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STANLEY T. DOBRY  
ARBITRATOR

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5/2000  
Sub.  
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STATE OF MICHIGAN  
DEPARTMENT OF COMMERCE AND INDUSTRY SERVICES  
EMPLOYMENT RELATIONS COMMISSION  
STATUTORY INTEREST ARBITRATION TRIBUNAL

In the Matter of the Arbitration  
Pursuant to Act 312 (Public Acts of 1969):

POLICE OFFICERS LABOR COUNCIL

MERC Act 312  
Case No. D99 A-0098

Union  
-and-

VILLAGE OF HOLLY

Employer

Before: Stanley T. Dobry, Chairperson  
Joseph W. Fremont, Michigan Municipal League  
as Employer Delegate  
Lloyd Whetstone, Business Agent,  
as Union Delegate

Appearances:

DEAN & FULKERSON, P.C.  
By: Kenneth W. Zatkoff  
Attorneys for Respondent Village of Holly

ARBITRATOR'S OPINION AND AWARD

PART I. STATEMENT OF THE CASE

The labor organization, Police Officers' Labor Council (POLC), filed a petition for arbitration pursuant to Act 312, P.A. of 1969 as amended (M.C.L.A. 423 231, et seq.). The union asserted in its petition that it had engaged in good faith bargaining with the Employer, the Village of Holly, Michigan, on behalf of the City police officers and an impasse in negotiations had been reached.

Holly, Village of

The Michigan Employment Relations Commission (M.E.R.C.) appointed Stanley T. Dobry as the impartial Arbitrator and Chairperson of the Arbitration Panel in this matter by letter dated February 25, 2000.

## **PART II. ISSUES BEFORE THE ARBITRATION PANEL**

The hearing was held at the Village of Holly offices on April 5, 2000. Additional conferences and correspondence have been exchanged thereafter. The panel has carefully and fully reviewed the entire record, in light of the statutory criteria indicated hereafter.

The panel has methodically reviewed all evidence proffered by the parties.

The Arbitration Panel has determined that, for purposes of this proceeding, each of the disputed issues is economic. The Arbitration Panel, thus, must issue an award based upon the applicable factors in the Judgment of the Panel, prescribed in Section 9 of the Act.

## **PART III. THE STANDARDS FOR THE PANEL'S DECISION**

In pertinent part, Section 9 of Act 312 sets forth the following factors upon which the Panel's decision must rest:

[T]he arbitration panel shall [emphasis added] 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 these costs.

(d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:

(I) In public employment in comparable communities.

(II) In private employment in comparable communities.

(e) The average consumer prices for foods 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 confined to the foregoing, which are normally or traditionally 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.

#### **PART IV. AWARDS ON THE UNRESOLVED ISSUES.**

The chairman believes that solutions in Act 312 proceedings should reflect results plausibly like those from an unfettered collective bargaining negotiation.

An award in Act 312 should generally be evolutionary, not revolutionary. Their genesis ought to arise from the preexisting collective bargaining relationship, and fundamental changes are not to be easily made.

Collective bargaining requires a balancing of interests and compromises. The forces driving public sector bargaining have disparate impacts on the employer, the

union, the employees and the public. Thus, it is no surprise that neither party prevailed on all issues.

Additionally, the decision on each issue did not stand alone. Rather, the Panel has decided each issue on its own merits, but also as part of the integrated whole of the agreement.

Therefore, a majority of the Panel has concurred on all of the issues indicated hereafter.

Based upon all of the evidence, testimony and arguments presented by the parties, and in light of all of the applicable statutory criteria, a majority of the Arbitration Panel has determined that the following awards should be adopted.

The City and Union delegates, as panel members sign this overall award with the express caveat that they remain steadfast in their respective dissent or concurrence on the individual issues. Their signature simply indicates their recognition that a majority of the Arbitration Panel supports each award on the separate issues.

**PART V. WITHDRAWN ISSUES**

The following Village issues were withdrawn with the parties agreeing that the status quo would be maintained for each of them:

- I.            Seniority, Transfer, Layoff and Recall,  
Article XIII - Section 13
- II.          Overtime Equalization and Method of  
Payment
- III.        Court and Call-in Time, Article XV
- IV.        Personal and Sick Leave, Article XVI

**PART VI. STIPULATED ISSUES**

The parties stipulated to the following amendments to the collective bargaining agreement and new contract language:

**V. Duration of Contract, Article XXXI**

Section 1. This agreement shall be effective as of the first day of July, 1999 and shall remain in full force and effect until the thirtieth day of June, 2003. This agreement shall remain in full force and effect during the period of negotiations and until notice of termination of this agreement is provided to the other party in the manner set forth.

