

In the Matter of Act 312 Statutory Arbitration between:

COUNTY OF ST. JOSEPH and  
ST. JOSEPH COUNTY SHERIFF,  
Employer,

-and-

POLICE OFFICERS ASSOCIATION OF MICHIGAN,  
Union.

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MERC Case No. D 03 I-2375

Appearances:

For the Employer: John R. McGlinchey  
Cohl, Stoker, Toskey & McGlinchey

For the Union: James DeVries  
Business Agent

Also Present: Dennis Allen, Judy Buchner-Van Camp, Charles Cleaver, Marvin Dudzinski, Dan Kennedy, Matt Lori, Oscar William Rye, Peter VanCamp, Judy West-Wing.

I.  
**PANEL'S FINDINGS, CONCLUSIONS, AND ORDER**

BEFORE AN ACT 312 PANEL CONSISTING OF:

Benjamin A. Kerner, Chair  
John R. McGlinchey  
James DeVries

Dated: March 30, 2005.

## II. LEGAL AUTHORITY.

Pursuant to 1969 Public Act 312, as amended by 1972 Public Act 127, M.C.L.A. 423.231 et. seq., the arbitration panel convened on February 4, 2005, and conducted an evidentiary hearing at the St. Joseph County Building, 125 W. Main Street, Centreville, Michigan. The purpose of the hearing was to resolve a pending labor dispute between the parties. Each party was represented. Adequate opportunity was afforded at the hearing for the presentation of all exhibit information and testimony. Each party had an opportunity to cross-examine the witnesses for the other side. Briefs were filed on or before March 25, 2005. The case is now ready for decision.

## III. ISSUES IN DISPUTE.

- A. Health Insurance.
- B. Health Insurance contributions for Retirees.
- C. Disability Insurance and Sick Bank Adjustment.

## IV. PRE-HEARING ACTIVITIES.

The parties had a pre-hearing conference by telephone call on September 1, 2004, at which time many of the details concerning the conduct of the hearing were stipulated. Regarding the subject of comparable communities, the parties stipulated what communities would constitute comparables for the purposes of this proceeding: Barry County, Branch County, Calhoun County, Cass County, Ionia County, and Van Buren County. In addition, of course, the parties stipulated that the internal bargaining units would be appropriate for the Panel to consider as comparables. These include the Circuit Court, Family Court, and

Probate Court units, the general AFSCME unit, the District Court employees, the emergency dispatchers, the Command Officers unit, the Corrections Officers unit, and the Corrections Command Officers unit.

Finally, during the pendency of the case, specifically during the hearing, it became obvious that one of the primary areas of pre-hearing disagreement had been resolved. The issue of wages produced table offers of 3.0% increase for 2004; 3.0% increase for 2005; and 3.0% increase for 2006 on behalf of both the Employer and the Union. Thus, the issue of wages is settled on the basis of these identical offers and the parties are directed to incorporate such offers in their new collective bargaining agreement (including the retroactivity of wage increases).

#### V. POSITIONS OF THE PARTIES (LAST BEST OFFERS)

##### A. Health insurance.

The Employer proposed in its Last Best Offer that the following health and dental premium employee contribution schedule shall be implemented:

Effective January 1, 2004:

Single coverage	5% of 2001 premium costs
Two Person coverage	5% of 2001 premium costs
Family coverage	5% of 2001 premium costs.

Effective January 1, 2005:

Single coverage	7% of annual premium costs
Two Person coverage	7% of annual premium costs

Family coverage 7% of annual premium costs.

Effective January 1, 2006, the employee contribution would rise to 10% of annual premium cost.

In addition, the drug rider employee deductible will be \$10.00 in the Employer's Last Best Offer. And, upon ratification of the contract, the cost of drugs would be \$10 for generic/ \$40 for brand name.

Further, the deductible for office visits would go from \$10 to \$20; the cost of the deductible for chiropractic office visits would go from \$10 to \$20; and there would be an increase in wellness coverage from \$250 per year to \$500 per year.

The Union's Last Best Offer on the subject of health insurance is for contract year 2005—employee contribution of 5% of 2001 premium costs; effective January 1, 2005—employee contributions of 7% of annual premium costs; and effective January 1, 2006—employee contributions of 8% of annual premium costs.

The Union offers upon ratification of the contract, the drug rider would show the cost of drugs would be \$10 for generic/ \$40 for brand name.

