

STATE OF MICHIGAN
Department of Labor
Employment Relations Commission

Arbitration Under Act 312
(Public Act of 1969 as amended)

In the Matter of
Detroit Police Officers Association
and

City of Detroit
MERC Case No. D86 C425

Award of Panel on
Economic Issues

Panel Members:

John B. Kiefer, Chairman
Denise Lewis, City Delegate
John Lyons, Union Delegate

April 20, 1987

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STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS
COMMISSION

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STATEMENT OF PROCEEDINGS

On June 4, 1986, the Detroit Police Officers Association (Union) filed a Petition for Arbitration pursuant to Act 312, Public Acts of 1969, as amended, with the Michigan Employment Relations Commission, requesting the initiation of binding arbitration proceedings regarding terms and conditions of employment to be included in a collective bargaining agreement. On June 24, 1986, John B. Kiefer was appointed to serve as Chairman of a panel of arbitrators. The other members of the arbitration panel selected by the respective parties were Denise Lewis, the Designant for the City, and John Lyons, the Designant for the Union.

Between July 3, 1986 and March 10, 1987, the Arbitrator presided at approximately 50 pre-hearing and evidentiary hearing conferences and, on March 12, 1987 the parties submitted their last offers of settlement on each economic issue to the arbitration panel. On January 19, 1987, the parties submitted briefs in support of their respective positions on non-economic issues and an award has previously been made on those non-economic issues. This award confines itself to the economic issues submitted by the parties which still remain. On March 17, 1987 the parties submitted briefs on those economic issues for which this award is made.

Section 8 of Act 312 provides:

"At or before the conclusion of the hearing held pursuant to section 6, the arbitration panel shall identify the economic issues in dispute, and direct each of the parties to submit, within such time limit as the panel shall prescribe, to the arbitration panel and to each other its last offer of settlement on each economic issue. The determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic shall be conclusive. The arbitration panel, within 30 days after the conclusion of the hearing, or such further additional periods to which the parties may agree, shall make written findings of fact and promulgate a written opinion and order upon the issues presented to it and upon the record made before it, and shall mail or otherwise deliver a true copy thereof to the parties and their representatives and to the employment relations commission. As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in Section 9. The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in Section 9. This section as amended shall be applicable only to arbitration proceedings initiated under section 3 on or after January 1, 1983." (footnotes omitted)

Section 9 of Act 312 provides:

"Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet the costs.
- (d) Comparison of the wages, hours and conditions

of 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.
- (e) The average consumer prices for goods and services, commonly known as the cost of living.
- (f) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (h) Such other factors, not confirmed to the foregoing, which are normally or transitionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment."

Consistent with the Supreme Court's directive in Detroit v. DPOA, 408 Mich 410 (1980), the panel has, with respect to economic issues, adopted the last offer of settlement which more nearly complies with the applicable Section 9 factors.

There are 36 economic issues in all and they shall be approached in the following order:

UNION ISSUES:

1. Wages
2. Duration of Agreement
3. Reduced Early Pension Benefits
4. Twenty Year Retirement

5. Retirement Allowance
6. Four-Ten Hour Days
7. Cleaning Allowance
8. Survivors Benefit Fund
9. Optical Care Insurance
10. Shift Differential
11. Unused Sick Leave
12. Pension-Change of Option
13. Pension-Old Plan/New Plan
14. Sponsored Dependent Coverage
15. Martin Luther King Holiday
16. Furloughs
17. Sick Leave Banks
18. Cost of Living Allowance
19. Pension-Employer Contribution
20. Work in Lieu of Furlough
21. Supplemental Layoff Fund
22. Ten Year Vesting
23. Layoff Service Credit

CITY ISSUES:

1. Employees-Premium Sharing
2. Retirees-Premium Sharing
3. Employees-Prescription Plan
4. Retirees-Prescription Plan
5. Hospitalization Proration-Retirees

6. Premium Billing
7. Carrier Deletion
8. Hospitalization-Basis of Payment-Employees
9. Hospitalization-Basis of Payment-Retirees
10. Hospitalization-Basis Containmentment
11. Pensions-Average Final Compensation
12. Pensions-Annuity Interest
13. Fair Labor Standards Act Compliance

Unless otherwise indicated, all awards of this panel are to be effective July 1, 1986.

Union Issues

1. WAGES

The City proposes that Article 37 of the Collective Bargaining Agreement shall be amended as follows:

"Effective July 1, 1986, police officers shall receive a wage increase of 5% over wages being paid on June 30, 1986;

Effective July 1, 1987, police officers shall receive a wage increase of 3% over wages being paid on June 30, 1987; and

Effective July 1, 1988, police officers shall receive a wage increase of 3% over wages being paid on June 30, 1988."

The Union proposes that Article 37 of the Collective Bargaining Agreement shall be amended as follows:

Effective July 1, 1986, police officers shall receive a wage increase of 5% over wages being paid on June 30, 1986;

Effective July 1, 1987, police officers shall receive a wage increase of 4% over wages being paid on June 30, 1987; and

Effective July 1, 1988, police officers shall receive a wage increase of 4% over wages being paid on June 30, 1988.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The Union contends that the public interest is best served by a police department which is highly motivated and adequately compensated. The City contends that the wage increase requested by the Union will result in exorbitant costs to the City for which it will be unable to pay without drastic cuts in essential public service.

(e) Not applicable

(f) The Union contends that the overall compensation paid to police officers is inadequate. The City contends that, in comparison to other cities, the officers are adequately compensated for their services.

(g) None

(h) The recently-arbitrated LSA Agreement for the 1986-1989 period awarded the increase in wages sought by the Union in the instant arbitration.

OPINION AND AWARD

This panel is persuaded that the principle of "differential" i.e., the linking of comparable salaries of police officers on the one hand, with the balances of the lieutenants and sergeants on the

other hand, which the parties here have historically observed, should be seriously considered when determining salaries. While it is true that the benefit of the differential, by existing contract, flows only from the police officer to the lieutenants and sergeants, consideration of the Section 9 factors make it imperative that this panel conscientiously apply the results of the recent unanimous award of the Swainson Panel to the lieutenant and sergeants in which the Panel there upheld the Union offer which is identical to the offer by the Union here. Presumably the Swainson Panel heard substantially the same evidence, as did this Panel, regarding the City's financial condition, prospects and ability to pay, and the comparability of state and national governmental units.

Subsection (e) of Section 9 specifically requires an Act 312 Panel to use as one of the bases for its findings on a "comparison of the wages. . . of employees involved in the arbitration proceedings with the ranges . . . of other employees performing similar services and with other employees generally." Obviously the lieutenants and sergeants in the Detroit Police Department are performing similar services to those of the DPOA and the City's financial condition must have been considered by the Swainson Panel when it rendered its Award on March 2, 1987. That Panel also considered the "Differential" Clause 54 of the Lieutenants and Sergeant's contract, which was not the subject matter of challenge by the City, and maintained the status quo.

This Panel gives great weight to that decision and, coupled with the state and national comparables, is persuaded that, based

upon competent material and substantial evidence on the whole record this Panel concludes that the Unions proposal as to wages shall be adopted.

Vote

For:

John Keefe

Against:

Daniel Lewis

2. DURATION OF AGREEMENT

The parties agree that Article 43 shall be amended insofar as this Agreement shall be in effect until June 30, 1989.

Section 9. FACTORS

- (a) Not applicable
- (b) The parties stipulate to the duration of this Agreement.
- (c) Not applicable
- (d) Not applicable
- (e) Not applicable
- (f) Not applicable
- (g) Not applicable
- (h) Not applicable

OPINION AND AWARD

This panel concludes that the duration of this Agreement shall be in effect until June 30, 1989.

Vote

For:

John Keefe Daniel Lewis

Against:

3. REDUCED EARLY PENSION BENEFITS

The Union proposes that Article 32 be amended to permit employees who retire after the completion of eight years of service and age 40 to receive actuarially-reduced early pension benefits:

"Members who terminate employment who are eligible for a pension pursuant to Article VI, Section 4 of the Policemen and Firemen Retirement System (40 & 8) provision shall have the option of receiving an immediate, but reduced early pension benefit in lieu of a deferred pension.

This reduced early pension benefit shall not result in an increase in employer contribution rates, therefore, the value of the Reduced Early Pension Benefit shall be the actuarial equivalent of the 40 & 8 pension.

No other benefits or amounts payable pursuant to the Policemen and Firemen Retirement System, including benefits available to persons who retire under Article VI, Section 4, shall be affected by this contractual provision. Health insurance benefits payable under this provision will commence when the member would have been eligible to receive a regular service retirement under Article 32(F) of the collective bargaining agreement.

