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

In the Matter of the Statutory Arbitration between
CITY OF SAGINAW

-and-

Michigan State University
LABOR AND EMPLOYMENT
RELATIONS

TEAMSTERS LOCAL 214,
LAW ENFORCEMENT DIVISION

ARBITRATION OPINION AND ORDERS

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

By letter dated November 20, 1975 from the Michigan Employment Relations Commission, Alan Walt was appointed to serve as Impartial Chairman of a Panel of Arbitrators in a dispute involving contract negotiations between the City of Saginaw and Teamsters Local 214 after a previously appointed panel chairman resigned. The City designated Mr. Charles E. Keller as its delegate and the Union appointed Mr. Joseph A. Valenti to serve as its delegate.

Walt, Alan

Saginaw, Mich

The City was represented by Bruce L. Dalrymple, Esq., and the Union by Alan J. Kovinsky, Esq.

Pursuant to notice duly given, hearings were held December 16, 1975, March 25, 26, July 16, 17, 19, September 28, October 29, November 15, 16, 17, and 18, 1976. Following receipt of all verbatim transcripts, post-hearing briefs were submitted and the record of hearing closed January 24, 1977. Thereafter, the Arbitration Panel met in executive session on February 10, 26, March 5, and 15, 1977.

STATUTORY STANDARDS

Section 9 of Act 312 [MCLA 423.239; MSA 17,455(39)] establishes the criteria to be applied by the Arbitration Panel in resolving disputed questions and formulating its orders.

Much of the evidence adduced at the hearings consisted of information obtained by interview or telephone contact, or was based upon publications and other data 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 and orders solely upon competent and material evidence, guided by specific statutory standards following a thorough review of all testimony and exhibits presented by the parties.

GENERAL AND FISCAL BACKGROUND

Previously, sergeants and patrolmen were members of the same bargaining unit and were represented by the Fraternal Order of Police (FOP). There are between 162 and 167 certified patrolmen in the bargaining unit. The collective bargaining agreement negotiated between the City and the FOP was a two year contract which expired June 30, 1975. Prior to commencement of these proceedings, between 12 and 18 negotiating sessions were conducted. Notwithstanding, the parties were at impasse on approximately 58 issues when these proceedings began, albeit agreement was reached on a number of issues in the course of the hearings.

The City's fiscal year is from July 1 to June 30. Although its 1970 population was 91,849, the current estimate indicates approximately 82,000 residents. The City occupies 18.3 square miles which results, under the 1970 census, in a density of 5,184 residents per square mile. For fiscal year 1975-76, the City's equalized valuation was \$527,060,350. The 1976-77 state equalized valuation is \$481,367,050 with general fund revenues estimated at \$17,945,743, a projected (as of April 26, 1976) 4% increase over general fund revenue for 1975-76. The present millage levy is 8.76; since the City may assess a total of 10 mills without voter approval, it possesses authority to assess an additional 1.2 mills.

In addition, 3.82 mills are levied for debt service. On the basis of state equalized valuation, each mill equals approximately \$481,000. The City receives revenues from an income tax levied against residents at the rate of 1% and against non-residents at the rate of $\frac{1}{2}$ % of monies earned within the City. City residents pay approximately 48% of the income tax while non-residents pay about 27%; business and industry contribute approximately 25%. Because of decreasing population within the City, the number of residents paying 1% has been reduced since the 1970 census.

In January of 1976, the City adopted a policy of not filling vacancies for the remainder of that fiscal year. A total of 48 vacancies, including 20 general fund positions, subsequently were removed from the 1976-77 budget. The police cadet program was eliminated and the helicopter program reduced. The City concluded the 1975-76 fiscal year with a surplus of approximately \$800,000 which was "rolled over", that is, reappropriated, in the 1976-77 budget. Because of the uncertainty that Federal revenue sharing funds would be received extending through the 1976-77 fiscal year, certain previously budgeted items -- for example, monies advanced to special assessment funds and to the Saginaw Building Authority -- were not expended and were "called back" in the present budget. The 1976-77 budget includes \$1,170,000 in recalled advances and

reserves not previously utilized. The city subsequently was informed it would receive \$1,000,000 in revenue sharing funds and of that amount, budgeted between \$250,000 and \$300,000 for salary increases. The balance of revenue sharing funds has not been allocated. Upon renewal of federal revenue sharing on October 13, 1976, the City allocated a 2% wage increase for all employees. Prior to the receipt of federal funds, employees had been offered -- and most had received -- a 3% pay increase for 1976-77.

SCOPE OF OPINION

Because of the amount of elapsed time between the designation of the Arbitration Panel and completion of those hearings, including receipt of transcripts and post-hearing briefs, the Arbitration Panel Chairman believes the best interests of the parties mandate the immediate issuance of a summary opinion setting forth only findings and the orders entered thereon. The record reflects the respective positions of the parties on each issue and voluminous post-hearing briefs repeat and emphasize those contentions. The evidence and arguments have been carefully considered; the Arbitration Panel has weighed the testimony of all witnesses and has carefully analyzed the documentation including fiscal and budgetary data, comparisons, position papers, articles and publications, and

the various arguments offered in support of particular demands and offers.

CONTINUING CONTRACT PROVISIONS

The parties have agreed that unless modified or eliminated in these proceedings or by express agreement of the parties, all provisions appearing in the contract between the City and the FOP which expired June 30, 1975 shall continue unchanged and remain in full force and effect under the contract ordered by the Arbitration Panel. And while this opinion will reflect certain agreements reached by the parties -- both prior to and in the course of the hearings -- at their request, reference will not be made to those issues which they withdrew from the Panel's consideration.

DURATION OF CONTRACT AND RETROACTIVITY

In the course of the hearings, the parties requested an interim opinion on the duration of the contract and the retroactive application of the economic benefits ordered by the Panel. An opinion issued May 19, 1976, in which a majority held that the Arbitration Panel possessed authority to order retroactivity and a contract for a period of two years.