Further, in the Union's Last Best Offer, the deductible for office visits would go from \$10 to \$20; the deductible for chiropractic office visits would go from \$10 to \$20; and there would be an increase in wellness coverage from \$250 per year to \$500 per year.

#### **B. HEALTH INSURANCE CONTRIBUTIONS FOR RETIREES.**

The Union offers the following language as an addition to the contract language:

20.2 A bargaining unit member who retires by meeting the age and service requirements of the Michigan Municipal Retirement System

(MERS) shall be provided a monthly credit towards the cost of purchasing health care for the retiree and spouse, in the following amount:

Ten dollars (\$10.00) times the number of completed years of service up to a maximum of three hundred dollars (\$300) per month (i.e., 26 years x \$10=\$260).

The credit shall be used to purchase health insurance through the employer's health insurance carrier at the county's group rates.

This credit shall continue until either of the following occurs: The retiree becomes deceased or the retiree is eligible for Medicare.

Retiree health care to be effective [date of award].

The Employer proposes the status quo (no retiree health insurance contribution).

#### C. Disability Insurance and Sick Bank Adjustment.

The Employer proposes the following:

(A) As soon as practicable following the execution of this Agreement, employees will be covered by disability insurance, the terms of which are as follows: The Employer will provide a short-term disability policy starting on the seventh (7<sup>th</sup>) day of disability as a result of illness or accident and payable for up to a maximum of 52 weeks. Benefit amount of 66.7% of weekly wage to a maximum of \$500.

(B) The Employer will provide a long-term disability policy starting after the end of the short-term disability policy and payable during the duration of the disability or until other disability benefits (i.e., social security) and /or retirement benefits are received by the employee. Benefit amount of 60% of weekly wage up to a monthly maximum of \$5,000.

(C) Employees will be credited with six (6) sick days and three (3) personal days each year (prorated for new employees after the first 60 days of employment). Unused sick days will be paid at the end of each year at the employee's current straight time rate of pay. Personal days shall not accumulate from year to year and will have no monetary value.

(D) Upon implementation of the disability plan, current employees will be cashed out for their current sick leave accrual banks based on the following schedule, leaving a maximum of 48 hours (6 days) for each

employee for the first year, and personal days prorated based on ratification date of contract.

Years of Service as of Anniversary Date in 2004:

20 years or more: Current rate of pay x (accrued bank or maximum of 720 hours – 48 hours – prorated personal hours)

14 years up to 19 years (Current rate of pay x 80%) x (accrued bank or maximum of 720 hours – 48 hours – prorated personal hours)

7 years up to 13 years (Current rate of pay x 60%) x (accrued bank or maximum of 720 hours – 48 hours – prorated personal hours)

0 years up to 6 years (Current rate of pay x 40%) x (accrued bank or maximum of 720 Hours – 48 hours – prorated personal hours).

The Union's Last Best Offer is to maintain the status quo.

## VI. FINDINGS, ANALYSIS, and CONCLUSIONS.

### A. HEALTH INSURANCE.

The Employer presented evidence concerning health insurance premiums, that the Employer faces “the same issues that most employers around the state and around the nation face, and that is the escalating cost of providing health insurance to its employees.” [Tr. 22, Ms. West-Wing]. Ms. West-Wing testified that the premiums have gone up 16% on average over the last five years (for family coverage). It argues that it cannot also be expected to absorb all the increases in health insurance costs.

The Employer has presented evidence that it pays competitive wages, paid time off, and retirement benefits. For example, the total cash compensation paid to St. Joseph County deputies was shown to be \$1,000 more than the total

cash compensation available to deputy sheriffs in the comparable communities.[E'er. Exh. 6]. Similarly, in regard to paid time off, St. Joseph County deputies fare better than the comparables. They receive 13 paid days off after 1 years of employment, where 3 comparables (Barry, Branch, and Calhoun) provide 10 days of paid time off, The remaining comparables (Cass, Ionia, and Van Buren) provide only 5 paid days off. At the top end of the scale, a deputy with 25 years of service at St. Joseph County receives 30 paid days off, whereas other comparable communities generally provide only 20 days off. (Van Buren provides 23.)

