

2/24/78
ALB

STATE OF MICHIGAN

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

ACT 312

(Public Acts of 1969, as Amended)

In the Matter of the Arbitration
Between:

COUNTY OF OAKLAND

-and-

OAKLAND COUNTY SHERIFF'S DEPARTMENT,
LOCAL 1445, COUNCIL NO. 23, AFSCME,
AFL-CIO

LABOR AND INDUSTRIAL
RELATIONS LIBRARY

Oakland County

ARBITRATION PANEL'S FINDINGS OF
FACTS, OPINION AND ORDER

This is a compulsory arbitration proceeding under Act 312 of Michigan Public Acts of 1969, as amended, (MCLA 423.231 et seq.; MSA 17.455 [31] et seq.) involving certain employees employed in the Oakland County Sheriff's Department. The parties by their counsel have waived all time limits and agree that all matters herein are timely and that the Panel has proper jurisdiction except as to one issue discussed below.

The Oakland County Sheriff's Department employs approximately 225 uniform personnel, 110 of these personnel are referred to as Patrolmen or Road Deputies whose primary function is to perform what is recognized as general police work outside of the detention facilities of the Department. In many cases these officers are performing road patrol pursuant to a contract between the County and

Rummell, George T.

various Townships and other municipalities in Oakland County. Approximately 90 personnel are employed in the job classification of Detention Officers. The basic function of these officers is to guard prisoners at the County's detention facilities. More will be said about their work later.

There are another 26 personnel who are classified as Correction Officers who serve as work leaders of the Detention Officers.

There are also Patrol Sergeants who serve as first line Command Officers to the 110 personnel serving as Patrolmen or Road Deputies. Likewise there are certain employees who are classified as sergeants-corrections. These personnel are the first line Command Officers for Detention Officers.

Finally, there are a group of employees known as I.D. Technicians 2 who form police work in conjunction with Patrolmen. Their particular type of work is usually part of any Police Department of any size. There is also a Patrolman Trainee who is obviously an individual serving a probationary period before becoming a Patrolman and is engaged in police work.

ISSUES

There are basically four issues here.

1. As indicated in the opening comments above, there is an issue as to jurisdiction. The County takes the position that Detention Officers, Correction Officers and Sergeant Corrections are not subject to the compulsory arbitration provisions of Act 312 as

they "are not critical employees as defined by the Appeals Court in construing legislative intent in respect to the application and coverage of Act 312." 1/

2. Shall there be an equity adjustment for Detention Officers, over and above the any general wage increase?

3. The question of the amount of the general wage increases in all classifications.

4. The question of what the differential pay should be between Sergeants and the officers in command.

It should be noted that all classifications outlined above, including Detention Officers, are represented by Local 1445 and the Local claims that they all should be in the same unit subject to Act 312.

The Detention Officer Unit Issue. The genesis of the dispute as to whether Detention Officers (including Correction Officers and Sergeants - Corrections) should be included in the Unit and, thus, subject to the jurisdiction of this Panel is three-fold.

| Act 312, Section 2, provides, in part, as follows:

"Public police...departments means any department of a...county...having employees engaged as policemen...or subject to the hazards thereof..."
(Emphasis added)

1/ Detention Officers v. Lincoln Park, 76 Mich.App. 358 (1977 Mich.App.).

This Section 2 was subject to interpretation by both the Michigan Court of Appeals and Michigan Employment Relations Commission in the year 1977.

In the Lincoln Park Detention Officers v City of Lincoln Park, 76 Mich.App. 358 (1977), the Court rejected an attempt by two Detention Officers attached to the City of Lincoln Park Police Department, apparently because the Detention Officers did not perform the normal police functions of that Department. The Court, at 76 Mich. App. 365, wrote:

"...Although it can be argued that a strike by non-critical police department employees could burden police officers with non-emergency duties, thereby adversely affecting the operations of the entire department and possibly causing indirect harm to the public due to weaker patrols or over-worked officers, we do not think that the Act was meant to be so all-encompassing. Work stoppage by almost any group of public employees could theoretically cause an extra burden on the police department. For example, a strike by street and highway personnel could cause defective traffic lights to become unreported and force some police officers to shift to traffic directing duties thereby weakening other sections of the police force..."