Thereafter, the parties requested specific orders from the Panel on these two issues, at which point the Arbitration Panel

ruled the contract ordered hereunder will be for a term of two years, expiring June 30, 1977, and that all economic benefits awarded will have full retroactive effect -- except for benefits such as Blue Cross-Blue Shield insurance which cannot be extended retroactively.

ORDER

The labor agreement effectuated pursuant hereto shall be for a term of two years from and after June 30, 1975 and expiring on June 30, 1977.

All economic benefits granted shall be retroactive to July 1, 1975, except where the lapse of time renders it impossible to grant the benefit retroactively.

ARTICLES OF EQUIPMENT - BLACKJACK

Under the prior contract, patrolmen were issued blackjacks. The Union seeks continuance of this item of equipment, arguing it is a readily accessible weapon and most helpful in close-quarter confrontations when a nightstick cannot be quickly removed. The City argues the blackjack is an offensive weapon, the use of which frequently results in serious injuries to the head and face. The City submits the nightstick can be used in all situations where a blackjack might also be utilized and further, that this issue is

a management right matter which should be determined solely by the City.

The Panel accepts the City's arguments, especially as to management rights. The City ought to have authority to determine the type of weapons utilized by patrolmen, and the evidence reveals elimination of the blackjack is not an unreasonable exercise of that authority.

ORDER

The Union demand for issuance of a blackjack is denied.

MANAGEMENT RIGHTS CLAUSE

The City seeks a new, detailed management rights clause specifically enumerating areas of retained authority. It contends an enlarged management right provision prevents the erosion of managerial authority, apprises employees and the Union of the City's retained prerogatives, and will reduce the number of grievances. The Union opposes this demand and seeks continuance of the management rights clause which appeared in the prior labor contract. It argues the language proposed by the City is so broad and all encompassing as to make meaningless agreements reached by the parties and orders effectuated by this Arbitration Panel.

After thoroughly reviewing and analyzing the proposal of the City and the management rights clause contained in the last contract, the Arbitration Panel finds the provision contained in the FOP contract should be continued. It specifically enumerates traditional areas of management rights with the statement that such rights "shall not be deemed to exclude other prerogatives not enumerated." It is the Arbitration Panel's opinion that the language proposed by the City would create more problems -- and result in the submission of many more grievances -- than it would resolve.

ORDER

The City demand for a new, enlarged management rights clause is denied.

AGENCY SHOP - DUES DEDUCTION

The Union seeks a "classic" agency shop provision requiring either membership in the Union or payment to the Union of an amount equal to dues if membership in the Union is not desired. The demand of the Union also includes the requirement of dues deduction by the City. The City opposes the Union's agency shop demand and proposes an alternate provision under which non-members would pay an amount equal to Union dues to the employee's scholarship fund,

which fund would be available to the families of both members and non-members of the Union. The City also seeks a "save harmless" clause.

The Panel finds that the "classic" agency shop provision with payment to the Union of the dues equivalent by any bargaining unit member who elects not to join the Union is fair and appropriate. The Union bargains for and represents all employees in the unit and any benefits which may be achieved through Union activity accrue to both members and non-members equally. However, equitable considerations also convince that the save harmless clause proposed by the City should be incorporated into the agency shop clause.

ORDER

The language proposed by the Union on Agency Shop - Dues Deduction as set forth in Union Exhibit 5 is adopted.

Indemnification language proposed in City Exhibit 6 and set forth under the heading "Save Harmless Clause" also will be incorporated into the Agency Shop - Dues Deduction clause.

MAINTENANCE OF STANDARDS

The previous contract contained a maintenance of standards provision. It is the Union contention that the language accords

the City the unilateral right to change rules, regulations and policies following adoption of a labor agreement and as a result, undermines the labor contract. It seeks adoption of a maintenance of standards provision which will require the City to negotiate any change in existing benefits and conditions of employment. The City opposes the Union demand, contending it "emasculates the management rights clause", is restrictive and dangerous when applied to police work, and denies the City needed flexibility to respond to new, changed, or experimental needs. The City has under consideration a number of new management procedures and believes it should have the right to place them into effect. Accordingly, the City proposes continuation of the language contained in the prior contract.

The Arbitration Panel has given careful consideration to the respective positions of the parties. This is not a first collective bargaining agreement -- although this Union previously has not represented patrolmen -- and the record of these proceedings provides strong evidence that the parties have carefully reviewed those areas which each believes should become part of the collective bargaining agreement. The Arbitration Panel finds that not only should the Union demand be denied but that the contract ordered into effect hereunder should not contain any maintenance of standards clause.

ORDER

The Union demand on Maintenance of Standards is denied.

The Maintenance of Standards clause contained in the prior agreement shall not be continued under this contract.

GRIEVANCE PROCEDURE

The Union seeks a revised grievance procedure involving fewer steps than contained in the grievance article of the last contract. It submits the present language provides an unreasonable period of time before a dispute can be resolved. The City submits its police department functions under Act 78, P.A. 1946, and as such, it is necessary to involve the City Manager in the grievance procedure. In addition, the City desires to involve immediate supervisors in the grievance process. It further submits a sufficient time period should be maintained between the steps of the grievance procedure in order to allow greater consideration of disputed contract matters and, therefore, seeks adoption of the language set forth in City Exhibit 4b.

The Arbitration Panel finds the grievance definition set forth in the first sentence of the grievance article of the prior contract is appropriate and that a grievance should not be more

narrowly defined or its submission otherwise restricted. In addition, it will order into effect the grievance machinery set forth in the following Order.

ORDER

1. The definition of a grievance as set forth in the first sentence, only, of Article VI, §1, of the prior labor agreement is adopted.
2. Step One shall involve submission of an oral complaint to the employee's immediate commanding officer within five days of the event or incident. A steward may be present and assist.
3. In the event the grievance is not satisfactorily resolved at Step One, a written grievance shall be filed at Step Two with the shift commander within ten days of the event or incident. The shift commander shall give his written answer within five days.
4. If the shift commander's answer is unsatisfactory, the grievance may be appealed in writing at Step Three to the chief of police within five days from receipt of the Step Two answer. The chief shall have five days in which to reply in writing.
5. If the chief's answer is unsatisfactory, written appeal may be taken at Step Four to the City Manager or his designee within five days. The City Manager or his designee shall have ten days in which to answer in writing. Prior to submission of the grievance at this level, the grievant shall elect whether he desires to proceed under Act 78 or, under the grievance article, to arbitration in the event the City Manager's answer is unsatisfactory.

