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MICHIGAN EMPLOYMENT RELATIONS COMMISSION

CASE NUMBER: L01 G-8002

Opinion and Award in the matter of the Act 312 Arbitration between

Flint Township

- and -

The Police Officers Association of Michigan

DATE OF ACT 312 PETITION:	January 15, 2002
DATE PANEL CHAIR APPOINTED:	May 16, 2002
DATE OF PRE-HEARING CONFERENCE:	August 5, 2002
DATE LAST BEST OFFERS EXCHANGED:	February 13, 2003
DATE BRIEFS FILED:	March 26, 2003
DATE RECORD CLOSED:	March 26, 2003

ARBITRATION PANEL:

Richard N. Block, Neutral Chair
Linda R. Barber, Township Delegate
James DeVries, Union Delegate

APPEARANCES:

For the Police Officers Association of Michigan

James DeVries, Representative
Marvin Dudzinski, Representative
Jim Santa
Jeff Hovey
Brent Van Norman

For Flint Township

Thomas Basil, Consultant, Luce, Basil & Collins
James Hockin, Administrative Lieutenant

BACKGROUND

The most recent collective bargaining agreement between Flint Township (hereinafter the Employer) and the Police Officers Association of Michigan (hereinafter the Union) covering the full-time non-supervisory police officers in the Township expired on December 31, 2001 (Jt. Ex. 1) . Bargaining for a new collective agreement commenced, but the parties were unable to reach an agreement. On January 15, 2002 the Union filed a request for Act 312 arbitration. On May 16, 2002 Richard N. Block was appointed Act 312 arbitrator and neutral chair. A pre-hearing conference was held on August 5, 2002. Following the pre-hearing conference, the parties identified the following issues in dispute:

- a. wages;
- b. pension contribution;
- c. holidays;
- d. shift premium - amount;
- e. shift premium - hours;
- f. court time;
- g. work duty;
- h. starting pay.

Witness lists and exhibits were exchanged by January 10, 2003. A hearing was held on January 16, 2003 in Flint Township during which both parties had the opportunity to present evidence and examine and cross-examine witnesses on the issues in dispute. At the hearing, evidence on five issues was offered: wages and starting pay (one issue), court time, shift premium, pension contribution, and work duty. Last, best, offers (LBO's) were exchanged on

February 13, 2003 and post-hearing briefs were received on March 26, 2003. The briefs were exchanged on March 28, 2003, whereupon the record was closed. The post-hearing briefs addressed only three issues: wages, including starting pay (one issue), pension contribution, and work duty. The briefs stated that the issues of court time and shift differential had been resolved. Accordingly, this award will be rendered only on the issues of wages, pension contribution, and work duty. It is assumed that all other issues have been resolved.

STATUTORY FACTORS

With respect to the factors that must be considered by the panel, Act 312 states, in relevant part:¹

the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet 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:
 - (i) In public employment in comparable communities.
 - (ii) In private employment in comparable communities.
- (e) The average consumer prices for goods and services, commonly known as the cost of living.
- (f) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical

¹See MCL 423.239.

and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

(g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

With respect to the issues in dispute, neither party claimed factors a, b, f, and g were applicable. Accordingly, these factors will not be taken into account. The panel finds that the applicable factors are, for at least one of the issues, c,² d,³ e,⁴ and h.⁵ All issues are economic.

COMPARABLES

For the purposes of these proceedings, the parties agree that the comparables are the City of Burton, Grand Blanc Township, Mt. Morris Township, and Mundy Township.

ISSUE: WAGES

LAST BEST OFFERS ON WAGES

Last Best Offer of the Employer

General Wage Increase (except Starting Pay):	January 1, 2002 - 3% inc. (\$43,794 top);
	January 1, 2003 - 3% inc. (\$45,108 top);

²Hereinafter, factor c is referred to as "public interest."

³Hereinafter, factor d is referred to as "comparability."

⁴Hereinafter, factor e is referred to as "cost of living."

⁵Hereinafter, factor h is referred to as "other factors."

	January 1, 2004 - 3% inc. (\$46,461 top);
	January 1, 2005 - 3% (\$47,855 top).
Starting Pay:	January 1, 2002 - \$25,000 (15.2% inc.);
	January 1, 2003 - \$26,300 (5.2% inc.);
	January 1, 2004 - \$27,600 (4.9% inc.);
	January 1, 2005 - \$28,900 (4.7% inc).

Last Best Offer of the Union

General Wage Increase (including Starting Pay):	January 1, 2002 - 5.02% inc. (\$44,652 top);
	January 1, 2003 - 3.48% inc. (46,206 top);
	January 1, 2004 - 3% inc. (\$47,592 top);
	January 1, 2005 - 3% inc. (\$49,020 top).

