medical and dental insurance issues states:

> "The Employer shall provide hospitalization insurance and surgical fee benefits for qualified employees and for their dependents to include MVF-1 with Master Medical and the obstetrician (OB) and X-Ray (JL) riders along with the prescription drug program with a two dollar ($2.00) deductible provision as provided in the contract between the Employer and Michigan Hospital Service (Blue Cross)

and Michigan Medical Service (Blue Shield) by assuming seventy-five percent (75%) of the cost of the monthly premium for each eligible employee and his dependents.

"If in its judgment, the Employer considers it advisable in the interest of the employees, another type of local plan or a plan insured by an insurance company or other plan selected by the Employer may be substituted for the plan currently in effect upon agreement with the union representative.

"The Employer will provide dental insurance protection for the employee and his family by assuming the cost of the annual premium currently in effect. Any increase in the premium cost shall be incurred by the employee."

The City's proposal regarding false arrest insurance is as such:

"The Employer shall provide protection against loss by reason of liability imposed by law upon the employee by reason of any false arrest, detention or imprisonment or malicious prosecution.

"The employee shall pay any increase in premium cost over the rates currently in effect as of the date of this agreement."

EVIDENCE AND DISCUSSION:

As can be seen from the above provisions and offers, the City seeks to shift twenty-five (25%) percent of the premium liability regarding hospitalization and medical insurance to the employee. Regarding the dental insurance program, the City seeks to shift any increase in annual premium above that currently in effect to the employee. Lastly, the City wishes to eliminate the dread disease policy, whatever that is.

The record does not contain any evidence regarding what type of premium payment plan is used in any of the comparable cities. It is unknown whether any of the cities split the cost of the premium between themselves and their employees, or whether all of them pay the entire premium. Further, the evidence does not show whether any of the comparable cities have a provision which forces the employee to assume the cost of any increase in

hospitalization, medical or dental insurance programs. Thus, it is unknown what procedure is used in the comparable cities regarding the present issues.

Obviously, the City contends that the proposed changes are directed at lessening the cost, to the City, of these benefits. The City's argument regarding ability to pay has been previously studied; however, it is worthwhile to note that the evidence does not show whether any other City employees are being asked to shoulder a portion of the premium costs of these benefits.

City Exhibit El shows that if its proposal were adopted, the City would be allowed to spend $5,875 less than it has allocated.

While it may be true that all the other organized units employed by the City have settled before this unit, it seems rather inequitable to force the employees in this unit to assume reasponsibility for payment of a portion of their insurance benefit when it hasn't been shown that any other employees, organized or unorganized, have been asked to do the same thing. Even if the other organized units have settled, there is nothing that prevents the City from approaching them and trying to work out some type of program to lessen the impact of the alleged financial crunch. This has not been shown.

After analyzing all of the evidence, including a rather small potential savings that would be realized by the adoption of the City's proposal, the panel has come to the conclusion that it cannot accept the City's position. The amount of savings does not outweigh the substantially different treatment that this unit may be subjected to as compared to the treatment of other units, if the City's offer, regarding hospitalization, medical and dental insurance, were adopted.

There is no evidence regarding the current cost of the false arrest policy. Neither is there evidence showing historical cost increases, if any, or a projection of anticipated increases in premium costs. This panel will not change contractual language, or status quo, merely on the premise that to do so may save some money.

AWARD:

The panel orders that the Union's last offer of settlement regarding hospitalization, medical, dental and false arrest insurance be implemented.

CHAIRMAN

UNION DELEGATE

EMPLOYER DELEGATE

ISSUE: SHIFT DIFFERENTIAL
ECONOMIC

LAST OFFERS OF SETTLEMENT:

Section 39 of the prior Collective Bargaining Agreements state:

> "Effective July 1, 1975, Employees covered by this Agreement will receive Three Hundred Dollars ($300.00) for shift differential payable in one lump sum on July 1st of each year."

The Union's last offer of settlement states:

> "The Union proposes a $50.00 increase in the shift differential to $350.00 per annum payable in one lump sum on July 1st of each year."

The City's last offer of settlement states:

> "Employees will be paid differential for hours worked only, not to exceed fifteen cents (15¢) per hour. This shift differential pay is to be paid with the regular pay period."

EVIDENCE AND DISCUSSION:

Before an evaluation of the offers can be commenced, it should be pointed out that Section 30, sub-section (c) of the prior Collective Bargaining Agreement and the conditions that will exist during the period of this Collective Bargaining Agreement states that the employees shall change shift on a monthly basis. Since the employees work a regular eight-hour shift, it is necessary to have three shifts in order to cover the 24-hour day. Thus, if 2,080 hours is used as the yearly base, an employee will spend two-thirds of that, or 1,387 hours on shifts where a shift differential premium would be paid. Thus, under the City's offer, an officer would expect approximately $208.00 in shift differential payments over the period of one year. This is calculated by multiplying .15 x 1387. If the Union's offer were adopted, an officer would receive $350.00 per year, or approximately twenty-five cents per hour. The

prior contract called for a $350.00 lump sum payment. This amount equals about twenty-two cents per hours for those hours where a shift differential would be paid. Thus, on a yearly basis, the City's offer would represent a $92.00 cut from the current provision, while the Union's offer would represent a $50.00 increase. On the basis of hourly pay, the City's offer would represent a seven cent per hour reduction, while the Union's offer would represent a three cent per hour increase.

The City has argued that its proposal would not decrease the amount of benefit received, but would most likely increase the benefit to those who earn it, while reducing the number of employees who receive it. The evidence does not substantiate this contention.

The City did not introduce any data based on the comparable cities. However, the Union introduced its Union Exhibit 24, which lists a number of cities which it alleged were comparable, along with the provisions regarding shift premiums. When the comparable cities, as aforestated, are isolated from Union Exhibit 24, the information presented appears as such:

City	Shift Differential
Mt. Clemens	2nd shift 5% or 40¢ per hour (16,642÷ 2080 x .05) 3rd shift 10% of 80¢ per hour (16,642 x 2080 x .17)
Hazel Park	$200 per year
Plymouth	$300 per year
City Proposal:	15¢ per hour or $208 per year
Union Proposal:	25¢ per hour or $350 per year
Current:	22¢ per hour or $300 per year

As can be seen from the exhibit, the current $300.00 per year compares favorably with the data presented. The City's

proposal is much less than that received by officers in Mt. Clemens. Further, the City's proposal is $92.00 less than what is received by officers in Plymouth and $8.00 more than what is received by officers in Hazel Park. The Union's proposal is much less than what is received by officers in Mt. Clemens; $50.00 more per year than what is received by officers in Plymouth and approximately $150.00 more than what is received by officers in Hazel Park.

Further, the City's proposal represents an average loss of about $92.00 per officer in the City of Centerline. The Union's proposal would be a $50.00 per year gain for the officers in the City. This would represent a total cost increase over the current contract of about $950.00. Clearly, not a substantial sum.

Had the statute allowed the panel more discretion and not confine it to one or the other last offer of settlement, the Chairman would have voted to maintain the status quo. However, there is evidence supporting each offer and thus a decision must be made. A careful examination of the evidence does not convince the panel that the City's economic situation is so dim as to cause the City to seek a shift differential cutback of approximately $100.00 per year per man. Further, the City's offer gains less support from the record than does the Union's. In the final analysis, the evidence compels the adoption of the Union's last offer of settlement.

