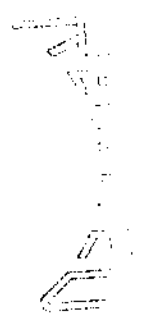


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**State of Michigan
Michigan Employment Relations Commission
Act 312 Statutory Arbitration Tribunal**

In the matter of interest arbitration believes

**Sheriff's Department
County of Oakland Michigan
and
Command Officers Association of Michigan**

MERC Case No. D 95 B-0420

Panel Members:

**Joseph Fremont
Kenneth E. Grabowski
Daniel H. Kruger**

**Employer Delegate
Union Delegate
Chairperson**

Appearances:

For the Union:

William Birdseye
Ann Maurer
Marvin Dudzinski
Robert Gohl
William Harvey

Business Agent
Labor Economist
Research Analyst
Sergeant
Detective Sergeant,
President of Command
Officer's Association

For the Employer:

Malcolm D. Brown
Nancy Scarlett
Major Thomas Quisenberry
William Rye
Gerald Fisher
Thomas R. Eaton
Relations

Attorney
Personnel Analyst
Chief of Staff, Sheriff's Dept.
Management Consultant
Attorney
Manager of Employee

Court Reporters:

For June 13, 1996 Hearing
For June 19, 1996 Hearing

Leonard R. James
Maria E. Greenough

Introduction

The Employer, the Sheriff's Department of Oakland County, and the Union, Oakland County Command Officer's Association, were parties to a three year labor agreement, January 1, 1993 through December 31, 1995 (Joint Exhibit #1). The labor agreement provided for a reopener that negotiations on retirement would begin by October 1, 1994 for certain benefits for their implementation during 1995. The parties were not able to reach agreement on the retirement issues.

The Union, on September 22, 1995, petitioned for arbitration under Act 312 to the Michigan Employment Relations Commission. On December 19, 1995, the Commission appointed Daniel H. Kruger as the Arbitrator (See letter dated December 19, 1995 from C. Barry Ott, Commissioner, to this Arbitrator).

A prehearing conference was held at the MERC offices in Detroit on January 26, 1996. While the Act 312 proceeding was pending, the labor agreement expired on December 31, 1995 (See Joint Exhibit #1, p. 12).

The parties defined the issues before the Act 312 Panel as:

(1) The pension multiplier and the employee pension contribution rate. This was the Union's issue and was so stated in its petition for the Act 312 proceeding. The County indicated its issues as follows: (2) A new Defined Contribution Retirement Plan but only with respect to Deputies who elected to enroll in the Defined Contribution Plan prior to being promoted into the Command Unit, (3) Retiree Health Plan for new hires. On/about

June 28, 1996, the parties submitted to the Arbitrator their respective final offers of settlement.

Below are the parties' final offers:

UNION'S POSITION ON UNRESOLVED ISSUES:

1. Pension-Multiplier:

Effective the date of this Award, the pension multiplier shall be increased from 2.0 percent (the current multiplier) to 2.5 percent. The Employees shall contribute 5 percent of compensation commencing on the same date (See Joint Exhibit #1 p. 17 for the current multiplier).

2. With respect to the Employer's two issues, (1) a Defined Contribution Retirement Plan and (2) Retiree Health Care Eligibility, the Union rejects any changes in the current language and/or practice and desires to maintain status quo. [Source: Union's Final Offer of Settlement]

THE EMPLOYER'S FINAL OFFERS ARE:

1. Pension Multiplier and Employee Pension Contribution:

The pension multiplier will be increased from the current multiplier of 2 percent to 2.2 percent. The employee contribution will be 3 percent.