POSITIONS OF THE PARTIES ON WAGES

Position of the Employer

The Employer argues that its LBO on wages is more consistent with the statutory criteria than the Union's LBO. The Employer notes that its offer of 3% for all levels except the starting wage is consistent with both the external and internal comparables. With respect to the external comparables, the Employer notes that, for the period 2000-03, nine of the annual increases were at the 3% level, two at the 2.5% level, and one at the 2% level. With respect to the internal comparables, the Employer also notes that the 3% increase is consistent with or somewhat better than the annual increases received by the command officers, the fire-fighters, the

communications operators, and the non-supervisory staff. The Employer notes that its proposal will maintain existing relationships.

The Employer contends that the Union's LBO of 5.02%, 3.48%, 3%, and 3% deviates substantially from the settlements for the external and internal comparables. It will change or distort existing relationships.

The Employer also contends that its LBO takes into account changes in the cost-of-living. The Employer notes that from November, 2001 through November 2002, the Consumer Price Index for Urban areas (CPI-U), increased by 2.2%. The Union's proposed wage increase is more than double the increase in the cost-of-living.

Finally, the Employer notes that the fringe benefits enjoyed by the police officers are excellent. The police officers in the Township enjoy 13 paid personal/sick days, educational benefits, a longevity payment, a cleaning and clothing, a low drug co-pay, no employee participation in premium payments, dental insurance, life insurance, and long-term disability program.

With respect to starting pay, the Employer notes that the Union did not specifically address starting pay. Therefore, the Employer argues that the Union agrees with the Employer's proposal.

Position of the Union

The Union notes that its LBO of 5.02% effective January 1, 2002 would bring the top step of the salary scale to \$44,652, the mean of the top step of the comparable communities on that date. The Union also argues that its proposed increase for January 1, 2003, which would

bring the top of the scale to \$46,206, is also representative of the comparables, taking into account settlements in the City of Burton, Mt. Morris Township and Mundy Township, and assuming a 3% increase for Grand Blanc Township. The Union notes that the Employer's offer, on the other hand, would leave the Flint Township police officers at 2.3% below the mean of the comparables on January 1, 2003, assuming a 3% increase for Grand Blanc Township.

The Union argues that its offer is more consistent with factors that must be considered under Act 312. Under the Union's proposal, the bargaining unit would stay in the middle of the distribution of the four comparables plus Flint Township.

With respect to the internal comparables, the Union notes that there is no consistent pattern of settlements. The sergeants received a 2.9% increase and the lieutenants received a 3.8% increase for a contract that runs from January 1, 2002 through December 31, 2004. The firefighters received a 2.9% increase in a one-year contract, the communications operators' increases ranged from 2.9% to 4.8% in a three-year contract, and the non-supervisory employees received 3% increases. The Union also argues that its proposal is consistent with the increases given to the lieutenants. In the first three years of that contract, the lieutenants received increases totaling 11.4% for 2002-04. The proposed increases in the Union's LBO total 11.5% for the same three-year period.

With respect to the external comparisons, the Union notes that there were annual increases between 6.9% and 2%, including a 3% increase and a signing bonus in Mt. Morris Township. There is no consistent pattern.

With respect to starting pay, the Union notes that the Employer did not state whether it was offering a retroactive increase. The Union also argues that the Employer seems to be

attempting to increase the starting pay for recruitment purposes, despite the fact that there is no evidence that the Employer has had difficulty attracting candidates. The Union notes that if the pay levels of experienced police officers are not addressed, these officers may seek employment in surrounding communities. Thus, the Employer will find itself in a position of attracting starting non-certified police officers, certifying them, and then lose them to other surrounding jurisdictions.

DISCUSSION ON WAGES

There are two threshold matters that must be addressed. First, contrary to the Employer's contention, the panel finds that the Union does not agree with that portion of the Employer's wage LBO addressing starting pay. The Union is proposing that percentage increases in starting pay be at the same level as the general wage increase, while the Employer is proposing larger percentage increases in starting pay.

Second, the panel finds that the starting pay component of the Employer's wage LBO is retroactive to January 1, 2002. That is clear from the Employer's wage LBO, which states that the pay rate of \$25,000 for starting police officers would be effective on January 1, 2002. Taking into account the foregoing findings, each of the LBO's will be analyzed with respect to the statutory factors.

Statutory Factor: Public Interest

The public has an interest in the economical and efficient provision of police services and a police force that is well-motivated because it is properly paid in comparison with comparable police forces. The Employer's LBO will cost less than the Union's LBO, but the Employer is

not claiming it cannot afford to pay the Union's LBO. Moreover, as will be discussed below, the police officers in Flint Township will be appropriately paid regardless of which LBO is accepted. Accordingly, the factor of public interest favors neither LBO.

