

2179

STATE OF MICHIGAN  
DEPARTMENT OF CONSUMER & INDUSTRY SERVICES  
MICHIGAN EMPLOYMENT RELATIONS COMMISSION  
ACT 312, PUBLIC ACTS OF 1969 AS AMENDED

*In the Matter of the Act 312*  
*Arbitration Between:*

COUNTY OF WAYNE and the  
WAYNE COUNTY SHERIFF,

Employer

-and-

MERC Case No. D04 A-0122

WAYNE COUNTY SHERIFFS, SERGEANTS  
AND LIEUTENANTS, LOCAL 3317,  
AFSCME, COUNCIL 25, AFL-CIO

**ARBITRATION PANEL OPINION AND AWARDS**

**George T. Roumell, Jr., Chairman**  
**John Miles, Employee Delegate**  
**Jamil Akhtar, Local 3317 Delegate**

**APPEARANCES:**

FOR THE COUNTY OF WAYNE AND  
WAYNE COUNTY SHERIFF:

Thomas M. J. Hathaway, Attorney  
Jeffrey A. Steele, Attorney

FOR LOCAL 3317, AFSCME COUNCIL  
25, AFL-CIO:

L. Rodger Webb, Attorney

**Background**

The County of Wayne is one of the 83 county units of government in the State of Michigan. It is located in Southeastern Michigan with Detroit, Michigan's largest city, as its principal municipality. Wayne County, for statistical purposes, is part of an area that is sometimes referred to as the Tri-County Area, constituting Macomb and Oakland Counties as well as Wayne County. At times, this area is expanded to include Genesee County, Monroe

County and Lapeer County.

Each county in Michigan has a Sheriff who is a Constitutional elected officer. In Wayne County, the Sheriff operates the Department referred to as the Wayne County Sheriff's Department ("WCSD" or "Department"). The Wayne County Sheriff operates several jail and detention facilities in the County, provides police services to the Wayne County Circuit Court, and operates road patrols in the County and in the County Parks. The County of Wayne is the primary funding source of the Wayne County Sheriff's Department.

The Department employs approximately 1,800 persons, including what were once known as Deputies, now known as Police Officers. Twenty-nine (29) Lieutenants and ninety-three (93) Sergeants serve in a supervisory capacity directing the activities of the Police Officers and are represented by Local 3317, Michigan Council 25 of the American Federation of State, County and Municipal Employees, AFL-CIO.

The Police Officers employed by the WCSD whom the Lieutenants and Sergeants supervise are represented by Local 502, Service Employees International Union.

As is the case with the Police Officers employed by the Department, the majority of the WCSD Lieutenants and Sergeants perform correction work. Approximately 68, or 55.7%, of the WCSD 122 Lieutenants and Sergeants perform correction-related work for one of the Wayne County Jails. Approximately 13, or 10.6%, are assigned to the Wayne County Circuit Courts. The remainder are employed in the Road Patrol or other functions of the Department.

The most recent Collective Bargaining Agreement between Local 3317 and Wayne County commenced December 1, 2000 and expired November 30, 2004. There was an unusual happening during the life of the 2000-2004 Agreement. When the 2000- 2004 Agreement was entered into, said Agreement covered Local 3317 members employed both by the WDSD and

Detroit Metropolitan and Willow Run Airports, then operated by Wayne County. In March 2002, the State legislature passed the Public Airport Authority Act, MCL 259.108 *et seq.*, that separated the Airport Authority and Wayne County as employers. This resulted in a unit clarification petition filed in March 2004 by the Wayne County Airport Authority with the Michigan Employment Relations Commission.

On October 24, 2004, Local 3317 filed a petition for Act 312. The County objected to this petition because the petition referred to both the Wayne County Sheriff's Department and the Airport Police Department. The decision as to the unit clarification petition of the Michigan Employment Relations Commission, in *Wayne County Airport Authority and Wayne County Law Enforcement Supervisory Local 3317, AFSCME*, MERC Case No. UCO 04C009 (2004), affirming the previous recommendation of Administrative Law Judge Roulhac, was issued on December 20, 2004 and separated the Airport Authority and the County as employers. The Lieutenants and Sergeants represented by Local 3317 employed at the Detroit Metropolitan, Wayne County and Willow Run Airports were deemed to be in a separate unit than those Lieutenants and Sergeants employed by the WCSD.

This action prompted Local 3317 to file an amended Act 312 petition on or about January 21, 2005. The numbers referenced above refer to the Lieutenants and Sergeants that are employed by WCSD, as this is the bargaining unit that is subject to this 312 proceeding.

During the period discussed above, Local 502 had filed petitions for Act 312. This Act 312 proceeding was the result of the ultimate petitions filed by Locals 3317 and 502 in their capacities representing WCSD employees. The Chairman was appointed as Chairman for the 312 proceedings involving both Local 502 and Local 3317 units at WCSD. The Panel Members remained the same for both the Local 3317 and Local 502 Act 312 proceedings.

The Chairman held pre-trials jointly with both Locals (502 and 3317) and concluded that there were a multitude of issues that had not been resolved, noting that there had been a long history of collective bargaining agreements over the years between the County and both Locals 502 and 3317. The Chairman observed that, with so many issues still remaining, the hearings would be impractical and unduly lengthy unless the parties continued bargaining and settled a number of the outstanding issues. Consequently, the pre-trials resulted in an order from the Chairman directing the parties to continue bargaining.

Progress was made during the resulting bargaining with Local 3317. The Chairman-ordered bargaining resulted in several settlements between Wayne County and Local 3317, which narrowed the issues to be litigated in the 312 proceeding and brought the parties significantly closer together. As progress in bargaining continued with Local 3317, the Chairman kept remanding for additional bargaining sessions.

Numerous articles/issues were settled between Local 3317 and the County during the Chairman-ordered bargaining that took place after pre-trials began. These included Article 1 (Agreement); Article 2 (Purpose and Intent); Article 3 (Recognition); Article 4 (Aid to Other Unions); Article 5 (Strikes and Lockouts); Article 6 (Union Bulletin Boards); Article 7 (Union Security); Article 8 (Dues); Article 9 (Payment of Service Charge); Article 10 (Representation); Article 11 (Special Conferences); Article 15 (Indemnification); Article 17 (Civil Service Rules); Article 18 (Drug Policy); Article 19 (Residency); Article 20 (Seniority); Article 23 (Work Week Schedule); Article 25 (Extra Time Provisions); Article 29 (Personal Business Leave); Article 30 (Bereavement Leave); Article 31 (Leave for Union Business); Article 32 (Leave with Pay); Article 33 (Leave Without Pay); Article 35 (Mileage Allowance); Article 36 (Tuition Reimbursement); and Article 41 (Errors in Wages, Fringe Benefits).

On April 26, 2006, the matter was deemed ready for hearing. With respect to Local 3317, the Articles that remained on the table and submitted for Act 312 arbitration were Article 13 (Discipline); Article 14 (Administrative Review and Determination); Article 21 (Transfers); Article 22 (Promotions); Article 24 (Overtime); Article 27 (Annual Leave); Article 28 (Sick Leave); Article 34 (Uniform, Clothing/Equipment Allowance); Article 37 (Insurance Programs); Article 28 (Retirement); Article 29 (Economic Improvements); Article 40 (Differential Payment); and Article 44 (Duration of Agreement).

Twenty-five Articles, most of which involve numerous sub-issues, remained unresolved with Local 502 when the hearings commenced. All those matters were submitted to Act 312 arbitration.

### **The Act 312 Hearings**

Hearings began in late May 2006. Most of the hearings involving Local 3317 were held jointly with Local 502. Some of the issues common to Locals 3317 and 502, such as Workers' Compensation and Long-Term Disability, were litigated jointly with Local 502.

Twenty-six hearings had been held when the record for Local 3317 was closed on March 30, 2006. Hearings in 2006 involving Local 3317's issues occurred on May 30 and 31, June 5, 19 and 22, July 10 and 14, October 3 and December 11 and 20. Hearings in 2007 involving Local 3317 were held on January 9, 16 and 31, March 6, 29 and 30.

The hearings on May 30 and 31, July 10 and 14, October 3, December 11 and 20, 2006, and on January 9, 16 and 31, March 29 and 30, 2007, also involved issues that related to local 502. Additional hearings, which involved issues exclusive to Local 502, occurred on August 4 and 16, September 6, 11, 27 and 28, October 11 and 13, November 8 and December 9, 2006.

In addition to the formal hearings where evidence was put on the record, the Chairman

presided over at least two meetings where the parties negotiated and attempted to settle issues that had been submitted to arbitration and litigated on the record. At the Chairman's direction, and sometimes with the Chairman's assistance and participation, members of Local 3317 met on numerous occasions throughout these proceedings with representatives of Wayne County and the WCSD to negotiate and settle some of the issues that had originally been submitted to the Panel.

Through these extensive and continual efforts, Wayne County and the Department and Local 3317 were able to settle several additional issues. These included Article 12 (Settlement of Disputes); Article 13 (Disciplinary Procedure); Article 14 (Administrative Review and Determination Hearing); Article 21 (Transfers); Article 22 (Promotions); Article 27 (Annual Leave); Article 28 (Sick Leave); Article 40 (Differential Payment); Article 42 (Employee Safety) and Article 43 (General Provisions).

Settlement of these Articles, many of which involved numerous sub-issues, was reached through compromise by each side and, in other cases, after significant litigation before the Panel.

After the parties informed the Chairman they had settled these issues, and with evidence submitted on all unresolved issues, the record for the Act 312 proceeding invoked by Local 3317 was officially closed on March 30, 2007.

Subsequently, Last Best Offers and briefs were submitted by the parties on seven pending issues to be decided in the Opinion and Awards, with the briefs filed on April 12, 2007.

### **Issues To Be Resolved**

All non-economic issues between the parties have been resolved. There remained nine economic issues to be determined by the Panel, namely:

1. Article 24 (Overtime)
2. Article 34 (Uniform, Clothing and Equipment Allowance)
3. Article 37 (Insurance Programs)

4. Article 38 (Retirement)
5. Article 39 (Economic Improvements)
6. New Article 44 (Long Term Disability)
7. New Article 45 (Workers' Compensation)
8. New Article 46 (Officer Pool)
9. Article 47 (Duration of Agreement)

Listed above as Items 6 and 7 are Long-Term Disability and Workers' Compensation. Long-Term Disability and Workers' Compensation were previously included in Article 37 (Insurance Programs). During a conference with the Chairman on April 2, 2007, the parties agreed to remove the Workers' Compensation and Long-Term Disability sections from Article 37 and to make them each an independent article, namely, Article 44 (Long-Term Disability) and Article 45 (Workers' Compensation).

By agreement with the parties, this Opinion and the Awards that follow will not address the issue of Long-Term Disability and Workers' Compensation. These issues will be addressed in a separate Opinion and Awards to be issued at a later time.

#### **The Criteria**

When the legislature enacted the provisions for binding arbitration in police and fire disputes, namely, Act 312 of Public Acts of 1969, the legislature provided in Section 9 (MCLA 423.239) that Act 312 Panels are to consider the following criteria when fashioning opinions and awards:

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

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.

- (c) The interests and welfare of the public and the financial ability of the unit of government to meet 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 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.

Essentially, the Act 312 criteria address the cost of living, the financial ability of the employer to fund the awards, and internal comparables as well as with other similarly situated public and private employees. In other words, the economic realities of the situation must be considered.

In addition to the enumerated criteria the Legislature, in setting forth Section 9(h), incorporated criteria sometimes used by fact finders in making recommendations as to collective bargaining agreements, which are not specifically enumerated in Section 9. This means that, in addition to the enumerated Section 9 criteria, an Act 312 Arbitration Panel can utilize criteria used by fact finders.

It also should be recognized that the particular circumstances may dictate that certain



criteria may be emphasized more than other criteria.

Among the criteria utilized by fact finders are the bargaining history of the parties, both past and current, as well as the “art of the possible,” namely, what is a possible settlement between the parties recognizing the give-and-take of negotiations.

The Chairman described the “art of the possible” in a previous 312 Opinion that he issued in *County of Lake and Command Officers Association of Michigan*, MERC Case No. L02 H-9004 (2004), where he wrote at page 4:

The “art of the possible” in concept means that if the parties were left to their own devices and the public employees involved had the right to strike, as a strike deadline loomed the parties would attempt to compromise in order to avoid a disruption in public service and loss of employee income. The concept is that, in compromising, the parties would review their respective positions and attempt to reach a resolution based on the art of the possible, as the art of the possible is the essence of compromise.

In an earlier 312 opinion, this Chairman articulated the concept of the “art of the possible” when he noted that the goal of an Act 312 Chairman is to effect the settlement the parties would have reached if negotiations continued when the parties are confronted with the realities of the situation for, in *County of Ottawa Sheriff’s Department and Police Officers Association of Michigan*, MERC Case No. L96 H-6011 (1998), this Chairman observed:

A very distinguished arbitrator, Theodore St. Antoine of the University of Michigan Law School, in two recent act 312 Arbitration proceedings, pointed out that as to an Act 312 panel, to best preserve health, voluntary collective bargaining, “the soundest approach for an outsider in resolving union-employer disputes is to try to replicate the settlement the parties themselves would have reached, had their negotiations been successful.” See, e.g., *County of Saginaw and Fraternal Order of Police*, MERC Case No. I90 B-0797 (1992); *Macomb County Professional Deputies Association and County of Macomb*, MERC Case No. E91 I-1674 (1992). This is, indeed, an appropriate consideration and falls within the concept of Section 9(h).

In other words, the concept of the art of the possible is that, in compromising, the parties would review their respective positions and attempt to reach a resolution based on the art of the possible, as the art of the possible is the essence of compromise.

Beginning with the pre-trials in this Act 312 involving Local 3317 and continuing through the hearings involved in this Act 312, and the resulting settlements on numerous issues, it is obvious that the art of the possible has been the hallmark, at least after the arrival of the Chairman, involving the issues separating the parties. There is no reason why the art of the possible, along with the consideration of other criteria, should not be a driving force in arriving at the Awards that follow.

The criteria are there to be followed. Comparables are to be considered, as is the cost of living. But a dominant consideration is the financial ability of the Employer and particularly the financial realities facing Wayne County, Southeastern Michigan and, for that matter, the State of Michigan. When the criteria are considered along with the economic realities, then the paths to the Awards, combining the criteria with the art of the possible, become clear.

### **The Dominant Issues**

Exclusive of Long-Term Disability and Workers' Compensation, which will be the subject of another opinion and awards, in the opinion of the Chairman, of the seven remaining economic issues (other than Workers' Compensation and Long-Term Disability), there are two dominant issues in Local 3317's viewpoint, namely, retirement, *i.e.*, pensions, and economic improvements. Coupled with economic improvements are issues of overtime and the Article 34 allowances.

From the County's standpoint, health care, *i.e.*, insurance programs and economics, are dominant issues along with officer pool.

These respective dominant concerns of the parties have not been lost on the Chairman. They have caused the Chairman, in considering the criteria, to apply the art of the possible in addressing the respective concerns of the parties on the remaining economic issues that are the subject of this Opinion and the Awards that follow.

### **The Comparables**

The parties are in dispute as to the public employer comparables that should be considered by the Panel. Local 3317 proposes the following five comparables:

- Livonia Police Department
- Dearborn Police Department
- Detroit Police Department
- Michigan State Police
- Oakland County Sheriff

Wayne County proposes the following comparables, maintaining that most of which are county sheriff's departments performing similar work to the majority of the Local 3317 members, namely:

- Oakland County Sheriff
- Genesee County Sheriff
- Saginaw County Sheriff
- Cuyahoga County Sheriff
- Milwaukee County Sheriff
- Michigan Department of Corrections

The only comparable that the parties are in agreement on is Oakland County Sheriff.

Wayne County further contends that the Panel should consider, and that it is statutorily obliged to consider, the experience in the private sector as a comparable. *See, e.g.*, MCL 423.239(d)(ii) and (h). As discussed on the record and in Wayne County's Exhibits, the experiences of the private sector, as well as the public sector, bear on the negotiation process and what employees should be expecting in terms of employee benefits.

Local 3317 based its proposed comparables on Section 39.03 of the 2000-2004 Collective Bargaining Agreement which expired on November 30, 2004, and provided:

The market to be used in setting rates of compensation shall include base wages and longevity if applicable. The law enforcement agencies which were used in the 1983 contract shall continue to be used during the life of this agreement. Said agencies are: (1) Detroit Police Department, (2) Michigan State Police, (3) Oakland County Sheriff, (4) Livonia Police Department, (5) Dearborn Police Department.

The County advances seven reasons to suggest that the four comparables listed by Local 3317 that are in dispute are not applicable, namely, (1) the 39.03 language is restricted to this agreement which has “expired” and thus “has no prospective effect”; (2) the language does not suggest that the identified communities should be used exclusively; (3) the language references wages and longevity and does not address benefit levels or set other terms and conditions of employment; (4) the demographics, social economics and financial evidence establish growing distinctions between Wayne County and the 39.03 communities; (5) these communities, particularly as the list of communities set forth in the contract was established in 1983, 24 years previously; (6) that the change in the bargaining unit, namely, the severance of the Airport Authority as an employer, establishes that the work performed by Local 3317 is not the work performed by Police Officers in the 3317 proposed comparables other than Oakland County, and the proposed 3317 comparables have different demographics in funding than Wayne County; (7) a reiteration of a summary of the previous points that the comparables, except for Oakland County, are involved in different work than Local 3317 members, having different responsibilities.