In addition, a recent decision and order of the Michigan Employment Relations Commission, Case No. R 77 B-134, September 8, 1977, Oakland County Sheriff's Department, Council No. 23, AFSCME, involved litigation between the same parties over the inclusion of certain non-uniform Sheriff's Department personnel in a bargaining unit with uniform personnel. The Commission stated, in part, as follows:

"We agree that the correct interpretation of this section (Section 2 of Act 312) limits the coverage of that Act 312 to employees. . . who are engaged as police officers. . . or subject to the hazards thereof. It is then necessary to examine and analyze the disputed classifications in the light of this interpretation. Such an analysis will of necessity require that the particular employees be directly involved in crime prevention and law enforcement." (Emphasis added)

The critical question becomes whether or not Detention Officers, including Correction Officers and Sergeants Corrections, are engaged in work as policemen "or subject to the hazards thereof" in the words of the statute or as the Michigan Employment Relations Commission suggests are directly involved in "law enforcement."

The evidence before this Arbitration Panel would clearly demonstrate that these officers are indeed performing law enforcement work and are subject to the hazards of policemen. 2/
All Detention Officers in the Oakland County Sheriff's Department are issued firearms, a 38 caliber pistol. The only Detention Officers who do not have firearm training are the new hire, probationary employees. The Detention Officers do not wear their weapons when working in the jail where they are stationed. Their basic function is to guard prisoners. Nevertheless, they do wear their weapons when they are transporting prisoners to various locations, including court rooms, other jail facilities operated by the State and certain govern-

2/ In the discussion hereinafter on the subject of jurisdiction the terminology of detention officers will include corrections officers and sergeants - corrections.

ments in Michigan, to the Michigan Center for Ferencic Psychiatry and to Medical Facilities for Medical Treatment. In addition, the Detention Officers go to various local community jails throughout Oakland County and arrange pick-ups and transportation of prisoners from those jails to the Oakland County Jail. Now the important thing is, that while engaged in this transportation, these officers do carry guns and can perform police functions of a regular patrol officer if in fact the prisoner attempts to escape. The officers are responsible for keeping order in the jail; they make arrests at the jail desk, including the arrest of the visitors who come to the jail and have cause to be arrested.

The breathalyzer operation of the Sheriff's Department is handled by one Correction Officer who works as a group leader and 7 Detention Officers.

The Detention Officers are sworn officers, given the same oath as Patrolmen, the same identification cards, wear the same uniforms and comply with the same dress code regulation and other Department regulations.

There may be question as to whether or not the Detention Officers are required to take the basic course of training as required of Patrolmen under the State statute. The fact of the matter is that a large number of the Detention Officers at the request of the Department do, in fact, take such a training.

The Sheriff's Department in Oakland County is a large Department. One can take notice that the City of Lincoln Park Police Department is a small Department operating a very small jail for temporary detention. It is not the same type of operation as the Oakland County Sheriff Department's Detention Center, particularly in light of the size of its operation, to-wit: Oakland County. This record does not reveal the number of visitors in Lincoln Park, but clearly the number of prisoners in Oakland County are substantial.

It is quite clear that Detention Officers are subject to the "hazards thereof of policemen."

A year-end report on a court service operation for the year January 1, 1976 through December 31, 1976 emphasized this point. The report, in part, is as follows:

- 614 Trips away from complex
- 7773 Prisoners transported
- 560 Female prisoners
- 455 Prisoners picked up on writs
- 266 Prisoners returned from writs
- 169 Forensic prisoners
- 721 Shipped to S.P.S.M.
- 6157 Court Appearances
- 68230 Miles driven transporting prisoners
- 546 Road Patrol man hours
- 468 Correction Officers hours used
- 726 Female Correction Officer hours used
- 2 Out of state air plane trips "Leavenworth Ka."
- 48 Special Probate Trips
- Vehicles assigned to Court Services
(76-400, #395 & 76-808, #390)

The number of officers transported was 7,773; 546 road patrolman hours were used for this work; 468 Correction Officer hours were used, along with 726 female Correction Officer hours were used for this work.