6. In the event the City Manager' answer does not resolve the grievance, a written appeal to arbitration may be taken within ten working days of receipt of the the City Manager's written answer. The parties shall have five days in which to agree to an arbitrator and if agreement cannot be reached, an arbitrator shall be selected or designated pursuant to the rules of the Federal Mediation and Conciliation Service. The award of the arbitrator shall be final and binding and the costs of the arbitration shall be borne equally by the parties.
7. The time limitations above set forth may be extended by mutual written agreement. Saturdays and Sundays shall be excluded from the time limits.
8. In the event the Union fails to appeal an answer to the written grievance at any stage within the allotted time, the grievance will be resolved on the basis of the last written answer. In the event the appropriate City representative fails to answer the grievance in writing within the provided time, the written grievance will be granted on the basis of the relief requested therein.

RESIDENCY

The Union seeks adoption of a provision allowing patrolmen to reside outside the City, not more than ten miles from the nearest city limit. It contends there is not sufficient housing of the type required by patrolmen with families available in the City.

On the other hand, areas within the County immediately adjoining the City have been developed for housing in recent years and contain regional shopping facilities. The City opposes any change in the present residency requirement, contending City residency insures not only interest in but a commitment to the welfare of the community. In recent years, "white flight" has been experienced and the City does not believe it should contribute to a further population or tax base erosion by adopting employment practices to that end.

The Arbitration Panel is not convinced there is not sufficient and adequate housing for patrolmen and their families within the City limit. It is impressed by the fact that a referendum question on this issue was defeated in 1968. While it is recognized that a number of communities allow police officers to reside outside of the area of employment, the Arbitration Panel believes that if the parties cannot negotiate a change in the residency requirement, it should not be imposed at this time through Act 312 proceedings. It finds that the City's position on residency -- which would waive the residency requirement for members of this bargaining unit in the event that such requirement "is waived, dismissed, or otherwise rendered unenforceable, as a result of either a change in the law or as one of the conditions of contractual agreement between the City and any of its bargaining unit" -- is fair and should be adopted.

ORDER

The Union demand on Residency is denied and the City position as set forth in Union Exhibit 8 is adopted.

PHYSICAL EXAMINATIONS

The Union has no objection to the requirement that bargaining unit members submit to physical examinations but argues that if those examinations are not performed during working hours, employees should be paid for their time. It also seeks language which would provide payment to an employee's own doctor who performs the physical examination. The City opposes payment to an employee's own doctor and submits it has attempted to provide annual physicals in the past. Because of budgetary cutbacks, however, certain physical examinations have been eliminated.

The Panel finds the City should retain the right to require physical examinations as in the past but believes there should be no reduction in an employee's earnings when examination is scheduled during working hours. Furthermore, if an employee desires that his own doctor perform the physical examination in lieu of a City designated physician and the City agrees with that request, the cost of that examination should be paid by the employee.

ORDER

The following contract language shall be adopted:

"Employees may be required to undergo medical examination by a City-designated physician at least once every two years or more often if deemed necessary. An employee who receives a physical examination during scheduled working hours shall not suffer a reduction in wages. In the event an employee requests, and the City authorizes in writing, that such physical examination be conducted by his own physician, all costs therefor shall be borne by the employee."

SHIFTS

The Union seeks continuation of the same shift hours for patrol and communications which existed under the prior contract, e.g., 6 - 2, 2 - 10, 10 - 6, with authority in the City to move a shift by one hour. The City seeks establishment of new shifts, from 9 a.m. to 5 p.m., 5 p.m. to 1 a.m., and 1 a.m. to 9 a.m. In addition, the City would establish two "umbrella" shifts from noon to 8 p.m. and from 8 p.m. to 4 a.m., and seeks the retention of the middle sentence appearing in the prior contract which allows the creation or modification of other shifts due to particular circumstances or the efficient operation of the department.

The City submits its proposal will "even out" work load, re-

deploy police in accordance with service requirements, and result in emergency assistance being more readily available to both officers and the public. Under the present scheduling, employees in the investigative, technical services, and administrative divisions lose the use of marked vehicles which must be assigned to afternoon shift officers arriving at 2 p.m. The Union disputes much of this evidence, contending the City's proposal will interfere with the family life and schooling of officers. It further disputes the City arguments that the "frequency of contact" between detectives and patrolmen will be increased or that night shift officers who must appear in court the following morning will be benefited.

The Panel finds the shift hours proposed by the City is supported by the record evidence and should be adopted. Under the proofs submitted by the City, however, the Panel does not believe the City should retain the right to modify or create new shifts except in bona fide emergency situations.

ORDER

The contract shall contain the shift provisions set forth in City Exhibit 7, with the 9 a.m. - 5 p.m. shift designated as the first shift; the 5 p.m. - 1 a.m. shift designated as the second shift; and the 1 a.m. - 9 a.m. shift designated as the third shift.

In addition, the following sentence also shall be incorporated in this contract provision: "Nothing contained herein shall prohibit the Employer from modifying basic shift hours in the event of an emergency."

OFF DUTY RESTRICTIONS

The City proposes new language requiring an officer away from his residence or telephone number for more than 24 hours to leave an address or telephone number where he can be contacted in case of an emergency if such information is available prior to his departure. The City contends it should be able to contact officers in the event of emergencies, national disasters, civil disorders or in the event of a death or tragedy in the officer's family. The Union opposes this demand.

The Panel believes the City ought to be able to reach an officer in the event of certain emergencies when that officer is away from his residence for more than 24 hours. The Panel finds, however, that certain limitations should be placed upon the City in this area in consideration of the employee's personal rights and welfare including a statement that disciplinary consequences are not intended.