Statutory Factor: Comparability

The historic relationship between the bargaining unit and the comparables is presented in Union Exhibit 6, while the future relationship can be obtained from Employer Exhibits 8 and 11. Examining the historical relationship, the record establishes that on six of the eight observation dates between January 1, 1998 and July 1, 2001, the differential between the top step of Flint Township and the mean of the top step of the four comparables was -2% or less (January 1, 1998, July 1, 1998, January 1, 1999, July 1, 1999, and January 1, 2001) (Un. Ex. 6). The differential was only -2.1% on January 1, 2000. In only two periods was the differential as high as -4% (Un. Ex. 6). The mean differential on the eight observation dates is -2.5% (Un. Ex. 6; Tr. 6-11). The mean differential on January 1 of each year, which is the date wage increases went into effect under the old agreement (Jt. Ex. 1) and would go into effect under either LBO, was -2% (Un. Ex. 6).

The Employer LBO would take the top step to \$43,794 effective January 1, 2002. This would create a January 1, 2002 differential of 98.1% or a -1.9% disadvantage vis-a-vis the mean of the comparables, which is consistent with the historical January 1 disadvantage of this unit. The Union LBO would take the top step to \$44,652 and would make the Flint Township top step equal to the January 1, 2002 average of the comparables, which is \$44,652. At the top step, Flint Township has never been equal to or above the mean of the top step of the comparables, but

always slightly below. The Employer's wage LBO for January 1, 2002 is closer to the historic differentials between the Flint Township police officers and the mean of the comparables than is Union's wage LBO. Indeed, the Employer's LBO on wages results in less of a differential than the mean of the previous eight observation dates. Thus this evidence indicates that the Employer's wage LBO is more appropriate than the Union's wage LBO.

On January 1, 2003 the mean of the comparables would be \$45,842. The differential as compared to the mean of the comparables under the Employer's LBO would be -1.6%. Under the Union's LBO, however, this differential would be favor in of the Union at .8%. Going back to January 1, 1998, there has never been an occasion where the Flint Township police have had a top-of-the scale salary higher than the mean of these four comparables (Un. Ex. 6). This evidence also indicates that the Employer's wage LBO is more appropriate than the Union's wage LBO.

It may be also be observed that with either LBO, the Union remains in the middle of the top-of-the scale salary distribution with respect to the comparables. Thus, neither offer is more appropriate with respect to the wage distribution among the Employer and the four comparables.

The record of the recent and future increases on the external factors is also more consistent with the Employer's LBO than the Union's LBO. The mean of the fourteen cells in Employer Exhibit 8, showing annual increases in the four comparable jurisdictions between 2000 and 2003, is 2.9%. The Employer's LBO would result in a 3% increase every year, while the Union's LBO would result in a mean annual increase of 3.625% over the life of the contract. Thus, based on the recent and future increases in the comparable jurisdictions, the Employer's LBO is more appropriate than the Union's LBO.

Turning the focus to the starting pay component of the LBO's, the record establishes that the starting pay for officers in Flint Township is well below the starting pay for officers in the comparable jurisdictions (Er. Ex. 9). Under the Union's LBO, the disadvantage for starting police officers in Flint Township would be -19.4% on January 1, 2002, -21.2% on January 1, 2003, and -21.1% on January 1, 2004 (Er. Ex. 9). Under the Employer's LBO, the disadvantage would be -11.6% on January 1, 2002, -12.1% on January 1, 2003, and -10.3% on January 1, 2004 (Er. Ex. 9).. Based on this analysis, it is clear that the Employer's LBO for starting pay is more consistent with the comparables than the Union's LBO.

There is no evidence supporting the Union's expressed concern that Flint Township's police officers will seek employment in the other jurisdictions if the Union's wage LBO is not granted. There is no evidence that the historical wage structure has encouraged Flint Township police officers to leave Flint Township, and the Employer's LBO maintains the historical wage differentials.

Based on the foregoing, a majority of the panel finds that the criterion of comparability favors the Employer's wage LBO rather than the Union's wage LBO.

Statutory Factor: Cost of Living

The record establishes that the cost of living increased by 2.2% between November, 2001 and November 2002 (Er. Ex. 12). Although the Union's LBO would make the employees better off than the Employer's LBO, both LBO's result in an increase in compensation that is greater than the increase in the cost-of- living during calendar year 2002. Thus, both LBO's address this criterion, although the Union's LBO would result in a greater improvement. Based on the

foregoing, a majority of the panel finds that the Union's LBO is slightly superior vis-a-vis the statutory criteria than the Employer's LBO because it provides employees a slightly higher standard of living.