AWARD:

The panel orders that the Union's last offer of settlement be implemented.

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CHAIRMAN

_____
UNION DELEGATE

_____
EMPLOYER DELEGATE

ISSUE: UNIFORM ALLOWANCE
ECONOMIC

LAST OFFERS OF SETTLEMENT:

Section 38 of the prior Collective Bargaining Agreements state:

> "(a) The Employer will provide each Employee joining the force after the effective date of this Agreement with an initial uniform allowance of up to Three Hundred Fifty Dollars ($350.00).
>
> "(b) All other Employees shall be given a uniform allowance of up to Three Hundred Fifty Dollars ($350.00)."

The Union's last offer of settlement states:

> "The Union proposes a Fifty Dollar ($50.00) increase in the uniform allowance to a flat Four Hundred Dollars ($400.00), payable in cash to all employees."

The City's last offer of settlement states:

> "The Employer will provide a Four Hundred Dollar ($400.00) line of credit to all uniform officers."

EVIDENCE AND DISCUSSION:

Initially it should be understood that there was a disagreement at the hearing regarding whether uniform allowance could be used for cleaning purposes or whether its sole purpose was to purchase uniforms.

The only testimony on this matter was given by Officer Quirouet. He stated that to his knowledge the City has never published any rules restricting the way uniform allowance could be spent. Further, he stated that he was never told that uniform allowance was for the purchase of uniforms and not for the cleaning of uniforms. He also stated that according to his knowledge, the City has never objected to any other patrolmen spending part of their allowance on cleaning.

The language contained in the prior Collective Bargaining Agreements does not specifically state that the allowance can only

be used for the purchase of uniforms and not for cleaning same.

The City did not introduce evidence showing what provisions the comparable communities had in their Collective Bargaining Agreements. However, Union Exhibit 25 contains such information. When the comparable communities, as aforestated, are extracted from Union Exhibit 25, and the corrections based on Mr. Crawford's testimony are included, the information appears as such:

City	Uniform Allowance
Mt. Clemens	$390.00
Plymouth	$500.00, i.e., $250.00 clothing and $250.00 cleaning
Hazel Park	$385.00
Berkley	$186.00 cleaning plus furnished clothes.
Average, excluding Berkley because of unknown value of furnished clothese: $425.00 (includes cleaning allowance)	

It should be noted that if the Union's offer were accepted, the total increase in cost would be $950.00 and the total cost of the benefit would be $7,600.00. On City Exhibit E1, the City has listed the total cost of its offer at $7,600.00. The total cost of the offers would be identical if the officers took full advantage of the $400.00 line of credit that the City is offering.

If the prior contract language was to restrict the use of the uniform allowance to only the purchase of uniforms, and not the cleaning thereof, then the language itself is deficient. The testimony establishes that the uniform allowance has been used for both the purchase of uniforms and the cleaning of uniforms.

On its face, the City's proposal seems extremely logical. However, it leaves many unanswered questions. The language does not state whether the officer could use the line of credit for both the purchase of uniforms and the cleaning thereof. Since the proposal is silent on this point, it could very well amount to a reduction in a benefit that the officers now enjoy.

Even if the above were absolutely false, the evidence doesn't distinguish whether the comparable cities make lump sum payments or whether they have established lines of credit. This type of information would have been invaluable in determining this issue, especially since the cost potential of both offers is identical.

The Union's offer presents its own problems. If the panel assumes that the prior language regarding uniform allowance also incorporated the cleaning of uniforms, then the evidence clearly sustains the Union's position. If the current language does not encompass the cleaning of uniforms, then the decision becomes a little more difficult. If we examine the four comparable cities where the uniform allowance benefit is known, we have a situation where one of the cities pays a clothing and cleaning allowance and another city pays a cleaning allowance and furnishes clothes. The two remaining cities pay flat sums of money and the exhibit does not distinguish between purchasing uniforms and cleaning uniforms. If we eliminate the two communities which have a distinction between clothing allowance and cleaning allowance, the remaining two pay an average of $387.50. It is apparent that whether all four communities are used or only those two, where a distinction does not appear on the exhibit, that the Union's offer is supported by the evidence to a greater degree than the City's offer.

AWARD:

The panel orders that the Union's last offer of settlement be implemented.

CHAIRMAN

UNION DELEGATE

EMPLOYER DELEGATE

ISSUE: LIFE INSURANCE
ECONOMIC

LAST OFFERS OF SETTLEMENT:

Section 37 of the prior Collective Bargaining Agreements state:

> "The Employer will provide life insurance in the face amount of Twenty Thousand Dollars ($20,000) for qualified Employees as provided in the contract between the Employer and the John Hancock Life Insurance Company by assuming the payment of the monthly premiums (plus $20,000 for accidental death.)
>
> "If in its judgment the Employer considers it advisable in the interest of the Employees, another insurance plan or carrier may be substituted for the current one upon agreement with the Union Representative.
>
> "Upon retirement from the City of Center Line, the Employee will receive a Two Thousand Five Hundred Dollar ($2,500) term life insurance policy and the Employer will assume the payment of the premium."

The Union's last offer of settlement states:

> "The Union proposes that the life insurance program continue without change from the 1973/76 contract."

The City's last offer of settlement states:

> "The Employer will provide life insurance in the face amount of Twenty Thousand Dollars ($20,000) plus Twenty Thousand Dollars ($20,000) for accidental death by assuming the cost of the monthly premium.
>
> "Upon retirement from the City of Centerline, the employee will receive a Two Thousand Five Hundred Dollar ($2,500) term life insurance policy and the Employer will assume the payment of the premium."

EVIDENCE AND DISCUSSION:

Apparently, both parties are satisfied with a life insurance policy which has a face amount of Twenty Thousand Dollars ($20,000) plus Twenty Thousand Dollars ($20,000) for accidental death. Further, both parties agree that upon retirement an employee should receive a Two Thousand Five Hundred Dollar ($2,500) term life insurance policy. In both cases the City has agreed to pay the premium.

The only difference between the City's offer and the Union's offer is that in the Union's offer, which is the status quo, the City must provide benefits pursuant to the contract that exists between it and the John Hancock Life Insurance Company. The City may only change carriers if the Union agrees.

What puzzles the panel is whether the John Hancock policy has some unique feature which caused it to be specifically mentioned in the prior agreements and which now causes the Union to seek a continuation of prior contract language. If the John Hancock policy contains specific provisions, there may be a valid reason to continue prior language. However, the City hasn't pointed out whether or not the John Hancock policy is unique. By the same token, neither has the Union. Without knowing whether or not specific provisions are contained in the Hancock policy, which make it more desirable, the panel is very reluctant to change current language because it may be changing something that has great significance. While the possibility is remote, nevertheless, it does exist.