The County does make a point about the contract language. The contract has expired. The Section 39.03 list does not appear to be an exclusive list. But this does not bar 3317 from advancing its comparables. Yet there are funding differences between the comparables, except

Oakland County. The demography has changed as, for example, Wayne County has lost 24% of its overall population since 1970, whereas the population in the city comparables has remained relatively constant. And Oakland County has gained population, Housing units in Wayne County have declined as compared to Oakland County.

Unemployment in Wayne County is at 12% -- among the highest unemployment rate in the nation.

Twenty percent (20%) of the residents of Wayne County are living below the poverty level, as compared, for example, with 5% in Oakland County. In Oakland County, for instance, the median income has increased to \$63,000 – far greater than the Wayne County median income.

The Chairman could go on and on discussing the demographics, social economic differences between Wayne County and the comparables proposed by Local 3317.

The County has proffered as comparables other than Oakland County two other Michigan counties, namely, Genesee County Sheriff and Saginaw County Sheriff, maintaining that the work of those departments is similar to the WCSD. The County also argues that Genesee and Saginaw Counties are experiencing similar economic pressures as Wayne County due to the downturn in the automobile and other manufacturing sectors. In this regard, comparing Wayne County's unemployment rate of 12%, the County notes that Genesee County is at 11%, Saginaw County at 8%. Comparing Wayne County's population living below the poverty level of 20%, the County notes that Genesee County's poverty level is 17%, Saginaw County's is 14%. As to median income, Wayne County is \$40,300, compared to Genesee's \$40,100 and Saginaw's \$38,600. This is the basis of the claim that Genesee and Saginaw Counties should be comparables.

Noting that Wayne County, population-wise, is the largest county in Michigan, the County argues, as was argued in the recent *City of Detroit and Detroit Police Officers Association* Act 312, Case No. D04 D-0919 (2007), that national communities should be considered. In the recent *Detroit* opinion, Baltimore, Chicago, Philadelphia, Boston, Milwaukee, Cleveland, Pittsburgh and St. Louis were used as comparables. On this basis, the County argues that Milwaukee and Cuyahoga Counties should be used as comparables because both counties have major cities, as does Wayne County, are experiencing loss of populations, have unemployment rates comparable to Wayne County, similar percentages of population in poverty as Wayne County, and a similar median income. The unemployment rate in Milwaukee County is 11%, and Cuyahoga County is 9%, compared to Wayne County's 12%. The poverty rate in Milwaukee County is 19%, Cuyahoga County is 20%, compared to Wayne County's 20%. The median income in Milwaukee County is \$38,300, in Cuyahoga County \$39,500, compared to Wayne County's \$40,300. The Michigan Department of Corrections is added as an employer in the State with a large number of correction officers.

It is not necessary to come to final conclusions as to exact comparables. The parties have presented their reasons for their proffered comparables. The whole idea of comparables is to gauge the marketplace value placed on certain services. But comparables are only one factor.

And in this case, the comparables proffered by the respective parties have Achilles Heels, so to speak. For example, if one is to use the Detroit comparable, the County's last best offer to 3317 as to health care insurance did not require the same amount of employee premium contribution as in the Detroit award issued on March 8, 2007. In the case of the Michigan State Police, there was an announced layoff that was only averted by the Union agreeing to pay the salaries of the laid off Troopers. No layoffs are contemplated of 3317 members. It can also be

forcefully argued that the parties in the past have not gauged their negotiations based upon out-of-state counties.

When all is said and done, there are other criteria. And a dominant criteria is the finances and ability to pay, considering the economic downturn in the private sector in the County and what the art of the possible dictates when the criteria are considered.

### **The County's Financial Situation**

Under the caption of "Economics," the Chairman is focusing on Section 9(c) of Act 312, "The interest and welfare of the public and the financial ability of the unit of government to meet these costs." In addition, there is the reference in 9(e) to the cost of living. In evaluating these financial factors in the criteria, the Chairman cannot overlook the economic atmosphere that is prevailing in Southeastern Michigan, the City of Detroit and Wayne County in particular.

The Chairman has already made reference to the unemployment rate in Wayne County at 12%; that the County's largest city, Detroit, has been ranked 49<sup>th</sup> out of the countries 50 largest cities in the amount of unemployment. Nor can the Chairman ignore that in 2005 there were 9,000 foreclosures in Wayne County and that this rate continued into 2006. There are also record levels of unsold homes in Wayne County.

In other words, one must recognize that the area where Wayne County is located is in an economic downturn. This economic downturn cannot be ignored in addressing a Collective Bargaining Agreement covering the period of such a downturn.

There is also the factor of increasing health care benefit costs for Local 3317 members, other Department employees and other County employees. There has also been pressure on the County's retirement system funding with the surplus of \$85.5 million in 2000 now being reduced to a deficit.

These factors have impact on the County's financial resources. In analyzing the County's financial condition, the Chairman was concerned that there has been some delay in completing the County audits. This caused the Chairman to review the County's finances most carefully. Hopefully, factors that delayed the audit have been corrected so that, in the future, the audits can be more prompt.

Nevertheless, the Chairman is convinced, because of the economic conditions externally affecting County revenue, the economic conditions in the State affecting State shared revenue, and the rising cost of benefits plus the County's obligation to operate three jails, to furnish security to the Circuit Court, and costs involving the Child Care Fund, that the County's financial situation is not what it was when the 2000-2004 contract was negotiated, as illustrated by the following examples:

- Wayne County's general fund sustained an \$11.7 million loss, according to a 2004 financial audit. (Employer Ex. 50-1, p. 8)
- Wayne County's unreserved/undesignated fund balance was higher in 2000 than it is today. (Employer Exs. 47, 50-1, p. 8, 64, 70)
- Wayne County's budget stabilization fund dropped to zero in 2004, down from \$26 million in 2000. (Employer Exs. 56, 64, 70)
- Fund deficits in Wayne County have risen more than eight-fold since 2000, increasing from \$7,991,967 in 2000 to almost \$68.8 million in 2006. (Employer Exs. 50, 500-1, pp. 8-11, 51)
- State revenue sharing has dropped since 2000, falling well below what Wayne County estimated it would be in 2000. (Employer Ex. 54)
- The fiscal year 2005-2006 Fourth Quarter Report projects a \$1.81 million loss for the general fund for the year ended September 30, 2006. (Employer Ex. 50-1, p. 9)
- Wayne County's Child Care Fund obligations (a state-mandated expense) have nearly doubled since 2000 (significantly above estimate), rising from \$18.8 million in 2000 to \$35.2 million in 2004. (Employer Exs. 50-1, p. 24, 58)



- Wayne County's Employees Retirement System Pension Benefit Obligation, which was overfunded by approximately \$81 million in 2000, is now underfunded. (Employer Ex. 69)

The result of these factors is that the general fund balances in September 30, 2004 and 2005, respectively, were 2.9% and 3.3% of general fund obligations. These percentages are well below the recommended minimum levels of the Public Government Finance Offices Association which recommends a fund balance of 10%. For comparable purposes, the fund balance of Oakland County is 14.6%. Though there has been a slight increase in the fund balance in Wayne County between 2004 and 2005, the 3.3% would only fund County operations for about one to two weeks and does not leave much room for unanticipated expenses. This financial factor cannot be ignored.

Only two of Local 3317 proposed comparables have less fund balances, percentage-wise, namely, the City of Detroit and the State of Michigan. As noted, the State of Michigan, for its Troopers, had proposed a layoff. The City of Detroit Act 312 Panel Award has adopted proposals that would be less favorable to Local 3317 members than the last best offers of the County.

The summary discussed above concerning the County's fiscal condition has come about due to several factors, some which are unique to the County and others not. In 1979, the Headlee Amendment was passed. In 1994, Proposition A was passed. These proposals, combined, have placed a limit on the County's ability to levy property taxes. Proposition A creates a negative disparity between State Equalized Value, which used to be the basis upon which the County collected taxes, and taxable value, which determines property taxation currently under Proposition A. In addition, based upon the Headlee Amendment rollbacks, the County is presently operating at its maximum allowable tax levy rate. The County cannot increase its

operating millage without a Headlee override vote of the citizens. In today's economic climate in the area, this is not a likely prospect.

In making these observations concerning the tax levy Proposition A and the Headlee Amendment, the Chairman recognizes that most units of government in Michigan share the same problems, except some units still may not have reached their maximum allowable levy rate. Wayne County has.

Wayne County is experiencing a drop in state-shared revenue. Since 2001, the County has experienced on a yearly basis a drop of \$10 million in state-shared revenue. Since 2000, the County had received almost \$27 million less in state-shared revenue than it anticipated when it negotiated the 2000 Local 3317 contract. This factor cannot be ignored when assessing the finances of the County.

The County in 2000 anticipated that its 2004 obligation for the Child Care Abuse and Neglect Fund would be approximately \$21.6 million. The actual obligation was more than \$35.2 million, or almost \$14 million more than anticipated. Between 2001 and 2004, Wayne County spent approximately \$35.2 million more than anticipated on the state-mandated Child Care Abuse and Neglect Fund.

Health care benefits provided employees, including Local 3317 members, rose on an average from approximately \$4,900 per contract in 2000 to approximately \$8,400 per contract in 2005. In 2005, the County paid almost \$106 million in employee health care expenses. This expense is more than \$20 million a year than the County had anticipated in 2000. It is anticipated that the expenses will continue to increase.

The County had a budget stabilization fund which peaked at \$26 million in 2001, a year after the 2000 contract was negotiated with Local 3317. By the end of 2004, this budget fund

was depleted. In 2005, only \$3 million was deposited in this fund.

The 2003 financial audit for the County showed a balanced general fund; that there were 11 funds that closed with a deficit totaling \$35.6 million. The 2004 financial audit showed that the general fund sustained a loss of \$11.7 million. As noted, the budget stabilization fund in 2004 was also depleted. Ten funds closed with a deficit totaling \$53.7 million. The 2005 financial audit showed that the general fund had increased by \$4.5 million, but that eight funds closed with deficits totaling \$54.93 million. The fiscal year 2005-2006 fourth quarter report for Wayne County projects a \$1.81 million loss for the general fund for the year ending September 30, 2006. This same report also projects deficits in various other funds totaling \$68.8 million.

There was testimony that these deficits from other funds could impact the general fund in that the general fund could be called upon to subsidize the accumulated deficits.

There is another factor impacting the County finances, namely, the Governmental Accounting Standards Board (GASB) that has issued Statement No. 45 requiring governmental units to change the way they account for post-employment benefit liabilities. Many government units in Michigan, as does Wayne County, use a “pay as you go” methodology to fund benefit obligations to retirees such as post-retirement health care. In other words, the benefits are funded when the obligation became due. GASB 45 changes this procedure. The GASB 45 statement provides it should be implemented in stages, providing that governmental units with annual revenues greater than \$100 million must comply starting with the fiscal year beginning December 15, 2006. Governmental units with revenues between \$10 million and \$100 million must comply with GASB 45 starting with the fiscal year after December 15, 2007. This means that GASB 45 will apply to Wayne County beginning December 15, 2006.

GASB 45 requires government with post-employment benefit obligations (“OPEB”) of at

least 200 plan members to conduct an actuary evaluation of their OPEB obligation every two years. These obligations include medical, dental, hearing, vision and related benefits, post-retirement life insurance benefits, self-funded long-term disability benefits and legal benefits. The valuation comes up with a dollar figure which establishes what Wayne County would need to contribute to its OPEB plan to keep the fund fully funded. Wayne County must either come up with the funds to fund those funds or record its unfunded OPEB obligation as a liability on its financial records. This could impact the audit and the ability of the County to borrow money when needed for County operations.

There was testimony from Richard Walker, Wayne County Budget Director, that the preliminary estimate shows a future actuary liability for OPEB expenses of between \$81,750 and \$241,250 per contract for post-August 9, 2002 active and retirees and an actuarial liability of between \$103,500 and \$158,750 per contract for its pre-August 9, 2002 retirees.

When figures like this are bantered around, then the impact of GASB 45 on Wayne County can be significant. GASB 45 does present a challenge to the County's finances.

Not only has the County made the above claims concerning its financial condition and the reasons for same, but the County had taken certain steps consistent with its economic claims. It has reduced executive salaries by 14%. It has frozen non-essential hiring, reduced staffing and required most County departments to reduce their budgets by 5%. Ironically, in this regard, the Chairman notes that the County's Labor Relations Department has had staff reductions consistent with these steps.

Incidentally, there has not been a reduction in the number of staff in the Sheriff's Department or within Local 3317. The Sheriff's Department budget has continued to grow. Part of this growth has been because the Department has been able to obtain special federal and state

funds directed to law enforcement.

But these last comments do seem to recognize the testimony and exhibits presented by the County are more than just a product of advocacy. The figures are there. The County has acted consistent with its claimed need for financial restraint.

### **Summary of Financial Considerations**

There is little question that the economic climate in which this Act 312 has been conducted is not the same economic climate that existed when the parties reached their 2000-2004 Agreement. The economic climate has contributed to the financial constraints placed on the County. The Chairman also, when analyzing the economics of the County, has attempted to be on guard against accounting advocacy, recognizing that budgets are not scientific; that priorities may have to be readjusted to cope with the realities of collective bargaining.

The Chairman also recognizes that, in order to accomplish the primary economic goals of Local 3317, there must be some give and take because the economic realities cannot be ignored. The rising cost of health care just cannot be ignored. And the County apparently needs a contract that is reasonable so that the County can bring its economic house under control for the cost of living will continue to go up and employees will expect some economic improvements in the future.

All these economic crosswinds have been factors in the conclusions that the Chairman has reached with the Panel in setting forth the Awards that follow.

### **The Section 8 Designation**

The Panel has concluded that the issues that are being resolved by this Opinion and the following Awards, namely, Article 24 (Overtime); Article 34 (Uniform Clothing and Equipment Allowance); Article 37 (Insurance Program); Article 38 (Retirement); Article 39 (Economic

Improvements; Article 46 (Officer Pool); and Article 47 (Duration of Agreement) are all economic issues and are designated as such. Thus, the Awards are based upon the parties' Last Best Offers on these issues. Again, it is noted that this Opinion and the Awards do not address the issue of Long-Term Disability or Workers' Compensation. To repeat, these two issues will be addressed in a subsequent Opinion and Awards.

### **The Art of the Possible**

The art of the possible criteria is central to this dispute. As already noted, there are drawbacks to each party's comparables. What the comparables do establish is that the Last Best Offers that will be adopted by the Panel are consistent with the marketplace, regardless of the comparables that are used. But here is where the Art of the Possible comes in.

As pointed out, retirement is an important issue for Local 3317. It would seem that in order to address the retirement issue, as part of the Art of the Possible, Local 3317 should be prepared, particularly when faced with the *City of Detroit* Act 312 Award, to provide some modest relief in the health care insurance arena as well as to accept modest wage increases. The uniform, clothing and equipment allowance issue, though collateral, would seem to add to some economic improvements in the scheme of things. The County prevails on insurance and wages. Local 3317 prevails on retirement and the uniform, clothing and equipment allowance. This is what the parties would have negotiated if there was no Act 312 because the negotiations would have centered on the parties' respective primary interests.

The same analysis can be made as to the overtime and officer pool issues. Local 3317 is seeking an improvement in the overtime provision by making a Last Best Offer as to Article 24. The Department is seeking a new Article – an officer pool arrangement. Enter the Art of the Possible. Local 3317 obtains overtime. The County and the Department obtain the pool

arrangement. This would seem to be a reasonable trade-off. It would be the trade-off that the parties would make during bargaining.

The final issue is duration. This has been a long process. The parties, if left to their own devices, would have recognized this and would probably have agreed to Local 3317's proposition that this contract should continue through November 30, 2008, particularly when this Opinion and the Awards that follow are being issued in May 2007.

The Section 9 criteria are to be followed. The emphasis of the Art of the Possible is a recognition that this criteria serves as an umbrella in this situation for the other criteria. It is a recognition of the impact of the other criteria in this situation. Regardless of which comparables, the Awards are consistent with the marketplace, given the financial conditions in Wayne County – factors that would have led the parties to ultimately reach agreement if left to their own resources – thus, the Art of the Possible.

### **Discussion of the Issues**

#### **A. Article 24 – Overtime**

In their post-hearing briefs, the Advocates for the County, as to overtime, at pages 46-47 write:

Local 3317 is asking for *double time* for the seventh day worked in a given week. Not only that, but Local 3317 wants members to have the right to contribute vacation, sick or personal days toward days worked in a given week, such that a Local 3317 member could, receive seventh day status (and, hence, double time) even if he or she did not work the six preceding days.

This is overreaching. Exemplifying the *overall richness* of Local 3317's existing contract, the current Overtime article *already gives Local 3317 members overtime pay that goes beyond FLSA requirements*. Local 3317 members currently get overtime pay for working more than eight hours *in a given day*, which the FLSA does not mandate and which most workers don't get. *Union Ex 2, Section 24.01(B)*. Local 3317 members also currently get pay if they work a sixth day in a given week. *Union Ex 2, Section 24.01(C)*. This is another lucrative benefit that the FLSA

does not require and which most workers don't receive.

Local 3317 has submitted *no evidence* to support the proposed change, and has *not established* that any comparable unit receives the double time benefit it seeks. Indeed, the comparables *it proposes do not support* this lucrative benefit.

