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MICHIGAN EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF
THE STATUTORY ARBITRATION
BETWEEN

CITY OF WYOMING

-and-

MERC Case No. G93 B-4012

POLICE OFFICERS LABOR COUNCIL,
NON-SUPERVISORY OFFICERS

* * * * *

STIPULATED AWARD

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PANEL DELEGATES

Michael A. Snapper, Employer Delegate

Kenneth W. Zatkoff, Union Delegate

Mark J. Glazer, Neutral Delegate

Wyoming, City of

STIPULATED AWARD

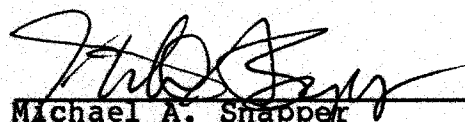
A petition for Act 312 arbitration was filed by the Union on October 25, 1993. Answers were filed by the City on January 10, 1994 and March 25, 1994. Mark J. Glazer was appointed as the neutral on March 1, 1994 and a pre-hearing was conducted on July 18, 1994. Hearings were scheduled for September 21, 26 and 27, 1994.

At the September 27, 1994 hearing, the parties achieved a settlement, which is attached as "Appendix A" and is fully incorporated into this stipulated award.

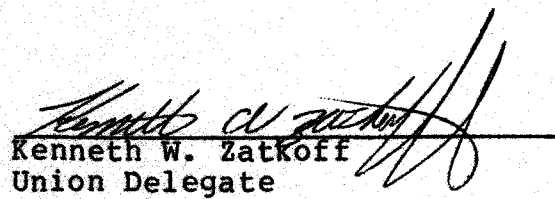


Mark J. Glazer
Neutral Delegate

Dated: December 5, 1994


Michael A. Snapper
Employer Delegate

Dated: December 1, 1994


Kenneth W. Zatkoff
Union Delegate

Dated: December / , 1994

APPENDIX A

NEW CONTRACT LANGUAGE

Except for the changes below, which reflect the Act 312 Arbitration Award, all other provisions of the parties previous collective bargaining agreement will be incorporated in the new agreement.

The contract changes are as follows:

1. ~~Cover Page~~ - change dates to read:

"July 1, 1993 to June 30, 1995"

2. Family and Medical Leave. Add a new Article XI (renumber the Articles which follow) to read as follows:

ARTICLE XI

FAMILY AND MEDICAL LEAVE

Section 1. As required by the Family and Medical Leave Act (FMLA), the City will provide covered employees up to twelve (12) weeks of unpaid job protected leave for certain family and medical reasons. Employees who have worked for the city for at least twelve (12) months and for 1,250 hours during the previous twelve (12) months of employment are eligible.

Section 2. Definitions of Certain Terms.

A. The term "parent" means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.

B. The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

1. Inpatient care in a hospital, hospice, or residential medical care facility; or

2. Continuing treatment by a health care provider; and

C. The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is:

1. under 18 years of age; or
2. 18 years of age or older and incapable of self care because of a mental or physical disability.

These and all other statutory terms and definitions shall be interpreted and applied consistent with the FMLA.

Section 3. Purpose of Leave

Unpaid leave may be granted for any of the following reasons:

- A. To care for the employee's child after birth or placement for adoption or foster care;
- B. To care for the employee's spouse, son, daughter or parent who has a serious health condition; or
- C. For a serious health condition that makes the employee unable to perform the employee's job.

Leaves in excess of twelve (12) weeks may be granted for the employee's own serious health condition. Any request for an extended leave shall be in writing, stating reasons, signed by the employee, and given to the department head. Approval shall be at the City's discretion, and any decision shall be in writing.

Section 4. Notice, Duration and Certification

When the need for leave is foreseeable, employees are expected to provide thirty (30) days advance notice. When not foreseeable, employees are required to provide notice of the need for leave as soon as practicable. When leave is needed for planned medical

treatment, employees must attempt to schedule treatment so as not to unduly disrupt the city's operations. Failure to provide appropriate notice may result in the denial of leave.

Leave for a newborn or newly placed child may be taken only within 12 months from the date of birth or placement and may only be taken continuously. If both parents are employed by the city, the combined leave is for twelve (12) weeks, not twenty-four (24) weeks.

