

File  
mb. 3/2/87

STATE OF MICHIGAN  
COMPULSORY ARBITRATION

IN THE MATTER OF:

City of Detroit  
(Police Department

Employer

and

Detroit Police Lieutenants'  
and Sergeants' Association,

Union

Panel Chairman - John B. Swainson  
Union Delegate - Vincent Brennan  
City Delegate - Mark R. Ulicny

Act 312

Contract Period - 1986-1989

Case No. D86-C426

INTRODUCTION

Statement of Proceedings.

Following a series of bargaining sessions between the City of Detroit and the Detroit Police Lieutenants' and Sergeants' Association mediation was initiated in accord with Section 3 of Act 312 (MCL 423.233) in an effort to resolve the outstanding issues between the parties for their contract period July 1, 1986 through June 30, 1989. The mediation effort was unsuccessful and on June 4, 1986, the Lieutenants' and Sergeants' Association requested the initiation of binding arbitration through the procedures established by the Michigan Employment Relations Commission. The Commission after compliance with Section 5 of Act 312 appointed Mr. John B. Swainson as the impartial chairman of the arbitration panel. Mr. Mark R. Ulicny was appointed by the City of Detroit to serve as its delegate and Mr. John Lyons was appointed by the Lieutenants' and Sergeants' Association as its delegate to the panel. A prehearing conference was held on July 14, 1986 to establish a hearing schedule and to fix

Detroit, City of

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the order of presentation of the issues as well as to resolve other miscellaneous procedural matters. A lengthy discussion also took place in regard to the desire of the parties for a speedy resolution of the issues while recognizing the many practical problems that must be overcome in presenting the various complex issues. The chairman announced his commitment to do everything possible to comply with the time limits set by the law and within the policies of the Michigan Employment Relations Commission and encouraged the parties to do everything they could to streamline proofs and arguments and to resolve as many issues as they could through ongoing negotiations.

Following the prehearing conference, the Union notified the chairman that they were replacing Mr. John Lyons with Mr. Vincent Brennan. The parties have worked hard with the Panel to be able to produce a resolution of the dispute in an extremely prompt manner. In relation to the history of previous Act 312 proceedings, it appears that this panel has accomplished the most expeditious conclusion of such proceedings involving the City of Detroit and its public safety unions.

A total of 39 hearings were held beginning July 30, 1986 and ending on December 18, 1986. Although a number of issues were resolved by agreement or were withdrawn by the parties during the course of these hearings a total of 34 issues have been left for resolution by this panel. Last best offers from each party were delivered as scheduled on January 12, 1987 which covered 18 economic issues as presented by the City and 14 economic issues presented by the Union. All of which had been previously been agreed upon between the parties as fitting within the economic designation. In addition, the Union's last best offer included two non-economic issues (permanent shifts and residency) which were so designated by the parties. Briefs by the parties in support of their respective positions on all issues were submitted as scheduled on February 9, 1987.

Through a stipulation presented to the panel on the last day of hearing the Union issue involving promotional criteria and standards was deferred and is to be resolved through subsequent hearings before this chairman which are to be scheduled within a reasonable time following the issuance of this award.

Following receipt and review of the briefs submitted by the parties and following thorough discussion in executive session with the delegates, a unanimous or a majority decision has been reached on each of the outstanding issues.

In addition, the decisions on each issue were reached by considering the evidence, testimony and exhibits presented by the parties and the Panel has based its findings, opinions and award on those proofs as related to the criteria contained in Section 9 of Act 312 as follows:

- a. the lawful authority of the employer;
- b. stipulations of the parties;
- c. the interest and welfare of the public and the financial ability of the unit government to meet those 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;
  - 1. in public employment in comparable communities,
  - 2. in private employment in comparable communities;
- e. the average consumer prices of 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 confined to the foregoing which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment rather through voluntary collective bargaining mediation and fact finding arbitration or otherwise between the parties in the public service or in private employment.

The chairman wishes to commend the parties, their advocates and their delegates on a most informative and professional presentation which has permitted the chairman to issue what he believes to be a fair, equitable and just award for both the City of Detroit and its citizens and for the members of the Lieutenants' and Sergeants' Association.

### DECISION AND AWARD OF PANEL

Based on the record made before this Panel through testimony of witnesses and exhibits which the parties have presented in support of their respective positions on each of the issues and the Panel having reached a unanimous decision on all but three issues (those being Union Issues No. 16 - Residency, City Issue No. 3 - Definition of Average Final Compensation, and City Issue No. 14 - Hospitalization/Option I Spouse's Hospitalization), the Chairman has determined with the concurrence of the parties' delegates that an extensive recitation and recapitulation of the proofs in regard to those issues decided unanimously would only serve to delay the issuance of this award. Therefore, an abbreviated format will be used as to those issues consisting of the proposals as presented by the parties on their respective issues, then the counter proposals to those issues, followed by the decision and award of the Panel.

As noted here and elsewhere in this award, the Panel has reviewed the extensive presentation of the parties on all issues in accord with Section 9 of Act 312, and is especially cognizant of the economic effects on both the City and the Members of the LSA. The Panel also recognizes that certain changes in compensation may have cost effects on the City that are greater than for LSA members alone, due to long standing pay and benefit relationships with the DPOA and DFFA. Even with that in mind, the awards hereby granted are believed to be fair, reasonable and well balanced considering all relevant circumstances.

## UNION PROPOSAL

### Union Issue No. 1

#### WAGES - July 1, 1986 through June 30, 1989

##### Base Salary:

1. Effective July 1, 1986 the salaries for all employees shall be increased by 5% over that being paid effective June 30, 1986.
2. Effective July 1, 1987 the salaries for all employees shall be increased by 4% over that being paid effective June 30, 1987.
3. Effective July 1, 1988 the salaries for all employees shall be increased by 4% over that being paid effective June 30, 1988.

## CITY PROPOSAL

#### WAGES - July 1, 1986 through June 30, 1989

The parties have agreed that the wage issue shall be a single issue consisting of one proposal by each side covering the entire three-year period of the new contract.

The City's last best offer on wages and bonuses is as follows:

##### A. Wage Increases

1. Year I: Effective 7/1/86 5%
2. Year II: Effective 7/1/87 3% plus a \$200 bonus
3. Year III: \$400 - \$800 Bonus based on Revenue Sharing Formula (see attached)

If at any time during this agreement the wage level paid by operation of the Differential Article exceeds those that would have been in effect under the City's above wage and bonus proposal then subsequent increases shall be implemented only as necessary to bring this level to that guaranteed by the above wage and bonus proposal.

## B. Bonuses

1. Bonus payments shall not be folded into the base rate nor included in average final compensation for pension purposes.

### 2. Method of calculating bonus for individual employees

- a. Bonus of \$200 will be paid only to those employees on payroll January 1, 1988 and the calculation year shall be calendar year 1987.
- b. \$400 to \$800 bonus will be paid only to employees on payroll January 1, 1989 and the calculation year shall be calendar year 1988.
- c. Employees who have been paid for more than 1800 straight time hours in the calculation year shall be entitled to a full bonus payment.
- d. Employees who have been paid for less than 1800 hours in the calculation year shall have their bonus calculated in accordance with the following:

$$\frac{\text{amount of bonus}}{2080} \times \text{number of straight time hours paid in year}$$

### YEAR THREE "KEY REVENUE PERFORMANCE/EMPLOYEE RATE ADJUSTMENT" TABLE

Key Revenue is defined as all revenues in the two categories entitled:

1. Taxes, Interest and Penalties
2. Shared Taxes

as shown on the General Fund Statement of Revenues, Expenditures and Changes in Fund Balances, printed each year in the City of Detroit's Comprehensive Annual Financial Report. (This statement is designated as Exhibit A-2 in the Report dated June 30, 1985.)

Since the average annual increase in the total of these key revenues has been 9.2% over the last three years and 1985-86 is currently estimated to produce a total of \$669,870,000, then by incrementing that total by 9.2% for 1986-87, and by another 9.2% for 1987-88, the "normal" achievement expectation in 1987-88 would be \$798.8 million. The table and growth factor will be adjusted to reflect actual 1985-86 revenues when they become available.

Each step on the table is equal to \$4.00 million, which is one-half of one percent of \$798.8 million (normal) in revenue. Each step moves the amount of the bonus by \$50.00.

| 1987-88 Performance<br>Level of Key Revenues | During January, 1989<br>the Following Bonuses<br><u>Will be paid</u> |
|--|--|
| \$827,000,000 or more                        | \$800  |
| 823,000,000 - 826,999,999                    | 750  |
| 819,000,000 - 822,999,999                    | 700  |
| 815,000,000 - 818,999,999                    | 650  |
| 811,000,000 - 814,999,999                    | 600  |
| 807,000,000 - 810,999,999                    | 550  |
| 803,000,000 - 806,999,999                    | 500  |
| 799,000,000 - 802,999,999                    | 450  |
| 798,999,999 or less                          | 400  |

#### AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel it unanimously awards the Union proposal on Wages.

The Panel understands that this award on Wages must be applied in conjunction with the award on differentials (Union Issue No. 2) so that where the differentials yield a salary level greater than under this wage award, the differentials will control.