Because of the lack of specific evidence directed at the proposition that the John Hancock policy language should be removed from the contract, the panel cannot do so. However, even though the panel is not in a position to accept the City's last offer of settlement because of the reasons stated above, it strongly urges the Union to allow the City to change carriers if in fact there is no valid reason for continuing with the John Hancock Life Insurance Policy. There is absolutely no logic in forcing the City to expend more money for the John Hancock policy, if in fact the City could provide the same coverage with the same provisions by substituting a carrier that charges less than John Hancock. In fact, if the panel had the authority, it would order

the implementation of the City's last offer of settlement upon a showing that the benefits would remain the same if carriers were changed. Clearly, if the only difference between John Hancock and another carrier is cost, the City must be allowed to change carriers.

However, without knowing whether or not there are specific provisions in the John Hancock policy which make it more desirable, the panel cannot accept the City's last offer of settlement.

AWARD:

The panel orders that the Union's last offer of settlement be implemented.

CHAIRMAN

UNION DELEGATE

EMPLOYER DELEGATE

ISSUE: OVERTIME - ECONOMIC

LAST OFFERS OF SETTLEMENT:

Pertinent provisions of the prior Collective Bargaining Agreements are sub-section (e) of Section 31 and Section 32. Sub-section (e) of Section 31 states:

> "(e) Call In Time. Whenever off duty personnel are called into service, a minimum of two (2) hours compensation at the regular rate shall be paid as call in time. The two (2) hour minimum allowance shall be considered compensation for the first two (2) hours extra work performed."

Section 32 states:

> "Premium pay, at the rate of one and one-half time the regular rate, shall be paid for all time worked beyond regularly scheduled hours."

The Union's last offer of settlement states:

> "The Union proposes that the premium pay provisions continue without change from the 1973/76 contract."

The City's last offer of settlement states:

> "Premium pay, at the rate of one and one-half time, the regular rate, shall be paid for all time worked to be on regularly scheduled hours.
>
> "On those occasions when off-duty personnel are called in on court duty, each officer will receive twenty dollars per day.
>
> "When off-duty personnel are called into service on all other occasions, the regular rate of pay shall be paid as call-in time."

EVIDENCE AND DISCUSSION:

Both parties agree that the premium pay rate shall be time and one-half for all time worked beyond regularly scheduled hours. Therefore, it will be unnecessary to address this point.

However, the differences arise in the area of call-in on court duty and regular call-in.

Apparently, the City's proposal, if accepted, would result

in a slight savings to the City. City Exhibit El shows that the current budget has allocated Twenty-Seven Thousand Six Hundred ($27,600) Dollars to overtime. However, it must be remembered that the current budget is based on a reduction of three officers. The City's last offer of settlement indicates that if its proposal were adopted, it would cost Twenty-Seven Thousand Six Hundred ($27,600) Dollars. The difference is that the City's proposal is based on a continuation of the current work force. Thus, arguably the Twenty-Seven Thousand Six Hundred Dollar figure that appears in City Exhibit El in the Column Budget would be higher if calculated on the basis of the current work force and not on the basis of three men being laid off. Thus, in the final analysis, the City's proposal, if adopted, would allow for a certain amount of savings.

Neither party has introduced evidence which shows what provisions are contained in the comparable communities regarding these two items.

The City has argued: "The City maintains that the interlocutory order did effect its ability to provide this benefit, and that premium pay granted police officers in Centerline exceeds that of comparable communities where various remunerations exist, such as a flat amount of compensation for court time and other occasions when premium pay is granted. Therefore, the City is justified in its position."

Again, the City has argued that its proposal be adopted. However, the evidence, except for an unknown savings, does not support the City's position. The status quo will not be changed unless there is evidence to support such a change. There is nothing which indicates how this type of benefit is rendered in the comparable cities. There is nothing that shows the exact amount of savings that will accrue if the City's proposal were

adopted. A rough calculation indicates that the savings would amount to approximately Four Thousand Four Hundred and Sixty Dollars. Nevertheless, it is almost impossible to determine whether that amount of savings justifies the reduction of current benefits when it is unknown what amount of benefits are being received by policemen that are employed in the comparable cities. Without this information, the status quo cannot be changed.

AWARD:

The panel orders that the Union's last offer of settlement be implemented.

CHAIRMAN

UNION DELEGATE

EMPLOYER DELEGATE

ISSUE: LONGEVITY - ECONOMIC

LAST OFFERS OF SETTLEMENT:

Section 28 of the prior Collective Bargaining Agreements state:

"The basis of longevity compensation is as follows:

"(a) Eligibility of an Employee shall initially commence when such Employee shall have completed five (5) full years of continuous employment on or before October 31 of any year.

"(b) Continuous employment, for the purpose of this policy, shall not be considered as interrupted when absences arise as vacations, sick leave, or leave of absence authorized by the City Manager or Council. PROVIDED, such leave of absence periods shall not be considered in the computation of years of service for longevity compensation.

"(c) The compensation used as a basis for computation of longevity for Employees shall be based on a rate of the annual salary not exceeding Eight Thousand Dollars ($8,000.00) and Nine Thousand Dollars ($9,000.00) as of July 1, 1975 paid to such Employee on October 31, provided such Employee qualified as to length of service. Provided, that the compensation to be utilized for computation purposes of a part-time Employee entering upon full time employment shall be the average compensation received by such Employee in the previous five (5) years of employment until such time as five (5) years of full time employment is attained.

Step	Continuous years of service on or before October 31 of each year	Percent (%) used but on base not in excess of $8,000*
1	5 to 10	2%
2	10 to 15	4%
3	15 to 20	6%
4	20 to 25	8%
5	25 and thereafter	10%

"The percentage shall not exceed ten percent (10%) nor apply to a salary in excess of Eight Thousand Dollars ($8,000.00) and Nine Thousand Dollars ($9,000.00) as of July 1, 1975.

"(e) Employees voluntarily leaving the employ of the Employer retiring, dismissed for cause, or deceased prior to October 31 of any year, shall not be entitled to longevity payments for the year of leaving nor for any portion thereof. There shall

be no proration for a part of the year in which employment terminates for any reason.

"(f) Compulsory military service time after a two (2) year period of employment will be included as continuous service time in the computation of future longevity payments, provided the Employee returns to the employ of the Employer within sixty (60) days after release from compulsory service with a branch of the U.S. Armed Forces.

"(g) Longevity compensation shall be a separate and distinct annual payment to those eligible Employees but shall be considered a part of the regular compensation and as such subject to withholding tax, social security, retirement deductions and all other deductions required by Federal and State law and the regulations and ordinances of the City of Center Line.

"(h) Payments to Employees eligible on October 31 of any year shall be due on December following. The annual period covered in computation of longevity will be from November 1 of each year through and including October 31 of the following year."

The Union's last offer of settlement states:

"The Union proposes that the base pay for longevity pay purposes be increased from $9,000.00 to $10,000.00 and that in all other respects longevity pay provisions continue without change from the 1973/76 contract."

The City's last offer of settlement states:

"The basis of longevity compensation is as follows:

"(a) Eligibility of an employee shall initially commence when such employee shall have completed five (5) full years of continuous employment, on or before October 31, 1976.

"(b) Continuous employment, for the purpose of this policy, shall not be considered as interrupted when absences arise as vacations, sick leave, or leave of absence authorized by the City Manager or Council, provided such leave of absence periods shall not be considered in the computation of years of service for longevity compensation.