When medically necessary, leave to care for a family member or for the employee's own serious health condition may be taken on an intermittent or a reduced work schedule basis. An employee may be required to transfer temporarily to a position that can better accommodate an intermittent or reduced hours leave. All time taken will count toward the employee's 12 week annual entitlement for family and medical leave.

The city may require medical certification to support request for a leave because of a serious health condition and may require second or third opinions (at the city's expense) and a fitness for duty report to return to work. The medical certification must include the first anticipated date of absence from service to the city and the expected date of return. The medical certification to support a leave for family medical reasons must include the first anticipated date of absence from service to the city and the expected date of return. The medical certification to support a leave for family medical reasons must include a statement indicating that the employee's presence is necessary or would be beneficial for the care of the family member and the period of time care is needed or the employee's presence would be beneficial.

When leave is required for a serious health condition, employees will normally be given 15 calendar days to obtain the necessary medical certifications, if required, to support the leave. Employees may be required to report in on a periodic basis concerning

their progress, the progress of their parent, spouse or child, and their anticipated date for return to work.

Section 5. Coordination With Other Forms Of Leave And Paid Time Off

FMLA leave is coordinated with other existing forms of leave and paid time off as follows:

- A. Other serious medical condition of employee. When FMLA leave is used for a serious medical condition of the employee, the employee is required to use up sick leave and vacation leave, except that up to 60 hours of the employee's vacation leave is exempt from such use.
- B. Serious medical condition of child, spouse or parent, birth, adoption, foster care of a child. When FMLA leave is used to care for a family member with a serious medical condition, or for purpose of birth, adoption or foster care of a child, the employee may use up to 5 days of sick leave and may thereafter use vacation leave.

Section 6. Wages and Benefits

Leave will be unpaid except as covered by any paid time off. For the duration of any period of paid leave and for up to twelve weeks thereafter, the city will maintain the employee's health coverage under any group health plan. The employee's contributions to the health plan must be maintained during the leave to maintain coverage.

If the employee fails to make such contribution, the city may elect either to cancel health plan coverage (after 30 days) or to pay for such coverage and to obtain reimbursement by payroll deduction at the conclusion of the leave.

Employees who fail to return from a leave will be obligated to reimburse the city for the cost of the city paid health cover-

age, except when the employee's failure to return is due to the continuation, recurrence or onset of a serious health condition which would entitle the employee to medical or family leave or other circumstances beyond the employee's control.

Section 7. Return to Work

Upon return from a leave, employees will be restored to their original or equivalent position with equivalent pay, benefits and other employment terms consistent with the seniority provisions of this Agreement. The employee will not any employment benefit that accrued prior to the start of the leave. The employee shall retain and accumulate their seniority during the period for the leave of absence.

Section 8. Eligibility Year

For purposes of determining eligibility for a leave, the city hereby adopts a rolling 12 month period whereby each time an employee takes family or medical leave, the remaining leave entitlement will be any balance of the 12 weeks which has not been used during the immediately preceding 12 months.

Section 9. The provisions of this Article are not to be construed to add or pyramid obligations of the city, except as may be expressly set forth herein. Nothing in this Article shall be construed to diminish the city's obligations to comply with any other provision of this Agreement.

3. Wages. Change first sentence of Article XV (formerly Art. XIV) Section 1, to read as follows:

Section 1. Wages. Effective July 1, 1993, there shall be a five percent (5%) increase at each level of the pay schedule, and effective July 1, 1994, there shall be a three percent (3%) increase at each level of the pay schedule.

(Remainder of Section and Article unchanged)

4. Health Insurance - Active Employees. Change Article XIV (formerly Art. XIII), Section 1, to read as follows:

Section 1. Health (effective October 1, 1994). The City shall pay the premiums for coverage for each employee and the employee's dependents. The coverage shall include the following:

Comprehensive Blue Cross, Semi-private Room, 1 MB, C.C., D45 NM, OPC, DCCR, MVF2-Blue Shield, ML Rider, and appropriate Medicare options, Master Medical Insurance Option 1, Prescription Drug Program (\$2.00 co-pay) and ambulance rider. Effective November 1, 1994, the prescription drug co-pay shall be \$5.00.

The City shall have the right to change to another insurance carrier or health plan providing the coverage shall be generally equivalent to the coverage listed above and the bargaining Committee of the Union has the opportunity to review and respond to any proposed change before the change is implemented. Any disagreements concerning such change will be subject to the grievance and arbitration procedure.