## UNION PROPOSAL

### Union Issue No. 2

#### DIFFERENTIAL - July 1, 1986 through June 30, 1989

In no event shall the percentage differential between the salaries of police investigator and the maximum salary of police officer and the percentage differential between the salary of police sergeant and the maximum salary of police officers and the percentage differential between the salary of police lieutenant and the maximum salary of police officer be less than the following schedule:

#### Police Investigator

11%

No police investigator currently a member of the Lieutenants & Sergeants Association bargaining unit, shall suffer any reduction in salary or current differential as a result of the execution of this agreement.

#### Police Sergeant

- |   |     |
|---|-----|
| (1) Upon promotion  | 21% |
| (2) Upon confirmation or<br>upon completion of one<br>(1) year in rank, whichever<br>occurs later | 22% |
| (3) Upon completion of three<br>(3) years in rank   | 23% |
| (4) Upon completion of four<br>(4) years in rank  | 24% |
| (5) Upon completion of six<br>(6) years in rank   | 25% |

No police sergeant, currently a member of the Lieutenants & Sergeants Association bargaining unit, shall suffer any reduction in salary or current differential as the result of the execution of this agreement.

#### Police Lieutenant

- |  |     |
|--|-----|
| (6) Upon promotion   | 36% |
| (7) Upon confirmation or upon<br>completion of one year in<br>rank, whichever occurs later | 37% |
| (8) Upon completion of three<br>(3) years in rank  | 38% |
| (9) Upon completion of four<br>(4) years in rank   | 39% |
| (10) Upon completion of six<br>(6) years in rank   | 40% |

No police lieutenant, currently a member of the Detroit Police Lieutenants & Sergeants Association bargaining unit shall suffer any reduction in salary or current differential as the result of the execution of this Agreement.



## CITY PROPOSAL

### DIFFERENTIALS

The City rejects the Union's last position on differentials and as its last best offer of settlement proposes that the status quo be maintained. The City's position is that the following language from the 1983-86 contract should be maintained.

#### 54. Differential

In no event shall the percentage differential between the salaries of police investigator and the maximum salary of police officer and the differential between the salary of police sergeant and the maximum salary of police officer and the percentage differential between the salary of police lieutenant and the maximum salary of police officer be less than the following schedule:

##### Police Investigator

10%

No police investigator currently a member of the Lieutenants' and Sergeants' Association bargaining unit, shall suffer any reduction in salary or current differential as a result of the execution of this agreement.

##### Police Sergeant

- |  |     |
|--|-----|
| (1) Upon promotion   | 20% |
| (2) Upon confirmation or upon completion of one (1) year in rank, whichever occurs later | 21% |
| (3) Upon completion of three (3) years in rank   | 22% |
| (4) Upon completion of four (4) years in rank  | 23% |
| (5) Upon completion of six (6) years in rank   | 24% |

No police sergeant, currently a member of the Lieutenants' and Sergeants' Association bargaining unit, shall suffer any reduction in salary or current differential as the result of the execution of this agreement.

##### Police Lieutenants

- |  |     |
|--|-----|
| (6) Upon promotion   | 35% |
| (7) Upon confirmation or upon completion on one year in rank, which ever occurs last | 36% |
| (8) Upon completion of three (3) years in rank                                       | 37% |
| (9) Upon completion of four (4) years in rank  | 38% |
| (10) Upon completion of six (6) years in rank  | 39% |

No police lieutenant, currently a member of the Detroit Police Lieutenants' and Sergeants' Association bargaining unit shall suffer any reduction in salary or current differential as the result of the execution of this agreement.

AWARD

Based upon competent, material and substantial evidence on the whole record as presented to this Panel, it unanimously awards the City proposal on Differentials.

## UNION PROPOSAL

Union Issue No. 3

### COST OF LIVING ALLOWANCE July 1, 1986 through June 30, 1989

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 Rate: is that rate indicated on an employee's "Statement of Earnings and Deductions" commonly known as a check stub as "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, 1986, 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 increases in the revised Consumer Price Index for Urban Wage Earners and Clerical Workers, Detroit, Michigan. All items (1967=100) based on the 1972-3 Survey of Consumer Expenditures. In the event of discontinuance of the revised Index, an alternative Index will be used.
2. The adjustment for the quarter beginning October 1, 1986 will be effective only for time worked on/or after October 1, 1986. 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 (1¢) 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, shall be made at the following times according to the Consumer Price Indexes for the months shown:

Qtrly Adj.  
Date

Monthly Index Figures  
Determining Quarterly Increase

First paycheck  
issued on or  
following:

|                 |                             |
|-----------------|-----------------------------|
| October 7, 1986 | May 1986-August 1986        |
| January 7, 1987 | August 1986-November 1986   |
| April 7, 1987   | November 1986-February 1987 |
| July 7, 1987    | February 1987-May 1987      |
| October 7, 1987 | May 1987-August 1987        |
| January 7, 1988 | August 1987-November 1987   |
| April 7, 1988   | November 1987-February 1988 |
| July 7, 1988    | February 1988-May 1988      |
| October 7, 1988 | May 1988-August 1988        |
| January 7, 1989 | August 1988-November 1988   |
| April 7, 1989   | November 1988-February 1989 |
| July 7, 1989    | February 1989-May 1989      |

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, 1987, July 1, 1988 and July 1, 1989 and effective on these July 1st dates, the Cost of Living Allowance being paid during the preceding June, plus that amount, if any, not included in the allowance due to the 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 adjustments, 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.

E. In the event the parties have not reached agreement on a new contract by July 1, 1989, the COLA formula set out above will continue to exist and payments will be made thereunder, including the July 1st additions to base rate, until such time as the parties reach agreement on a new collective bargaining agreement.

#### CITY PROPOSAL

##### COST-OF-LIVING ALLOWANCE

The City rejects the Union's last position on Cost-of-Living Allowance and proposes as its last offer of settlement that the status quo be maintained. The 1983-86 contract provides no cost-of-living allowance.

#### AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the City proposal on Cost of Living Allowance.

FURLOUGH/VACATION

UNION PROPOSAL

Amend Article 38 of the collective bargaining agreement by adding the following to the existing agreed upon language:

A furlough is a temporary separation from service. For the purpose of this definition, a furlough shall be construed to include a minimum of five leave days granted in connection with the furlough.

After completion of the specified year(s) of service as a police department employee, members shall receive furlough time in accordance with the following schedule:

|                      |         |
|----------------------|---------|
| 1 year to 6 years    | 20 days |
| 7 years to 14 years  | 21 days |
| 15 years to 20 years | 22 days |
| 21 years to 25 years | 23 days |
| 25 years and over    | 24 days |

The number of days shall be divided equally into summer and winter furlough periods. When an odd day is accumulated the employee shall have the option of using said day either during the summer or winter period.

This provision shall be effective commencing with the Summer, 1987 furlough period.

CITY PROPOSAL

The City rejects the Union's last position on furloughs and as its last offer proposes that the status quo be maintained. All members currently receive twenty (20) vacation days annually.

AWARD

Based upon competent, material and substantial evidence on the whole record as presented to this Panel, it unanimously awards the City proposal on Furloughs.

Union Issue No. 5

SHIFT DIFFERENTIAL

UNION PROPOSAL

Amend Article 29 of present contract to read:

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 40¢ per hour. If the tour of duty begins between 7:00 p.m. and 3:59 a.m. the rate of shift premium is 50¢ per hour.

The shift premium is paid to a member in addition to his base 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.

CITY PROPOSAL

The City rejects the Union's last position on shift differential and as its last offer proposes that the status quo be maintained. The city's position is that the following language from the 1983-86 contract should be maintained.

29. Shift differential

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 is 30¢ per hour.

The shift premium is paid to a member in addition to his base 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.

AWARD

Based upon competent, material and substantial evidence on the whole record as presented to this Panel, it unanimously awards the Union Proposal on Shift Differential.

SICK LEAVE

UNION PROPOSAL

Amend Article 35, Section A - Remove limits to accumulation in each bank.

A. Sick Banks: There are two sick banks, current sick bank and seniority sick bank.

1. Current Sick Bank: Current sick bank is designated as the sick time accumulated at the rate of one day for every calendar month in which a member has been credited for not less than 18 paid-time days, excluding overtime. The accumulation of the current sick bank is without a maximum limit.
2. Seniority Sick Bank: Every member who has a current service status for a full fiscal year shall be credited with three (3) days in the seniority bank on July 1st of each year. The accumulation of the 3 days per year is without a maximum limit.

CITY PROPOSAL

The City rejects the Union's last position on sick leave and as its last offer of settlement proposes that the status quo be maintained. The City's position is that the following language from the 1983-86 contract should be maintained.

35. Sick Leave

A. Sick Banks: There are two sick banks, current bank and seniority sick bank.

1. Current sick bank is designated as that sick time accumulated at the rate of one day for every calendar month in which a member has been credited for not less than eighteen (18) paid time days, excluding overtime. The accumulation of the current sick bank is limited to 125 days.
2. Every member who has a current service status for a full fiscal year shall be credited with five (5) days in his seniority bank on July 1 of each year. The accumulation is limited to 125 days also in this bank.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the City proposal on Sick Leave.



Union Issue No. 7

HOLIDAY AND EXCUSED TIME

UNION PROPOSAL

Amend Subsection E of Article 37 of the Collective Bargaining Agreement.

