

MICHIGAN EMPLOYMENT RELATIONS COMMISSION
ACT 312 ARBITRATION
PUBLIC ACTS OF 1969 AS AMENDED

In the Matter of the Arbitration Between:

CITY OF MASON

MERC Case No.
L86 C-156

-and-

April 20, 1987

THE FRATERNAL ORDER OF POLICE,
CAPITOL CITY LODGE, #141

Panel of Arbitrators

Norman L. Austin, City Delegate
Jerry J. Lawson, Union Delegate
Thomas L. Gravelle, Impartial Chairman

FINDINGS, OPINION, AND AWARD

Michael R. Kluck
Attorney for City

R. David Wilson
Attorney for Union

STAMPED
COURT OF MICHIGAN
RECEIVED

EST APR 20 PM 2:51

RECEIVED

TABLE OF CONTENTS

	<u>Page</u>
Introduction and Stipulations	1
Section 9 of Act 312	3
Comparability	4
First Issue: Hours of Work	9
Second Issue: Paid Lunch and Work Breaks	12
Third Issue: Earned Time Off	13
Fourth Issue: Personal Days	15
Fifth Issue: Vacations	15
Sixth Issue: Holidays	19
Seventh Issue: Holiday Pay	19
Eighth Issue: Hospital and Medical Insurance	21
Ninth Issue: Longevity	23
Ten Issue: Residency	24
Eleventh Issue: Wages	27
Award	29

INTRODUCTION AND STIPULATIONS

This Act 312 arbitration addresses and resolves various terms of the parties' 1986-1988 collective bargaining agreement.

At the beginning of these proceedings, 11 issues were submitted by the parties. These were:

1. Hours of Work.
2. Paid Lunch and Work Breaks.
3. Earned Time Off.
4. Personal Days.
5. Vacation.
6. Holidays.
7. Holiday Pay.
8. Hospital and Medical Insurance.
9. Longevity.
10. Residency.
11. Wages.

For clarity and convenience, the issues to be decided in the body of this Opinion are listed as numbered above, although three of them (personal days, holidays, and longevity) have now been agreed upon by the parties and are no longer in dispute.

In the course of these proceedings, the parties have made various stipulations, which the Panel adopts. These stipulations include the following:

- A. All provisions of the prior contract which have not been modified by previous agreement and which are not at issue in this Act 312 proceeding shall be carried forward into the new contract.
- B. The Panel has jurisdiction over all issues before it.
- C. The durational term of the new contract shall be July 1, 1986 through June 30, 1988 (Tr I, p 4).
- D. All proceedings have been timely to date.
- E. The City's financial ability is not disputed (Tr I, pp 50-51).

F. The parties have agreed to personal days (the fourth issue below) and the designation of holidays (the sixth issue below).

G. Section 20.2 of the new contract shall state:

Section 20.2 Employees must use their vacation leave in the year following the year of accrual. Annual leave, not to exceed a maximum of five (5) days, may be carried over from one calendar year to the next calendar year, with the approval of the department head and City Administrator, provided, however, that the request for carryover of vacation leave must be submitted at least fifteen (15) days prior to the anniversary date of the employee.

H. Section 23.6 of the new contract shall state:

Section 23.6: Prescription Rider. The City shall provide a prescription rider, with the employee paying the first Three Dollars (\$3.00) of any prescriptions.

I. Except for those issues to be resolved in these proceedings, all other issues have been resolved by the parties and are to be incorporated in the new agreement by this Act 312 Arbitration Opinion and Award.

J. Issues 2, 4, 5, 6, 7, 8, 9, 10, and 11 are economic issues.

A majority of the Panel finds that issues 1 and 3 are non-economic (Tr. II, pp. 78-79). Issue 1 deals with the scheduling of hours of work rather than the number of hours of work, and issue 3 deals with the exchange of overtime hours worked for time off.

With economic issues, the Panel is required to accept the last offer of settlement made by one or the other party for each issue. With non-economic issues, the Panel is not similarly bound.

SECTION 9 OF ACT 312

Section 9 of Public Act 312 provides that this arbitration Panel shall base its order upon a number of specific factors. Section 9 states:

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

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interest and welfare of the public and the financial ability of the unit of government to meet those costs.
- (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - (i) In public employment in comparable communities.
 - (ii) In private employment in comparable communities.
- (e) The average consumer prices for goods and services, commonly known as the cost of living.
- (f) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation,

fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

COMPARABILITY

The most important factor listed in Section 9 of Public Act 312 is comparable communities in public employment. On this point, Robert A. Howlett, a noted authority on interest arbitration, has written:

Examination of the cases decided by the arbitration panels in the several states that use final offer arbitration discloses that the comparability factor is the most significant in the decision-making process. The panels look to comparable units of government and possibly to some private enterprises for both economic and noneconomic issues.

Howlett, New Contract Arbitration in the Public Sector, printed in ARBITRATION IN PRACTICE, A. Zack, Editor (1984) 32-33.

The Union argues that the following five communities are the most comparable to Mason:

1. Charlotte
2. St. John's
3. Howell
4. Grand Ledge
5. Eaton Rapids

In turn, the Employer argues in favor of the following four communities:

1. Dowagiac
2. Hillsdale
3. New Baltimore
4. Grand Ledge

The Act does not define comparability. However, experience has given rise to various factors which are often considered. A number of these are set forth in Helveston & Paton, An Act 312 Primer: Interest Arbitration for Fire Fighters and Police in Michigan, 64 MICH B J 1060 (Oct. 1985). The authors write at p. 1065:

The criteria usually employed in selecting comparables include:

- Type of department: for example, a full-time, non-volunteer fire department should not be compared with volunteer fire departments or "public safety" (consolidated police and fire) departments.
- Size of department.
- Geographic proximity.
- Population; ratio of population to employee.
- Size of community in square miles; ratio of square miles to employee.
- Number of housing units; ratio of housing units to employee.
- Type of community: industrial, commercial, residential.
- Per capita income: household income; family income.
- Tax base as measured by S.E.V.
- Millage rates.
- Annual number of fire runs, medical runs, arrests; ratio to employee.
- Crime rate; per capita and per employee.
- Comparable communities historically used in past Act 312 arbitrations.

