ILLINOIS PUBLIC LABOR RELATIONS BOARD

BEFORE ROBERT PERKOVICH (Neutral Chair), J. Stuart Garbutt (Employer) and Kevin Camden (Union)

In the Matter of an

Interest Arbitration between

Sheriff/County of Cook as Joint Employers	)	
and	)	#L-MA-11-002
Teamsters, Local 700, (Court Services Deputies)	)	

INTEREST ARBITRATION OPINION AND AWARD

A hearing was held on June 1, 2012 in Park Ridge, Illinois before Arbitrator Robert Perkovich, who was jointly selected by the parties, Sheriff/County of Cook ("Employer") and Teamsters, Local 700 ("Union")to serve as the neutral chairman of a tripartite arbitration panel. The parties both chose to present their evidence in narrative fashion with the Union also calling one witness, Thomas Wilcox. The parties filed timely post-hearing briefs that were received on September 14, 2012.

The Issues Presented[1]

1. Hours of Work and Overtime (Article III)
2. Seniority (Article IV)
3. Wages (Article V)
4. Holidays (Article VI)
5. Vacation Leave (Article VII)
6. Welfare Benefits (Article VII)
7. Additional Benefits (Article IX)
8. Leaves of Absence (Article X)
9. In-Service Training (Article XIII)
10. Equipment (Article XIV)
11. Sub-Contracting (Article XIV)
12. Credit Union (Article XIV)
13. Discipline (Article XIV)
14. Uniform Allowance (Article XIV)

[1]Many of the issues presented are subcategories of the issues listed herein. Thus, for ease of reference the major categories are listed. However, the analysis and findings in this Award will be considered by each subcategory.

15. Hospitalization Insurance (Article XIII)

16. Secondary Employment (Article III)

BACKGROUND

As noted above the Employers herein are the County of Cook and the Cook County Sheriff. Those two entities operate the largest unified court system in the United States with seventeen courthouses in the city of Chicago and the Chicago suburbs lying within the County of Cook. The Court Services Department, at issue herein, utilizes deputy sheriffs to provide security for judges, employees, jurors, prisoners and visitors to court facilities, handling prisoners and screening persons who seek to enter those facilities, and who serve writs, warrants, court summons, and child support orders to individuals as well as performing eviction duties. As such, the employees of the Department are split between those who perform court security functions and those, known as "Street Unit" or "D2B" deputies, who perform the latter functions. More specifically the bargaining unit herein consists of all employees of the Employers under the rank of sergeant within the Court Services Department and there are on or about 1,100 such individuals[2].

The record reflects that various law enforcement bargaining units, including the one involved herein, have had a long and rich bargaining history with the Joint Employers that has included the relationship between those units with regard to their collectively bargaining agreements. For example, the Sheriff's Police bargaining unit was historically paid more than the employees in the Department of Corrections and the Court Services Department and with Corrections employees paid more than those in the Court Services Department.

However, between 1994 and 2006 that differential eroded as a result of several interest arbitrations and by 2006 it had disappeared to a significant extent. More specifically, in 1994 Arbitrator Raymond McAlpin ordered that the employees in the bargaining unit herein should receive an "equity adjustment" and adopted the Union's final offer therein for a wage adjustment that exceeded that of the Corrections employees. In the subsequent agreement Arbitrator Elliott Goldstein continued that trend and ordered that the Court Services deputies receive wage increases for fiscal years 1995 and 1996 of 6.5% and 6% when other law enforcement employees received 4.5% and 3% in those years. Similarly, for years 1997-2000 Arbitrator Edwin Benn awarded those same employees a wage increase in 1997 of 5%, as opposed to 3% increases for others, and for the period 1998-2000 he awarded the deputies wage increases totalling 16.5% as opposed to total wage increase of 10.5% for other employees. Thereafter, for fiscal years 2001-2006, Arbitrators Peter Meyers and Marvin Hill awarded to the deputies percentage wage increases that exceeded those given to other law enforcement personnel.

However, for their next collective bargaining agreement, the predecessor to the agreement involved herein, the parties agreed to wage increases of 4% and 4 and 3/4%, the same as those provided to the other law enforcement units, in the first two years of the agreement and 3%wage increases in the third and fourth year of the agreement[3].

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[2] The Sheriff also has two other departments, the Department of Corrections, which operates the county jail, and the Sheriff's Police, who perform police patrol work in the unincorporated portions of the County, and within each of those departments there are a number of bargaining units.

[3] These agreed upon wage increases were arrived at before bargaining had begun in the other law enforcement units.