2. Defined Contribution Retirement Plan for employees promoted into the Bargaining Unit who are already participants in the Defined Contribution Plan at the time of their promotion:

ADDITION TO APPENDIX B OF THE LABOR CONTRACT TO READ:

Any individual, who enters the bargaining unit through promotion or otherwise, who is a participant in the County's Defined Contribution Retirement Plan shall continue to be a participant in the Defined Contribution Retirement Plan and shall not be a participant in

the County's Defined Benefit Retirement Plan. The employer and employee contribution levels in existence in the Deputy's Labor Contract at the time the individual enters the bargaining unit shall be maintained, unless the Union and the County have negotiated other contribution levels for the participant(s) in the Defined Contribution Retirement Plan.

3. Retiree Health Care formula for Employees hired after 5/27/95 or employees entering the Bargaining Unit already subject to Miscellaneous Resolution # 94292.

"The following employees shall be eligible to receive health care benefits pursuant to Miscellaneous Resolution # 94292.

- A. Any employee hired or non-vested former employee rehired on or after May 27, 1995;
- B. Any employee entering the bargaining unit who is already subject to Miscellaneous Resolution # 94292 [Source: Oakland County Final Offers].

The Resolution # 94292 reads as follows:

MISCELLANEOUS RESOLUTION # 94292

October 13, 1994

BY: Personnel Committee, Marilyn Gosling, Chairperson

RE: RETIREMENT HEALTH CARE BENEFITS FOR NEW EMPLOYEES AND
EMPLOYEES TRANSFERRING FROM THE DEFINED BENEFIT TO DEFINED
CONTRIBUTION RETIREMENT PLAN

To the Oakland County Board of Commissioners
Chairperson, Ladies and Gentlemen:

WHEREAS the escalation of health care costs have been continuously monitored and assessed by the County, and

WHEREAS periodic adjustments may be necessary to sound fiscal management of County resources,

WHEREAS retirement health care benefits for new employees have not been adjusted since 1985, and

WHEREAS no changes were recommended in retirement health care benefits concurrent with the recent change in the retirement for new employees from a Defined Benefit Plan to a Defined Contribution Plan, and

WHEREAS this administration feels it is prudent to address the retirement health care issue for new employees in tandem with the recent changes in the retirement plan, and

WHEREAS retirement health care benefits for new employees should be adjusted to better reflect the marketplace and to further contain costs while maintaining a reasonably competitive employee compensation package, and

WHEREAS under current economic conditions it is reasonable to expect employees to complete a minimum number of service years before they are eligible for health care benefits on retirement, and

WHEREAS current eligibility for retirement health care was based on circumstances prior to 1985, and

WHEREAS the plan to allow employees currently in the Defined Benefit Retirement Plan the option to transfer to the Defined Contribution Retirement Plan recommends no loss of retirement health care benefits such employees are currently entitled to,

NOW THEREFORE BE IT RESOLVED that employees hired or non-vested former employees rehired on or after January 1, 1995 shall be eligible for a basic health care benefit on retirement with completion of no less than fifteen years of actual service with Oakland County, as further described in this resolution and in the attachments hereto.

BE IT FURTHER RESOLVED that on completion of fifteen years of actual County service, employees hired on or after January 1, 1995 shall be credited with 60% of a County paid retiree health care plan, credited at the rate of 4% each year for the first fifteen years of employment, and shall accumulate 4% additional retirement health care credit per annum with a maximum benefit of 100% of the County paid portion of retirement health care on completion of twenty-five (25) years of eligible County service, excluding employee co-pays and deductibles, as described in Attachment B, and

BE IT FURTHER RESOLVED that employees hired on or after January 1, 1995 shall pay the difference between the total health care percentage points accumulated and 100% of the actual cost of the retirement health care plan they are enrolled in, excluding co-pays and deductibles, to be eligible for this benefit, and

BE IT FURTHER RESOLVED that employees who transfer from the Defined Benefit Retirement Plan to the Defined Contribution Retirement Plan shall retain the same retirement health care coverage they would have received had they remained in the Defined Benefit Retirement Plan, as described in the Attachment A, and

BE IT FURTHER RESOLVED that for employees hired on or after January 1, 1995, health care benefits on retirement shall be extended to an employee's eligible spouse in the same manner that this benefit is extended to a spouse under retirement health care provisions in effect prior to January 1, 1995.