It is significant that the Department uses both Road Patrol and Detention Officers for this transportation work. An escape during this transportation certainly would put any officer in a position in the words of the Michigan Employment Relations Commission of being "directly involved in crime prevention and law enforcement."

Facts determine a case. The criticism by the Chairman of this Panel of Detention Officers v Lincoln Park, 76 Mich. App. 358 (1977), is that there was no development of the facts in that case and it may very well may be that the Detention Officers in Lincoln Park performed little, if any, of the functions of the Detention Officer in Oakland County. It may be that the transportation of prisoners there were done by a regular police officer; it may be that the Detention Officers of Lincoln Park carried no guns. It may be that the Lincoln Park detention officers do not do breathalyzer work. It may be that Lincoln Park police officers do not wear the same uniforms or are subject to the same regulations as other police officers in the Department. It may be that Lincoln Park detention officers do not wear guns or are issued guns. It may be that Lincoln Park detention officers do not have arrest powers at any point. It may be that the Lincoln Park Police Department does not have police training for detention officers. It is these distinctions that make it clear that detention officers in the Oakland County Sheriff's Department within the meaning of Section 2 of Act 312 are "subject to the hazards thereof", namely, police work. It is for these reasons that a majority of the Panel will hold that this Panel has jurisdiction to decide the wage rates of detention officers, correction officers and sergeant-corrections and that they are in the unit along with patrolmen, patrolmen trainees, I.D. detection II, sergeant classification and detective sergeant. ^{3/}

^{3/} In the introduction, the Chairman did not mention the fact that detective sergeants are also in the unit and this point has never

WAGES

Originally, the County of Oakland in its last best offer proposed the following wages in the following classifications, retroactive to January 1, 1977 through December 31, 1977:

PATROLMAN CLASSIFICATION

<u>BASE</u>	<u>1 YEAR</u>	<u>2 YEAR</u>	<u>3 YEAR</u>	<u>4 YEAR</u>
\$14,800	\$15,550	\$16,300	\$17,050	\$17,800

PATROLMAN TRAINEE CLASSIFICATION

Flat Rate
\$13,000

IDENTIFICATION TECHNICIAN II

<u>BASE</u>	<u>1 YEAR</u>	<u>2 YEAR</u>	<u>3 YEAR</u>	<u>4 YEAR</u>
\$15,300	\$16,050	\$16,800	\$17,550	\$18,300

DETECTIVE SERGEANT CLASSIFICATION

<u>BASE</u>	<u>1 YEAR</u>
\$18,300	\$18,800

DETENTION OFFICER

<u>BASE</u>	<u>1 YEAR</u>	<u>2 YEAR</u>	<u>3 YEAR</u>
\$11,200	\$12,200	\$13,200	\$14,200

CORRECTIONS OFFICER

<u>BASE</u>	<u>1 YEAR</u>	<u>2 YEAR</u>	<u>3 YEAR</u>	<u>4 YEAR</u>
\$14,800	\$15,550	\$16,300	\$17,050	\$17,800

SERGEANT-CORRECTIONS

<u>BASE</u>	<u>1 YEAR</u>
\$18,700	\$19,200

Subsequently, the County amended its last best offer as permitted by the Panel to read as follows:

PATROLMAN

<u>BASE</u>	<u>1 YEAR</u>	<u>2 YEAR</u>	<u>3 YEAR</u>	<u>4 YEAR</u>
15,000	15,750	16,500	17,250	18,000

PATROLMAN TRAINEE

13,000 FLAT RATE

I. D. TECHNICIAN II

<u>BASE</u>	<u>1 YEAR</u>	<u>2 YEAR</u>	<u>3 YEAR</u>	<u>4 YEAR</u>
15,500	16,250	17,000	17,750	18,500