Statutory Factor: Other Factors

When negotiating, parties typically take into account increases awarded to other employees in the same jurisdiction or organization. The record establishes that there are four other bargaining units in the Township: the command officers; the firefighters; the communications operators; and the non-supervisory staff (Jt. Exs. 2-5; Er. Ex. 7). The record establishes that the mean of the annual increases for the other four units is approximately 3.305% (Er. Ex. 7).⁶ This is approximately halfway between the mean annual increases associated with each LBO. Accordingly, the record based on the increases in other four bargaining units in the Township does not favor either wage LBO.

CONCLUSION ON WAGES

Based on the foregoing discussion, a majority of the panel find that the Employer's LBO is far more appropriate than the Union's LBO on the criterion of comparability, while the Union's LBO is only slightly more appropriate than the Employer's LBO on the criterion of cost-of-living. Neither LBO is most appropriate on the factors of public interest or other factors.

⁶The annual percentage increase in the command officer unit was computed as 3.35, the mean of the annual increase for sergeants (2.9%) and lieutenants (3.8%), as the record does not indicate the percentage of the command unit at each rank (Er. Ex. 7). The mean annual increase for communication operators was computed as the midpoint of the range of increases (Er. Ex. 8).

Based on this, a majority of the panel concludes that the Employer's wage LBO is the more appropriate of the two, and shall award for the Employer on wages.

AWARD ON WAGES

The Employer's LBO on wages is accepted. The Union's LBO on wages is not accepted.

June 16, 2003

Date



Richard N. Block

Panel Chair and Impartial Arbitrator

June 16, 2003

Date



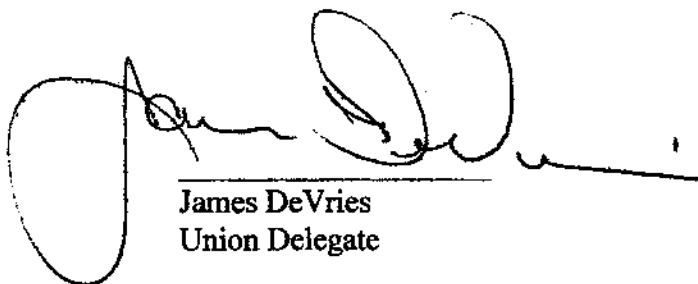
Linda R. Barber

Employer Delegate

DISSENT

June 16, 2003

Date



James DeVries

Union Delegate

ISSUE: PENSION CONTRIBUTIONS

LAST BEST OFFERS: PENSIONS CONTRIBUTIONS ⁷

Last Best Offer of the Union

19.4. Add language to contract:

Effective [date of award] the cost of providing the MERS pension plan shall be split fifty-fifty between the employee and the employer. Employee contributions shall be made by pre-tax payroll deduction.

Last Best Offer of the Employer

No change to Article 19.4 of the 1998-2001 collective agreement.⁸

POSITIONS OF THE PARTIES ON PENSION CONTRIBUTIONS

Position of the Union

The Union notes that, as of January 1, 2003, the pension contribution of the members of the bargaining unit was increased from 6.68% to 8.69%. With respect to the external comparables, the employees' pension contribution is now higher than the employee contributions in the City of Burton and Grand Blanc Township. Only the police in Mundy Township contribute a higher percentage of their salaries to pensions. The Union also notes that the Employer's

⁷The current pension plan for the Flint Township police officers is M.E.R.S., B-4, FAC-3,EO-2, 25 and out (Er. Ex. 21).

⁸Section 19.4 of the 1998-2001 collective agreement reads as follows:

Flint Township's contribution shall be an amount up to seven (7) percent of employee's gross wage. If additional funds are required to provide the Pension Benefit, such funds shall be contributed by the employees through payroll deduction, if permitted by law. The employee's contribution shall not exceed 7% until such time as the Employer is making a contribution to M.E.R.S. of seven (7) percent (Jt. Ex. 1).

contribution is low relative to employer contributions in the City of Burton (32.95%), Grand Blanc Township (14%), Mt. Morris Township (11.62%), and Mundy Township (10.3%).

With respect to the internal comparables, the Union notes that while the Employer's contribution for the command officers and non-supervisory employees is 7%, and only 5% for the communications operators, it is at 32.68% for the firefighters. The Union notes that its LBO would only result in an increase of .84% in the Employer's pension contribution, while providing a .84% decrease in the employees' pension contribution. The Union would like to share the burden equally.

Position of the Employer

As a threshold matter, the Employer contends that it was improper for the Union to raise the matter of pension contributions in negotiations. The Employer argues the Union, in a letter dated January 9, 2001, agreed not to request a pension improvement in negotiations if the patrol unit was granted the E-2 benefit (cost-of-living increase) under the Municipal Employee Retirement System (M.E.R.S.). As the Union was granted the E-2 benefit, the pension matter should not be before the arbitrator. The Employer contends that the Union is attempting to "split hairs" by claiming that the Employer's contribution is not a pension benefit. The Employer argues that it is a pension benefit. The Employer claims it would not have offered the Union the E-2 benefit in January, 2001 had it known the Union would seek a pension improvement in negotiations and in a subsequent Act 312 arbitration.