During the term of that agreement, as has been well documented, the US economy deteriorated and bargaining between the Joint Employers and its various other unions were affected such that there were a series of interest arbitrations. For example, Arbitrator Benn adopted wage increases of 2%, 1 and 1/4% , and 2% for fiscal years 2009-2012 for officers and sergeants in the Sheriff's Police Department and Arbitrator Harvey Nathan adopted the same total percentage increases, for a total of 8 and 1/2%, for that same period although he "back-loaded" the increases. Thereafter Arbitrators Steven Bierig, Barry Simon, and Jules Crystal adopted the same total percentage wage increases for that same period for, respectively, the Day Reporting Investigators, the Security Officers at Cook County's Oak Forest Hospital, and the Cook County State's Attorney's Investigators.

Finally, and again for the period between 2009-2012, the County's non-law enforcement bargaining units have agreed to no across the board wage increase in the first year of that period and a total of 6% wage increases for years 2011 and 2012.

THE ISSUES

Section 14(h) of the Illinois Public Labor Relations Act requires that an interest arbitrator, in resolving the parties' dispute, apply the following factors:

-the lawful authority of the employer,

-stipulations of the parties,

-the interest and welfare of the public and the financial ability of the unit of government to meet those costs,

-comparison of the wages, hours and conditions of employment of the employees involved in the dispute with those of other employees performing similar services and with other employees generally in public and private employment in comparable communities,

- the cost of living,

-changes in any of those factors during the pendency of the arbitration and,

-such other factors which are normally or traditionally taken into consideration through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties in the public service or in private employment.

It is to that task that I now turn, applying, as described in detail below, those statutory factors.

(A) Wages

The Union's final offer on wages provides for a wage increases of 1% on December 1, 2010 and again on June 1, 2011 as well as 1.5% wage increases on those same dates in the last year of the parties' bargaining agreement, 2011. Thus, the total wage increases for the life of the agreement is 5%. The Employer on the other hand proposes no wage increase in the first year of the agreement and a 2.5% wage increase in the second. In addition, the parties differ on the issue of retroactivity with the Union proposing that any wage increase be retroactive for "all" members of the bargaining unit and the Employer proposing that retroactivity be limited has it has been the historical practice between the parties to do so.

As initial matter the Employer relies on external comparables and also the harsh economic realities that not only the Joint Employers have faced, but that the United States as a whole has faced in recent history. I however find that I need not address either argument because first, the parties have historically placed, and the Employers readily admit, little reliance on external comparables in light of the fairly unique nature of Cook County. Second, as is discussed more completely below, a analysis of traditional Section 14 factors compels the adoption of one final offer over the other without regard to the state of the economy.

To that end I first look to the cost of living and in doing so I conclude that this factor favors adoption of the Union's final offer because, as it has pointed out, between December of 2010 and December of 2011 the cost of living was 3.21%, between December of 2011 and March of 2012 it was 1.6%, and through July of 2012 it was 1.52%. Thus adoption of the Employers' final offer would mean that bargaining unit employees' wages would fall behind the cost of living[4].

However, when one looks to the internal comparables a different tale is told. That is, as the Employers argue, the bargaining unit herein and other law enforcement bargaining units have been "eventually placed...in the appropriate wage relationship" to one another that the parties seemed to acknowledge when they agreed in the last bargaining agreement to wage increases in its first two years that mirrored those awarded to other law enforcement bargaining units. Moreover, that relationship would be upset if the Union's final offer were adopted, including that aspect of its final offer that would expand the application of retroactive wage increases[5]. I conclude therefore that the internal comparability analysis strongly supports the Joint Employers' final offer on wages.

Finally, I agree with the Employers that when the bargaining unit's overall compensation, including but not limited to longevity increases and strong health care benefits, their final offer is again the better choice between the two competing offers.

Given the strong internal comparability, including the fact that internal comparability in this case involves bargaining units that are very similar, if not identical (unlike comparing for example police to firefighters to public works for example), and the bargaining unit's overall compensation I conclude that those factors outweigh the cost of living and I thus adopt the final offer on wages of the Joint Employers.

(B) Revision to Health Insurance Opt-Out

The parties' current contract language provides to unit employees who choose not to enroll in Employer-provided health coverage a payment of $800 annually. The Employers propose however to revise that language so that if any such employee so chooses, but is covered by the Employer-provided health coverage by virtue of marriage to another employee of the Joint Employers or who is in a domestic partner relationship with any such employee, he or she will no longer receive the annual payment. In support of the proposal the Employer contends that it is a common sense proposal that will prevent employees in this situation from realizing a windfall, that it is included in other law enforcement collective bargaining agreements, and that it was adopted by Arbitrator Bierig in the Day

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[4] The Joint Employers argue that cost of living comparisons "must be done over an aggregation of years rather than a one or two year at a time basis," but it has provided no authority for such an approach and I therefore decline to follow it.