SERGEANT CLASSIFICATION

<u>BASE</u>	<u>1 YEAR</u>
18,000	19,500

DETECTIVE SERGEANT

<u>BASE</u>	<u>1 YEAR</u>
18,500	19,000

SERGEANT CORRECTIONS

<u>BASE</u>	<u>1 YEAR</u>
19,000	19,500

DETENTION OFFICER

<u>BASE</u>	<u>1 YEAR</u>	<u>2 YEAR</u>	<u>3 YEAR</u>
11,500	12,500	13,500	14,500

CORRECTIONS OFFICER

<u>BASE</u>	<u>1 YEAR</u>	<u>2 YEAR</u>	<u>3 YEAR</u>	<u>4 YEAR</u>
15,000	15,750	16,500	17,250	18,000

The last best offer of Local 1445 was 8 1/3% increase in all classifications, over the 1976 rates in all classifications, a 10% differential for detective-sergeants and police sergeants over the rate of a patrol sergeant and an equity adjustment of \$240.00 for the detention officers over and above the proposed 8 1/3% wage adjustment which would result in a 1977 salary rate of \$15,000.00 for detention officers.

DETENTION OFFICERS

The detention officers in 1975 received a 29.8% increase during the first two years of the current three year contract. The issue before this Arbitrator, of course, is a wage rate for the third year of a three year contract. This meant that the detention officers went from \$10,500.00 to \$12,800.00 in 1975 for a 21.9% increase and to \$13,625.00 in 1976 for a 7.9% increase. Obviously, these increases were catch-up because apparently the parties agreed that such was necessary. The question is whether this catch-up needs to be continued in the present contract. The majority of the Panel does not believe so and in fact believes that the last best offer of the County as to detention officers should be adopted, particularly now that the County has amended its last best offer.

Many comparables were presented by both sides with the Union comparing 44 police departments in various communities in Wayne, Macomb and Oakland Counties. The County on the other hand seeks to limit the comparison to Oakland County, Macomb County, Genesee County, Pontiac Township and Waterford Township.

Insofar as detention officers are concerned, the County comparables should be accepted as a guideline because most municipal police departments either do not have detention officers or are not engaged in this particular type of police work to any extent which would make a fair comparison. Most police departments use the county jail facilities for detentions of any duration. Thus, the comparables are set forth below should be the guideline.

DETENTION OFFICER

<u>AGENCY</u>	<u>CLASS</u>	<u>1-1-77</u>		<u>7-1-77</u>	
		<u>BASE</u>	<u>MAX.</u>	<u>BASE</u>	<u>MAX.</u>
Oakland County	Detention Officer	\$10,825*	\$13,625*	\$10,825*	\$13,625*
Macomb County	Correction Officer	11,109	12,647	11,109	12,647
Genesee County	Security Guard	not available		12,078**	14,477
State of Michigan	Detention Officer	10,836	12,507	10,836	12,507
Washtenaw County	Detention Officer	7,761	11,317	7,761	11,883

* currently in arbitration

** effective 9/1/77

The County's offer at the maximum for detention officers is \$14,500.00. Local 1445's offer is \$15,000.00. The County's offer at \$14,500.00 would make the detention officers the highest paid detention officers among the surrounding police agencies that have any extensive detention officer group. The fact that detention officers in the first two years of this contract received substantial increases as catch-up has no bearing. They have caught up and with the County's last offer, they now lead the various agencies in pay. It is for this reason that a majority of the Panel will adopt the County's last best offer as to detention officers.

