6/27/77
ARB
C.2

STATE OF MICHIGAN

BEFORE THE DEPARTMENT OF LABOR

EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Arbitration Between CITY OF LANSING, MICHIGAN -and- CAPITOL CITY LODGE No. 141, FRATERNAL ORDER OF POLICE (Police Non-Supervisors)	Pursuant to Act 312, Public Acts of 1969, as amended

Lansing, C.1, 4

RECEIVED
1977 AUG -1 PM 10 17
STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
DETROIT OFFICE

PANEL OF ARBITRATION

Daniel J. Bodwin, Delegate of the City
W. Paul Wiegman, Delegate of the Lodge
Theodore J. St. Antoine, Chairman

APPEARANCES

For the City: Michael A. Snapper, Esq.
James L. Stokes, Esq.
Miller, Johnson, Snell & Cummiskey
465 Old Kent Building
Grand Rapids, MI 49503

For the Lodge: George V. Warren, Esq.
Brattin & Warren
700 Stoddard Building
Landing, MI 48933

OPINION AND AWARD

This arbitration has been conducted pursuant to the Police-Firefighters Arbitration Act (Act 312, Michigan Public Acts of 1969, as amended), upon the initiation of Capitol City Lodge No. 141, Fraternal Order of Police (Police Non-Supervisors) (hereinafter the "Lodge"), following negotiations with the City of Lansing (hereinafter the "City") for a new two-year collective bargaining agreement to replace one expiring on June 30, 1976. The statutory conditions

precedent to arbitration, namely, collective bargaining and mediation, have been fulfilled.

The members of the Arbitration Panel are: Daniel J. Bodwin, Delegate of the City; W. Paul Wiegman, Delegate of the Lodge; and Theodore J. St. Antoine, Chairman, appointed by the Michigan Employment Relations Commission, per Robert Pisarski, Director, on November 2, 1976, pursuant to a request submitted on June 30, 1976 by George V. Warren, Esq., on behalf of the Lodge. A preliminary hearing was held at the Legal Research Building in Ann Arbor on November 17, 1976. Formal hearings were subsequently conducted at the Capitol Park Motor Hotel, Lansing, on December 16, 1976, and January 5 and 6, 1977; at the Offices of MERC in Lansing on January 27, 1977; and at the Capitol Park Motor Hotel on February 2, 1977. Briefs were submitted by both parties on April 22, 1977. An executive session of the Arbitration Panel was held at the Legal Research Building in Ann Arbor on June 22, 1977, at which time decisions were reached on substantially all issues still in dispute. An Interim Award was issued on June 23, 1977 covering wages and the retroactivity of overtime for both the Police Non-Supervisors and the Park Police (Appendix "A").

The Opinion herein was prepared by the chairman, and does not necessarily reflect the views of the other panelists.

Section 9 of Act 312 sets forth the criteria to be applied in resolving disputes over the terms of a new contract. The Panel has carefully considered each of these factors in its deliberations. In dealing with subsection (d)(i), which directs that arbitration findings be based, inter alia, on a "/c/omparison of wages, hours

and conditions of employment ... /i/n private employment in comparable communities," the parties were at odds concerning the appropriate jurisdictions for the purposes of comparison. The City and the Lodge have agreed upon four comparable communities, viz., Flint, Grand Rapids, Kalamazoo, and Saginaw. They disagree on the comparability of five other communities. The City contends that East Lansing and Wyoming are comparable, while the Lodge maintains instead that Ann Arbor, Jackson, and Pontiac are comparable.

The chairman agrees on the importance of comparability in so-called "interest" arbitrations. Indeed, in most cases it is likely to be the single most critical factor -- even more significant than the cost of living, which many unions tend to stress, or the ability to pay, which many employers tend to stress. (In the present proceedings, however, the City has not made an issue of ability to pay.) The reason is that the ideal arbitration award setting new contract terms should not reflect the arbitrator's views or values, but should ordinarily approximate as closely as possible the agreement the parties themselves would have reached had their negotiations been successful. The best measure of that hypothetical settlement is the actual contracts that have been concluded in comparable communities.

The City urges the Panel to make some hard and fast judgments about which cities are comparable and which are not. The chairman, at least, does not regard the determination of comparability as that exact a science. It tends, rather, to be a matter of greater or lesser degree. To assist him in his thinking, but not necessarily to try to impose his methodology on the parties, he is going to take

the following approach. On the basis of such factors as the nature of the police work, the urban core character of the city, geographical proximity to Lansing, population, the socioeconomic status of the residents, etc., he will spread the four agreed-upon cities and the five disputed cities across a spectrum. To the four that the parties have stipulated are like Lansing will be assigned a comparability weight of "1"; to those that seem next closest in similarity will be assigned a weight of "2/3"; and to those that are less similar but still reasonably comparable will be assigned a weight of "1/3."

In keeping with his notion that determining comparability is not entirely an exercise in mathematics, the chairman has been willing to allow some subjective considerations to enter into his calculations. Human expectations are influenced by long-established associations, for example, and it would take more than the figures presented here to convince most residents of the "Lansing-Jackson-Flint" area that Jackson is not really a kindred member of that trio. On the other hand, I can agree with the City that the evidence demonstrates pretty conclusively that Pontiac is part and parcel of the immediate Detroit area, and should be discarded entirely for comparison purposes. Placing most weight on the fairly objective factors, but leavening them with some recognition of more subjective traditional associations, the chairman has concluded that East Lansing and Jackson should be accorded a weight of "2/3," and Ann Arbor and Wyoming a weight of "1/3." I do not think this is an unrealistic or idiosyncratic construct. For example, on several important items, such as wages and the number of annual vacation days, the average figures derived by the use of my weighted formula covering all eight comparable cities

differ only by a hair's breadth from the average figures derived by a calculation limited to the four cities on which the parties agree. The advantage of considering a larger sample, instead of confining comparisons to the four undisputed cities, is the greater ease with which one can spot trends in the grant or denial or various employee benefits.

The issues still in dispute between the parties will be considered seriatim.

Issue No. 1 -- Wages. This is of course an economic issue, and under the statute the Panel must choose between the last best offer of the City and the last best offer of the Lodge. Moreover, the parties have agreed that the Panel must adopt the entire two year wage proposal of either the City or the Lodge.

Under Article XXV of the previous Labor Agreement between the parties (Joint Exhibit No. 1), the wage rates effective as of July 1, 1975, were as follows:

Detectives and Corporals IIA		$16,023
Patrolman I	Minimum	10,632
	6 Months	10,750
	1 Year	10,875
	18 Months	11,081
	2 Years	12,010
	30 Months	13,055
	3 Years	13,635
	42 Months	14,216
	4 Years	15,260

The City's last best wage offer (City Exhibit No. 29) is for a 6.3% increase for the year beginning July 1, 1976, and for a 5.5% increase for the year beginning July 1, 1977. At the hearing the Lodge proposed a 7.7% increase for the first year and a 5.9% increase for the second year (Lodge Exhibit No. 1). Its last best wage offer, however, submitted per letter dated April 6, 1977, was for an identical dollar increase for all members of the bargaining unit, amounting to $1450 for 1976-77 and to $1000 for 1977-78.