E. Excused Time: Employees shall be granted four (4) hours of "excused time" on Good Friday, or the last four (4) hours on the last scheduled day prior to Good Friday, and eight (8) hours of "excused time" on the last scheduled paid day before Christmas Day and before New Year's Day provided they are on the payroll through the holiday in question. Employees shall also be granted eight (8) hours "excused time" on Martin Luther King's birthday. Employees required to work any portion of the "excused time" on these days will receive equal time off for hours worked or straight time cash at the option of the Chief of Police. No holiday premium will be paid for work on these days.

CITY PROPOSAL

The City rejects the Union's last position on Holidays and Excused Time and as its last offer of settlement proposes that the status quo be maintained. The City's position is that the following language from the 1983-86 contract should be maintained.

37. Holiday and Excused Time

A. Schedule of Holidays: Each member shall be entitled to a holiday on one election day in each year or an eighth holiday if an election is not scheduled. (Notification will be made by special order).

Employees shall also be entitled to the following holidays:

|                  |                             |
|------------------|-----------------------------|
| Independence Day | July 4th                    |
| Labor Day        | First Monday in September   |
| Veterans' Day    | November 11th               |
| Thanksgiving Day | Fourth Thursday in November |
| Christmas Day    | December 25th               |
| New Year's Day   | January 1st                 |
| Memorial Day     | Last Monday in May          |

A ninth holiday shall be granted to employees who have been employed ninety (90) days or more and who are entitled to regular holidays under existing ordinances. This holiday shall be taken at any time during the fiscal year which is mutually

acceptable to the employee and the department. To insure that the ninth holidays are expended proportionately throughout the year and not carried until the last month of the fiscal year, on May 1st the commanding officer shall assign the remaining ninth holidays at his discretion. Ninth holidays which are not used prior to the end of the fiscal year will be lost.

B. Holiday Premium: The holiday premium rate shall be double time (2x) for all employees who work on a premium holiday in addition to the regular day's pay.

C. Holiday work opportunities will not be extended to employees on furloughs.

D. All other holiday benefits shall remain unchanged.

E. Excused Time Days: Employees shall be granted four (4) hours of "Excused Time" on Good Friday or the last four (4) hours on the last scheduled day prior to Good Friday, and eight (8) hours of "Excused Time" on the last scheduled paid day before Christmas Day and before New Year's Day provided they are on the payroll through the holiday in question. Employees required to work any portion of the "Excused Time" on these days will receive equal time off for hours worked or straight time cash at the option of the Chief of Police. No holiday premium will be paid for work on these days.

#### NOTE

(The Panel understands and agrees that the Union last best offer originally included 8 hours of excused time on Good Friday. However, this was determined to be a typographical error and the Union last best offer hereby awarded has been corrected to reflect the Union's intention which was to maintain 4 hours of excused time on Good Friday.) - (It also appears that the Union intended to refer to Paragraph E of Article 37 instead of Subsection D as indicated in their last best offer.)

#### AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the Union proposal on Holidays and Excused Time with the corrections as noted parenthetically above.

Union Issue No. 8

HOSPITALIZATION MEDICAL INSURANCE AND OPTICAL CARE

UNION PROPOSAL

Amend Article 44, Subsection B:

- B. The City will pay to the optical plan or program selected by the Union an amount per employee equal to the premium cost for the Blue Cross/Blue Shield A-80 Optical Plan.

This provision shall be effective July 1, 1987.

CITY PROPOSAL

The City rejects the Union's last position on replacing the current Optical Care Insurance with the Blue Cross plan and as its last offer of settlement proposes that the status quo be maintained. The City's position is that the following language from the 1983-86 contract should be maintained.

- B. The City will provide Optical Care Insurance through the Employee Benefit Board and such benefit will include case hardened lenses. The City will continue to provide optical care through the present carrier, through the Employee Benefit Board.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this panel, it unanimously awards the Union proposal on Optical Care.

Union Issue No. 9

PENSIONS  
(Optional Annuity Contributions)

UNION PROPOSAL

Amend Article 48 of the Collective Bargaining Agreement by adding a subsection "H".

Effective the date of this agreement, employee contributions to the Policemen and Firemen Retirement System Annuity Fund shall be made optional. Balances in the fund standing to the individual credit of employees discontinuing their contribution shall be maintained with accumulated interest to be paid out to the employee in accordance with Article number Forty-Eight (48).

The retirement allowance received by a member terminating the contribution of monies into the Annuity Fund shall not be reduced.

CITY PROPOSAL

The City rejects the Union's last position on Pensions with respect to its demand that employee contributions to the Retirement System Annuity Fund be made optional. The City as its last offer of settlement proposes that the status quo be maintained.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the City proposal on Pensions (Optional Annuity Contributions).

Union Issue No. 10

PENSIONS  
(Increase in Pension Factor)

UNION PROPOSAL

All provisions of the Policeman and Fireman Retirement System as applicable to this demand shall be amended to require that the multiplier used to compute all service retirement allowances shall be 2.2% with pension not to exceed 70% of average final compensation.

CITY PROPOSAL

The City rejects the Union's last position on Pensions with respect to its demand that the current pension factor of 2% be increased. The City as its last offer of settlement proposes that the status quo be maintained.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the City proposal on Pensions (increase in pension factor).

Union Issue No. 11

PENSION

(20 YEAR RETIREMENT)

UNION PROPOSAL

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

CITY PROPOSAL

The City rejects the Union's last position on Pensions with respect to its demand that members be eligible for full retirement benefits after twenty years of service. The City's last offer of settlement is that the status quo be maintained. It is the City's position that the following language from the 1983-86 contract be maintained.

51. Pensions

C. Effective June 30, 1986 the requirement that a member as defined in Article IV, Section I(D) of the Policemen and Firemen Retirement System shall attain age 55 to be eligible for retirement shall be eliminated. Such members will be eligible to retire after 25 years of service regardless of age.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the City proposal on Pensions (20 year retirement).

PENSION - REDUCED EARLY PENSION BENEFITS

(40 & 8 Vesting Retirees)

UNION PROPOSAL

A. Members who terminate employment who are eligible for a pension pursuant to Article VI, §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.

B. 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.

C. No other benefits or amounts payable pursuant to the Policemen and Firemen Retirement System including benefits available to persons who retire under Article VI, §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 retire with a service retirement under Article VI of the Pension Plan.

CITY PROPOSAL

The City rejects the Union's last position on Pensions with respect to its demand that vested employees who leave City service prior to becoming eligible for a full pension be eligible to receive an actuarially reduced pension immediately upon leaving City service. The City proposes that the status quo be maintained, whereby such employees start receiving pension benefits on the date they would have been eligible to retire had they continued their City employment.

AWARD

Based upon competent, material and substantial evidence presented on the whole record to this Panel, it unanimously awards the Union proposal on Pension - Reduced Early Pension Benefits (40 & 8 vesting retirees).

Union Issue No. 13

PENSION

CONTRIBUTION TO SURVIVOR'S BENEFIT FUND

UNION PROPOSAL

The contributions, required by Article VII, Sections 8(b) and 8(c) of the Policemen and Firemen Retirement System, to the Survivor's Benefit Fund shall be eliminated.

CITY PROPOSAL

The City rejects the Union's last position on Pensions with respect to its demand that employee contributions to the Retirement System's Survivors Benefit Fund be eliminated. The City proposes as its last offer of settlement that the status quo be maintained.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the Union proposal on Pensions - Contribution to Survivor's Benefit Fund.



ARTICLE 24 - LEAVE DAYS-WORK WEEK (FOUR TENS)

UNION PROPOSAL

A. Current language.

B. The work week of each employee shall consist of four days of ten hours work per day. Leave days granted to employees who work a four day work week during the Monday through Friday period shall be computed on the basis of Saturdays and Sundays in the month plus one day off each week Monday through Friday. A uniform number of leave days for each month shall be granted employees who work on the basis of seven days a week; thirteen leave days being granted for each month.

C. Current language.

D. Current language.

E. Current language.

CITY PROPOSAL

The City rejects the Union's last position on Four Tens and as its last offer proposes that the status quo be maintained.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the City proposal on Leave Days - Work Week (Four Tens).

PERMANENT SHIFT

UNION PROPOSAL

A. Effective immediately permanent shift selection shall be instituted in all precincts, sections and units that currently utilize a shift rotation schedule.

B. All members not currently assigned to permanent shifts shall participate and select permanent shifts on the basis of seniority.

C. The selection process shall begin with the most senior member who shall select a permanent shift. This process shall continue with the next senior member making a shift selection until the process is completed and all eligible members have made their selection.

D. The above described permanent shift selection process shall be repeated on an annual basis commencing twelve months from the date of the first selection procedure being implemented.

E. Provisions regarding job assignments under Article 22 of the Collective Bargaining Agreement shall be unaffected by this provision.

CITY PROPOSAL

Because this issue was determined to be non-economic in nature, the City did not choose to submit a proposal in direct response to the Union position, but instead has argued in its brief that the present shift rotation system be retained or if a change is contemplated that perhaps a longer rotation period coordinated with the 28-day cycle provided under the Fair Labor Standards Act might be a compromise which the arbitration panel could use to fashion a system of shift rotation that the Union would perhaps consider less onerous.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the contractual status quo between the parties.

