

10/18/80
ARB

STATE OF MICHIGAN
BEFORE A COMPULSORY ARBITRATION PANEL
ACT 312, OF 1969, AS AMENDED

IN THE MATTER OF ARBITRATION
BETWEEN:

MERC CASE NO. G79B-191

CITY OF WYOMING (Employer) (City)

-and-

WYOMING POLICE OFFICERS
ASSOCIATION (Union)

OPINION AND AWARD

APPEARANCES:

ARBITRATION PANEL

Mario Chiesa, Impartial Chairman

Thomas Grimm, Employer Delegate

Roger Smits, Union Delegate

APPEARING ON BEHALF OF THE EMPLOYER

William J. Garlington,
Wyoming City Attorney
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APPEARING ON BEHALF OF THE UNION

Hankins & Kluck, P.C.
By: Michael R. Kluck
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INTRODUCTION

Prior to commencement of the actual hearing, a pre-arbitration conference was held at Mr. Kluck's office on December 28, 1979.

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WYOMING, CITY OF

The hearing was conducted on March 5, 1980 at the Wyoming City Hall in Wyoming, Michigan. The parties waived the need to conduct an executive session. Additionally, the parties waived the time limits contained in the statute.

ISSUES

The current dispute is the result of negotiations which were instituted pursuant to a reopener provision contained in the current Collective Bargaining Agreement. The provision is contained in Article XIV - Wage and Pay Policies, Section 60, Wages, which states:

"Section 60. Wages. Beginning July 4, 1977, an employee shall not be required to contribute to the pension system. Beginning January 2, 1978, there shall be a \$750 increase in the pay schedules for all employees. Beginning July 3, 1978 there shall be a \$750 increase in the pay schedules for all employees. Beginning January 1, 1979 there shall be a \$750 increase in the pay schedules for all employees. The amount of pay increase for the fiscal year 1979-80 beginning July 2, 1979 shall be negotiated. Whenever a certified EMT employee is assigned for any 28-day period to patrol duties which require EMT duties, such employee shall be paid an additional 30¢ per hour for that 28-day period. There shall be no overtime pay on said 30¢."

Thus, the only issue for consideration is the wage rate to exist from July 2, 1979 until July 1, 1980. The parties stipulated that regardless of which last offer of settlement is accepted, the wage rate shall be retroactive to July 2, 1979.

Additionally, the parties agreed that the issue would be classified as economic.

LAST OFFERS OF SETTLEMENT

It should be noted that in addressing this dispute, both parties presented their proofs emphasizing the top paid patrol officer rate. This is only natural because patrol officers make up the largest

segment of the unit and the data is readily available. Nevertheless, there was also some information presented regarding the sergeants.

In examining the last offers of settlement, and the current contract rates, it should be understood that this unit is made up five different categories of officers. There are police officers, police corporals, police detectives, police sergeants and police detective-sergeants. Their wage levels are: 30, 36, 36, 38 and 38 respectively. In each wage range there are six steps. They are labelled A thru F. The A category could be considered the entry level, while the F step is the highest pay in the range. There is no automatic increment.

The current Collective Bargaining Agreement provided a police officer wage range from \$14,522.00 to \$17,892.00. This range was in effect during the prior contract year. The range for police corporal and police detective was from \$16,436.00 to \$19,784.00. The range for police sergeant and police detective-sergeant was \$17,496.00 to \$20,679.00.

The Employer's last offer of settlement provides for a 4 percent across-the-board increase. When displayed the minimum and maximum rates appear as such:

<u>Classification</u>	<u>Entry</u>	<u>Wage</u>	<u>Top</u>
Police Officer	\$15,103		\$18,608
Police Corporal	\$17,093		\$20,575
Police Detective	\$17,093		\$20,575
Police Sergeant	\$18,196		\$21,506
Police Det. Sgt.	\$18,196		\$21,506

The Union's last offer of settlement seeks a 6 percent across-the-board wage increase. If it is displayed in the same manner as was the Employer's, the figures would appear as follows:

<u>Classification</u>	<u>Entry</u>	<u>Wage</u> <u>Top</u>
Police Officer	\$15,393	\$18,966
Police Corporal	\$17,422	\$20,971
Police Detective	\$17,422	\$20,971
Police Sergeant	\$18,546	\$21,920
Police Det. Sgt.	\$18,546	\$21,920

It should be noted that in both of the above displays, the figures have been rounded to the nearest dollar.