This provision shall be retroactive to July 1, 1986."

The City proposes that the status quo should be maintained and that retirees who leave employment prior to vesting become eligible for pension benefits on the date on which they would have been eligible for said benefits, but no sooner.

Section 9. FACTORS

- (a) Not applicable
- (b) Not applicable
- (c) The Union argues that the adoption of its proposal will result in no increase in costs to the City other than the

administrative costs of computing the reduced pension benefits of its early retirees. The Union further contends that the public interest is best served by adequate retirement income for police officers.

(d) The Unions proposal was recently adopted by the LSA in the arbitration award for the period 1986-1989.

(e) Not applicable

(f) Not applicable

(g) None

(h) Not applicable

OPINION AND AWARD

Both the interests of the general public as well as those officers who are early retirees will be best served by the adoption of the Union's proposal. Therefore, the panel concludes that based upon competent material and substantial evidence on the whole record the Union proposal of Reduced Early Pension Benefits is adopted.

Vote

For:

Against:

John Kiefer
Daniel Morris

4. TWENTY YEAR RETIREMENT

The Union's last best offer proposes that Article 32 of the Collective Bargaining Agreement be amended to permit employees to become eligible for retirement after twenty years of employment and that the pension for those employees would be equal to two percent of average final Compensation, multiplied by the number of years of

employment. The Union proposes the following:

"All applicable provisions of the Policemen and Firemen Retirement System shall be amended to permit members of the Detroit Police Officers Association to receive a service retirement allowance pursuant to Article VI of the System after such persons have earned twenty (20) years of creditable service. Notwithstanding any other provision of the Pension Plan, a pension under this provision will provide a straight life retirement allowance equal to two percent (2%) of his average final compensation, multiplied by the number of years, and fraction of a year, of his creditable service."

The City contends that the status quo should be maintained insofar as employees are eligible only after serving for twenty five years.

Section 9. FACTORS

(a) Not applicable

(b) Not applicable

(c) The City contends that the additional retirement benefits requested by the Union are beyond the City's means. The Union contends that some officers are less able to maintain employment for twenty five years due to stress and that the public interest is best served by adequate retirement compensation for these police officers.

(d) The parties dispute those cities which are to be used as comparable and the relative position of Detroit's pension benefits in relation to the other cities.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

The panel finds that the status quo should be maintained and retirement benefits shall be paid only to employees who have completed twenty five years of service (~~the~~) The Union has not shown sufficient evidence to support its contention that officer morale would be significantly improved by decreasing the required amount of service before pension benefits are received.

Vote

For:

John Kiefer Denise Kerner

Against:

[Signature]

5. RETIREMENT ALLOWANCE

Article 32 of the Collective Bargaining Agreement states that the retirement benefits to Union members shall be computed by multiplying the average final compensation by the number of years of service, not to exceed 70 percent of an officer's average final compensation (for officers who retired before e 1969, the retirement amount cannot exceed 50 percent of the average final compensation). The Union seeks to increase the percentage by which the number of years of service are multiplied to 2.2 percent. The City proposes that the status quo be maintained.

Section 9. FACTORS

- (a) Not applicable
- (b) None
- (c) The City's major objection to the proposal is its cost,

which the City estimates to be at least \$7.5 million per year for police officers and firefighters engaged in current active service. The Union's main argument is that police officers in the City of Detroit are subject to a great deal of stress, which requires that an adequate pension plan be awarded upon retirement.

(d) The City contends that the status quo provides comparable pension benefits; the Union argues that comparable police departments provide greater pension benefits to their members.

(e) The Union proposes that by increasing the multiplier, the deficiencies in overall compensation would be offset since no cost of living is provided for in the present Agreement.

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

Based on the evidence presented and consideration of the applicable Section 9 factors, the panel finds in favor of the City in maintaining the status quo. The Union has not sufficiently shown that the present multiplier is inadequate to provide retirement benefits. The panel hereby adopts the City's proposal in favor of maintaining the status quo.

Vote

For:

Against:

John R. Dineen
[Signature]

6. FOUR-TEN HOUR DAYS

The Union proposes that a new article be adopted to permit patrol officers to work ten hour shifts for four days instead of the present five days per week, eight hour per day schedule. In support of its proposal, the Union contends that the result will improve staffing and scheduling flexibility and officer morale, and it will provide increased time for on duty training, decrease scout car response times, reduce sick leave, and provide financial savings by reducing end-of-shift overtime. The Union's last best offer states:

"The 4/10 hour day schedule shall apply to all precincts. A 4/10 hour day schedule shall be implemented not more than 90 days after the effective date of this agreement. The 4/10 schedule shall apply to all precinct personnel with the exception of; the 10 staff positions designated by the Chief of Police, morality, car boosters (30 series); precinct cruisers. Inside shift personnel will work 4/10 hour shifts and may be limited to four (4) positions on three (3) shifts.

A 4/10 hour day schedule shall consist of four (4) consecutive work days followed by three (3) consecutive days off. Each 4/10 hour day shall consist of three (3) or four (4) shifts as determined by the Department. The Department may change shift times provided 28 days notice is given. The ten (10) hour shifts are inclusive of roll call time and on duty lunches. Officers to whom the 4/10 hour day schedule applies will remain on their selected shift without rotation.

Officers shall bid for their 4/10 hour schedule based upon seniority and provided that the officer is qualified in accordance with Article 10C(2)(a) of the contract. Bids shall be open semi-annually, between 60 days and 30 days before the six (6) month period terminates. The bidding process shall operate as follows: Each precinct shall post the master schedule of all available job assignments and leave day schedules, by shift. Each officer shall select by seniority, and qualification in accordance with Article 10C(2)(a) of the contract, one billet consisting of a shift, job assignment, and leave day

schedule. The master schedule showing the remaining available billets and the completed individual selections shall remain visible throughout the bidding process. Vacancies that occur between bids shall be filled consistent with Article 10C(2)(a).

All officers who currently work 5/8 hour day schedule (Monday through Friday, Saturday and Sunday off; day shift) shall continue with same.

When officers on the 4/10 hour day schedule are detailed to the Academy for training which involves consecutive 40 hour blocks in a seven (7) day period, they may be scheduled on a five (5) day eight (8) hour schedule for such training.

The Department shall have the right to the initial assignment of Academy graduates consistent with current past practice.

The Union and City agree that any issues not addressed herein shall be subject to immediate discussions between the parties. If the parties are unable to resolve said issue(s), the parties shall submit the matter directly to expedited arbitration within 24 hours. The arbitrator shall be required to render a bench decision upon completion of the hearing.

An employee working a 4/10 hour schedule shall be treated the same under the collective bargaining agreement except for those provisions specifically adopted as contained hereafter.

This provision shall be effective ninety (90) days from the issuance of the Award.

The City strenuously opposes the proposal and requests that the status quo be maintained. In support of its position, the City contends that the adoption of four ten hour workdays would create a decline in the quality of officer supervision, would cause chronic "burnout" of officers assigned to the afternoon and night shifts, would concentrate inexperienced officers and supervisors on the most demanding shifts, would segregate black and female officers on the less desirable shifts, create a disparate impact on black and female

officers who are involuntarily removed from their jobs, would negate the police Department's attempts to maintain racial and gender balance on each shift, would cause excessive numbers of officers to take simultaneous vacations, would create less flexibility in the assignment of officers to temporary or special details, and would curtail management's assignment of patrol officers.

The City has introduced evidence that many comparable national and local police departments are dissatisfied with the four ten plans being utilized. Testimony uniformly showed that supervisory personnel do not believe that better police patrol coverage results from the four ten system. Instead, serious communication problems result, and many officers take second jobs which result in decreased patrol performance. No other departments had generally positive results for their four-ten experiences, and the Union contended only that the comparable department's experiences were inconclusive.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The Union argues that improved patrol response will serve the best interest of the general public. The City states that it has insufficient data to analyze the costs of the four ten plan.

(d) The comparable departments which have utilized four-ten plans have provided generally negative information on the Union's proposal.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

The Panel finds that, based on the competent material and substantial evidence on the whole record, the Panel cannot adopt the Union's proposal for a four-ten work week. The Panel is particularly impressed by the City's proofs and arguments that the Union's proposal would result in an unacceptable fatigue factor and that the supervisors would have much less flexibility in the assignment of duties and of overtime. The evidence provided by the Union in support of this proposal is more helpful to the City's position and is, at best, equivocal as to the feasibility of the proposal. In light of the foregoing, the panel hereby adopts the City proposal.