ORDER

The Panel incorporates the following language in the contract: "Any employee who will be not more than 100 miles distant from his declared residence for more than 24 hours shall inform the police department of an address or telephone number where that officer can be contacted in case of an emergency, provided such information is available prior to departure. Disciplinary consequences shall not attach to this provision."

TWO MAN PATROL CARS

The Union seeks adoption of a provision under which two "certified" patrolmen will be assigned to 75% of the marked patrol vehicles between the hours of 8 p.m. and 6 a.m., except officers assigned to traffic patrol and K-9 duties. It submits the probability of injury or danger to the officer is greater during certain hours when patrol cars are manned by a single officer, and further notes approximately 30% of the assigned patrol vehicles currently carry two officers. The City opposes assignment of a specific number of officers to patrol vehicles, contending it should have flexibility to man vehicles as necessary. It submits it now utilizes two man scout cars as needed or in accordance with the efficient operations of the department and submits the arguments advanced by the Union are not supported by fact and will only result in increased costs.

In considering this issue, the Panel is cognizant of the conflicting views in this area. However, the City presently assigns two officers to a patrol vehicle during certain hours and under certain circumstances and further, assigns vehicles in certain situations so that there will be one or more back-up cars present. In view of these existing conditions, the Panel finds the City should not be further restricted in its decisions on the utilization of two man cars.

ORDER

The Union demand on two man patrol vehicles is denied.

PAYMENT FOR WORK IN HIGHER CLASSIFICATION

The Union seeks adoption of a contract provision whereunder an employee required to work in a higher classification is paid at the rate for that classification with shift seniority to apply provided the officer is capable of performing the supervisory functions. The City opposes adoption of this language.

The Panel believes the concept advocated by the Union is fair and equitable. If the City elects to designate a bargaining unit member to perform supervisory work, then it should be willing to pay at the higher rate for the period of time the assignment

exists. The Panel notes the City does not have to replace the supervisory employee or if it does, may call in another supervisory employee. If it elects to assign a bargaining unit employee to the performance of supervisory work, however, it should apply seniority concepts since it need not designate any employee who is not capable of performing the needed work. It is noted that the seniority provision will apply only if the officer selected to perform supervisory work is assigned to the same shift on which he will perform those duties. In adopting the Union position, the Panel believes it should not be applied in "de minimus" situations but also that the City should not be able to avoid payment of the higher rate by failing to designate an officer as an acting supervisor while requiring that he perform such work.

ORDER

The contract shall contain the following provision:

"If an employee is required to work at a higher classification he shall receive the higher rate of pay. Shift seniority shall apply with the most senior employee on the shift in the classification immediately below the classification to be worked being offered the job on that shift, provided the officer is capable of performing the work."

RATES OF PAY FOR NEW CLASSIFICATION

The Union seeks a provision permitting it to challenge rates of pay and conditions of employment when and if the City creates a new classification or significantly changes the work assignments in existing classifications. The City opposes this demand, arguing there is only one classification in the bargaining unit -- that of patrolman -- and no evidence exists to justify limiting the City's managerial authority in this area.

The Panel does not believe the record supports the adoption of this demand primarily because only patrolmen are in the bargaining unit.

ORDER

The Union demand on "Rates of Pay for New Classification" is denied.

FALSE ARREST

The Union seeks a new provision obligating the City to provide legal representation and holding an officer harmless in the event any claim is advanced or civil action commenced for injuries or property damage caused by that employee in the line of duty, or while acting in the course of employment and within the scope

of his authority. The Union submits that if the City elects to obtain false arrest insurance, it need have no further obligation under this provision. However, it contends police officers acting pursuant to authority and in the course of employment should have such protection. The City opposes this demand, contending it is not justified on the record or when the benefits existing in comparable cities are reviewed.

The Panel believes the Union's arguments fully support adoption of an indemnification provision, but not the requirement that the City obtain false arrest insurance. It notes the City will be obligated only in those cases arising in the line of duty while an officer is acting within the scope of his authority, albeit the City may have to defend each case before that decision can be reached. However, that obligation is not too great to place upon a municipality under the limitations existing in the Union proposal.

ORDER

The contract shall incorporate the language set forth in quotation marks on page 1, paragraph two, of Union Exhibit 44a, entitled "False Arrest Insurance".

This provision shall be given retroactive effect.

REPLACEMENT OF DAMAGED PERSONAL ITEMS

The Union seeks adoption of a provision requiring compensation for any officer having personal items damaged or destroyed in the course of employment while on duty, limiting the maximum reimbursement per incident to \$250, effective at the issuance of this opinion. The City opposes this demand or any change from existing policy.

While the demand of the Union is clear, the record fails to evidence the need for this provision. Since the majority of the Panel believes the language as proposed could result in many disputes between the parties, it holds that the demand should be rejected.

ORDER

The Union demand on Replacement of Damaged
Personel Items is denied.

FUNERAL LEAVE - "OUT OF TOWN"

The Union seeks expansion of the funeral leave provision to five days leave when a death or funeral occurs beyond a 200 mile radius from the City, with the two additional days deducted from the employee's sick leave, vacation time, or personal leave days (if granted), to be charged at the direction of the employee.

The City seeks retention of the funeral leave language contained in the last contract.

In view of other economic demands granted hereunder, the Panel believes this demand should be denied and the language of the prior contract continued.

ORDER

The demand of the Union for increased funeral leave is denied.

LEAVES FOR UNION OFFICERS AND UNION CLASSES

The Union proposes language whereunder certain Union officials will be granted extended leaves of absence and also where certain officers designated by the Union will receive paid leaves to attend Union-conducted classes, conferences, or conventions. The City opposes both demands.

In view of other economic benefits granted hereunder, the Panel believes both demands should be denied at this time.

ORDER

The Union demand for unpaid leaves of absence for certain Union officers is denied.

The Union demand on paid leaves of absence for designated employees to attend Union classes or conferences is denied.