COMPARABLE COMMUNITIES

Unfortunately, the parties hereto have been unable to stipulate to the communities which should be considered comparable to Wyoming for the purposes of this hearing. Thus, it is necessary for the panel to engage in a detailed analysis of all the offered communities.

Before examining the other communities, it would be wise to consider the important points regarding Wyoming.

Wyoming is a suburb of Grand Rapids. It has a population of 57,000, or if the Union's figure is utilized, 57,916, as of 1976. There has been a 2.4 percent increase between the years 1970 and 1976. Wyoming has 76 police officers, 68 of which are in the unit concerned with herein.

According to the Union's evidence, Wyoming had a state equalized valuation for real property of \$383,994,350.00. When the personal SEV of \$85,423,300.00 is added to the real SEV figure, the total

becomes \$469,417,650.00. Wyoming does not have a city income tax and levies 9 mills 5 of which are operating.

Utilizing the Employer's figures, Wyoming has approximately 1.33 officers per thousand population.

The Union suggests that the communities of Grand Rapids, East Lansing, Lansing and Saginaw should be considered comparable to the City of Wyoming for the purposes of this hearing.

The Employer has suggested that in reality there is no city in the State of Michigan which is comparable to Wyoming. Nevertheless, it introduced data from the City of Flint, Grand Rapids, Holland, Kalamazoo, Grandville, Lansing, Saginaw, Traverse City, Walker and Kentwood.

It is often extremely difficult to decide whether a community is comparable with the one in litigation. Nevertheless, such decisions must be made in order to establish a valid basis for comparing the last offers of settlement submitted by each of the parties.

However, the Chairman has been involved in proceedings where alleged comparable communities are assigned a specific weight depending upon the degree of comparability. This method was utilized in the recent Lansing Non-Supervisory and Supervisory 312 arbitrations and was initially established, as far as your Chairman knows, by Professor St. Antoine. It seems to be a reasonable and very fair method of developing comparable data. It will be used in this proceeding.

The first two cities which will be considered are Flint and Traverse City.

Flint's population is more than three times that of Wyoming and it has more than four times as many police officers. Additionally,

Flint is not in the relevant geographical area of Wyoming and certainly does not have a relationship with a larger city as Wyoming has with Grand Rapids. Thus, Flint is rejected outright.

Traverse City is also rejected. Its population is not even a third of Wyoming and it has approximately one-third the officers. While these aspects do not in and of themselves eliminate a finding of at least partial comparability, Traverse City is not located in a geographically relevant area. Its position in the State indicates that the City has little in common with Wyoming and certainly Traverse City does not have a relationship with a larger community such as Wyoming and Grand Rapids.

There were five communities which were given a weight of one-third.

The first is Lansing. Lansing has at least twice the population of Wyoming and a department which has more than three times the number of officers. However, the evidence does indicate that Lansing officers are subjected to fewer crimes per officer than officers in Wyoming. Further, while Lansing cannot be considered Wyoming's next-door neighbor, it is geographically closer than some of the other communities. Further, in considering Lansing the relationship which Wyoming has with Grand Rapids, does suggest that perhaps Lansing has some aspects of comparability. Therefore, the minimum weight of one-third was assigned.

Saginaw was also awarded a weight of one-third. Saginaw's population does have some comparability with Wyoming. Saginaw has approximately twice as many officers as Wyoming, but its officer per thousand of population is very comparable with Wyoming. However, Saginaw is located a substantial distance from Wyoming. All things being considered, Saginaw can only be given a weight of one-third.