If the panel awarded this additional benefit to Local 3317, it would be yet another example of just how rich the overall contract ends up being, as well as the *impropriety* of Local 3317's attempt to simply compare its bottom-line salary with the bottom-line salary of its proposed comparables. *See, e.g., Tr. 4, pp. 231, 232, 233, 237, 348, 239, 243.* these are economic benefits that affect Local 3317 members' overall compensation, which employees of other municipalities *do not* enjoy. (Emphasis in original.)

Thus, the County maintains that the current Article 24 language as to overtime remain unchanged.

In pressing for a change in the overtime provisions and in support of its Last Best Offer concerning same, Local 3317's Advocate writes in his post-hearing brief:

Local 3317 has proposed a modification in the Collective Bargaining Agreement wherein double time the employee's regular hourly rate of pay will be paid for all hours worked on the second leave day provided the employee has forty (40) hours of straight time pay during the work week. The forty (40) hours of straight time pay will include payment for vacation, sick, holiday, PBL, and Worker's Compensation. The only restriction on receiving the double time pay for working the employee's second leave day would be if the employee called in sick and does not have a sufficient number of hours in his or her sick leave bank to be paid for the eight (8) hour day which the employee called in for a sick day.

The testimony at the hearing is that this Article is in conformity with the Civil Service Rules/Manual Personnel Procedure, the AFSCME Collective Bargaining Agreement, and the Governmental Administrators Collective Bargaining Agreement.

The Union's proposal is that if a Lieutenant who has Saturdays and Sundays off and has worked his or her forty (40) hours, or has received pay for said forty (40) hours and then is called in to work on Sunday, the Lieutenant will then be entitled to double time for having to work his second leave day.

In the event a Sergeant who has rotating leave days, such as Tuesday or Wednesday, is called in to work their second leave day



(Wednesday) then the Sergeant would be entitled to double time for having to work his or her second leave day. As long as the Sergeant had received forty (40) hours of pay during the week, which would include paid time off for sick leave, vacation, holiday, etc., the Sergeant will then be entitled to eight (8) hours of double time for having to work his or her second leave day. The Sergeant would not have to work their first leave day in order to be compensated at the double time rate.

The Chairman has already made his comments about the overtime issue in discussing the Art of the Possible. But there is one other reason to adopt the Last Best Offer of Local 3317 on this issue. There are internal comparables, namely, the AFSCME Collective Bargaining Agreement and the Governmental Administrators Collective Bargaining Agreement which support Local 3317's Last Best Offer on overtime. Such internal comparables cannot be overlooked.

It is for these reasons that the Panel will adopt the Last Best Offer as to Article 24, "Overtime," presented by Local 3317, which is set forth in the Awards.

**B. New Article – Officer Pool**

The County has presented as a Last Best Offer a new Article, referred to as Officer Pool. The County's rationale for the Officer Pool was set forth at pages 60-61 of its Advocates' post-hearing brief:

The record evidence establishes that overtime continues to be a *significant problem* for the WCSD, creating a tremendous non-budgeted liability for Wayne County. On average, Wayne County was forced to pay Local 3317 Sergeants \$12,500 each in overtime pay in 2005. *See Employer Ex. 85, 235, Table 33*. The overtime expense costs the County money in several ways, creates an immediate payroll liability, and feeds its pension liability. Overall, it represents a huge cost to Wayne County.

In order to get some relief from this tremendous expense, Wayne County offers the following proposal:

Notwithstanding Article 3.02 of this Agreement, the Sheriff shall have the right to utilize the services of temporary Sergeants and Lieutenants to fill absences or

vacancies created by a leave of any kind for any work assignments located in the Jail Divisions. All individuals selected for a temporary Sergeant or Lieutenant assignment must have either retired in good standing from a Wayne County law enforcement classification or been selected from an eligible list.

Temporary Sergeants and Lieutenants shall be entitled to statutory benefits provided by law and included in the bargaining unit covered by this Agreement for the sole purpose of paying union dues on a pro-rated basis. Temporary Sergeants and Lieutenants will be paid the hourly rate equivalent of the entry level Sergeant or Lieutenant rate in effect on the date of execution of this Agreement by the County Executive and will not otherwise receive or be eligible for any contractual increases, premiums, or other special duty pay. Temporary Sergeants and Lieutenants are "at-will" and shall in no way, at any time, gain regular status or attain any rights, benefits or privileges, contractual or otherwise, enjoyed by regular status employees represented by the bargaining unit.

Additionally, temporary Sergeants and Lieutenants shall not have access to the grievance or arbitration procedure contained in any Article or section of this Agreement.

Selections for temporary service assignments in the classification of Lieutenant pursuant to this Article shall first be made from full-time employees in the bargaining unit who are on the eligible list for promotion to Lieutenant.

This proposal will create a pool of officers (many of whom will be retired 3317 and 502 members) to work in the jails as temporary replacements for people who are on scheduled leaves of absence. Allowing Wayne County to pull workers from this officer pool instead of forcing it to call on Local 3317 and 502 members to work extra time at time-and-a-half or double time will save Wayne County unbudgeted money and allow it to pay for its economic proposals. (Emphasis in original.)

The Chairman appreciates that the above language is the language of Advocates and uses some flamboyant adjectives. Nevertheless, it is the explanation of the County's rationale for the Officer Pool. Local 3317's Advocate, at pages 9-10 of his post-hearing brief, presents the following rebuttal to the proposal:

## **ARTICLE 46 – TEMPORARY POOL**

The Union is adamantly opposed to the creation of a temporary pool of Sergeants and Lieutenants as this would have the effect of denying its members the opportunity to be temporarily promoted to the rank of Lieutenant and/or on a temporary basis be assigned additional overtime work when they have to fill in for a Lieutenant who is off on leave, or if the County refuses to fill a position by way of temporary promotion for circumstances requiring the position be filled with a member of the bargaining unit.

The only evidence offered by the County was the testimony of Personnel Director Timothy Taylor who stated that this pool was needed in order to eliminate overtime in the jail division.

The Union is fearful that this provision will be misused by the department and the County and that its members will suffer as a result of the implementation of the temporary pool.

Local 3317 is therefore requesting that the panel not award this provision.

Local 3317's rebuttal is indeed forceful. Nevertheless, as the Chairman explained in his discussion of the Art of the Possible and considering the County's financial circumstances, the adoption of the Last Best Offer of the County as to the officer pool would be consistent with the give and take of bargaining. Local 3317 obtains an overtime provision that it has sought. The County in turn obtains a method that may assist in addressing its overtime concerns. This is a compromise. It is a compromise that is consistent with the Art of the Possible.

It is for these reasons that the Panel majority will adopt the Last Best Offer of the County as to the officer pool, which is reflected in the Awards.

### **C. Article 34 – Uniform, Clothing and Equipment Allowance**

At pages 3-4 of his post-hearing brief, Local 3317's Advocate writes in support of the Local's Last Best Offer as to Uniform, Clothing and Equipment Allowance:

The Union is requesting modest modifications to this provision of the Collective Bargaining Agreement. In Section 34.04 the Union has requested that in the event the Sheriff re-establishes the Bomb Technician Unit and the officers trained and assigned to the Bomb Unit

will receive the equipment set forth in the contract under Section 34.40.

In Article 34, Section 34.12 the Union is requesting a one hundred dollar (\$100.00) increase in the cash uniform allowance wherein the uniform allowance would go from five hundred fifty dollars (\$550.00) to six hundred fifty dollars (\$650.00) effective December 1, 2005.

The Union takes the position that this request is justifiable based on inflation and the fact that uniforms and maintenance of uniforms has gone up tremendously since the expired contract went into effect on December 1, 2000. Therefore, a modest increase is appropriate.

In Article 34, Section 34.13 the Union is requesting an increase in the “gun allowance” from four hundred fifty dollars (\$450.00) to five hundred fifty dollars (\$550.00) payable on or before May 1<sup>st</sup> annually.

The last modification requested by the Union is the addition of Article 34, Section 34.15 wherein the County will pay the annual professional membership dues to the Deputy Sheriffs Association of Michigan in the amount of fifteen dollars (\$15.00) per employee on an annual basis. The Deputy Sheriffs Association of Michigan is a fraternal organization dedicated to improving the professional standards of Deputy Sheriffs across the State of Michigan. The Deputy Sheriffs Association was founded in 1978 and has been involved in the creation and enactment of legislation in Lansing directly affecting the professionalism of Deputy Sheriffs throughout the State of Michigan. The Deputy Sheriffs Association of Michigan’s achievements include the authoring and passing of the Secondary Road Bill which annually provides Wayne County with several million dollars to hire road patrol officers and to equip them. Most recently, in 2003, the Deputy Sheriffs Association was instrumental in having passed the Local Correction Officers Training Act, an act which requires that the local Sheriffs annually provide a minimum of forty (40) hours of in-service training for Sheriffs Department employees assigned to the jails.

In response, the County’s Advocates at pages 47-48 of their post-hearing brief, in opposition to

Local 3317’s proposed Last Best Offer as to Article 34 and advocating no change, write:

Article 34 is yet another example of the *overall richness* of the Local 3317 contract – a richness that cannot fully be appreciated by a simple article-to-article comparison with an allegedly “comparable” contract. Under Article 34, Local 3317 members currently enjoy a County-provided uniform and weapon, a generous \$550 a year cash payment for “uniform replacements” *regardless* whether anything actually needs to be replaced, *Union Ex. 2, Section 34.12*, and a \$500 a year gun allowance, *Ex. 2, Section 34.13(A)*.

Local 3317 is now asking for a *retroactive* \$100 per annum increase in these already generous cash uniform and gun allowances. Local 3317 is also asking Wayne County to contribute \$15 per member, per year toward member membership in the Deputy Sheriff's Association of Michigan.

Once again, Local 3317 has submitted *no evidence* to support this additional benefit. It has submitted *no evidence* that uniform costs have risen, that gun maintenance costs have risen, or that the already generous contractual allowances fall beneath what its proposed comparables receive. Indeed, Local 3317's *own exhibit* establishes that the allowances Local 33167 members *already receive* are as or more generous than *all* its proposed comparables, and the *retroactive* increases it seeks would take Local 3317 well beyond even the inappropriate police departments it offers as "comparables". *Union Ex 41(D), tab 7.*

Were the panel to award this extra economic benefit, it would be yet another example of how the parties collective bargaining agreement is *rich with perquisites*, and how it provides real economic benefits to local 3317 members that are not necessarily reflected in the kind of salary-to-salary, or article-to-article comparison undertaken by Nancy Ciccone. Stated differently, the inclusion of benefits such as this *must be factored into the equation when one attempts to compare one complete economic package to another.* In the words of the Chairman, "It's where you put the money."  
(Underscoring supplied by Chairman.)  
(Emphasis in original.)

The Chairman appreciates that when Local 3317's Advocate writes that the request represents "modest modifications," this is the language of an Advocate. The Chairman has also emphasized the last two sentences of the quotation as to Article 34 from the County's post-hearing brief. The reason the Chairman has done so is that these sentences tie in with the Chairman's observation as to the Art of the Possible when discussing the proposition that he is equating wages and insurance, a major economic emphasis of the County, with retirement, a major emphasis of Local 3317, and the Act 312 proceedings. This is not to say that Local 3317 did not resist the County's position on insurance and attempted to obtain wages over and above the County's Last Best Offer. The point is that in the view of the Chairman there had to be a give and take on the economic considerations – retirement, insurance and wages.

Recognizing this fact and considering the approach that the Chairman has taken in balancing Local 3317's concern over retirement along with the County's concern as to insurance and wages, the Chairman is agreeing that it is "where you put the money." There is a basis, because of inflation and other concerns, including the comparables, whatever they may be, in balancing the economic awards, for granting Local 3317's Last Best Offer as to Article 34. It is a balance of the interest of all parties, *i.e.*, the Art of the Possible.

It is based upon this rationale that the Award as to Article 34, Uniform, Clothing and Equipment Allowance, adopts the Last Best Offer of Local 3317.

**D. Article 37 – Insurance Programs**

Article 37 of the parties' Agreement addresses insurance, which includes health insurance, dental, life insurance and supplemental life insurance, as well as provisions concerning Long-Term Disability and Workers' Compensation. The provisions addressing Long-Term Disability and Workers' Compensation begin at 37.25. The Panel will not address in this Opinion and Awards the issues of Long-Term Disability and Workers' Compensation, but will do so at a later date in a separate Opinion and Awards. Thus, this Opinion addresses the insurance issues that are covered by Article 37, Sections 1 through 24. The Last Best Offers have been submitted on this basis.

The focus of the County on the insurance issues was on health care insurance plus addressing an issue concerning transitional light duty programs. The County wishes to make changes in the health care insurance program and provide for employee contributions toward health care insurance premiums.

Local 3317's position on the County's Last Best Offer is essentially to maintain the *status quo* except to embrace the County's proposal for Article 37, Section 37.05 (Traditional Light

Duty Programs). This position is explained at pages 4-5 of Local 3317's Advocate's post-hearing brief as follows:

The Union's position is that the County's request for financial contribution by way of sharing the cost of medical insurance, increasing co-pays for employees who utilize both the HMO and PPO programs, and an increase in the cost of prescriptions is not warranted. The presentation made by Wayne County as part of their economic proposals was such that the Panel requested a Motion for Summary Judgment.

The revisions made by the County from their original presentation to the Panel to their Last Best Offer also constitute an unjustifiable change in the method in which medical insurance, dental insurance and prescription insurance has been bargained by the Parties over the years.

Most importantly, it is the sincere belief of the Union that the County has not put forth creditable evidence that the County lacks the ability to pay the Union's demands. Primarily, the Union's demand is the maintaining of the status quo with the exception of Long Term Disability and Worker's Compensation programs.

The only provision of the Last Best Offer of the County which the Union could embrace is the fact that the inclusion of the Health and Welfare Plan does not take effect where it is in conflict with the provisions of the Collective Bargaining Agreement. Therefore, even if this Act 312 Panel were to award the employer's regressive insurance program, no changes could be made to the County's Health and Welfare Plan without negotiating any modifications with the Union.

Lastly, the Union does not object to the County's new proposal contained in Article 37, Section 37.05 (transitional light-duty programs).  
...

Insofar as the Union is requesting a status quo, the Union is modifying its position to include Section 37.05 as part of its Last Best Offer.

The central theme of the County's Last Best Offer as to insurance, and primarily health care insurance, is its presentation of evidence based upon national surveys that health care costs have increased between 12-16% between 2000-2004. These national surveys were acknowledged as being accurate by the Local's own witness, Kathy J. Snyder, Senior Vice

President, Pubic Employee Benefit Solutions, LLC (Tr. Vol. 2, pg. 292). The national trend was reflected in Wayne County. The health insurance costs for Wayne County employees, including Local 3317 members, rose 13.4% in 2001, 9.1% in 2002, 10.2% in 2003, 9.8% in 2004, and 10.1% in 2005. Another statistic presented was that the cost for participants or active employees in Wayne County has almost doubled since 2000, rising from \$6,700 per contract to over \$10,000 per contract in 2005.

As already noted, the County has reduced staff in departments other than the Wayne County Sheriff's Department. Yet, despite this reduction of staff, the County's health insurance obligation has risen from \$68.6 million in 2000 to over \$105 million in 2005, presenting a \$37 million increase, even though the County has fewer employees than it did in 2000.

These figures caused the County's Advocates in their post-hearing brief at page 51 to conclude:

... The rapid, unanticipated increase means that since 2000, Wayne County has been forced to spend approximately *\$73.6 l Million more in healthcare than it had anticipated* when it negotiated the last round of contracts in 2000. This represents a massive drain of Wayne County's budget.

Though written from an advocacy standpoint, the Chairman can hardly disagree with the conclusions noted in this statement. Furthermore, as the Chairman has already discussed, the County's finances are such that the impact of increasing health care insurance on the County's finances just cannot be ignored. It is for this reason that the County, in its post-hearing brief argues that there is a national trend for premium co-pay as a method to address the increasing cost to employers of health care insurance. The County also notes that Local 3317 also has vision insurance and a legal fund that is not always available to private industry employees.

Though the reference to national trends might set the stage for premium co-pay in the



face of rising health care costs, the key analysis is the public employer comparables for there are certain bargaining cultures that have developed in the public sector that may not be the equivalent to such cultures in the private sector.

In discussing the comparables, the Chairman did not definitively select either group or comparables, but only noted the potential limitations of adopting either set of comparables offered by the parties as accurate gauges.

It comes as no surprise to the Chairman that the County introduced as its Exhibit 222 a chart suggesting that all of its proposed comparables have premium co-pay. But for the sake of persuasion, the Chairman has decided to test the County's comparables on the issue of health care insurance with the comparables proffered by Local 3317. This test is revealing.

The Chairman starts with the premise that the cost of health care insurance is increasing, causing concern to both employers and employees. The employees, including Local 3317 members, wish to continue the health care benefit as being fully funded by the employer. The County is under a financial strain, contributed in part by the rising cost in health care. Using the five comparables proffered by Local 3317, one of which is a common comparable between the parties – Oakland County – there appears to be the beginning of a trend following a national pattern of some premium co-pay.