The Panel has carefully considered the data before it as well as the arguments of the parties. Selecting comparables in this case on the basis of the data submitted and in a principled manner is a ticklish undertaking. All of the proposed comparables have some features to commend them and one or more factors which strongly suggest disparity. In other words, there are no perfect fits. Depending on various factors considered in isolation or in partial combination, a

case can be made for any of the proposed comparables.

In an effort to focus on this problem, the Chairman of this Panel has prepared two charts (which are attached as CHART A and CHART B). CHART A is a Comparison of Proposed Comparable Cities with the City of Mason. It contains the data for the following factors: Population; Number of Patrolmen; the Ratio of Patrolmen to Population; Number of Arrests; the Ratio of Patrolmen to Arrests; State Equalized Value (SEV); the Ratio of Population to SEV; Distance of Proposed Comparable Cities from City of Mason; and Per Capita Income. CHART B rates each factor of the proposed comparable cities on a scale of 8 to 1. An eight means that a particular factor is most like the City of Mason; a one means that a particular factor is least like the City of Mason.

Of these factors, arguably the least significant is per capita income. Per capita income includes minor children (who are not income producers) and also lacks the significance of SEV or millage rates in the financing of municipal employment. Accordingly, CHART B totals the points with and without per capita income. The sums are as follows:

<u>City</u>	<u>Points</u>	<u>Points (w/out per capita income)</u>
New Baltimore	59	55
Grand Ledge	49	41
St. Johns	48	41
Dowagiac	41	40
Eaton Rapids	36	30
Howell	34	29
Charlotte	31	28
Hillsdale	29	27

The parties have stipulated that Grand Ledge should be treated as

comparable, and the Panel accepts that stipulation. When the charted comparisons are considered (especially when per capita income is eliminated), it appears that the proposed comparables fall into two broad classes. The first four listed above form one class and the second four comprise a second class.

Except for distant, New Baltimore and Mason are very similar. Their similarity is even more pronounced when one considers the 1986 population data submitted by the City which shows a population for New Baltimore of 6000 and for Mason of 6017. City Exhibit T. (This data was not used in the attached chart because it did not contain population figures for the Union's proposed comparables. To the extent it varies from the population data used, it is statistically irrelevant to the Panel's ultimate determination of the comparable communities.)

New Baltimore could be ruled out as a comparable only if distance were decisive. Where (as here) the city which is a party to an Act 312 proceeding lies beyond a large, densely-populated area (like metropolitan Detroit), greater latitude should be given to distance: Exact local comparables are harder to come by. Further, it does not appear that 90 miles is per se an altogether distinct labor market for police officers.

Although to a lesser degree than New Baltimore, St. Johns is also comparable to Mason and especially to the stipulated comparable of Grand Ledge. One St. Johns factor which might give pause is SEV: "State equalized value (SEV) is the value to which millage rates are applied, and is nominally equal to 50 percent of actual value." Courant, The Property Tax, printed in MICHIGAN'S FISCAL AND ECONOMIC STRUCTURE, H. Brazer, Editor (1982) 522 n. 5. SEV is certainly a relevant factor in an Act 312 proceeding.

St. Johns' SEV is \$75,324,200 whereas Mason's is \$57,104,600. However, stated as a ratio of population to SEV, St. Johns' SEV is comparable to Mason's: \$10,189 to \$9,491. Further, the City of Mason has stipulated that ability to pay is not an issue. Therefore, the SEV data is not receiving the greater weight it might merit in a case where a municipal employer is claiming inability to pay. Finally, it would be unfair to select as comparable communities only those cities whose SEVs and population/SEV ratios were less than the City of Mason's.

Inclusion of Dowagiac as a comparable community is a close question. Like New Baltimore, it is a substantial distance from Mason. Further, compared to the other proposed comparables and to Mason, its commercial and industrial SEV's are unusual. Dowagiac's industrial value is more than 6 times its commercial value, whereas for all the other cities commercial value predominates over industrial value. Union Exhibit BB. But no evidence was offered on the significance of this disparity, and the Panel is unsure what to make of it. Therefore, it is not being considered as a reason for finding Dowagiac disparate. Another problem with Dowagiac is that its SEV is substantially less than Mason's. However, its population/SEV ratio is virtually identical with Grand Ledge's. And when all of Dowagiac's charted data is considered with the exception of per capita income, Dowagiac is comparable to Grand Ledge and St. Johns. Even when per capita income is included, Dowagiac ranks fourth.

As to the remaining four proposed comparables, it would be difficult to pick one of them without picking all of them. This is especially true when per capita income is excluded from consideration. Further, they have a number a substantial dissimilarities from the City of Mason. Therefore, these four proposed cities will not be considered the comparable communities in this case.

For all the above reasons, the Panel concludes the comparable communities to be used by it in this case are: Grand Ledge, New Baltimore, St. Johns and Dowagiac.