"(c) The compensation used as a basis for computation of longevity for employees shall be based on a rate of the annual salary not exceeding Nine Thousand Dollars ($9,000.00) paid to such employee on October 31, provided such employee qualified as to length of service. Provided, that the compensation to be utilized for computation purposes of a part-time employee entering upon full-time employment shall be the average compensation received by such employee in the previous five (5) years of employment until such time as five (5)

years of full-time employment is attained.

"(d) The following schedule of payment shall apply:

Step	Continuous years of service on or before October 31 of each year	Percent used but on base not in excess of $9,000.00
1	5 to 10	2%
2	10 to 15	4%
3	15 to 20	6%
4	20 to 25	8%
5	25 and thereafter	10%

"The percentage shall not exceed ten percent (10%) nor apply to a salary in excess of $9,000.00.

"(e) Employees voluntarily leaving the employ of the employer, retiring, dismissed for cause, or deceased prior to October 31 of any year, shall not be entitled to longevity payments for the year of leaving nor for any portion thereof. There shall be no proration for a part of the year in which employment terminates for any reason.

"(f) Compulsory military service time after a two (2) year period of employment will be included as continuous service time in the computation of future longevity payments provided the employee returns to the employ of the employer within sixty (60) days after release from compulsory service with a branch of the U. S. Armed Forces.

"(g) Longevity compensation shall be a separate and distinct annual payment to those eligible employees but shall be considered a part of the regular compensation and as such subject to withholding tax, social security, retirement deductions and all other deductions required by federal and state law and the regulations and ordinances of the City of Center Line.

"(h) Payments to employees eligible on October 31 of any year shall be due on December following. The annual period covered in computation of longevity will be from November 1 of each year through and including October 31 of the following year.

"(i) This benefit will not apply to any new employee in the Center Line Police Department after the effective date of this agreement nor to any employee of the Center Line Police Department not presently eligible for this benefit."

In addition to the above, in a letter dated January 4, 1977, and signed by Mayor Tranchida, a copy of which was sent to panel

member, Robert Wines, the Mayor indicated:

> "In addition thereto, a re-reading by myself of the City's last best offer with regard to item 12, longevity, pages 9 and 10 of the City's offer, prompted me to discuss this item with the City Council and City Manager in view of the date change that was pro-offered by myself yesterday. Please refer to item A. It is the intention of the Administration to include all employees under its longevity compensation plan, but preclude any personnel that are hired after the date of October 31, 1976. Consequently, the City's last best offer should reflect eligibility for all employees whether or not they are presently eligible because of lack of service. These employees, when they attain the five year continuous service as provided in prior agreements, will receive longevity based upon the existing formula and the existing base of $9,000.00. Please correct the City's last best offer as indicated above."

Thus, the City's last and best offer will be modified to eliminate paragraph (i) and modify paragraph (a) to conform with the above-stated letter.

EVIDENCE AND DISCUSSION:

As can be seen from the last offer of settlement, the City wishes to eliminate the longevity benefit for any officer who is employed by the City after October 31, 1976. While this provision would not alleviate the current financial problems, it would serve to lessen the cost of the benefit in coming years. The City argues:

> "The City also maintains that this benefit was established by the Employer as a 'bonus' to the employees at a time when promotions and other employee benefits which are being received today did not exist and longevity served to encourage employees to maintain their employment with the City. This is not necessary today as the employee's salary and benefits has eliminated the reason it was originally established. Therefore, the City's position is justified."

The Union argues:

> "Since the cost of living has increased, while the Centerline employees' longevity pay has remained the same due to the constant base, there is ample support for improving slightly the existing longevity

pay program. As the Union noted, numerous other cities, almost all of them with population less than 40,000, maintain longevity pay programs far in excess of that program provided by Centerline."

The City did not introduce evidence regarding the longevity benefits that exist in the comparable cities. The Union introduced Union Exhibit 27, which contains data regarding the longevity pay provisions in a number of communities. When the comparable cities, as aforestated, are isolated from that document, the data appears as such:

	Longevity		
City	Years	Provision	Maximum
Berkley	3	1%	$1,360
	5	2%	(.08 x 17,000)
	10	4%	
	15	6%	
	20	8%	
Based on current annual salary as of 11/30/76.			
Clawson	5	2%	$1,020
	10	4%	(.06 x 17,000)
	15	6%	
Based on current annual salary.			
Grosse Pointe Farms	5	$150	$450
	10	250	
	15	350	
	25	450	
Hazel Park	5	2%	$1,789
	10	4%	(.1 x 17,892)
	15	6%	
	20	8%	
	25	10%	
Plus 1% if a resident.			
Mt. Clemens	5	2%	$1,000
	10	4%	(.1 x 10,000)
	15	6%	
	20	8%	
	25	10%	
($10,000 base)			
Centerline current and City proposal	5 to 10	2%	$900.00
	10 to 15	4%	
	15 to 20	6%	
	20 to 25	8%	
	25 and after	10%	
(9,000.00 base)			

City	Years	Provision	Maximum
Centerline current and City proposal	same	same	$900
Union Proposal ($10,000 base)	same	same	$1,000
Average excluding Centerline			$1,124

An analysis of the above data clearly illustrates that the Union's proposal is much more acceptable than that offered by the City or the status quo. The average amounts to $1,124.00, which is $124.00 more than the Union's offer and $224.00 more than the City's offer.

It cannot be argued that the City's offer will save the City money and thus help alleviate any current financial problem. Its offer is identical to the status quo and does not represent a cutback.

Ignoring that portion of the City's proposal that would eliminate this benefit for future employees, it still is apparent that the proposal does not compare as favorably to the evidence as does the Union's proposal. It is true that the Union's proposal contains an increase in cost, but a very rough calculation shows that the increase is extremely small.

In light of the evidence presented, the panel has no choice but to accept the Union's last offer of settlement.

AWARD:

The panel orders that the Union's last offer of settlement beimplemented.

_____
CHAIRMAN

_____
UNION DELEGATE

_____
EMPLOYER DELEGATE

ISSUE: FUNERAL LEAVE
ECONOMIC

LAST OFFERS OF SETTLEMENT:

Section 27 of the prior Collective Bargaining Agreements state:

> "(a) Five (5) days off with pay when death occurs to the wife or children.
>
> (b) Three (3) days off with pay when death occurs to mother, father, mother-in-law, father-in-law, grandchildren, brother or sister.
>
> (c) One (1) day off with pay when death occurs to other relatives in the immediate family.
>
> (d) Additional time off may be granted upon approval from the Commissioner of Public Safety or the City Manager.
>
> (e) The term 'immediate family' as used in this section shall mean parents, grandparents, husband, wife, children, brothers, sisters, grandchildren, uncles and aunts of the Employee or of the Employee's spouse."

The City's last offer of settlement seeks the adoption of the following language:

> "The necessary time off with pay will be granted for bereavement leave, not to exceed five (5) days."

The Union's last offer of settlement states:

> "The Union proposes that the funeral leave provisions be continued without change from the 1973/76 contract."

EVIDENCE AND DISCUSSION:

The Union seeks continuation of prior contract language.