With respect to the substance of the Union's pension contributions LBO, the Employer argues that its contribution is capped at 7% for the command unit and 5% for the communications operators. Based on these internal comparables, the cap for the patrol unit should stay at 7%.

The Employer notes that although the employees in its patrol unit may pay a higher percentage of their pay as a pension contribution than the patrol officers in the comparable jurisdictions, the Employer points out that the employees in the Flint Township patrol unit receive the highest pension benefits of all the comparables. The Employer points to the testimony of Union witness Marvin Dudzinski, who testified that there were at least nine factors on which the Union's pension benefits were superior to the pension benefits of the comparables.

The Employer also argues that the Employer's contribution for the firefighters pension is high because the firefighters plan is not properly funded. The patrol officers pension plan is properly funded.

DISCUSSION ON PENSION CONTRIBUTIONS

Initially, it is necessary to address the Employer's threshold argument that the pension issue is not properly before the arbitrator because the Union agreed not to seek a pension improvement if it obtained the E-2 benefit. In essence, the Employer is arguing that the Union waived its right to raise the pension issue when it accepted the E-2 benefit and that the panel should not assert jurisdiction over the pension issue.

A waiver of the right to raise an issue must be clear and unmistakable. In this case the Employer is claiming that the following statement in Mr. DeVries' January 9, 2001 memo constitutes such a waiver: "(i)f the E-2 benefit is provided to both Unions the POAM will agree

not to propose any additional pension improvement when the current collective bargaining agreement expires on December 31, 2001" (Er. Ex. 23) . The Employer claims that an increase in the amount the Employer must contribute is a "pension improvement." The Union, for its part, claimed during the hearing that the term "pension improvement" referred to benefits. The Union claims that the cost of the plan and how it is shared is not a benefit.

Examining the two positions, it appears that the words "pension improvement" could refer to either a benefits improvement or a decrease in the cost of the pension plan to employees. Each of the interpretations is reasonable. It is unnecessary to resolve the dispute, however; if the two positions are reasonable, the January 9, 2001 letter is ambiguous with respect to intent. As the January 9, 2001 is ambiguous, it does not constitute a clear and unmistakable waiver of the Union's right to raise the issue. Accordingly, the Union was within its rights to raise the pension contributions issue in negotiations, and the panel may assert jurisdiction over the pension issue.

The parties' LBO's on pensions will be analyzed with respect to the statutory factors of public interest, comparability, and other factors. The statutory factor cost-of-living will be addressed in combination with comparability.

Statutory Factor: Public Interest

Although the Union's LBO would impose additional pension costs on the Employer, the Employer has not claimed an inability to pay the increased costs associated with the Union's pension LBO. The citizens of Flint Township are entitled to a police force with adequate pensions at reasonable cost to the employees; the Union's pension LBO would reduce the

employee cost of funding the pensions. On balance, the factor of public interest supports neither LBO.

Statutory Factors: Comparability and Cost-of Living

With respect to the comparables, the record establishes that the police officers have an excellent pension plan as compared to the City of Burton, Grand Blanc Township, Mt. Morris Township, and Mundy Township. For every provision associated with level of benefits and flexibility, the police officers in Flint Township rank at the top. The Flint Township multiplier is 2.5% (Un. Ex. 19). No comparable has a multiplier higher than Flint Township, while the City of Burton has a multiplier of only 2.25% for officers hired after July 1, 1994 (hereinafter cited as Burton post July 1, 1994) (Un. Ex. 19). Final average compensation (FAC) for the police officers in Flint Township is based on the highest three years. No comparable jurisdiction has an FAC better than three years, while Burton post July 1, 1994 and Grand Blanc Township have a less favorable FAC that is the average of the five highest years (Tr. 59-60; Un. Ex. 19). The Flint Township officers, regardless of when they were hired, have a cost-of-living adjustment on their pension plant. Among the comparables only the City of Burton employees hired before July 1, 1994 have a cost-of-living benefit. Finally, the Flint Township police officers do not have a minimum retirement age, permitting them maximum flexibility. Burton post July 1, 1994 and Mundy Township have minimum retirement ages. Overall, then, the record supports the Employer's position that the pension system in Flint Township has provided the police officers with an excellent pension relative to the comparable jurisdictions.