The City's last best offer thus appears as follows (C-29):

	Beginning 7-1-76	Beginning 7-1-77
Detective and Corporal IIA	$17,032	$17,969
Police Officer I		
Minimum	11,302	11,924
6 Months	11,427	12,055
1 Year	11,560	12,196
18 Months	11,779	12,427
2 Years	12,767	13,469
30 Months	13,877	14,640
3 Years	14,494	15,291
42 Months	15,112	15,943
4 Years	16,221	17,113

The Lodge's last best offer, as submitted after the hearing, presents the following proposal (letter dated April 6, 1977):

	Beginning 7-1-76	Beginning 7-1-77
Detective and Corporal IIA	$17,473	$18,473
Police Officer I		
Minimum	12,082	13,082
6 Months	12,200	13,200

	Beginning 7-1-76	Beginning 7-1-77
Police Officer I (Cont'd)		
1 Year	$12,325	$13,325
18 Months	12,531	13,531
2 Years	13,460	14,460
30 Months	14,505	15,505
3 Years	15,085	16,085
42 Months	15,666	16,666
4 Years	16,710	17,710

The wage figures for the top patrolman in the eight comparable cities during the twelve months' period from July 1, 1976 through June 30, 1977 were as follows (C-30 and L-6a through L-6g):

City	Actual Amount	Weighted Amount
Flint	$17,807	$17,807
Grand Rapids	16,652	16,652
Kalamazoo	16,125	16,125
Saginaw	15,405	15,405
East Lansing	15,585	10,390
Jackson	17,507	11,671
Ann Arbor	17,043	5,681
Wyoming	15,642	5,214
Average (Weighted Basis):		$16,491
City's Last Best Offer		16,221
Lodge's Last Best Offer		16,710

Both the City and the Lodge are to be commended for arriving at last best offers that are entirely reasonable, and that deviate

only marginally from each other and from the weighted average of comparable communities. As I calculate it, the City's deviation from the weighted average is $270, or 1.64% below the average, while the Lodge's deviation is $219, or 1.33% above the average. That is a difference in the variances of less than one-third of one percent, a figure I regard as so slight as to be meaningless as a practical matter. The Panel is going to have to treat the wage data from comparable cities as essentially a standoff, and move on to other factors in order to decide between the last best offers of the City and the Lodge.

It is appropriate for the Arbitration Panel to consider the wage increases that have been negotiated with other groups of City employees. The Lansing supervisory police and the Lansing firefighters have both concluded contracts with the City for 1976-78, with the former group getting two annual increases of 6.3% and 5.5% (C-8 and C-9), identical to the City's last offer to the non-supervisory police. The firefighters received annual increases of 6.0% and 5.5%. By contrast, the Lodge's last best offer would provide two annual increases of 9.5% and 6.0% for top police officers, and of 13.6% and 8.3% for starting police officers. The Lodge's proposed increases are substantially out of line with those arrived at through collective bargaining by other comparable City employees, and would plainly place a significant premium on recourse to arbitration. On occasion, arbitration is obviously a necessary and appropriate procedure for settling unresolved issues, but it should be treated as something in the nature of a last resort, not something to be encouraged or lightly undertaken. For the Lodge to prevail at arbitration in getting as large an increase as it seeks could be unsettling not

only for its own future collective bargaining, but for that of other City employee groups as well. This point is not decisive in itself; if the City had submitted an unreasonably low final offer, then the health of future bargaining would be furthered by adopting the Lodge's proposal. But as we have seen from examining the average patrolman rates in comparable cities, the wage levels proposed by both the City and the Lodge are reasonable. Thus, the increases of other City employees assume an extra importance.

The Consumer Price Index as of the end of June 1976, when the parties'last Agreement expired, had risen 5.9% over the preceding twelve months. The rate of increase continued to head down during the remainder of 1976, reaching a low of 4.8% in December. Since the beginning of 1977, inflationary pressures have returned. By the time the parties' briefs were submitted in April, the figures for March 1977 were available and showed a CPI increase of 6.4% over the preceding year (Lodge's Brief, App. Issue 1, p. 1; USDL-77-552). By the end of June 1977, the CPI stood at 181.8, or 6.9% above June 1976, although it was reported that the "acceleration occurred in the early months of this year and appears to be unwinding, but slowly" (N.Y. Times, July 22, 1977, p. A1, col. 1; p. D11, col. 5). It is somewhat hard to know what time period is most appropriate to use in looking at CPI figures. If the parties had successfully negotiated a new Labor Agreement in a timely fashion, the rate of annual increase in the CPI would have been about 6% or less, and declining. But even if we opt for enjoying the advantages of hindsight, and give the Lodge the benefit of the doubt, its 9.5% to 13.6% requested increases for 1976-77 are substantially more out of line with the CPI increase of 6.9% than is the City's proposal of 6.3%. While I can

fully appreciate the Lodge members' sense of frustration in watching their purchasing power being nibbled away by inflation, that is the common lot of many persons in our society today.

Finally, the chairman of the Panel must concede he was somewhat troubled by the strategy of the Lodge in not only upping the pay raise requested in the last best offer over that argued for at the hearings, but also changing the method of calculation from a percentage increase to an across-the-board dollar increase. Although I have no doubt about the Lodge's right to do this, in a fairly close case this last-minute shift of position introduces another element of uncertainty. The across-the-board approach plainly favors the lower-paid members of the bargaining unit. I was left uncomfortable about my lack of a sense of the practical implications of this innovation for this particular bargaining unit.

AWARD: The last best offer of the City is adopted. Wages shall be increased 6.3% for the first year of the contract, July 1, 1976 - June 30, 1977, and 5.5% for the second year, July 1, 1977 - June 30, 1977. These increases are retroactive to July 1, 1976 and July 1, 1977, respectively. Standard overtime payments provided by the parties' Labor Agreement shall be calculated on the basis of the newly rewarded rates, retroactive to July 1, 1976 and July 1, 1977, respectively.

Issue No. 4a -- Court Time Pay. This is another economic issue. The City proposes to revise Article XII, Section 6 of the Labor Agreement (J-5) to read as follows (City's LBO, dated April 6, 1977):

> Court Time. When an off-duty officer is called to court and spends one-half day or less in court, he shall keep his witness fee and shall receive, in addition, the difference between the witness fee and $25.00, so that such employee receives a total of $25.00, including the witness fee. When an off-duty officer spends more than

one-half day and up to a full day in court he shall keep his witness fee and shall receive, in addition, the difference between the witness fee and $50.00, so that such employee receives a total of $50.00, including the witness fee.

Mileage that may be paid by the court shall also be kept, in addition to the payments provided for in the above paragraph.

The Lodge's last best offer on this issue was the following (L-1):

Court Time. If an officer is subpoenaed into court or has to go to court in order to validate a complaint/warrant, the officer shall be paid (if off-duty) at the rate of time and one-half the officer's hourly rate of pay, with a minimum of two (2) hours payment at the overtime rate, unless such time shall extend past two (2) hours, in which event the officer shall be paid overtime for the exact hours or portion thereof so worked. The officer shall keep any statutory mileage fee for court appearances (which fee shall not be made a part of any overtime compensation under this Agreement) but the officer shall turn back to the department any statutory witness fee.

Time and one-half the officer's rate of pay shall be paid for all other matters (including by way of illustration, trips to the Prosecuting Attorney's Office, Probate Court appearances, License Appeal Board hearings, and Liquor Control Commission hearings) which occur beyond an officer's normal duty shift, with a minimum of two (2) hours' payment at overtime pay rates, unless such time worked shall extend past two (2) hours, in which event the officer shall be paid overtime for the exact hours or portion thereof so worked. The officer shall keep (and any such sum so retained shall not be included in the officer's overtime compensation paid hereunder) any mileage allowance the officer receives in connection with these types of proceedings but the officer shall turn back to the department any statutory witness fee.

The City points out that its offer would raise a police officer's court time pay from $15 to $25 for a half day or less, and from $30 to $50 for more than half a day. Non-supervisory police still receive the former rate. It argues that the Lodge proposes not only a significant revision in the method of payment but in addition a

substantial expansion in the definition of "court time," without adequate explanation of its scope or any estimate of its likely cost.