Holland is also given the weight of one-third. Geographically Holland is in the western part of the State and is not exceedingly far from Wyoming. Holland's population appears to be less than half of Wyoming's and its police force seems to number about one-third of the officers. All in all, Holland is entitled to a weight of one-third.

Grandville and Walker are exceedingly small communities in terms of population and size of force and in no way comparable to Wyoming if only those two items are considered. However, Grandville and Walker are given slight weight, i.e., one-third, because of their geographical location.

There were three communities given the weight of two-thirds.

The first community was Grand Rapids. It is true that Grand Rapids has approximately three times the population of Wyoming and approximately three times the number of officers. It also has fewer officers per thousand than Wyoming. However, an extremely important consideration is that Grand Rapids is the center of a metropolitan area which Wyoming is a part of. Wyoming is large enough to feel a substantial wage pressure from Grand Rapids and must deal with some of the same type of law enforcement problems. When the aspects are considered, Grand Rapids must be given a weight of two-thirds.

Kalamazoo is closer to Wyoming than is Lansing. Even though Kalamazoo is not a suburb of a larger city, its population is approximately one and one-half times larger than Wyoming. Kalamazoo also has approximately twice as many officers. However, when all factors are considered, Kalamazoo must be given a weight of two-thirds.

Kentwood falls in the same category and is also given a weight of two-thirds. Geographically, it is located in the Grand Rapids metropolitan area. Its population is slightly less than one-half of Wyoming's and it has less than one-half the number of officers.

The figure for officers per thousand is extremely comparable to Wyoming and when all the items are considered, the weight of two-thirds seems reasonable.

East Lansing has been given a weight of one and thus is considered comparable to Wyoming for the purposes of this hearing. East Lansing's population is almost identical to Wyoming's. There is a great disparity in the total SEV of the communities, which suggests that Wyoming is of a slightly different nature. Wyoming does have approximately one and one-half times the officers of East Lansing. However, East Lansing's relationship with Lansing must be somewhat similar to Wyoming's relationship with Grand Rapids. Thus, for the purposes of this hearing, East Lansing has been given a weight of one.

For the purposes of this hearing, the foregoing comparable analysis will be utilized. However, it must be kept in mind that things change and perhaps in the future the above may prove to be unacceptable.

EVIDENCE AND FINDINGS

One of the standards established in Section IX of Act 312, 1969, as amended, concerns the average consumer price for goods and services, "commonly known as the cost of living."

The evidence directed at this standard indicates, inter alia, that the index for June, 1977 was 181.8, while for June, 1978 it was 195.3. The figures indicate that from June, 1977 to June, 1978, there was an increase in the CPI of approximately 7.43 percent. The record further indicates that the June, 1979 index was 216.9 and, thus, the increase from June, 1978 to June, 1979 was approximately 11.06 percent. The only other index figure given was for December, 1979. The figure was 230.0. Thus, for the half-year period between June, 1979

and December, 1976, the consumer price index increased approximately 6.04 percent.

It is true that the consumer price index has been attacked as being an inaccurate display of the increase in the cost of living. Critics suggest that it inflates the true conditions. Additionally, and perhaps more specifically, the consumer price index is comprised of a number of elements, the cost of which, in some cases, are absorbed by the Employer. For instance, in this case, the City provides medical insurance and life insurance. Additionally, there is a uniform allowance and other items. Thus, to the degree that those facts influence the CPI, the CPI is inaccurate as it applies to this unit.

Nevertheless, even if the deficiencies are kept in mind, the consumer price index is the most accepted manner of gauging the increase or decrease in the cost of living. This is apparent and even if it were not, its consideration is demanded by the statute.

In examining the percentage increases requested by the parties, it becomes extremely clear that the Union's last offer of settlement is much more acceptable than the City's.