Further, in comparing retirement benefits and the contribution to retirement benefits, St. Joseph County deputies are in a very good position. The Employer provides the MERS B-4 plan with a 2.50% multiplier. It appears that three comparable communities (Barry, Branch, and Calhoun) provide the same plan. All other comparable communities provide a 2.25% multiplier. [E'er. Exh. 13] In addition, St. Joseph County provides the much-coveted E-3 benefit that increases retirement benefits with a cost of living escalator. None of the comparable communities provide this feature of their retirement plans.

In regard to payment for retirement plan, St. Joseph County deputies provide 3.07% of their wages towards the B-4 plan. By contrast, sheriffs' deputies in Calhoun County pay 12.25% of their wages toward their B-4 plan. The median is 5.0%.

In addition, the Employer points out that the internal comparables, the other employee groups in St. Joseph County, generally, have accepted the con-

cept of cost-sharing of health premiums. All the court employees groups have accepted a current premium co-pay of 5% (for 2005) and 10% for 2006. The Sheriff's Command Officers unit has accepted a current health insurance co-pay of 7% (for 2005) and 10% for 2006. Likewise, the Corrections Officers unit and the Corrections Command Officers unit have accepted a health insurance co-pay of 7% for 2005 and 10% for 2006.

In short, the facts support the Employer's argument that the benefit package available to St. Joseph deputies, or in terms of the statutory language, "the overall compensation presently received by the employees," MCL.423.239(f) is excellent by any applicable comparison with external comparable communities, or with the internal comparables. In short, there is little reason to resist the clearly equitable argument of the Employer to impose some of the cost of health insurance premiums on the employees in this unit. I find that the factors which the Act 312 panel is bound to consider, including the overall compensation of the employees [MCL 423.239(f)] and the comparison of wages, hours and condition of employment of these employees with other employees performing similar services in comparable communities as well as with other employees generally of the County [MCL 423.239(d)] warrant the conclusion that the cost-sharing of health insurance premiums proposed by the Employer is the appropriate Last Best Offer.



B. HEALTH INSURANCE CONTRIBUTIONS FOR RETIREES.

This is a Union proposal. The evidence shows that there is some form of contribution made available to retirees for health insurance in three of the comparable communities. In Barry, Branch and Calhoun counties, retirees can realize an employer contribution to their cost of health insurance, in amounts varying from \$4/ year of service (Branch) to \$10/ year of service (Calhoun). In Van Buren County, certain employees (those hired before January 1, 1992) are entitled to receive group health benefits, but more recent hires are prohibited from enjoying the group health plan (although they are provided with a health savings plan, with retiree only contributions).

In the remaining counties there is no contribution by the employer to the cost of retiree health care.

In terms of internal comparables, the Corrections Command Officers unit does not have any contribution towards retiree health insurance. The Corrections Officers unit does not have any contribution towards retiree health insurance. The Sheriff's Command Officers unit does not have any contribution towards retiree health insurance. And none of the other bargaining units-- Circuit Court, Family Court, General County Employees, Probate Court employees, District Court employees or emergency dispatchers (which have contracts expiring in 2005 or which expired in 2004)--have any contribution towards retirement health insurance.

The factors that inclined the Chair to select the Last Best Offer of the Employer in regard to Health Insurance operate with equal force here. The com-

comparables, MCL 423.239(d), to the extent that they include both the external and the internal comparables argues against the inclusion of this new benefit at this time. Likewise, the overall compensation presently received by the employees in the unit [MCL 423.239(f)], as shown in the decision on Health Insurance, argues against the expansion of benefits to include this new benefit at this time.

C. DISABILITY INSURANCE/ SICK BANK ADJUSTMENT.

This is an Employer proposal. The Employer's plan to replace current sick leave with short-term sickness and accident insurance is not unique among the comparables. Most of them have some form of short-term disability insurance. [E'er. Exh. 19]. Three of them (Calhoun, Cass, and Branch) provide overage for up to 6 months of disability. Ionia and Barry provide coverage for up to 1 year. None of the above-named counties have along-term disability policy in force. Van Buren has a combined short-term, long-term disability policy which provides coverage to age 65, much like the one proposed here by the Employer.

In short, the Employer's proposal is more liberal than any of the comparable communities' plans, except Van Buren's to which it is equivalent.