Nearly all comparable cities provide for time-and-a-half overtime pay for court appearances, and the majority have a two- or three-hour minimum. I agree with the Lodge's contention that for a police officer earning in the $15,000-$16,000 range, the City's offer of $25 is adequate for only about the first couple of hours. Although I am somewhat uneasy over the City's fear that the Lodge's proposed second paragraph may open up a costly Pandora's box, the City has it within its power to keep the lid on. In any event, I think on balance the Lodge is on sounder ground, and of course its offer must be accepted or rejected as a whole. Since this award was announced orally to the parties' delegates on June 22, 1977, and since I do not think the employees should suffer because of the chairman's delinquency in issuing a written decision, the award will be retroactive to July 1, 1977.

AWARD: The Lodge's last best offer on "Court Time" is adopted, retroactive to July 1, 1977.

Issue No. 4b -- Call-Back and Call-In Pay. The Lodge proposes to amend Article XII, Section 3 to read as follows (L-1):

> If an officer is called in to work or is called back to work at a time other than the officer's posted duty shift, the officer shall be paid for such call-back and/or call-in time at the rate of time and one-half his regularly hourly pay rate, with a minimum of two (2) hours' payment at the overtime rate, unless such time worked shall extend past two (2) hours, in which event the officer shall be paid overtime for the exact hours or portion thereof so worked.

The City has offered no change in the present provision, which gives a minimum payment of three hours at straight time to officers

called back to work.

The parties' exhibits (C-46 and L-10) demonstrate quite conclusively that time-and-a-half overtime is standard for the call-back of police officers in comparable communities. Payment for a minimum of about two hours appears a rough average. The City's worry about cost is not persuasive.

AWARD: The Lodge's last best offer on "Call-Back and Call-In Pay" is adopted, retroactive to July 1, 1977.

Issue No. 5 -- Compensatory Time in Lieu of Overtime. The City would add the following new provision to the Labor Agreement (City's LBO, dated April 6, 1977):

> Compensatory Time. In lieu of receiving pay for overtime which is worked, an employee may elect to receive compensatory time up to a maximum of twenty-four hours per fiscal year earned at the rate of one (1) hour of overtime to one (1) hour of compensatory time. All such compensatory time shall be in lieu of paid overtime. Scheduling of compensatory time off shall be at the sole discretion of the Chief of Police, or his designee.

The Lodge's proposal on this issue is as follows (L-1):

> Compensatory Time. In lieu of receiving overtime pay at overtime pay rates for overtime hours worked, an officer shall, at his or her sole option, elect to receive compensatory time at time-and-one half (1 1/2x) for all overtime hours so worked. An officer shall have the right to bank unused compensatory time up to a maximum of forty (40) hours of unused compensatory time, and the officer shall have the right to draw unused compensatory time from this bank at the officer's option and to place additional unused compensatory time back in the unused compensatory time bank so that the bank can be kept, if the officer so desires, at a maximum of forty (40) unused hours or a lesser amount thereof. The officer's request to utilize compensatory time shall be approved by management but such approval shall not be unreasonably denied. Upon termination of employment for any reason, the City shall pay the officer for unused compensatory time at the officer's then rate of pay.

Among the eight comparable cities, five provide compensatory time (Ann Arbor, Grand Rapids, Jackson, Saginaw, and Wyoming), and

three do not (East Lansing, Flint, and Kalamazoo) (C-49; L-11). Among the four cities that are "agreed-upon comparables," there is a two-two split. One of the five cities awarding compensatory time, Saginaw, awards only a single hour of compensatory time for each overtime hour worked. The rest award compensatory time at the standard time-and-a-half rate. Three cities permit an unlimited "bank" of compensatory time; two cities impose limits of 120 and 240 hours, respectively. Neither the Lansing firefighters nor AFSCME have a compensatory time provision. The Lansing supervisory police have a provision identical to that proposed by the City for the non-supervisory unit.

This is a close call. On the basis of all eight comparable cities, although not on the basis of the four indisputably comparable ones, the Lodge enjoys a slight but discernible edge. On the basis of comparisons with the other Lansing employee groups, however, the City has a distinct advantage. Since this is the first time a compensatory time provision has been introduced into a Lansing non-supervisory police contract, and since the chairman believes that arbitration should generally follow rather than lead freely negotiated collective bargaining settlements, he concludes that the City's proposal should be adopted at this time. I naturally do not mean to deny that further developments of this provision might be appropriate in the future, preferably through collective bargaining, but if necessary through other interest arbitrations.

AWARD: The City's last best offer on "Compensatory Time" is adopted.

Issue No. 6 -- Merit Increases. The Lodge requests the substitution of the word "seniority" for the word "merit" in Article

XXV of the parties' Agreement, dealing with "Wages" (Tr. 132-34), while the City calls for the retention of the existing language.

Apparently once in the last four years or so a step increase was denied to a police officer on "merit" grounds, and the Lodge filed a grievance. Otherwise, Article XXV, "Wages," has operated very much like a seniority provision; the pay goes up as the police officer passes each six-month milestone.

The City seems to regard the "merit" pay provision as one of the last bastions of the "incentive" system left in the public service. This attitude may not wholly reflect the realities of employment relations in the public sector today. I am not satisfied, however, that the Lodge, as moving party, has shown that police officers have been seriously affected by the very rare denial of a wage raise on merit grounds, or that step increases should be refused only after full disciplinary proceedings. In the absence of more proof of a need for a change, the status quo should be maintained.

AWARD: The City's last best offer is adopted, and Article XXV shall remain textually as it is.

Issue No. 7 -- Gun Allowance. The Lodge proposes an increase of $50 in the gun allowance, for a total of $200 per year per officer. The City would retain the current gun allowance of $150.

The Lodge feels that its request for 55¢ a day is meager compensation for being required to carry a gun and being prepared to use it any time of the day or night, 365 days a year. The City counters that none of the comparable cities have a contractual provision for a gun allowance, and that the Lansing supervisory police have the same gun allowance of $150 as is now enjoyed by the non-

supervisory unit.

The City is correct that none of the six cities it regards as comparable, and none of the four both parties agree are comparable, has a gun allowance. Two of the other cities that the chairman is prepared to accept as more or less comparable have a gun allowance, Ann Arbor having one of $150 and Jackson one of $365. The weight of the evidence arguably militates against any gun allowance, and certainly against any increase beyond the present $150.

AWARD: The City's last best offer is adopted, and the gun allowance shall remain at $150.

Issue No. 8 -- Longevity Pay. Both the City and the Lodge propose to increase the maximum base salary amount upon which longevity is computed from $8000, as provided in the last Labor Agreement, to $10,000. The only difference between the parties is that the City proposes that the change be effective on July 1, 1977 and the Lodge proposes that it be effective on July 1, 1976.

As the Lodge points out, it is difficult to determine exact comparability on longevity pay because of the variations from city to city in the method of computation. Nonetheless, it appears that the City's proposal would place it somewhat below comparable cities for 1976-77 and somewhat above for 1977-78 (C-38; L-27). The use of the chairman's "weighted formula" confirms this. In addition, the City's proposal is identical to the longevity pay provisions in the current contracts of the Lansing firefighters, police supervisors, and the AFSCME unit. The Lodge will get a substantial improvement in longevity pay as a result of the City's offer. It has not demonstrated that it is also entitled to retroactivity to July 1, 1976.

AWARD: The City's last best offer is adopted. The maximum base upon which longevity pay is to be computed shall be raised from the current $8000 to $10,000, effective July 1, 1977.

Issue No. 9 -- Retirement. There appears to be no substantive difference between the parties on this issue. The minimum age for full retirement is to be reduced from 55 to 50. The City has suggested minor stylistic and technical changes regarding consistency in the use of the term "credited service," and uniformity in other references to "age fifty (50) and twenty-five (25) years of service." These proposals seem fair and reasonable, and without detriment to the position of the Lodge in this arbitration.