Go to Oakland County. Observe Tab 8 of Union Exhibit 45. The October 1, 2003 – September 30, 2006 collective bargaining agreement between the Oakland County Command Officers Association and the Oakland County Sheriff's Department, namely, Sheriff's Sergeants, Lieutenants and Captains, lists the employee contribution plan for premium co-pays for employees hired on or after January 1, 1997 and prior to May 31, 2003 and for employees hired after May 31, 2003. There is also a listing for employees hired prior to January 1, 1997. For

employees hired after May 31, 2003, there is a bi-weekly deduction for a Blue Cross Preferred Plan of a family of \$75.00, for POS \$60.00. For employees hired prior to January 1, 1997, the PPO Plan is a bi-weekly deduction of \$24.00. The POS Blue Choice Plan is \$16.00, presumably on a bi-weekly basis. This is in a county that one can take judicial notice appears to be in better financial straits than Wayne County.

This Oakland County phenomena also continues for retiree health care payments with the retiree sharing in the premium costs. The Michigan State Police, according to Exhibit 45, Tab 8, also share (at least the retirees do) in premium co-pay.

Recently, on March 8, 2007, the Act 312 Panel chaired by Richard M. Block in the *Detroit Police Officers Association and City of Detroit*, MERC Case No. D04 D-0919, at page 98, adopted the City's last best offer providing for 20% of the monthly premiums for single person, two person and family coverage to be paid by the officers for COPS Trust/US Health, Blue Cross/ Blue Shield Traditional, Health Alliance Plan, Blue Care Network, Total Healthcare. The City's last best offer as adopted also provided that as to Blue Cross/Blue Shield Community Blue, the contribution was 10% of the monthly premium.

Furthermore, at page 99 of the Detroit opinion, there is a provision that employees who retire after the effective date of the agreement are responsible for "the same co-premium calculation formula to determine amounts payable by retiree for the retiree and his spouse."

This suggests that there is a trend even among the comparables that Local 3317 is urging to provide for health care premium co-pays.

The Last Best Offer of the County is based on an hourly rate. In the Chairman's view, it is less than the premium co-pay in Detroit, has similarities to the premium co-pay in Oakland County. It also recognizes that retirees are expected to share in the premium co-pay as

apparently is the case in Detroit and in Oakland County. This apparently is true of the Michigan State Police.

The trend of premium co-pay has arrived in Southeastern Michigan and would suggest that the Last Best Offer of the County be adopted by the Panel. There is another reason for the Panel adopting the Last Best Offer as to insurance, namely, as discussed under the “Art of the Possible”, an important thrust of Local 3317 was the change in pension benefits. This does not mean that the Local must sacrifice all to obtain a needed pension change. There must be a balance here. The Local expects a wage increase. It expects a change in pensions. Then there are other monetary benefits seen in the contract such as uniform allowance and gun allowance. And, then, there is the pressure on the County’s budget.

When all these factors are weighed, to the Chairman and the majority of the Panel the conclusion is that the Last Best Offer on insurance presented by the County, 37.1 through 37.24, be adopted and the Awards will so provide.

**E. Article 38 – Retirement**

As has been previously suggested in this Opinion, retirement issues have been a central focus in these Act 312 proceedings between Local 3317 and the County with Local 3317 advocating changes in the County’s pension plans affecting the Local 3317 bargaining unit.

In the expired 2000-2004 Collective Bargaining Agreement, Article 38 provided for five different pension plans that individual members of Local 3317 could participate in. Plan #1, #2 and #3 are Defined Benefit Plans. Plan #4 is a Defined Contribution Plan. Plan #5 is referred to as a Hybrid Plan, which is a combination of a Defined Benefit and Defined Contribution Plan.

The following chart sets forth the number of Local 3317 members in the WCSD bargaining unit in each of the Plans:

<b>WAYNE COUNTY PLAN</b>	<b>CURRENT NUMBER OF PARTICIPANTS</b>
Plan #1	12
Plan #2	0
Plan #3	23
Plan #4	52
Plan #5	35

The thrust of Local 3317’s efforts is to provide disability pension provisions in all the plans, increase the multipliers in Plan #3 and Plan #4, and to permit purchase rights and transfer rights to Plan #5. Besides noting that Local 3317 “has not ‘costed out’ how much these increases will cost Wayne County,” (page 38, post-hearing brief), the County has raised concern over the funding of post-retirement health care benefits. The County further has noted that one of the common comparables, Oakland County, has closed its Defined Benefit Pension Plan in 1995; that the State of Michigan, which presumably would include the Michigan State Troopers, has closed its Defined Benefit Plan in 1997.

Among the County’s in-state comparables, the County notes that both Genesee County and Saginaw County have closed their Defined Benefit Pension Plans. What this suggests is that there is a trend to close Defined Benefit Plans.

Addressing Plan #1, the County’s Advocates at page 59 of their post-hearing brief noted:

... Plan 1 is an incredible benefit for the Local 3317 members who have it, and any consideration of either improving Plan 1 or letting more people into it would establish a retirement environment that is substantially more generous than the overall practice in corporate America, other public sectors and the comparables.

The County likewise suggests that, based upon Exhibits, in the private sector employers are moving toward Defined Benefit Pension Plans.

The response of Local 3317 is that, in Plan #3, the multiplier is below all of its comparables, including the common comparable of Oakland County; that there are employees

who wish the opportunity to switch to the Hybrid Plan #5. There was testimony from employees that suggested that, with the present multiplier in Plan #3 and the lack of the opportunity to be able to buy time and to transfer from Plan #4 to Plan #5, there has been an impact on the ability to retire.

The counter-prevailing argument between the parties has caused each to rethink their respective positions on the retirement issue. The County had to recognize the concerns raised by Local 3317 as just summarized as to retirement. Likewise, Local 3317 could not avoid the cost issue and its impact on the overall economic package. Nor could Local 3317 avoid the fact that GASB Statement No. 45 was a part of the new realism affecting the County's finances and the need to account for unfunded liabilities in the financial statements of the County.

Enter the Art of the Possible. The County continued to resist changes in the pension plans. Local 3317 recognized the County's concern over Plan #1 and the fact that none of its members were in Plan #2. Therefore, Local 3317 presented a Last Best Offer with no changes in Plan #1 and Plan #2.

As to employee retirement health care, Local 3317 presented a compromise. In discussing health care earlier under Article 37, Insurance, the Chairman noted that the County would continue providing for health care insurance benefits for retirees who were hired by the Department before the date of the execution of the Agreement that is the subject of this Opinion and Awards, subject to contributing toward the premiums as outlined in the County's Last Best Offer on health care insurance. As to employees "hired on or after the date of execution of this Agreement by the County Executive," Local 3317 has presented a Last Best Offer that provides that those employees not be provided employer-sponsored insurance or health care benefits upon retirement, but instead would participate in an employee health care benefit trust with the

contributions being made into the trust by both the employee and the employer. The provision also provided that employees, beginning on October 1, 2017, who had been in the health care benefit trust for at least 10 years, could “elect to withdraw from the trust and become eligible for post-retirement medical benefits then available to members of the bargaining unit hired immediately prior to the effective date of this Agreement.”

This is an attempt to address the GASB Statement No. 45. It represented the Art of the Possible because this post-retirement health care funding provision was coupled with the changes in the pension plans that Local 3317 vigorously advocated over objections from the County. It was an attempt by Local 3317 to address the County’s concern while attempting to persuade the County to address some of Local 3317’s concerns as to the pension plans within a reasonable cost sphere.

The explanation of the Last Best Offer of Local 3317 and some of the rationale for same was set forth at pages 6-8 of its Advocate’s post-hearing brief as follows:

The modifications to the various retirement plans are as follows:

Defined Benefit Plan #1 – No changes

Defined Benefit Plan #2 – No changes

Defined Benefit Plan #3 – Years one through twenty the multiplier was increased from 1.5% to 2.0%, years twenty through twenty-five was increased from 2.0% to 2.5%, all years of service beyond the twenty-fifth year was increased from 2.5% to 3.0%. A one time purchase of two years with a \$12,000.00 cap on the first year purchased. The second year would be the actuary cost. Yearly overtime, holiday banks, sick pay offs and vacation pay offs (rolled into) would be included in AFC, the same as DBP #1. Calculations would be based on best five (5) years.

Defined Contribution Plan #4 – Plan 4 members can purchase Hybrid Plan #5 using the calculated buy in price that was used for the last contract. Seventy-five percent (75%) duty disability plan provided all contributions plus outstanding loans are paid

back.

Hybrid Plan #5 – Years one through twenty the multiplier would be increased from 1.25% to 2.0%, all years after twenty the proposed multiplier would increase from 1.5% to 2.0%. Plan #5 would include all roll-ins, overtime, sick pay offs and vacation pay offs as described in DBP #1. Calculations would be based on best five (5) years of service instead of last five (5) years of service. Seventy-five percent (75%) duty disability plan. In order to help pay for the DB improvement 1% of the 3% match would be moved to the DB side and the County would also move the 1% to the DB side. The County would continue to match a 2% contribution made by the employee.

One of the major changes being made by the Union is to get equity for its members who are injured in the line of duty and are unable to return to work. Presently, Plan #4 members get absolutely no disability pension other than the ability to withdraw their Plan #4 money and receive medical insurance.

You could conceivably have two (2) officers injured during the same altercation and both are totally and permanently disabled. A Plan 1, 2, or 3 officer would receive a seventy-five percent (75%) duty disability pension with all disability pensions being equal to the disability pension provided to Plan 1 members. The Union's proposal would treat all members of the bargaining unit, irrespective of what Plan they are in, in the same manner as it relates to a duty disability pension. All members would receive a benefit equal to the Plan 1 disability benefit and the only change would be their average final compensation would be based upon their individual plans, i.e. one plan may have four (4) years AFC and another plan may have five (5) year AFC. However, with the exception of determining what the AFC is, all other benefits and calculations would remain the same as those contained in Defined Benefit Plan #1.

Lastly, the Union in order to meet the County's concerns about post-retirement health care has proposed a post-retirement health care trust which would require new employees, hired into the County after the effective date of this Act 312 award, to become members of the trust and contribute two percent (2%) of their annual wage to the trust and the County would have to contribute five percent (5%) to the trust. The employee, after having obtained ten (10) years of continuous employment with the County, would then be allowed to stay in the trust, opt out of the trust, receive all of his or her payments with interest and would be guaranteed County medical insurance upon retirement. The Union feels this is a reasonable approach to assisting the County in resolving their accounting problems established by the changes in the Professional Accounting Standards which all municipalities are required to adopt within the next three (3) years.

The Chairman, considering the County's financial ability, the need to address GASB 45, and the concerns over disability pension provisions as well as the multiplier, coupled with the Art of the Possible, concludes with the majority of the Panel that the Last Best Offer as to retirement proffered by Local 3317 should be adopted and the Awards shall so provide.

**F. Article 39 – Economic Improvements**

The economic improvements are centered around wages. Local 3317, during the Act 312 proceedings, submitted its Last Best Offer using percentage increases based on the average of the comparables that it had advocated. It is noted that the annual step increases in the Local 3317 contract have been compressed to three. This compression, along with various stipends, had been to the advantage of Local 3317 members employed by the WCSD.

The response of the County is that the comparables used by Local 3317, except for Oakland County, represent departments who primarily do not operate detention facilities or do not perform work that are the majority duties of Local 3317 members. In addition, the County maintains that such averages would have an impact on the County's finances, writing at page 55 of its post-hearing brief:

Fourth, with the unreserved fund balance in Wayne County barely above 3%, a wage increase by any of the so-called comparables could take Wayne County over budget, and jeopardize its statutory obligation to keep a balanced budget.

In their post-hearing brief, the Advocates for the County proceed to make comparisons with the County's Last Best Offer on wages with the County's proposed comparables, apparently designed to show that, as compared to Genesee County, Saginaw County, Cuhahoga County, Milwaukee County, Milwaukee County Corrections and Michigan Corrections, the County offer puts Local 3317 Sergeants and Lieutenants at the top in both entry and maximum pay.

In reviewing Exhibit 45 presented by Local 3317 and the charts offered therein as to the



top base wage comparisons for Sergeants and Lieutenants, there is a guide that forms. In 2003, the top rate base wage for a Sergeant in WCSD was \$63,976. The top rate for a Sergeant in Oakland County in 2003 was \$64,455, or a difference of \$479. In 2005, Oakland County Sergeants were receiving \$68,158 to Wayne County's \$65,256. There is no question that the spread was increasing between Oakland County and Wayne County. On the other hand, Wayne County Sergeants at the top rate have consistently received a higher base wage than the Michigan State Police. In 2005, at \$65,256, they were receiving more than the Michigan State Police's \$63,851.

As compared to Detroit in 2005, according to the Local 3317 chart, Detroit Sergeants at the top rate received \$64,052 as compared to Wayne County's \$65,256.

There is no question that Dearborn, Livonia and Oakland County pay more. But two of Local 3317's comparables, including Detroit which has financial problems, which the County says it also has, pay less. It is also interesting to note that, when comparing to Oakland County, Oakland County does not pay longevity for employees hired after March 15, 1984. Oakland County does not provide a shift premium or a uniform cleaning allowance or gun allowance. Shift premium, according to Local 3317, has a value of \$624.00. The gun allowance was \$450.00 in Wayne County. As a result of the Awards that follow, the cash uniform allowance will be increased to \$650.00 and the gun allowance will be increased to \$550.00.

The Lieutenant maximum pay is somewhat different in that, until 2005, the Lieutenant in the WCSD made at a higher maximum base rate more than a Lieutenant in the Oakland County Sheriff's Department. In 2005, Oakland County increased to \$74,974 as compared to Wayne County's \$74,185. In 2006, as compared to Wayne County's \$75,676, Oakland County was at \$77,223. But, again, Oakland County does not receive the uniform allowance, the shift

differential or the gun allowance which adds to the total compensation of a WCSD Lieutenant. Furthermore, in regard to the Michigan State Police, traditionally the State Police have paid more for their Lieutenants. But in the State Police, a Lieutenant usually is in charge of a Police Post.

Comparing Detroit through 2005, the County's Last Best Offer will continue to provide the Wayne County Sheriff Department Lieutenant, at the maximum rate, a greater base salary. Detroit's Lieutenants in 2005 received \$71,800 compared to the Last Best Offer as of October 1, 2005 in WCSD of \$74,185.

Even Local 3317's own comparables can be utilized to support the County's Last Best Offer.

There was one other interesting comparable as between Oakland County and Wayne County. In 2003, apparently recognizing that it was falling behind, Oakland County for Sergeants gave a 7.3% increase and for Lieutenants gave an 8.47% increase. None of the Local 3317 comparables since 2001, and certainly not in 2003, ever came near such increases. During that same year, Wayne County gave a 3% increase. It was near the average increase in 2003 of the comparables, excluding Oakland County. In 2002, when Wayne County was giving a 3% increase, the average increase of the Local 3317 comparables was 2.9%.

One could go on in analyzing these figures. But it seems that even using Local 3317's comparables, the Last Best Offer is more in line with today's economic realities, particularly as one considers the County's finances.

As another check, this Chairman considered the Act 312 Panel chaired by Arbitrator Block in the *Detroit Police Officers Association and City of Detroit*, Case No. D04 D-0919, issued March 8, 2007. The percentage increases represented by the Last Best Offer of the County is for 2004 – 0%, 2005 – 2%, 2006 – 1%, 2007 – 1%. These are approximate.

Now, compare Detroit. For 2004, 2005 and 2006, the percentage increase until January 1, 2007 is zero. On January 1, 2007, the award was 3%, July 1, 2007 2%, January 1, 2008 3%, and for the year beginning June 30, 2008, 3%. One could argue that Detroit represents a higher percentage (11.5%) than the Last Best Offer of the County in this case. But at least 3% of that amount is basically after this contract will expire. Furthermore, there are no increases during two years when there are increases under this contract. The WCSD increases in 2005 and 2006 have a compounding effect which is not the case in the Detroit award having zeros for 2005, 2006.

The Detroit award increases in 2007, after three years of zeros on an annualized basis, is 2.5%. Though the Block award deals with patrol officers, it is indicative of at least one award addressing factors influenced by the financial condition of the governmental entity involved.

It may be that Wayne County does not have as serious budget concern as Detroit. But the fact of the matter is, the County has a very low fund balance – around 3% -- has cut back on employment, required a 5% reduction in staff in most departments, and has had its executives take a 14% pay cut. Such actions do not sound as if the County is pleading financial distress solely for the purpose of this Act 312. Rather, it is a recognizable concern.

Then the Chairman comes to the bottom line. Even though there are concerns about the percentage increases, the Chairman recognizes that there are other forms of compensation in the Local 3317 contract such as the increase in uniform and gun allowances. The Chairman also notes that this contract provides a major improvement in the pension – an issue that was central to Local 3317's negotiations. These changes in the pension had an economic cost. When weighing the economic improvements and the contract as a whole, the Art of the Possible required a balance.

The analysis here of the economic improvements were made in light of other economic costs associated with the contract that will result from this Act 312 and particularly the pension costs. The balance as tested against the comparables and the totality of the contract, including other economic benefits in the contract, caused this Chairman, with a majority of the Panel, to adopt the Last Best Offer of the County as to economic improvements, including wages, as set forth in the Award.

