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6/3/71 arb

Flint City of

STATE OF MICHIGAN  
MICHIGAN EMPLOYMENT RELATIONS COMMISSION  
STATUTORY ARBITRATION

In the Matter of  
Flint Police Captains' Association

- and -

The city of Flint,  
a Municipal corporation

George T. Roumell

6/3/71

OPINION AND ORDER

APPEARANCES

For the Police Captains:

Edward P. Joseph, Esq.  
Attorney at Law

For the City:

Thomas Kay  
City, Manager

Wade D. Withey, Esq.  
Deputy City Attorney

BACKGROUND

This is an arbitration pursuant to Act 312 of the Michigan Public Acts of 1969, better known as the Police and Firemen's Compulsory Arbitration Act. The Flint Police Captains' Association consists of all the Police Captains employed by the City of Flint, Michigan Police Department who are five in number. With the exception of the Chief of Police and the Deputy Chief of Police they are the top ranking officers in the department, which has more than 300 men. Each Captain heads a given bureau within the Police Department such as the Detective Bureau.

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JUL 27 1976

Roumell, George T

As the 1969-1970 fiscal year was coming to a close (June 30, 1970) and thereafter, the Patrolmen, Sergeants, Lieutenants and Captains of the department began bargaining for new collective bargaining agreements, emphasizing wage increases. The Patrolmen and Sergeants bargained as one group, the Lieutenants as a separate group and the Captains as a third group.

Though the Patrolmen, Sergeants and Lieutenants reached agreement with the City, the City and the Captains reached an impasse. As a result of the impasse the City and the Captains agreed to employ the provisions of Act 312 and seek compulsory arbitration. Robert Haw was appointed the City delegate to the Arbitration Panel and Frederick A. Salim, Esquire, Attorney at Law, was appointed the Captains' delegate. The Michigan Employment Relations Commission was so notified. The parties also notified the Commission that they had mutually selected George T. Roumell, Jr. as the impartial Chairman of the Panel.

The Panel met on April 30, 1971 and on May 25, 1971 to hear testimony. Briefs were filed between the hearings and detailed testimony was taken.

#### ISSUE

There is only one issue before this Arbitration Panel and that is the issue of direct wages or salary. There are no other issues in dispute.

Although this Arbitration Panel was initiated after the beginning of the 1970-71 fiscal year (7/1/71 - 6/30/71) it should be noted that by letter dated 2/15/71 and entered into the record as

Joint Exhibit 1 the City, by its City Manager, Thomas Kay, has confirmed that any award made pursuant to this opinion be retro-active to July 1, 1970. The parties to their credit have engaged in collective bargaining. They have reached a difference of opinion.

The last offer of the City was:

July 1, 1970 to June 30, 1970 - 6.1% = \$18,012

July 1, 1971 to June 30, 1970 - 9.2% = \$19,662

The last offer of the Captains was:

July 1, 1970 to December 31, 1970 - 6% = \$17,997

January 1, 1971 to June 30, 1971 - 6% = \$19,076

July 1, 1971 to June 30, 1972 - 7% = \$20,421

OR

July 1, 1970 to June 30, 1971 - 9% = \$18,507

July 1, 1971 to June 30, 1972 -10% = \$20,357

The percentage figures set forth in the above offers refer to the percentage increases.

The reason why the parties have not been able to reach agreement on wages or salary is because of disagreement over the numerical and percentage wage differential that should exist between Police Captains and Police Lieutenants (the next highest ranking officers) and the relationship of Captains' pay with the pay of other bureau chiefs in civilian departments of the City. To properly analyze these reasons for the impasse between parties it should be noted that the Captains are, in effect, bureau chiefs, and that the captains each have twenty years or more of service with the department and are career officers.

In the 1969-70 fiscal year a Police Lieutenant, FP level 23 (civil service level) with twenty years of service earned \$14,148 annually. In the same period a Police Captain, FP level 28 with

twenty years of service earned \$16,979 annually. The difference in annual rates between the two ranks was \$2831 annually. Percentage-wise this difference was 20%.

