

3/6/74
ARB 74
C.I.
Mount Clemens, City of

STATE OF MICHIGAN
ARBITRATION UNDER ACT NO. 312
PUBLIC ACTS OF 1969 AS AMENDED

In the Matter of the Statutory Arbitration between
TEAMSTERS LOCAL 214, LAW ENFORCEMENT
DIVISION, STATE, COUNTY AND MUNICIPAL
WORKERS, INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA

-and-

CITY OF MOUNT CLEMENS,
A Municipal Corporation

3/6/74

ARBITRATION OPINION AND ORDERS

This arbitration is pursuant to Public Act No. 312, Public Acts of 1969, as amended by Act No. 127, Public Acts of 1972, providing binding arbitration for the determination of unresolved contractual issues in municipal police and fire departments.

Arbitration was requested by letter dated June 11, 1973, from the Union. Mr. William J. Charron, Jr. and Mr. Bernard Campau were designated as City and Union delegates, respectively, to the Arbitration Panel with Alan Walt appointed Chairman. Pursuant to

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Walt, Alan

notice duly given, hearings were held November 16 and December 10, 1973, and January 17, 1974. Following the close of hearings, a verbatim transcript of proceedings was prepared and received by the Chairman on February 12, 1974.

THE BARGAINING UNITS

Separate bargaining units have been certified for the three command ranks in the Mount Clemens Police Department: the Inspector's unit consisting of two officers and the Lieutenant's and Sergeant's units with five officers each. All three command bargaining units are represented by Teamsters Local 214; for the purpose of the Act 312 arbitration proceedings, however, the parties have agreed and stipulated to treat the three groups as a single unit to be covered by one collective bargaining agreement.

THE STATUTORY STANDARDS

Section 9 of Act 312 establishes the criteria to be applied by the Panel in resolving disputed questions and formulating its Orders. These are:

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.

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

Much of the evidence adduced at the hearings consisted of testimony and documentation obtained by interview, telephone contact, surveys based on published data, and other forms of evidence generally unacceptable in a court of law. Technical application

of the rules of evidence was avoided to permit each party to fully present its case. Notwithstanding, the arbitration panel has based its findings, opinions, and orders solely upon competent and material evidence, guided by the specific statutory standards above set forth, and after a thorough review of the record and all the exhibits presented by the parties.

In the course of the hearings, the Chairman ruled that pursuant to Section 8 of Act 127, Public Acts of 1972, the parties would be permitted to modify offers on economic issues at any time prior to conclusion of the hearings, provided that the record would remain open for the submission of responsive evidence.

THE ISSUES

In the interregnum between the first hearing on November 16 and the second hearing of December 12, 1973, the parties met in an attempt to negotiate those issues remaining in dispute. Their efforts were not entirely successful and at the December 10 hearing, the Union identified the following areas in which impasse had been reached:

1. Wages, including Cost of Living Allowance.
2. Overtime.
 - a. Elimination of Fractional Overtime Payments.

b. Minimum Call Back Time for Court Appearances.

3. Job Incurred Injury Benefits.
4. Uniform Allowance.
5. Gun Allowance.

In addition, the parties also desire that several provisions on which agreement was reached be incorporated in the opinion. It is the understanding of the Chairman that these issues represent only a part of the contractual areas in which agreement had been reached prior to hearing; however, they are the only issues identified for inclusion herein. As stipulated, they are:

1. "It is understood that the retroactivity clause will provide for the retroactivity of all economic benefits, except for those which by their nature, are impossible to make retroactive; such as hospitalization insurance, life insurance, etc." The parties also agree that "Blue Cross-Blue Shield coverage is for future retirees only."
2. "Article XIV shall remain unchanged."
3. A new section, designated §2(a), will be added to Article XV, Overtime: "An Employee who is scheduled for duty on a previously scheduled day off, shall receive a minimum of four (4) hours overtime."
4. Section 5 of Article XV will become §5(a) of the new contract, and a new §5 will be added which reads: "When an Employee

is required to travel to a destination outside of a 100 mile radius circle from the City of Mount Clemens for purposes of attending police training schools, ex-traditions or other similar activities, which trips require over-night accommodations, he shall be paid \$25.00 per diem, in lieu of any and all expenses involved in said trip, excluding the expenses of transportation."