The City seeks the elimination of prior contract language and the substitution of language that would allow an employee up to five (5) days off for bereavement purposes. The language requested by the City seems to imply that the City will have the authority to determine what is necessary time off. In support of its position, the City argues as follows:

> "The Employer has recognized the problem of granting bereavement leave and that, on many occasions, relatives of the employees may be out of state thereby requiring travel time and that to grant a specific number of days depending on the relationship of the deceased to the employee (as has been the past practice), is not a reasonable approach to this benefit. Also, it is recognized that the relationship may vary as to the closeness of the deceased to the employee whereby the employee may wish to take only one day off for a member of the immediate family and three or four days off for a distant relative to whom he felt very close. Therefore, the Employer contends that its position is in the best interest of the employees and is justified."

The City has not argued that its proposal will save it money. Nor has it argued that its proposal is similar to that contained in any of the Collective Bargaining Agreements affecting the comparable cities. In fact, there was no evidence introduced showing what the funeral leave provisions are in the comparable cities.

Quite frankly, the Chairman is in agreement with the City's logic. The argument that the City presents seems extremely reasonable and perhaps the most effective way of providing this benefit. There may be some problem with the proposition that the City has the authority to determine what the necessary time off may be in each situation, but the Chairman is confident that the problem could be worked out. However, while the Chairman may agree with the City's argument, there is nothing in the evidence which supports changing the status quo. Agreeing with an argument and changing the status quo because of that agreement does not fulfill the requirement of the statute. Argument and evidence are two different things. While the argument may be logical, the evidence does not support changing the status quo. In fact, the record fails to indicate that adoption of the City's language would cut expenses. If this were so, perhaps it would support changing the status quo. However, the state of the record is such

that the City's offer must be rejected.

AWARD:

The panel orders that the Union's last offer of settlement be implemented.

CHAIRMAN

UNION DELEGATE

EMPLOYER DELEGATE

ISSUE: EDUCATIONAL INCENTIVE
ECONOMIC

LAST OFFERS OF SETTLEMENT:

Apparently, the prior practice regarding educational incentive is delineated in Union Exhibit 29. That exhibit is a letter signed by John R. Crawford and sent to Ralph A. Liberato and dated September 20, 1973. It states:

> "Pursuant to our telephone conversation this day, it is a policy of the City of Center Line to pay tuition for job-related courses which employees of the City have a desire to attend.
>
> "Tuition is normally reimbursed upon receipt of an acceptable passing grade for the course. However, exceptions have been made where financial hardship exists to provide tuition advancement to the employee with the understanding that should the employee drop the course, fail to pass, or the course is cancelled, the tuition advancement paid to the employee would be deducted from his pay check.
>
> "Tuition advancement or reimbursement is for tuition only and does not include books or other related materials that may be necessary for the course.
>
> "As some employees have indicated to you that they are not award of this policy, I will be advising all of the Department Heads regarding this."

The Union's last offer of settlement states:

> "The employer will pay tuition for job-related courses conducted at a community college. Tuition will be reimbursed to police personnel upon receipt by the City Manager's office of evidence of a passing grade.
>
> "Employees shall be entitled to participate in educational incentive program under which the employer shall pay officers Two Hundred ($200.00) Dollars for a certificate and Four Hundred ($400.00) Dollars for an Associates Degree from any college. These benefits shall be paid within the first (1st) pay period in July of each year."

The City's last offer of settlement states:

> "The employer will pay tuition only for job-related courses conducted at a community college. Tuition will be reimbursed to police personnel upon receipt to the City Manager of an acceptable passing grade. Books and fees for these courses are not included.

"Any employee entitled to GI benefits for educational purposes is excluded from the provisions of this section.

"The City will further provide the cost of tuition only on a four (4) year Bachelor's Degree in Police Administration conditional also upon the employee's attaining an acceptable passing grade of 'C' and upon his signing an agreement with the City entitled, 'Centerline Police Department Educational Benefit Agreement.'"

EVIDENCE AND DISCUSSION:

The panel finds itself in a very unusual position in this issue. Looking first to the City's position, the record does not contain evidence adequate enough to adopt the City's position. While the City argues that its proposal "is an improvement over that of any prior contract and exceeds that benefits offered in comparable communities," there is no evidence regarding what is offered in comparable communities. Further, there is no evidence which establishes how many of the employees are entitled to GI benefits. While it is probable that this provision would save the City some expense, this rather vague probability does not warrant changing the status quo to the extent contemplated in the City's last offer of settlement.

However, the Union's last offer of settlement suffers from the same defect. There is nothing in the record which substantiates the Union's proposals. No comparables have been offered.

Frankly, this is the first time that the Chairman has been presented last offers of settlement, neither of which receive support from the record. It seems that the only logical thing to do would be to order that the existing practice regarding educational incentive continue. However, the statute specifically states that the panel has the duty of adopting that last offer of settlement which is more closely aligned with the evidence. In this case, that is impossible. There is nothing in the record that

shows which last offer of settlement is most acceptable.

AWARD:

The panel can only order that the present practice regarding educational incentive be continued.

CHAIRMAN

UNION DELEGATE

EMPLOYER DELEGATE

ISSUE: LAYOFFS
NON-ECONOMIC

LAST OFFERS OF SETTLEMENT:

Section 16 of the prior Collective Bargaining Agreements state:

> "(a) The word 'layoff' means a reduction in the working force due to a decrease of work.
>
> (b) In all cases of layoff, the principle of straight seniority by department shall be observed and length of service shall govern.
>
> (c) The Employer will, whenever possible, give at least seven (7) days notice prior to layoff to the Employees affected together with a list of the names of said Employees to the Union."

The Union's last offer of settlement states:

> "The Union proposes that the layoff section (section 16) continue without change from the 1973/1976 contract."

The City has offered two alternate proposals. However, the opinion regarding the issues to be arbitrated clearly stated that the only open question relates to the basis for which layoffs may be initiated. The procedure is not in question.

Thus, the City's last offer of settlement states:

> "(a) In all cases of layoff, the principle of straight seniority by department shall be observed and length of service shall govern.
>
> (b) The Employer will, whenever possible, give at least seven (7) days notice prior to layoff to the Employees affected together with a list of the names of said Employees to the Union."

EVIDENCE AND DISCUSSION:

The City takes the position that the ability to determine the size of the work force is the management right and that any layoff procedure "should not reflect the reason for a reduction in the work force, but only a procedure to follow when such a reduction is determined necessary." The City's position is clearly represented in its last offer of settlement for the offer completely

deletes paragraph (a) of Section 16 of the prior Collective Bargaining Agreement.

In support of its position, the City cites the cases of: Matter of Schwab v Bowen, 51 NY AD 2d 76; 379 NYS 2d 511 (1976); In re: the Matter of Dippmann v Delaney, 370 NYS 2d 128 (1975); Burke v Bowen, 49 NY AD 2d 904; 373 NYS 2d 387 (1975); Teachers v Yonkers City School District, 51 NY AD 2d 568; 379 NY 2d 107 (1976) and Yonkers School Crossing Guards v Yonkers, 51 NY AD 2d; 379 NYS 2d 113 (1976).

After reviewing the cases, the Chairman has come to the conclusion that they state exactly what the City purports.

The Union takes the position that the basis of layoffs is in fact a subject of bargaining and that this panel has the jurisdiction to decide the issue. In support of its position it has cited: City of Alpena v Alpena Fire Fighters Association, AFL-CIO, 56 Mich App 568; 244 NW2d 672 (1974) and Susquehanna Valley Central School District v Susquehanna Valley Teachers Association, 37 NY2d 614; 376 NYS 427 339 NE2d 132 (1974).