AWARD: The accord of the City and the Lodge on the principal substantive issue is recognized by the Panel, and the City's last best offer (C-39) with regard to stylistic and technical language is adopted.

Issue No. 10a -- Holidays. The Panel simply notes that the City and the Lodge are in accord that the number of holidays will be increased from nine to ten by the addition of the Day before New Year's Day, effective July 1, 1977.

Issue No. 10b -- Holiday Pay. The parties' last Labor Agreement provided that each member of the bargaining unit should receive $30 per holiday plus the employee's regular pay, whether or not the employee works on the holiday. The City proposes to retain this formula for holiday compensation but to increase the payment to $40 per holiday, effective July 1, 1977 (C-40). The Lodge asks that an officer who works on a holiday receive time-and-a-half for doing so,

and that an officer who does not work receive his regular pay. In addition, the Lodge asks that all officers, whether or not they work on a given holiday, will receive, besides their overtime or regular pay, an extra day off (L-30; Tr. 168-170).

The Lodge maintains that the present practice does not adequately compensate an individual for the inconvenience of separation from family, or the inconvenience of not being able to join the rest of the workaday world in having a holiday off. The Lodge has a point. The City's proposal makes no distinction between working and nonworking holiday personnel, and in effect merely adds $400 to the annual pay of everyone. The Lodge's proposal, however, does little to rectify this situation. First, it would give everyone the bonanza of another day off for each recognized holiday -- which is the equivalent of doubling in one fell swoop the number of annual holidays per person from ten to twenty. The Lodge has not supplied any adequate justification for such a sudden and dramatic increase in leave time. Second, the Lodge's suggested solution gives the holiday worker only 50 percent more than the nonworker. The differential, then, between worker and nonworker is only about $33 for a full eight-hour day. If the Lodge's objective is to provide a meaningful difference in pay between holiday workers and nonworkers, its efforts would appear to have fallen short. At the same time, the cost of its proposal -- a doubling of annual vacation days -- would seem about as excessive as the City claims.

In the exhibit provided us by the Lodge itself (L-31), the majority of comparable cities appear to have arrived at a far more equitable method of handling pay on holidays. As the chairman understands it, most of these cities give a nonworker straight time,

and a worker straight time plus overtime. That is a meaningful difference, but it does not entail the extravagance of an additional day off, for worker and nonworker alike.

The City continues to fail to make any distinction between those who work and those who do not work on holidays. The Lodge makes a modest if inadequate distinction, but then adds on a quite costly provision for an extra leave day for each vacation day for both workers and nonworkers. Faced with this particular choice, the Panel will opt for the more economical solution.

AWARD: The City's last best offer is adopted, and Article XIII shall be amended by substituting "$40.00" for "$30.00" in the first sentence thereof.

Issues Nos. 11a and 11b -- Vacation Days. Under the last prior Labor Agreement, Article XI provided eligibility for vacation with pay as follows (J-5):

Length of Service	Annual Vacation Leave
1 but less than 10	12 work days
10 but less than 15	16 work days
15 years or more	21 work days

In addition, Article X, Section 2 provided for three "additional leave days" each calendar year, which could be taken in conjunction with vacations.

The City proposes no change in the number of existing vacation days, although it does offer an extra leave day beginning July 1, 1977 (see Issue No. 14 -- "Leave Days," below). The Lodge proposes one additional vacation day a year, effective July 1, 1976, except that

the one-to-ten year group would be divided in half, with one-but-less-than-5 receiving 13 days of vacation and 5-but-less-than-10 receiving fourteen, or, in the alternative, an unchanged one-but-less-than-10 group would receive 14 days of vacation (L-32; Lodge's LBO, dated April 6, 1977). The City argues that the Lodge's offer on this issue is ambiguous and an illegal attempt to divide a single integral issue by presenting alternative options. In light of the Panel's disposition of this issue, it will not be necessary to pass on the City's contention.

Among comparable cities, vacation days, including extra leave days, are provided as follows (C-53; L-33):

City	1-4 yrs.	5-9 yrs.	10-14 yrs.	15+yrs.
Flint	12	17	17	22
Grand Rapids	10	10	15	20
Kalamazoo	10	15	17	20
Saginaw	20	20	23	23
AVG	13	15.5	18	21.3
("Weighted" figures have been used for the following cities)				
East Lansing	8.3	11.3	13.3	13.3
Jackson	6.7	8	10	13.3
Ann Arbor	7.3	7.3	8.5	9.7
Wyoming	3.3	4.3	5	6.7
TOTAL AVG. (Weighted)	12.9	15.5	18.1	21.3
City Offer (1st Yr.)	15	15	19	24
City Offer (2d Yr.)	16	16	20	25
Lodge Offer	16	17	20	26

As can readily be seen, the City's offer is superior in the first year to all but one category of employees in comparable cities, and superior in the second year to all categories -- substantially so in most. The Lodge's offer is further away in all respects from the comparable averages.

AWARD: The City's last best offer is adopted. There shall be no change in the number of vacation days as such, but the panel takes cognizance that the number of additional leave days will be increased by one in 1977-78.

Issue No. 11c -- Vacation Scheduling. The City proposes that the vacation scheduling procedure as set forth in Article XI, Sections 2-7 of the parties' Last Agreement (J-5) be retained. The Lodge wishes to incorporate within the contract the actual vacation scheduling procedures which it insists are now in existence at the Lansing Police Department (L-32). The City retorts that the Lodge has failed to prove that the current contract procedure is defective.

Obviously, a contract's provisions should generally conform to the parties' actual practices. There was testimony that conforming to current Lansing Police Department procedures would be the only effect of the Lodge's proposal (Tr. 196-97). The City's counter-argument on this point was unconvincing. The Lodge's position will be accepted, on the assumption that this will cause no substantial changes in existing departmental procedures. Since this is agreed to be a non-economic issue, the chairman has made some changes in the Lodge's proposal to reduce the differences between it and the current contract language.

AWARD: The Lodge's last best offer is adopted. Article XI,

Sections 2 and 5 through 8 will be amended to read as follows:

Section 2. Employees shall accrue vacation leave credit for any given year on the basis of accumulating one-twelfth (1/12) of their annual vacation, for which they qualify pursuant to Section 1 above, for each month of continuous service with the City. No vacation leave shall be earned by any employee during a leave of absence without pay.

/Section 3. No change in existing contractual language./

/Section 4. No change in existing contractual language./

Section 5. An eligible employee may, to the extent of his unused vacation, take at least two (2) vacation periods during each year. Vacations shall be taken in increments of at least five (5) days and not to exceed fourteen (14) days unless mutually agreed upon by the employee and the management representative of the Police Department who is responsible for scheduling vacations. Approval shall not be unreasonably withheld. A seniority list shall be posted not later than December 1st of any calendar year. Employees in a given job classification on a given shift shall, by seniority, select their desired vacation dates. A final vacation list shall be prepared by the Chief of Police or his representative and posted not later than January 1st of each year.

A. In the event an employee who has been allowed reasonable time to make a vacation selection does not select a vacation period when, according to his seniority, his selection is offered, he shall be allowed to select a vacation period from the remaining available dates in his classification and on his shift at the time he does decide to make a vacation selection.

B. If an employee is not on the shift or in the classification for which he had approved vacation leave at the time said leave is due, said leave shall be rescheduled on the shift and within the classification the employee then occupies provided there is available vacation time on such shift in such classification. If, however, the employee is transferred for the convenience of the City from one shift to another or from one job to

another after said employee has selected his vacation leave dates, said original dates shall be honored.

Section 6. Vacation time off shall be cumulative from year to year. However, no employee shall be allowed to accumulate more than two (2) times the annual vacation he is entitled to, pursuant to Section 1 of this Article.