RESIDENCY

UNION PROPOSAL

Replace Article 57 of the collective bargaining agreement with:

Members of the bargaining unit may establish residency outside the corporate city limits of Detroit.

This provision shall be effective with the issuance of the award.

CITY PROPOSAL

Since the parties had determined that this issue was non-economic, the City has chosen not to submit a last best offer proposal, but strongly argues in its brief for the rejection of the Union proposal.

AWARD

Based upon competent, material and substantial evidence on the whole record as presented to this Panel, a majority of the Panel consisting of the Chairman and the City's delegate awards the City proposal as contained in its brief, which is a rejection of the Union proposal on Residency.

The Union delegate dissents from this award.

OPINION REGARDING Union Issue No. 16

RESIDENCY

This issue represented one of the more difficult matters for the panel to decide. The parties' presentations in behalf of their respective positions included several days of testimony and entering of exhibits. Relevant exhibits included: (Union - 85, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 99, 133, 146; City - 1, 2, 3, 4, 5, 6, 7).

The Union's position as summarized in its brief recognizes that the residency rule has been in effect for "as long as anyone can remember", but argues that the time has now come for a change:

"During the past 15 to 20 years the living conditions in the City of Detroit have become so inhospitable that it is neither fair nor prudent nor necessary nor equitable to force employees to continue to live within the geographic/corporate limits of their Employer. The evidence submitted has been overwhelming that the housing conditions are poor, the schools are worse, and the crime situation is totally intolerable and unliveable for a family." (Union brief, page 56).

Numerous Union witnesses testified before the panel with an emotional appeal. Union Sergeant-At-Arms, David Brozo, testified about his own experiences with crime in the City. Jacob Schwarzberg, a lawyer and a member of the Detroit Police Department, testified that there is no indentifiable Jewish neighborhood within the City of Detroit and that there are no synagogues within any neighborhood of the City, causing him to send his children to a private school because the public schools are totally inadequate (at a cost of

approximately \$7,000.00 per year). The Union also presented James Saffold, a retired police lieutenant who separated from the Department because of a disability he suffered on the job. He testified that his house and his family were terrorized because of the fact that he was a police officer and was accused of having reported a neighbor's house as being a drug operation to the Narcotics Section.

Donald Prince, a police sergeant who worked for the Tactical Services Section, testified about the problems that he had including the lack of a safe neighborhood, break-ins, vandalism, and hold-ups. He testified further that a dope house was right next to his home and as a result he had to sell his home at a loss of \$8,000.00.

The Union also presented other witnesses including Lawrence Seneski, Linda Mack, Walter Robinson, and Henry Hampton. These witnesses testified to the panel that crime, decreasing home values, poor schools, lack of adequate shopping, etc. were reasons why a police officer should not be forced to live in the City of Detroit.

Christine Panyard, a licensed psychologist who has treated over 800 police officers during her career, testified that being forced to reside in the City of Detroit had a severe impact on the mental health of police officers and their families. She indicated that in her professional

opinion the forcing of police officers to reside in the City of Detroit was injurious to their health and to their families' health. In her testimony, she disclosed that she herself is a resident of the City of Detroit and her husband is a Detroit police officer.

To further support their position the Union commissioned Nordhaus Research, Inc. to conduct a telephone poll as to whether the citizens of Detroit would favor abolishment of the residency requirement. The results of the poll indicated that, based on the questions asked, a majority of the respondents answered in support of the Union's position.

The Union also produced evidence of the practice in nine comparable communities which it relied upon during the hearing process. Five of the nine have no requirement at all. Another of the nine has a requirement of residing within a certain geographical distance of the borderline of the City. Others provide hardship deferments and exemptions. Two of the nine which have some requirement exempt persons within a certain number of years of retirement from compliance with the rule.

The City of Detroit presented several witnesses who dealt with the issues of residency as concerned citizens. Katherine Marie Robinson testified that she was in favor of the residency rule. Katherine R. Hoard testified that she was a member of a local citizens' group and that she thought that retaining the rule would be important.

The City also called former Board of Police Commissioners Mayoral appointee, Susan Mills-Peek, as a witness. She testified that she was in favor of retaining the rule and indicated that certain non-empirical studies reflecting citizen support for the rule were done by the Board of Police Commissioners over the years in its citizen meetings, and in other organizations she had belonged to.

Police Commissioner Harold L. Shapiro was also called by the City as a witness. Mr. Shapiro testified that an important aspect of police work is involvement with the community in which officers serve. He noted that in his role as a civilian and community representative regarding police affairs he believes strongly that the citizens of the City want the residency requirement maintained.

Police Chief William Hart also testified on behalf of maintaining the residency requirement. Chief Hart emphasized that the residency rule is needed to maintain an effective police department in the City of Detroit.

Mayor Young, as part of his testimony as Chief Executive of the City of Detroit, stated his strong opinion that the residency rule is essential to the present and future welfare of the City.

The panel is impressed by the fact (a) that the City has had a residency requirement ever since the Charter of 1883, (b) that every officer is aware of this requirement at the time of hire, (c) that the testimony of community leaders (in addition to that of Mayor Young and Chief Hart) indicates a strong conviction that this requirement is essential to the City's welfare, and (d) that the residency requirement has been repeatedly upheld in the past by courts and arbitrators, in the face of essentially the same arguments as those advanced by the Union in the present case.

Arbitrator Harry Platt held an extended hearing in 1975 which was devoted solely to the residency issue. His award, which is part of the evidence in this case, upheld the residency requirement. Arbitrator Daniel Kruger again upheld the requirement in an award issued only a little over a year ago (December 3, 1985). Mr. Kruger's opinion thoroughly and cogently reviews the contentions of both sides, which were very similar to those advanced in the instant case. His "Rationale For Panel's Award" is herewith adopted and concurred in by this panel 1/ and is quoted herewith in full:



This Panel gave great weight to the Platt Award issued on September 5, 1975 in its deliberations on this critically important issue of residency requirement (see Joint Exhibit 33). This Panel likewise has concluded that there is competent material and substantial evidence to support the Employer's position that police officers should continue to reside in Detroit as a condition of their employment. This Panel's Award continues a long standing policy first enunciated in the City Charter of 1886 and continued forward. The charter expresses the will of the people that the citizens of the City of Detroit want their protectors of the public safety to reside within the corporate city boundaries. The will of the people was reaffirmed when the City Council on June 6, 1968, adopted the first legislative ordinance (Employer Exhibit 185). Both the Michigan Supreme Court and the United States Supreme Court have affirmed the lawful authority of the City to enact such an ordinance [Detroit Police officers Association v City of Detroit 385 Mich 519 (1971) appeal dismissed 405 U.S. 950 (1971)].

This Panel strongly believes that the residency requirement promotes the interest and welfare of the public. The Michigan Supreme Court has stated

the job of a policeman does have natural distinguishing characteristics from all other city employees. There is a special relationship between the community policed and a policeman. (Panel's Emphasis) A policeman's very presence, whether actually performing a specified duty during assigned hours or engaged in any other activity during off-duty hours, provides a trained person immediately available for enforcement purposes.

Detroit Police officers Association v City of Detroit 385 Mich 519 at pages 522 and 523.

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<sup>1/</sup> It is noted, of course, that the figures on the racial composition of the police force and the City's population have changed somewhat, but this does not affect the validity of Mr. Kruger's reasoning.

Because of this special relationship noted by the Michigan Supreme Court, this Panel cannot in good faith grant the Union's proposal. Perceptions of the citizens about their police officers is (sic) very important to police community relations. The population of the City of Detroit is 61 percent Black and the police officers are 70 percent white (Employer Exhibit 99). If police officers were permitted to live outside the City, come into the City to perform their assigned duties and then, at the conclusion of the shift to leave the City to return home, the citizens may well have the perception that their police officers are "an army of occupation", i.e., those who impose control upon the citizens are foreigners or outsiders to the community (see Tr XLVII, pages 44-45, 52-53, and Employer Brief, page 251).

This Panel took note that the psychological damage to the community as a whole would be far worse than the economic damage if police officers were permitted to live outside the City. As Chief Hart pertinently posed: If the police officers are afraid to live in the City, what about the citizens (see Tr XLVII, page 60; also Employer Brief, page 250). The Panel is of the opinion that the psychological health of the City would be damaged if police officers, the protectors of the public safety, were permitted to live outside of the City.

The Panel examined carefully the studies on the economic impact on the City if the residency requirement were eliminated (see Union Exhibit 124B and Employer Exhibit 211). The Union properly noted that both studies have deficiencies in methodology and that the multipliers used by the authors of these studies and their effect are highly speculative (Union Brief, page 289). The Panel recognizes that there will be an economic impact if the residency requirement were eliminated but it cannot assess correctly or even approximately what the economic impact would be.

The Union contended that police officers suffer increased levels of stress because they are required to live in the City (see Union Brief, page 294). Twenty-one (21) witnesses called by the Union testified to the specific hardships caused by their having to live in the City (Employer Brief, page 297).

Although this Panel is sensitive to the inconvenience and hardship this residency requirement may cause some police officers, it is the opinion of this Panel that the benefits of the residency requirement to the interests and welfare of the citizens of Detroit far outweighs (sic) the problems caused to individual officers. The welfare of the community takes precedence over the problems of individual employees, especially since the residency requirement is rooted in the City Charter.