Vote

For:

John Kiefer

Against:

[Signature]

7. UNIFORM CLEANING ALLOWANCE

The Union proposed that Article 41 be amended to provide for an annual uniform cleaning allowance in the amount of \$250.00. The Agreement presently provides in Article 19, that the City will "furnish and replace uniforms and accessories". The City proposes that the status quo be maintained. The City's primary opposition to the Union's proposal is on the basis of cost, which the City estimates to be \$2,859,000. for Union members.

Section 9. FACTORS

(a) Not Applicable

(b) None

(c) The Union contends that the public interest is best served by police officers who present themselves in a clean and neat manner. The City argues that the increased cost does not justify any benefit in the appearances of the officers.

(d) The Union contends that comparable national and local police departments provide a cleaning allowance in addition to providing uniforms to their officers. Too, the Union contends that other City employees who wear uniforms in the course of their employment are provided with cleaning allowances. The LSA was recently awarded this benefit as part of its arbitration award.

(e) The City's witness, Deputy Chief Revel Brawner, testified that each officer must pay approximately \$520.00 per year for the cleaning of uniforms.

(f) The parties concur that this proposed benefit is not one of the larger cost items in dispute in these proceedings.

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

The Union has amply demonstrated the need for a uniform cleaning allowance. The City has not met its burden of demonstrating that the award of this benefit would create undue hardship to the City's budget. After consideration of the Section 9 factors and based on the competent material and substantial evidence

Vote For: John Kuefer
Against: Dumedeve

(c) The Union contends that the public interest is best served by the provision of survivors' benefits to the spouses and children of police officers. The Union also argues that the cost to the City

would not be exorbitant.

(d) The LSA was recently awarded this benefit in its arbitration proceedings.

(e) The Union argues that while the cost of living has risen over the past eight years, and the members's percentage of contributions has steadily risen, they have received no allowance to meet the rising cost of living.

(f) The Union contends that its members' overall compensation has declined with respect to pension benefits since the Fund's initiation.

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

The panel is convinced that the Union's proposal on contributions to the Survivor's Benefit Fund is meritorious and the cost to the City is offset by the benefit to the members. Accordingly, based on competent material and substantial evidence on the whole record the panel awards the Union proposal on this issue.

Vote

For:

John Kiefer

Against:

Miss Lewis

9. OPTICAL CARE INSURANCE

The Union proposes that Article 21, Subsection J be amended to require that the City pay an amount equal to the premium cost per employee for the Blue Cross/Blue Shield A-80 Optical Plan to an

optical plan selected by the Union. In support of its proposal, the Union contends that the present plan provides minimal coverage to its members. The City argues that the status quo should be maintained.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The Union convincingly argues that accurate vision is absolutely essential for police officers. It further argues that the present plan provides coverage only for inadequate eyeglasses and treatment. The City contends that any increased benefit to the Union's members does not justify the cost to the City.

(d) The LSA recently obtained this award by its arbitration panel.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

The panel is convinced of the merits of the Union's position. Therefore, based on competent material and substantial evidence on the whole record, the panel hereby awards the Union's proposal as to optical benefits.

Vote

For:

John Kuefer

Against:

Daniel Kuefer

10. SHIFT DIFFERENTIAL

The Union proposes that Article 30 be amended to increase the shift differential for its members. The Union's last best offer states:

"Shift premium shall be paid to all members whose regular tour of duty begins within the hours prescribed as follows, and in the amounts as set forth herein: If the tour of duty begins between 11:00 a.m. and 6:59 p.m., the rate of shift premium pay is forty cents (.40) per hour. If the tour of duty begins between 7:00 a.m. and 3:59 a.m., the rate of shift premium is fifty cents (.50) per hour.

The shift premium is paid to a member in addition to his basic rate of pay, for the regular tour of duty starting within the hours designated above, and any overtime hours worked in conjunction with an afternoon or midnight shift.

This provision shall become effective July 1, 1986."

The present shift premium is twenty five cents per hour for the afternoon shift; the proposal requests a raise to forty cents per hour. For the night shift, the present shift differential is thirty cents per hour; the proposed rate would be increased to fifty cents per hour.

The City opposes the request and maintains that the status quo should remain in effect. The present shift premiums are set forth in Article 30 of the 1983-86 Agreement.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The Union contends that afternoon and night shifts are

more dangerous than in other cities due to Detroit's extremely high crime rate. Because of this the Union contends that those officers who work on these shifts must be compensated adequately, and that this factor is in the public's best interest. The City argues that there is no economic justification for the increase, and that the present shift differentials are adequate.

(d) The Union's evidence as to national and local comparable police departments places Detroit at the bottom of the list as to shift differentials. The City's list of comparables places Detroit in position equivalent to other cities, and also demonstrates that many other cities pay shift differentials on a percentage, instead of cents-per-hour basis.

(e) Not applicable

(f) This proposal is one part of the larger increase in compensation which is sought by the Union.

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

The panel is convinced by the Union's contention that an increase in shift differential is justified. The City has not shown that the cost of the requested differentials is excessive. Accordingly, based on competent material and substantial evidence on the whole record, the panel hereby awards the Union's proposal on shift differentials.

Vote

For:

Against:

John Kiefer
Dwight Kiefer

11. UNUSED SICK LEAVE

The Union proposes that Article 34 N(a) be amended to provide for payment of up to 50 percent of unused sick leave to members upon retirement. The Union's proposal states:

"Immediately preceding the effective date of a member's retirement, exclusive of duty and non-duty disability retirement, or at the time of a member's death, he or his estate shall be entitled to pay for his unused accumulated sick banks as follows:

A member shall receive full pay for 50% of the unused accumulated sick bank amounts

If a member is granted a duty or non-duty disability retirement, he shall be entitled to a reimbursement of unused sick time according to the preceding formula, upon attaining his normal full duty retirement date and petitioning the Chief of Police for such reimbursement.

This provision shall become effective July 1, 1986."

The City proposes that the status quo remain in effect, which provides for payment upon retirement of 50 percent of unused sick leave, up to a maximum of 180 days. The Union's proposal would be subject to the 250 day maximums contained in Article 34 A(1) and (2); however, in Issue 17, the Union proposes that the 250 day maximum also be eliminated.

Section 9. FACTORS

- (a) Not applicable
- (b) None
- (c) The Union contends that those officers who are frugal with their sick leave and who have accumulated sick leave should be

rewarded upon retirement with repayment for their work. The City contends that the presently enacted annual accumulation of 17 days is adequate and that the cost of granting the Union's proposal would be excessive.

(d) The City argues that the present provisions favorably compare with other police departments. The Union contends that the Union's members are treated less favorably in comparison to other City employees since LSA members are allowed 125 days payment if they have accumulated 250 days of sick leave, and AFSCME members receive payment for one-half of their accumulated sick leave, without any limit therein. The Union also contends that other urban police departments have more favorable sick leave accumulation policies.

(e) Not applicable.

(f) The Union contends that its members receive inadequate overall compensation, and the award of their proposal would be one step toward remedying this inadequacy.

(g) Not applicable.

(h) Not applicable.

OPINION AND AWARD

The Union has not met its burden of showing that its proposal should be adopted. The panel is convinced that the City's position is justified. Accordingly, based on competent material and substantial evidence on the whole record, this panel awards the City's proposal that the status quo be maintained as to the accumulation of sick leave.

Vote

For:

John Kuper Dennis Lewis

Against:

[Signature]

12. PENSION-CHANGE OF OPTION

The Union's position is that Article 32 should be amended to provide "Pop Up", which would allow a member to change his pension option to a straight life pension after his or her pension has commenced if the member's beneficiary predeceases him or her. The Union's proposal also provides that the member shall bear the change in the cost of the benefit. The last best offer of the Union states:

"Members of a Policemen and Firemen Retirement System shall be entitled to change their pension option from either Option 2 or Option 3 to a straight life pension after they have commenced collection of the pension if the member's beneficiary predeceases the member. The actuarial cost of the change in benefit shall be borne by the member who seeks change in his option election.

This provision shall become effective July 1, 1986."

The City agrees that this proposal would result in no additional costs to the City, but requests that the status quo be maintained.

Presently, Union members have three choices for the payment of retirement benefits: Option 1, which provides for payment of a straight life amount during the member's lifetime, but no payment to the member's beneficiary upon the member's death; Option 2, 100% Joint and Survivor; and Option 3, 50% Joint and Survivor, both of which provide payment to the officer's beneficiary in the respective percentage upon the officer's death, but, where the beneficiary

predeceases the member, the member receives the reduced benefit during his lifetime.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The Union contends that its proposal will promote family caretaking functions by encouraging members to provide retirement benefits for their families without any penalty to the member if a beneficiary predeceases him. The present system forces members to choose between providing for payments to themselves upon retirement and risking lower benefits if a spouse or beneficiary predeceases him. The City concedes that this benefit could be provided at no cost to the City.