In passing it should be noted that Police Lieutenants, besides their annual rate of pay, do work some overtime for which they are paid. Captains, because of their level of pay, do not receive overtime although in fact they do work overtime. The parties do not base their argument on this overtime factor, but the Captains referred to it by way of background information.

Following settlement with the Patrolmen and Sergeants, the City reached settlement with the Lieutenants, giving Lieutenants a 5% pay increase as of July 1, 1970, a 5% pay increase as of January 1, 1971 and a 12.5% increase as of July 1, 1971. As a result, as of June 1, 1971 the pay of Lieutenants was \$15,637 annually, (the result of two 5% increases during the 1970-71 year) and as of July 1, 1971 a Lieutenant will be earning \$17,593 annually. The total money raises given to the Police Lieutenants over a two year period represented by the 1970-71 and 1971-72 fiscal years is \$3,444.

The last offer of the City to the Captains would result in an annual wage for the 1970-71 fiscal year of \$18,012., or a difference between the Captains and Lieutenants of \$2,375. Considering that the difference between Lieutenants and Captains in the 1969-70 fiscal year was \$2,831 this last offer of the City would result in a \$456 less difference annually between the two officer ranks than existed the year previously. Likewise the percentage difference is less.

In the second year, the City's offer results in an annual wage for captains of \$19,662. This results in a difference between Lieutenants and Captains of \$2070 or \$761 annually less than that existing in 1969-70.

The percentage difference between the annual rates of lieutenants and the captains in 1969-70, as already noted, was 20%. The total effect upon the percentage difference between the two groups if the City's offer was accepted would be to reduce that difference to 10.6%.

The Police Captains also point out that the wage increase the two year period (1970-72) for each of the other groups of Police Department employees was dollarwise as follows:

Lieutenants	\$3444.00
Sergeants	3039.00
Detectives	2826.00
Patrolmen	2648.00

Based upon the City's offer, the increase for Captains would be \$2,683. which the Captains point out is less than any other group except the Patrolmen even though the Captains are in fact high ranking police officers with substantial responsibilities.

It is the Captains' insistence on maintaining the 1969-70 wage ratio between lieutenants and captains and the City's attempt to reduce the ratio that has caused the impasse.

Though Section 9 of Act 312, Public Acts of 1969 (M.S.A. 17.455 (31) et. seq, M.S.A. 17.455 (39)) does provide factors upon which the Arbitration Panel shall "base its findings, opinion and order" the parties hereto have agreed that the panel should confine itself to considering the comparison factors set forth in Section

9 (d) as it compares to other police employees and other city of Flint employees (and not comparing with other communities) and to apply the factors set forth in 9 (h), namely factors that are considered by fact finders which in this case would mean the comparison factors as confined to comparisons within employment by the City of Flint. The issue as formulated above by the parties is confined to these factors.

The Captains' argument in support of their last offer of either \$20,357 or \$20,421 as of July 1, 1971 is based on sheer logic (according to the Captains) that as there was a difference in the annual rate of \$2831 between Captains and Lieutenants in the 1969-70 fiscal year, this difference should continue. Therefore, the Captains argue that as the Lieutenants received the pay raise of \$3444 over the two years (1970-72) they, the Captains, should receive approximately the same. Their final demand is constructed to accomplish this result.

The City's position is based upon two premises. One, a desire not to increase the percentage difference between Patrolmen and Captains, and two, to attempt to keep some relationship between Police Captains and other bureau chiefs in other departments. The City's position is best enumerated at pages 2 and 4 of its brief to the panel where it says:

"An award pursuant to the demand of the Union for the same increase afforded lower level police classes, would make the pay relationship of Police Captain to Patrolman at the greatest percentage difference of the past ten years when in fact, the reverse should be true. During recent years of nationwide all-out pressure for increase of pay for Patrolman, the emphasis has been based upon the 'journeyman' populous class of Patrolman as far as wages and increased entrance requirements are concerned."