ADDITIONAL PAY FOR K-9 DUTY

The Union seeks the payment of an additional three hours per week to any officer assigned to groom and care for a dog, whether that duty is performed at work or at home. The City opposes this demand, arguing a separate job classification would have to be established if additional pay is allowed.

It is the Panel's understanding that the care and grooming of dogs is accomplished during the assigned officer's regular duty tour but whether or not that practice always exists, the Panel finds the demand should be denied in view of other economic benefits granted hereinafter.

ORDER

The demand of the Union for an additional wage payment to officers assigned to care and groom dogs is denied.

ACTUARY COSTS SHARED

The City seeks language requiring the Union to share equally in the actuarial costs incurred whenever the Union submits a demand effecting the pension program. It contends these costs are substantial and that equity considerations require the Union to share in them each time it submits a demand requiring actuarial

expertise. The Union opposes this provision.

The Panel believes adoption of the City position would unduly penalize the Union any time it seeks a benefit under the pension plan and, therefore, finds that the demand should be denied with the City continuing to bear these costs as necessary.

ORDER

The City demand on shared actuary costs is denied.

SICK LEAVE FOR COURT APPEARANCES

The City seeks adoption of language which would preclude an officer on sick leave and being paid therefor from obtaining additional compensation from the City where he is required, and is able, to appear in court. This provision would merely enact contract language covering a presently existing policy. The Union opposes this demand, contending a required court appearance for an officer on sick leave or injury time increases the "burden" upon him by requiring that he leave home at a time when he otherwise would not have had to do so.

The Panel finds the City's proposal equitable in that it avoids the "pyramiding" of benefits. It understands the intent of the provision to be that an officer presently receiving benefits

by virtue of sick leave or injury time will not be entitled to additional compensation from the City if he is required and is able to appear in court while in such status. Nothing in this provision, however, is intended to extend to subpoena fees not paid by the City.

ORDER

The Panel adopts the court time language set forth in City Exhibit 72.

PAID ATTENDANCE AT CIVIL SERVICE
COMMISSION MEETINGS

The City seeks adoption of language which would deny payment to officers attending normal business meetings of the Civil Service Commission. The Union opposes this demand and seeks retention of the status quo.

The Panel finds that it has long been the practice to allow one bargaining unit member to attend regular business meetings of the Police and Fire Civil Service Commission during normal working hours. While such officer is not separately paid for that time, neither is his pay reduced. The evidence reflects that any bargaining unit member attending such meeting has received permission from a superior officer to do so, thereby eliminating the possibility

of abuse in the number of employees who attend while on duty. Accordingly, the Panel will deny this demand.

ORDER

The City demand that it not be required to pay patrolmen for attending regular business meetings of the Civil Service Commission is denied, and the status quo shall be maintained.

WORKMEN'S COMPENSATION

The Union seeks modification of the contractual Workmen's Compensation provision to provide for an extension of the supplemental benefit from one year to 18 months and that the amount of the injury benefit be made equivalent to 100% of the employee's salary. It argues the payment of the 25% supplementary benefit which existed under the prior contract should not be discretionary but a manner of right. The City's position is that the language appearing in the FOP contract should be modified to increase the benefit to that presently accorded under §26.60 of the labor contract between the City and the Saginaw Municipal Salaried Employees' Association. That modification would grant employees full pay, rather than 75% of pay, for the first four weeks of injury or disability with the possibility of an increase from 75% to 100% thereafter.

The Arbitration Panel finds the City offer to be both fair and equitable. It represents an increase in benefits and in view of other economic benefits awarded herein, justifies rejection of the Union demand.

ORDER

The City offer on Workmen's Compensation, which is the benefit presently provided under \$26.60 to members of the Saginaw Municipal Salaried Employees' Association, is granted.

The Union's Workmen's Compensation demand is denied.

LATERAL TRANSFERS

The Union seeks adoption of contract language which would authorize transfers between divisions, sections within divisions, or units within sections, on the basis of seniority and ability. At present, no specific or objective criteria exist governing such transfers and while officers who desire transfers to specified positions may submit a qualifications resume, they have no contract right to transfer into an open position regardless of their years in the department. The City opposes this demand, submitting the right to determine which officer is best suited for a particular bargaining unit position is a management prerogative

which must be retained to achieve the greatest efficiency and effectiveness in a police department. Because different skills and training are involved in various positions, the City argues it should have the right to evaluate each officer and determine the position for which he is best suited.

It is the view of the Chairman that seniority as well as ability should be considered in designating officers to fill open positions. However, the need for flexibility in police work is also recognized; the City must be able to rotate officers at various times to insure efficient and effective law enforcement. The very nature of police work mandates that effective steps be taken to insure a vigilant and knowledgeable police force. Furthermore, the City should retain the right, especially in the early years of an officer's employment, to provide exposure in all facets of police work. And even with the recognition of seniority, the City must be able to rotate officers from time to time to avoid possible or actual ineffectiveness, or worse. Clearly, certain sensitive positions -- vice and intelligence, juvenile, etc. -- should be exempted even where seniority is recognized.

Because the Union proposal does not adequately accommodate these various factors and the Panel has not been able to formulate suitable language, the demand of the Union will be denied. It is

hoped, however, the parties will consider this issue further in subsequent negotiations and draft a mutually satisfactory clause.

ORDER

The Union demand on Lateral Transfers is denied.

WAGES AND COST OF LIVING ALLOWANCE

Because the Wage and Cost of Living Allowance issues are so closely related, the Panel has considered both areas in determining appropriate compensation.

The Union seeks implementation of the following salary schedule, at the maximum step:

Effective July 1, 1975	\$14,107.00
Effective January 1, 1976	\$14,671.00
Effective July 1, 1976	\$15,405.00
Effective January 1, 1977	\$16,100.00

The percentage increases of the Union demands are: 7/1/75 - 6%; 1/1/76 - 4%; 7/1/76 - 5%; 1/1/77 - 4.511%. The Union position is that its wage demand for each contract year be considered separately; that 3% interest be imposed from the effective date of each wage rate to the date of payment; that the City be directed to commence payment of increased wages at the next pay period after

issuance of this Order and pay all retroactive monies within 30 days therefrom; and that the rates of pay for the starting and one year levels of the salary schedule remain unchanged, with all increases applied after the first two steps.