A. On or before November 30th of any calendar year, employees shall be notified of their total vacation eligibility for that given calendar year, the number of vacation days taken, and the balance remaining, if any.

Section 7. If a regular pay day falls during an employee's vacation and he is to be on vacation for two (2) weeks or longer, he will be entitled to receive that check in advance before going on vacation. An employee must make a request to the Police Dept. Administrative Services Division for his check two (2) weeks before leaving, if he desires to receive it in advance.

Section 8. Where possible, all vacations shall start on Saturdays. Vacation days and leave days may be coupled upon mutual agreement between the employee involved and the Chief of Police or his designated representative. Such coupling shall not be unreasonably denied.

Issue No. 11d -- Call-Back from Vacation. The Lodge would add a provision for doubletime pay for hours worked when an employee is called back to duty from a scheduled vacation (L-32). The City proposes no change from the previous contract.

The Lodge did not make much of this point at the hearing or in its brief. The City concedes that call-backs from vacation are to be avoided. There was no proof that this was a serious practical problem or that there has been departmental abuse. Most comparable communities do not have vacation call-back provisions of the sort sought by the Lodge (C-53).

AWARD: The last best offer of the City is adopted, and no provision will be added covering call-backs from vacation.

Issue 12a -- Sick Leave Donation. The Lodge proposes that officers be permitted to work on their days off and donate time to an ill employee who has run out of sick leave (L-34). The City seems sympathetic to the concept, but is troubled by legal problems of overtime, Worker's Compensation, etc. The chairman is of the view that most of the technical difficulties can be avoided with a little care and ingenuity. Insofar as it should run afoul of the law, the procedure naturally could not be employed. In substance, the Lodge's proposal is a praiseworthy one. Rarity of use should prevent its becoming a problem for the City. Again, this is a non-economic issue, and the chairman has introduced a minor change to make explicit the need for compliance with the law.

AWARD: The Lodge's last best offer is adopted, with modifications. A new provision will be added to Article XVII, "Sick Leave," reading as follows:

> Whenever an officer shall have exhausted all of his/her sick leave, the Lodge may make a written request to have its members work and donate time to the sick employee, and the City shall not take active opposition to said request and shall facilitate any member's working pursuant to same, consistent with applicable law. Any members of the collective bargaining unit who are qualified may work in the place and stead of said ill employee until a final determination is made as to whether he/she is to be carried as permanently disabled. If the determination is of permanent disability, the other provisions of this Agreement and the City's Ordinances and Charter shall take effect.

Issue No. 12b -- Sick Leave Accumulation. The Lodge would amend Article XVII, Section 5 to provide that an employee or his beneficiary be paid one-half of his unused accrued sick leave at the date of his retirement or death, without regard to the limiting language of the present provision, which makes accrual of sick leave subject "to the procedure as enumerated in the Official Proceedings of the City Council of the City of Lansing, Michigan, March 6, 1967, beginning on page 262 thereof" (J-5). The Lodge would also delete another provision forbidding payment for accrued sick leave to any employee "who otherwise leaves the City service" (J-5; L-35).

The chairman is generally opposed to contract language incorporating external documents by reference. In the present case, however, no showing has been made of the difficulty or lack thereof of incorporating the March 6, 1967 City Council proceedings. Moreover, the City has a point that persons who voluntarily quit or are discharged should perhaps not receive accrued sick leave.

AWARD: The City's last best offer is adopted. Article XVII, Section 5 shall remain unchanged.

Issue No. 12c -- Humanitarian Clause. The Lodge has proposed that a provision be added to the Labor Agreement which would require the City to make an effort to find jobs elsewhere in City employment for police officers who, due to a physical or mental handicap, are incapable of performing their regular duties (L-34). The City would not add such a provision to the existing Labor Agreement.

The chairman finds this a laudatory proposal, and the City's objections unpersuasive. Since it is a non-economic proposal, minor language changes will be made.

AWARD: The Lodge's last best offer is adopted, with modifications. The following provision will be added to Article XVII, "Sick Leave":

> Should an employee covered by this Agreement become physically or mentally handicapped to the extent that he cannot perform his regular job, the City will make every reasonable effort to place the employee in a position within City employment that he is physically and mentally able to perform, subject to the City's legal or contractual obligations to other City employees.

Issue No. 13a -- Insurance. The Lodge requests that Article XVI, Section 1 of the previous Labor Agreement (J-5), which refers to a "Group Life Insurance Plan," be amended to set forth the principal features of this Plan. The City argues that the existing brief reference has not been shown to be inadequate. Incorporation by reference may be necessary on occasion to avoid extensive quotation. But ordinarily it is not as desirable as a recitation of all the particular provisions in a single document. The requested language is not inordinately lengthy.

AWARD: The Lodge's last best offer is adopted. Article XVI, Section 1 is amended to read as follows:

> Section 1. Life insurance principal sum for employees shall not be less than twenty thousand dollars ($20,000). Accidental death and dismemberment insurance principal sum shall not be less than twenty thousand dollars ($20,000).
>
> The amount of life insurance in force for employees shall be reduced and limited to not less than fifteen hundred dollars ($1,500) on the date an employee retires; however, all the cost of this policy shall be borne by the retiree.
>
> The coverage to be made available for employee's spouse and child or children shall not be less than:
>
> | | |
> |---|---|
> | Wife or Husband - - - - - - - - | $1,500 |
> | Unmarried Child, age: | |
> | 14 days to 6 months - - - - - | $ 250 |
> | 6 months to 23 years - - - - | $1,000 |

Issue No. 13b -- Dental Plan. The Lodge proposes to add a Delta Dental Insurance Plan, while the City opposed it. Among comparable communities, the substantial majority do not provide such dental coverage for their police officers (C-55).

AWARD: The City's last best offer is adopted. No dental insurance will be mandated.

Issue No. 14 -- Leave Days. As discussed under "Issue No. 11a and b -- Vacation Days," above, the Panel notes that the City will provide police officers with a fourth extra leave day each year, effective July 1, 1977.

Issue No. 15a -- Clothing Allowance. The previous Labor Agreement provided that detectives receive a clothing allowance of $300 per year and other plainclothesmen receive $200 per year. The Lodge proposes that the distinction between detectives and other plainclothesmen be abolished and that all plainclothesmen receive $375 per year. The City proposes no change.

Comparable cities do not distinguish between detectives and other plainclothesmen in setting a clothing allowance. According to the chairman's weighted formula, however, the average clothing allowance in these cities comes out to $242 a year (C-56; L-42). This is midway between the $300 and $200 received by Lansing detectives and other plainclothesmen, and substantially below the $375 sought by the Lodge.

AWARD: The City's last best offer is adopted, and the clothing allowance shall remain unchanged.

Issue No. 15b -- Clothing Allowance Payment Method. The Lodge proposes that the clothing allowance be prorated on a daily basis,

while the City proposes that the existing quarterly basis be retained. We are not satisfied that a sufficient showing has been made for a change in the current method of calculating the clothing allowance.

AWARD: The last best offer of the City is adopted, and the clothing allowance method of payment shall remain unchanged.

Issue No. 16 -- Retroactivity. Retroactivity has been dealt with issue by issue, and the Panel finds it unnecessary to consider whether retroactivity can or should be treated as a separate and distinct issue.

Issue No. 17 -- Management Rights. The Lodge proposes to revise Article II, "Management Rights," so as to enable changes in rules, regulations, and memoranda to be subject to the grievance procedure for reasonableness; to eliminate the authorization for the City's taking "whatever action the City deems necessary ... in emergency situations"; to delete the clause calling for City and Lodge cooperation; and to delete the clause waiving the Lodge's right to "grieve concerning the contemplation, approval, application, implementation or adoption of any management right, whether heretofore above listed or not" (J-5; L-45c). In its official Last Best Offer, dated April 6, 1977, the City in effect agreed to accept the Lodge's proposal regarding grievances over the reasonableness of rules, regulations, and memoranda. Subsequently, by letter dated April 22, 1977, the City purported to withdraw this proposal, and maintained that it would now stand on the language of the previous Agreement, unchanged.