**G. Article 47 – Duration of Agreement**

The parties are in dispute as to the duration of the Agreement. The Chairman notes that the Wayne County/Local 3317 Collective Bargaining Agreement for 2000-2004 expired on November 30, 2004. This Opinion and the Awards that follow are being issued in May 2007. The County in effect is suggesting that the Collective Bargaining Agreement expire September 30, 2007. This has been a long Act 312. By the time this Opinion and Awards is issued, the parties would be immediately back in negotiations without a break if the contract were to expire September 30, 2007. After a long 312 proceedings, it would seem that the parties would need time to recuperate and review their respective positions as well as to assess the economic climate. There should, under these circumstances, particularly since the County will be negotiating with other bargaining units, be some period of time for reflection, preparation for the future, and the stabilization of labor relations.

The County Advocates in their post-hearing brief at pages 61-62 advance the following argument in favor of a three year contract:

Health care costs rose rapidly – well beyond expectation – during the four-year life of the 2000 contract. The unexpected increases in this expense contributed greatly to the difficult financial situation in which Wayne County currently finds itself. This is established, in part, by the current condition of the County’s pension fund, the rapid depletion of the County’s budget stabilization fund, and the large

increase in employee expense *despite* headcount reduction, lowered departmental budgets and a significant 14% salary reduction for many Wayne County employees.

Since health care costs are largely beyond Wayne County's control, and where Wayne County has no way to accurately predict how much or how rapidly these costs will increase, Wayne County submits that the contract length should be reduced from four years to three. Shortening the life of the contract will give Wayne County the ability to base its obligations and health care commitments on more current health care cost data, and will allow Wayne County to more timely react to the problem that could exist if health care costs get even worse.

Shortening the life of the contract will also prevent the negative financial circumstance faced by the prolonged Act 312 proceedings, which Local 3317 has had no real incentive to hasten because, unlike other Wayne County employees, Local 3317 members have continued to receive their step increases.

In addition, economic indicators and experts on the regional economy suggest that the economy in Michigan will get worse. Foreclosures are predicted to rise, unemployment is expected to remain high, housing prices are expected to keep falling and, with the massive layoffs announced at General Motors, Ford and Chrysler, population will continue to decline. These factors add up to a tenuous financial future for Wayne County. Again, with the economy in an apparent free fall, Wayne County submits that the contracts should be shorter, not longer.

These are apt comments. Nevertheless, considering that by the time this Opinion and Awards is issued in early May 2007, it is not practical to have a contract expiring in September 2007. Furthermore, the Award as to health care certainly gives the County some relief as to health care costs.

At page 9 of his post-hearing brief, the Advocate for Local 3317, as to Article 44, "Duration of Agreement," supporting a four year agreement as the Local's Last Best Offer, writes:

The Union is requesting a four (4) year agreement which would commence on December 1, 2004 and expire on its own terms on September 30, 2008. The September 30, 2008 date is requested in order that the contract expire at the end of the County's fiscal year and not November 30<sup>th</sup> which used to be the expiration date of the County's fiscal year.

The Union has also proposed that in the event a County bargaining unit obtains a benefit substantially greater than the wages, hours and conditions of employment awarded by this Arbitration Panel that Local 3317 would likewise, be given the enhancement. This clause is required in light the fact that Local 3317 is the first of the County Unions to reach an agreement and/or have an Act 313 Panel issue an award. The other bargaining units representing County workers need to be negotiating within the same time period.

Therefore, the inclusion of this type of a provision is more than warranted.

For reasons already articulated, the Chairman agrees, as does a majority of the Panel, that the Agreement should expire on September 30, 2008, which actually is two months shy of four years, recognizing that the previous contract expired on November 30, 2004.

The Chairman has indicated that the Panel will adopt the Last Best Offer on Duration of Agreement proposed by Local 3317. But, in doing so, the Chairman has an additional comment.

The Last Best Offer, as noted in the above quotation from Local 3317's Advocate's post-hearing brief as to duration provides in 44.04 as follows:

Subsequent to the effective date of this Agreement, and during the period it remains in effect under section 47.01 above, should another County-associated bargaining unit negotiate a new collective bargaining agreement for the 2004 contract period that contains an aggregate level of retirement, health care, and base wage benefits that exceeds that which is contained in this Agreement, AFSCME Local 3317 will be granted the greater level of benefits effective the same date as the effective date of the greater level of benefits.

The Chairman appreciates the reason why Local 3317 has included Section 44.04 in its Last Best Offer since Local 3317 apparently is the first bargaining unit in the County that will have reached a Collective Bargaining Agreement during the period at issue here. But, having said this, the Chairman cautions that nothing should be read into the adoption of 44.04.

It is based upon this analysis that the Chairman joins with the majority of the Panel in

adopting the Last Best Offer of Local 3317 as to Duration of Agreement.

### **Final Comment**

The Union and County Panelist do not agree with some of the positions taken by the Chairman. However, on balance, the Awards that follow are fair and equitable under the circumstances. The Union and County Panelist sign these Awards for the purpose of having a unanimous finding of the Panel.

The Awards that follow represent the Last Best Offers of the respective parties, as adopted by the Panel, as discussed in this Opinion by the Chairman. These Awards shall be incorporated into the Collective Bargaining Agreement between Wayne County Sheriff's Sergeants and Lieutenants Local 3317, AFSCME Council 25, AFL-CIO and the County of Wayne and the Wayne County Sheriff. The shaded areas of the Last Best Offers represent new contract language. The unshaded language represents language continued from the 2000-2004 contract. The strikeouts in the Last Best Offers represent language not carried over from the 2000-2004 contract.

In the event there is a discrepancy between the Last Best Offer and the Award, the language contained in the parties' Last Best Offers will control and be the Awards. The Awards of the Panel follow.

### **AWARDS**

1. The Panel adopts the settlements reached between the County and Local 3317 during the Act 312 hearings, namely, Article 12 (Settlement of Disputes); Article 13 (Disciplinary Procedures); Article 14 (Administrative Review and Determination Hearing); Article 21 (Transfers); Article 22 (Promotions); Article 27 (Annual Leave); Article 28 (Sick Leave); Article 40 (Differential Pay); Article 42 (Employee Safety) and Article 43 (General

Provisions). In addition, the Articles discussed at pages 4-5 of this Opinion as being settled as a result of the remand following the pre-trials are hereby incorporated as Awards to be included in the contract at issue.

2. The Panel adopts the Last Best Offer of the County on new Article XX as follows:

Article XX -- Temporary Pool.

XX.01

Notwithstanding Article 3.02 of this Agreement, the Sheriff shall have the right to utilize the services of temporary Sergeants and Lieutenants to fill absences or vacancies created by a leave of any kind for any work assignments located in the Jail Divisions. All individuals selected for a temporary Sergeant or Lieutenant assignment must have either retired in good standing from a Wayne County law enforcement classification or been selected from an eligible list.

Temporary Sergeants and Lieutenants shall be entitled to statutory benefits provided by law and included in the bargaining unit covered by this Agreement for the sole purpose of paying union dues on a pro-rated basis. Temporary Sergeants and Lieutenants will be paid the hourly rate equivalent of the entry level Sergeant or Lieutenant rate in effect on the date of execution of this Agreement by the County Executive and will not otherwise receive or be eligible for any contractual increases, premiums, or other special duty pay. Temporary Sergeants and Lieutenants are "at-will" and shall in no way, at any time, gain regular status or attain any rights, benefits or privileges, contractual or otherwise, enjoyed by regular status employees represented by the bargaining unit. Additionally, temporary Sergeants and Lieutenants shall not have access to the grievance or arbitration procedure contained in any Article or section of this Agreement.

Selections for temporary service assignments in the classification of Lieutenant pursuant to this Article shall first be made from full-time employees in the bargaining unit who are on the eligible list for promotion to Lieutenant.

3. The Panel adopts the Last Best Offer of Local 3317 on Article 24, "Overtime," as follows:

ARTICLE 24 – OVERTIME

24.01

Time and one-half the employee's regular hourly rate of pay shall be paid for



work performed under the following conditions:

- A. All hours of work in excess of eight (8) hours in one (1) day.
- B. All hours of work in excess of forty (40) hours in any one (1) work week, except as noted in Sections 24.03 through 24.05.
- C. All hours of work on the sixth (6<sup>th</sup>) day worked of the member's work week.
- D. Upon mutual agreement ~~between the Union and the Employer,~~ the requirements set forth above in 1A and 2B may be waived to allow shortened work week scheduling.

#### 24.02

Double time the employee's regular rate of pay for all work performed on the ~~seventh (7<sup>th</sup>) second leave~~ day of the employee's work week; ~~provided the employee worked the preceding day~~ provided the employee receives forty (40) hours of paid time for the work week (vacation, sick, holiday and PBL days shall be included as hours worked).

#### 24.03

An employee's assigned work hours shall not be changed once the monthly schedule has been posted, except by mutual agreement between the employee and the Division Commander or in the event of a declared Departmental emergency or upon twenty-four (24) hours notice to the employee scheduled for training to accommodate training programs.

#### 24.04

An employee's regularly scheduled off day shall not be changed for the purpose of avoiding payment of overtime.

#### 24.05

An employee's claim for overtime pay under two (2) or more provisions of this Agreement shall receive only the greater of these benefits.

#### 24.06

Overtime hours shall be divided as equally as possible among employees of the same classification within each Division. An up to date listing showing overtime hour credits will be posted in a prominent place within each Divisional Shift Command Office. Whenever overtime is required:

- A. Initially, overtime will be offered on a seniority basis from a listing developed by the Divisional Steward. Thereafter, the Command Officer with the least number of overtime credits will be called first and offered

the assignment.

- B. Should the offer be declined or other assignments exist, the Command Officer with the second least overtime credits will be called, and so on until the list is exhausted.
- C. Should volunteer overtime be refused by those offered, Command Officers within the appropriate classification may be ordered to work on a reverse seniority rotational basis. Such order to work overtime may only be issued by the next higher rank officer to the classification to be worked.
- D. All overtime worked four (4) hours or more will be credited in the overtime book to the Sergeant working the overtime, regardless of where the overtime is worked.
- E. It is expressly agreed between the parties that an employee shall not be ordered to work in excess of fifty-six (56) hours in one work week.

#### 24.07

The overtime listing shall be prepared on an annual basis by the Division Steward (first schedule period in March) and shall be updated by the Command Officer making the overtime assignment. Overtime credits equal to the hours of overtime to be worked will be added to those listed for the member receiving the assignment.

- A. For the purpose of this Article, employees who refuse overtime or who are not available for assignment shall have an equal number of overtime hour credits added to their total as if they had worked.
- B. Command Officers newly assigned or returning from Workers' Compensation will be credited with overtime credits equal to the maximum worked by the same classification in the Division. Thereafter, overtime may be offered once the returning employee's overtime credits become least in the Division.

#### 24.08

It shall be the responsibility of the Division Steward to audit the posted overtime list and notify the Division Commander of apparent inequities. In the event an employee is missed for overtime, the Shift Commander will place the employee's name on a "missed overtime listing" and offer the employee the next available opportunity to work overtime.

#### 24.09

All overtime shall be paid in cash not later than the pay period following the period in which it was earned.

24.10

There shall be no compensatory time earned or credited in any way for any purpose by any employee in the bargaining unit on or after September 26, 1995, except for employees assigned to the Drug Enforcement Units or any other unit covered by a specific Letter of Understanding.

24.11

All grievances concerning Article 24.06 through 24.10 will be initiated at Step 1 of the Grievance Procedure (Article 12) and the Commander shall make every effort to resolve the grievance at this step.

24.12

Employees may request use of Compensatory time and shall be permitted to use such time within a reasonable period after making the request if the use of the Compensatory time does not unduly disrupt the operations of the Department. However, management reserves the exclusive right to mandate use of such Compensatory time upon forty-eight (48) hours notice to the employees, unless otherwise agreed between management and the affected party. The parties intend to comply with the provisions of the FLSA. In no event shall Compensatory time be factored into AFC for retirement purposes. This paragraph supersedes any provisions in Article 24.02 of this Agreement.

4. The Panel adopts the Last Best Offer of local 3317 on Article 34, "Uniform, Clothing and Equipment Allowance," as follows:

34.01

Each new employee shall be furnished with a complete uniform, providing said employee has not been previously issued the required uniform in accordance with the specifications and standards established by the Sheriff ~~or Airport Director~~.

34.02

The following uniform items unless eliminated or replaced by the Sheriff ~~or the Airport Director~~, after consultation with the Uniform Committee, shall be of new issue and will be issued to employees in the Department who have not previously received each item:

- A. GARRISON STYLE HAT 1
- B. WINTER FUR CAP 1
- C. (RAIN COVERS FOR ABOVE)
- D. UNIFORM TROUSERS 5
- E. LONG SLEEVE SHIRTS 5
- F. SHORT SLEEVE SHIRTS 5
- G. ALL SEASON JACKET 1
- H. BADGE 1

I.	CAP SHIELD	1
J.	COLLAR BRASS (SET)	1
K.	RAINCOAT	1
L.	BLACK BASKETWEAVE LEATHER (COMPLETE SET)	1
M.	BLACKMILITARY SHOES (PAIR)	1
N.	POLICE TYPE TIE CLASP	1
O.	NAME PLATE	1
P.	WHISTLE W/CHAIN	1
Q.	BELT	1
R.	HANDCUFFS (SET)	1
S.	9 MM AUTOMATIC WEAPON (SEE 34.04 AND 34.10 BELOW)	1

#### 34.03

The Sheriff's Department ~~or the Airport Police Division~~ shall issue a 9mm automatic weapon (S.I.G. Sauer) to each employee in lieu of a .357 caliber revolver provided said weapons are available from the manufacturer. Each employee shall be required to turn in their .357 caliber revolver and must have completed a S.I.G. Sauer Weapon Training Course in order to receive the replacement weapon.

#### 34.04

~~In the event the Sheriff establishes a Bomb Technician Unit, The following items shall be purchased issued by the Employer for the Bomb Technicians upon successful completion of an approved bomb technician training program:~~

- A. Bomb Suit
- B. Anti Static Uniforms (shirt, pants, shoes, hats per Bomb Technician)
- C. (Pocket) Bomb Technician Survival Tool Kits (1 per Technician)
- D. Personal Tool Kits to include:
  - 1. Tool Box
  - 2. Dearmer (water cannon)
  - 3. Assorted Screwdrivers
  - 4. Assorted Pliers
  - 5. Assorted Clamps
  - 6. Tape (nylon-filament, electrical vinyl and fabric)
  - 7. Hacksaw
  - 8. Diagonal Cutters
  - 9. Parachute Cord 300'
  - 10. Grapplng/Treble Hooks
- E. Paging Beepers
- F. Up-to-date Explosive Manuals and Training Brochures
- G. Up-do-date Hazardous Chemical Manuals

34.05

Upon promotion each employee shall be furnished all other uniform items in accordance with specifications and standards as determined by the Sheriff ~~or the Airport Director~~ to be required in the performance of the job function.

34.06

If an employee requests a transfer to a different position in accordance with the provisions of this Agreement, their transfer shall not be delayed or denied due to the non-availability of uniform and equipment as determined by the Sheriff ~~or the Airport Director~~ to be required in the performance of the job function unless the lack of equipment would be life-threatening. The Sheriff ~~and the Airport Director~~ shall maintain a sufficient inventory for employees in their respective divisions to properly uniform and equip a member promoted or transferred, and shall have available for issue all necessary items and equipment required in riot duty, or other emergency situations, in which the employee may be directed to participate.

34.07

If the basic clothing provided by the Employer is changed in type, color or style by order of the Sheriff ~~or the Airport Director~~, the Employer will bear any replacement costs.

34.08

An employee who separates from County service shall return all County-issued items within three (3) workdays of separation, excluding retiring employees as specified in Articles 34.09 and 34.10. For employees on approved medical leaves of absence, the Sheriff's Department ~~or the Airport Police Division~~ will send prior written notice along with a list of the County-issued items required to be returned. Employees failing to return County property shall have appropriate payroll deductions taken to cover the replacement value of the items.

34.09

An employee, upon retirement, shall return to the Police Property Room the following items: Riot Helmet, complete set of Leather, Night Stick, Badges, Cap Shield, Handcuffs, and Service Weapon. Other clothing items of issue need not be returned, but the employee may be required to present them upon demand prior to final clearance.

34.10

- A. Employees shall be allowed to buy their current service weapon for twenty-five dollars (\$25.00) upon retirement from the Department unless denied for cause.
- B. Any current employee that forfeited two hundred fifty dollars (\$250.00) of his or her uniform voucher and declined in writing to participate in the

S.I.G. Sauer Weapon Training Course shall be fully reimbursed.

- C. Employees promoted into the Bargaining Unit after September 30, 1994 shall be entitled to receive S.I.G. Sauer Weapon Training by automatically forfeiting three hundred fifty dollars (\$350.00) from either their next uniform allowance payment or uniform voucher credit. Command personnel submitting a request for such training within the posted announcement period shall be given preference. Employees shall be allowed to buy their S.I.G. Sauer Weapon for twenty-five dollars (\$25.00) upon retirement if he or she successfully satisfies training requirements and is not denied for cause.
- D. New employees promoted into the Bargaining Unit after September 30, 1994 may decline in writing to participate in the S.I.G. Sauer Weapon Training Course. If forfeited, the three hundred fifty dollar (\$350.00) uniform allowance payment or uniform voucher credit shall be reimbursed. An employee declining to participate in the S.I.G. Sauer Weapon Training Course shall be allowed to buy his or her Non-S.I.G. service weapon for twenty-five dollars (\$25.00) upon retirement from the Department unless denied for cause.