If national health insurance is enacted during the term of this agreement, then health insurance may be opened for negotiation by the request of either party, and such negotiations will be subject to Act 312 Arbitration in the event the parties are unable to reach agreement.

The Employer's contributions for any alternatives to the health insurance, such as HMO or PPO coverage, shall not exceed the Employer's contributions to the insurance premiums.

5. Disability Insurance. Add a new Section 5 to Article XIV (formerly Article XIII) to read as follows:

Section 5. Disability Income Plan (effective November 1, 1994). In the event any employee is disabled to the extent that such employee is not able to perform the duties of the job, such employee shall be eligible to receive from the City an income maintenance plan which will provide the employee with an

income allowance of seventy-five percent (75%) of the base pay for a period not to exceed a cumulative total of fifty two (52) weeks in the employee's lifetime. This section shall be effective only after such employee has used all paid time (including sick leave, vacation leave, personal leave/-floating holidays, compensatory time), and only after an eight (8) day waiting period. Paid time taken by the employee will be credited towards the waiting period, and, after the waiting period is completed, the benefit shall not be retroactive of the first day of disability.

6. Retiree's Health Coverage. Change Section 2 of Article XIX (formerly Art. XVIII) to read as follows:

Section 2. An employee who receives a pension under the Wyoming Pension System shall have the City pay for medical coverage (or such other carrier which the City has), including dental, the following amounts: \$8.00 per month for each year of employment with the City not to exceed 30 years, payable monthly beginning with the date of retirement, and ending upon age 65. Beginning July 1, 1992 (i.e., for employees who retire on or after July 1, 1992), the benefit will be as follows: Until the retiree reaches age 60, the benefit will be \$ \$8.00 per month (\$10.00 per month for employees who retire on or after November 1, 1994) for each year of employment with the City not to exceed 30 years, payable monthly beginning with the date of retirement; after the retiree reaches age 60, the benefit will be the fully paid lifetime benefit for retiree and spouse which is provided to the command officers. Provided, further, that any employee who is retired and is receiving or can receive medical coverage generally equivalent to the City's plan from his or her employment or the employment of his or her spouse shall not be paid any monies toward the City's plan during such times that said spouse is or could be eligible or said employee is or could be eligible. Employees for whom the City shall make the payments described in this Section may not select among the various types of insurance coverage but must take the package as a whole. The City's obligation to make

the payments described in this Section shall cease upon the failure of any retiree to pay the difference, if any, between the amount contributed by the City and the actual cost of such insurance coverage.

7. Pension. Change Section 3 of Article XIX (formerly Article XVIII) to read as follows:

Section 3.. Pension. There shall be a 30 year maximum benefit and the benefit multiplier shall be 2.2%. For employees retiring after November 1, 1994, the multiplier shall be 2.25%.

8. Alcohol and Drug Abuse Policy. Add a new Article XXI (renumber the Articles which follow), to read as follows:

ARTICLE XXI

CITY OF WYOMING, POLICE DEPARTMENT EMPLOYEE ALCOHOL AND DRUG ABUSE POLICY (Effective November 1, 1994)

This policy is adopted pursuant to the Drug-Free Workplace Act of 1988 (Pub, L. 100-690), Title V, Subtitle D), in an effort to provide a safe and healthy work environment for our employees.

The use and effects of illegal drugs and alcohol pose very serious problems. While the City of Wyoming (the Employer) would prefer not to intrude into the personal lives of its employees, it must be recognized that employees who use illegal drugs or abuse other controlled substances or alcohol tend to be less productive, less reliable and prone to accidents and absenteeism. Each employee has a responsibility to our community to deliver services in a safe and conscientious manner. In order to ensure that this responsibility is met, employees must work free from the effects of alcohol and other performance impairing substances.

Accordingly, the Employer wants to state clearly its policy so that present and future employees understand our objectives: to remove problems associated with illegal drugs and alcohol abuse from our workplace, either

through treatment, cessation of use or termination of employment. Our policy is as follows:

I. Drug-Free Awareness Program

A Drug-Free Awareness Program has been developed to inform employees about: (1) the dangers of alcohol and drug abuse in the workplace; (2) the Employer's Alcohol and Drug Abuse Policy; (3) the availability of treatment and counselling for employees who voluntarily seek such assistance; and (4) the sanctions the Employer will impose for violations of its Alcohol and Drug Abuse Policy.