The wage offers of the City initially were expressed in the following percentages at the maximum level of the pay schedule:

Effective July 1, 1975	8%
Effective July 1, 1976	3%
Effective October 13, 1976	2%

At the request of the Panel, the City submitted the following dollar equivalents: 7/1/75 - \$14,374; 7/1/76 - \$14,805; 10/13/76 - \$15,101.

As previously noted, in their presentations to the Panel the parties set forth their respective contentions on economics, and particularly on compensation, with thoroughness and in great detail. Evidence was introduced on the fiscal condition of the City including, among other areas, ability to pay; compensation received by public employees in the City as well as in other municipalities; the crime rates in the City and in other communities; and in regard to the Cost of Living Allowance issue, the existing situations in the public and private sectors. Based upon the totality of evidence and arguments, the Panel has reached the following conclusions:

1. The City is well managed fiscally, and the financial concerns expressed by the administration -- especially in the first months of calendar year 1976 -- were justified on the basis of then-prevailing economic conditions.
2. The City effectively moved to meet anticipated financial difficulties with various cutbacks and reductions in program, personnel, equipment, and in other areas involving general fund expenditures as more fully set forth in the budget for the 1976-77 fiscal year.
3. Notwithstanding the need for fiscal restraint, the overwhelming weight of the evidence establishes the City was and remains financially sound and well able to pay fair and equitable salaries to members of this bargaining unit.
4. Analysis of economic benefits, including direct compensation, received by police officers in other municipalities reflects the wage rates which would prevail if the City's offer were adopted would result in members of this bargaining unit receiving less than a fair and equitable wage.

5. While data pertaining to crime rates is in dispute between the parties, it is clear the City suffers a high rate of crime. The evidence is convincing that the variety and severity of criminal offenses with which bargaining unit members are confronted and must respond require the City be compared with other municipalities which are similarly affected.

As a preliminary finding, the Panel determines each contract year, e.g., 1975-76 and 1976-77, will be considered separately with the wage positions of the parties being viewed independently for each. This conclusion is based, in part, on the different positions taken on the issue of contract duration as well as the fact that the parties themselves have considered the years independently of each other in formulating their respective wage positions. The Panel will grant the Union wage demand for the 1975-76 contract year and the City offer for the 1976-77 contract year. In addition, the Panel will grant the cost of living allowance as some insurance that the wages granted are not eroded through constantly rising living costs. The total cost of living allowance paid for the 1975-76 contract year will be "folded" into the base salary existing on June 30, 1976 (\$14,671), and that total shall constitute the

base salary upon which the 3% wage increase effective July 1, 1976 shall be computed. The Panel is cognizant that another bargaining unit within the City receives a cost of living allowance and that it is a recognized mode of compensation by private sector employers within the City and its environs.

The Panel finds that the wage increases should be applied only after the first two steps on the pay scale with the starting and one year levels remaining unchanged. The City will be required to commence payment of the ordered wage rates at the next pay period after issuance of this award and to pay all retroactive monies within 30 days therefrom. However, the demand for interest is denied since it would be effective from the date each increased wage rate commences rather than from the date of this Order.

ORDERS

1. The following wage rates are ordered for the 1975-76 contract year:
 - a. Effective July 1, 1975 \$14,107.
 - b. Effective January 1, 1976 \$14,671.
2. The following wage rates are ordered for the 1976-77 contract year:
 - a. Effective July 1, 1976 - a 3% increase computed on a base salary of \$14,671 plus the total cost of living allowance paid during the 1975-76 contract year.

- b. Effective October 13, 1976 - a 2% increase computed on the base salary existing on and after July 1, 1976.
- 3. A cost of living allowance is granted for both contract years in the amount of 1¢ for each .4 point increase in the 1967 Cost of Living Index, computed quarterly and paid in the first pay period of the month following the end of the quarter.
 - a. Except for including the total cost of living allowance paid for the 1975-76 contract year in the base wage existing on June 30, 1976 and using the total of those figures as the base salary upon which the 3% pay increase effective July 1, 1976 is computed, there shall be no other "fold in" of the cost of living allowance.
 - b. A maximum, or "cap", on the cost of living allowance paid for the 1976-77 contract year (only) is established at 30¢.
- 4. There will be no change in pay rates at the starting and one year levels of the pay schedule.
- 5. The City shall commence payment of the increased wages ordered herein at the next pay period after issuance of these Orders and shall pay all retroactive monies within 30 days.
- 6. The Union demand for interest is denied.

HELICOPTER PAY

The Union seeks an additional 10% in pay for officers piloting helicopters and an additional 5% in pay for officers serving as observers in helicopters during actual flights, effective July 1, 1976. The City opposes this demand, contending it would be required to establish separate classifications and give separate examinations under Act 78.

While the majority of the Panel could conclude that a basis exists for granting a special incentive payment for helicopter duty, the record is silent on the nature of the work, the time involved, and other relevant factors. In view of other economic benefits granted, therefore, this demand will be denied.

ORDER

The Union demand for Helicopter Pay is denied.

HOLIDAYS AND VACATION RATE SCHEDULE

The Panel believes the issues of Holidays and the Vacation Rate Schedule are inter-related because of practices presently existing, and will consider these areas together. At present, vacations are granted in lieu of holidays; there are no contractually-designated holidays. The Union seeks recognition, effective

July 1, 1976, of six holidays, to wit, New Year's Day, Christmas Day, Memorial Day, Independence Day, Labor Day, and Thanksgiving, to be compensated at straight time if not worked and at double time and a half if worked. The Union also demands an increase in vacations from 20 to 28 days for officers with ten or more years of service. It submits an additional five vacation days, to a maximum of 28, were granted command officers and a similar increase should be granted the members of this bargaining unit.