FIRST ISSUE: HOURS OF WORK

City's Last Offer: The City proposes no change in Article XVII, Section 17.1 of the parties' current contract, which reads:

Section 17.1: Hours. Officers shall work a minimum of forty (40) hours per week, consisting of five (5) scheduled days of eight (8) consecutive hours each day, which shall herein be determined as a regular normal workweek and regular normal workday, and shall render services under this Agreement for a period of fifty-two (52) weeks per annum.

Union's Last Offer: The Union proposes to amend Article XVII, Section 17.1 of the parties' current contract by making the normal workweek one of 4 days and 10 hours per day, as follows:

Section 17.1: Hours. Officers shall work a minimum of forty (40) hours per week, consisting of four (4) scheduled days of ten (10) consecutive hours each day, which shall herein be determined as a regular normal workweek and regular normal workday, and shall render services under this agreement for a period of fifty-two weeks per annum.

Findings. The Union is seeking this change so that its members will have more time off. Whether the officers actually would have more time off is somewhat questionable for a few reasons. First, with three days off, it would be more likely that they would perform their court duties on a day off. Second, when an officer is absent, the other officers at either end of the absent officer's shift sometimes split the absentee's shift. With the current 8 hour

shifts, this would mean working 12 consecutive hours; with a 10 hour shift, it would mean working 15 consecutive hours.

Chief Kline testified that without absences or vacations, the conversion to a 4/10 shift could be implemented without impairing the department's manpower deployment. He added that with absences the City would either have to hire another officer or assign non-patrolmen to cover for the absent patrolman.

A review of the four comparable communities shows that New Baltimore and Dowagiac have the 5 day/8 hour schedule of the current contract, St. Johns has a 4 day/10 hour schedule except in the event of emergency or lack of personnel, and Grand Ledge has both.

In support of its position that a 4 day/10 hour schedule should not be adopted by the Panel, the City relies on City of Ann Arbor, MERC, Case No. D83 D-1376 (Jan. 29, 1983) (G. Alexander, Ch.). There, as here, the issue was deemed non-economic, with the result that final offer selection was not required. There, the current contract called for a 4 day/10 hour schedule: The City of Ann Arbor sought a change to a 5 day/8 hour schedule. The panel accepted the city's position. The panel found that the 4 day/10 hour schedule was the exception rather than the rule in municipal police departments and that "a three day hiatus between tours of duty contributes to a loss of continuity of awareness and contact with police departments affairs." The panel concluded by giving the city the option to schedule either a 4 day/10 hour or a 5 day/8 hour schedule. Id at 16-17.

Attached to the City of Mason's brief are an affidavit that one employee is on a pregnancy leave and an excerpt from "Police Work Scheduling" a 1983 Institute of Justice publication. The Union has objected to consideration of

these attachments on the ground that the evidentiary record is closed. The Panel accepts these attachments. As to the affidavit, Section 9(g) of Act 312 requires the panel to consider "changes in circumstances." One circumstance referred to in Section 9(f) is "the continuity and stability of employment." However, minimal weight is being given to the affidavit. It simply indicates that one employee will be away from work for an undisclosed period of time because of her pregnancy. Likewise, minimal weight is being given to "Police Work Scheduling." Its three pages deals in conclusory fashion with concerns about 4 day/10 hour scheduling in California. California and the City of Mason are not comparable communities.

The City of Mason will not be required to implement a 4 day/10 hour schedule. It appears that scheduling problems will result in the event of patrolman absences. In addition, shift-splitting to cover absent patrolmen will create 15 hours of continuous employment which would be more fatiguing than 12 hours under the current practice. Finally, only one of the four comparable communities unambiguously provides the type of schedule sought by the Union, and generally this schedule appears to be the exception rather than the rule in Michigan municipal police departments.

However, the Panel is not necessarily opposed in principle to a 4 day/10 hour schedule in all circumstances. Therefore, the Panel does not wish to foreclose the City from implementing such a schedule if the City, in its discretion, chooses to try such a schedule.

Ruling. The City's position may be achieved by retaining the current language, and not impeded by adding to Section 17.1: Hours the following sentence:

The City, in its discretion, may change the above hours of work to four (4) scheduled days of ten (10) consecutive hours each day, either temporarily or permanently, provided that it provides at least sixty (60) days' written notice of any such change to each officer.

SECOND ISSUE: PAID LUNCH AND WORK BREAKS

City's Last Offer: The City proposes to amend Article XVII, Section 17.5 A of the current contract by adding a second sentence, so that the entire section will read as follows:

Paid Lunch and Work Breaks. An officer on duty shall be entitled to one (1) hour for each eight (8) hour workday for lunch and work breaks, which shall be divided into two (2) fifteen (15) minute periods and a thirty (30) minute meal period which shall be taken at the good judgment of the officer, and as the needs of the department permit. If an officer is called off of a break, the officer shall be entitled to the remainder of his/her break once the pending matter is disposed of.

Union's Last Offer: The Union proposes to amend Article XVII, Section 5 A as follows:

An officer on duty shall be entitled to one (1) hour for each eight (8) hour workday for lunch and work breaks, which shall be divided into two thirty (30) minute breaks which shall be taken at the judgment of the officer and as the needs of the department permit.

Findings. The parties' final offers on this issue both involve some concession from their tentative final offers.

The Union's concern is that with only one 30 minute meal break, an officer who's meal is interrupted will not have another opportunity to take off a full 30 minutes during the particular shift.

The City's concern is that with two rather than three scheduled breaks,

the officers will be in their patrol cars for longer periods. The City also points out that disrupted meals have not been a significant problem: There have been no complaints about it.

The contracts of the four comparable communities contain no provision for paid lunch and work breaks.