Chairperson, I move the adoption of the foregoing resolution.


PERSONNEL COMMITTEE

(5)

Discussion on Comparables Used By the Parties

At the prehearing conference on January 26, 1996 and in their posthearing briefs, there was considerable discussion on each party's comparables, one of the criteria to be taken into account in determining the award.

POSITION OF THE UNION:

The Union stated that it included jurisdictions which had a similar defined benefit plan plus social security as do the Command Officers in the Sheriff's Department of Oakland County. It further stated that its comparables were limited to the local labor market in Southeastern Michigan. It also included all counties contiguous to Oakland County with the exception of Lapeer County (Union Brief, p. 2). The Arbitrator takes note that the local labor market is generally the geographic area in which the Employer recruits employees.

The Union included in its list of comparables counties, cities and townships, all of which have police departments that do "similar work", i.e., carry out police functions (See Section 9(d) of Act 312).

Below are the Union comparables:

Genessee County
Livingston County
Macomb County
Washtenaw County
Wayne County
Clinton County
Dearborn Heights
Farmington Hills
Livonia

Redford Township
Troy
Waterford Township
West Bloomfield Township
(Union Brief p. 2)

The Employer presented the following counties in Michigan as its comparables:

Genessee County
Ingham County
Kent County
Macomb County
Washtenaw County
Wayne County
(Employer Brief p. 4)

As noted, four jurisdictions were included in their comparables by both the Union and the Employer:

Genessee County
Macomb County
Washtenaw County
Wayne County

The Employer pointed out the selection criteria for its comparables:

- 1) The SEV (State Equalized Value) and population
- 2) Functions performed by the Sheriff's Department to meet the test of similar services as provided for in Act 312 (see Appendix A, Section 9d)
- 3) Functions and services performed by County Government and County funding sources (See Employer Brief p. 6)

The Employer discussed at length the police services and functions performed by the Sheriff's Department of Oakland County (See Employer's Brief pp. 9-10). The Department has 800 employees of whom 629 are sworn officers (Employer's Brief, p. 1). The Employer noted that there are 82 officers in the Command Officers Unit. Thirty-eight are in the two Corrective Services division; Protective Services has 26 Command Officers and 17 Command Officers are in the Technical Services.

The Employer maintained that its County Sheriff Department comparables are more meaningful because of the comprehensive nature of its police functions as compared with those functions of cities and townships offered by the Union (See Employer Brief pp. 11-19). It stated that the police functions of cities and townships are quite different than those of a county sheriff's department and hence are not fully comparable.

The Employer also called attention to internal comparables. It maintained that the Command Officers share a community of interest with other county employees in benefits, wages and conditions of employment. The Employer pointed out the close working relationship between the Deputy's Bargaining Unit and the Command Officers Unit. All new Command Officers over the last ten years have been promoted from the Deputy's Union. Moreover, the Employer noted that the Command Officers and Deputies have had the same pension benefits and other fringe benefits for many years (Employer Brief, p. 4).

The Employer further stated that comparability between Deputies and Command staff exists in the other county comparables and for eight of the nine additional comparables proposed by the Union (See Employer's Brief p. 4; see also Employer Exhibit #34).

The Employer contended that such parity between the two bargaining units prevents whipsawing and other bargaining tactics. It stated that a primary goal of the County in the instant Act 312 proceeding is to equalize the benefits between the Command Officers Union and the Deputy's Union (Employer Brief p. 5).

The Employer further noted that one group of County employees should not receive a higher level of benefits than other related groups. It pointed out that where Deputies and Command Officers work in the same department, share common working conditions and where the career path for Deputies leads to promotion to the Command Union "both logic and labor relations mandate that the Deputy's Union not only be used as a comparable but that their Labor Contract be given considerable weight in deciding the substantive economic issues""(Employer Brief, p. 5).