5. "Traffic and Safety Officer and Youth Officer will be red-lined at the present rank. However, should any of the two named police officers leave these work positions, they will be filled by other officers with the rank of no less than Corporal."
6. Section 1 of Article XVII, entitled Sick Leave, will be amended to provide that "Seventy five percent (75%) of accumulated sick leave shall be paid the employee upon retirement, or to his dependents, if designated, or to his estate, if not designated, in case of death."

BACKGROUND

Mount Clemens with a population of 20,465 in the county seat of Macomb County and is located approximately 23 miles from Detroit. Its tax base is 42% residential, 33% industrial and utility, and 25% commercial. The City has approximately 250 employees, including department heads and the City Manager. There are 12 police officers in the combined command units of the police department.

It is the City's contention that the command group fits in- to the structure of municipal employment "as an integrated whole" and should not be treated distinctly from other City employees or bargaining chaos will result. The 1972-73 labor agreement between the command unit and the City resulted from Act 312 arbitration, and was the first labor agreement between the parties. The present contract period under consideration is for the year July 1, 1973 through June 30, 1974. The 26 man patrol section of the police department negotiated a labor contract providing a 6.1 pay raise, with senior patrolmen receiving \$13,656. The City's clerical unit settled for 6% on a two year contract; the Department of Public Works for 5% on a two year contract; and Fire-fighters at 6.1%.

The Union argues that the City has the financial ability to pay a fair and just wage to the members of the command unit, and notes it has not claimed inability to do so. Based on the recognized professional nature of police work requiring educational attainment, special skills, emotional and psychological stability, and special training, the Union submits the members of this combined bargaining unit are entitled to receive significantly improved wages and benefits.

WAGES

Under the predecessor contract (1972-73), the command ranks received the following annual wage:

Sergeants	-	\$14,207
Lieutenants	-	\$15,681
Inspectors	-	\$17,307

The City has offered an across-the-board increase of 6.1% which would result in the following wage rates:

Sergeants	-	\$15,073
Lieutenants	-	\$16,637
Inspectors	-	\$18,362

On the basis of the professional skills, duties and requirements of the respective ranks, the Union seeks to apply a parity concept with other communities in Macomb County and submits the following salary demands:

Sergeants	-	\$15,877; an increase of 11.5%
Lieutenants	-	\$17,387; an increase of 10.88%
Inspectors	-	\$20,400; an increase of 17.8%

The Union submitted comparative data from other selected communities in the county which, it contends, reflects that the City's offer of a 6.1% increase results in sergeants receiving \$804 below average; lieutenants, \$750 below average; and inspectors; \$2,448 below average.

The Union also submitted an alternative wage demand for an increase of 2.5% over the existing differential between ranks.

The Union contends that when the three ranks of the combined bargaining unit are compared with the same ranks in other communities, obvious disparities in wage rates are reflected. In addition, various department heads and administrators were awarded a 10% increase in the current fiscal year. It is the City's contention, however, that the communities utilized by the Union for comparative purposes were highly selective but, in any event, it is impossible to compare ranks in other municipalities when the duties of each can and do vary significantly. For example, in some communities, the rank of captain is the highest in the bargaining unit while in others, both captains and inspectors appear.

The City further submits that while the command ranks receive time and one-half for overtime worked, no other community in the county pays its inspectors overtime. In Clinton Township, the captain receives a maximum of \$500 per year regardless of the amount of overtime worked. Over a five year period, the two inspectors have averaged 16.8% of their base salary annually in overtime pay. In 1973, one inspector earned \$3,952 in overtime pay while the other received \$2,649.