The next area of analysis is the wage data derived from the comparable communities. When displayed in graphic form, it appears as follows:

<u>City</u>	<u>Officer</u>	<u>Sgt.</u>
Grand Rapids (2/3)	\$19,691	\$21,369
East Lansing (1)	\$18,650	\$21,811
Lansing (1/3)	\$19,904	\$21,948
Saginaw (1/3)	\$19,294	\$21,714 to \$24,320
Holland (1/3)	\$17,846	\$20,800
Kalamazoo (2/3)	\$19,484	\$24,004
Kentwood (2/3)	\$19,017	\$20,317

<u>City</u>	<u>Officer</u>	<u>Sgt.</u>
Grandville (1/3)	\$17,243	\$18,277
Walker (1/3)	<u>\$17,816</u>	<u> </u>
Weighted Average	\$18,888	\$21,504
Utilizing top Saginaw figure		(\$21,704)

It should be noted that for Saginaw the sergeant salary is given in a range. In Saginaw educational status is considered when salary is established. Further, all of the figures represent the top pay for the classifications indicated.

If the City's last offer of settlement is compared to the weighted average, it becomes apparent that it is approximately \$280.00 less. The Union's last offer of settlement appears to be about \$80.00 more. Thus, when considering just those terms, the Union's last offer of settlement is more acceptable.

However, when the data regarding sergeants is considered, and the average utilizing the lowest Saginaw figure is considered, it becomes apparent that the City's last offer of settlement is within \$2.00 of the average, while the Union's last offer of settlement is about \$416.00 higher. When the average figure utilizing Saginaw top sergeant figure, which probably isn't as valid as the prior average, it becomes apparent that the City's last offer of settlement is approximately \$200.00 less, while the Union's is approximately \$216.00 more.

Nevertheless, the figures regarding the top paid police officer must be given much more weight than the figures regarding sergeants. Historically, there have always been more police officers in a department than sergeants. Additionally, and perhaps in recognition of the foregoing observation, both parties' arguments

center around the police officer classification.

There is also another aspect of the data that must be considered. It appears from the record that many of the comparable communities have a salary schedule wherein the individual officer automatically progresses through the salary steps. According to the record in this case, that is not the situation in Wyoming. Apparently all the wage increases in Wyoming are merit and do not take place by reason of longevity.

In the final analysis when the salaries regarding the comparable data are considered, it appears that the Union's last offer of settlement has the advantage.

Another area that is given recognition in Section IX of the statute concerns the interest and welfare of the public and the financial ability of the unit of government to meet the costs. In this regard there is nothing in the evidence which suggests that the interest and welfare of the public would be affected differently if one or the other last offer of settlement were adopted.

Further, the City has taken the position that it will not contest its ability to pay the increase sought by the Union.

The City has argued that the panel must consider the fact that the employees in this unit make no contribution to their pension plan as of July 4, 1977. It suggests that since this is so, the wage increases sought by the Union become even more unacceptable because officers in the comparable communities, with perhaps a couple of exceptions, do have to contribute to the pension plan. Further, the City points out that it pays social security and that fact must also be considered.

The Union suggests that it has considered the fact that its members no longer pay the 5 percent pension contribution. It further

points out that the contribution payments made by employees in other cities are indeed vested rights and, thus, become a forced savings plan, or a form of deferred compensation.

Relating to the discussion regarding pensions, it appears that the parties have agreed: "That the cost of the implementation of the police pension system of the contract year 1979-80, shall be considered with the salary issue raised during the 1979-80 contract negotiations for said salary provisions."

Frankly, after examining all of the evidence, the panel cannot hold that the parties failed to consider the cost of the pension system while negotiating for a salary increase pursuant to the reopener provision. It is pretty difficult to conclude that the Union or the City failed to consider the cost as stated in the above agreement.

The evidence provides data regarding the various pension plans for the comparable communities and does establish the facts in the following areas: (a) final average compensation; (b) percent of salary; (c) percent over 25 years; (d) maximum benefits; (3) employer contribution; and (f) employee contribution.