Section 2. Delete

Section 3. Delete

Section 4. Delete

## **VI. Working Hours, Article XIV**

Section 4. Dispatchers and uniform patrol officers shall be assigned to permanent shifts. Members shall select their shifts within their respective classification for eighty-four (84) day periods, (four (4) shift selection periods beginning with the first shift change in January of each year). Said shift selection and assignment shall be based upon members seniority.

Dispatchers days off shall rotate from Tuesday/Wednesday to Thursday/Friday to Saturday/Sunday to Sunday/Monday each twenty-eight (28) day period. Swing-shift dispatcher will rotate like the other dispatchers.

Uniform patrol officers days off shall rotate from Tuesday/Wednesday to Thursday/Friday to Saturday/Sunday each twenty-eight (28) day period. Except in the event of a declared emergency, and as provided for in Section 14 of this Article, any change in shift scheduling shall be negotiated between the Union and the Employer.

Section 5. In the event the patrolman-detective position becomes vacant, the Chief of Police may choose a uniform officers to fill the position based on the officers qualifications and ability to perform the assignment. The Chief of Police will not be capricious or arbitrary in his selection. The officer will work the patrolman-detective assignment for a minimum of six (6) months or until their services are needed in the uniform division.

Section 8. Overtime other than court time or emergency overtime will be equalized among employees working in the same classification on a weekly basis. Low hour employees will have first call and the refusal or absence shall be considered the same as time work. If an employee is asked to work a particular shift a second or subsequent time, he shall only be charged once for overtime. Known overtime within a 24 hour period shall be offered to members first. In the event that overtime is not filled, low seniority employee(s) will be ordered into work.

Section 13. In the event a double shift (16 hours continuous) arises out of overtime, the Employer will make every attempt for an employee not to work an excess of 12 hours continuous (Note: Employee still has option to work 16 hours.) Overtime in excess of 24 hours per week shall be at the option of the employee.

There shall be no mandatory or ordered overtime in excess of 24 hours unless an emergency is declared pursuant to the applicable provisions of the collective bargaining agreement. Employees are not allowed to work consecutive back-to-back 16 hour shifts (example: day 1, 16 hours - day 2, 16 hours - day 3, 8 hours).

#### **VII. Compensatory Time, Article XV**

Section 3. Members who work overtime have the option of being paid overtime at a rate of one and one-half ( $1 \frac{1}{2}$ ) hours for each overtime hour worked or banking one and one-half ( $1 \frac{1}{2}$ ) hours for each overtime hour worked in a compensatory time bank up to a maximum of thirty-two (32) hours. Payment for banked compensatory time may be taken at the option of the member on any regular pay check, but to be paid at the rate of pay in effect when the hours were worked. Members may take the compensatory time off at a time when it is mutually agreeable between the member and the Chief of Police and shall be paid at the then current rate. Employees shall give eight (8) days advance notice prior to the use of accumulated compensatory time. Compensatory time off must be taken within six (6) months of the time worked.

Compensatory time attached to scheduled leave days shall protect the leave days for overtime purposes. Compensatory time shall be considered to be twenty-four (24) hours for purposes of scheduling overtime.

Employees with compensatory time in excess of thirty-two (32) hours as of June 30, 2000 shall be paid at a rate of 100% per day as soon as administratively feasible.

#### **VIII. Vacations, Article XXIII**

Section 7. Vacation period selection; Between January 1st and May 31st of each calendar year, vacations shall be selected by bargaining unit seniority, high to low, within classifications. Vacation selection between June 1st and December 31st of each year shall be on a first come, first served basis without regard to seniority. No other department employee shall displace a bargaining unit member for vacation selection which is submitted prior to May 31st of each year.

Members may submit a vacation selection into the next calendar year or years regardless of seniority but are subject to cancellation should a higher

seniority member submit the same request during the period of January 1st through May 31st of each calendar year.

**IX. School Liaison Officer (New)**

**Article XIV, Section 16 -- School Liaison Officer**

The school liaison position is appointed by the Chief of Police. The officer appointed is reviewed annually with no limits on reappointment. The school liaison officers wages shall be commensurate with the contractual year/grade position schedule occupied by that officer.

The school liaison officer will not be part of the police officer classification for purposes of overtime, including ordered in overtime for road patrol except for winter, spring, and summer school vacation periods. At the time of assignment to a regular shift, overtime hours will be averaged to establish a beginning point.

During summer school vacation, the officer will be assigned to shift 3, 4, or 1 as determined by the Chief of Police. During winter and spring school vacations, the officer will be assigned to a shift as determined by the Chief of Police. Scheduling of working hours during the school year, to include in-service days prior to opening of school to students, will be flexible and determined by the Chief of Police or his designee. The school liaison officer acknowledges that all aspects of law enforcement as well as teaching assignments are involved. Involvement with all grade levels is part of the appointment requirements. Adjustments to instructional presentations will be based on the curriculum policy established by the Holly Area Schools.