[5] On this point the Union vigorously argues that "there is no support...that allows an employer to argue that the last, mutually agreed to contract was...generous so that the unit should be awarded less in interest arbitration." I however beg to differ. That "support" is the very internal comparability analysis that is utilized in all interest arbitrations.

Reporting Investigator interest arbitration. In reply the Union asserts that the provision in question appears only in the MIS bargaining unit and that the Joint Employers have failed to provide any evidence as to the number of employees, if any, will be affected by the final offer.

Upon consideration of this issue I find that the Joint Employers' final offer must be adopted. First, as to evidence of application to employees, the fact of the matter is that conceptually the status quo allows for a possible windfall to certain employees and that, in my estimation, is sufficient to establish a need. More importantly however, internal comparability strongly supports the Joint Employers' final offer[6].

(C) Secondary Employment

On this issue the Joint Employers urge that its final offer that the parties' provision regarding secondary employment be amended so that any bargaining unit employee may not perform security work for another employee when he or she is unable to do so for the Joint Employers. It urges that its final offer be adopted because it is only common sense that if one cannot work as a deputy he or she should also be unable to perform security work for another entity. In reply the Union urges that the Joint Employers' have failed to provide any evidence why this change is needed.

I find that the Joint Employers' final offer must be rejected although in doing so I do not rely on the Union's argument. Rather, it seems to me that the final offer is vague and therefore problematic as it would in my estimation only lead to arbitrations over its ambiguity. More specifically, just what is "security work?" Does it, or does it not, include working at a desk? Or answering telephones? Or dispatching security personnel? In other words, assuming *arguendo* that there is a problem that must be resolved, I do not believe the Joint Employers' final offer will necessarily do so and may only create new, unanticipated problems for the parties.

(D) Uniform Allowance

On this issue the Union seeks to increase the uniform allowance from $650 to $700 in the first year of the parties' agreement and to $800 in the second year. The Joint Employers on the other hand urge no change.

In support of the final offer the Union points to the fact that the uniform allowance has not been increased since 1998 and that since then the average cost of a uniform has risen to slightly less than $900. In addition, the Union relies on the fact that although Arbitrator Nathan rejected a similar request, he did so only because he adopted the Union's final offer on wage increases. In reply the Joint Employers argue that although uniform costs have indeed increased over time the wages of the bargaining unit in the past have "vastly outstripped inflation" and that the internal comparables favor a continuation of the status quo, a fact that other interest arbitrators have relied upon.

In my estimation although the Union is correct that the current uniform allowance has not kept pace with uniform expenses internal comparability trumps that fact. Moreover, I agree with the Joint Employers that in light of the fact that wages for the bargaining unit have in the recent past exceeded

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[6] As is apparent from the preceding paragraph there appears to an inconsistency on this point between the parties with the Union asserting that the provision in question appears only in the MIS contract and the Employer contending that it appears in a number of other agreements. I suspect that the explanation is that the Union is referring to the only other bargaining unit that it represents, the MIS bargaining unit, among the internal comparables while the Joint Employers are referring to all units.

the cost of living the hardship of a distinction between uniform allowance and actual cost has been mitigated.

Thus, I find that the Joint Employers' final offer is to be adopted.

(E) Tentative Agreements

The parties have agreed that their tentative agreements are to be incorporated into this award and thus, I do so.

However, the parties' tentative agreements play another role in the resolution of this dispute because the parties have raised this point in conjunction with what the Union has candidly admitted are a series of final offers that are "breakthroughs." More specifically, the Union argues that the "heavy yoke" it bears in urging adoption of its final offers on various breakthrough issues, (that it must show that the status quo is not working, that it has created hardships, and that the other party has resisted change) is not applicable because any such burden is based on the premise that the parties have actively participated in bargaining over these issues. Thus, it contends, when a party has "patently" refused to bargaining over a breakthrough issue that heightened burden is not applicable and it relies on the decisions of various arbitrators so holding. (See e.g., *Cook County Forest Preserve,* S-MA-09-011 (Gibbons, 2012 and *Village of Posen,* S-MA-09-182 (Fletcher, 2011). More particularly to the instant dispute, the Union urges that the heightened burden not be applied herein because on its breakthrough issues there has been "no significant bargaining" and that the Joint Employers have rather asserted in bargaining that the Union should "take it to hearing."

Upon careful consideration I find that I cannot agree with Arbitrators Gibbons and Fletcher and that even if I were to agree with them their awards are distinguishable.