The City's final offer, which expressly authorizes the officer to complete his break in the event the officer is called off of his break, appears reasonable. Even under the Union's final offer, an uninterrupted meal break is not assured because one could be called off of both breaks. The Union's offer is unsupported by any comparable community. Finally, in the normal course, it seems preferable to have three breaks -- one every two hours during an eight hour shift -- rather than two breaks. The reason is that it allows the officers to get out of their patrol cars and rest one more time each shift.

Ruling. The City's last offer is accepted.

THIRD ISSUE: EARNED TIME OFF

City's Last Offer: There is no provision under the current contract for "earned time off" and the City rejects the Union's proposal.

Union's Last Offer: The Union proposed to add a new section 17.6 to Article XVII of the contract as follows:

Section 17.6: Earned Time Off: All employees covered by this Agreement may have the option to exchange any overtime hours worked for earned-time off hours at the rate of time and one half (1 1/2) under the following conditions:

- (a) Forty (40) hour accumulation and have up to forty (40) hours on the record books at any one time.

(b) Any usage or partial usage of accumulated ETO will be charged against the maximum accrual and does not accumulate beyond forty (40) hours.

(c) The ETO option will be made within the pay period that it is earned per the employee turning in their time report.

(d) An employee may utilize earned ETO only with the prior approval of their supervisor.

(e) Employees will be granted ETO in accordance with a first come first serve basis. If determination cannot be made which request was made first, ETO will be granted on a seniority basis.

(f) All accumulated ETO credits will be paid off the first pay period in December of each year.

Findings. Of the four comparable communities in this case, only one -- Grand Ledge -- offers earned time off.

The Union is seeking earned time off as part of its efforts to obtain more time off for the officers it represents.

Section 9(f) of Act 312 requires consideration of the "overall compensation presently received by the employees, including . . . vacations, holidays and other excused time." Section 9(g) requires consideration of "changes in any of the foregoing circumstances during the pendency of the arbitration proceedings." In the present case, the parties have agreed to a new provision for two paid personal leave days (see Fourth Issue below), and the Panel is awarding increased vacation days (see Fifth Issue below). Therefore, changes in the circumstances of time off for the officers are already taking place.

Ruling. The Panel decides not to add a provision to the contract for earned time off.

FOURTH ISSUE: PERSONAL DAYS

City's Last Offer: There is no provision under the current contract for "personal days." The City proposes to add a new Section 18.6 to Article XVIII of the contract as follows:

Section 18.6: Personal Days: Seniority employees shall be entitled to two (2) paid personal leave days per year with one (1) personal leave day deducted from accumulated sick leave.

A request for a personal leave day must be made to the employee's immediate supervisor at least two (2) working days in advance of its intended use. If the circumstances warrant it, the employee's immediate supervisor can waive the two (2) day notice requirement. Requests for personal leave will be granted provided the Department Head or his designee does not believe the leave will interfere with the operation of the Department.

Personal leave days may not be used immediately preceding or following a holiday or vacation day unless approved by the City Administrator.

Personal leave days are not cumulative from year to year.

Union's Last Offer: The Union proposes to add a new Section 18.6 to Article XVIII as follows:

Section 18.6: Personal Days: Due to the stress related to police work, each employee shall be entitled to two (2) personal days per year. The on-duty Command Officer must be notified in advance in order to adjust scheduling.

Discussion. At page 12 of its brief, the Union agrees to the City's last best offer on personal days.

Ruling. The City's last offer is accepted.

FIFTH ISSUE: VACATIONS

City's Last Offer: The City proposes to amend Article XX, Section 20.1, as follows:

Section 20.1: Officers shall receive vacation based on the length of continuous employment as herein set forth:

After 1 year from
anniversary date: 80 hours

After completion of
6 years from
anniversary date: 120 hours

After completion of
13 years from
anniversary date: 160 hours

Union's Last Offer: The Union proposes to amend Article XX, Section 20.1 by reducing by one year the seniority required for three weeks' vacation and by five years the seniority required for four weeks' vacation, as follows:

Section 20.1: Officers shall receive vacation based on the length of continuous employment as herein set forth:

1 year to 5 years two weeks or 10
working days

5 years to 10 years three weeks or 15
working days

10 years and over four weeks or 20
working days

Findings. Under the parties' current contract (Joint Exhibit B, p 22), vacations are provided as follows:

1 year to 6 years: two weeks or 10 working days

6 years to 15 years: three weeks or 15 working days

15 years and over: four weeks or 20 working days.

The City's final offer appears to clarify the meaning of the current

contract and to make one change to reduce accrual of 20 days' vacation from one's 15th anniversary of initial day of employment to one's 13th anniversary.

The Union's final offer reduces one's anniversary date for three weeks' vacation from six years to five years, and for four weeks' vacation from 15 years to 10 years.

Under the City's final offer one employee will benefit during the term of the new contract, July 1, 1986 through June 30, 1988: Kenneth Dagner will complete 13 years of employment on June 5, 1988. Under the Union's proposal, three employees will benefit during the term of the new contract: Kenneth Dagner, James Duthie, and James Shelley.

The Union is seeking accelerated entitlement to three and four weeks vacation in order to get more time off for its members. Other Union proposals have the same purpose. The Panel has already rejected two of these proposals: hours of work (first issue) and earned time off (third issue).

A review of the comparable communities shows that Dowagiac is supportive of the Union's final offer and St. Johns is supportive the City's final offer. New Baltimore is ambiguous. For the first 10 years it is the same as the City's final offer. However, for each of the next five years, it adds vacation days in one day increments. As a result, New Baltimore provides a total of three vacation days more than the City's final over for the 11th and 12th years, but a total of three days less for 13th and 14th years. At the 15th year, it too provides 20 days' paid vacation.