The parties agree that the Chief of Police shall only appoint as school liaison officer those qualified employees who volunteer for the position. If no qualified member of the bargaining unit applies for the position, the Village may fill the position from outside the bargaining unit.

The parties also agreed to the following additional stipulations on issues not covered by the Act 312 petition:



**X. Article III, Managements Rights**

Section N modified as follows:

N. To take whatever action will be necessary to carry out the duties and responsibilities of the municipality in situations of emergency, crisis, disaster or other unusual events.

**XI. Article XIV, Working Hours**

Section 3 amended as follows:

Section 3. The workday for dispatchers shall commence with the start of the first shift and shall consist of three (3) shifts as required in twenty-four (24) hours. The workday for detectives shall be eight (8) continuous hours in a given twenty-four (24) hour period and shall start between the hours of 6:00 a.m. and 11:00 p.m. Any hours in excess of the eight (8) hour day shall be paid at the overtime rate and detectives shall have a minimum of eight (8) hours off between shifts. Detectives will normally work five (5) days on with two (2) consecutive days off.

**XII. Article XVII, Funeral Leave**

Amend contract language as follows:

Section 1. If a death occurs among the members of the employees immediate family as defined below, the employee shall be excused from work without loss of pay or time for five (5) full working days from the date of death.

Section 2. The immediate family shall be interpreted in the agreement to include spouse, father, mother, sister, brother, child, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandparents and grandchildren.

Section 3. Two (2) working days is allowed with pay for the following relatives of the employee: grandparents-in-law, aunts, uncles, brother/sister-in-law or those who have stood in local parentis to the employee or spouse.

Section 4. Additional time without pay may be allowed at the discretion of the employer.

**Issues in Dispute**

**PART VIII. DISPUTED ISSUES**

The remaining issues in dispute are as follows:

- V. Health Care for Retirees, Article XXX
- VI. Wages (Appendix A)
- VII. Retirement, Article XXX - Section 4
- VIII. Longevity - New Provision
- IX. Shift Premium - New Provision
- X. Hospitalization Insurance and Insurance Opt-Out, Article XX
- XI. Optical and Dental Insurance, Article XXI
- XII. Retirement Employee Pension Contribution, Article XXX

**The Act 312 Arbitration Panel Issues the Following Award with Regard to Outstanding Issues:**

**1. Health Care for Retirees and Dependents, Article XXX**

The Act 312 Panel adopts the Village's last best offer. New contract language to read as follows:

Section 7: Effective 7-1-2002, the Employer agrees to pay 50% of the group rate of the then current health care program (excluding dental or optical coverage) for regular full-time employees who retire with at least 25 years continuous service and age 50. Upon reaching Medicare eligibility age the Employers obligation to pay toward health care shall terminate. This coverage shall include the retiree and his/her spouse on the date of retirement. Upon the death of a retiree, benefits will continue for the surviving spouse until the date the retiree would have reached Medicare age, or unless the surviving spouse remarries.

Retirees must pay 50% of the medical coverage in advance on a quarterly basis. If payment is not received by the Village prior to the beginning of each quarter, the Village will mail a final request for payment to the retiree. Failure by the retiree to make full and complete payment each quarter within ten (10) days after the final request for payment has been sent by the Village shall result in the retiree being dropped from the medical coverage immediately. It is the responsibility of the retiree to insure that the Village is notified of his/her correct address at all times.

The Employer agrees to pay 50% of any change in health care rates. If there is a change in rates by the insurance carrier, the Employer shall notify the retiree of said rate change and any adjustments necessary shall be made on the following quarterly payment.

During all periods of time that a retiree or retirees spouse is employed and said employer provides health insurance coverage that is substantially equal to or better than that provided by the Village, the retiree or spouse must take said insurance coverage and the retiree and spouse shall cease to be eligible for the retiree health insurance program set forth above. The Village agrees to pay a one-time incentive of \$250 upon changing insurance coverage. There shall be a coordination of benefits with any other health insurance held by the retiree or the retirees spouse. The Village's health insurance shall be considered the secondary insurance. Provided, however, that should the retiree or the retirees spouse cease to be covered by health insurance from an outside source, they shall again be eligible for the retiree health insurance program set forth above.

## **2. Wages (Appendix A)**

The Act 312 Arbitration Panel adopts the Village's last best offer on wages, effective 7-1-99 and 7-1-00. The Panel adopts the Unions last best offer on wages for effective dates 7-1-01 and 7-1-02.