OTHER WAGE INCREASES

In regard to patrol officers, the County again relies on different comparables than the Union. The comparables that the County presents are set forth below:

Employer's Exhibit B 1

<u>RATES - PATROLMAN</u>					
<u>AGENCY</u>	<u>CLASS</u>	<u>1-1-77</u>		<u>7-1-77</u>	
		<u>BASE</u>	<u>MAX.</u>	<u>BASE</u>	<u>MAX.</u>
Oakland County	Patrolman	\$14,600*	\$16,800*	\$14,600*	\$16,800*
Macomb County	Patrolman	12,540	16,252	12,540	16,252
Genesee County	Patrolman	13,832	17,024	13,832	17,024
Pontiac Township	Patrolman	9,900*	15,000*	9,900*	15,000*
Waterford Township	Patrolman	14,460	16,967	14,460	16,967

* currently in arbitration

The comparables relied on by Local 1445 are attached hereto as Appendix A.

As noted, the last best offer of the County went from \$17,800.00 to \$18,000.00 whereas the Union at the maximum patrol would center at \$18,200.00.

It is noted that in Washtenaw County a deputy makes \$18,530.00 effective July 1, 1977. In Wayne County, the same deputy makes \$18,700.00. A number of police departments in the area are above the \$18,000 mark.

There are differences between municipal police departments and the sheriff department. In some cases, some departments are safety departments which traditionally have combined police and firefighter functions resulting in a higher base rate. For example, this is true in Oak Park. Nevertheless, at some point in 1977 a majority of the police departments serving metropolitan Detroit have hit the \$18,000 figure. Washtenaw County Sheriffs have hit \$18,500 albeit on July 1, 1977. Wayne County Sheriffs have traditionally been higher.

The Union points out that in Macomb County there had been some internal union problems which have tempered the pay raises there. Genesee County tends to be influenced by out-state rates and are put off the economic draw of metropolitan Detroit.

It is true that there is a possibility that if Oakland County Patrol Officers' rates are increased too high, there could be lay-offs simply because some of the communities for which patrol work is done may discover that it would be cheaper for these communities to higher their own police department.

But the problem here is that even the County recognized that there was a need for a catch up period because the last best offer of the County is now a 7.14% increase. The Union's increase would be 8.1/3% which, of course, is a high increase and normally should not be given. However, there is a catch up factor here; a factor that the parties once recognized with the detention officers. Finally, in Pontiac Township, there has been a change in circumstances and apparently Pontiac Township offers have now reached or are about to reach the \$18,000 mark and above.

The Chairman recognizes that Oakland County pays excellent benefits including longevity, a dental plan, and a vacation holiday package. All these things should be considered. Nevertheless, it would seem that the \$18,200 figure for deputies who operate as part of the metropolitan Detroit area, albeit in some cases on its outer reaches, is reasonable and is comparable with their colleagues in Washtenaw County.

It is for these reasons that a majority of the Panel will adopt the last best offer of the Union and grant an 8.1/3% increase in all classifications except Detention Officers for the reasons set forth above. It is noted that Correction Officers have traditionally been paid the same rate as Patrol Officers.

The last best offer of the Union is in two parts. (1) It provides that the sergeant differential and detective differential remain identical, and (2) it provides that this differential be at 10% over that of patrolmen. The comparables are not consistent. The

differentials are "all over the lot." Furthermore, this is the last year of a three-year contract and in that contract the parties in effect set the pace for the differential when they bargained the first two years of the contract. The bargain was that the sergeants and detectives receive the same differential and that differential has been \$1,000. One can argue that the differential between sergeants and patrol officers should be constant, and there is merit to this position but the history of bargaining on the part of the parties and the fact that the parties are about to go back to the bargaining table, would suggest that this matter must again be reviewed in the actual bargaining process now that certain basic issues between the parties apparently have been settled. For this reason, the last best offer of the Union will be accepted as to keeping the same differential between sergeants and detective sergeants but that the differential between these two ranks and the patrol ranks will remain at \$1,000.