Findings

In reviewing the comparative data and documentary evidence submitted by both parties, the Arbitration Panel is convinced there is a need to increase the wage rate for sergeants in excess of the 6.1% offered by the City. On the basis of the final salary offers submitted, the Panel finds that sergeants should be increased approximately 11.75%, to an annual wage rate of \$15,877.

Analysis of the same comparative data requires a finding that wage increases of 10.88% and 17.8% for lieutenants and inspectors, respectively, as demanded by the Union would result in exceedingly high wage rates for these ranks which, when considered with overtime entitlement, would seem to be unwarranted on the basis of the evidence presented. On the other hand, a 6.1% wage increment for lieutenants and inspectors as offered by the City appears to be equitable in light of wages paid for those ranks in surrounding communities, and represents a reasonable and fair increase over the 1972-73 salary level.

Because a single year contract is here under consideration, the Panel deems it inadvisable to consider inclusion of a cost of living allowance, a demand first submitted by the Union in the hearing.

ORDER

For the 1973-74 contract year, the following wage rates are awarded:

Sergeants	-	\$15,877
Lieutenants	-	\$16,638
Inspectors	-	\$18,363

The parties shall adjust the incremental steps for each command rank in accordance with past practice.

The Union's demand for a cost of living allowance is denied.

OVERTIME

A. Minimum Call Back Payment for Court Appearances

Members of the bargaining unit currently are paid a minimum of two hours at time and one-half when called from off duty status for court appearances or to testify before administrative agencies, boards, etc. It is the Union's contention that because of the incursion on the officer's off duty time and the essential nature his court testimony, the minimum call back time for court appearances should be increased to three hours at premium rates. The City has not offered to increase the existing benefit.

B. Elimination of Fractional Overtime Payment

Under Article XV, officers working more than the eight hours of the regular shift are paid overtime on the basis of the following schedule:

1 to 14 minutes	No pay
15 to 29 minutes	30 minutes
30 to 44 minutes	45 minutes
45 to 60 minutes	60 minutes

This proration is also applicable when more than one hour is worked.

The Union seeks elimination of the fractional overtime payment schedule and that overtime be paid on the basis of full hours. The City does not propose any change in this benefit.

Findings

After reviewing call-in payments provided by other communities, the Arbitration Panel believes that a two hour minimum call back at premium rates for court appearances is a fair and adequate figure. It results in the officer receiving a total of three hours at straight time rates regardless of how little time is spent in court and, of course, if additional time is required, it, too, is compensated at premium rates.

On the other hand, the Panel is of the opinion that to pay for overtime worked in excess of the regular shift on a fraction-

of-the-hour basis does not find general support in other police departments and agrees that some adjustment in the schedule is in order. While it finds that no overtime payment should be made for the first 14 minutes, the officer working from 15 to 60 minutes should be compensated for the full hour at premium rates and for every hour after the first overtime hour, the officer should be paid to the nearest half hour.

ORDER

1. The demand of the Union for three hours pay at premium rates as a minimum on call back for court appearances is denied.
2. The overtime payment schedule contained in Article XV, §1, is amended to provide:

1 to 14 minutes	No pay
15 to 60 minutes	60 minutes
For each half hour, or fractional part, thereafter -- 30 minutes will be paid at time and one half.	

JOB INCURRED INJURY BENEFITS

At present, an officer injured or disabled as a result of a job related injury receives workmen's compensation benefits plus

the difference to his regular salary for a 12 week period, after which he reverts to his sick leave benefits for any compensation over and above the statutory benefit. The Union demands that the present formula be extended from 12 to 26 weeks, contending the exposure of police officers to on-the-job injuries is continuous and daily. It submits the present 12 week restriction is not adequate for the needs of bargaining unit members, contending that officers injured on the job are usually seriously disabled. The City does not believe any increase in this benefit is warranted.