This Panel reemphasizes the position taken by the Platt Panel that the total compensation of the police officers reflects the twenty-four (24) hour duty requirement and the inherent risks and responsibilities. The elimination of the residency requirement would create an economic windfall for those officers who choose to live outside the City. This clearly does not serve the interests and welfare of the public (see Joint Exhibit 33, page 40).

This Panel is concerned about the separation of place of work and place of residence if it had eliminated the residency requirement. The Platt Award noted that resident police officers will have greater knowledge and awareness of the community, be more sensitive to the needs and desires of its citizens than will non-residents (Joint Exhibit 33, page 41). To this assertion the Union responded that there is no empirical evidence in the record to support this contention although the proposition may be too fundamental to require such documentation (Joint Exhibit 33, page 42). In the view of this Panel, separating place of work and place of residency creates conflicting loyalties. Does one's loyalties lay (sic) with place of work or with place of residency? The answer appears obvious. The citizens' concerns about quality of life, the quality of schools, the crime problem appear to indicate that the citizens' loyalty gravitates towards place of residency. The employee who lives outside the place of work has no feeling of ownership, no incentive to make a contribution to improve the quality of life in the place of employment because the employee knows that most of the time he/she will be in his/her place of residency.

During the hearings and in the exhibits and briefs filed much was said about the crime problem in the City of Detroit. The police officer is highly symbolic and visible in the City's efforts to reduce crime. The citizens need confidence in their police force. It is the considered opinion of this Panel that the citizens' confidence in the police officer and in its police department will erode if police officers were permitted to live outside the City.

This Panel accepts the fact that the police officers employed by the City of Detroit are well-trained conscientious officers who provide a very valuable service to the community. To reduce the crime rate in the City of Detroit there must be a close and effective partnership between the police officers, the department and the citizens. Permitting officers to live outside the City, in the view of this Panel, will negate the forming of such a partnership or an alliance. (UX. 97, pp. 18-22).

As noted, the Kruger award is very recent. Only a few months earlier in 1985 (July 8, 1985), a Fire Fighters Act 312 panel also upheld the residency rule. John Kiefer, Chairman of that panel, said in part:

As noted at page 96 of the Howlett opinion, fire fighters knew when they sought to become fire fighters and accepted employment within the City of Detroit that City Ordinances required that they live within the city. The same holds true today. It is the opinion of this panel that it is not unfair for the citizens of Detroit to expect their fire fighters to live among the people whom they are paid to protect. (UX. 130, p. 14).

Section 9 (a) of Act 312 indicates that the City's lawful authority to adopt this requirement is one of the factors to be weighed by this panel. Section 9 (c) refers to "the interests and welfare of the public." Section 9 (h) speaks of "other factors .. normally or traditionally taken

into consideration" in collective bargaining matters, which would certainly include the long, unbroken past practice of requiring residency which is demonstrated by the record in this case. It is on the basis of these factors, together with the reasoning set forth in the Kruger opinion as quoted above, that the panel has concluded that the residency requirement should be maintained.

City Issue No. 2

FAIR LABOR STANDARDS ACT PROPOSALS

CITY PROPOSAL

It is the City's final position that the following changes should be made in the existing contract language in order to avoid windfall overtime payments to LSA members under the newly-applicable Fair Labor Standards Act. The parties have agreed that the incorporation of all necessary contract language shall constitute a single issue.

UNION PROPOSAL

Union as its last offer opposes the City's last positions and proposes that the current practice continue for the 1986-89 contract.

AGREEMENT

After submission of the last best offers on this issue the Union has agreed to accept the City's last offer as proposed which is reproduced for convenience on the pages next following.

CONTRACT REVISIONS RELATED TO  
THE FAIR LABOR STANDARDS ACT

Add New Sections 17 (H-I)

H. Compensatory Time Banks: With respect to classifications subject to the Fair Labor Standards Act (FLSA), compensatory time shall be separated into two (2) categories which shall be reported on the employee's bi-weekly paycheck statement. The first category shall reflect compensatory time accumulated prior to April 15, 1986 and shall reflect excused compensatory time accumulated prior to April 15, 1986 and shall reflect excused time as described in Article 37(D). The second category shall include compensatory time earned on or after April 15, 1986. Compensatory time in the second category shall be limited to a total of four hundred eighty (480) hours or whatever limitation may hereafter be imposed by law. Compensatory time used shall first be charged to the pre-April 15, 1986 bank and thereafter charged to the post-April 15, 1986 bank.

I. Work Period: The work period for purposes of computing overtime is 28 consecutive days and includes 8 leave days. This work period will be implemented by the City within ninety (90) days of the effective date of the award.

Amend Article 24(B).

Insofar as possible, the work week of each employee shall consist of five (5) days of eight (8) hours work per day. AN EMPLOYEE SHALL BE ENTITLED TO EIGHT (8) LEAVE DAYS IN EACH TWENTY-EIGHT (28) DAY WORK PERIOD.

Amend Article 25(a).

Prior to any fiscal year all members will be required to sign a list indicating their preference to be paid in cash or compensatory time for overtime worked. Once a member elects or does not elect to take time instead of cash payment, he is restricted to that choice for the entire fiscal year. All overtime will be credited at the rate of time and one-half. For the first seventy-five (75) hours of overtime work in a fiscal year, for which there is one hundred twelve and one-half (112½) hours of credit, the employee shall have an option of receiving compensatory time instead of payment in cash. All overtime beyond the first one-hundred twelve and one-half (112½) converted time hours must be paid in cash. However, in any fiscal year, not more than one-hundred twelve and one-half (112½) converted time hours may be earned as compensatory time as a result of overtime worked. FURTHERMORE, SUCH OVERTIME SHALL BE PAID IN CASH RATHER THAN GRANTING COMPENSATORY TIME WHEN NECESSARY TO COMPLY WITH F.L.S.A. REQUIREMENTS.

Amend Article 25(B).

OVERTIME SHALL BE CALCULATED ON THE FOLLOWING BASIS:

1. An employee shall be entitled to overtime compensation at time and one-half (1½) for all compensable hours of work in excess of eight (8) in a single day. A normal daily tour of duty shall consist of eight (8) hours of work, exclusive of a thirty (30) minute meal period which shall not be compensable or counted as time worked for the purposes of computing overtime unless the member is denied such period by competent authority. The tour of duty shall include time spent at the normal line-up or roll-call. The normal line-up or roll-call shall be deemed to consist of fifteen (15) minutes at the beginning of a day's tour and (15) minutes at the end of the tour. Although the last fifteen (15) minutes of the tour is the off-duty line-up or roll-call, overtime credit shall include those fifteen (15) minutes when a member is required to work beyond that time.
2. An employee shall be entitled to overtime compensation at time and one-half (1½) for all compensable hours of work on a leave day.
3. When an emergency makes it necessary for a member to work all or part of a furlough or leave day excluding court appearances, such time shall be considered as overtime. Any furlough or leave days for which overtime credit is given shall be cancelled.
4. Time off due to furlough, liquidation of compensatory time, sick leave and other paid absences shall be considered as time worked when applying overtime rules.
5. In no case shall overtime or other premium compensation be pyramided, duplicated, compounded or paid twice for the same hours of work.

Amend Article 26(B).

In each fiscal year, the first forty (40) hours of straight time earned as off duty court hours (60 hours at time and one-half) shall be compensatory time. All off duty court time earned in excess of the sixty converted hours shall be paid in cash. FURTHERMORE, SUCH OFF DUTY COURT TIME SHALL BE PAID IN CASH RATHER THAN GRANTING COMPENSATORY TIME WHEN NECESSARY TO COMPLY WITH F.L.S.A. REQUIREMENT.



Add New Article 38(F) and Amend Existing Article 38(E)

38(E). The annual furlough shall be divided into two (2) seasons, Summer and Winter. Each furlough season shall consist of thirteen (13) furlough periods, corresponding with the bi-weekly payroll periods. Each furlough period shall contain ten consecutive days, which shall begin with the first day of the payroll period. The furlough shall also include the standard number of leave days granted in connection with the furlough.

38(F). Except as modified in paragraphs D and E above, vacation benefits and vacation selection shall continue unchanged.

**CITY ISSUE NO. 3**  
**Definition of Average Final Compensation (AFC)**

**CITY PROPOSAL**

To define Average Final Compensation (AFC) in accordance with the following:

a. 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.

b. 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 on retirement, etc.), is utilized and an average is determined.

**UNION PROPOSAL**

The Union as its last offer opposes the City's last position and proposes that the current practice adopted in the contract under Article 50 and Article 51 continue for the 1986-9 contract.

**AWARD**

Based on competent, material and substantial evidence on the whole record as presented to this panel, a majority of the panel consisting of the Chairman and the City's delegate awards the City proposal on City Issue No. 3, Definition of Average Final Compensation.

The Union delegate dissents from this award.

Opinion of the Panel Re:

**CITY ISSUE NO. 3**  
**Definition of Average Final Compensation (AFC)**

An examination of all of the criteria set forth in Section 9 of Act 312 (M.C.L.A. 423.239) has convinced the panel that the last best offer of the City of Detroit most nearly complies with the Section 9 factors. For the reasons set forth below, the panel awards the last best offer of the City of Detroit.