The chairman will resist the temptation to philosophize over

the inherent tension between management rights clauses and arbitration clauses, and over the tendency of both unions and employers to act as if victory at Armageddon turned on every exclusionary phrase in such clauses. At the very least, it can be said that almost no management rights clause will prevent a union from grieving over what is a management right, and what is instead a violation of the union's rights under the contract. Thus, both parties have probably attached too much importance to the particular language changes in Article II which they have sought or resisted in this arbitration.

Although it is true that the Managements Rights provision under consideration here is a non-economic issue, and thus the Panel is not legally bound to choose either one party's last best offer or the other's in toto, the chairman does not see why a party should be any less bound by its final offer on a noneconomic issue. The City had adequate time, with the aid of excellent counsel, to decide on its position. There is no suggestion of deception or even unilateral mistake. The Lodge wrote its brief relying on the City's position as of April 6. There has been no claim, for whatever that might be worth, that the City has belatedly discovered it simply "cannot live with" its April 6 offer. In the absence of the most extraordinary circumstances, it will be concluded that there was a "meeting of the minds" between the parties as to subsection (m) on April 6.

Since the chairman believes the "waiver" language of the last section of Article II is more of an irritant to the Lodge than a substantive safeguard for the City, it will be deleted. The "emergency" language in subsection (p) will be toned down to eliminate an unnecessary suggestion that the City has absolute, unlimited power to

declare emergencies and then act wholly as it sees fit. We see no reason, however, to disturb the relatively innocuous, hortatory language of subsection (q).

AWARD: Subsection (m) of Article II shall be rewritten as follows:

> (m) To adopt, revise and enforce working rules and carry out cost and general improvement programs; however, no rule or regulation or memorandum shall be adopted hereafter without notice to the Lodge, and its reasonableness may be subject to the grievance procedure;
>
> Subsection (p) of Article II shall be rewritten as follows:
>
> (p) take whatever action is reasonably necessary to carry out any and all of the City's services in emergency situations;
>
> The last sentence of Article II shall be rewritten as follows:
>
> The City agrees that the rights of the Lodge are specifically listed herein, and that all subjects not specifically listed herein are retained by the City.

Issue No. 18 -- Checkoff. The Lodge seeks a new dues checkoff authorization form, which speaks in terms of "the current rate of monthly Lodge dues," rather than a specific dollar amount, and which requires sixty days' written notice for termination (L-46). The City wants no change.

Checkoff authorizations, absent some illegality or the imposition of an undue administrative burden on the employer, are primarily a matter between union and employee. Forms like that sought by the Lodge are not uncommon in the private sector. The chairman knows of nothing which would make them illegal in public employment, nor has the City suggested that.

AWARD: The Lodge's last best offer is adopted. The form set forth in Article IV, Section 2(I) of the parties' Labor Agreement

shall be rewritten as follows:

CHECK-OFF AUTHORIZATION FORM

FRATERNAL ORDER OF POLICE

LODGE NO. 141

NON-SUPERVISORY DIVISION

I hereby request and authorize you to deduct from my earnings each month a sufficient amount to provide for the regular payment of the current rate of monthly Lodge dues or collective bargaining service fees, as certified by the Lodge. The amount deducted shall be paid to the treasurer of the Lodge, according to the Agreement reached between the City and the Lodge.

This authorization shall remain in effect unless terminated by me upon sixty days written notice to the Lodge in advance or upon termination of my employment.

_____

PRINT: Last Name First Name Middle Initial

Date deduction is to start

_____

Month Year

Signature _____

Address _____

City _____ State _____

Issue No. 19 -- Bereavement. The Lodge proposes to eliminate a reference to a second unattached document, and to include within the contract itself the language regarding bereavement (L-47). The City favors no change.

As indicated earlier, incorporation of contract terms by reference to a second document is cumbersome and usually unenlightening. It is ordinarily justified by the desire to avoid unnecessary bulk. Here, the full statement is only two short paragraphs.

AWARD: Article XIX, "Bereavement Time," is amended to read as follows:

Upon the death of any member of an officer's

immediate family or the death of a member of his wife's (or husband's) immediate family, the officer shall be granted absence with leave until the day following the funeral. The officer's immediate family shall consist of wife (or husband), children, father, mother, brother and sister. Wife's (or husband's) immediate family shall consist of father, mother, brother and sister.

Upon the death of any member of an officer's or spouse's family not listed above, the officer shall be granted one day absent with leave. Additional time off may be granted for extenuating circumstances by the Chief of Police.

Issue No. 20a -- Bill of Rights. The Lodge proposes a detailed list of the rights and procedures to be afforded police officers while under departmental investigation that may result in discharge or discipline (L-48). The City opposes such a provision.

It is understandable that police officers have become sensitive about the criticism to which they have been subjected in recent years, especially by certain militant groups of citizens. It would also appear, however, that the most strident protests are past, and that the police are increasingly being supported by the great majority of the public in their efforts to combat crime. This would hardly seem the right time for the police to be provided an elaborate set of safeguards in the investigation of alleged misconduct, far exceeding the protections afforded the ordinary citizen. Neither the interest of the public nor the long-range interest of the police would be served by such an innovation. Finally, no showing has been made that a substantial number of comparable communities have instituted such procedures.

AWARD: The City's last best offer is adopted, and the proposal for a police officer's "Bill of Rights" is rejected.

Issue No. 20-b -- Grievance Procedure. The Lodge proposes what it itself describes as a "radically changed grievance procedure" that culminates in American Arbitration Association type of arbitration (L-48; Lodge Br., App. Issue No. 20). The City would retain the present system, including arbitration limited to the submission of briefs and without live witnesses.

Article XXI, "Grievance Procedure," as contained in the previous Labor Agreement (J-5), exhibits a basic hostility toward, or at least suspicion of, the whole concept of arbitration as it has developed in American labor relations. At the same time, the alternative presented by the Lodge is so sweeping in its proposed restructuring of the parties' existing arrangement that we do not feel it can be justified by the evidence submitted at this arbitration. We therefore propose (1) to eliminate some of the unnecessarily restrictive, and occasionally inflammatory, provisions of the Agreement, and (2) to provide the basic framework for meaningful arbitration. We leave it to the parties to make such further changes and adaptations as are called for by their own particular needs and circumstances.

AWARD: Article XXI, Section 1 shall be revised to read in its entirety as follows:

> Definition of a Grievance. A grievance is a claimed violation of this Agreement. Any grievance filed shall refer to the provision or provisions alleged to have been violated and shall adequately set forth the facts pertaining to the alleged violation.

In Article XXII, Section 2, the last two sentences of the first paragraph, beginning, "Failure to comply...," and ending "... in any form whatsoever," shall be deleted.

In Article XXII, Section 2, the provisions of "STEP 5" shall

be rewritten as follows:

> If the parties cannot agree on an impartial person, they shall request a list of names from the Michigan Employment Relations Commission and by mutual agreement, or by an alternate striking of names, select the fifth person. The Appeal Board Parties, prior to the time any hearing is held by the arbitrator, shall mutually agree on the question to be decided and shall then transmit this question to the arbitrator, who shall render his decision according to the following:
>
> 1. The arbitrator shall answer in writing, within thirty (30) days after the hearing or after the submission of any briefs, only the question submitted, in accordance with the interpretation and application of this Agreement.
>
> 2. The arbitrator shall neither add to, subtract from, or modify this agreement.
>
> 3. The arbitrator is prohibited from rendering any decision which is contrary to public policy.
>
> 4. The award of the arbitrator shall be the award of the Appeal Board, and it shall be final and binding on the City, the Lodge and any employee covered by this Agreement.
>
> 5. Once the question has been submitted to the arbitrator, neither party is permitted to withdraw the case from the arbitrator.
>
> 6. The fees and expenses incurred by the arbitrator shall be paid equally by the parties to this Agreement.
>
> 7. The arbitrator's decision may be based upon written briefs submitted by the parties, or, if either party wishes, upon such briefs and a hearing at which the parties shall have the opportunity to present evidence and examine and cross-examine witnesses.