(d) The LSA has had "Pop Up" in its pension plan since 1983.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

The panel is convinced that the Union's position as to the "Pop Up" benefit would provide retirement benefit to certain members. The City has not shown any substantial reason in opposition to the Union's proposal. This panel based on competent material and substantial evidence on the whole record, therefore awards the Unions Proposal as to "Pop Up".

Voted

For:

Against:

John Kuehn
Deane Kuehn

13. PENSION-OLD PLAN/NEW PLAN

The Union requests that Article 32 be amended to provide that certain members may have the option of retiring under any pension plan currently in existence. There are two pension plans currently in effect: one for members hired before 1969 ("old plan") and another for those hired after 1969 ("new plan"). Under the old plan, beneficiaries receive one-half of their average final compensation after 25 years of service, with an unlimited escalator clause for inflation:

"Members of the Policemen and Firemen Retirement System as defined in the previous charter of the City of Detroit - Chapter VII of Title IX, Section 2 of Article II as adopted by Article II, Section 11-102 of the present charter of the City of Detroit as previously amended to July 1, 1977; who were in the service on or after July 1, 1941, but prior to January 1, 1969 and are still active members shall have the option of retiring under any existing plan of the pension system (i.e., amendment of November 5, 1969 or previous plan) commonly known as new plan and old plan.

This provision shall become effective July 1, 1986."

The new plan provides for a maximum increase in annual retirement allowance of two percent, with no clause regarding inflation.

The City opposes the amendment on the grounds that the members were previously offered the opportunity to elect participation in the old plan or the new plan and they are not entitled to another

bite of the apple. Further, the City contends that the plan has been funded based on the members's past choices and if further changes now occur there will be an increase in unfunded accrued liability to the system.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The Union contends that the public interest is best served by adequate retirement compensation to its members. The City claims that the costs are excessive and are not justified by the Union's desires to give its members additional opportunities to elect pension plans. The Union contends that this proposal would result in little or no cost to the City.

(d) The LSA and fire department command officers have received the election option since 1983.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

This panel is convinced that affected members should be permitted the continued opportunity to elect between the old plan and the new plan. The City has not shown that the costs are associated with the election are excessive. Accordingly, based on competent material and substantial evidence on the whole record,

after considering the Section 9 factors, this panel awards the Union's proposal on the election between the two pension plans.

Vote

For:

[Signature] John Kuefer

Against:

[Signature] Douglas Leiner

14. SPONSORED DEPENDENT COVERAGE

The Union proposes to amend Article 21 insofar as the City shall provide medical insurance to members' sponsored dependents, as well as members' legal dependents who are 19 to 25 years old:

"The City shall provide hospitalization and medical insurance based on the Blue Cross/Blue Shield ward service under the Michigan Variable Fee (MVF-1) coverage with riders including Master Medical with cost containment programs and Prescription Drug Group Benefit Certificate with two dollar (\$2.00) deductible drug Rider for employees and their legal dependents, duty death beneficiaries and their legal dependents and duty disability retirees and their legal dependents. Dependents shall include all 19 to 25 year olds and all sponsored dependents over 25 who are dependent on the employee for support and maintenance and who were reported as such on the employee's most recent federal tax return. MVF-1 coverage with riders including Master Medical shall be the same as MVF-2 except for the family continuation coverage

This provision shall become effective upon issuance of the Award."

The City argues that the status quo should be maintained, and that the City will also pay 100% of the Blue Cross/Blue Shield health insurance premium for 1986-87, and 100% of the premium up-to the 1982-83 rates plus one-half of any increase over those amounts,

for the members' legal dependents. Members who wish to insure sponsored dependents shall pay the premium cost of the health insurance. The City will pay the insurance premiums for dependents who are 19 to 25 years old under applicable Internal Revenue Service rules and regulations.

The Union contends that its proposal would effectuate only a minor improvement since as of, October 1, 1986, only sixteen sponsored dependents were provided with insurance coverage.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The Union argues the public's best interests are served by the provision of health insurance to sponsored dependents. The City opposes the proposal on the basis of its cost.

(d) The LSA arbitration award recently provided for sponsored dependent coverage.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

Based on competent material and substantial evidence on the whole record, the panel awards the Union proposal in sponsored dependent coverage. The Union has sufficiently shown that, taking the Section 9 factors into consideration, this benefit should be

awarded to its members.

Vote

For:

Against:

[Signature] John Keifer
[Signature] David Keifer

15. MARTIN LUTHER KING HOLIDAY

The Union proposes to amend Article 31 to provide an additional holiday for Martin Luther King's birthday. The City rejects this proposal and proposes that the status quo be maintained.

Article 31 presently provides for seven holidays, and an eighth holiday on one election day or on another day if no election is scheduled. For employees with more than 90 days of service, a ninth holiday is granted on a date to be scheduled between the employee and the Department. Employees who are required to work on holidays shall receive a double time premium in addition to a regular day's pay. Employees who are not required to work shall be granted the day off, with pay. Finally, pay for excused time is distinguished from holiday pay insofar as excused time results in straight time pay for the time worked (in effect, double time) as opposed to holiday pay rates (which result in triple time compensation).

Section 9. FACTORS

- (a) Not applicable
- (b) None

(c) The Union contends that the City, with a majority of black employees, should provide this benefit as a symbol to honor Dr. King. The City does not dispute this contention but argues

that the cost of providing an additional holiday is exorbitant.

(d) The Union points out that Martin Luther King's birthday is now recognized as a federal and state holiday as well as by many local governments. Further, AFSCME members receive this holiday as a benefit and LSA members were recently awarded this holiday, as well as others, as excused time.

(e) Not applicable

(f) The Union contends that, in light of its members' inadequate overall compensation, this holiday should be awarded.

(g) Not applicable

(h)

OPINION AND AWARD

The Union has demonstrated that recognition of this holiday is of great importance to the City as well as its members. However, the Panel finds that the City has submitted compelling proof and arguments as to the cost for providing this benefit.

Therefore, although the Silvainson Panel found for the LSA on similar issue before it, the Union there simply asked for and was awarded, "excused time" and not a regular holiday, the cost to the City was diminished, it is the award of this panel based on competent material and substantial evidence on the whole record, that the Union's proposal that Martin Luther King's birthday be awarded as an additional holiday be rejected.

Vote

For:

Against:

John Kiefer Denise Lewis
Phil

16. FURLOUGHS

The Union contends that Article 22 should be amended to increase the number of furlough days from 20 to 24 days for those employees who have performed 20 or more years of service. The Union also proposes that, effective July 1, 1987, newly hired officers with less than one year of service shall receive ten furlough days, officers with one to four years of service shall receive 15 furlough days, and officers with five to 19 years of service shall receive 20 furlough days. The Union's last best offer proposes:

"Effective July 1, 1987 all active employees shall maintain twenty (20) furlough days per year, except those beginning their 20th year of service shall receive twenty-four (24) furlough days per year until retirement.

Effective July 1, 1987 all new hires shall receive furlough as follows:

1. Under one (1) year of service - ten (10) furlough days.
2. One (1) year of service through four (4) years of service - fifteen (15) furlough days.
3. Five (5) years of service through nineteen (19) years of service - twenty (20) furlough days.
4. Beginning of the 20th year of service until retirement - twenty-four (24) furlough days.

Summer and winter furlough days shall be proportionately divided pursuant to past practice.

The City maintains that the status quo should remain in effect and that all employees should receive 20 days furlough.

Section 9. FACTORS

- (a) Not applicable

(b) None

(c) There are competing public interests in each party's proposal. Although the Union contends that more senior officers should receive an increased number of furlough days, the Union also proposes to cut by one-half the number of furlough days to which less experienced, newly hired officers are entitled. It is difficult to imagine that those officers who face such enormous stress for the first time in the position of patrol officer are entitled to only one-half of the furlough days granted to more experienced officers. There are also competing arguments as to the cost of this proposal. Although the City contends that the proposal will result in great cost to the City because increased furlough time will be granted to the most senior officers, the Union argues that a definite cost savings will result because furlough days will be reduced for less senior officers.

(d) The Union contends that the City's present furlough system is inadequate in comparison to other departments because it does not provide for graduated furlough days. The City contends that the present furlough provision is excessive in comparison to other departments because less senior officers are given so many furlough days.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h)

OPINION AND AWARD

This panel finds that the Union has not adequately shown reasons for a change in the status quo, when the Section 9 factors are taken into consideration. Accordingly, based on competent material and substantial evidence on the whole record, the panel awards the City's proposal on furlough days.