The Union has argued that all personnel on the payroll during the pendency of these negotiations and this proceeding, should be granted a retroactive increase. In particular, it seeks retroactive increases for two employees who were recently hired.

The Chair expressly rejects this request for the five reasons:

- (1) There is no evidence that starting rates are inadequate;
- (2) These new employees hired on at particular starting rates, and they will be out of the starting rate shortly;
- (3) The Chair has balanced the lower starting rate against the benefit of long term increases. Even the two affected employees will be farther ahead with the increases in the salary schedule over this contract's term;
- (4) Creating two separate starting rates (i.e., red circling these employees, and establishing a separate rate for later new hires) is the first step toward creating a two-tire wage structure. This is a result which the Chair disfavors, absent proof of exigent circumstances that do not exist here.
- (5) The essence of collective bargaining is that the labor organization and the employer are to balance the interests of the many against the interests of the few. Sometimes sacrifices have to be made for the greater good.

Thus, the Chair has made a determination consistent with the long term interests of the bargaining unit and the employer.

Therefore, wage rates shall be as follows:

Effective 7-01-99, 3% increase across-the-board for all employees hired prior to 7-01-99. For employees hired after 7-01-99, the starting rate of pay shall be as follows:

Patrol	\$28,227
Dispatcher	\$21,733

Effective 7-01-00, 3% increase across-the-board for all employees hired prior to 7-01-99. For employees hired after 7-01-99, the starting rate of pay shall be as follows:

Patrol	\$28,227
Dispatcher	\$21,733

Effective 7-1-01      3.5% increase across-the-board

Effective 7-1-02      3.5% increase across-the-board

**3. Retirement, Article XXX - Section 4, Pension Multiplier**

The Act 312 Arbitration Panel adopts the Village's last best offer on this issue. Accordingly, the current contract language shall remain status quo.

**4. Longevity - New Provision**

The Act 312 Arbitration Panel adopts the Village's last best offer on this issue. Accordingly, the current contract language shall remain status quo.

**5. Shift Premium - New Provision**

The Act 312 Arbitration Panel adopts the Village's last best offer on this issue. Accordingly, the current contract language shall remain status quo.

**6. Hospitalization and Insurance and Insurance Opt-Out, Article XX**

The Act 312 Arbitration Panel adopts the Village's last best offer on these issues. New contract language to read as follows:

Section 1. The employer agrees to furnish each full-time employee and their dependants with Blue Cross/Blue Shield Community Blue Option 1 Plan with \$10/\$20 generic/brand and mail order prescription (MOPD) rider, and \$500 preventative services provision, effective as soon as administratively feasible.

Section 2. Delete old language and replace with the following new provision:

Section 2. (NEW) Cash Option: An employee, after verifying to the Employer that he/she is covered by health insurance through his spouse, may elect not to participate in the health insurance plan currently offered to employees in the bargaining unit. Commencing 7-1-00, those employees who elect not to participate in such plan, shall be paid the sum of twenty-four hundred (\$2,400) dollars annually on June 1 of each year. Said payment shall be prorated on the basis of two hundred (\$200) dollars per month commencing on the month an employees participation in the plan terminates.

If an employee elects not to participate in the health insurance plan, he/she will not be allowed to re-enter the plan until the regular scheduled enrollment period. However, if an employee loses health insurance coverage through his/her spouse, the employee will be allowed to re-enter the health insurance plan offered by the

employer on the first day of the succeeding month after verifying said loss of coverage to the Employer.

Note: This provision replaces the insurance reimbursement letter of understanding attached to 1996-1999 contract.

**7. Optical and Dental Insurance, Article XXI**

The Act 312 Arbitration Panel adopts the Village's last best offer with regard to these issues. New Article XXI language to read as follows:

Section 1. The Employer agrees to furnish each full-time employee and their dependants with Blue Cross/Blue Shield Dental Option 2 and Vision VCA 80 effective 7-1-00.

**8. Retirement - Employee Pension Contribution, Article XXX**

The Act 312 Arbitration Panel adopts the Unions last best offer on this issue. Accordingly, the current contract language shall remain status quo.

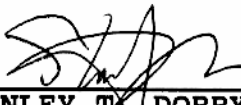
VIII. CONCLUSION

The foregoing is adopted as the Panel's entire award.

As a personal note, the Chair wishes to thank the Delegates, counsel and the parties for their professional approach to this matter.

This concludes the case. The Panel retains no further jurisdiction.

IT IS SO ORDERED.

  
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STANLEY T. DOBRY  
Impartial Chairperson

Dated: May 15, 1999

  
\_\_\_\_\_  
JOSEPH FREMONT  
City's Delegate

  
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LLOYD WHETSTONE  
Union's Delegate