In these circumstances, close attention is being given to the parties' stipulated comparable community, Grand Ledge. Employer Exhibit K sets forth the following vacation schedule for Grand Ledge:

LENGTH OF SERVICEVACATION CREDIT

1 - 5 years	12 days
6 - 9 years	14 days
9 - 14 years	16 days
14 years	18 days
19 years	20 days

For each of the first five years, the Grand Ledge schedule provides two more vacation days than the City's final offer. For each of the 6th through the 9th years, it provides one day less than the City's final offer. For each of the 10th through the 12th years, it provides one day more than the City's proposal. For the 13th through the 18th years, the City's proposal provides more days. At the 19th year, the City and Grand Ledge resume parity. The belated achievement of 20 days' vacation entitlement under the Grand Ledge contract is somewhat deceptive in the short term. Only one Mason bargaining unit member will complete 13 years of employment during the term of the new contract. Union Exhibit W. The Panel concludes that on balance the Grand Ledge schedule supports the Union's final offer for the new two-year contract.

Further, the City has expressed concern in these proceedings for stability of employment in the police department (Tr I, p 29). The "interest and welfare of the public" under Section 9(c) of Act 312 is promoted by a stable police force. It is noted that the average seniority of Mason's patrolmen as of July 1, 1986 was only about 5 years. Union Exhibit W. The Union's final offer will encourage satisfaction with the employment relationship for the employees as they approach and pass key anniversary dates, and may at least partially offset whatever dissatisfaction they feel by reason of receiving a lower salary than police officers in such neighboring communities as Charlotte and Howell.

Finally, the City has stipulated that its "financial ability" under

Section 9(c) of Act 312 is not in issue in these proceedings.

Ruling. For the above reasons, the Union's last offer on vacations is accepted.

SIXTH ISSUE: HOLIDAYS

Findings. This issue has been withdrawn from the Panel's consideration, as it has been agreed to retain the language of the current agreement.

Ruling. The City's last offer is accepted.

SEVENTH ISSUE: HOLIDAY PAY

City's Last Offer: The City proposes to amend Article XXI, Section 21.2 to increase holiday pay, as follows:

Section 21.2: Holiday Pay: It is expected by reason of the nature of police work, members of the bargaining unit will be expected to work one or more of the holidays enumerated above. Members of the bargaining unit shall be compensated by receiving Seventy Dollars (\$70) per holiday, payable in the first pay period of December each year. Effective July 1, 1986 holiday compensation shall be increased to Seventy-Five Dollars (\$75) per holiday.

Union's Last Offer: The Union proposes to amend Article XXI, Section 21.2 to increase holiday pay, as follows:

Section 21.2: Holiday Pay: It is expected by reason of the nature of police work, members of the bargaining unit will be expected to work one or more of the holidays enumerated above. Members of the bargaining unit shall be compensated by receiving Seventy Dollars (\$70) per holiday, payable in the first pay period of December each year. Effective July 1, 1986 holiday compensation shall be increased to Seventy-Five Dollars (\$75) per holiday. Effective July 1, 1987 holiday compensation shall be increased to Eighty Dollars (\$80) per holiday.

Discussion. The parties are agreed that holiday pay beginning July 1, 1986 is to be \$75 per day. Their difference is whether holiday pay is to be increased to \$80 per day beginning July 1, 1987. The Union says yes; and the City says no. The amount of holiday pay effective July 1, 1987 is the issue to be decided.

The comparables in this case are somewhat inapposite because Mason alone has a flat rate irrespective of whether the officer works the holiday. (If the officer works, he receives the flat rate in addition to his salary; if he does not work he receives the flat rate only.) The comparable communities use a premium pay formula for officers who work on a holiday: Dowagiac uses a double-time and one-half formula; New Baltimore double time; and St. Johns and Grand Ledge time and one-half.

Under the City's last best offer on wages (which the Panel is accepting), the base salary of a senior officer on July 1, 1987 will be \$23,387.65. When this base salary is divided by 52 weeks, the average weekly base salary is \$450. This sum, divided by the five day work week, equals \$90 per day. With the Union's \$80 offer, the senior officer who did not work on the holiday after July 1, 1987 would receive \$10 less than \$90. If he did work, the effect would be to earn a bit less than double-time for the shift worked. This would put the senior officer in the middle of the comparable communities.

The City has stipulated that its financial ability is not in issue. Based at relatively low inflation in recent times, granting the Union's offer may give the officers slightly more than an increase in the consumer price index for the one year period beginning July 1, 1987, although this observation is admittedly speculative. In any event the increase is for one year and is not excessive.

Ruling. The Union's last offer is accepted.

EIGHTH ISSUE: HOSPITAL AND MEDICAL INSURANCE

City's Last Offer: The City proposes to amend Article XXIII, Section 23 as follows:

Section 23.1: All regular, full-time officers, their wife and dependent children, are eligible for group hospital and medical benefits under the Blue Cross/Blue Shield Group Policy No. 68914 in accordance with, and subject to, the provisions and limitations therein. The Employer will pay an amount equivalent to the premium costs of each officer and family under said group policy which are in effect on April 29, 1986. Any increase in premium costs will be paid by the employee through payroll deduction.

Section 23.2: No change from current contract.

Section 23.3: Upon successful completion of ninety (90) days of employment, probationary officers will not be required to pay the base premium costs established by Section 23.1 for the Hospital and Medical insurance herein specified and the City will at that time pay an amount equivalent to the premium costs in effect on April 29, 1986 for the officer and his/her family under the said group policy for each probationary officer who elects to come under the group plan. Any premium costs in excess of the amount provided for by the City shall be paid for by the employee through payroll deduction. If the employee elects to be covered by the HMO insurance, the Employer will pay that amount it is obligated to pay with respect to the Blue Cross policy, any difference over this amount will be paid by the employee.