The Alpena case upholds an arbitration award that rules that the existing conditions regarding manning be continued. In effect, the opinion said that the firefighters in the City of Alpena are entitled to have eight men on a shift, or under certain circumstances, seven men. The case indicated that for safety reasons manning was a subject of bargaining. The Union argues that the logical extension of this case includes the proposition that the criteria for layoffs is also a subject of bargaining.

The City's position is clear. It maintains that it has the inherent right to determine the size of its work force. Quite frankly, the cases that the City has cited clearly support its proposition.

However, the New York cases cited by the City do not represent Michigan law and carry no persuasive power. In Burke v Bowen, supra, the Court clearly stated that while bargaining could take place concerning the number of persons needed to man a piece of equipment, bargaining was prohibited regarding the number of persons required on a shift. This is contra to Michigan law. In Michigan, shift manpower is a mandatory subject of bargaining (City of Alpena v Alpena Fire Fighters Association, supra). Further, while Justice Coleman has stated that department size was strictly a management perogative, Justice Levin, in the same opinion, clearly suggested that the size of a department could be controlled by manning requirements (Dearborn Fire Fighters v Dearborn, 394 Mich 229 (1975)). Thus, it seems clear that a city may bargain away its so-called right to determine department size and if it does, it must live up to the contractual language for a city doesn't have an inherent right to control the size of its departments.

In its initial decision re Fibreboard Paper Products Corp v NLRB, 130 NLRB 1558, 47 LRRM 1547 (1961), the NLRB concluded that Congress did not intend to compel bargaining concerning basic management decisions. However, in its subsequent consideration of the same case, the Board reversed its view (Fibreboard Paper Products Corp v NLRB, 379 US 203 (1964));see Local 24, Teamsters Union v Oliver, 358 US 283 (1959).

The law is clear, an employer does not have the inherent right to determine the size of the work force. For instance, an employer may be required to recall with back pay, employees that it has laid off because it contracted out the work that the employees usually performed without bargaining about such contracting (Fibreboard Paper Products Corp v NLRB, 138 NLRB 550 (1962) enforced, 322 F2d 411 (CA DC, 1963) affirmed, 379 US 203 (1964)). While the Fibreboard case certainly doesn't answer the question that is presented herein,

it does establish the principle that the employer must operate within certain guidelines before it is allowed to lessen or eliminate a portion of the work force. This is true in the area of sub-contracting, even if the initial decision was economically sound. Also, as a practical matter, the Alpena case puts a limitation on the power of a public employer to decide on the size of a fire department or police department. For instance, the Court of Appeals has stated that manning is a subject of bargaining. If a contract provides that there be a minimum of eight men on each shift, either in the police department or the fire department, and because of economic reasons it becomes necessary for the City to maintain the manning provisions in the contract, the Chairman would be hard pressed to assume that the financial situation of the City would give it the inherent right to disregard a manning requirement. Further, the tenure of employment has been deemed a mandatory subject of bargaining (NLRB v Houston Chapter, Association of General Contractors of America Inc, 349 F2d 449 (CA 5, 1965)).

When all of the above is combined with the analysis that appears in the prior opinion regarding layoffs, Joint Exhibit 2, the panel can only conclude that the basis for layoffs is a mandatory subject of bargaining.

Of course, this does not mean that either party is required to agree to the implementation of a specific proposal (MCL 423.215 MSA 17.455(15)). It means that good faith bargaining must take place. Further, the Chairman feels that interest arbitration panels, acting pursuant to Act 312 of 1969, as amended, should be very cautious in this area. While the public interest may be served by limiting the grounds on which layoffs concerning essential services can take place, it must be remembered that the duly elected

officials were chosen by the public to manage the community. Such managers should not be rendered impotent by unduly restrictive layoff language. Further, without compelling reasons an arbitration panel should not substitute its judgment for that of elected officials in the area of layoffs. The elected officials are answerable to the public and it must be assumed that the public will appropriately respond if dissatisfied with their efforts.

In order to achieve an equitable balance between the City's need for flexibility, the employee's security and the public's interest, the panel recommends that paragraph (a) of Section 16 of the Collective Bargaining Agreements should read as follows:

> (a) The word "layoff" means a reduction in the working force due to a decrease of work or a general lack of funds. If for lack of funds, police officers may be laid off only in conjunction with layoffs and cutbacks in other departments.

The above language gives the City the right to lay off police officers when it is involved in a financial crisis that affects substantially all other City functions. It is understandable that the City would desire unbridged power in this matter. Nevertheless, the City must understand that the officers no longer have complete job security and that both parties must absorb some of the distasteful aspects of the language.

The provision also assures that police officers will not be singled out and be the only department where layoffs take place. It must also be remembered that the public becomes very uneasy when police officers are laid off. Thus, police officers have a very powerful ally. Hopefully, the City will receive the money necessary to function with all personnel. If this is so, then no layoffs would be necessary. However, if layoffs are needed, the above language would serve to give the City a certain amount of

flexibility and yet provide the officers with a quantum of protection.

AWARD:

The panel orders that Section 16, paragraph (a), of the prior Collective Bargaining Agreements be modified to read as follows:

> (a) The word "layoff" means a reduction in the working force due to a decrease of work or a general lack of funds. If for lack of funds, police officers may be laid off only in conjunction with layoffs and cutbacks in other departments.

_____
CHAIRMAN

_____
UNION DELEGATE

_____
EMPLOYER DELEGATE

ISSUE: GRIEVANCE PROCEDURE
NON-ECONOMIC

LAST OFFERS OF SETTLEMENT:

The prior Collective Bargaining Agreement contained the grievance language in Section 6. That section stated:

> "In the event of a dispute, difference or disagreement between the Employee's Union and the Employer, the following procedure shall be utilized to adjust the matter:
>
> "(a) Step One. When an Employee feels that he is aggrieved, he shall within five (5) working days after the act or incident complained of present his grievance orally to the Commissioner. The Steward may be present at this step if so requested by the Employee.
>
> "(b) Step Two. If the Employee and the Commissioner are unable to adjust the grievance, it shall be reduced to writing setting forth the facts necessary to an understanding of the issues involved signed by the Employee or his representative and submitted by the Steward to the Commissioner for resolution.
>
> "(c) Step Three. If the grievance still cannot be satisfactorily adjusted in Step Two, it shall be submitted to the City Manager who will endeavor to resolve the matter with the Union's Chief Steward and Steward.
>
> "(d) Step Four. If not settled in Step Three, the grievance shall be referred to the City Council who will seek to adjust the grievance with the Union's Staff Representative, Chief Steward and Steward.
>
> "(e) Step Five. In the event that the grievance shall not have been satisfactorily settled in the four preceding steps, either party within seven (7) working days after the date of the conclusion of Step Four above may, by letter to the American Arbitration Society submit the matter to said Society for arbitration and earnest effort shall be made by both parties to expedite arbitration."

The Union proposes that the above stated grievance procedure continue without change.