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"The City must be concerned with the pay relationship between top 'uniformed' personnel positions in the Police Division and top 'civilian' personnel positions in the Police Division and the balance of the City, regardless of the uniformed police being 'out of the uniform pay plan.' As a matter of fact, the City Manager is Director of Public Safety and must be concerned with the relationship of the pay of top Public Safety Department personnel and his own pay. Table V reveals the obvious fact that the police personnel have received pay increases of from two and one-half times the percentage received by 'civilian' classes that were in the same pay levels ten years ago.

The City must consider that Police Captains are heads of sections or bureaus in the Police Division of the Department of Public Safety, yet they are making salary demands well in excess of those salaries received by other division heads and some department heads of the general City.

The position of Police Captain is administrative. On special, serious occasions, the Police Captain may be involved in direct confrontation with the public, but his day-to-day routine is comparable to other administrative and supervisory positions of the City, who also, on special occasions, have their confrontations with the same public but in their special areas of concern....."

There is also one other point that both parties must recognize. There has been a fluctuation over the years as to both the numerical difference and the percentage difference between captains and lieutenants in their respective pays. The following chart highlights this point:

<u>Year</u>	<u>Police Capt.</u>	<u>Police Lt.</u>	<u>Amt. Diff.</u>	<u>% Diff.</u>
1962	\$ 9334	\$ 7644	\$ 1690	22.1
1963	10140	8615	1525	17.7
1964	11284	9256	2028	21.9
1965	11623	9534	2089	21.9
1966	12228	10031	2197	21.9
1967	12638	11764	874	7.4
1968	14568	13079	1489	11.4

The chart does reveal that from 1962 to 1966 there were substantial differences between the two pay scales. Interestingly enough in 1964, 1965 and 1966 the percentage differences remained constant at 21.9%. In 1967 the difference was reduced to 7.4% and to \$874. There was a slight increase in the difference in 1968. The point is that there has been no sanctity in a constant difference between Captains' and Lieutenants' pay. The 1967 closeness highlights this point. Likewise the 1969-70 difference accentuates the point. The City in 1969 bargained a wage increase for the Captains. The difference bargained was not as great as it had been in the 1964, 1965 and 1966 years. The Captains, therefore, went to the Civil Service Commission and asked for a jump in level pay. The Civil Service Commission not only gave the Captains the request but jumped them two levels, causing the highest numerical difference in the last ten years between the Lieutenants and the Captains, namely, \$2831.

The City argues that in terms of collective bargaining they should not be held accountable for what the Civil Service Commission did. It still maintains that its premises for its last offer to the Captains set forth above are valid. Furthermore, the City argues that a continuation of the difference brought about by the action of the Civil Service Commission would undermine collective bargaining and upset the attempt to upgrade Patrolmen's salaries as well as bureau chiefs in other departments.

The Panel believes that there is merit to the City's position. Though the parties have avoided suggesting that ability to pay is a factor in this arbitration, the Panel is aware that lurking in the background is the City's lessening ability



to pay caused by increased costs and decreasing revenues by virtue of the GM strike and the general economy. We believe that this is the basic reason why the City is concerned about the ratio between Lieutenants' and Captains' pay and the Captains' pay with other bureau heads in the "civilian departments". The City obviously is trying to strike a balance that would be reflected in its over-all budgeting. We further believe that there is no sanctity, as the City as pointed out, in maintaining the same 1969-71 ratio between Lieutenants and Captains for the 1970-72 years.

The Panel also notes that to a limited extent the Captains recognized this when bargaining at the bargaining table. Initially the Captains asked for the same 5% (7/1/70), 5% (7/1/71), and 12.5% (7/1/71) as the City voluntarily gave the Lieutenants. Through bargaining the Captains reduced their demands as set forth above. The demand for \$20,421 on July 1, 1971 is a \$3,442 increase, slightly less than that of the Lieutenants. The \$20,357 demand is a \$3,378 increase, again slightly less than the \$3,444 increase of the Lieutenants. The difficulty with the City's position, however, is that it pushed its position too far. We recognize the City's argument that it cannot be wholly responsible for the substantial jump in the difference between Police Captains and Lieutenants in 1969-70 brought about by the action of the Civil Service Commission. Nevertheless, the City voluntarily gave the Lieutenants this year a 5% - 5% - 12.5% increase. On the other hand the City's last offer to the Police Captains was a 6.1% and a 9.2% respectively increase.