After examining all the evidence, it is almost impossible to arrive at the "cost" of the police pension system. The percentage figures indicating the percent of employer contribution do indicate that Wyoming pays a higher percentage than all of the communities, except Grand Rapids, Lansing and Saginaw. However, even when considering this fact, the panel is not able to take the position that it precludes the adoption of the Union's last offer of settlement.

Additionally, in examining the evidence that is available, it becomes apparent that every community, with the exception of Kalamazoo, Lansing, and East Lansing, pays social security as does Wyoming.

In examining the arguments and evidence directed at establishing the impact of the removal of the 5 percent employee contribution, it becomes apparent that its removal increased the amount of actual dollar wages received by the officers. While their salary figures may remain the same, they were receiving more dollars because they didn't have to make the 5 percent contribution. As offered by the City, it appears that if the 5 percent adjustment is made to those communities which require an employee contribution, the salary received by members of this unit would exceed those received by employees in the comparable communities, with the exception of Lansing and Kentwood.

Yet, while this aspect of the dispute must be considered, it certainly isn't dispositive of the question. Perhaps what is just as relevant is what the officers receive is the question of what the cities must pay. It must be remembered that because the employees do not now contribute 5 percent of their salary, this does not automatically mean that the City's cost is increased by 5 percent of the employees' salary.

Further, it is true that the contribution payments made by employees in other communities are not lost and may indeed become forced savings or deferred compensation. But what must also be considered is the fact that the parties agreed to eliminate the 5 percent contribution two and one-half years ago. Certainly the parties agreed to consider the cost of the plan and the panel must consider the elimination of the 5 percent employee contribution, but much has transpired since the time the parties agreed to eliminate the employees' contribution.

The cost of living has soared and the panel must consider the cost of the pension and the removal of the employees' contribution in light of all of the evidence. When these considerations are made,

the panel cannot rule that they, standing alone, prevent the adoption of the Union's last offer of settlement.

Another factor which the statute demands must be considered is the overall compensation received by the employees.

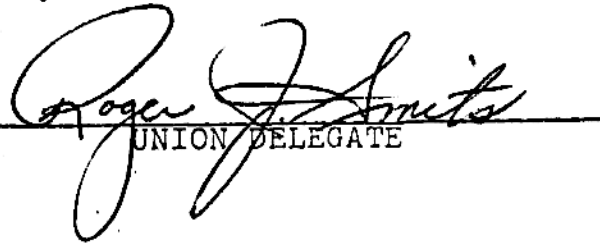
After examining the available evidence, it is impossible to determine the impact which this consideration should have on the wage issue in relation to both the overall compensation received merely by the employees in Wyoming and that overall compensation compared to the overall compensation received by employees in the comparable communities. In some cases certain benefits appear to be more advantageous for members of the unit in Wyoming than in some of the other communities. Conversely, certain benefits are available to employees in some of the other comparable communities which are not available in Wyoming or at least not to the degree that they are available in the comparable communities. It appears that overall members of this unit are certainly not suffering and yet by the same token, do not receive unreasonable benefits. In considering the benefits received by any one unit, panels must be extremely careful because oftentimes the degree and character of benefits represent the special needs of the unit. Panels can be easily led astray if they attempt to compensate, via a wage award, for benefits which are perceived to be either too meager or too bountiful.

In light of all of the foregoing discussions, it appears evident that the Union's last offer of settlement is more acceptable than the City's. The very important consideration regarding cost of living, along with the data regarding the wage rates in comparable communities, plus those other items considered and stated above, persuade the panel to order the adoption of the Union's last offer of settlement.

AWARD

The panel orders that the Union's last offer of settlement
be adopted.


CHAIRMAN


UNION DELEGATE

EMPLOYER DELEGATE

Dated: June 18, 1980

AWARD

The panel orders that the Union's last offer of settlement be adopted.

CHAIRMAN

UNION DELEGATE



EMPLOYER DELEGATE

Dated: June 18, 1980