Vote

For:

Against:

John H. Dusek
John H. Dusek

17. SICK LEAVE BANKS

The Union proposes to amend Article 34A(1) and (2) by permitting its members to accumulate unused sick leave without limitation for the two sick leave banks: current sick bank and seniority sick bank. The City proposes that the status quo be maintained: employees may accrue 17 days annually of sick leave, with a maximum accumulation of 250 days in both banks.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The Union contends that the current limitation on the sick leave banks penalizes those officers who do not use sick leave in order to use the days only because the days will otherwise be lost. The Union claims that its proposal will only provide equal treatment upon retirement for those officers who work throughout their employment. The City contends that the public interest is in compensating sick officers, and that this interest is adequately

provided for by the current sick leave provisions as well as the provision for duty disability leaves where officers incur duty-connected illness or injury.

(d) The parties differ as to the City's rank among comparable departments. The LSA arbitration panel recently awarded this issue to the City.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

Based on competent material and substantial evidence on the whole record, this panel awards this issue to the City. After consideration of this applicable Section 9 factors, the City has shown that the status quo more than adequately provides for sick leave compensation.

Vote

For:

John Kuefer

Against:

VPJ

18. COST OF LIVING ALLOWANCE

The Union proposes that, effective October 1, 1988, cost of living allowance (COLA) be provided to its members as determined by the Consumer Price Index (CPI), with a maximum payment for this benefit in the amount of twenty cents per hour. The Union's proposal states:

"A. All employees of the bargaining unit will receive a Cost of Living Allowance in accordance with the following plan:

B. For the purpose of this agreement, the following definitions will apply:

1. Pay Date: is that date indicated on an employee's "Statement of Earnings and Deductions" commonly known as a check stub, "Paid."

2. Payroll Period: is that period of time indicated on an employee's "Statement of Earnings and Deductions" commonly known as a check stub, by the designation" for (m/d/y) to (m/d/y)."

C. Effective October 1, 1988, eligible employees will receive a Cost of Living Allowance according to the following provisions:

1. Cost of Living Allowance will be determined in accordance with increase in the revised Consumer Price Index for Urban Wage Earners and Clerical Workers, Detroit, Michigan. All items (1967=100) based on the 1972-73 Survey of Consumer Expenditures. In the event of discontinuance of the revised Index, an alternate Index will be used.

2. The adjustment for the quarter beginning October 1, 1988 will be effective only for time worked on/or after October 1, 1988. Thereafter, the Cost of Living Allowance will change with the first paycheck issued on/or following the seventh day of the month in which the Cost of Living Allowance changes. The allowance will be paid in each employee's regular paycheck for all hours for which he/she receives pay during the payroll period covered by the paycheck. The paycheck Statement of Earnings and Deductions will show, as a separate item, the amount of the Cost of Living Allowance being paid.

3. In the event of advance paychecks, payroll corrections and other unusual payroll circumstances, the cost of living adjustment will be calculated as of the date an employee would normally have been paid.

4. The amount of Cost of Living Allowance at each quarterly adjustment date will be calculated on the basis of 0.3 increase in the Index equals one cent (.01) increase per hour. Cost of Living Allowance will be determined by subtracting the Index figure

for the last month of the previous quarter according to the following table for each quarterly adjustment. The difference between the Index figures will be divided by 0.3 to determine the cents per hour increase.

During the period of this agreement, adjustments in the Cost of Living Allowance, including the establishment of the first allowance, shall be made at the following times according to the Consumer Price Indexes for the months shown:

Quarterly Adjustment Date

First paychecks issued on or following:

<u>Increase</u>	<u>Monthly Index Figures</u>	
	<u>Determining</u>	<u>Quarterly</u>
October 7, 1988	May 1988 - August 1988	
January 7	August - November	
April 7	November - February	
October 7	February - May	

On each pay date, on/or after each date of adjustment, the Cost of Living Allowance that is paid will be the newly adjusted allowance for the payroll period being paid.

5. The Cost of Living Allowance will be expressed in cents per hour and will not exceed twenty cents (.20) per hour per fiscal year.

6. As soon as reasonably possible after July 1, 1988 the Cost of Living Allowance being paid during the preceding June, not to exceed the twenty cent (.20) limit described in paragraph 5 above will be added to each employee's base wage rate.

7. In the event that the Bureau of Labor Statistics does not issue an appropriate Index figure ten (10) days before one of the adjustment dates, any adjustment required will be paid retroactively to the adjustment date on the first pay date ten (10) days after receipt of the Index.

D. No adjustment, retroactive or otherwise, will be made due to any revision which may later be made in the published Index by the Bureau of Labor Statistics.

The City proposes that the status quo be maintained, which provides for no COLA.

In support of its proposal, the Union contends that because the agreement is for three years, it is a long term contract against which its members require protection against inflation; the CPI for Detroit has increased 21.3% since 1980 while the salary of a senior patrol officer has increased only 7.4% during that period; and the Union's proposal is limited insofar as it provides for COLA only during the final year of the Agreement and only to a maximum amount of twenty cents per hour.

The City contends that it was the COLA provision in the Agreements governing the period from 1975 to 1980 which placed the City in a disastrous financial situation in 1981 and caused a sharp decrease in the availability of public services, a massive reduction in force, and huge deficits to the City's budget.

Section 9. FACTORS

(a) Not Applicable

(b) None

(c) Perhaps in no other issue presented before this arbitration panel have the interests and welfare of the public and the City's financial ability to meet those costs contrasted so sharply. Certainly, the increase in the CPI since 1980 has reduced the buying power of the City's police officers, and the public's interests are best served by an adequately compensated police force. However, the City's previous disastrous financial condition was due in part to the payment of COLA to its employees.

(d) No national comparable police departments receive COLA and only three local police departments provide COLA to their officers. No City employees have received COLA since 1980, including the LSA in which the Sivainson Panel unanimously held for the City.

(e) The CPI has significantly risen since 1980.

(f) Not Applicable

(g) Not Applicable

(h) Not Applicable

OPINION AND AWARD

The City's proposal is awarded by this panel based on competent material and substantial evidence on the whole record. The City has shown that the cost of the Union's proposal far outweighs the potential benefit to the Unions members.

Vote

For:

Against:

John R. Keefe
Quince
Keefe

19. PENSION-EMPLOYER CONTRIBUTION

The Union proposes that Article 32 of the Agreement be amended to provide that the City pay the members' pre-tax contributions to the Policemen and Firemen Retirement System Annuity Fund:

"Effective upon issuance of the 312 Award, the employee contributions to the Policemen and Firemen Retirement System Annuity Fund, although designated as employee contributions, shall be paid by the City of Detroit in lieu of contributions by the employee. The employee shall not have the option of choosing to receive the contributed amount directly instead of having them paid by the employer to the annuity fund. There shall be no additional contribution expense to the City of Detroit, and the amounts so contributed

by the employer on behalf of the employee shall be treated, for tax purposes, as employer contributions and thus shall not be taxable to the employee until these amounts are distributed or made available to the employee.

This provision shall not affect the amount or benefit level of the retirement allowance, or the City of Detroit's obligation thereto.

This provision shall become effective upon issuance of the Award."

The City opposes the proposal and desires to retain the status quo. The parties agree that there would be no cost to the City if this proposal were awarded, although the City argues that it will incur administrative costs to implement the proposal. The Union computes the proposal to have a tax deferral benefit to each of its members of approximately \$330. per year.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The Union contends that the implementation of its proposal is in the best public interest by providing significant tax deferral to its members and it represents an effort to restore some of the tax deferral benefits which were taken away during the 1986 federal tax reform. The City concedes that it will incur no costs after the new proposal is implemented, but argues that there will be no tax benefit to the members.

(d) National comparable police departments have implemented the Union's proposal.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

Based on competent material and substantial evidence on the whole record, this issue is awarded to the Union. The City has not shown any substantial reasons in support of its opposition to the proposal.

Vote

For:

John Kuefer

Against:

Dennis Lewis

20. WORK IN LIEU OF FURLOUGH

The Union proposes that Article 22 be amended to permit its employees to work in lieu of furlough days, and, if employees choose to work in lieu of furlough, they would receive full pay in addition to vacation pay. The Union's last best offer states:

"Effective on the first pay date in November and May of each year, the City will pay each employee, on a separate check, the normal amount of pay for the earned furlough time in the six (6) month period.

The employee shall have the option to then utilize his furlough period or to work during that period. If he should choose to work he shall be paid at the normal straight time rate for time worked. Since he has been previously compensated, should he opt to utilize his furlough he will receive no additional compensation.

The declaration to utilize the furlough or not shall be made to the employer at least one (1) month

prior to the start of the furlough period.

When a member chooses to work during the furlough period, said period will not become available for other members to select.

This provision shall be effective upon the issuance of the Act 312 Award.