The Employer also called attention to MCLA 423.239 (d) and (h) which mandates examination of comparability by Act 312 Panel (See Appendix A for Section 9 Act 312 MCL 423.239).

Pension Multiplier - Union Issue

The Union's proposal is that the pension multiplier be increased from the current 2 percent for all years of service to 2.5 percent for all years of service. The effective date would be the date of the Award. In addition, bargaining unit employees would pay 5 percent of their annual compensation, their employee contribution.

The Employer has offered as its last and best offer, a pension multiplier of 2.2 percent and an employee contribution of 3 percent, the same that the Deputies have.

In its brief, the Union presented the pension multiplier and employee contributions for its comparables, the Employer's comparables and the common comparables as follows: [see next page]

<u>Union Comparables</u>	<u>Multiplier</u>	<u>Employee Contribution</u>
Genessee County	2.5%/20 yr.	.5%
	2.2%/20+yr	
Livingston County	2.25% all yr.	1.1%
Macomb County	2.25%/26 yr.	3.0%
	1.0%/26+ yr.	
Washtenaw County	2.5% all yr.	5.0%
	2.0% at age 62	
Wayne County	2.5% all yr.	4.42%
Clinton Township	2.5%/25 yr.	4.0%
	1.0%/25+yr.	
Dearborn Heights	2.8%/25 yr.	6.0%
	1.0%/25+yr.	
Farmington Hills	2.5%/25 yr.	3.5%
	1.0%/25+yr.	
Livonia	2.586% all yr.	3.5%
Redford Township	2.8%/25 yr.	0%
	1.0%/25+yr.	
Troy	2.5% all yr.	2.75%
	2.25% at age 62	
Waterford Township	2.5% all yr.	5.0%
West Bloomfield Township	2.25% all yr.	0%
	2.0% at Soc. Sec.	
Average:	2.495%	3.11%

(Source: Union Exhibit #4; see also Union Brief pp. 4-5)

<u>Employer Comparables</u>	<u>Multiplier</u>	<u>Employee Contribution</u>
Genessee County	2.5%/20 yr.	.5%
	2.2%/20+yr.	
Ingham County	2.5% all yr.	10.45%
Kent County	2.25% all yr.	4.5%
Macomb County	2.25%/26 yr.	3.0%
	1.0%/26+yr.	
Washtenaw County	2.5% all yr.	5.0%
	2.0% at age 62	
Wayne County	2.5% all yr.	4.42%
Average (Initial period)	2.416%	4.645%

(See Union Exhibit #6; see also Union Brief p. 5)

Common Comparables (Union and Employer)

Genessee County	2.5%/20 yr.	.5%
	2.2%/20+yr.	
Macomb County	2.25%/26 yr.	3.0%
	1.0%/26+yr.	
Washtenaw County	2.5% all yr.	5.0%
	2.0% at age 62	
Wayne County	<u>2.5% all yr.</u>	<u>4.42%</u>
Average (Initial period)	2.44%	3.23%

The Union pointed out that this summary of comparables demonstrates that the simple average for any group of comparables is at the 2.5% level for the pension multiplier and 3% to 4% for employee contribution (Union Brief, p. 6). The Union admitted that it was difficult to quantify and summarize all the pension variables for all the comparables presented. In some instances the multiplier increases, others it does not drop. Some jurisdictions use, a Final Average Compensation (FAC) at a five year average, others use a FAC 3 year average. Not all pension plans of the comparables include an irregular discretionary escalator as does Oakland County for its retirees (Union Brief p. 6).

The Union maintained that based on its comparison of comparables a 2.2% pension multiplier is too low for Command Officers. Not one of the comparables presented by either party in the view of the Union has a multiplier as low as 2.2% (Union Brief p. 7). The Union urged the Panel to adopt its proposal.