It is true that the employees' pension contribution is high relative to the comparables. They are currently paying 8.69% of gross wages (Un. Ex. 20). Only the police officers in Mundy Township pay more (Un. Ex. 19), and the Mundy Township plan is not as rewarding as the Flint Township plan; Mundy Township police officers do not have a cost-of-living adjustment and must wait until age 55 to retire (Un. Ex. 19). Although the employee cost in Grand Blanc Township is 8.11% and in Mt. Morris is 1.73%, the police officer retirees in these cities do not have a cost-of-living adjustment (Un. Ex. 19). The City of Burton employees contribute nothing, but the employees hired after July 1, 1994 do not have a cost-of-living adjustment (Un. Ex. 19).

Taking this evidence in total, the record establishes that the pension system in Flint Township is generous to employees, although employees pay more for it. The record does not establish that the employee contribution is excessive; it is lower than the employee contribution in Mundy Township and only about .5% higher than the employee contribution in Grand Blanc Township.

Based on an analysis of the comparables, it is found that the current pension system maintains an equitable relationship with the internal comparables and has provided high pension benefits to the Flint Township police officers vis-a-vis the external comparables. Based on the foregoing, the statutory factors of comparability and cost-of-living support retaining the current pension provision with no changes.

Statutory Factor: Other Factors

As noted, the criterion of "other factors" addresses the relationship between the bargaining unit in Act 312 and the other units in the jurisdiction. With respect to the other

bargaining units in the Township, the record establishes that the police officers and the command officers, represented by the United Auto Workers, have the same pension plan (Tr. 67, 68-69). The record establishes that the Employer pension contribution in the command officers agreement is capped at 7% and that the Employer is currently paying at that level (Jt. Ex. 5; Tr. 68, 79). The Employer's pension LBO would retain the current 7% cap for the police officers, while the Union's LBO would remove the cap. As the command officers and the police officer have the same pension plan, it would appear to be equitable that the Employer's contribution be the same for both units. The Union has provided no rationale why the police officers' costs should be less than the command officers' costs.

The Employer's contribution for the non-supervisory employees is capped at 7% (Jt. Ex. 2; Tr. 73). This evidence also supports the Employer's LBO.

The Employer's contribution for the communications operators is 5% (Jt. Ex. 4; Tr. 73). The police officers, with a 7% cap, have a more generous plan than the communications operators. There is no justification on the record for increasing the gap in the Employer's pension contributions between the police officers and the communications operators. Accordingly, this evidence also supports the Employer's pension LBO.

Although the Employer is making a pension contribution to the firefighters pension plan of greater than 30%, the record establishes that this high contribution is designed to correct inadequate funding in the firefighters' pension plan. There is no evidence that the M.E.R.S. plan, in which the police officers participate, is not adequately funded. Accordingly, the Employer's contribution to the firefighters' pension plan does not support the Union's pension LBO.

Based on the foregoing, the record establishes that the factor of "other factors" supports the Employer's pension LBO.

CONCLUSION ON PENSION CONTRIBUTIONS

A majority of the panel finds that the statutory factor of public interest does not support the pension LBO of either party, while the statutory factors of comparability, cost-of-living, and other factors support the pension contributions LBO of the Employer. Accordingly, a majority of the panel finds that the Employer's LBO on pensions is the more appropriate.

AWARD ON PENSIONS

The Employer's LBO on pension contributions is accepted. The Union's LBO on pensions contributions is not accepted.

June 16, 2003

Date

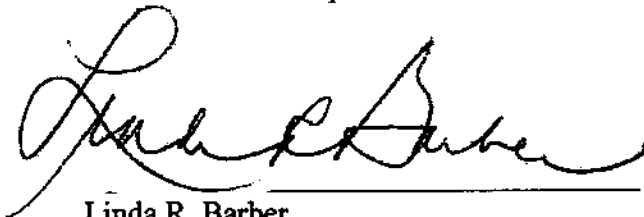


Richard N. Block

Panel Chair and Impartial Arbitrator

June 16, 2003

Date



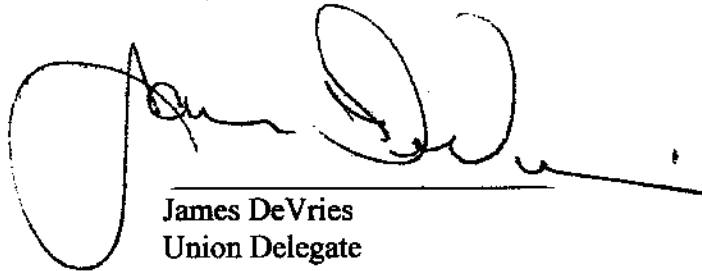
Linda R. Barber

Employer Delegate

DISSENT

June 16, 2003

Date



James DeVries

Union Delegate

ISSUE: WORK DUTY

LAST BEST OFFERS: WORK DUTY

Last Best Offer of the Union

Effective (date of the award) there shall be two certified full-time patrol officers in a cruiser between the hours of 12:00 midnight and 6:00 a.m., unless the Township has four patrol officers assigned to the road during any of those hours, in which case, there may be only one person in a cruiser.