In regard to the internal comparables the Correction Officers unit and the Correction Command Officers unit have agreed to the short-term, long-term disability coverage proposed here. No other employee groups in the County have such coverage. The Court employee groups have a short-term disability plan, which "starts on the 31<sup>st</sup> day and the maximum paid is 65 percent of the weekly wages up to a \$400-per-week maximum." [Ms. West-Wing, Tr. 61]

At the initial phase-in of this disability plan, the Employer offers to phase out accumulated sick time, on the basis of a graduated payment of part or all of accrued sick-time corresponding to length of service (see page 6 above). This aspect of the short-term plus long-term disability plan is not duplicated in the comparable communities which offer short-term disability plans. Rather, says the Union, two counties, Ionia and Branch, allow the continued accrual of sick leave. Calhoun has a sick time procedure, but it is not specified in the collective bargaining agreement. In the remaining counties, the old sick leave banks are frozen for use as extended sick leave (after the exhaustion of short-term disability benefits) or for payout upon retirement. [U. Brief, p. 11] The Employer counters that, "Not one comparable community that has converted from sick leave to disability insurance pays for existing sick time banks as well as the Employer is proposing here." [E'er. Brief, p. 15]

The evidence shows that the phase-in or conversion of sick leave policy to disability insurance was operative in three of the comparable communities (Barry, Cass, and Van Buren). Barry County appears to allow some use of the frozen sick leave credits for current illness. (The evidence did not specify how this use dovetails with the short-term disability policy available to Barry County deputies.) There is some payout upon retirement. Cass County allows for frozen sick time to be used to supplement workers compensation after 26 weeks or to supplement the short-term disability policy after 26 weeks. Payout upon retirement is for 50% of the frozen sick bank.

Van Buren provides for a grandfathering of sick leave accumulated prior to 1999. But thereafter, there is no accumulation of sick leave. Van Buren employees with 20 years of service received 100% of their banked sick time upon retirement; then, however, for 15-19 years of service, the rate of payout upon retirement is 75%; and for 10-14 years of service, the rate of payout upon retirement is 50%. Employees with less than 10 years of service had no payout for accumulated sick-time. Here, the Employer proposes to pay 40% of banked time for employees with 0-6 years of service (and 60% of banked time for employees with 7-13 years; 80% for employees with 14-19 years). The payout of Van Buren accumulated sick leave, as recited above, is less generous than the corresponding payout proposed by the Employer here. In sum, though the provisions of some counties were not well developed on this record, it appears that this Employer's proposed policy is comparable to (and better than) the policy of Van Buren, with the exception that the frozen sick bank credits are to be paid now, rather than upon retirement.

The overall appropriateness of the Employer's proposal cannot be doubted. It is supported by MCL 423.239(h), the traditional factor that improvements in benefits for all the members of the unit are considered beneficial to the unit. The need for a short-term plus long-term disability plan is not met by the current sick day administration. If an employee has a catastrophic injury or illness, even the most well-endowed employee with 150 sick days in the bank will not necessarily have sufficient coverage to maintain his employment status while recuperating or rehabilitating from a motor vehicle traumatic brain injury, say. On

the down side, the Union points out that some employees will “lose” accumulated sick time. That is true, in the sense that if a number of conditions subsequent are met, some employees will lose—upon retirement--their full sick time entitlement, as currently administered. The conditions subsequent are that the employee does not at any time throughout the remainder of his career suffer any significant injury. Secondly, a condition subsequent is that he actually completes his career at the St. Joseph Sheriff Department, and retires. Both are gambles. The Employer’s provision to fund short-term and long-term disability insurance takes some of the gamble out of being alive, and affords valuable protections for all employees in the unit. Given that this plan is a substantial improvement in the working conditions of all St. Joseph County deputies, and is supported by MCL 423.239 (d) and (h), the Panel will order the adoption of the Employer’s proposal.

VII. ORDER.

The Panel adopts the Last Best Offer of the Employer on the subject of Health Insurance, effective retroactively to January 1, 2005.

The Panel adopts the Last Best Offer of the Employer regarding the subject of Health Insurance Contributions for Retirees.

The Panel adopts the Last Best Offer of the Employer on the subject of Disability Insurance /Sick Bank adjustment.

Benjamin A. Kerner

Benjamin A. Kerner, Panel Chair

3-30-05

Dated

John R. McGlinchey

John R. McGlinchey, Employer Delegate

3-30-05

Dated

I dissent from the Order of the Panel

James DeVries

James DeVries, Union Delegate

3-30-05

Dated