Findings

It is the opinion of the Panel that the Union's demand has merit and should be granted. Not only are injuries received by police officers in the course of employment usually of a serious nature but the regular and daily law enforcement duties of policemen, including command officers, require they place their very lives in jeopardy, a factor seldom present in other employment. For the latter reason especially, the Arbitration Panel will order an increase in the job incurred injury benefit differential from 12 to 26 weeks.

ORDER

The demand of the Union for an increase from 12 to 26 weeks of the job incurred injury benefit differential is hereby granted.

GUN ALLOWANCE

Members of the bargaining unit presently receive \$100 annually as an equipment maintenance allowance. The Union seeks an additional \$100, for a total of \$200 annually, contending that increased weapon costs and the extant salary disparity warranted the increase. The City opposes any adjustment in this item, submitting it was initially provided to cover the cost of a gun or to compensate for carrying an off duty weapon and the benefit is adequate for that purpose.

Finding

In considering the purpose of this benefit and the comparative data submitted by the parties, it is the opinion of the Arbitration Panel that no adjustment therein is warranted.

ORDER

The demand of an additional \$100 in gun allowance is denied.

CLOTHING ALLOWANCE

Command unit members now receive \$300 annually to purchase and replace uniforms. Members of the detective bureau purchase and replace civilian clothing worn in the line of duty. However, the City pays all cleaning costs for uniforms and civilian clothing.

The Union seeks an additional \$90 annually, for a total of \$390, in this item. It points to the expense of summer and winter uniforms and the fact that officers are required to have three sets of each, at a total cost of \$543.45. In addition, other items are required in the course of duty, such as holsters, belts, cartridge cases, handcuff cases, and flack vests. It further submits costs have increased approximately 6% on each item since 1972. The City opposes any adjustment in this benefit.

Findings

The Arbitration Panel is cognizant of the fact that clothing costs have increased substantially over the last two or three years

and finds an upward adjustment of \$90 annually in the clothing allowance is not an unreasonable demand. Accordingly, an annual clothing allowance of \$390 will be ordered for members of the bargaining unit.

ORDER

Command officers will receive an annual clothing allowance of \$390.

ARBITRATION OPINION AND ORDERS

Only the preceding issues designated as unresolved were submitted in the course of the arbitration hearing and argued by the parties. This opinion has been prepared by the Arbitration Panel Chairman and represents his analysis of the record and the exhibits presented. The Panel has met in executive session to review and discuss the transcript, the exhibits, and the respective arguments of the parties.

The City and the Union Panelists concur or dissent in the foregoing orders as set forth hereinafter.

The Arbitration Panel unanimously agrees on the following Orders:

Wage Rate for Sergeants.

Minimum Pay on Call Back for Court Appearances.

Elimination of Fractional Overtime Payment.

Clothing Allowance.

The Arbitration Panel Chairman and the City delegate concur and the Union delegate dissents on the following Orders:

Cost of Living Allowance.

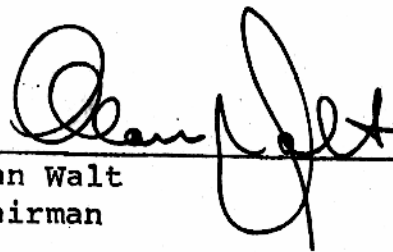
Wage Rates for Lieutenants and Inspectors.

Gun Allowance.

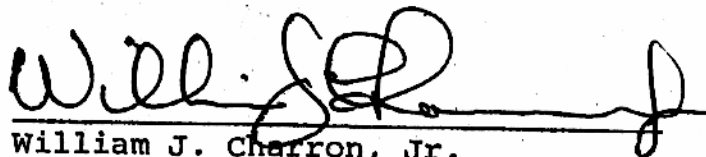
The Panel Chairman and the Union delegate concur and the City delegate dissents on the following Order:

Job incurred injury benefit.

The Panelists have appended their signatures hereto indicating concurrence or dissent to each of the preceding Orders as indicated above.



Alan Walt
Chairman



William J. Charron, Jr.
City Panelist

Bernard Campau
Union Panelist

DATED: March 6, 1974