The City opposes the proposal on the grounds that police officers are engaged in highly stressful work for which furloughs are necessary. The City further contends that if many officers elect to work on their furlough days, the cost to the City will be excessive. The City proposes that the status quo be maintained.

Section 9. FACTORS

(a) Not applicable

(b) Not applicable

(c) The Union contends that the public interest would be well served by the work of additional officers, if they chose not to use their furlough days for vacation, and by permitting officers to make this choice and earn additional money for those periods. The Union contends that the proposal would result in a cost savings to the City because those officers who work on their furlough days will permit the City to receive the benefit of their work without having to hire other employees and pay additional fringe benefits.

The City contends that the Union members should use their furlough days because the job subjects officers to such high stress. The City projects that increased costs will occur as a result of this proposal, but it cannot accurately project the costs absent an indication as to how many Union members would elect to work on their furlough days.

(d) No comparable police department permits its employees to work in lieu of furlough days.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

The Union has not met its burden of showing that its proposal should be adopted or that it would result in any significant benefit to its members. Accordingly, based on competent material and substantial evidence on the whole record, this panel awards the City's proposal on this issue.

Vote ' _____

For: John Kasper Denise Lewis

Against: _____

21. SUPPLEMENTAL LAYOFF FUND

The Union proposes that the City make contributions into a fund to provide for the payment of supplemental unemployment benefits (SUB) to its members in the event of future layoffs. The Union's proposal states:

"UNEMPLOYMENT COMPENSATION - SUPPLEMENTAL
UNEMPLOYMENT BENEFITS"

A. Unemployment Compensation

Employees covered by this agreement shall receive unemployment benefits in accordance with the unemployment insurance plan administered by the Michigan Employment Security Commission under the Michigan Employment Security Act.

B. Supplemental Unemployment Plan

Subject to all of the following rules and qualifications, employees shall be entitled to Supplemental Unemployment Benefits.

Section 1. Application for Supplemental Unemployment Benefits.

No employee shall be eligible for S.U.B. unless and until he/she shall have made due application therefor in accordance with the procedure established by the City and shall have met the eligibility requirements of Section 2 of this article. Such an employee shall be considered as an applicant.

Section 2. An applicant shall be eligible for S.U.B. only if he/she is on layoff from the City with respect to the week for which application is made, and he/she did not work for another employer during such week, and if

a. such layoff

1. was from the Bargaining Unit;
2. occurred in a reduction in force;
3. was not for disciplinary reasons and was not a consequence of (i) any strike, slowdown, work stoppage, picketing (whether by his/her bargaining unit or any other), or concerted action, or any dispute of any kind involving City employees, or (ii) any fault attributable to the applicant, or (iii) any war or hostile act of a foreign power (but not government controls or regulation connected therewith), or (iv) sabotage or insurrection, or (v) any act of God and
4. was not self elected.

b. with respect to such week, the applicant:

1. had sufficient seniority to be eligible for one week's benefits;
2. has registered at and has reported to an employment office of the Michigan Employment Security Commission as required by the MESC;
3. has received unemployment compensation from MESC not currently under protest;
4. has not refused to accept work when recalled pursuant to the Collective Bargaining Agreement and has not refused an offer by the City of other available work which the applicant has no option to refuse under the Collective Bargaining Agreement;

5. has not failed to report for interview within five (5) working days after notice of recall from City;

6. has not failed through any fault of his/her own to report for hire at the employing department within five (5) working days after certification;

7. was not eligible for and was not claiming any accident or sickness or other disability benefit (other than a disability benefit which would be payable to applicant whether he/she was working full time or not or a survivor's allowance under Worker's Compensation laws), whether publically or privately financed, or a pension or retirement benefit financed in whole or in part by the City;

8. was not in military service

9. did not receive any unemployment benefit from, or under any contract, plan or arrangement of, any other employer, and he/she was not eligible for such a benefit from, or under any contract, plan or arrangement of, any employer with whom he/she has greater seniority than with the City;

10. must have been on continuous layoff from the City for 30 consecutive calendar days whereupon he/she will be eligible retroactively for benefits commencing after the second week of lay-off;

11. must not be on layoff from a classification designated as special service, limited term, part-time, provisional, contractual, limited status, or for which the duration of employment is listed as seasonal;

12. must have at least eighteen (18) months total City seniority.

c. An employee shall forfeit permanently all eligibility for S.U.B. if he/she shall misrepresent any material fact in connection with an application for him/her for any S.U.B. or other unemployment compensation. Furthermore, he/she shall be subject to disciplinary action upon his/her return to active status.

Section 3. Powers and Authority to the City

The City shall have such powers and authority as are necessary and appropriate in order to carry out its duties under this Article, including without limitation the following:

a. to obtain from employees, persons filing applications for benefits, eligible persons and elsewhere such information as the City shall deem necessary in order to carry out its duties under this

article;

b. to investigate the correctness and validity of information furnished by any person who applies for a benefit;

c. to make appropriate determinations pursuant to this article;

d. to require an applicant to exhibit his/her MESC Unemployment Benefit check for the week with respect to which application for S.U.B. is made, or to submit evidence satisfactory to the City of receipt or entitlement to receive a MESC unemployment benefit.

Section 4. Amount of Weekly Supplemental Benefit

An applicant who meets all the eligibility requirements of this article shall be entitled to a weekly Supplemental Unemployment Benefit in the amount of thirty (\$30.00) dollars.

Section 5. Duration of Supplemental Benefit

An eligible applicant shall be entitled to one week of S.U.B. for every month of total City seniority, not to exceed in any case a maximum of twenty-six (26) weeks duration for any continuous layoff.

Section 6. All compensation received under this Article shall be offset against any claim for back wages.

This provision shall become effective upon issuance of the Award."

The City opposes the proposal and contends that the status quo should be maintained.

Article 23 presently provides for payment of employment benefits to laid off officers in accordance with the Michigan Employment Security Act.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The Union argues that this proposal would cost little to the City but would result in much needed income to officers who are laid off as the result of a reduction in force. Officers who are laid off suffer a severe reduction in income and the public interest would best be served by providing compensation to them in addition to unemployment benefits. The City is opposed to the proposal on the basis of cost, although the final Union proposal makes no funding provision and instead presumes that the monies for its proposal would come from the City's general fund.

(d) No comparable national police departments provide for SUB pay, and only two local police departments extend SUB coverage. Those City employees covered by the AFSCME contract are entitled to SUB pay.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

The panel concludes, after consideration of the Section 9 factors, and based on competent material and substantial evidence on the whole record, that the City is awarded its proposal on the issue of Supplemental Unemployment Benefits. The Union has not sustained its burden of proof in this issue.

Vote

For:

Against:

John R. Roper
Donna L. Roper
John R. Roper

22. TEN YEAR VESTING

Article 32 presently provides that Union members must be 40 years old and have a minimum of eight years of service to obtain a vested right in a pension benefit. For pre-1969 members who terminate before completing 25 years of service, the pension benefit cannot be obtained until the date when the member would have completed 25 years of service. For post-1969 members who terminate before the completion of 25 years, the benefit is payable at age 55 or 62. The Union proposes that the present system be altered insofar as its members would receive a vested pension benefit after ten years of service, regardless of the employee's age.

The City opposes the proposal and contends that the status quo should be maintained.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The Union contends that those officers who begin and end public service at an early age should be favorably compared to older employees with fewer years of service who are entitled to vested pensions, and that adequate retirement compensation for the retired officers, regardless of age, is in the public's best interest. The City opposes the proposal, largely on the basis of cost. The Union contends the cost is minimal.

(d) City employees who are AFSCME members enjoy ten year

vesting. Neither party has indicated that any comparable police departments receive this benefit.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

The panel is convinced of the merit in the City's position. The Union has not demonstrated that its proposal should be adopted. Therefore, based on competent material and substantial evidence on the whole record, it is this panel's opinion that the City's proposal on the issue of ten year vesting be adopted.

Vote

For:

Against:

John Kiefer Dueschler
[Signature]

23. LAYOFF SERVICE CREDIT

In NAACP vs. DPOA, 591 F. Supp. 1194 (ED Mich 1984), the Honorable Horace Gilmore ruled that the City had violated the constitutional rights of those police officers who were laid off in 1979 and 1980, 75% of whom were black. Judge Gilmore ordered the City to recall all black officers who were laid off during this time period who wished to return to the police force, and he further ordered that the officers receive full seniority for the time during which they were laid off, id at 1199, 1220-21. The case is now on appeal to the Sixth Circuit.