#### 34.11

Articles of personal apparel damaged or destroyed during the course of an employee's assigned police duties, as determined by the Sheriff or the Airport Director, shall be replaced at the expense of the County. All said replacements shall be new uniform items and personal apparel.

#### 34.12

On or before March 1<sup>st</sup> and October 1<sup>st</sup> annually, each employee shall be given a cash payment of five hundred dollars (\$500.00) for uniform replacements and/or maintenance of said uniforms in accordance with the specifications, standards, and regulations established by the County. Effective October 1, 2001, the cash uniform allowance will be five hundred fifty dollars (\$550). Effective December 1, 2005, the cash uniform allowance will be increased to six hundred and fifty dollars (\$650.00).

#### 34.13

- A. Effective upon the date of execution of this Agreement by the County Executive, All full time employees required to carry firearms shall, upon qualifying annually with their duty weapon, be paid a qualifying allowance of ~~four hundred fifty dollars (\$450.00)~~ five hundred and fifty dollars (\$550.00) on or before May 1<sup>st</sup> annually if on the payroll at the time of payment. Master shall be paid an additional fifty dollars (\$50.00).
- B. Employees who do not qualify with their Department approved duty

weapon during the annual qualification period shall not receive the gun allowance.

- C. Employees who retire within the qualifying period who have qualified shall be paid a pro-rated payment at the time of separation based upon the length of active duty within the qualification period.

34.14

If this contract is extended by mutual agreement of the parties, for the purpose of Collective Bargaining, all allowances, described in this article shall continue to be paid when due.

34.15

The Employer will contribute \$15.00 per employee each year toward the annual membership fee for any full-time, regular status employee of the bargaining unit who elects membership in the Deputy Sheriff's Association of Michigan (DSAM).

5. The Panel adopts the Last Best Offer of the County on Article 37, "Insurance Programs," Sections 37.01 through 37.24. The remaining provisions of Article 37 beyond Section 37.24 will be subject to a separate opinion and award, as noted in the Opinion. The provisions of Article 37 are adopted by the Panel and awarded herein are:

37.01

Except where inconsistent with the express terms of this Agreement, the *Wayne County Health and Welfare Benefit Plan*, effective December 1, 1990 ~~2006~~, is hereby incorporated by reference.

37.02 Medical Insurance

*DELETE THE EXISTING LANGUAGE UNDER ARTICLE 37.02 (PARAGRAPHS A THROUGH F) AND REPLACE WITH THE FOLLOWING:*

A. Effective upon the next open enrollment following execution of this Agreement by the County Executive, qualified employees will be eligible to select a health care plan among the available options listed below:

1. Health Maintenance Organization (HMO)
2. Preferred Provider Organization (PPO)
3. Traditional Plan

B. Prescription drug coverage will also be provided for qualified employees

enrolled in an available medical plan, subject to graduated co-payments based on the class of drug prescribed in accordance with the *Wayne County Health and Welfare Benefit Plan*.

C. Active employees will be required to contribute toward the cost of healthcare as an hourly rate for the 2006-07 and 2007-08 plan (fiscal) years based on the following schedule:

HOURLY CONTRIBUTION BASED ON 2080 ANNUAL HOURS	AFTER-TAX HOURLY CONTRIBUTION	ESTIMATED PRE-TAX HOURLY CONTRIBUTION
PPO or HMO Rates (without Rx)	\$0.45	\$0.32
Traditional Rates (without Rx)	\$1.34	\$0.94
Prescription Drug Rates	\$0.10	\$0.07

Hourly contributions for each plan after the 2007-08 plan year shall be increased/decreased at the same rate at which reported monthly illustrative rates or premiums increase or decrease, not to exceed ten percent (10%) over the previous plan year's contribution rate for the specified plan.

Contributions shall be made based on a 2080-hour work year and paid out of the first two (2) pays of each month. Employees on any type of leave of absence who continue to be enrolled in an Employer-sponsored healthcare plan shall be required to make the monthly contribution in order to maintain enrollment in the plan regardless of the number of hours actually paid or type of time used (e.g., regular, annual, sick, etc.). Overtime hours shall not be used to calculate contributions.

D. Employees who retire from County service who are eligible for post retirement health care benefits shall participate in the same health care plan options, coverages, co-pays, deductibles, etc. as active employees covered by this, or any subsequent, collective bargaining agreement.

Employees retiring under the provisions of this Agreement shall make monthly contributions toward the cost of medical and prescription drug benefits based on the average monthly premiums and/or illustrative rates ("rates") of the medical and prescription drug plans available to retirees. The average monthly rates for the separate medical and prescription drug plan categories shall be calculated by averaging the single-person, two-person and family rates of each available plan resulting in an average monthly plan rate for each available plan. The average monthly plan rates for the PPO and HMO medical plans shall then be further averaged together to reach the standard average monthly medical plan rate.

Retirees enrolling in either the PPO or the HMO plan option shall contribute ten percent (10%) of the standard average monthly medical plan



rate in addition to ten percent (10%) of the average monthly prescription drug plan rate. Retirees electing to enroll in the Traditional plan option shall contribute an amount equal to retirees enrolled in the PPO or HMO plan option plus the monthly rate difference between the standard average monthly medical plan rate and the average monthly Traditional plan rate.

Contributions toward the cost of retiree healthcare shall continue at the appropriate rate as described above until the first of the month after the retiree is within five (5) years of eligibility for Medicare due to age. The rate in effect at that point in time shall thereafter be the maximum monthly contribution rate for that retiree and shall be assessed until such time as the retiree and all covered dependents have enrolled in Medicare. Contributions toward health care costs shall not be assessed against the retiree during months when all covered members are enrolled in Medicare.

E. Qualified employees may select only one health care plan option. Selection and enrollment of a qualified employee and his or her eligible dependents in an available health plan will remain the responsibility of the employee.

Health care coverage for eligible dependents will be in accordance with the terms and conditions outlined in the *Wayne County Health and Welfare Benefit Plan*.

Spouses who are eligible for primary medical coverage through another Employer shall not be eligible for primary coverage through Wayne County.

F. All new employees, rehired employees, reemployed and reinstated employees are required to participate in the plan of the County's choice for at least one year. Participation will begin the first of the month following the effective date of active service and will continue without election until completion of one year in the mandatory plan. This subsection (37.02(G)) will not apply to terminated employees reinstated through arbitration who were enrolled in an available plan prior to termination.

G. In the event Federal legislation which provides health care coverage for employees covered by this Agreement is enacted into law during the term of this Agreement, the parties agree to renegotiate the provisions of this section as needed upon request.

### 37.03 **Opting-Out of Health Care Benefit Opt-Out Program**

At the County's Employer's option, a Health Care Benefit Opt-Out Program may

be offered as follows: in accordance with the terms and conditions outlined in the *Wayne County Health and Welfare Benefit Plan*.

**DELETE THE REMAINDER OF SECTION 37.03.**

37.04

**DELETE THE EXISTING LANGUAGE UNDER ARTICLE 37.04**

**37.1804 Coordination of Benefits**

The Employer will continue to coordinate hospital, medical and dental benefits with insurance carriers of spouses and/or dependents of Wayne County active employees. It is a requirement that All employees and retirees must provide Risk Management notify the Benefits Administration Division with current information as to of any changes, including but not limited to, in marital, dependent, employment and insurance status. Coordination of benefits under the MVF II option will be conducted under the policy known as "Pursue and Pay".

**37.05 TRANSITIONAL LIGHT DUTY PROGRAM**

Effective upon execution of this Agreement by the County Executive, the County will provide a transitional light duty program for Sergeants & Lieutenants on Workers Compensation, Long Term Disability, or other temporary restriction(s). A committee consisting of the Sheriff, the Director of the Personnel/Human Resources, and the Local President shall meet to identify transitional light duty positions. Such positions shall be reviewed annually by the committee and adjusted, if necessary. Transitional light duty positions shall not be the subject of promotion, demotion, transfer, or displacement.

**37.0506 Optical Program**

The Employer shall continue to provide for active employees with a self-insured optical reimbursement program with a one hundred twenty-five dollar (\$125.00) maximum benefit level for each family member covered under hospital medical benefits (equal to MCF II, HMO or PPO) an available health care plan contained in this Agreement at the Employer's expense. The one hundred twenty-five dollar (\$125.00) benefit will be restored every two (2) years, on December October 1 of each odd numbered year. Benefits shall be limited to prescription lenses, prescription contact lenses, eye glass frames, vision examinations by licensed optometrists, opticians and ophthalmologists. Eligible employees and their dependents may obtain optical services from any licensed optometrist, optician, or ophthalmologist during the two (2) year period and receive the one hundred twenty-five dollar (\$125.00) reimbursement allowed by the Employer.

37.06

***DELETE THE EXISTING LANGUAGE UNDER ARTICLE 37.06***

37.07           **Dental Insurance**

***DELETE THE EXISTING LANGUAGE UNDER ARTICLE 37.07 AND  
REPLACE WITH THE FOLLOWING:***

The Employer will provide at least one (1) dental plan, including a DMO dental plan option provided by Golden Dental, for each eligible active employee in the Bargaining Unit and his or her qualified dependent(s) in accordance with the terms and conditions outlined in the *Wayne County Health and Welfare Benefit Plan*.

~~37.08~~           **~~Dental Maintenance Organization~~**

***DELETE THE EXISTING LANGUAGE UNDER ARTICLE 37.08***

37.09~~08~~           **Life Insurance**

The Employer shall continue to pay the full premium for \$25,000 of group life insurance for each full-time permanent employee within the Bargaining Unit.

37.10~~09~~

Supplemental life insurance is available under a group plan at the option of the employee. Supplemental life insurance as currently offered will continue using a flat rating. The County may offer age rated supplemental life in lieu of flat rated at its option.

37.11~~10~~

The Employer shall pay the full premium for Fifty Thousand (\$50,000) of life and dismemberment insurance for employees assigned to the S.W.A.T. detail and bomb squad detail who actually handle potentially explosive devices and the canine unit members.

37.12~~11~~

Except for employees provided for in Article 37.11~~10~~, any employee who is killed in the line of duty shall have his or her County provided life insurance doubled.

37.13~~12~~

The Employer shall provide \$5,000 of life insurance to employees that retire from this Bargaining Unit on or after the effective date of this contract.

37.14~~13~~      **Pre-Paid Legal Plan**

The County shall contribute ~~six dollars (\$6.00)~~ **eight dollars (\$8.00)** monthly per employee to the pre-paid legal plan as provided by the Union for its members. Said contribution shall be payable by the 15<sup>th</sup> of each month. ~~Effective beginning December 1999, the County shall contribute eight dollars (\$8.00) monthly per employee to the pre-paid legal plan.~~

37.15~~14~~

Employees who terminate their employment prior to regular retirement and who subsequently exercise their vested retirement rights will not be entitled to any health or insurance benefits.

37.16~~15~~

In the event of the accidental death of an employee, resulting from the performance of his/her duties, the Employer shall provide at its expense medical, optical, and dental benefits for surviving legal dependents. Eligible dependents shall be defined as unmarried children, up to the age of 25 and legally dependent in accordance with the Internal Revenue Service regulations and spouse who was legally residing with the employee at the time of death. Coverage will continue for the eligible spouse until remarriage. An employee's legal dependents will be determined eligible for these benefits only if survivors qualify for Workers' Compensation as a result of the employee's accidental death.

37.17~~16~~

An open enrollment for medical benefits will be held in the fall of each calendar year, whereby employees can elect ~~various~~ **among the available contractua** coverages for the subsequent calendar years, and enroll new dependents for both the medical and dental plans. Newly acquired dependents (i.e., by birth, adoption, marriage, or court order) must be enrolled within thirty (30) days from the date of birth, adoption, marriage or court order for both medical and dental coverage. Dependents not enrolled within thirty (30) days may be enrolled at the next open enrollment period. Subject to 37.03 (Opt-Outs **Program**) employees may make changes between medical plans only at the open enrollment, and at no other time.

37.19~~17~~<sup>18</sup>

Benefits paid under insurance programs or self funded programs for basic, master medical, prescription drugs, dental and life insurance shall be subject to the policy provisions of the carriers or third party administrative service organizations selected to insure or provide administrative claims service for the various plans.

37.20~~18~~<sup>18</sup>

An employee leaving employment with Wayne County shall not be entitled to continuation of benefits other than provided in the Consolidated Omnibus Budget Reconciliation Act (COBRA).

37.21~~19~~<sup>19</sup>

The Employer may, at its option ~~and at its own cost~~, implement Spending Accounts (“accounts”) for health care, dependent care, or both, during the term of this Agreement. The accounts will comply with the applicable Section(s) ~~105, 125 and 129~~ of the Internal Revenue Code, and will provide employees with a voluntary program to achieve income tax savings on unreimbursed medical, and qualifying dependent care expenses.

37.22~~20~~<sup>20</sup>      **Effective Date For Insurance Programs**

The following insurance programs shall be effective on the first day of the month following date of hire, rehire or transfer into an eligible job classification covered by this Agreement:

- A. Health Insurance
- B. Dental
- C. Life Insurance
- D. Supplemental Life Insurance

37.23~~21~~<sup>21</sup>      **Termination Date For Insurance Programs**

Subject to Article 37.28 (continuation of medical coverage while on long-term disability), Article 33.05(B) (continuation of medical, dental and life coverage while on an approved leave due to illness), Article 37.16~~15~~<sup>15</sup> (continuation of medical, optical and dental coverage upon the accidental death of an employee), Article 37.33 (continuation of medical and dental benefits while on workers’ compensation) and Article 37.15~~14~~<sup>14</sup> (eligibility for retiree health and life insurance benefits), the following insurance programs shall terminate on the last day of the month following a voluntary or involuntary termination of employment, retirement, death, unpaid leave of absence, commencement of a disability, or layoff:

- A. Health Insurance
- B. Dental
- C. Life Insurance
- D. Supplemental Life Insurance

37.24

If an employee is suspended or dismissed as a result of disciplinary action, or because the employee is charged with the commission of a felony, the Employer will continue to provide benefit coverage until the suspension or dismissal is resolved through arbitration or court decision; and if the Employer's action is upheld or the employee is found guilty of the charges alleged against them, then the employee shall repay the County the value of the benefit coverage provided, which monies may be deducted from the employee's accumulated sick time, annual leave, and/or holiday pay.

~~37.25~~ **Long Term Disability:** (County and Local 3317 to submit separate LBOs on LTD).

~~Beginning the effective date of this contract, employees in the Bargaining Unit hired on or after October 1, 1983 or those who were hired prior to October 1, 1983 and who made an election prior to January 1, 1988, shall be covered by a Long Term Disability Income Protection Plan which pays a member 60% of the regular annual pay rate or a maximum of \$2,000 monthly (\$2,400 effective June 1, 1999), whichever is less. An employee qualifies for this protection after sixty (60) calendar days of non-work related illness or disability. Benefits will begin on the 61st calendar day of illness or disability or the day following the use of all sick leave whichever occurs last. To minimize financial loss during this period, an employee may elect to utilize accumulated annual leave, personal business leave or holiday leave. The employee receives benefits under the terms and conditions of the Long Term Disability Income Benefit Plan. Payment of benefits will be made in accordance with the approved Long Term Disability Income Benefit Plan.~~

37.26

~~An employee disabled as a result of a work related injury is qualified to collect workers' compensation benefits. Payment of workers' compensation benefits preclude payment of long term disability benefits. If long term benefits have been made prior to a favorable adjudication of the employee's workers' compensation claim, the County shall deduct the dollar amount received, by the employee, in long term disability benefits, on a dollar for dollar basis, against the supplemental workers' compensation benefits due and owing the employee. In the event the supplemental workers' compensation benefits are less than the benefits received under the long term disability plan, then the employee shall have his statutory~~

~~workers' compensation benefits reduced, on a dollar for dollar basis to make up the difference.~~

~~37.27~~

~~Employees receiving long term disability must cooperate in efforts to receive treatment and/or rehabilitation for continued benefits under the plan. Failure to comply may result in termination of benefits.~~

~~37.28~~

~~Medical Insurance, Optical Benefits, Dental Insurance and Life Insurance as provided in Articles 37.02, 37.05, 37.06, 37.07 and 37.0908 will continue for up to two (2) years, as long as an employee is receiving long term disability benefit payments. Employees of this Bargaining Unit who have filed for or are in receipt of Long Term Disability benefits may be subject to independent medical exams at the request of the Administrator to determine eligibility. The Administrator will utilize Beaumont, Oakwood or Henry Ford Hospitals or other neutral third parties jointly selected by the parties.~~

~~The evaluation of the doctors will be utilized exclusively to determine ongoing eligibility and will be binding upon the County, the Union and the employee.~~

~~37.29~~

~~The Long Term Disability Income Program will be totally funded by the County.~~

~~37.30~~

~~Employees receiving long term disability income benefits shall receive benefits administered according to the "County of Wayne, Michigan, Long Term Disability Income Benefit Plan effective July 1, 1984, revised December 1, 1990."~~

~~37.31 Workers' Compensation: (County and Local 3317 to submit separate LBOs on WC.)~~

~~A. — Workers' Compensation shall be paid in accordance with the qualification period established by state law in effect as of January 30, 1990.~~

~~B. — An officer injured and placed on workers' compensation after ratification of this Agreement shall receive supplemental pay, which may be received as supplemental payroll or may, in the case of a disability due to a motor vehicle accident, be received as motor vehicle no fault wage loss benefits, in an amount when combined with the statutorily required Workers' Compensation Benefit,~~

does not exceed a total of one hundred percent (100%) of the regular after tax rate of pay for a period of two (2) years.