The City proposes rather sweeping changes in the grievance language. Its proposal states:

> "A 'Grievance' shall mean a specific charge by an employee or group of employees based upon an event, condition or circumstance under which an employee works that a provision of this agreement has been violated or misinterpreted.
>
> "In the event of a dispute, difference or disagreement between the employees union and the employer, the following procedure shall be utilized to adjust the matter:

"(A) Step One. When an employee feels that he is aggrieved, he shall, within five (5) working days after the act or incident complained of, present his grievance orally to the commissioner. The Steward may be present at this step if so requested by the employee.

"(B) Step Two. If the employee and the commissioner are unable to adjust the grievance, it shall be reduced to writing setting forth the facts necessary to an understanding of the issues involved, signed by the employee or his representative and submitted by the Steward to the commissioner for resolution.

"(C) Step Three. If the grievance still cannot be satisfactorily adjusted in Step Two, it shall be submitted to the City Manager who will endeavor to resolve the matter with the Union's Chief Steward and Steward.

"(D) Step Four. If not settled in Step Three, the grievance shall be referred to the City Council who will seek to adjust the grievance with the Union's staff representative, Chief Steward and Steward.

"(E) Step Five. In the event that the grievance shall not have been satisfactorily settled in the four preceding steps, either party within seven (7) working days after the date of the conclusion of Step Four above, may, by letter to the Police and Fire Arbitration Association submit the matter to said Association for arbitration and an earnest effort shall be made by both parties to expedite arbitration. The arbitrator shall be without authority to require the City to delegate, alienate or relinquish any powers, duties, responsibilities, obligations or discretions which by State Law, City Charter or Ordinance the City can not delegate, alienate or relinquish.

"No settlement at any stage of the grievance procedure except an arbitrator's decision shall be a precedent in any arbitration and shall not be admissable as evidence in any future arbitration proceeding. There shall be no appeal from the arbitrator's decision if made in accordance within its jurisdiction and authority under this agreement.

"In the event the case is appealed to an arbitrator and he finds he has no power to rule on such case, the matter shall be referred back to the parties without decision or recommendation on the merits of the case.

"Except as provided herein by agreement between the parties, the parties understand and agree that in making this contract, they have resolved for its terms all bargaining issues which were or which could have been made the subject of discussion.

"The arbitrial forum herein established is intended to resolve disputes between the parties only over the interpretation or application of matters which are specifically covered in this contract."

DISCUSSION AND EVIDENCE:

A careful examination of the record reveals that neither party has directed evidence or argument towards this issue. Any change in the language contained in the prior Collective Bargaining Agreement, which by prior opinion has been determined to establish the existing wages, hours and conditions of employment, cannot be substantiated.

AWARD:

The panel orders that the Union's proposal be accepted.

CHAIRMAN

UNION DELEGATE

EMPLOYER DELEGATE

ISSUE: RETROACTIVITY - ECONOMIC

EXPLANATION:

Initially, it should be understood that the City maintains that this panel has no jurisdiction whatsoever to decide this issue. The City bases its contention upon the fact that it alleges that this issue was never negotiated and that it was not listed as an issue in the opinion rendered by this panel regarding the issues to be arbitrated, joint Exhibit 3.

Commencing on page 6 of the November 18, 1976, transcript, the City argues:

> "There's nothing in the opinion that relates to the effective date of the contract under consideration. There's nothing in the record in supportive evidence on that issue. There's nothing in the record to indicate that was ever an issue that was raised in the course of negotiations. What is on the record is the prior contract was terminated on June the 30th of '76 by the force of a contract permitting its expressed termination and the giving of notice. Since that time there has been no contract between the parties; there is no contract between the parties now. And no contract can have an effective date until such a contract exists, absent an agreement by the parties.
>
> "And the City does not agree that such contract can be retroactive or that there is any prescribed date that such shall become effective, that being the result of this arbitration. And accordingly, it's not an issue here."

In response to the above argument, the Union states:

> "I'd like to respond to that.
>
> "I think the City is again attempting to pick on some minor technical point, raising an objection that no one thought of before in order to get something which it can't get through the procedures here: That is, after some four months of Hearings we hear from the City for the first time, oh, well, we're only going to agree to a contract when these proceedings are closed. Well, if the City's position on that had been made clear, we would not have agreed to extend the thirty-day limit. Had the City's position on that been made clear, we would not have tolerated numerous delays and objections and tactics resorted to by the City.

"The parties all along were negotiating for a contract to begin on the First of July 1976. I'm looking at the City's counterproposal dated March 15, 1976 and it says: 'Rates of pay per annum, City's proposals effective date 7/1/76.' Everybody was negotiating for a contract that began on the First of July. Everybody's been submitting proposals on that basis. Indeed, I would venture that the City's own figures, its progressions are based on effective date July 1.

"We would simply say that it's quite common for contracts to be made retroactive -- quite common in Act 312 for them to be made retroactive, regardless of whether the City agrees or not. And it would be the Union's position that this attempt by the City is simply another tactic in its many tactics of obstructing and delaying and obfuscating the issues.

"I'd read from Section Ten of Act 312 where it says:

"'If a new fiscal year has commenced since the initiation of arbitration procedures under this Act, the foregoing limitations shall be inapplicable, and such awarded increases may be retroactive to the commencement of such fiscal year any other statute or charter provisions to the contrary notwithstanding.'

"So, that's the Union's position."

After listening to the arguments, the panel ruled that the issue of retroactivity was properly before it. This conclusion was arrived at for a number of reasons. The City Council's counter-proposals, dated March 15, 1976, being City Exhibit O, states that the effective date of the rates of pay shall be 7/1/76. Also, the counter-proposals envisioned a three-year agreement. Thus, there were pay increases for the dates of 7/1/77 and 7/1/78. Further, Union Exhibit 16, the Union's initial proposals, dated January 12, 1976, clearly indicate that its wage demand would be effective from July 1, 1976 thru June 30, 1977. Apparently before the prior Collective Bargaining Agreements were terminated, both parties agreed that a new agreement would have a wage schedule that would be effective on July 1, 1976.

It is understandable that because of the effect of the interlocutory order and what has transpired since the initial proposals were exchanged, the City would change its position. However, the Chairman cannot agree that the panel does not have the jurisdiction to hear this issue. If the panel did not have jurisdiction, then all the parties would have to do is to agree to an item before arbitration was invoked and then once it was invoked, disagree. If this were the case, it would be very easy to argue that the item was never negotiated and, thus, cannot be an issue before an arbitration panel. This cannot be allowed to happen for it would completely disrupt the negotiation and arbitration processes.

Thus, the panel took the position that the issue of retroactivity was before it. The issue was designated as economic and proofs, along with last offers of settlements, were requested thereon.

LAST OFFERS OF SETTLEMENT:

The Union's last offer of settlement states:

> "The Union proposes that all economic benefits be effective retroactive to July 1, 1976."

The City's last offer of settlement, inter alia, states:

> "The City maintains that all employee benefits will be effective from the date that this agreement is signed until June 30, 1977; that any agreement prior to the decision of the arbitration panel is null and void (as was determined by the Circuit Court); and that any prior benefits not before the arbitration panel do not exist."