In connection with this decision, the Union now seeks to amend Article 32 by awarding service credit to the laid off officers, to be included in the computation of the members' retirement allowance. In order to be eligible for the service credit, each member must make a five percent contribution of his final average

compensation. The City opposes the proposal on the basis of its cost.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The interests of the public in promoting the integration of the police force and providing adequate retirement compensation to all of its members is clear. The City proposes that this issue be decided by the courts, and not as part of this arbitration proceeding. The City further contends that the cost of the proposal is excessive; in response, the Union argues that if its proposal is upheld in court, the City will be further indebted for interest which has accrued during the pendency of the lawsuit.

(d) No comparables are offered in support of this proposal; the Union contends that this is a "unique situation" for which no comparables exist.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

Based on competent material and substantial evidence on the whole record, this panel awards the City's proposal on the issue of layoff service credits. The Union has/^{not}met its burden of proof and has not convinced the panel that the resolution of this issue should not be deferred in light of the pending litigation.

Vote

For:

John Kiefer Dmuchewicz

Against:

Bob Pr

City Issues:

1. PREMIUM SHARING

The City proposes to amend Article 21, Subsection A(1) to permit it to charge the Union's employees for partial payment of the member's health insurance premiums, which the City now pays entirely. The City proposes that it will pay 100% of the premium for 1986-87. For 1987-88 and 1988-89, the City will pay 100% of the 1982-83 premium charge plus one-half of any increases over those amounts. The City currently pays the entire health insurance premium for the Union's members. The Union proposes that the status quo be maintained.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The City claims that employee-shared insurance premiums will create a greater public awareness of and interest in the containment of health care costs. The Union contends that it shares the City's interest in cost containment, but that the City has failed to take appropriate steps to curtail rising insurance rates.

(d) The AFSCME union members pay premium sharing as part of their contract with the City. The LSA arbitration recently awarded

this issue to the Union. The parties disagree as to whether comparable police departments have premium sharing.

(e) The Union contends that the City's proposal is equivalent to a cost of living "penalty" insofar as the proposal will result in a 3% decrease in officers' wages, without any cost of living acquiesced to by the City.

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

Based on competent material and substantial evidence on the whole record, the panel is convinced that the Union's proposal on the issue of premium sharing should be awarded.

Vote

For:

Against:

W. J. John Kiefer
Steve Lewis

2. RETIREES-PREMIUM SHARING

The City also proposes to permit it to charge the Union's retired employees for partial payment of health insurance premiums, which the City now entirely pays. The City proposes that it will pay 100% of the premium for 1986-87. For 1987-88 and 1988-89, the City will pay 100% of the 1982-83 premium charge plus one-half of any increases over those amounts. The City currently pays the entire health insurance premium for the Union's retired members. The Union proposes that the status quo be maintained, and further

argues that the benefits of current retirees cannot be affected by Act 312 arbitration.

Section 9. FACTORS

(a) Not applicable

(b) The Union contends that this arbitration panel cannot negotiate a reduction in its retirees' benefits.

(c) The City claims that employee-shared insurance premiums will create a greater public awareness of and interest in the containment of health care costs. The Union contends that it shares the City's interest in cost containment, but that the City has failed to take appropriate steps to curtail rising insurance rates.

(d) The AFSCME union members pay premium sharing as part of their contract with the City. The LSA arbitration recently awarded this issue to the Union. The parties disagree as to whether comparable police departments have premium sharing.

(e) The Union contends that the City's proposal is equivalent to a cost of living "penalty" insofar as the proposal will result in a 3% decrease in officers' retirement income, without any cost of living acquiesced to by the City.

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

As in its award for active police officers, and based on competent material and substantial evidence on the whole record,

the panel is convinced that the Union's proposal on the issue of premium sharing should be awarded.

Vote

For:

John Kiefer

Against:

Dennis Kiefer

3. EMPLOYEES-PRESCRIPTION PLAN

The City proposes that Article 21, Subsection 2 be amended, effective July 1, 1987, to include the Preferred Provider prescription drug plan for its employees. The effect of this proposal would be to require members to purchase their prescriptions at specified locations. The Union opposes the proposal on the grounds that this arbitration panel is without legal authority to consider this issue because the proposal has not been submitted to the joint health care cost containment committee.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The City claims that because the proposal would minimally limit the number of locations at which prescriptions could be purchased, the overriding public interest in health care cost containment outweighs the limited inconvenience to union members.

(d) The LSA arbitration panel recently awarded this issue to the City.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

After considering the applicable Section 9 factors and based on competent material and substantial evidence on the whole record, this panel awards the City's proposal as to the Preferred Provided prescription drug plan.

Vote

For:

John Kueper Dusscher

Against:

[Signature]

4. RETIREES-PRESCRIPTION PLAN

The City proposes that Article 21, Subsection 2 be amended, effective July 1, 1987, to include the Preferred Provided prescription drug plan for its retirees. The effect of this proposal would be to require retirees to purchase their prescriptions at specified locations. The Union opposes the proposal on the grounds that this arbitration panel is without legal authority to consider this issue because the benefits of current retirees cannot be affected by Act 312 arbitration.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The City claims that because the proposal would minimally limit the number of locations at which prescriptions could be purchased, the overriding public interest in health care cost

containment outweighs the limited inconvenience to Union retirees. Further, the proposal would not affect those retirees living outside of Michigan.

(d) The LSA arbitration panel recently awarded this issue to the City.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

After considering the applicable Section 9 factors, and based on competent material and substantial evidence on the whole record, this panel awards the City's proposal as to the Preferred Provider prescription drug plan.

Vote

For:

John Kiefer Denise Kiefer

Against:

[Signature]

5. HOSPITALIZATION PRORATION-RETIREEES

The City proposes that the health insurance premiums for deferred vested retirees be prorated according to the years of service the retiree has worked. The City's last best offer states:

"For employees who separate on or after July 1, 1987 and who qualify for a pension by virtue of the vesting provisions of the pension plan, the City's share of hospitalization cost shall be computed as follows:

amount of benefit for full service retiree X number
of full years of service for less than full service

retiree (25 years) = % of hospitalization premium paid by City for less than full service retiree

Less than full service retirees shall not be eligible for this benefit prior to the time they would have qualified for a full service pension had they remained an active employee.

This proposal would affect only 16 retired firefighters and police officers at the present time. The City's proposal would affect those employees who retire after July 1, 1987, with less than 25 years of service. The Union maintains that the status quo should remain in effect.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) This proposal is part of the City's overall efforts towards reducing its health insurance costs.

(d) This issue was recently awarded to the Union in the LSA Arbitration.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

The City has failed to meet its burden of proof and failed to demonstrate that a change in the status quo should be effectuated. Accordingly, based on competent material and substantial evidence on the whole record, the panel awards the Union's proposal on this issue.

Vote

For:

John Hester

Against:

Daniel Lewis

6. PREMIUM BILLING

The City proposes that the health insurance carrier selected by Union members account for its premium charges without distinguishing between active and retired employees:

"Any carrier selected must account for its premium charges without distinguishing between active and retired employees using the following format: one person, two person, family."

The Union requests that the status quo be maintained and contends that this proposal merely describes the current practice between the City and its health insurance carriers.

Section 9. FACTORS

- (a) Not applicable
- (b) None
- (c) Not applicable
- (d) This issue was recently awarded to the Union in the LSA arbitration.
- (e) Not applicable
- (f) Not applicable
- (g) Not applicable
- (h) The City contends that it will be unable to determine its contribution rate to all of its carriers if Union members convert in large number to the Blue Cross/Blue Shield Program.

OPINION AND AWARD

Based on competent material and substantial evidence on the whole record, the panel awards this issue to the Union. The City has not shown that the potential for the adverse selection of health insurance is great enough to justify the proposed departure from the status quo.

Vote

For:

Against:

[Signature] John Kuefer
[Signature]

7. CARRIER DELETION

The parties agree that the City shall have the right to remove health insurance carriers if a plan fails to enroll at least 50 City employees at the end of any fiscal year.

OPINION AND AWARD

This panel awards this issue to the City, as the City's proposal has been consented to by the Union.

Vote

For:

Against:

[Signature] John Kuefer [Signature]
[Signature]

8. HOSPITALIZATION-BASIS OF PAYMENT-EMPLOYEES

The City proposes that Article 21, Subsection K be amended to provide that if Blue Cross/Blue Shield, its present health insurance carrier, refuses to insure a Union member, the BC/BS rates shall be used to determine the City's contribution to an alternate carrier. The Union contends that the status quo should be maintained, and further argues that there is no evidence that BC/BS will refuse to insure Union members.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The City contends that the public interest in providing health insurance coverage to a Union member will not be adversely affected because no reduction in benefits will result from this proposal. The Union argues that this issue should not be heard before this arbitration panel because it is a contract matter between BC/BS and the City.