Section 23.4: No change from current contract.

Section 23.5: No change from current contract.

Section 23.6: Prescription Rider. The City shall provide a prescription rider with the employee paying the first Three Dollars (\$3.00) of any prescription.

Section 23.7: Dental Insurance. The City shall provide to each employee and his/her dependents, the Travelers Insurance Plan No. 883734 for dental coverage. The City's extent of liability shall be the amount for premiums in effect on April 29, 1986. Any increase in the cost of premiums shall be paid by the employee through payroll deduction.

Union's Last Offer: The Union proposes no change to Article XXIII, Section 23 of the current contract, which states:

Section 23.1: All regular, full-time officers, their wife and dependent children, are eligible for group hospital and medical benefits under the Blue Cross/Blue Shield Group Policy No. 68914 in accordance with, and subject to, the provisions and limitations therein. The Employer will pay one hundred percent (100%) of the premium of each officer and family under said Group Policy who elects to come under this plan.

Section 23.2: For the first ninety (90) days of employment probationary officers shall be responsible for the cost of said policy.

Section 23.3: Upon successful completion of ninety (90) days of employment, probationary officers will not be required to pay the base premium costs established by Section 23.1 for the Hospital and Medical insurance herein specified and the City at that time will pay one hundred percent (100%) of the premium of the officer and his/her family under the said Group Policy for each probationary officer who elects to come under the Group Plan. If the employee elects to be covered by the HMO insurance, the Employer will pay that amount covered by the Blue Cross policy, any difference over this amount will be paid by the employee.

Section 23.4: Probationary officers may elect to come under this plan after authorizing payroll deductions for the premium costs for the required ninety (90) days.

Section 23.5: Should the Employer wish to change from Blue Cross hospitalization insurance this change will be subject to negotiations with the Lodge.

Section 23.6: Prescription Rider. The City shall provide a prescription rider, with the employee paying the first Two Dollars (\$2.00) of any prescription. Effective January 1, 1986 eligible employees shall pay the first Three dollars (\$3) of any prescription.

Section 23.7: Dental Insurance. The City shall provide to each employee the Travelers Dental Insurance Plan, Policy No. 883734. Effective January 1, 1986 the City shall provide to each employee and his/her dependents, the Travelers Insurance Plan Number 883734.

Section 23.8: Physical Examination. After two (2) years of continuous full-time employment and every second year thereafter, an officer will be entitled to take a physical examination to be given by the City doctor, the cost of which shall be borne by the City.

Findings. The City is proposing that employees pay for all increases in premium costs for medical and dental insurance which go into effect after April 29, 1986. The City argues that these premium increases are costly and that the employees should pay for them out of their own pockets. In other words, the City is requesting a freeze on its contributions for medical and dental insurance.

On this issue, the City concedes at page 40 of its brief: "There are no comparables." Indeed, of all the proposed comparables, none has a co-pay requirement. Union Exhibit N. Further, in this case, the City has stipulated that inability to pay is not an issue.

The Union has stipulated to accept Section 23.6 of the City's proposal. Union Brief, p. 18. This limited change is linguistic and is simply for the purpose of bringing the prescription rider language up to date.

Ruling. The Union's last offer is accepted, together with the parties' stipulation to amend Section 23.6.

NINTH ISSUE: LONGEVITY

Discussion The parties have agreed to modify Article XXVI, Section 26.1 of the current contract. The agreed upon language reads as follows:

Section 26.1: Each full-time employee who has completed five (5) years of continuous employment by December 1 shall receive Two Hundred Fifty Dollars (\$250) additional compensation per year plus an additional compensation of Twenty-Five Dollars (\$25) for each year of continuous employment beyond five (5) years.

Ruling. The above language is accepted.

TENTH ISSUE: RESIDENCY

City's Last Offer: The City proposes that bargaining unit personnel shall live within the corporate limits of the City of Mason.

Union's Last Offer: The Union proposes the following language on residency:

All bargaining unit members subject to emergency work are expected to live within five (5) miles from the City limits of the City of Mason provided the following criteria are met:

1. That the proposed residence be located on a "reasonable" road so as to allow ingress and egress in inclement weather.
2. That no transportation will be afforded in City-owned vehicles.
3. That any employees presently employed with the City that now live more than five (5) miles from the City limits be allowed to continue their residence until such time that they move or re-establish their residence in which case they shall be required to comply with this section.

Discussion. Of the six officers in the bargaining unit, one -- Teri Janson -- does not live in the City of Mason. She was hired by the City on September 9, 1985. For at least part of the period of her employment, she maintained a Mason address and Mason telephone number while living outside Mason. She did not tell the City she was living outside the City of Mason. City Administrator Patrick Price had heard some "scuttlebutt" that Ms. Janson was not residing in the City of Mason; but he never had had her actual residence confirmed (Tr I, p 33).

Mr. Price testified that in 1975 the City applied a five mile limit for City employees living outside the City of Mason (Tr I, p 29). In 1977, the City began the practice of only hiring as police officers those who agreed to live in the City of Mason. At this time, the residency requirement was placed in the contract between the City of Mason and a predecessor union. Union Exhibit B.

However, this provision was deleted from recent contracts between the City and the present union, the Fraternal Order of Police. The deletion is supportive of the Union's position. Until July 7, 1986, when the City Council passed a resolution on residency, the former contract language had been the City's only written policy on residency (Tr I, pp 38-39).