Last Best Offer of the Employer

There shall be two certified full-time patrol officers in a cruiser between the hours of 12:00 midnight and 6:00 a.m., unless the Township has at least three (3) patrol officers assigned to the road during any of those hours, in which case, there may be only one officer in a cruiser. If there are less than three (3) patrol officers assigned to the road during those hours then there shall be two (2) patrol officers assigned to a cruiser.

POSITIONS OF THE PARTIES: WORK DUTY

Position of the Employer

The Employer argues that it can implement one-officer patrol cars more frequently than it currently does with no reduction in safety and with a cost-savings. It supports this contention with an article by former Los Angeles Police Department (LAPD) inspector Nathan Iannone.

The Department notes that it currently has one-officer patrol cars at all times except from midnight to 6:00 AM when there are fewer than five other patrol officers assigned to the road. The Union has presented no evidence that these one-officer patrol cars are less safe than two-officer patrol cars.

The Employer argues that the Union data on calls (Un. Ex. 29) and crime reports (Un. Ex. 30) does not address the one-officer car issue. Although Flint Township had more calls and more crimes than the comparables, it is larger than the comparables; therefore, one would expect Flint

Township to have the highest volume of calls and crimes. Moreover, what data there are support the Employer's LBO. If Flint Township receives calls more frequently than the comparables, then it is essential to have one-officer patrol cars so that more vehicles can be on patrol.

Position of the Union

The Union contends that this a safety issue and that excessively frequent use of one-officer patrol cars puts that officer at greater risk than he or she would be required to assume as part of a two-officer patrol car. The Union argues that Flint Township has more calls for service and more crime than the comparables. Moreover, although it has a higher level of crimes and calls than the comparables, it has only the second highest staffing level, behind Burton.

The Union notes that no evidence was presented regarding cost savings or improvements in productivity as a result of reducing the minimum level of staffing to go to one-officer patrol cars after midnight. The author of the article was one Nathan Iannone, who was formerly employed by the LAPD. The Union argues that Los Angeles is not comparable to Flint Township.

DISCUSSION ON WORK DUTY

The current language limits one-officer patrol cars between midnight and 6:00 am to a situation when there are at least five other officers on the road.⁹ The LBO's will now be examined with respect to the statutory factors.

Statutory Factor: Public Interest

⁹The current language is as follows: "(t)here shall be two (2) certified patrol officers in a cruiser between the hours of 12:00 midnight and 6:00 a.m., unless the Township has five (5) patrol officers assigned to the road during any of these hours, in which case, there may be only one person in a cruiser" (Jt. Ex. 1).

The public interest requires that police services be offered at reasonable cost. At the same time, police services are rendered best if they are rendered safely. Changing the agreement to permit the employer to assign a one-officer cruiser when there are less than five officers assigned to road duty would, obviously, result in a financial savings to the Employer. The Union has recognized this in its LBO by a willingness to permit a one-officer cruiser when there are only four officers on duty. The Union's LBO takes into account safety to a greater extent than the Employer's LBO by placing more limits than the Employer's LBO on the circumstances under which the Employer may assign one officer to a cruiser between midnight and 6:00 A.M. The Union's LBO attempts to balance the cost and safety elements of the public interest, while the Employer's LBO tips the balance in favor of cost.

A majority of the panel does not find the excerpt from the Iannone article convincing. This is only one person's theory (Tr. 95-96). The record does indicate any link between this theory and the situation in Flint Township.

Based on the foregoing, a majority of the panel finds the factor of public interest supports the Union's LBO on work duty.

Statutory Factor: Comparability

Also relevant are the data on calls for service and crimes reported. Although the Union notes in its brief that the number of calls for service and the number of crimes reported is higher for Flint Township than for the other comparables, these data are most relevant for this award when they are deflated by an appropriate denominator. The record establishes that there were 30,075 calls for service through 9-1-1 answered by the Flint Township police during the period

September 2001 through September 2002. (Un. Ex. 29). The record establishes that there were 29 patrol officers in the Flint Township police department in 2002 (Er. Ex. 32). Dividing the number of calls by the number of police officers is an indicator the of call load of the police. Based on this, the average Flint Township full-time police officer answered 1,037.1 calls during the September, 2001 through September 2002 period (Un. Ex. 29; Er. Ex. 32). This call load is higher than the call loads of the comparables: Mt. Morris Township - 930.8 per full-time officer; City of Burton - 885.6 per full-time officer; Mundy Township - 475.1 per full-time officer; and Grand Blanc Township - 407.4 per full-time officer (Un. Ex. 29; Er. Ex. 32).¹⁰ This call load suggests that a Flint Township police officer is more likely to be answering a call and out of the cruiser than a police officer in any of the comparable jurisdictions. These data, therefore, suggest caution in permitting a large increase in the circumstances under which the Employer may assign one officer to a cruiser and they support the Union's LBO.