Issue No. 21 -- Discipline and Discharge. Again the Lodge proposes a "radical change in discipline and discharge procedure" (L-49; Lodge's Br., App., Issue No. 21). The City argues against any change. We are not satisfied that the evidence presented by the Lodge justifies the massive revisions requested. At the same time, however, many of the Lodge's demands -- including a full arbitration

hearing where witnesses may be examined and cross-examined -- have in effect been met by the amendments to Article XXI, "Grievance Procedure."

AWARD: No direct change in Article XXIV, "Disciplinary Action, Discharge, Suspension."

Issue No. 22 -- Liability Insurance. The Lodge seeks liability insurance protection for Lansing's police officers. The City resists it. We are not satisfied that the Lodge has demonstrated a need for such coverage, in light of the City's past willingness to defend or indemnify officers who have had claims lodged against them arising out of the performance of their official duties. Moreover, there has been an insufficient showing of the arrangements in comparable communities.

AWARD: The City's last best offer is adopted. No liability insurance need be provided.

Issue No. 23a -- Lateral transfers. The Lodge argues that the City is improperly avoiding promotions by moving employees into higher paying jobs without compensating them at the higher rate. The Lodge proposes that employees will be paid at the higher rate whenever performing the duties of any higher rank, except that an employee may be assigned to on-the-job training for no more than six months at his current rate of pay (L-74). The City insists that the Lodge is trying indirectly to negotiate job descriptions, and that its proposal would foreclose an effective police officer's training program. To reassure the Lodge that the City is not using its power to transfer employees to avoid filling the detective and corporal ranks, the City has offered to add the following language

to Article XXIII, "Lateral Transfers" (City's LBO, dated April 6, 1977):

> Permanent full-time vacancies in higher ranks will be filled through the departmental promotion procedure.

The problem presented by this issue is a complex one. The solution suggested by the Lodge may create more problems than it solves. At least the City's proposal is a step in the right direction, and avoids the thorny thicket of wrangles over job descriptions.

AWARD: The City's last best offer is adopted, and Article XXIII shall be amended accordingly.

Issue No. 23b -- Investigations Division. The Lodge wishes to set limits on the number of personnel within the Investigations Division who are not at the rank of detective, so as to prevent the City from requiring officers to perform the duties of a higher pay classification without higher pay or higher rank (L-74). The City wants no provision in the Labor Agreement on this point, again arguing that the Lodge is indirectly seeking to usurp the management function of writing job descriptions. The chairman winds up not satisfied that the Lodge has made the case for the potentially substantial intrusion on managerial authority which its proposal envisages.

AWARD: The City's last best offer is adopted.

Issue No. 24 -- Past Practices Clause. The Lodge proposes to add the following provision to Article XX, "Miscellaneous" (L-51):

> Wages, hours and conditions of employment legally in effect at the execution of this Agreement shall, except as improved herein, be maintained during the term of this Agreement. The City will make no unilateral changes in wages, hours, and conditions of employment during the term of this Agreement, either contrary

> to the provisions of the Agreement or otherwise. No police officer shall suffer a reduction in such benefits as a consequence of the execution of this Agreement. Where this Agreement and any rules and regulations governing the Police Department are in conflict, this Agreement shall be given effect.

The Lodge contends that the City should be precluded from making any unilateral changes in wages, hours, and conditions of employment. The City declares that the Lodge's proposal is in essence a "Maintenance of Standards" clause, and is incompatible with the City's managements rights.

The chairman is somewhat sympathetic to the Lodge's objective. Unfortunately, the clause it proposes is so loosely worded that it will inevitably cause serious difficulties. For example, an entirely appropriate trade-off in employee benefits could easily run athwart the provision, "No police officer shall suffer a reduction in such benefits as a consequence of the execution of this Agreement." Since the Lodge's proposal would plainly preserve economic rights as well as noneconomic ones, it poses an economic issue on which the Panel must rule all one way or all the other.

AWARD: The City's last best offer is adopted, and Article XX, Section 3 shall remain unchanged.

Issue No. 25 -- Working Conditions and Special Meetings. The Lodge seeks to require the City to give written notice in advance of any anticipated major change in working conditions as well as of all new rules, regulations, and procedures. The Lodge would subject these items to the grievance procedure for "reasonableness" (L-52). The City is not opposed to special meetings on new rules, regulations, etc., but is opposed to the breadth of the Lodge's proposal. Since this is a noneconomic issue, changes can be made in the Lodge's suggested provision to meet the City's justifiable concerns.

AWARD: The Lodge's last best offer is adopted, with modifications. Article XX, Section 5(A) shall be amended to read as follows:

> A copy of each special order, general order, procedural directive, notation or training bulletin shall be furnished to the Lodge President. The Lodge President or in his absence the next assistant in line shall be given written notice in advance of any anticipated major change in working conditions, and a good faith conference shall be held thereon before it is placed in effect. If after the discussion the Lodge still believes the desired change or new rule, regulation, policy or procedure to be in violation of this Agreement, the Lodge shall have the right to submit said dispute to the grievance procedure contained in this Agreement.

Issue No. 26 -- Safety. The Lodge proposes that the City make reasonable provision for the safety of its employees (L-53). The City says it already does, and a clause to that effect is unnecessary. We conclude that a safety clause like this can cause no harm, and may provide the employees some desirable reassurance.

AWARD: The Lodge's last best offer is adopted, with modifications. The following provision will be added to Article XX of the Agreement:

> The City shall make reasonable provisions for the safety and health of the employees during the hours of their employment and shall endeavor to maintain its equipment in safe operating condition and equipped with safety appliances prescribed by law. The City shall furnish protective devices and/or equipment as is reasonably necessary to properly safeguard the health of the employees and protect them from injury.

Issue No. 27 -- Union Time Off. The Lodge seeks four hours per week for its Lansing division president and the Lodge 141 president, provided the latter is a member of the non-supervisors' bargaining unit (Lodge's LBO, dated April 6, 1977). The four hours

could be allocated by each president to certain other selected union officers. The City opposes this change, in part because of its concern that the Lodge president may not be a member of the non-supervisors' unit and in part because of the cost, over $3,300 a year.

The Lodge's demands do not appear unreasonable in light of the complexities of administering labor organizations in today's society. "Legislative history" establishes that the proposal is limited to members of the bargaining unit (Lodge Br., App., Issue No. 27), and the cost is hardly excessive.

AWARD: The Lodge's last best offer is adopted. The following provisions shall be added to Article XVIII, Section 5:

> (1) The president of Capitol City Lodge #141 shall receive paid time-off to attend to Lodge affairs of no more than four (4) hours per week. In lieu of taking this time-off himself, the president of Capitol City #141 may designate the Lodge v-p, or secretary, or treasurer, to take time-off in any given week in his stead.
>
> (2) The president of the Lansing non-supervisory division of Capitol City Lodge #141 shall receive paid time-off to attend to Lodge affairs of no more than four (4) hours per week. In lieu of taking time-off himself, the president of the Lansing non-supervisory division may designate the division's vice-president or trustees to take the time-off in any given week in his stead.
>
> (3) The time-off for the Lodge president as stated in paragraph (1) above may be accumulated to no more than thirty-two (32) hours. The time-off for the Lansing non-supervisory division's president as stated in paragraph (2) above may be accumulated to not more than thirty-two (32) hours.
>
> (4) The Lodge will reasonably attempt to notify the Chief of Police or his designated representative in advance before the time-off set forth in paragraphs (1), (2), and (3) above shall be taken.