(d) This issue was recently awarded to the Union in the LSA arbitration.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

The City has failed to meet its burden of showing that the status quo should not be maintained. Therefore, based on competent material and substantial evidence on the whole record, this panel awards this issue to the Union.

Vote

For:

John Kuefer

Against:

David Lewis

9. HOSPITALIZATION-BASIS OF PAYMENT-RETIREEES

The City proposes that Article 21, Subsection K be amended to

provide that if Blue Cross/Blue Shield, its present health insurance carrier, refuses to insure a retired Union member, the BC/BS rates be used to determine the City's contribution to an alternate carrier. The Union contends that the status quo should be maintained, and further argues that there is no evidence that BC/BS will refuse to insure Union members.

Section 9. FACTORS

(a) Not Applicable

(b) None

(c) The City contends that the public interest in providing health insurance coverage to retired Union members will not be adversely affected because no reduction in benefits will result from this proposal. The Union argues that this issue should not be heard before this arbitration panel because it is a contract matter between BC/BS and the City.

(d) This issue was recently awarded to the Union in the LSA arbitration.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

The City has failed to meet its burden of showing that the status quo should not be maintained. Therefore, based on competent material and substantial evidence on the whole record, this panel awards this issue to the Union.

Vote

For:

John Kuefer

Against:

Dennis Kervin

10. HOSPITALIZATION-COST CONTAINMENT

The City proposes that the present Article 21, Subsection M should be replaced with the following language:

The City reserves the right to implement Health Care Cost Containment Programs during the term of the Contract. Said Cost Containment Programs shall not diminish the levels of benefits provided in the basic plans but may require the insured to follow procedures prescribed by the carrier in order to be eligible for benefits. If premium levels remain below the 1982-83 base year premiums for coverage listed in paragraph A, the City will pay fifty per cent (50%) of that amount to an escrow account which shall be used to offset health care cost or to increase health care benefits."

The Union opposes the proposal on the grounds that it has the right to participate in structuring the health care which will cover its members.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The Union contends that the public interests are best served by a health care program which is jointly developed by the Union and the City. The City contends that the public interest will be served if this proposal is awarded and an escrow account is established for the benefit of the Union's members.

(d) The LSA arbitration panel recently awarded this issue to the Union.

- (e) Not applicable
- (f) Not applicable
- (g) Not applicable
- (h) Not applicable

OPINION AND AWARD

The City has failed to carry its burden in convincing this panel that the issue should be awarded to it. The panel is convinced that the Union has adequately shown that there is no basis for altering the status quo, and, therefore, based on competent material and substantial evidence on the whole record, the Panel awards the issue to the Union.

Vote

For:

John Kuefer

Against:

Doreen Livers

11. PENSIONS-AVERAGE FINAL COMPENSATION

The City's proposal as to average final compensation is to change the definition contained in the City Charter and to replace it with the following:

32. Pension Provisions

G. Definition of Average Final Compensation

1. The average final compensation for "old plan" members is calculated by using the current maximum salary for the rank(s), grade(s) or position(s) held by the member over the sixty (60) months just prior to the member's elective date of retirement. The salary is obtained from the Official Compensation Schedule for the fiscal year prior to the member's elective date of retirement and an average is determined.

2. The average final compensation for "new plan" members is calculated by examining actual payroll data for the member during any period of five consecutive years of credited service, selected by the member, contained within his ten years of credited service immediately preceding the elective date of his retirement. The base pay for the member, without including any premium payments (overtime, holiday premium, shift premium, longevity, unused sick leave and retirement, etc.), is utilized and an average is determined.

The Union proposes that the status quo be maintained, and contends that pension benefits for recently retired and future retirees would be reduced if this proposal is awarded to the City. The Union further contends that this issue should be determined by a court, as was done in Yank v. City of Detroit

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The City contends that this proposal will result in a reduction in the pension cost. The Union argues that the City is attempting to circumvent proper legal process by making this proposal.

(d) This issue was recently awarded to the City in the LSA arbitration.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

After considering the applicable Section 9 factors, and based

on competent material and substantial evidence on the whole record, this panel is convinced that this proposal should be awarded to the City.

Vote

For:

John Kiefer *Shane Kuria*

Against:

[Signature]

12. PENSION-ANNUITY INTEREST

The pertinent present language in Article 32, Section E states:

Optional Annuity Withdrawal. In addition to the provisions of the current collective bargaining agreement, pension charter and ordinance provisions and all other pension rights of members, a member shall have the right on or after the effective date of his becoming eligible for a full service retirement allowance (members who have twenty-five (25) years of his creditable service) to elect to receive a partial or total refund of his accumulated contributions to the Annuity Savings Fund. If a member makes such an election, an annuity payable under any retirement allowance or reduced retirement allowance shall be reduced proportionally. If the total accumulated contributions are withdrawn, no annuity shall be payable.

If a member makes such an election, the retirement allowance shall be reduced to reflect the value of the annuity withdrawn. The amount of the annuity at the time of such election shall be the amount used at the time of retirement for purposes of computing the retirement allowance.

Beginning July 1, 1982, and thereafter, all members who complete their required years of service, shall have the right to withdraw all or part of their accumulated contributions whether they choose to retire or not. (C. Ex. 101).

The City proposes to substitute Article 32, Section E, second paragraph, with the following:

If a member makes such an election, the retirement allowance shall be reduced to reflect the value of the annuity withdrawn. The amount of the annuity at the time

of the election, plus any interest that would have been earned had the annuity been retained, shall be the amount used at the time of retirement for purposes of computing the retirement allowance.

The Union proposes to maintain the status quo. The present agreement provides that an employee who opts for pre-retirement annuity withdrawal after 25 years of employment, shall have his pension reduced at retirement by the amount of the withdrawal.

Section 9. FACTORS

(a) Not applicable

(b) None

(c) The Union contends that the public's best interest would be served by adequate pensions to its retirees. The City claims that its position represents the status quo prior to the DPOA arbitration award in 1983.

(d) The LSA arbitration panel recently awarded this issue to the Union.

(e) Not applicable

(f) Not applicable

(g) Not applicable

(h) Not applicable

OPINION AND AWARD

After considering the applicable Section 9 factors, and based on competent material and substantial evidence on the whole record, this panel is convinced that this proposal shall be awarded to the Union.

Vote

For:

John Kuefer

Against:

Donna Harris

13. FAIR LABOR STANDARDS ACT COMPLIANCE

The city proposes to amend the following provisions in the Agreement to reflect Fair Labor Standards Act (FLSA) requirements: 11-H-1; 14B; 18A; 18C; 18E; and 22A. The Union proposes that this panel is without authority to award this issue because it was never subject to collective bargaining between the parties and because the Union contends, the City arbitrarily and without consulting the Union, changed the accounting periods in the recently expired agreement. Other than its procedural objection, the Union has not raised substantive objections to this issue.

Section 9. FACTORS

- (a) Not applicable
- (b) None
- (c) The City will enjoy substantial savings, without limiting the Union's interest, if this proposal is awarded to the City.
- (d) The Swainson Panel recently awarded the issue to the City after the Union agreed to accept the City's last offer as proposed.
- (e) Not applicable.
- (f) Not applicable.
- (g) Not applicable.
- (h) Not applicable.

OPINION AND AWARD

Although this Panel has been concerned with the apparent lack of

good faith bargaining on this issue before it was submitted to Act 312 arbitration, it feels that the adverse economic consequences to the City are too severe for the Panel to reject the City's proposal on procedural grounds alone. The Panel, at an early stage, remanded this issue, along with all of the others, to mediation and thus gave the parties an opportunity to engage in good faith bargaining which seemed to be lacking prior to Act 312 submission. Again, after the last offers were submitted by the parties, the panel convened the parties in an attempt to induce further bargaining. The Panel understands that such bargaining did ensue. Therefore, although the Panel is distressed by the failure of the parties to do their good faith bargaining on all issues before submission to Act 312 arbitration, as mandated by the statute, it is of the opinion that the defect has now been substantially cured and that the issue of Fair Labor Standards Act changes, proposed by the City, be considered on their merits.

Therefore, based on the competent material and substantial evidence on the whole record, and the applicable provisions of Section 9, the Panel conclude that this issue should be awarded to the City.

Vote

For:

John Huffer
Doree Kerner

Against:

[Signature]

SUMMARY

Once again the Panel commends both parties and their learned

and experienced counsel in the presentation of their proofs and arguments. Without their excellent briefs, no informed Award would be possible in light of the passage of time from first pre-trial to closing of proofs and submission of Last Offers. Professionalism was maintained in spite of the emotionally charged nature of the issues. The Panel hopes that a new climate will prevail in future bargaining.