Position of the Employer

The Employer pointed out that the Union's pension multiplier represents an increase of 25 percent from 2.0 percent to 2.5 percent. The Employer's proposed pension multiplier would increase 10 percent from 2.0 percent to 2.2 percent. The Employer maintained that the 25 percent increase in the pension multiplier proposed by the Union is exorbitant (Employer Brief p. 22).

In addition to the exorbitant argument noted above, the Employer stated other reasons for the Panel to accept the Employer's last and best offer:

- 1) The Employer's last, best offer increases pension costs by 5% and is .92% of Command Officers payroll. The Union's last, best offer increases pension costs 27 percent and is 4.8% percent of Command Officers payroll, an amount which is simply not justified.
- 2) The 1.5 percent annual pension increase for retirees in conjunction with the proposed 2.2 pension multiplier produces better benefits than other comparables.
- 3) It equalizes the pension plans of the Deputy's Union and the Command Officers, an important factor considering career promotional paths and common working conditions (See Employer Brief p. 22).

The Employer contended that the Union's last, best offer will increase pension costs 27% and will cost the county an additional 4.8% of Command Officers payroll

(Employer Brief p. 23; See also Employer Brief p.23 for Employer's calculations of these costs).

The Employer stated that the Union's last, best offer would cost \$955,139 (See Employer Brief p. 23). The Employer pointed out that its last, best offer would cost \$790,504 (See Employer Brief p. 24 for the calculations of its last, best offer).

The Employer claimed that its Retirement Plan was better than the retirement plans of its comparables (See Employers Brief for discussion of its comparables pp. 27-28).

The Employer, in the view of the Panel, made a strong case for the Panel to use internal comparability. As is known, there are two kinds of comparability- external and internal. The use of wages and benefits of other public jurisdictions is external comparability. Internal comparability is a comparison of wages and benefits of various employee groups of the Employer.

The Employer stated that its comparables all have parity in pension plans between Deputies and Command Officers. Moreover, it pointed out that eight of the nine Union comparables also have parity in the pension plans of Deputies and Command Officers.

The Employer urged the Panel to accept its last, best offer which would result in parity between the Deputy Union and the Command Officer's pension plan.

Panel Discussion of the Pension Multiplier

The Panel takes special note of internal comparability. The Employer in its brief, called attention to the importance of using internal comparability in this Act 312

proceeding (See Employer Brief p. 5). Section 9 of Act 312 (MCLA 423.239 (d) and (h) mandates that the Panel, in its Award consider internal comparability as one of the factors in its Award (See Section 9(d)(1); See Appendix A for Section 9).

Use of external comparability in this case focused solely on the pension plans of all the comparables. It did not focus on other economic benefits. Any job has both economic and non-economic benefits. Non-economic benefits include size of department, morale, locations, promotional potential, leadership, philosophy, and many other items. Thus, the Panel will use internal comparability in framing its Award.

Below is a listing of comparisons between the Deputies Union and Command Officers Union on the pension issue and on wage increases:

	<u>Deputies</u>	<u>Command Officers</u>
Prior to 1993	2% pension multiplier 0% employee contribution 3% wage increase	2% pension multiplier 0% employee contribution 3% wage increase
1993	2.1% pension multiplier 1.93% employee contribution	2% pension multiplier 0% employee contribution
1994	2.2% pension multiplier 3% employee contribution 3% wage increase	2% pension multiplier 0% employee contribution No wage increase Early out retirement

(See Union Brief p. 7)

From the above comparison, it is apparent that comparability between the Deputies Union and the Command Officers changed in 1993. The multiplier for each unit in 1993 was different, 2.1 percent for the Deputies and 2 percent for the Command Officers. The Deputies had a 1.93 percent employee contribution while there was no Command Officer's employee contribution.