The Panel believes that the City should have been willing to go somewhat higher than its last offer and perhaps in doing so it could have reached agreement with the Police Captains. The

evidence is obvious that the Captains were not pushing for the maintainance of the same numerical differential as in the previous year between themselves and the Lieutenants.

The basic function of the Arbitration Panel is to attempt, when there is an impasse, to consider the factors that the parties believe should be considered and to recognize that the Panel is serving as a substitute for a strike. It would seem that in this situation, in view of the bargaining history, (a factor that can be considered under Section 9 (h) as it is a factor considered by fact finders) the parties were attempting to respect each other's position as to the differential, but yet could not reach agreement. The Panel believes that if the parties were faced with a strike or not-to-strike situation they would have attempted to reach an acceptable compromise even if acceptance would have been reluctant on both sides.

The Panel, therefore, in reviewing the situation including the dynamics of the bargaining and the past history as well as the current bargaining history, believes that an order of \$18,250 annual salary from July 1, 1970 to June 30, 1971 and an annual salary of \$20,075 from July 1, 1971 to June 30, 1972 would be the approximate figure that the parties would eventually have arrived at given a strike situation.

From the Captains' point of view this represents a 7% increase in the first year as contrasted to the Lieutenants' 10% or average of 7-1/2%. In the second year, it represents a 10% increase for the Captains which is exactly what their last demand was (although based on different base figures) and as contrasted to 12.5% for the Lieutenants.

Numerically speaking, in the first year this represents a difference between the Captains and the Police Lieutenants of \$2613 or 16%. In the second year it represents a difference of \$2463 or 14%. We appreciate that this is reducing the difference between Lieutenants and Captains, but we believe that the City's position to some extent is well taken. The Panel further points out that the differences are consistent with the previous bargaining history between the parties except for the 1969-70 intervention of the Civil Service Commission.

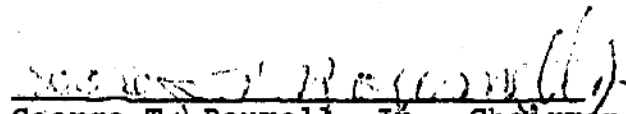
There is one other factor that very much concerns the Panel and that is during the course of the hearing we were advised that the Lieutenants had received in addition to the above enumerated raises a one step level increase, but that this money had not yet been appropriated. The Panel believes that if during the course of the contract from July 1, 1970 through June 30, 1972, the period which this arbitration opinion covers, the Lieutenants are increased as a result of the level jump then the Police Captains should get the same numerical increase so that the numerical differential between Captains and Lieutenants on an annual basis for the 1970-71 year would be \$2613 and \$2463 for the 1971-72 year.

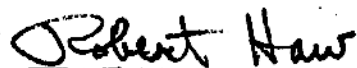
We believe that this is consistent with the opinion and the ideas expressed herein. We also note that this is a unanimous opinion.

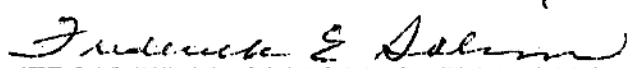
ORDER

The Panel hereby orders the following:

1. From July 1, 1970 through June 30, 1971 the Police Captains shall receive an annual salary of \$18,250.
2. From July 1, 1971 through June 30, 1972 the Police Captains shall receive an annual salary of \$20,075.
3. That in the event that the increase given to the Police Lieutenants to level 24 results in a base pay increase to the Lieutenants during the period of the effective dates of this award, the Captains shall also receive the same dollar increase in their annual salary so that the numerical differential between the Captains and Lieutenants on an annual basis from July 1, 1970 through June 30, 1971 shall be \$2613 and from July 1, 1971 through June 30, 1972 shall be \$2463.

  
George T. Roumell, Jr., Chairman

  
Robert Haw, Member

  
Frederick A. Salim, Member

Dated: June 3, 1971