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STATE OF MICHIGAN  
DEPARTMENT OF LABOR

In the matter of the Arbitration between:

COUNTY OF LIVINGSTON AND LIVINGSTON  
COUNTY SHERIFF (Employer)

MERC Case No. L90J-0505

and

COMMAND OFFICERS ASSOCIATION OF  
MICHIGAN (Union)

(Arising pursuant to Act 312, Public  
Acts of 1969, as amended)

STATE OF MICHIGAN  
DEPARTMENT OF LABOR  
DIVISION OF INDUSTRIAL RELATIONS

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Livingston County

ARBITRATION AWARD

ARBITRATION PANEL:

Samuel S. Shaw, Neutral Chairperson

Gerald Radovic, Union Delegate

David G. Stoker, Employer Delegate

Appearances

For the County

For the Association

David G. Stoker, Attorney

Gerald Radovic

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ARBITRATION PANEL:

Samuel S. Shaw, Neutral Chairperson

Gerald Radovic, Union Delegate

David G. Stoker, Employer Delegate

APPEARANCES

FOR THE UNION:

William Birdseye  
Command Officers Association of Michigan  
Suite 103  
28815 West Eight Mile Road  
Livonia, Michigan 48152

FOR THE EMPLOYER:

David G. Stoker, Attorney  
Cohl, Stoker & Toskey, P.C.  
601 North Capitol  
Lansing, Michigan 48933

## SUPPLEMENTAL FINDINGS OF FACT, OPINION AND ORDER

### INTRODUCTION

This matter arose pursuant to petitions for arbitration filed by both the Union and the Employers under 1969 PA 312, as amended. A Pre-hearing Conference was conducted on June 25, 1991 and all time frames contained in the statutes and regulations were waived by each party. The initial hearing was held on May 7, 1992 and an Arbitration Award was issued August 29, 1992 after review of the exhibits and record. Subsequent to the issuance of the award, a dispute arose as to certain contract provisions which were tentatively agreed to during the negotiation process between the parties. The dispute related to whether it was the intent of the parties to include such provisions in the final Collective Bargaining Agreement. A dispute similarly arose as to the implementation of Section 55.2 of the Contract as awarded by the Panel<sup>1</sup> from the Union's Last Best Offer. By letter dated February 24, 1993, the Employer's representative requested the reconvening of the Panel to clarify and resolve the matter. By a letter dated May 13, 1993, from Stephen P. Whitaker, the Union's Assistant General Counsel, the Union also asked that the Act 312 Hearing be reconvened in order to resolve all outstanding issues. Based on this Agreement, the Act 312 hearing was reconvened on June 18, 1993, and the Panel reviewed the materials deemed relevant by the respective parties representatives, including the initial petitions, the argument of the respective parties' representatives, and the language for the proposed tentative agreements in dispute.

Based on all of the above, as well as the record as a whole, the Panel hereby issues the following supplemental findings, opinion and award as to the foregoing

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1. At the June 18, 1993 Hearing, and with the consent of the Employer, Gerald Radovic was substituted for William Birdseye as panel member on behalf of the Union.

I.


The Tentative Agreements

At the Hearing the dispute concerning the "tentative agreements" reflected that there were a number of contract provisions which the parties had tentatively agreed to (TA'd) during the negotiating process, including Sections 11.2 a, b, c, d, i, l; Section 14.1; Section 14.2; Section 24.2; Section 42.1; and Section 44.1. (The full text of these TA'd provisions is attached hereto). The Employers' asserted that the petitions filed by the respective parties reflected that these TA'd provisions were to be stipulated to as a part of the final agreement and should be included in any final agreement. The Union asserted that there were no tentative agreements and that the referenced provisions should not be included within the final agreement. The Panel concludes that the plain language of the respective parties Act 312 petitions filed herein reflect that there were in fact T.A.'s and that there was intent to stipulate for inclusion of such T.A.'s in the Collective Bargaining Agreement. The Panel therefore orders that the attached T.A.'d provisions are to be incorporated into the award in this matter and are to be included in the final Collective Bargaining Agreement.

  
Samuel S. Shaw, Chairperson

  
Employer Delegate

Agree ☒ Dissent ☐

  
Union Delegate

Agree ☐ Dissent ☒

Dated:

## II.

### Section 55.2

At the June 18, 1993 Hearing, and with the consent of both parties, the Arbitration Panel was requested to review what was perceived as an ambiguity in the initial Award's decision as it relates to paragraph 55.2 of the "Classification and Wages" article. In the initial decision, the Panel adopted the Last Best Offer of the Union, which provided a Section 55.2 under which certain current bargaining unit members would be authorized to be paid at a step level other than that reflected in the adopted pay scale. The clause provided that certain sergeants were currently paid at 10% above deputy classification, but would not have been eligible to remain at the 10% classification under the new scale, could exercise an option to remain at the 10% level under this contract provision based on a delay in the next step increase to a 12% differential. The parties reflected that a dispute has arisen as to the effective date for implementation of this clause to those sergeants who were "currently" being paid at the 10% differential level. The Employer had proposed a implementation of the clause suggesting that the appropriate date would be the date of the initial award, being August 29, 1992. However, the award was ambiguous inasmuch as it could be argued that several dates would be appropriate, such as the effective date of the final contract, the date the initial award was issued, the date of execution of the final agreement, etc. Based on the authorization given the panel to resolve this issue, as expressly provided by respective parties representatives, the panel hereby determines that the most appropriate date for implementation of this provision should be June 18, 1993, being the date the Chairman was made aware of this concern in the initial award and the date the panel was given authority to clarify this issue. The panel therefore orders that Section 55.2 of the Union's Last Best Offer shall be applicable to bargaining unit members holding the rank of Sergeant as of June 18, 1993. If any such Sergeants have exercise the option who were

promoted to the rank of Sergeant after the effective date of the wage scales in the award, being January 1, 1990, the option will be effective retroactively back from June 18, 1993, to the date they were most recently promoted to the rank of Sergeant.

Samuel S. Shaw  
Samuel S. Shaw, Chairperson

[Signature]  
Employer Delegate

Agree \_\_\_\_\_ Dissent X

[Signature]  
Union Delegate

Agree X Dissent \_\_\_\_\_

Dated: July 18, 1993