II. Assistance to Employees in Overcoming Alcohol or Drug Abuse

Early recognition and treatment of alcohol or drug abuse is important for successful rehabilitation and for reduced personal, family, and social disruption. The Employer encourages the earliest possible diagnosis and treatment for alcohol and drug abuse. However, the decision to seek diagnosis and accept treatment for alcohol or drug abuse is primarily the individual employee's responsibility.

To assist employees in obtaining early voluntary treatment, the Employer refers such employees to an Employee Assistance Program (EAP). The EAP is an assessment, counselling and referral service for employees with substance abuse problems. The Employer also provides an insurance plan to full-time employees to help pay for treatment. Finally, the Employer offers a variety of leave options for full-time employees who need time off work for treatment of substance abuse problems. To ensure that these benefits are available, however, employees must voluntarily seek help. These benefits may not be available to employees who do not seek help on their own.

Employees with alcohol or drug abuse problems should request the assistance of the EAP. Employees may seek help without the approval or knowledge of their supervisor.

The EAP will provide assistance on a confidential basis and will refer the employee to the appropriate counselling and treatment services. Employees who voluntarily request the EAP's assistance in dealing with an alcohol or drug abuse problem may do so without jeopardizing their continued employment with the Employer.

Voluntary requests for assistance from the EAP will not result in discipline. However, such requests and participation will not prevent disciplinary action for other violation(s) of this Alcohol and Drug Abuse Policy. Employees who undergo voluntary counselling or treatment pursuant to a referral by the Employer and who continue to work must meet all established standards of conduct and job performance.

III. Application

The Policy applies to all employees.

For purposes of this Policy:

- Employer premises includes, but is not limited to, all property, whether owned, leased or used by the Employer. This Policy also includes any other locations or mode of transportation to and from those locations while in the course and scope of employment.
- Employer time includes, but is not limited to, all time spent on any Employer activity. This does not include the lawful use of alcohol for authorized Employer-related purposes (e.g., authorized social functions, off-hours dinner while traveling on Employer business, etc.).
- Prohibited substances are defined as: illegal drugs or controlled substances (including trace amounts); alcoholic beverages; prescription drugs -- except as provided in Section IV of this Policy; and any other substance which affects or may affect the employee's ability to competently or safely perform.

- Under the influence of any prohibited substance means any detectible level of a prohibited substance in an employee's system. If an employee is called out, the employee shall not report to work with any prohibited substance in his/her system except that the employee may report where the presence of alcohol does not exceed the standard set by the U.S. Department of Transportation for truck drivers in interstate commerce. (Blood alcohol less than .04%.)
- Reasonable suspicion includes, but is not limited to: observation of behavior such as slurred speech, unsteady walking, abrupt mood swings, breath (alcohol) or odor; observation of physical manifestations frequently associated with some forms of substance abuse, e.g., needle marks, sudden nosebleeds, frequent illness not explained by other medical conditions; absenteeism; declining productivity; excessive tardiness; and suspicious activity indicating possible involvement with prohibited substances in violation of this Policy.

IV. Authorized Use of Prescribed Medicine

Employees undergoing prescribed medical treatment with any substance which may alter their behavior or physical or mental ability must report the effects such treatment may have on their ability to perform their job to their immediate supervisor or the Personnel Director, who will determine whether the Employer should temporarily change the employee's job assignment during the period of treatment.

V. Prohibitions

The Employer's Policy prohibits the:

1. Use, possession, manufacture, distribution, dispensation, transportation or sale of prohibited substances or drug paraphernalia on Employer premises or being under the influence of a prohibited substance on Employer premises on Employer time or at an Employer activity;

2. Storing by an employee of any prohibited substance in a locker, desk, vehicle or other repository on Employer premises or refusing to submit to an inspection (this does not prohibit the storage of unopened, lawful alcoholic beverages in the employee's personal vehicle);
3. Possession, use, manufacture, distribution, dispensation or sale of prohibited substances off Employer premises or Employer time that adversely affects the employee's work performance, his own or others' safety at work or the Employer's regard or reputation in the community; (note: lawful and moderate use of alcohol is not prohibited);
4. Failing to adhere to the requirements of any drug or alcohol treatment or counseling program in which the employee is enrolled;
5. Conviction under any criminal drug statute or failure to notify the Employer of any arrest or conviction under any criminal drug statute within five days of the arrest or conviction;
6. Failure to report to the immediate supervisor or Personnel Director the effect of a prescribed drug which may alter the employee's behavior or physical or mental ability;
7. Refusing to consent to testing or to submit a urine, blood or other sample for testing when requested pursuant to the Employer's testing policy, or switching or adulterating any sample submitted for testing.