~~C. Officers receiving benefits in accordance with Article 37.31(B) above shall be placed on duty disability retirement as soon as they are determined to be eligible under the Retirement Ordinance. However, after two (2) years on workers' compensation they will be presumed eligible and application will automatically be made on their behalf for such retirement. If for any reason they are determined to be ineligible, they may continue receiving the benefits provided under Article 37.31(B) beyond the two (2) year period.~~

#### 37.32

~~Officers filing claims and receiving Workers' Compensation, shall earn sick and annual leave for up to two (2) years. All officers receiving Workers' Compensation shall be paid off excess annual leave in accordance with Article 27.07 of the Agreement.~~

#### 37.33

~~Medical Insurance, Dental Insurance, Life Insurance, and Optical Benefits for which the officer would otherwise be entitled pursuant to this Agreement, shall be continued while an officer is on Workers' Compensation but not to exceed two (2) years.~~

#### 37.34

~~Employees who are not working due to an on the job injury and collective benefits under this Article will be paid their annual uniform allowance and an annual uniform maintenance allowance on the dates required under Articles 34.12 through 34.14, however, the time period that the member was not working due to an on the job injury and collective benefits under this Article shall be deducted from the annual allowances. Such deduction shall be prorated on a monthly basis.~~

#### 37.35

~~Employees who are not working due to an on the job injury and collective benefits under this Article will be paid their weapon qualifying allowance on the date required and under the provisions of Article 34.15~~13~~. However, the party recognizes that the Sheriff has the sole authority over the gun range facilities, therefore when a member is not working due to an on the job injury and collective benefits under this Article, such member shall not be allowed to qualify until he/she has returned to full time duty.~~



37.36

Upon returning to work, if physically able, an officer shall be restored to his or her former classification.

37.37

During the period an officer is on Workers' Compensation and drawing supplemental pay, Union dues shall be deducted from his/her supplemental pay.

37.38

The Employer may assign duties to an officer who is placed in a Workers' Compensation status which are within the physical ability of the officer to perform. If the member refuses to perform these job duties, the member shall no longer be eligible for supplemental Workers' Compensation pay. Employees returned to work in accordance with this paragraph will be entitled to their life insurance, medical, dental and optical benefits.

37.39

If an officer receives an economic benefit from the Employer's automobile insurance carrier as a result of the officer being injured in the line of duty; said payment shall offset the Employer provided supplemental Workers' Compensation pay on a dollar for dollar basis.

37.40

When combined with statutory payments, supplemental payments and economic benefits from the Employer's automobile insurance carrier, the combined payment shall equal one hundred percent (100%) of the officer's net pay and no more.

37.41

All officers on Workers' Compensation who meet the eligibility requirements in Article 22 of this Agreement shall be entitled to take promotional examinations. The officer upon returning to work will be placed on the list in the appropriate position as indicated by his score. If bypassed for promotion the officer will be placed on the promotional recall list.

37.42

Where an employee is found to be ineligible for Workers' Compensation benefits, any supplemental payments made in accordance with Article 37.31(B), may be

~~recovered by the County through payroll deduction upon the employee's return to work or by offsetting any other pay or benefits in equal amount.~~

37.43

~~If this contract is extended by mutual agreement of the parties, for the purpose of collective bargaining the provisions described in this Article shall continue.~~

6. The Panel adopts Local 3317's Last Best Offer as to Article 38, "Retirement", as follows:

**38.01 General Provisions:**

- A. The detailed provisions of Wayne County Employee's Retirement System shall control except where changed or amended below.
- B. Each employee shall participate in a retirement savings plan offered by the County. ~~one of the Defined Benefit Plans, the Defined Contribution Plan or the Hybrid Retirement Plan.~~
- C. Employees participating in a retirement plan offered by the County hired prior to the date of execution of this Agreement by the County Executive must meet all age and service requirements to be eligible for post retirement insurance and health care benefits pursuant to the *Wayne County Health and Welfare Benefit Plan*, effective December 1, 1990 ~~2006~~.
- D. All new employees hired on or after December 1, 1986, and prior to October 1, 2001, shall be eligible for participation in Defined Benefit Plan #2 or Defined Contribution Plan #4.
- E. The Hybrid Retirement Plan shall be mandatory for all new employees hired and former employees re-employed, reinstated or rehired on or after October 1, 2001.
- F. ~~Unless otherwise specified, R~~egardless of the Retirement Plan, all employees hired, re-employed, re-instated and rehired on or after December 1, 1990, shall not be eligible for insurance and health care benefits upon retirement unless they retire with thirty (30) or more years of service or after a minimum fifteen (15) years of service at age sixty (60) or older. However, employees in the Hybrid Retirement Plan shall only be eligible for insurance and health care benefits upon retirement if they retire with thirty (30) or more years of service.

- G. Regardless of the Retirement Plan, all employees hired, rehired, re-employed and reinstated on or after the date of execution of this Agreement by the County Executive will not receive nor be eligible for Employer-sponsored insurance and health care benefits upon retirement. However, these employees will be eligible to participate in an Employee Health Care Benefit Trust in accordance with 38.13(A) and the terms and conditions outlined in the *Wayne County Health and Welfare Benefit Plan*. Employees participating in the Employee Health Care Benefit Trust who retire from County employment may elect to purchase post-retirement health care insurance from the County at full rate cost, or purchase such insurance from a provider other than that provided by the County. This subsection (38.01(G)) will not apply to terminated employees reinstated through arbitration who were otherwise eligible for post-retirement health care prior to termination.
- G.H. Employees separating from County service with vested pension benefits who then receive, when eligible, a deferred pension payment, shall not be eligible for post retirement insurance and health care benefits.
- H.I. One (1) year of service equals 2080 straight time hours. No more than one (1) year of service credit may be earned in any one (1) calendar year.
- I.J. Unless otherwise specified, the terms and conditions of each Retirement Plan as indicated in the following provisions are effective beginning the date of execution of this Agreement by the County Executive ~~December 1, 1999~~ for members of the bargaining unit retiring after that date.
- K. Effective the date of execution of this Agreement by the County Executive, and for no more than one hundred and eighty (180) calendar days thereafter, employees in Retirement Plans 1, 2, 3 & 5 may purchase up to two (2) years of credited service toward retirement eligibility at total actuarial cost.

### 38.02 **Defined Benefit Plan #1 (DBP-#1)**

For employees who are members of Defined Benefit Plan #1, the detailed provisions of Wayne County Employee's Retirement System shall control except where changed or amended below.

- A. Applicable to full-time members of Local 3317 employed by the County of Wayne **PRIOR** to October 1, 1983.
- B. The Employer shall pay the employee's cost for the increase in retirement benefits in accordance with the July 31, 1972, Act 312 Award.

- C. Normal Retirement shall mean twenty-five (25) years of credited service without any age requirement.
- D. Employee contributions to the Retirement System shall be five percent (5%) of all W-2 compensation.
- E. The Employer shall contribute in addition thereto, the amounts required to actuarially fund the Retirement System.
- F. Average Final Compensation shall be equal to the average of the four (4) highest years of compensation while a member of the Retirement System. The standard method used by the Retirement System in calculating the employee's highest years shall continue to be utilized.
- G. Employees retiring under Defined Benefit Plan #1 with a regular service (normal) retirement (i.e., twenty-five [25] or more years of service), may retire with a pension benefit formula of 2.65% of Average Final Compensation multiplied by all years of credited service.
- H. The amount of County financed normal pension shall not exceed seventy-five percent (75%) of Average Final Compensation reduced by the annual equivalent, as presently used and determined by the retirement system, of any workers' compensation benefit paid on account of prior employment by the County.
- I. Effective December 1, 1995, the maximum benefit on retirement shall not exceed seventy-five percent (75%) of Average Final Compensation regardless of the formula used and regardless of the source of funding. This does not apply to employees who had thirty (30) or more years of credited service on or before November 30, 1995.

~~An employee who reaches the maximum benefit of seventy five percent (75%) shall be allowed to freeze his or her vested rights under Defined Benefit Plan #1 and transfer to Defined Contribution Plan #4. The amounts paid off upon retirement for sick and annual leave shall be counted in computing an employee's Average Final Compensation.~~

In accord with Article 38.06(A)(2), employees in Defined Benefit Plan #1 may transfer to the Hybrid Retirement Plan.

Once an employee has elected to withdraw from the Defined Benefit Plan #1, that employee may not return.

- J. If an employee receives social security disability benefits after he or she is in receipt of a disability pension or a normal pension, said social security

disability benefits shall not cause the employee's pension to be reduced as is now the current practice.

- K. Employees separating from County service with vested pension benefits who then receive, when eligible, a deferred pension payment shall have that payment computed in accordance with Article 38.02(G).

**38.03 Defined Benefit Plan #2 (DBP-#2)**

For employees who are members of Defined Benefit Plan #2, the detailed provisions of the Wayne County Employee's Retirement System shall control except where changed or amended below.

- A. Normal Retirement shall mean twenty-five (25) years of credited service without any age requirement.
- B. Eligible employees shall receive a duty disability retirement benefit which shall equal seventy-five percent (75%) of the employee's average annual compensation as otherwise provided in Defined Benefit Plan #1.
- C. In accord with Article 38.06(A)(2), employees in Defined Benefit Plan #2 may transfer to the Hybrid Retirement Plan.
- D. Once an employee has elected to withdraw from Defined Benefit Plan #2, that employee may not return.

**38.04 Defined Benefit Plan #3 (DBP-#3)**

For employees who are members of Defined Benefit Plan #3, the detailed provisions of the Wayne County Employee's Retirement System shall control except where changed or amended below.

- A. Normal Retirement shall mean twenty-five (25) years of credited service without any age requirement. An employee hired prior to the date of execution of this Agreement by the County Executive who retires with twenty-five (25) years of credited service shall receive all medical benefits as otherwise provided under the terms of this Agreement.
- B. Effective upon the date of execution of this Agreement by the County Executive, the amount of normal retirement compensation shall be equal to the sum of two percent (2.00%) of average final compensation multiplied by credited service for the first twenty (20) years; two and one-half percent (2.50%) of average final compensation multiplied by credited service for the next five (5) years; and three percent (3.00%) of average final compensation multiplied by credited service for years over twenty

five (25).

Effective the date of execution of this Agreement by the County Executive, Average Final Compensation will also include final payouts of excess sick and annual leave made pursuant to Articles 27.07 and 28.03, overtime, and accumulated holiday reserve time. In addition, the member contribution rate will include payouts of excess sick and annual leave made pursuant to Articles 27.07 and 28.03, overtime, and any payment of accumulated holiday reserve time.

**B.C.** Eligible employees shall receive a duty disability retirement benefit which shall equal seventy-five percent (75%) of the employee's average annual compensation as otherwise provided in Defined Benefit Plan #1.

**C.D.** Employees in Defined Benefit Plan #2 may, in accord with Article 38.06(A)(2), elect to transfer to the Hybrid Retirement Plan. one of the following options:

1. ~~Transfer to Defined Benefit Plan #2 and receive a refund of all contributions made to date, plus 50% bonus. Service earned in Defined Benefit Plan #3 shall be transferred entirely to Defined Benefit Plan #2.~~

2. ~~Transfer to Defined Contribution Plan #4 and receive a refund on those contributions which exceed the selected contribution rate. Upon transfer which terminates all claim for benefits under Defined Benefit Plan #3, the Employer shall match the non refunded contributions four dollars (\$4.00) for every one dollar (\$1.00) the employee contributes.~~

3. ~~In accord with Article 38.06(A)(2), employees in Defined Benefit Plan #3 may transfer to the Hybrid Retirement Plan.~~

**D.E.** Once an employee has elected to withdraw from Defined Benefit Plan #3, that employee may not return.

**F.** Employees in Plan 3 who elect to purchase up to two (2) years of credited service toward retirement eligibility pursuant to subsection 38.01(K) above will be allowed to purchase the first (1<sup>st</sup>) year at the total actuarial cost not to exceed \$12,000.00. However, the second (2<sup>nd</sup>) year must be purchased at the total "uncapped" actuarial cost regardless of the time of purchase.

**G.** Employees in Plan 3 may also purchase, at total actuarial cost, years of credited service earned by the employee while employed with a previous

governmental Employer, not to exceed the total number of years earned with that Employer.

38.05                    **Defined Contribution Plan #4 (DCP-#4)**

For employees who are members of in Defined Contribution Plan #4, the detailed provisions of the Wayne County Employee's Retirement System shall control except where changed or amended below.

- A.     Normal retirement shall mean twenty-five (25) years of credited service at age fifty-five (55), twenty (20) years of credited service at age sixty (60), or eight (8) years of credited service at age sixty-five (65).

Effective October 1, 2001, normal retirement shall also mean thirty (30) years of credited service without an age requirement. An employee hired prior to the date of execution of this Agreement by the County Executive who retires with thirty (30) years of service will receive medical benefits as otherwise provided under the terms of this Agreement. An employee in Defined Contribution Plan #4 may apply for pension service credit for up to three (3) years of military service to meet the thirty (30) year service requirement. However, this military service credit will not be used to compute the retirement benefit.

- B.     All Bargaining Unit members who elect the Defined Contribution Plan #4 shall contribute no less than one percent (1%) nor more than two and one half percent (2.5%) of gross wages to the plan. Effective December 1, 1999, members with twenty (20) or more years of credited service may contribute up to three percent (3%) of gross wages to the Plan.
- C.     The Employer shall contribute \$4.00 for each \$1.00 the employee contributes. After the employee reaches twenty (20) years of credited service, the County shall contribute \$5.00 for each \$1.00 the employee contributes.
- D.     Effective beginning December 1, 1999, employees may contribute an additional 7.5% of gross wages to the Plan annually with no matching County contribution. The combined total contribution that an employee may make to Plan #4 and to the Deferred Compensation Program (the 457 Plan) cannot exceed \$30,000.00 annually, and must otherwise conform to Internal Revenue Service Rules and Regulations.
- E.     Vesting in the Defined Contribution Plan shall occur as follows:
  - 1.     An employee with less than three (3) years of total county credited service who voluntarily terminates employment shall be permitted

to withdraw only the employee's contribution from the Defined Contribution Plan #4, plus earnings on those withdrawal contributions, if any.

2. After three (3) years of total County credited service or upon involuntary termination of employment other than for cause, the employee shall be permitted to withdraw both the employee and Employer contributions, plus earnings, if any.
- F. The funds deposited with the Retirement System as contributions to the Defined Contribution Plan #4 shall be invested as specified by the Retirement Ordinance.
  - G. Effective October 1, 2001, the Defined Contribution Plan #4 – Loan Program will be eliminated.
  - H. Distribution of the funds from the Defined Contribution Plan #4 shall be in accordance with the prevailing rules and regulations of the Internal Revenue Service and the Retirement Ordinance.
  - I. ~~Except as provided in 38.05(J) below, Once an employees in has opted for the Defined Contribution Plan #4, that employee may not opt for a Defined Benefit Plan.~~
  - J. In accord with Article 38.06(A)(2), employees in Defined Contribution Plan #4 may elect to transfer to the Hybrid Retirement Plan.
  - K. Once an employee has elected to withdraw from Defined Contribution Plan #4, that employee may not return.
  - L. ~~Effective upon execution of this Agreement by the County Executive, eligible employees may receive a duty disability retirement benefit in the form of an annuity purchased from available, vested Plan 4 contributions equal to seventy-five percent (75%) of the employee's average annual compensation as otherwise provided in Defined Benefit Plan #1. The employee will be required to surrender all funds in the Plan, including both employee and vested Employer contributions. In the event an employee has an outstanding loan from the Plan, loan payments shall continue as scheduled through equivalent withholding from the employee's monthly disability retirement benefit until such loan is repaid in full. Should the employee become deceased prior to full repayment, the employee's estate shall be responsible for any outstanding amount.~~



38.06      **Hybrid Retirement Plan**

A.      General Provisions:

1.      The Hybrid Retirement Plan shall be mandatory for all new employees hired and former employees re-employed, re-instated or rehired on or after October 1, 2001.
  
2.      Employees hired, re-employed, reinstated or rehired prior to October 1, 2001 may elect to transfer from their current Retirement Plan to the new Hybrid Retirement Plan during the a one-time window period of ~~October 1, 2001 through June 30, 2002~~ one hundred and eighty (180) calendar days following the date of execution of this Agreement by the County Executive. Employees electing to transfer into the Hybrid Retirement Plan must fully purchase their entire credited service into the Plan within the 180 calendar day window period or they will forfeit eligibility for transfer into the Plan.

For eligible employees electing to transfer into the Hybrid Retirement Plan within the first ninety (90) calendar days of the 180 calendar day transfer period, the method used to calculate the cost of purchasing credited service will be the same as that used for employees who previously transferred into the Hybrid Retirement Plan under the 2000-2004 collective bargaining agreement, including the former average final compensation multipliers of 1.25% and 1.5% outlined in section 38.06(B)(2), paragraph 1, below.

For eligible employees electing to transfer into the Hybrid Retirement Plan after the first ninety (90) calendar days of the 180 calendar day transfer period, the method used to calculate the cost of purchasing credited service will also be the same as that used for employees who previously transferred into the Hybrid Retirement Plan under the 2000-2004 collective bargaining agreement except that the new average final compensation multiplier of 2.0%, outlined in section 38.06(B)(2), paragraph 2, will be used.