The City opposes the establishment of contractually-recognized holidays, contending the vacation schedule in fact incorporates that benefit. It also opposes any increase in the vacation rate schedule and submits command officers did not receive additional days vacation but that a realignment was effected whereby holidays previously received by command officers were removed and five additional days added to their vacation schedules.

The Panel finds the addition of five vacation days to the vacation rate schedule for officers with ten or more years of service should be granted. The vacation rate schedule shall remain unchanged for officers with less than ten years service. The Union demand for the establishment of six holidays will be denied.

ORDERS

1. The Union demand for an additional five vacation days for bargaining unit members with ten or more years of service is granted.
2. The Union demand for contractual recognition of six holidays is denied.

HOSPITALIZATION

Both parties agree the hospitalization provided shall be the Blue Cross-Blue Shield MVF-1 plus Master Medical Rider with a \$50 per person -- \$100 per family deductible and a 90-10% co-pay. In addition, the Union seeks adoption of the Delta Dental Plan with the Class 1, 2, and 3 options, and a prescription drug rider with a \$2.00 deductible. The Union submits these demands are severable. The City argues the Union demand is not severable; that the dental and prescription drug riders can only be considered with hospitalization insurance as a single demand.

The Panel finds the Union demands are separate and will so consider them. There is no disagreement on hospitalization insurance, and the panel finds -- on the basis of benefits granted in comparable communities as well as the need for equitable treatment of bargaining unit members -- that the prescription drug rider also should be adopted. However, the request for dental insurance will

be denied in view of other economic benefits granted herein and the uncertainty of how that demand would impact on the City.

ORDERS

1. The Union demands for hospital, dental, and prescription drug insurance are severable.
2. Blue Cross-Blue Shield MVF-1 coverage plus the Master Medical Rider with a \$50 per person - \$100 per family deductible and a 90-10% co-pay is adopted.
3. The Union demand for a \$2.00 deductible prescription drug rider is granted.
4. The Union demand for Delta Dental insurance is denied.

CLOTHING MAINTENANCE ALLOWANCE AND CLEANING OF UNIFORMS

The Union submitted separate demands for an increased clothing maintenance allowance and for the cleaning of uniforms. It is the Union position the clothing maintenance allowance applicable to non-uniformed officers should be increased in the amount of \$100, from \$200 to \$300, and that the City be required to pay the cost of cleaning uniforms. The City opposes any increase in the clothing maintenance allowance or any change in its obligation to clean uniforms.

The Panel believes a \$100 increase in the uniform allowance to non-uniformed officers is justified by the evidence. It will also grant the Union demand that the City pay for the cleaning of all uniforms.

ORDERS

1. The uniform allowance to non-uniformed officers is increased by \$100, to a total of \$300, effective July 1, 1975.
2. Effective with the issuance of these Orders, the City shall pay the cost of cleaning uniforms.

CALL-IN TIME

At present, a minimum of two hours, computed at premium rates, is paid for call-ins. The Union seeks continuance of that benefit during the first year of the contract but an increase of one hour, for a minimum call-in of three hours at time and a half, effective July 1, 1976. The City opposes this demand and in addition, seeks inclusion of language eliminating the requirement to pay an officer who is called in because his work is incomplete or unsatisfactory.

In view of other economic benefits granted, the Panel will deny the Union demand for increased call-in time during the second year of the contract and will direct that the existing benefit be

continued. Further, it will deny the City proposal, set forth in City Exhibit 74, believing that adequate measures currently exist to correct unsatisfactory work, and adoption of the City proposal would create more problems than would be solved.

ORDERS

1. The Union demand for an increase in the minimum call-in time from two to three hours in the second year of the contract is denied. The presently existing benefit, e.g., a minimum of two hours at time and a half, shall continue.
2. The City demand for inclusion of language set forth in City Exhibit 74 is denied.

MINIMUM SHOW UP TIME

There presently exists no provision for minimum show up time. The Union demand is for a minimum of four hours at straight time, effective July 1, 1976. The City offers a minimum show up time benefit of two hours at straight time.

The Panel finds the offer of the City equitable in view of other economic benefits granted, and will order retroactive payment. In the event the City has not maintained records which evidence entitlement, if any, from and/or after July 1, 1975, then this benefit will be effective at the date this Order issues.

ORDER

The City offer of a minimum show up time benefit of two hours computed at straight time is granted. The Union demand on this issue is denied.

In the event the City has not maintained records which show entitlement, if any, from and/or after July 1, 1975, then this benefit shall be effective at the date of issuance of this Order.

MINIMUM COURT TIME; PERSONAL
LEAVE DAYS; SICK LEAVE PAY-
OUT; LONGEVITY; GUN ALLOWANCE

Although the Panel has separately considered each issue in the foregoing heading, giving due weight to all evidence and arguments advanced, it has determined to deny each because of other economic benefits hereinbefore granted.

ORDERS

1. The Union demand for an increase in minimum court time from two to three hours, effective July 1, 1975, is denied. The existing benefit providing a minimum of two hours at time and a half shall be continued.
2. The Union demand for establishment of three personal leave days is denied.

3. The Union demand for unlimited accumulation of unused sick leave days with a pay out of 100% upon separation from employment at the then effective rate of pay is denied. The Union demand for modification of the existing provision relative to submission of doctor's statements is denied.
4. The Union demand for an increase in the base salary upon which longevity pay is computed from \$9,000 to a maximum of \$12,000, effective July 1, 1975, and a maximum of \$15,000, effective July 1, 1976, is denied.
5. The Union demand for establishment of an annual gun allowance in the amount of \$300, effective July 1, 1975, is denied.

AGREED-UPON PROVISIONS

Prior to and in the course of the arbitration proceedings, the parties reached agreement in a number of areas. At their request, those agreements are set forth hereunder with reference, in most instances, only to the exhibit evidencing each agreement.