VI. Implementation and Enforcement of Policy

The following procedure will be employed to assure compliance with the Policy.

A. Testing. Employees or applicants for employment may be required to submit to substance testing, including, but not limited to, urinalysis, blood tests, plasma tests or breath tests for the drugs specified in the

Department of Health and Human Services Mandatory Guidelines for Federal Workplace Drug Testing Programs (HHS Guidelines) and any amendments to the HHS Guidelines in effect at the time of the testing:

1. to be considered for employment;
2. where the Employer has reasonable suspicion that an employee has ingested, possesses or has distributed a prohibited substance;
3. following an accident or incident where the Employer has reasonable suspicion that prohibited substance(s) may be implicated, e.g., where safety precautions were violated or careless acts were performed; and
4. immediately after an employee returns to work after a disciplinary suspension, where the Employer has reasonable suspicion that prohibited substance(s) may be implicated.

All positive initial drug tests will be confirmed using gas chromatography/mass spectrometry techniques at the cutoff values listed in the HHS Guidelines and any amendments to the HHS Guidelines in effect at the time of the testing.

Samples provided by an existing employee (not an applicant or new hire) shall be given at a collection site outside the City of Wyoming where necessary to protect the employee's privacy.

Collection site procedures will provide the employee an opportunity to identify in writing any medication being taken, or other reason, which might account for a positive test result.

- Used

Collection site procedures will be used which protect against mislabeling samples and other errors.

Upon request, the Union may review and/or tour the procedures and/or facilities of the collection site(s) and/or laboratory(ies).

B. Searches. Employees, while on Employer premises, are required to submit to searches of their persons, vehicles, lunch boxes, personal effects, desks or similar repositories, etc., when the Employer has a reasonable suspicion that the employee has ingested, possesses or has distributed a prohibited substance.

VII. Consequences for Violation of this Policy

Violation of the Employer's Alcohol and Drug Policy may result in severe disciplinary action, up to and including discharge for a first offense. Violation of this Policy may also subject employees to arrest and prosecution by law enforcement agencies.

In addition to any disciplinary action for drug or alcohol abuse, the Employer may refer an employee to the Employee Assistance Program for assessment, counselling and referral to a treatment program for alcohol and drug abuse. Employees who undergo counselling and treatment for substance abuse and who continue to work must meet all established standards of conduct and job performance.

VIII. Last Chance Agreement

Individuals discharged for violation of the Employer's Alcohol and Drug Policy may, at the Employer's sole discretion, be offered the opportunity to enter into a Last Chance Agreement.

The Last Chance Agreement provides that an employee may return to employment under the following conditions:

1. The employee acknowledges in writing that he/she has a substance abuse problem;
2. The employee successfully completes a rehabilitation program prescribed under the Employee Assistance Program;
3. The employee agrees in writing to submit to random testing or search for the remainder of his/her employment; and
4. The employee is subject to automatic discharge for any violation of Last Chance Agreement or this Policy while on the Last Chance Agreement and waives the right to grieve such discharge.

IX. Condition of Employment

Compliance with the Employer's Alcohol and Drug Abuse Policy is a condition of employment. Failure or refusal of an employee to cooperate fully, sign any required document or submit to any inspection or drug test as provided will be grounds for termination.

Questions regarding this Policy should be directed to the Personnel Director.

X. Review of Program

This Policy will be reviewed bi-annually to determine its effectiveness, to implement needed changes and to ensure that disciplinary actions are consistently enforced.

XI. Other Programs

This Policy is separate and apart from any testing done in connection with a special program, e.g., WMET.

XII. Receipt

I acknowledge that I have received a copy of the City of Wyoming's Employee Alcohol and Drug Abuse Policy.

Date

Employee s Signature

Employee s Name (Printed)

9. Term of Contract. Change Article XXII (formerly Art. XX), Section 2, to read as follows:

Section 2. Effective Dates. All provisions of this contract shall become effective July 1, 1993 and remain in effect through June 30, 1995, unless otherwise stated.