The testimony presented to the panel demonstrated that average final compensation (AFC) for LSA members and other members of the Police and Fire pension system has been calculated in accordance with the City's last best offer (LBO) for several decades. The testimony indicates that the City's LBO is merely a contractual codification of this practice. Other public safety employees of the City of Detroit who are also members of the Policemen and Firemen Retirement System have had their retirement allowances calculated in this same manner over the same time period.

There was an emphasis at the hearing regarding the financial impact of the decision in the Gentile/Yank litigation. The unrebutted testimony presented by the City demonstrated that the cost would range from something in excess of \$30 million to almost \$635 million. These figures represent a significant portion of the assets of the Policemen and Firemen Retirement System. The Gentile/Yank judgment, if confirmed, will create a shortfall in the funding for the system due to the fact that neither employer nor employee contributions to the system took

the increased level of benefits which flow from the judgment or the proposal into account. The City of Detroit would be the only source for funding to meet that shortfall. The public interest in maintaining a stable pension system, as well as preserving the financial health of the City of Detroit, is served by continuing the practice of the parties in this instance.

A comment is necessary regarding the wording of the LSA's last best offer on this issue. The LSA has requested that the panel continue the "current practice" between these parties under Articles 50 and 51 of the contract which refer to charter provisions on pensions. The LSA's proposal would not continue the practice of calculating retirement allowances which has existed between these parties for several decades because the language referenced is the basis of the Gentile/Yank litigation. The LSA proposal would put into effect the Gentile/Yank decision as it is embodied in City Exhibit No. 100. It is this decision and the subsequent interpretations of the Court's orders which will result in a change in the method of calculating pensions thereby creating the financial impact discussed above.

The panel's decision to grant the City of Detroit's LBO is grounded on the continuation of the past practice and historical understanding between these parties as that practice has actually existed, rather than changing the parties' method of calculating AFC. In this way, the public's interest in preserving the pension system's assets and the City's financial

stability are acknowledged.

The LSA's argument regarding comparables is misplaced. The LSA argues that the other cities it cites as being comparable with Detroit include other benefits and/or lump sum payments in average final earnings. [Union Exhibit No. 228] However, this argument does not take into account the great disparity in the escalator provisions of each of these plans. Of the LSA's comparable cities, only two, Livonia and Pontiac, have a built in escalator. Ann Arbor's ordinance provides for a review every twenty-four months, but the escalator does not appear to be automatic. The other six cities do not have escalator provisions at all in their pension plans. [City Exhibit No. 94]

The testimony before the panel indicated that the escalator provision of the "old plan" in the Detroit Policemen and Firemen Retirement System is the most expensive aspect of the plan and that a majority of LSA members are "old plan" members. Those LSA members who are "new plan" members of the system also enjoy a generous escalator, an uncapped two percent per year increase. This fact and the generous escalator provisions contained within the pension plan for all LSA members effectively counter the LSA's argument regarding comparable cities.

While other Section 9 criteria have some application, the failure to discuss any Section 9 factor within this opinion should not suggest that the panel did not consider each and every factor as is required by the Act. The panel has chosen to discuss at length those factors which weighed the heaviest in the decision to award the City's LBO on this issue.

City Issue No. 4

HOSPITALIZATION/PREMIUM SHARING - ACTIVE EMPLOYEES

CITY PROPOSAL

The City proposes that the following language be added to Article 44, Subsection A:

For 1986-87, the City will pay 100% of the rates for Blue Cross/Blue Shield coverage. For 1987-88 and 1988-89, the City will pay 100% of the premium up to the 1982-83 rates plus one-half of any increases over those amounts.

UNION PROPOSAL

The Union as its last offer opposes any change in Article 44 with regard to premium sharing-active employees and proposes that the current contract language of Article 44 continue for the 1986-89 contract.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the Union proposal on hospitalization/premium sharing - active employees

City Issue No. 5

HOSPITALIZATION/PREMIUM SHARING - RETIREES

CITY PROPOSAL

The City proposes that the following language be added to Article 44, Subsection C:

For employees who retire on or after July 1, 1987, including vested retirees, the City will pay 100% of the premium up to the 1982-83 rates plus one half of any increases over those amounts for regular retirees and their spouses.

UNION PROPOSAL

The Union as its last offer opposes any change in Article 44 with regard to Premium Sharing-Retirees and proposes that the current contract language of Article 44 continue for the 1986-89 contract.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the Union proposal on Hospitalization/Premium Sharing - Retirees.

City Issue No. 6

HOSPITALIZATION/PREFERRED PROVIDER  
PRESCRIPTION DRUG PLAN - ACTIVE EMPLOYEES

CITY PROPOSAL

The City proposes that the following language be added to Article 44, Subsection A:

Effective July 1, 1987, the Blue Cross/Blue Shield Plan shall include the Preferred Provider Prescription Drug Plan for active employees.

UNION PROPOSAL

The Union as its last offer opposes any change in Article 44 with regard to P.P.O. Drug Rider - Active Employees and proposes tha the current contract language of Article 44 continue for the 1986-89 contract.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the City proposal on Hospitalization/Preferred Provider Prescription Drug Plan - Active Employees.



City Issue No. 7

HOSPITAL/PREFERRED PROVIDER PRESCRIPTION DRUG PLAN - RETIREES

CITY PROPOSAL

The City proposes that the following language be added to Article 44, Subsection C:

Effective July 1, 1987, the Blue Cross/Blue Shield Plan for retirees shall include the Preferred Provider Prescription Drug Plan.

UNION PROPOSAL

The Union as its last offer opposes any change in Article 44 with regard to P.P.O. Drug Rider - Retirees (in Michigan) and proposes that the current contract language of Article 44 continue for th 1986-89 contract.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the City proposal on Hospitalization Preferred Provider Prescription Drug Plan - Retirees

It is the understanding of the Panel that in the event out-of-state retirees do not have a P.P.O. Plan available, they will continue to utilize the existing prescription drug plan.

City Issue No. 8

HOSPITALIZATION/PRORATION OF COST FOR VESTED RETIREES

CITY PROPOSAL

The City proposes that the following language be added to Article 44, Subsection C:

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 costs shall be computed as follows:

|  |   |   |   |  |
|--|---|---|---|--|
| amount of benefit<br>for full service<br>retiree | X | number of full<br>years of service<br>for less than<br>full service<br>retiree<br><u>25 years</u> | = | % of hospitalization<br>premium paid by<br>City for less<br>than full service<br>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.

UNION PROPOSAL

The Union as its last offer opposes any change in Article 44 with regard to Hospitalization for vested pension (40 & 8) retirees and proposes that the current contract language of Article 44 continue for the 1986-89 contract.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the Union proposal on Hospitalization/Proration of Cost for vested Retirees.

City Issue No. 9

HEALTH CARE/PREMIUM BILLING

CITY PROPOSAL

The City proposes that the following language be added to to Article 44 as a new subsection:

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.

UNION PROPOSAL

The Union as its last offer opposes any change in Article 44 with regard to requirement for carriers to account for charges and proposes that the current contract language of Article 44 continue for the 1986-89 contract.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the Union proposal on Health Care/Premium Billing.

City Issue No. 10

HOSPITALIZATION/PAYMENT FOR SPONSORED DEPENDENT COVERAGE

CITY PROPOSAL

The City proposes that the following language be added to Article 44, Subsection A:

Effective July 1, 1987, the City will discontinue payment for sponsored dependent coverage, thereafter, the same coverage will be available at the employee's cost.

NOTE: Sponsored Dependents are those dependents of an employee who are over 25 years of age.

UNION PROPOSAL

The Union as its last offer opposes any change in Article 44 with regard to termination of sponsored dependent coverage and proposes that the current contract language of Article 44 continue for the 1986-89 contract.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the Union proposal on Hospitalization/Payment for Sponsored Dependent Coverage.

City Issue No. 11

HOSPITALIZATION/CARRIER DELETION

CITY PROPOSAL

The City proposes that the following language be added to the second paragraph of Article 44, Subsection A:

The City shall have the right to remove any carriers who do not enroll more than fifty (50) employees in the entire City.

UNION PROPOSAL

Union accepts the last stated position of the Employer that it may remove any carrier who does not enroll 50 employees in the City.

AWARD

Based upon the above proposals the Panel considers this issue as settled by mutual agreement between the parties.

City Issue No. 12

HOSPITALIZATION/BASIS OF PAYMENT IF BLUE CROSS  
TERMINATES COVERAGE FOR ACTIVE EMPLOYEES

CITY PROPOSAL

The City proposes that the following language be added to Article 44 as a new Subsection:

If Blue Cross/Blue Shield refuses to insure bargaining unit members, Blue Cross/Blue Shield rates for General City employees with coverage as described in paragraph A shall be used to determine the City's contribution to an alternate carrier.

UNION PROPOSAL

The Union as its last offer opposes any change in Article 44 with regard to requirement that BC/BS rate will be obtained by reference to that rate paid on behalf of General City Employees if BC/BS cancels active DPLSA members and proposes that the current contract language of Article 44 continue for the 1986-69 contract.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the Union proposal on Hospitalization/Basis of Payment if Blue Cross Terminates Coverage for Active Employees.