In 1994, the disparity between the two units becomes more glaring and more pronounced. One would be hard pressed to call this comparability. The Deputy Union received a 2.2 pension multiplier while the pension multiplier for the Command Officers was 2.0 percent. The employee contribution to the pension for the Deputies was increased from 1.93 percent to 3.0 percent whereas there was no employee contribution for the Command Officer's Unit. More striking in 1994, the Deputies received a 3 percent wage increase. There was no wage increase for the Command Officer's in 1994.

The Command Officer's in 1994 received an early retirement buy out. There was no similar provision for the Deputies.

A comment on the early retirement buy out for the Command Officers is necessary. Officers who took advantage of this early retirement were given a one-time 2.2 percent pension multiplier as an inducement to retire. There is disagreement on how many Command Officers were given the one time 2.2 percent pension multiplier. It appears that a total of 13 Command Officers did retire and the parties are in agreement on this number. It is not clear at least to this Arbitrator how many of these 13 officers actually received the 2.2 percent multiplier as an inducement. One witness said it was six, another said it was one. For a lengthy discussion of the number of Command Officers who received the 2.2% pension multiplier (See Transcript Vol. 2, pp. 116-117; see also 140-147; see also Union Brief pp. 7-8).

Award on Pension Multiplier

The Award of this Panel on the pension multiplier, effective the date of this Award is: The pension multiplier for the Command Officer's Unit will be 2.5% and a 5% employee contribution to the pension benefit.

RATIONAL FOR PANEL'S AWARD:

It is obvious that since 1993 there has not been comparability between the Deputies Union and the Command Officers Union with respect to the pension multiplier and to wage increases (See chart on pp. 10-11 of this award). For the years 1993-1995, there was a different pension multiplier for the Deputies: 2.1 percent compared to a 2.0 percent multiplier for the Command Officer. In 1994, there were different pension multipliers: 2.2 percent for the Deputies and 2.0 percent for the Command Officers. In 1994, there was a 3 percent employee contribution for the Deputies and a zero percent employee contribution for Command Officers. In 1994, the Deputies received a 3.0 percent wage increase which covers their 3 percent employee contribution. To put it another way, there was no cost to the Deputies for their 3 percent employee contribution; their wage increase of 3 percent offset the employee contribution. The Command Officers did not receive any wage increase nor any employee contribution in 1994. Thus, the 2.5 percent pension multiplier Panel award for the Command Officers has its roots in equity. The Command Officers have not received any increase in the pension multiplier

since 1993 where as the Deputies have had a better pension multiplier than the Command Officers since 1993. Moreover, the Deputies in 1993, received a wage increase of 3 percent in 1994 and the Command Officers did not receive a wage increase in 1994. It appears that on December 24, 1994, the Command Officers did receive a 3 percent wage increase. It is not known what wage increases the Deputies have received since 1994.

In the view of the Panel, the 2.5 pension multiplier is an attempt to bring about equity for the differences in pension multiplier of the two bargaining units and the difference in wage increases made in 1994.

The Employer presented data showing both the total cost of its last, best offer on the pension issue and the Union's last, best offer. The Employer stated that the Union's proposal would cost \$955,139 and that its proposal would cost \$790,504 (See Employer Brief p. 23 for total costs for Union's last, best offer and p. 24 for total cost of its last, best offer).

The Panel takes note that the difference in total costs between the Union's proposal and the Employer's proposal is \$164,635. Had the Command Officers been given a 3 percent wage increase in 1994, the cost to the Employer would have been \$127,295.04 ($\$4,243,168 \text{ Command Officers union payroll} \times .03 = 127,295.04$). The total payroll figure \$4,243,168 is the one the Employer used in calculating both its costs and the Union's costs of their respective last, best offer.

As noted above, the difference between the total costs of the pension issue of the parties is \$164,635 per year. If the estimated cost of a 3 percent salary increase is deducted, the balance is \$37,340 ($\$164,635 - \$127,295 = \$37,340$). Also in 1994, the

Deputies received a 3 percent employee contribution whereas the Command Officers did not receive any employee contribution (i.e., 0 percent contribution). It is difficult for the Panel to assess the cost of a 3 percent employee contribution given to the Deputies but it must have an economic value of some sort. The Panel stressed that the two bargaining units were treated differently.