With respect to the crime reports, the record establishes that Flint Township has a higher number of reported crimes per 1,000 population than any of the comparables - 86.2 crimes reported per 1,000 population. The other comparables generate the following crimes reported per 1,000 population: City of Burton - 77.4; Mt. Morris Township - 65.7; Mundy Township - 48.7; and Grand Blanc Township - 30.5 (Un. Ex. 30; Er. Ex. 32). Like the call load date, these data suggest caution in permitting a large increase in the circumstances under which the Employer may assign one officer to cruiser and they support the Union's LBO.

¹⁰For the purposes of this calculation, each of the 7 part-time officers in Mundy Township was assumed to be one-half of a full-time officer. Therefore, Mundy Township was assumed to have 15.5 full-time (equivalent) police officers.

These data suggest that police duties in Flint Township involve somewhat more danger than police duties in the comparable community; there are more calls in Flint Township than in the comparable jurisdictions, and there is more crime in Flint Township than in the comparable jurisdictions. This suggests there is a need for the back-up provided by an extra officer in the cruiser.

In this regard, a majority of the panel does not find convincing the Employer's contention that the greater number of calls in Flint Township requires a greater number of cruisers on the street. A majority of the panel believes that the safety concerns expressed by the Union are entitled to greater weight than the concerns about the number of cruisers on the street expressed by the Employer.

Accordingly, a majority of the panel finds the statutory factor of comparability supports the Union's LBO on work duty rather than the Employer's LBO.

Statutory Factor: Other Factors

The current language has been in the collective agreement since at least 1985 (Tr. 98). This suggests that it has worked well for the parties. It is well accepted in labor relations that a party should not be expected to accept major changes in a term or condition of employment in the absence of a compelling reason to do so. In the instant case, where both parties are proposing a change in language, the principle dictates that the less radical change is preferred. . As the Union is proposing the less radical change, from a "five-one" rule to a "four-one" rule, the factor of other factors supports the Union's LBO . This is a less radical change than the three-officer criterion that the Employer wishes to implement. Thus, this factor supports the LBO of the Union.

CONCLUSION ON WORK DUTY

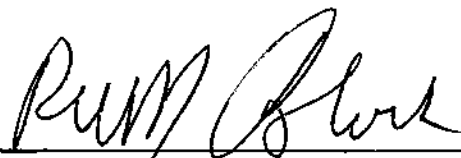
A majority of the panel finds that the factor of public interest supports a police force that works safely and that the call load and crime rate in Flint Township are higher than in the comparable jurisdictions. These factors support the Union's work duty LBO. The factor of "other factors" requires that the less radical change is preferred to the more radical change. Accordingly this factor also supports the Union's work duty LBO. Based on the foregoing, the panel will award for the Union on the issue of work duty.

AWARD ON WORK DUTY

The Union's LBO on work duty is accepted. The Employer's LBO on work duty is not accepted.

June 16, 2003

Date

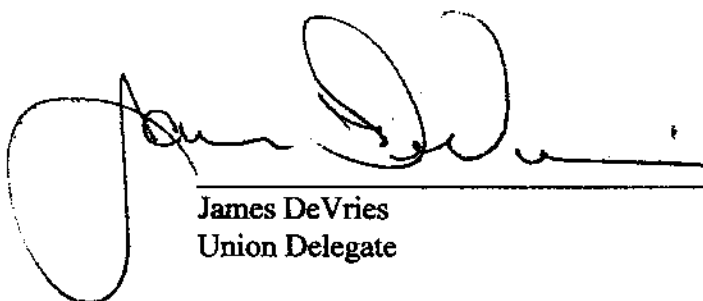


Richard N. Block

Panel Chair and Impartial Arbitrator

June 16, 2003

Date



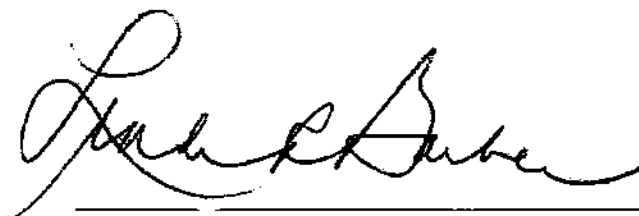
James DeVries

Union Delegate

DISSENT

June 16, 2003

Date



Linda R. Barber

Employer Delegate