Transferring employees shall be responsible for the full actuarial cost of purchasing credited service. Once an employee elects to transfer to the new Hybrid Retirement Plan that employee may not return to his or her prior Retirement Plan.

B. Defined Benefit Provisions:

1. Normal retirement shall mean twenty-five (25) years of credited service at age 55, twenty (20) years of credited service at age 60, eight (8) years of credited service at age 65 or thirty (30) years of credited service without an age requirement. An employee in Plan 5 hired prior to the date of execution of this Agreement by the County Executive who retires with thirty (30) years of service will receive medical benefits as otherwise provided under the terms of this Agreement.

An employee in Plan 5 hired prior to the date of execution of this Agreement by the County Executive who reaches twenty-five (25) years of credited service within five (5) years following the date of execution of this Agreement by the County Executive will be allowed to retire with medical benefits as otherwise provided under the terms of this Agreement.

~~For employees in Defined Benefit Plan #3 who transfer to the Hybrid Retirement Plan, normal retirement will mean twenty five (25) years of credited service without an age requirement.~~

2. The amount of retirement compensation shall equal one and one-quarter percent (1.25%) per year times average final compensation for the first twenty (20) years, and one and one-half percent (1.5%) per year times average final compensation for all years of credited service over twenty (20) years.

Effective the date of execution of this Agreement by the County Executive, the amount of retirement compensation shall equal two percent (2.0%) per year times average final compensation for all years of credited service.

3. Average final compensation shall be equal to the monthly average of the employee's base compensation for the last five (5) years of credited service. Effective the date of execution of this Agreement by the County Executive, compensation does not will include final payouts of excess sick or and annual leave made pursuant to Articles 27.07 and 28.03, overtime, and accumulated holiday reserve time.

Effective the date of execution of this Agreement by the County Executive, employees in the Hybrid Retirement Plan shall contribute one percent (1%) of compensation to the Retirement System. For purposes of the 1% contribution rate calculation,

compensation shall include payouts of excess sick and annual leave made pursuant to Articles 27.07 and 28.03, overtime, and accumulated holiday reserve time.

4. Regarding deferred retirement, vesting shall occur upon completion of eight (8) years of credited service. The amount of retirement compensation shall be computed as normal retirement, but based on the actual number of years of credited service and average final compensation at the time of termination. The payment of retirement benefits shall begin at age sixty-five (65).
5. Eligible employees shall receive a duty disability retirement benefit. The amount of retirement compensation shall be computed as normal retirement with additional service credit granted from the date of retirement to age sixty (60). The total Plan 5 duty disability benefit, including that received under section 38.06(C)(4) below, shall not exceed seventy-five percent (75%) of the employee's average compensation as otherwise provided in Defined Benefit Plan #1.

Payments of workers' compensation benefits will be used to reduce an employee's retirement compensation. No age or service requirements apply.

6. Employees shall be eligible for a non-duty disability retirement upon completion of ten (10) years of credited service. The amount of retirement compensation shall be computed as normal retirement, but based on the actual number of years of credited service and average final compensation at the time of termination. The Employer reserves the right to limit payments from the Retirement System through the use of proceeds from the Employer's long-term disability policy.
7. In the event of an employee's death prior to retirement, normal retirement shall mean ten (10) or more years of credited service or eight (8) years of credited service at age 65. The amount of retirement compensation paid to the spouse shall be computed as normal retirement, but actuarially reduced in accordance with a one hundred percent (100%) joint and survivor election. If there is no eligible spouse, unmarried children under age eighteen (18) shall receive equal shares of fifty percent (50%) of the normal retirement benefit.
8. Employees in the Hybrid Retirement Plan shall be eligible for post retirement cost-of-living adjustments in the form of distributions

from the Reserve for Inflation Equity.

9. Employees in the Hybrid Retirement Plan may purchase, at total actuarial cost, years of credited service earned by the employee while employed with a previous governmental Employer, not to exceed the total number of years earned with that Employer.

C. Defined Contribution Provisions:

1. All employees in the Hybrid Retirement Plan shall contribute three percent (3%) of base compensation to the plan. Effective the date of execution of this Agreement by the County Executive, all employees in the Hybrid Retirement Plan shall contribute two percent (2%) of base compensation to the plan. An employee shall be immediately vested in one hundred percent (100%) of his or her contributions.
2. The Employer shall contribute three percent (3%) of the employee's base compensation to the Plan. Effective the date of execution of this Agreement by the County Executive, the Employer's contribution to the Plan shall be reduced to two percent (2%) of the employee's base compensation.

An employee shall be vested in the Employer's contributions as follows:

- a. Fifty percent (50%) vested in the Employer's contribution upon completion of one (1) year of service.
  - b. Seventy-five percent (75%) vested upon completion of two (2) years of service; and
  - c. One hundred percent (100%) vested upon completion of three (3) years of service.
3. Upon termination, an employee may select one (1) of the following distribution options:
    - a. Lump sum distribution of the vested account balance,
    - b. Rollover of the vested account balance into a qualified plan, or
    - c. Annuitizing the vested account balance if the employee is also eligible for a defined benefit pension.

4. Effective upon execution of this Agreement by the County Executive, eligible employees may receive a duty disability retirement benefit in the form of an annuity purchased from available, vested Plan 5 contribution-side funds. The total Plan 5 duty disability benefit, including that received under section 38.06(B)(5) above, shall not exceed seventy-five percent (75%) of the employee's average compensation as otherwise provided in Defined Benefit Plan #1. The employee will be required to surrender all accumulated funds in the Plan, including both employee and vested Employer contributions. In the event an employee has an outstanding loan from the Plan, loan payments shall continue as scheduled through equivalent withholding from the employee's monthly disability retirement benefit until such loan is repaid in full. Should the employee become deceased prior to full repayment, the employee's estate shall be responsible for any outstanding amount.

**38.07 Retirement Option – Purchase of Military Service**

Military service time prior to County employment may be purchased up to a maximum of six (6) years at full actuarial cost. Purchase shall be in one (1) month increments with twelve (12) months of purchase needed for one year of credit. Purchases of service credits under this section, when combined with the credits purchased or earned under prior military service provision, shall not exceed six (6) years.

- A. The Retirement Commission may establish rules not in conflict with this Section for the implementation of this Section. Such rules may define payment schedules, limit purchases when military time has already been used as a credit in another public pension system, limit the way this time may be used, or limit purchases to specified time periods on an annual basis or within certain periods after the date of the member's first employment with the County.
- B. This provision does not apply for employees who are members of Defined Contribution Plan #4.

**38.08 Non-Duty Disability Retirement**

The Employer retains the right to place an employee into non-duty disability status under the same terms and conditions as now apply to the Defined Benefit Plan #1 and in the Defined Contribution Plan #4. The specific terms of the benefits to be provided to non-duty disability retirees under Plan #4 shall be as published by the Retirement Department. Upon request the parties will meet to negotiate changes if necessary.

**38.09 Deferred Compensation**

The Employer shall continue to allow deductions for qualified Deferred Compensation Plans.

**38.10 Supplemental Retirement**

The Employer shall offer to any employee a non-qualified supplemental retirement program by which the employee shall be allowed to reduce his or her wages in order to be eligible for said supplemental retirement program.

**38.11**

The Union shall notify the Employer as to which company shall be used as the carrier or broker for this program, which shall be offered by way of payroll deduction.

**38.12**

If the County adopts a Deferred Compensation Program that would be more beneficial to employees in this Bargaining Unit, the Union shall have the option to:

- A. Remain in the current plan as outlined in Articles 38.10 and 38.11 or,
- B. Adopt the new program.

**38.13 Post-Retirement Health Care Benefit Trust**

**A. Employee Health Care Benefit Trust**

1. Except as provided below, employees hired on or after the date of execution of this Agreement by the County Executive shall not receive or be eligible for Employer-sponsored insurance or health care benefits upon retirement.

2. Employees hired on or after the date of execution of this Agreement by the County Executive shall be eligible to participate in the Employee Health Care Benefit Trust ("Trust") established by the Employer. The Trust will be administered by a committee consisting of four (4) members. One (1) member shall be an employee of Wayne County appointed by Michigan AFSCME Council 25. One (1) shall be a member of Wayne County AFSCME Local 3317. The remaining two (2) members shall be appointed by the Wayne County Executive. In the event of a tie vote, the Wayne County Director of Personnel/Human Resources shall cast the deciding vote.

3. Employees who elect to participate in the Trust will be required to make contributions in the amount of two percent (2%) of their base wage rate to fund the Trust. Contributions will be made in the form of bi-weekly payroll deduction, as specified in the *Wayne County Health and Welfare Benefit Plan*, and employees will otherwise be subject to the terms and conditions outlined therein.
4. The Employer will also contribute five percent (5%) of the employee's base wage rate to the Trust in accordance with the terms of the *Wayne County Health and Welfare Benefit Plan*.
5. Fund distributions from the Trust will be subject to all applicable Internal Revenue Service rules and regulations.

**B. Permanent Waiver of Post-Retirement Health Benefits**

1. Employees hired prior to the date of execution of this Agreement by the County Executive may elect to permanently relinquish their current or future eligibility to receive post-retirement insurance and health care benefits from the County.
2. Employees electing to permanently waive post-retirement health care benefits under this Article may elect to participate in the Employee Health Care Benefit Trust as described in Article 38.13(A) above.

**C.** Effective beginning October 1, 2017, employees in the bargaining unit who have been enrolled in the Employee Health Care Benefit Trust for at least ten (10) years may, on an individual basis, elect to withdraw from the Trust and become eligible for post-retirement medical benefits then available to members of the bargaining unit hired immediately prior to the effective date of this Agreement. Employees electing to withdraw from the Trust to become eligible for County-sponsored post-retirement medical benefits under this subsection shall be entitled to return of the employee's full contribution into the Trust for the entire period of participation plus any interest accrued on the employee's contributions as established by the trustees of the Trust. In this case, the Employer's contribution shall be forfeited back to the Employer.

Election to withdraw from the Trust shall be made in writing to the Director of Benefit Administration within ninety (90) days prior to the employee's completion of his or her tenth year of participation in the Trust. An employee's election to withdraw from participation in the Trust shall be irrevocable. Employees failing to make an election to withdraw from the Trust within the prescribed time period shall remain as

participants in the Trust and shall not be allowed to withdraw for the remainder of their continuous employment with the County.

D. It is expressly understood and agreed that any modifications to, or elimination of, the Employee Health Care Benefit Trust will become subject to negotiation and/or Act 312 arbitration effective October 1, 2017.

**38.14 Retirement Board Eligibility**

Effective the date of execution of this Agreement by the County Executive, if not otherwise prohibited by law, eligibility for election or appointment to a position of trustee on the Board of the Wayne County Employees Retirement System will include retired employees of Wayne County who reside within the State of Michigan.

7. The Panel adopts the County's Last Best Offer as to Article 39 – Economic Improvements, as follows:

**39.01 Special Skills Positions**

A. Effective beginning December 1, 1996, eligible employees shall receive one thousand five hundred dollars (\$1,500.00) per year in addition to their base wage rate while working in one of the following special skills positions:

1. Motorcycle Unit
2. Polygraph Operator
3. Bomb Technician
4. Canine Unit
5. S.W.A.T. Unit
6. ~~Communications~~ Field Services
7. Investigative Units
8. Crime Lab./I.D. & Central Photo.
9. Marine Safety Unit

B. Effective beginning October 1, 2001, employees in the classifications of Police Sergeant and Police Lieutenant will receive an additional one thousand dollars (\$1,000) per year upon completion of five (5) years of service in grade.

**39.02 Executive Staff Officers**

All employees assigned to executive staff positions as enumerated in Article 21.02(B) shall receive additional compensation in the amount of two thousand dollars (\$2,000.00) per year during the term of that assignment.



Effective June 1, 1999, all employees assigned to the County Executive's Office will receive the additional compensation of two thousand dollars (\$2,000.00) per year provided by the above paragraph during the term of that assignment.

**39.03 Wage Rates for Employees In Local 3317**

~~A. The market to be used in setting rates of compensation shall include base wages and longevity if applicable. The law enforcement agencies which were used in the 1983 contract shall continue to be used during the life of this Agreement. Said agencies are:~~

- ~~1. Detroit Police Department~~
- ~~2. Michigan State Police~~
- ~~3. Oakland County Sheriff~~
- ~~4. Livonia Police Department~~
- ~~5. Dearborn Police Department~~

~~B.A.~~ **Police Sergeant:**

1. The following base wage rates shall apply to regular full-time employees of record who are employed in the classification of Police Sergeant as of the date this Agreement is executed by the County Executive or August 31, 2001, whichever occurs first:

STEP	11-30-04	12-01-04	10-01-05	10-01-06	10-01-07
[Entry]	\$60,797	\$60,797	\$62,013	\$62,633	\$63,259
2	\$62,386	\$62,386	\$63,634	\$64,270	\$64,913
3	\$63,976	\$63,976	\$65,256	\$65,909	\$66,568

2. Annual Step Increases:

Based on the number of completed months of service in-grade, the above-cited regular full-time employees of record employed in the classification of Police Sergeant shall be placed at the following annual base wage rates on the dates indicated:

COMPLETED MONTHS OF SERVICE IN-GRADE	12-01-04	10-01-05	10-01-06	10-01-07
Less than 12 months of service	\$60,797	\$62,013	\$62,633	\$63,259
12 or more months of service	\$62,386	\$63,634	\$64,270	\$64,913
24 or more months of service	\$63,976	\$65,256	\$65,909	\$66,568

3. Minimum Base Wage Rates:

Employees of record promoted to the classification of Police Sergeant shall be placed at the minimum base wage rate in effect as of the date of their promotion as follows:

<b>Effective Date</b>	<b>12-10-04</b>	<b>10-01-05</b>	<b>10-01-06</b>	<b>10-01-07</b>
<b>Minimum Base Wage Rate</b>	\$60,797	\$62,013	\$62,633	\$63,259

C.B. **Police Lieutenant:**

- The following base wage rates shall apply to regular full-time employees of record who are employed in the classification of Police Lieutenant as of the date this Agreement is executed by the County Executive or August 31, 2001, whichever occurs first:

<b>STEP</b>	<b>11-30-04</b>	<b>12-01-04</b>	<b>10-01-05</b>	<b>10-01-06</b>	<b>10-01-07</b>
<b>[Entry]</b>	\$67,195	\$67,195	\$68,539	\$69,224	\$69,917
<b>2</b>	\$69,963	\$69,963	\$71,362	\$72,076	\$72,796
<b>3</b>	\$72,730	\$72,730	\$74,185	\$74,927	\$75,676

2. Annual Step Increases:

Based on the number of completed months of service in-grade, the above-cited regular full-time employees of record employed in the classification of Police Lieutenant shall be placed at the following annual base wage rates on the dates indicated:

<b>COMPLETED MONTHS OF SERVICE IN-GRADE</b>	<b>12-01-04</b>	<b>10-01-05</b>	<b>10-01-06</b>	<b>10-01-07</b>
<b>Less than 12 months of service</b>	\$67,195	\$68,539	\$69,224	\$69,917
<b>12 or more months of service</b>	\$69,963	\$71,362	\$72,076	\$72,796
<b>24 or more months of service</b>	\$72,730	\$74,185	\$74,927	\$75,676

3. Minimum Base Wage Rates:

Employees of record promoted to the classification of Police Lieutenant shall be placed at the minimum base wage rate in effect as of the date of their promotion as follows:

<b>Effective Date</b>	<b>12-10-04</b>	<b>10-01-05</b>	<b>10-01-06</b>	<b>10-01-07</b>
<b>Minimum Base Wage Rate</b>	\$67,195	\$68,539	\$69,224	\$69,917

D. Annual step increases will continue beyond the expiration date of the Collective Bargaining Agreement [~~November 30, 2004~~] ~~September 30, 2008~~ for those employees who are below the maximum wage step for their classification.

8. The Panel adopts the Last Best Offer of Local 3317 on Article 47, "Duration of Agreement," as follows:

**ARTICLE 4447 – DURATION OF AGREEMENT**

4447.01

This Agreement shall be effective December 1, ~~2000~~ 2004, and shall remain in full force and effect through ~~November 30, 2004~~ ~~September 30, 2008~~.

4447.02

This Agreement shall continue in effect for consecutive yearly periods after ~~November 30, 2004~~ ~~September 30, 2008~~, unless notice is given, in writing, by either the Union or the Employer to the other party at least sixty (60) days prior to ~~November 30, 2004~~ ~~September 30, 2008~~, or any anniversary date thereafter, of its desire to modify, amend, or terminate this Agreement.

4447.03


If such notice is give, this Agreement shall be open to modification, amendment, or termination, as such notice may indicate.

47.04

Subsequent to the effective date of this Agreement, and during the period it remains in effect under section 47.01 above, should another County-associated bargaining unit negotiate a new collective bargaining agreement for the 2004 contract period that contains an aggregate level of retirement, health care, and base wage benefits that exceeds that which is contained in this Agreement, AFSCME Local 3317 will be granted the greater level of benefits effective the same date as the effective date of the greater level of benefits.

  
GEORGE T. ROUMELL, JR.  
Chairman

  
\_\_\_\_\_  
JOHN MILES, Employer Delegate

  
\_\_\_\_\_  
JAMIL AKHTAR, Local 3317 Delegate

Dated: May 2, 2007