This data underscores the Panel's concern with equity in this instance and not parity.

There is another compelling reason for the employee contribution component of 5 percent in this Panel's Award. This reason was not stated by either party during the hearings or in their briefs. Its rationale is found in Section 9(e)..."the interests and welfare of the public..." (See Appendix A for Section 9).

In the Panel's view, it is in the public interest for the United States to increase its savings. The record is very clear that Americans as a nation do not save very much when compared with other industrial countries, although our national policy makers constantly remind us to save. New savings instruments have been constructed to encourage savings (e.g., CD's, 401 K's, IRA's and the stock market).

In the instance proceeding, the Command Officers have taken the initiative to increase its employee contribution; that is, to put more of their own money into their pension plan. They want to contribute 5 percent, two percent more than the Employer's last and best offer.

This Panel wants to go on record as supporting the employees efforts to save money to improve eventually their pension benefits. This initiative enhances the concept of joint ownership.

For the Award:

Grabowski and Kruger

Against the Award:

Fremont

Employer Issues

The Employer presented two issues for consideration by the Panel:

- 1) **“Defined Contribution Retirement Plan for those Deputies electing it prior to promotion to the Command Unit”**

The Employer has negotiated a Defined Contribution Retirement Plan with the Deputies Union. This contract provides that current Deputies can elect to participate in a Defined Contribution Retirement Plan (Employer Brief p. 31).

EMPLOYER’S SUPPORT OF ITS PROPOSAL:

The Employer’s proposal is designed to enable the Deputy who has elected to participate in the Defined Contribution Retirement Plan to continue to participate in this Plan when promoted to a Command Officer. The Employer stated that its proposal reflects the current practice of the parties (See Employer Brief p. 31). The Employer called attention that several Deputies promoted to the Command Union from the Deputies Union had elected the Defined Contribution Retirement Plan and have continued to continue in this plan at the contributions set forth in the Deputy’s labor agreement (See Employer Brief pp. 31-32; see also Transcript II p. 118). The Employer’s proposal would simply codify the status quo and would not change any benefit.

The Employer urged that the Panel adopt its proposal noted above.

POSITION OF THE UNION:

The Command Officers Union is opposed to the Employer's proposal to award the pension plans for Deputies promoted to the Command Officers Union who have elected the Defined Contribution Pension Plan to continue to participate in this Plan. The Union is further concerned that should the Panel adopt the Employer's proposal, it would bind some Command Officers to a possible defective pension plan which was not negotiated with the Command Officers.

Award of the Panel

The Panel finds that the Deputies in the defined contribution pension plan should stay in that plan when they are promoted into the Command Officers bargaining unit. The Panel understands that this is the current practice and agrees to incorporate this practice into the contract between the parties. The Employer's proposal is adopted.

For the Award:

Fremont and Kruger

Against the Award:

Grabowski

2) The second issue proposed by the Employer is Retiree Health Care Eligibility

The Employer proposes that when Command Officers hired after May 27, 1995 retire their retiree health care benefits will be paid as follows:

Years of Service

% Paid By County

15	60%
16	64%
17	68%
18	72%
19	76%
20	80%

21	84%
22	88%
23	92%
24	96%
25	100%

(Employer Brief pp. 32-33)

POSITION OF THE EMPLOYER:

The Employer stated that his proposal is designed to bring about conformity in the Command Officers' labor agreement with all other bargaining units and nonunion employees concerning retiree health care (Employer Brief p. 32).