DISSENT OF PANEL MEMBER KEN VINSTROM


Panel Member, Ken Vinstrom dissents of the aforementioned opinion as to the inclusion of detention officers in the bargaining unit. He relies on the decision of Lincoln Park Detention Association v. City of Lincoln Park, 76 Mich. App 358 (1977) This case is a recent case and is right on point and should be followed. Furthermore, Panel Member Vinstrom believed that the \$18,000 salary figure representing a 7.14% increase is sufficient and is comparable with Macomb County and Genessee County and outlying Oakland County communities. Finally, Panel Member Vinstrom believes that the Detective Sergeants do not have supervisory duties and, therefore, the differential should not be the same with detective sergeants as it is with command sergeants.

ORDERS

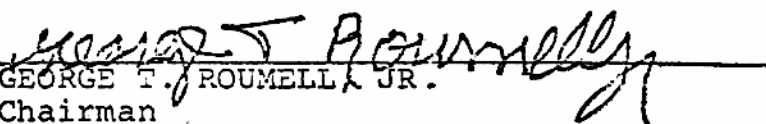
1. It is hereby ordered that the last best offer of the County to the Detention Officers is hereby adopted, to-wit: \$14,500.00.


GEORGE T. ROUMELL, JR.
Chairman

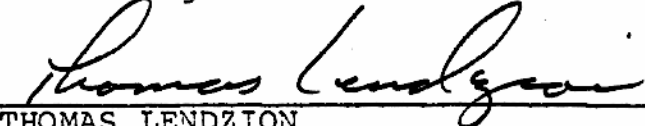

KEN VINSTRA,
Concurring


THOMAS LENDZION,
Dissenting

2. The last best offer of the County is adopted as to Patrolman Trainee, to-wit: \$13,000 flat rate.


GEORGE T. ROUMELL, JR.
Chairman


KEN VINSTRA,
Concurring


THOMAS LENDZION
Dissenting

3. Detention Officers, Correction Officers and Corrections are hereby declared part of the bargaining unit.

George T. Roumelly
GEORGE T. ROUMELL, JR.
Chairman

Ken Vinstra
KEN VINSTRA,
Dissenting

Thomas Lendzion
THOMAS LENDZION,
Concurring


4. The base rate and increments of Patrolmen and I.D. Technicians 2 ^{(u)?} are hereby increased over the 1976 rate by 8.33% at all levels so that the fourth year Patrolmen will receive an annual rate of \$18,200.00.


George T. Roumelly
GEORGE T. ROUMELL, JR.
Chairman

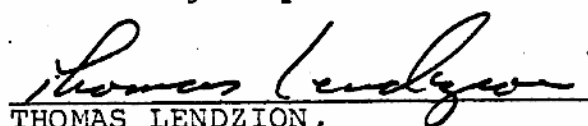
Ken Vinstra
KEN VINSTRA,
Dissenting

Thomas Lendzion
THOMAS LENDZION,
Concurring

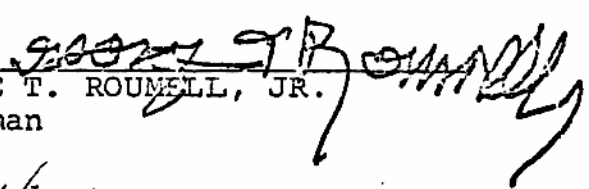
5. The differential between Sergeant classification, Detective Sergeant and Patrolmen shall remain as it has in the past, namely, a \$1,000.00 difference between a four-year Patrolman and the base rate of Sergeant and Detective Sergeant.


GEORGE T. ROUMELL, JR.
Chairman

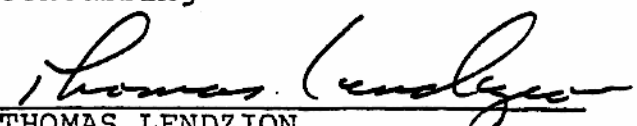

KEN VINSTRA,
Concurring in part


THOMAS LENDZION,
Concurring in part

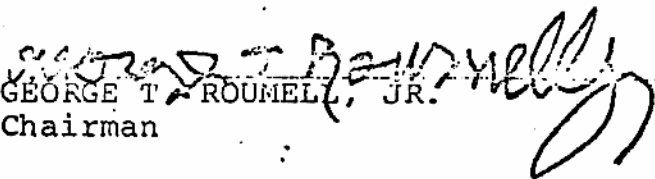
6. The rate of Sergeant Correction and Correction Officers shall reflect the rate of Patrolmen and Sergeant classification respectively.