EVIDENCE AND DISCUSSION:

The Union argues as follows:

> "The Union proposes that all economic benefits be made retroactive to July 1, 1976. The statute clearly allows and seems to require such retroactivity:
>
> "'If a new fiscal year has commenced since the initiation of arbitration procedures under this act, . . . such increases may be retroactive to the commencement of such fiscal year any other statute or charter provisions to the contary notwithstanding. MCLA 423.240.'

"Past collective bargaining contracts between the parties have been effective at the commencement of the fiscal year. (Un. Ex's 11, 12) The recently negotiated firefighters' contract was effective July 1 (Un. Ex. 13), and the one prior to that was effective retroactively to July 1 (Un. Ex. 14). When it suited the City's purposes, the City witness noted that retroactivity was common. (Tr. Nov. 18, pp.)

"In negotiating this contract, both parties submitted proposals to be effective July 1, 1976. (See Un. Ex. 2, Para 13; Un. Ex. 16, Item 8; Un. 17, Item 5) The City's own calculations, submitted to this Panel on November 18, assume that whatever proposals are adopted will be effective July 1. (City Ex. E, p. 2) (1) The City's own exhibits reveal what everyone knew: both parties were negotiating for a one year contract effective July 1, 1976.

"Making the contract effective in December or January would simply mean cutting the wage increases in half, thus making Centerline officers fall further behind the cost-of-living and salaries in comparable communities. As the Union stated at the hearing. the City's belated attempt to gain advantage by making the contract effective at the time of the Award is simply a cheap shot.

"(1) For example, the total cost for the 5% proposal, 5% rank differential, is listed on Exhibit E as $314,743. The calculations on page 2 of Exhibit E reveal that this figure is derived by projecting the annual cost (i.e. July 1 to June 30) for each increase in salary. The same assumption is made for each other calculation on Exhibit E."

The City argues as follows:

"On the question of retroactivity, and I guess we're, perhaps, at that point now, you should not under any circumstances consider the question of retroactivity. It's not properly here. The contract -- there's no carry over of the contract, there's no contract in existence. The Statute, as I read it, does not prohibit you from awarding a one year contract. That's what our last practice was; the last contract was for one year. There's nothing in the Statute says that the contract must, of necessity, follow the fiscal period of the City. You can award a one year contract, and I invite you to do so. But that contract must, of necessity, be prospective only. Under no semblance of a construsion of this evidence or its application can it be made retroactive."

The record clearly establishes that retroactive application of contract benefits is nothing new and in fact is quite common. Further, as an example thereof, Union Exhibit 14 clearly indicates that the Collective Bargaining Agreement between the firemen and the City, which terminated on June 30, 1976, was executed in September of 1974, while the wage payments were made retroactive to July 1, 1974.

Cities often argue that retroactivity should not be granted because to do so would cause the Union to linger at the bargaining table. The lingering would be caused by the Union knowing that it had nothing to lose and everything to gain for any increase in wages that it would receive would be retroactive to the date of the termination of the last contract. However, the argument is a two-edged sword and the Unions argue that to deny retroactivity would cause the City to linger at the bargaining table for every day that passed would save the City money.

Speaking of money, the following schedule compares the cost of all the awards granted herein with the cost shown in City Exhibit E. The information appears as such:

	COST		
	Exhibit E	Total of Awards	Comparison
Personnel	16 for salary figure	19 for salary figure	
Salaries	282,135	332,024	+49,889
Overtime	27,600	27,600+	Slight Increase
Holiday Pay	14,740	14,040	-700
Hospitalization & Dental	23,500	23,500	0
Life Insurance & Disability Ins.	8,220	8,220	0
Longevity	5,040	5,040+	Small increase

COST

	Exhibit E	Total of Awards	Comparison
Pension	75,984	73,107	-2,877
COLA	3,700	3,700	0
Uniform Allowance	6,650	7,600	950
Shift Differential	5,700	6,650	950
	453,269	501,481	48,212

Cost is $15,510 more than if every City proposal were adopted. ($501,481 - 485,971).

It should be noted that the information under the Column labeled Exhibit E contains a salary figure which is based upon 16 officers, plus the contingency that was contained in the police budget. The salary figure appearing under the Column Total of Awards equals the total salary award for both patrolmen and staff officers based upon a 19-man department. The difference between salaries is the biggest difference that exists. It approximates $50,000.00. When all the adjustments are made, it would cost the City of Centerline approximately $48,000.00 more than it has currently allocated in order to pay for the cost of all the awards and maintain a 19-man department. It should be understood, of course, that the figures contained herein are as accurate as possible,but certainly reflect only close approximates. Thus, the calculations indicate that the difference between a 19-man department, realizing the benefits of all the awards and the amounts allocated in City Exhibit E, amount to about $50,000.00. Since the testimony shows that the City has recently received $25,000.00 in anti-recessionary funds, and has allocated that money to the police budget, it appears that $25,000.00 additional money would be needed in order to maintain the department at 19 personnel, while paying all the awards rendered herein.

It is difficult to believe that the City cannot afford the additional $25,000.00, especially when the record shows that the police department is the only department that was the target of layoffs.

Further, the record does not reflect whether either or both parties prolonged the bargaining process or acted in bad faith.

It is unfortunate that the issue was labeled as economic, thus, forcing the panel to choose between one or the other last offer of settlement. Arguably, the most equitable way to have handled this matter would have been to make the contract retroactive for a period of time that was less than the date that the prior contract terminated. If this was done, the unit would have had the benefit of its increase in salary going into the next round of negotiations, while the City would have had the benefit of saving a portion of money by not having to pay full retroactivity. This type of award is fairly common. However, that choice is not before this panel.

In its closing argument, the City suggested that this panel render a one-year award effective on the date that the award was issued. Thus, the contract would have began on the date this award was issued and continued for a period of one year. The advantage to this type of award is that there would be a longer period of labor peace. Obviously, the labor organization would have opposed such an award because it would, in its estimation, fall behind the current wage levels. However, in its last offer of settlement, the City removed the possibility of this type of an award.

The evidence then amounts to this:

(a) There is no evidence which indicates that one or the other party acted in bad faith during the negotiations, prolonging same.

(b) The evidence indicates that retroactive wage agreements are not uncommon and in fact the prior Collective Bargaining Agreement between the firefighters and the City of Centerline provided for retroactive wage adjustments.

(c) The cost of implementing all the awards on a retroactive basis would be approximately $25,000.00.

The panel in this case has no choice but to select either retroactivity or no retroactivity. The panel does not have the power to select an inbetween area which may in fact be more equitable. When faced with such a decision, and with the evidence that is stated above, the panel will rule that all the awards contained herein shall be applied on a retroactive basis. While certainly there is no presumption which states that retroactivity will be awarded unless proven otherwise, the evidence makes it apparent that retroactivity should be granted in this case. The basis on which the award is rendered is that first, the cost involved is not insurmountable; secondly, there is no showing that either party acted in bad faith; thirdly, retroactive wage agreements are quite common; and fourthly, the prior Collective Bargaining Agreement between the firefighters and the City of Centerline was applied retroactivity. Also,the City has had the use of the money that would have otherwise gone to contract improvements.

AWARD:

The panel orders that the Union's last offer of settlement be implemented.

_____
CHAIRMAN

_____
UNION DELEGATE

_____
EMPLOYER DELEGATE