ORDERS

The parties agree to inclusion in the contract of the language set forth in the following exhibits, all of which were received in evidence as part of Panel Exhibit 6:

1. Panel Exhibit 6a.
2. Panel Exhibit 6b.
3. Panel Exhibit 6c.
4. Panel Exhibit 6d.
5. Panel Exhibit 6e.
6. Panel Exhibit 6f. The figure of \$300 will be inserted in the last paragraph of this Exhibit in accordance with the clothing allowance hereinbefore ordered.
7. Panel Exhibit 6g.
8. Panel Exhibit 6h.
9. Panel Exhibit 6i.
10. Panel Exhibit 6j.
11. Panel Exhibit 6k.
12. Panel Exhibit 6l.
13. Panel Exhibit 6m. The figure of two hours shall be entered in §22A of this Exhibit in accordance with the court time order hereinbefore adopted.
14. Panel Exhibit 6n.
15. Panel Exhibit 6o.
16. Panel Exhibit 6p.
17. Panel Exhibit 6q.
18. Panel Exhibit 6r.

19. Panel Exhibit 6s. The first paragraph of this Exhibit shall reflect the effective date of agreement as July 1, 1975 and the final date as June 30, 1977, in accordance with the Order on Retroactivity.
20. Panel Exhibit 6t.
21. Panel Exhibit 6u. The last paragraph in this Exhibit shall not be included in the contract since the Union demand for paid holidays has been denied.
22. Panel Exhibit 6v.
23. Panel Exhibit 6w. In the course of the hearings, the parties agreed to a mileage allowance of 10¢ per mile, which figure shall be incorporated in this Exhibit in lieu of the printed figure of 15¢ per mile.
24. Panel Exhibit 6x. Sections 1 and 2 of this Exhibit are modified to include the word "normal" before the words "work week" in §1 and "work day" in §2. In accordance with the Order heretofore entered on minimum show up time, the word and number "two (2)" shall be placed before the words "hours of pay" in §6 of this Exhibit.
25. Panel Exhibit 6y. To avoid any confusion in the modifications entered on this Exhibit, the contract provision shall read:

"Work and shift schedules should be posted by the City by the fifteenth day of the month, but in no event shall they be posted later than the twentieth day of the month preceding the month in which they are to be effective."

The parties also achieved agreement on the issues of Injury Leave, Outside Employment, and Rental Properties Requests.

ORDERS

1. The language set forth in City Exhibit 73 will be incorporated in the contract on the issue of Injury Leave.
2. Paragraphs A and B of City Exhibit 13 will be incorporated in the contract on the issue of Outside Employment. Paragraph C of the Exhibit will be omitted.
3. The language contained in City Exhibit 14, as modified to include the phrase "provided such information shall be considered confidential and retained within the employee's personnel file", will be incorporated in the contract."

RETAINED JURISDICTION

The Panel will retain jurisdiction for 60 days from date of this opinion for the purpose of clarifying any of the foregoing Orders -- but not to reopen the hearing for consideration of additional evidence or arguments -- or for the purpose of correcting inadvertent omissions or misstatements on any of the agreements achieved by the parties and placed before the Arbitration Panel in the course of the hearings for inclusion in this Opinion. In the event either party desires further consideration by the Panel

for either of the reasons set forth in the preceding sentence, a petition shall be submitted to the Arbitration Panel Chairman, postmarked no later than 60 days from the date of this Opinion, setting forth the basis of such request, including transcript and exhibit citations where appropriate.

It should be emphasized, however, that a petition invoking the retained jurisdiction of the Panel will not delay implementation of previously entered orders dealing with wages and cost of living which should be effected as hereinbefore provided because of the span of time involved in concluding these proceedings.

ORDER

The Arbitration Panel will retain discretionary jurisdiction under conditions set forth above.

In the event either party seeks to invoke the Panel's retained jurisdiction, such action shall neither justify nor authorize the withholding of wage and cost of living benefits granted pursuant to other Orders in this opinion.

THE ARBITRATION PANEL OPINION

The foregoing opinion was prepared by the Arbitration Panel Chairman and represents his sole analysis of the record. The City and Union Panelists concur or dissent in the foregoing Orders as hereinafter set forth:

The Arbitration Panel unanimously adopts the
Orders on:

The "Save Harmless" clause of the
Agency Shop provision

Maintenance of Standards

Physical Examinations

Off Duty Restrictions

Additional Pay for K-9 Duty

All Agreed-upon provisions

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

Duration of Contract

Articles of Equipment - Blackjack

Residency

Two Man Patrol Cars

Rates of Pay for New Classification

Replacement of Damaged Personal Items

Funeral Leave

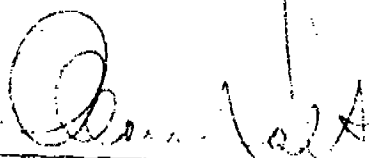
Leaves for Union Officers

Leaves for Union Classes
Sick Leave for Court Appearances
Workmen's Compensation
Lateral Transfer
Helicopter Pay
Holidays
Delta Dental Insurance
Increased Call-In Time
Minimum Show Up Time
Minimum Court Time
Personal Leave Days
Sick Leave, including doctor's statements
Longevity
Gun Allowance

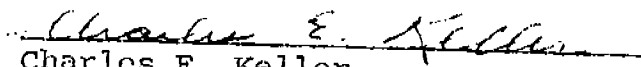
The Arbitration Panel Chairman and the Union
Panelist concur and the City Panelist dissents
on the following Orders:

Retroactivity
Management Rights Clause
Agency Shop, except for "Save Harmless"
clause
Grievance Procedure
Blue Cross-Blue Shield Hospitalization

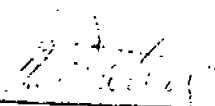
Shifts
Payment for Work in Higher Classification
False Arrest
Actuary Costs Shared
Paid Attendance at Civil Service Commission Meetings
Wages
Cost of Living Allowance
Vacation Rate Schedule
Prescription Drug Rider
Clothing Maintenance Allowance
Payment for Uniform Cleaning
Elimination of Payment for Incomplete or Unsatisfactory Work
Retained Jurisdiction



Alan Walt
Impartial Chairman



Charles E. Keller
City Panelist



Joseph A. Valenti
Union Panelist

Southfield, Michigan

March 15, 1977