The Employer stressed that its proposal applies only to new hires. It further noted that there is no current member of the Command Officers Union who was hired after May 27, 1995. Therefore, it maintained that this provision will not affect current bargaining unit employees and will not affect any new bargaining unit members for years (Employer Brief p. 33). The Employer further noted that the Deputy Unions' labor agreement contains an identical provision (See Employer Brief p. 33; see also TR Vol. II pp. 120-122).

The Employer urged the Panel to adopt its proposal.

POSITION OF THE UNION:

The Union is opposed to the Employer's Retiree Health Care Formula for employees hired after 5/27/95 or any employee entering the bargaining unit who is already subject to Miscellaneous Resolution #94292. A copy of the Resolution appears in this Award (see pp. 4-5).

The Union maintained that Resolution #94292 was not introduced directly into the record. It was attached to the Employer's last, best offer (See Oakland County Final Offers Dated 6/27/96) and was quoted in Employer Exhibit #39).

The Union contended that it had no opportunity nor did the Panel to inquire as to the applicability of this Resolution or whether or how it changes, alters or reduces benefits levels that currently exist in the Labor Agreement (Union Brief p. 10). The Union also called attention as to how the Resolution treats individuals who leave or are on duty disability. To quote the Union, "There could be a disastrous effect upon a man injured on the job who was entitled to full hospitalization in the past but would not have the adequate number of years under this Resolution" (Union Brief p. 10). The Union urged the Panel to maintain the status quo on this issue (See Union Brief p. 10).

Award of the Panel

The Panel has stressed the importance of using internal comparability where there is no evidence of inequities. In this issue, the Employer's proposal will bring conformity in the Command Officers new agreement with all other bargaining units with whom the Employer negotiates. The Panel therefore directs the parties to include the Employer's proposal into the new agreement.

The Panel in making this Award, understands that the time spend by an employee on duty disability up to age 60 will be counted towards this Retire Health Insurance Benefit.

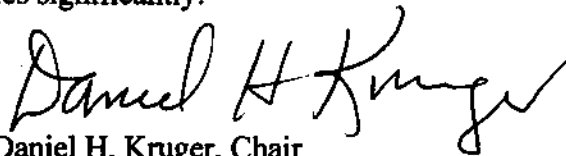
For the Award:
Fremont and Kruger

Against the Award:
Grabowski

Conclusion

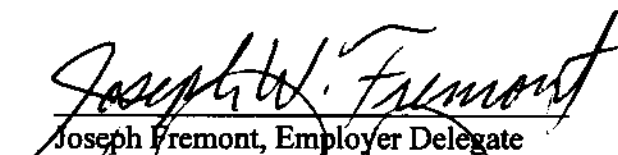
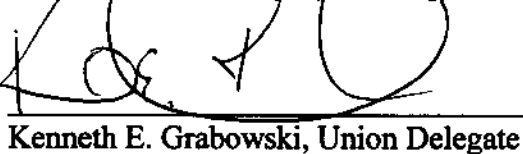
The Chair wishes to apologize to the parties for the long delay in the submission of this Award. The Chair accepts full responsibility for this long delay. The delay was due to very serious personal problems: death, assistance to deceased brothers' family, a very serious operation and a long period of recover resulting in a medical leave of absence from my employer.

It is the sincere hope of the Chair that the delayed Award did not adversely affect the parties significantly.



Daniel H. Kruger, Chair
September 26, 1997

Below are the signatures of the Delegate Members of the Panel attesting that this is the Award of the Panel.


Joseph W. Fremont, Employer Delegate
Kenneth E. Grabowski, Union Delegate
Daniel H. Kruger, Chair

APPENDIX A

Section 9 of Act 312 (MCL 423.239) sets forth the factors which the Act 312

Panel shall consider in reaching its Award. This Section reads as follows:

“Section 9. Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussion 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 interests and welfare of the public and the financial ability of the unit of government to meet those costs
- (d) Comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceedings 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
- (a) The average consumer prices for goods and services, commonly known as the cost of living
- (b) 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.
- (c) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings
- (d) 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 or in private employment.”