City Issue No. 13

HOSPITALIZATION/BASIS OF PAYMENT IF BLUE CROSS  
TERMINATES COVERAGE FOR RETIREES

CITY PROPOSAL

The City proposes that the following language be added to Article 44 as a new subsection:

If Blue Cross/Blue Shield refuses to insure retirees in the bargaining unit, Blue Cross/Blue Shield rates excluding Master Medical Coverage for General Retirement System retirees shall be used to determine the City's contribution to Bargaining Unit retirees.

UNION PROPOSAL

The Union as its last offer opposes any change in Article 44 with regard to requirement that BC/BS rate will be obtained by reference to that rate paid on behalf of General City Employees if BC/BS cancels retired DPLSA members and proposes that the current contract language of Article 44 continue for the 1986-89 contract.

AWARD

Based upon competent, material and substantial evidence of the whole record presented to this Panel, it unanimously awards the Union proposal on Hospitalization/Basis of Payment if Blue Cross Terminates Coverage for Retirees.

City Issue No. 14

HOSPITALIZATION/OPTION I SPOUSE'S HOSPITALIZATION

CITY PROPOSAL

The City proposes that the following language be added to Article 44, Subsection C:

1. Spouses of persons who retire on or after July 1, 1987 and who elect the straight life retirement allowance or cash refund annuity option I, shall be eligible for health insurance paid by the City as long as the retiree receives a pension. The following provisions will apply to employees who retire prior to July 1, 1987.
  - a. With respect to employees who promoted into the bargaining unit on or after July 1, 1982 and who retire after July 1, 1982 and who elect the straight life option under the retirement system, the City will pay no hospitalization premium for the retiree's spouse after the death of the retiree.
  - b. With respect to the members promoted into the bargaining unit prior to July 1, 1982, who elect the straight life option, the City will pay hospitalization premium upon retirement for retiree's spouse at the death of the retiree unless said spouse was not the spouse of said retiree at date of retirement.

UNION PROPOSAL

The Union as its last offer opposes any change in Article 44 with regard to termination of obligation to continue hospitalization coverage for the surviving spouses of straight life/option 1 retirees after their death and proposes that the current contract language of Article 44 continue for the 1986-89 contract.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, a majority of the Panel, consisting of the Chairman and the City's delegate, awards the City's proposal on City Issue No. 14, Hospitalization/ Option I Spouse's Hospitalization.

The Union delegate dissents from this award.



City Issue No. 15

HOSPITALIZATION/FUTURE COST CONTAINMENT PROGRAMS

CITY PROPOSAL

The City proposes that the following language be added to Article 44, as a new Subsection:

- I. 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 percent (50%) of that amount to an escrow account which shall be used to offset health care cost or to increase health care benefits.

UNION PROPOSAL

Union rejects the Employer's last position on this issue and suggests in the alternative the following:

The parties agree to form a health care cost containment committee made up of an equal number of members from the City and from the DPLSA which may review changes in the future in health insurance plans. Any proposed changes must be ratified by each of the parties in accordance with their normal ratification procedures. Matters not ratified by both sides may not be implemented.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the Union proposal on Hospitalization/Future Cost Containment Programs.

City Proposal No. 16

PENSION - ANNUITY INTEREST

CITY PROPOSAL

The City's final position is that the following language be substituted for the current language in the second paragraph of Section F of Article 48. Optional Annuity Withdrawal.

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.

UNION PROPOSAL

Union as its last offer withdraws its position and proposes that current contract language (Article 48) continue for the 1986-89 contract.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the Union Proposal on Pension - Annuity Interest.

City Proposal No. 17

UNIFORMS

CITY PROPOSAL

The City's final position is that the uniform cleaning allowance should be discontinued. The City proposes that the following language from the 1983-86 contract be DELETED.

41. Uniforms

Effective July 1, 1983, each member of the bargaining unit shall receive an annual uniform cleaning allowance of \$250.00 per year payable the first payroll period each fiscal year.

UNION PROPOSAL

Union as its last offer opposes any change in Article 41-Uniforms and proposes that the current contract language (Article 41) continue for the 1986-89 contract.

AWARD

Based upon competent, material and substantial evidence on the whole record presented to this Panel, it unanimously awards the Union proposal on Uniforms.

### ADDENDUM

In addition to the awards as noted above on those issues remaining in dispute at the close of the hearings before this Panel, it is expressly understood that the issues resolved by mutual agreement or stipulation as recited on the record are hereby incorporated by reference and together with these awards will form the complete contractual relationship between the parties for the contract period July 1, 1986 through June 30, 1989.

In addition, the following issues which have been resolved by mutual agreement will be described in contractual language as follows:

### TRANSFERS

(Joint Exhibit No. 3)

Add to existing language a new section...

A member shall be notified of the result of his request for transfer within 30 days.

### CODE OF ETHICS

(Joint Exhibit No. 4)

As a Law Enforcement Officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the constitutional rights of all men to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession - Law Enforcement.

The Law Enforcement Officers Code of Ethics, by agreement of the parties, is not a provision or Article of this contract but rather is included herein to remind all who read this document of the dedication, sacrifice, courage, valor, judgment, wisdom, responsibility, accountability, loyalty and professionalism which is displayed by the membership of the Detroit Police Lieutenants and Sergeants Association while serving the citizens of the City of Detroit.

Further, this code of ethics shall be the first page of the labor agreement followed by Article I Preamble.

MISCELLANEOUS ITEMS  
(City Exhibit No. 42)

- A. The Department will furnish for the use of the Association, space for a bulletin board at each work location where Association members are assigned.
- B. Lockers and desks shall not be opened for inspection except in the presence of the officer or a representative designated by him for that purpose. In the event the officer or his designee refuse to be present the department shall thus have the right to inspect the locker or the desk after notification to the commanding officer of the refusal.
- C. Nothing in this agreement shall abridge the rights and preferences of veterans, and members and retirees of the armed forces reserves, as provided by federal, state and local laws and rules and regulations.

D. An employee shall not be required to use his privately owned vehicle for any police purpose.

E. Employees are urged to keep their commanding officers informed of where they can be reached whenever they are out of town off duty for periods of 48 hours or less. For absences of longer periods, employees must so inform their commanding officers.

F. Effective July 1, 1981, members of the bargaining unit may participate in the Deferred Compensation plan and direct deposit programs offered by the City.

G. If during the term of this Agreement, a federal mandatory social security act is enacted affecting members of the bargaining unit, the parties shall promptly enter into negotiations toward the implementation of said act.

H. Lump Sum for Banked Time. Whenever an employee leaves employment with the City, such employee will be paid for all banked time, other than sick time, in a lump sum payment within thirty (30) calendar days of the separation, at the prevailing rate of pay in effect at the time of the separation. This includes, but is not limited to separation with a deferred vested pension or under a disability.

I. Where an employee is overpaid hours or is paid other than the current negotiated rate for the classification in which he has worked, the City is expressly authorized to recover such overpayment through a deduction from the employee's wages.

J. For employees hired after March 31, 1986, the employee and the City of Detroit are required to contribute the hospitalization insurance portion of the Social Security Tax. (In calendar year 1986 the tax is 1.45%).

#### OTHER SETTLED MATTERS

In addition, the parties have concurred that the current language of the 1983-86 Collective Bargaining Agreement (Joint Exhibit 11) should continue on the following articles:

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,  
16, 18, 19, 20, 21, 22, 27, 28, 30, 31, 32, 33, 34,  
36, 39, 40, 42, 43, 45, 46, 47, 49, 50, 53, 55, 56,  
58, and 59

The parties have agreed to utilize the current language of Article 60 with the dates adjusted for a new three year contract commencing July 1, 1986 and expiring June 30, 1989. As to all other items in the current contract, not affected by Last Offers of Settlement or not the subject of this proceeding, they shall continue in the new contract in full force and effect.


### EFFECTIVE DATES OF AWARDS


Unless a different effective date is specifically provided in the individual proposals awarded, the effective date for these awards shall be retroactive to July 1, 1986.


### ENDORSEMENTS

The undersigned arbitration panel members acknowledge and agree that they have read the foregoing document consisting of 63 pages and affirm that it is a true statement of their decision in this case.

Dated this 2nd day of March, 1987.

  
JOHN B. SWAINSON  
Chairman

  
MARK R. ULICNY  
City Delegate (see attached  
concurring opinion)

  
VINCENT J. BRENNAN  
Union Delegate  
(Dissenting on City Issue  
No. 3, Definition of Average  
Final Compensation, City  
Issue No. 14, Option I  
Spouse's Hospitalization,  
and Union Issue No. 16,  
Residency)

CONCURRING OPINION  
OF CITY DELEGATE

In order to properly place in perspective my decisions on those issues unanimously granted by the Panel, which in isolation may seem adverse to the City, I feel it necessary to write separately in concurrence.

Just as in any bargaining process, of which Act 312 is arguably an extension, it is necessary to view all issues in context of the whole. My agreement on any single issue, therefore, does not necessarily mean that I would approve the change proposed on its merits alone. However, when the particular issue considered is placed on the scale and balanced with those issues denied or those issues decided favorably for the City, then its value can be more accurately weighed. In this way, an award (or contract) can be embraced which in its totality is more likely to meet the needs of both parties and at the same time conform to the section 9 criteria as applied to each issue in dispute.