Issue No. 28 -- Uniforms. The Lodge would write into the Labor Agreement a delineation of the uniforms and equipment to be furnished police officers (L-64). This proposal reflects current Police Department practice. The City opposes this provision. Furnishing equipment at no cost to officers is in accordance with the standards of the National Advisory Commission on Criminal Justice Standards and Goals, and presumably will be continued by the City. We see no reason, however, to freeze any particular set of items into contract language.

AWARD: The City's last best offer is adopted, and there will be no further provision on uniforms or equipment.

Issue No. 29 -- Police Cruisers. The Lodge here seeks a delineation of the current equipment and size of patrol cars now in use by the Lansing Police Department, with certain additional specifications of equipment and safety standards (L-65). The City opposes this change. We are in agreement with the City that it is an unnecessary freezing of equipment standards, on the one hand, and an unwarranted intrusion on managerial prerogatives, on the other.

AWARD: The City's last best offer is adopted, and there will be no further provision on police cruisers.

Issue No. 30 -- Overtime. The Lodge proposes insertion of a provision that the City cannot change schedules in order to avoid overtime. The Lodge also wishes deletion of wording allowing only straight time pay for required job-related work other than normal police work (L-69). The City opposes these changes. We regard the first request of the Lodge as fair and reasonable, likely to prevent

unnecessary bickering between the parties. The second is consistent with the earlier Award on Court Time (Issue No. 4a, above).

AWARD: The Lodge's last best offer is adopted. The last sentence of Article XII, Section 2 shall be deleted, and the following sentence substituted therefor: "Unilateral changes in schedules shall not be made by management to avoid paying overtime."

Issue No. 31 -- Leaves of Absence. The Lodge wishes to extend the maximum duration of leave times and to permit the Chief of Police to grant leaves without the concurrence of the City's Personnel Director. The City is correct that the Lodge has provided little if any evidence in support of these requests.

AWARD: The City's last best offer is adopted, and there will be no change in Article XVII, Section 4.

Park Police. For the most part, the Park Police have lagged substantially behind the Police Non-Supervisors in wages and fringe benefits. In 1975-76, for example, their four-year Level I officer received $12,938, as contrasted with $15,260 for a four-year regular police officer (J-5). Although their duties are undoubtedly not as continuously demanding and dangerous, park police do investigate all crimes in Lansing parks and are responsible for seeking warrants, making felony arrests, and so on. By comparison, the Genesee County park rangers (a similarly sized unit of about half a dozen) appear to have less strenuous duties, and their 1976 four-year pay level without COLA was $14,560, and with COLA was $15,215 (L-73f). The Lodge has convinced the chairman that some upgrading of the benefits of the Park Police is in order.

The Lodge's last best offer on wages for the Park Police was

for a 7.5% increase in the first year and for a 6.2% increase in the second (L-73a). The City's was for 6.3% and 5.5%, respectively. The increases proposed by the Lodge will still leave the Park Police behind the Genesee County park rangers, and will be granted. A requested shift differential of 20¢ per hour will be denied, however, for the reasons stated by the City. Other Lansing police do not receive shift premiums, and the Park Police rotate shifts so that no one is ever stuck permanently with a second or third shift. A requested gun allowance will also be denied, because Park Police need not carry a weapon off-duty. There will be no change in rank structure; two levels seem entirely adequate in a unit of seven persons. In the general spirit of upgrading, the Park Police will receive the dress shoes and overshoes they sought. Other issues parallel issues already treated in the discussion of the non-supervisory unit.

AWARD: 1. On wages, the last best offer of the Lodge is adopted. Wages shall be increased 7.5% for the first year of the contract, July 1, 1976 - June 30, 1977, and 6.2% for the second year, July 1, 1977 - June 30, 1978. The increases are retroactive to July 1, 1976 and July 1, 1977, respectively, both for basic rates and for overtime.

2. There shall be no 20¢ night shift premium.
3. There shall be no $150 gun allowance.
4. There shall be one additional annual leave day, effective July 1, 1977.
5. There shall be no Dental Insurance.
6. There shall be no change in rank structure.
7. There shall be an increase in the maximum base

on which longevity pay is computed from $8,000 to $10,000, effective July 1, 1977.

8. There shall be one additional holiday a year, the Day before New Year's Day.

9. The City shall provide each year for each Park Security officer two pairs of brown dress uniform shoes and one pair of overshoes.

/s/

Daniel J. Bodwin, Member *

/s/

W. Paul Wiegman, Member *

Theodore J. St. Antoine

Theodore J. St. Antoine, Chairman

Lansing, Michigan
July 27, 1977

* Members Bodwin and Wiegman dissent from the Award insofar as it departs from the last best offers of their respective parties on economic issues, or substantially departs from the last best offers of their respective parties on noneconomic issues.

6/23/77
ARB
(attached to
6/27/77 Final
Award)

THE UNIVERSITY OF MICHIGAN
LAW SCHOOL
ANN ARBOR, MICHIGAN 48104

OFFICE OF THE DEAN
HUTCHINS HALL

APPENDIX "A"

June 23, 1977

Mr. D. J. Bodwin
Personnel Director
City of Lansing
812 City Hall
Lansing, Michigan 48933

Mr. W. Paul Wiegman
124 West Michigan
Lansing, Michigan 48933

George V. Warren, Esq.
17 Michigan Theatre Arcade
Lansing, Michigan 48933

Michael A. Snapper, Esq.
James L. Stokes, Esq.
Miller, Johnson, Snell & Cummiskey
465 Old Kent Building
Number One Vandenberg Center
Grand Rapids, Michigan 49502

Re: City of Lansing, Police Non-Supervisors
-and-
Capitol City Lodge #141, F.O.P.

Gentlemen:

In accordance with the understanding reached yesterday at the executive session of the Arbitration Panel, the following Interim Award is entered as of this date, for the reasons discussed orally yesterday and to be set forth in writing in the Final Opinion and Award:

1. Police Non-Supervisors, Issue No. 1 - Wages: The last best offer of the City is adopted. Wages shall be increased 6.3 percent for the first year of the contract, July 1, 1976 - June 30, 1977, and 5.5 percent for the second year, July 1, 1977 - June 30, 1978. The first-year increase is retroactive to July 1, 1976.

2. Police Non-Supervisors, Issue No. 16 - Retroactivity: With regard to overtime only, the last best offer of the Lodge is adopted. Standard overtime payments provided by the parties' Agreement shall be calculated on the basis of the newly awarded rates (see Issue No. 1, above), retroactive to July 1, 1976. The Panel finds no need to pass on the question of whether retroactivity in general is a separate issue in itself for each specific economic proposal.

St. Antoine, Theodore

3. Park Police, Issue No. 1 - Wages: The last best offer of the Lodge is adopted. Wages shall be increased 7.5 percent for the first year of the contract, July 1, 1976 - June 30, 1977, and 6.2 percent for the second year, July 1, 1977 - June 30, 1978. The first-year increase is retroactive to July 1, 1976, both for basic rates and for overtime.

Mr. Bodwin and Mr. Wiegman reserve the right to dissent from so much of the Award as is not in accord with the last best offers of their respective parties. Otherwise, they concur.

Sincerely,

Theodore J. St. Antoine

Theodore J. St. Antoine
Chairman

TJS:lu

cc: Mr. Robert Pisarski
Ms. Carol Hoffman