On July 7, 1986, while negotiations were pending between the parties, the City Council passed a resolution that all City employees live in the City of Mason. Union Exhibit C. This resolution was suggested by the City's labor relations attorney (Tr I, p 45).

The City of Mason currently has about 39 employees (Tr I, p 43). Mr. Price testified that three or four of these (other than Ms. Jansen) do not now reside in the City of Mason (Tr I, p 41).

The City of Mason is seeking a residency requirement because of "[t]he interest and welfare of the public" under Section 9 (d) of Act 312. The City argues that required residency within the City of Mason will promote stability of employment and police-community relations. As to stability, Mr. Price testified that there was a higher police turnover in the early 1970's before the City had any residency requirement than afterward. Mr. Price also testified that he had spoken to several residents of the City of Mason, and that they favored a residency requirement, as does the City Council.

Mr. Price's poll of several Mason residents is entitled to no weight because of its informality and limited nature. The resolution of the City Council, however, is entitled to some weight as an expression of City sentiment. To be noted is the fact that the resolution applies to all City employees; yet at least three or four continue to live outside the City without any apparent objection. This suggests that the resolution is not being enforced as to current

employees.

The City's argument that restrictions on residence have promoted stability of the police force is somewhat speculative: It isolates one factor of employment, residency, in support of its conclusion. Other factors of employment, such as wages, might also explain employee turnover. High paying private sector employers, such as automobile companies, are not noted for high quit rates despite the absence of residency requirements. Alternatively, to the extent a strict residency requirement affects employment stability, it would appear to be a two-edged sword: If an employee would prefer to live outside the city of required residence, he is more, not less, likely to quit his employment in order to live where he wants.

The Union's final offer does two things: First, it contains a "grandfather" clause for current police officers at their current residences. One officer, Ms. Janson, appears to live more than five miles from the City of Mason. Under the Union's offer she would be allowed to continue to live at her current home. Second, the offer otherwise requires that police officers live within 5 miles of the City of Mason. This provision, the Union argues, serves the City's legitimate interest of having officers near at hand in the event of an emergency. As a result, the interest and welfare of the public is served by this limitation on residency.

The Panel agrees with the "grandfather" proposal because the City's practice under its 1986 resolution likewise has "grandfathered" City employees living outside the City of Mason. However, the Union's proposal contains no limit on its "grandfather" clause with respect to job performance. The Panel thinks that a proviso should be added that the distance must not interfere with the discharge of duties to the City.

The remaining issue is whether the other officers should be required to live within the City of Mason or within 5 miles of it. On this issue, the interest and welfare of the public would appear to be safeguarded by either proposal. Here, then, as with so many issues, comparability becomes a decisive consideration. Of the four comparable communities, St. Johns requires that officers reside within 12 miles of the Courthouse, Grand Ledge and New Baltimore have no residency requirement, and Dowagiac requires officers to live within a 5 mile radius. Union Exhibit A. The record does not establish the Dowagiac end of the 5 mile radius: It might be the city limit or the Courthouse or the police station. Of the eight proposed comparables, only one -- Charlotte -- requires residency within the city limits.

In these circumstances, the weight of comparability favors the Union's final offer.

Ruling. For the above reasons, the Union's last offer on this non-economic issue is adopted, except that paragraph 3 of it is changed to read:

3. Any employees presently employed with the City who now live more than five (5) miles from the City limits shall be allowed to continue their residence, provided that such distance does not interfere with the discharge of their duties to the City and that paragraphs 1 and 2 are satisfied, until such time that they move or re-establish their residence, in which case they shall be required to comply fully with this section.

ELEVENTH ISSUE: WAGES

Appendix B of the parties' current contract contains wage scales.

Appendix B states:

Effective the first full payroll period after
July 1, 1985

<u>Patrolman</u>	<u>Base</u>	<u>Associate Degree 2%</u>	<u>Bachelor Degree 4%</u>
0 to sworn	16,600.22	16,932.22	17,264.23
Sworn to 1 year	17,682.56	18,036.21	18,389.86
1 year to 2 years	18,403.97	18,772.05	19,140.13
2 years to 3 years	19,847.25	20,244.20	20,641.14
3 years to 4 years	20,750.28	21,165.29	21,580.29
4 years to 5 years	21,832.62	22,269.27	22,705.92

<u>Corporal</u>	<u>Base</u>	<u>2%</u>	<u>4%</u>
0 to sworn year	18,990.20	19,370.00	19,749.81
Sworn to 1 year	20,209.12	20,613.30	21,017.48
1 year to 2 years	20,931.23	21,349.85	21,768.48
2 years to 3 years	21,832.62	22,269.27	22,705.92
3 years to 4 years	22,735.67	23,190.38	23,645.10
4 years to 5 years	23,637.08	24,109.82	24,582.56

College: The City agrees to increase the applicable base pay of members of the bargaining unit by two percent (2%) upon successful completion of an accredited associate degree in police administration or its equivalent in an accredited university and four percent (4%) upon the successful completion of an accredited degree in police administration.

City's Last Offer: The City proposes a three and one-half percent (3.5%) increase to all wage scales effective the first full payroll period after July 1, 1986, and a three and one-half percent (3.5%) increase to all wage scales effective the first full payroll period after July 1, 1987.

Union's Last Offer: The Union proposes a five percent (5%) increase to all wage scales effective July 1, 1986, and a four percent (4%) increase to all wage scales effective July 1, 1987.

Findings. Under the parties' final offers, a senior patrolman would receive the following base salary:

	<u>July 1, 1986</u>	<u>July 1, 1987</u>
City	\$22,596.76	\$23,387.65
Union	\$22,924.23	\$23,841.20

These base salary figures do not include the 2% and 4% increments for completion of decreed programs in police administration.