I believe the Chairman of the Panel as well as the Union delegate have in their own way followed this same process to try and achieve equilibrium. The final result of course is a blend of the competing forces that we hope has resulted in a reasonable accomodation for the contract period involved.

Dated this 2nd day of March, 1987.

  
\_\_\_\_\_  
MARK R. ULICNY  
City Delegate



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BERNARD FELDMAN

ATTORNEY AT LAW  
6735 TELEGRAPH ROAD  
SUITE 330  
BIRMINGHAM, MICHIGAN 48010

(313) 540-2600

March 4, 1987

Michigan Employment Relations Commission  
State of Michigan Plaza Building  
1200 Sixth Street, 14th Floor  
Detroit, MI 48226

re: City of Detroit and DPLSA  
Act 312 Case No: D86 C-426

Dear Sirs:

Attached hereto please find the Opinion in Dissent of the Union's Delegate in the above-referenced matter. Please file same in your normal course of business.

Thank you for your attention in advance.

Very truly yours,

*Bernard Feldman*  
Bernard Feldman

BF/cl

Encl.

xc: John B. Swainson  
Mark Ulicny  
James Tobin  
Theodore Sachs  
Ted Iorio

*incl  
3.5*

STATE OF MICHIGAN  
COMPULSORY ARBITRATION

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In the Matter of:

CITY OF DETROIT  
POLICE DEPARTMENT,

Employer,

and

Act 312 Case No. D86 C-426

DETROIT POLICE LIEUTENANTS  
AND SERGEANTS ASSOCIATION,

Union.

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JOHN B. SWAINSON, Panel Chairman  
VINCENT J. BRENNAN, Union Delegate  
MARK R. ULICNY, City Delegate

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DISSENT OF UNION DELEGATE

I have had the pleasure of participating in this proceeding with my fellow Panel members to establish wages, hours and other terms and conditions of employment for Detroit Police Supervisors on those matters where mutual agreement was not possible. The parties, advocates, witnesses, and participation of my fellow Panel members in this proceeding made this a notably positive experience in my career, even in light of my past experience on the bench. The presentations were always professional and enlightening. The members of the Department who presented themselves as witnesses in this case could only serve to remind the members of the Panel of the dedicated, professional police supervisors which the Detroit Police Department is fortunate to have.

Additionally, the Award in this case is indeed a remarkable achievement. The Union and the City have agreed on almost all major economic and non-economic positions resulting in unanimous awards on all but three issues which I dissent upon. The disputed issues are Union Issue No. 16 - Residency; City Issue No. 3 - Definition of Average Final Compensation; and City Issue No. 14 - Hospitalization (Option I - Spouse Hospitalization Coverage).

Union Issue No. 16 - Residency

This Panel member must dissent to the decision of the majority on the issue of residency. Residency is an issue whose time has come. Detroit Police Officers find themselves living in a dangerous and stressful environment. While most working class people build a nestegg for their retirement by investing in a home, Detroit Police Officers lose money on their homes every year. While they have in the past made a commitment to reside in the City, that commitment was a trade with the City of Detroit. It promised a safe environment where police officers could raise their families in peace and feel confident that the local school system would educate their children safely. Instead, they have required Detroit Police Officers to live in housing upon which they lose money and force officers to expend large amounts of money on private schools so that their children do not have to fear for their lives while attempting to get an education.

The Union presented a highly persuasive case supportive of the end of the residency requirement. Officers of all races,

ages and backgrounds testified that the residency requirement had seen its day. They complained of both personal and professional problems.

The Union also presented a psychologist who outlined the severe impact on the mental health of Detroit Police Officers and their families as a result of being forced against their will to reside in a hostile environment, and as police they are, more often than not, submitted to neighborhood harassments. She testified about the high divorce rates, the suicide rates and general emotional problems which she had seen in treating nearly 800 police officers.

The gist of the defense offered by the City of Detroit to the Union's case on residency was a number of individuals who testified that they knew what the people wanted and that was to preserve the requirement. They, however, admitted their information was not scientifically gathered and was merely their own perception of what other people thought.

The Union, on the other hand, presented a professional citizen poll done by Nordhaus Research, Inc. which sustained the Union's view that the people indeed were not opposed to Detroit policemen being accorded the privilege of other citizens of the United States to live where they wished.

The City also argued that an exodus of Detroit Police Officers would take place. This evidence was nothing more than the speculation of certain witnesses for the City who have no training with respect to knowing when people would move, why they

would move, and the real likelihood of Detroit Police Officers departing the City of Detroit. In fact, most with families that have grown up would stay rather than make a big home investment elsewhere.

The City of Detroit also argued that the residency requirement guaranteed police officers would not be far from their work. This argument, however, ignores the fact that the modern freeway system surrounding the City of Detroit allows people to move around in an extremely expeditious manner. Indeed, there are many places in the suburbs where Detroit Police Officers could live which would be much closer to their workplace than if they lived in the City of Detroit.

The comparables submitted in this case strongly support the Union's position. Of the Union's nine comparables, five communities had no residency requirement whatsoever with a sixth community having a geographic residency requirement which allowed officers to live within fifteen miles of City limits. Three other communities had residency rules but allowed police supervisors to move out within two to five years of retirement. No communities which were suggested as comparable to the City of Detroit by either the City or the Union which were located in the State of Michigan had a residency requirement comparable to that which the City of Detroit has succeeded again in retaining.

Police, more than any other profession, should be able to have rest and relaxation apart from the daily stress of the job. A home in a community free of harassment would afford them that.

I strongly recommended that we adopt a voluntary option allowing police with twenty years or more on the force to be able to stay in the City or invest in future housing elsewhere, feeling that they had fulfilled their commitment and should have that option.

### City Issue 3 - Final Average Compensation

I dissent from the decision of the majority with respect to this issue. The City of Detroit and now the majority of this Panel has adopted a definition of final average compensation which varies from the intent of the people as evidenced in its Charter and construed by the Courts of this state in the so-called Gentile/Yank cases. That litigation has been pending for sixteen years and only now is about to result in some payment to retirees and their estates. The Union's position is that the status quo should be retained allowing the Court processes to result in a correct and legal determination of the definition of final average compensation.

The Union has put in the only evidence this Panel has had the opportunity to review with respect to the definitions of final average compensation in other comparable communities. Union Exhibit 228 shows that the definition which the Gentile/Yank case has resulted in (City Exhibit 102) is far less favorable to Police Officers in Detroit than the definitions used in other communities. In fact, Norman Jones, the actuary for the system testified before this Panel that the pensions of Detroit Police Officers is definitely inferior to the pensions received by other

police officers in other communities. This can be attributed both to the fact that the definition of final average compensation is narrower in Detroit than those other comparable communities even with the Gentile/Yank elements involved and to the fact that almost all of the comparable communities have a higher multiplier value than the 2% used in Detroit. Most are 25% higher at 2.5%.

Furthermore, this issue also is pending before the DPOA arbitration panel. There exists the possibility that Detroit police supervisors could have a lesser pension than DPOA members if the City were to fail in their effort to impose the limiting definition of final average compensation in that case.

Additionally, the impact of this case will be that a retiree who left service prior to July 30, 1986 may have a greater pension than a retiree who left service after that date.

Lastly, the Union believes that a substantial legal question exists as to the legality of the last best offer of the City of Detroit. There have been extensive Panel discussions regarding this issue and the impact of Article 9, Section 24 of the Michigan Constitution which does not permit the accrued financial benefits of employees and retirees to be diminished. The Union delegate does believe that a substantial constitutional question may arise if the Employer applies this decision improperly. Naturally, if accrued financial benefits of current employees is affected, problems will arise. The decisions of the Michigan Supreme Court in Advisory Opinion Regarding Constitutionality of 1972 P.A. 258, 389 Mich 659 (1973) and the Court of

Appeals in Association of Professional and Technical Employees, et al. v City of Detroit, No. 84259 (June 10, 1986) are clearly supportive of the Union delegate's reasons for dissent.

In summary, the Union's delegate believes that the Panel majority's decision on this issue may well be contrary to substantial legal authority.


City Issue No. 14 - Hospitalization (Option I - Spouse Hospitalization Coverage)

The Union's delegate finds he must dissent from the decision of the majority with respect to this issue. By virtue of a grievance arbitration award (City Exhibit 126) persons who retired with a straight life/Option I pension were entitled to hospitalization coverage for their lives and the lives of their spouses just as they would be for all other pension options. Following the issuance of the arbitration award and in the next round of bargaining for the 1980-83 collective bargaining agreement a change in the benefit was agreed to by the parties whereby persons who entered the bargaining unit after July 1, 1982 would not be able to take advantage of this benefit. The benefit was thus effectively terminated by grandfathering existing members of the bargaining unit under the old system. The City contested the issue again before the Richard Strichartz Panel in the 1983-86 Act 312 arbitration and lost. It has now come again seeking and finally succeeding in ending this benefit.

No comparables have been submitted by the City of Detroit to support its position. No cost estimate has been submitted by the City of Detroit to indicate likely savings. In



fact, the lack of evidence to support the Employer's position and the long record showing the history of this benefit as presented by the Union should have resulted in the benefit being retained.

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VINCENT J. BRENNAN, Union Delegate

DATED: March 2, 1987.