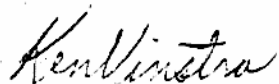

GEORGE T. ROUMELL, JR.
Chairman

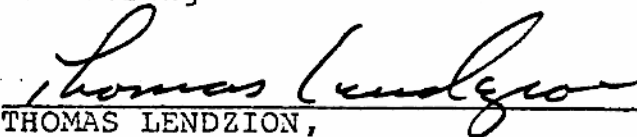

KEN VINSTRA,
Concurring


THOMAS LENDZION,
Concurring

7. The rates of pay ordered herein shall be retroactive to January 1, 1977 and shall cover the period from January 1, 1977 through December 31, 1977.


GEORGE T. ROUMELL, JR.
Chairman


KEN VINSTRA,
Concurring


THOMAS LENDZION,
Concurring

Dated: February 24, 1978.

1977 - 1978

MAXIMUM WAGE RATES FOR POLICE AND PUBLIC
SAFETY OFFICERS

1. Oak Park	+7.89%	\$20,236.00 (Incl COL)
2. Pontiac	+5.0%	19,873.00
3. Hazel Park	+9.06%	19,513.00 (Incl COL)
4. Dearborn Heights	+10.50%	19,468.00 (Incl COL)
5. Detroit (K expires 6/30/77)		19,271.00 (Incl COL)
6. Lathrup Village	+5.56%	19,000.00
7. Bloomfield Hills	+7.5%	18,974.00
8. Westland	+8.24%	18,900.00
9. Wayne		18,700.00
10. Southgate (1/1/77)	+8.13%	18,600.00
11. Washtenaw County (7/1/77)	+9.21%	18,530.00
12. Madison Heights	+8.18%	18,500.00
13. Waterford Township		18,500.00
14. Farmington City	+7.0%	18,474.00
15. Wixom	+9.2%	18,462.00
16. Allen Park	+6.24%	18,381.00
17. Taylor (reopener 1/1/78)		18,366.00 (+ COL)
18. Trenton	+5.78%	18,300.00
19. Riverview	+6.41%	18,250.00
20. Huntington Woods	+3.74%	18,238.00
21. Plymouth	+4.0%	18,225.00

22.	W. Bloomfield (4/1/77)	+6.5%	18,211.00
23.	Grosse Pointe Shores		18,211.00
24.	Flint (Expires 6/30/77)	+4.6%	18,200.00
25.	Sterling Heights	+7.3%	18,200.00 (+\$522 COL)
26.	Troy	+5.68%	18,125.00 (+\$522 COL)
27.	Birmingham	+5.73%	18,081.00 (Incl COL)
28.	Berkley	+6.35%	18,080.00
29.	South Lyons		18,000.00
30.	Jackson	+8.11%	17,975.00 (+ COL)
31.	Woodhaven	+6.99%	17,953.82
32.	East Detroit	+6.0%	17,942.00 (+COL)
33.	Lincoln Park	+7.04%	17,930.00 (+ COL)
34.	Melvindale (eff. 1/1/77)	+5.0%	17,874.00 (+ COL)
35.	Flat Rock	+8.9%	17,867.00
36.	Gibraltar	+7.0%	17,744.00
37.	Roseville (\$18,038 eff . 1/1/78)	+5.5%	17,738.00
38.	St. Clair Shores (\$17,904.00 eff. 1/1/78)	+7.0%	17,517.00
39.	St. Clair County (11/1/77)		17,456.00
40.	Mount Clemens		17,308.00
41.	Northville		17,201.00
42.	Shelby Township		16,850.00
43.	Port Huron		16,555.00
44.	Pontiac Township (10/1/77)	+10.0%	16,500.00

Average of 44 Communities (33) +6.91% \$18,234.00