The data submitted by the parties shows the following salary in 1986 of a senior patrolman in the four comparable communities:

Grand Ledge	\$22,678.51
St. Johns	23,484.00
New Baltimore	21,152.00
Dowagiac	21,368.00
Total	\$88,662.51
Average	\$22,165.63

The Consumer Price Index (CPI) for the period July 1986 to January 1987 shows an increase of only 1.2% for that period. For the previous two years, it was also relatively low. For the period July 1984 to July 1985, it increased by 3.8%; and from July of 1985 to July of 1986, it increased by 1.2%. Employer Exhibit S and Brief p. 18.

Ruling. Based on salaries paid by comparable communities, overall salary compensation (including education increments), and the CPI, the City's last offer on wages is accepted.

AWARD

Except for the issues submitted to the Panel and addressed in this Opinion, the parties stipulate that no dispute exists as to any or all of the terms and conditions of their Collective Bargaining Agreement for the term

stated, July 1, 1986 through June 30, 1988.

Each and all of the rulings and stipulations set forth above constitute the unanimous decisions of the Panel, except for the following matters on which one panelist dissents from the majority:

Employer Panel delegate Austin dissents on the following matters:

FIFTH ISSUE: VACATIONS.
SEVENTH ISSUE: HOLIDAY PAY.
EIGHTH ISSUE: HOSPITAL AND MEDICAL INSURANCE.
TENTH ISSUE: RESIDENCY.

Selection of ST. JOHNS as a comparable community.

Designating the first and third issues
as non-economic.

Union Panel delegate Lawson dissents on the following matters:

FIRST ISSUE: HOURS OF WORK.
SECOND ISSUE: PAID LUNCH AND WORK BREAKS.
THIRD ISSUE: EARNED TIME OFF.
ELEVENTH ISSUE: WAGES.

Selection of NEW BALTIMORE and DOWAGIAC
as comparable communities.

Finally, each Panel delegate preserves objection to any evidentiary rulings which were made over its side's objection.

Dated this 16th day of April, 1987
at Howell, Michigan.

Thomas L. Gravelle

Thomas L. Gravelle,
Impartial Chairman

Norman Austin

Norman Austin,
City Delegate

Jerry J. Lawson

Jerry J. Lawson,
Union Delegate

RECEIVED
MAY 20 PM 2:51
STATE OF MICHIGAN
DEPT. OF STATE
FOR THE ATTORNEY GENERAL

CITY	POP.	PATROL MEN	PATROL MEN/POP. RATIO	ARRESTS	PATROL MEN/ ARREST RATIO	S.E.V.	POP./SEV RATIO	DIST. (miles)	PER CAP. INCOME
Mason	6017	6	1: 1003	130	1: 21.7	\$57,104,600	1: \$9491	-----	\$8525
Grand Ledge	6954	9	1: 773	162	1: 18	\$53,056,582	1: \$7630	21	\$8664
New Baltimore	5856	6	1: 976	139	1: 23.2	\$52,617,530	1: \$8995	87	\$9194
Dowagiac	6221	8	1: 778	177	1: 22.1	\$47,696,000	1: \$7667	92	\$6169
Hillsdale	7385	10	1: 739	308	1: 30.8	\$65,562,548	1: \$8878	47	\$6896
St. Johns	7393	8	1: 924	138	1: 17.3	\$75,324,200	1: \$10189	30	\$8369
Howell	7018	9	1: 780	231	1: 25.7	\$81,470,200	1: \$11609	27	\$8821
Charlotte	8205	15	1: 547	110	1: 7.3	\$71,154,500	1: \$ 8672	20	\$7704
Eaton Rapids	4348	6	1: 725	213	1: 35.5	\$36,814,600	1: \$ 8467	12	\$8329

CHART A

SOURCES:

- 1 U.S. Dept. of Commerce, 1982 Population Estimates (as of July 1, 1982) and Per Capita Income Estimates.
(Employer submission)
- 2 Union Exhibit Z
- 3 1985 Uniform Crime Report, Dept. of State Police. Union Exhibit AA
- 4 1986 Michigan Dept. of Treasury. Union Exhibit BB; Employer Exhibit T
- 5 State of Michigan 1987 Official Transportation Map (straight-line estimates)
- 6 See note 1 above

COMPARISON OF PROPOSED COMPARABLE CITIES WITH CITY OF MASON

CITY	POP.	PATROL MEN	PATROL MEN/POP. RATIO	ARRESTS	PATROL MEN/ ARREST RATIO	S.E.V.	POP./SEV RATIO	DIST. (miles)	PER CAP. INCOME
Mason	6017	6	1: 1003	130	1: 21.7	\$57,104,600	1: \$9491	-----	\$8525
Grand Ledge	6	4	4	5	6	8	2	6	8
New Baltimore	8	8	8	7	7	7	8	2	4
Dowagiac	7	6	5	4	8	6	3	1	1
Hillsdale	4	2	2	1	3	5	7	3	2
St. Johns	3	6	7	8	4	3	6	4	7
Howell	5	4	6	2	5	1	1	5	5
Charlotte	1	1	3	6	1	4	5	7	3
Eaton Rapids	2	8	1	3	2	2	4	8	6
<u>Totals</u>									
			(w/per capita income)			(w/out per capita income)			
New Baltimore			59			55			
Grand Ledge			49			41			
St. Johns			48			41			
Dowagiac			41			40			
Eaton Rapids			36			30			
Howell			34			29			
Charlotte			31			28			
Hillsdale			29			27			

CHART B