First, it seems to me that the approach adopted by my two colleagues ignores a remedy for an absence of bargaining available to a party urging the adoption of breakthrough issues and in doing so it improperly intrudes on the exclusive role of an important party in such cases. In other words, if a party is not bargaining in good faith it seems to me that the appropriate forum for such a instance is an action filed with the Illinois Public Labor Relations Board alleging an unfair labor practice. Moreover, in such a case if the impact of such impermissible conduct is significant the charging party also has available to it under the Act injunctive relief. On the other hand, for an interest arbitrator to find essentially that a party has bargaining in bad faith seems to usurp the exclusive jurisdiction of the Board, a result that I do not think is countenanced.

Secondly, the cases before Arbitrators Gibbons and Fletcher are easily distinguishable in that the record herein shows that the parties in bargaining agreed to approximately sixteen tentative agreements and without evidence that these tentative agreements pale in comparison to the scope of bargaining sought by the Union, evidence which does not exist in the record, I cannot agree with the Union that the Joint Employers have "patently" refused to bargain.

Thus, with regard to the breakthrough issues the Union has urged upon me to address, all of which are dealt with *infra,* I find that the traditional breakthrough analysis, including the heightened burden of proof applies.

(F) Hours of Work and Overtime (Article III)

On this issue the Union's final offer provides for a series of changes, again admittedly breakthrough issues, to this Article of the parties' collective bargaining agreement. Among them are a deletion of the contract language that specifically provides that there is no guarantee of hours of work or work days per week or "pay in lieu theref," that a normal work week shall be not less than forty hours and that it shall consist of five consecutive days off with at least one week end day off, that any deviation from that work week shall be implemented only by mutual agreement, that all benefit time paid out and accrued shall be on a "day for a day basis," that overtime pay shall be paid for all hours worked in excess of forty in a work week (rather than 80 in a bi-weekly pay period), that all such overtime pay shall be a rate of time and one-half and, finally, that any employee who is assigned overtime but who does not in fact work those overtime hours "shall be compensated for such time scheduled."

However, in its post-hearing brief it addresses only two of those items, "guaranteed overtime" and "overtime in a 40 hour week." In doing so it asserts that with regard to overtime in a forty hour week the "impetus...is the inability for (employees) to take time off" and an assertion that employees are "working more hours, but do not get compensated for the overtime if they take a sick day." With regard to the issue of "guaranteed overtime" the Union argues that when employees are scheduled for overtime but do not actually work the time in question, they are harmed because the affairs that they have put in order have been affected when they do not work. Thus, the Union believes, they should be compensated for the hours in question to remedy such harm.

In reply the Joint Employers argue that the Union's final offers must be rejected because they are not supported by the internal comparables, i.e. all of the other law enforcement bargaining units, and that the status quo complies with applicable provisions of the Fair Labor Standards Act.

As noted above, the breakthrough analysis requires that the Union, as the proponent of the change, must provide record evidence that the status quo is not working and that it is causing hardship for, in this case, the bargaining unit. However, vague and anecdotal assertions do not in my estimation meet that burden. Moreover, internal comparability and compliance with applicable law compel rejection of the Union's final offers on these Article.

(G) Payout of Accrued Benefit Time (Articles VI, VII, VIII, and IX)

With respect to this issue the Union in its post-hearing brief asserts that "due to staffing issues (employees) are being closed-out of taking holidays," but again makes no reference to other benefit time despite the fact that its final offer addresses such time. In reply the Joint Employers assert that the Union's final offers on these various articles are inconsistent and/or in conflict with one another and/or other provisions of the parties' agreement (e.g., the Union's final offers refer to employees who work a scheduled shift in excess of eight hours in any day while other final offers preclude any such scheduled shifts), that it is unclear (e.g., what is meant by "a day for day basis,"), and that adoption of the Union's final offers on these issues would provide these bargaining unit employees to have their benefit time paid out "at rates different than the rates applicable to all other Cook County employees."

Again, I find that I must reject the Union's final offers on these issues because the record evidence is just too scant to conclude that the status quo is broken and/or that it has caused harm. Moreover, internal comparability compels adoption of the Joint Employers' final offer.

(H) Seniority (Article IV)

Here the Union's final offer provides for the addition of three new clauses: one that all employees on "injury on duty" leave will accrue seniority and all other benefits while on that leave, a second that all accumulated benefit or other earned time shall be paid out immediately upon separation of employment, and a third that in the event that an employee dies his or her "money and benefits" shall be paid to his or her designated beneficiary or their estate. The Joint Employers urge rejection of these proposed revisions to Article IV.

In its post-hearing brief the Union argued that the injury on duty revision is necessary because there is often a delay in determining whether an employee's injusry was suffered on duty and because of that delay benefit time is lost. In reply the Joint Employers argue that the final offer is vague (e.g. what is meant by "all other benefits"), that it allows employees to continue to accrue benefit time when they are not in fact working, and that it is not supported by the fact that "all employees...are treated exactly the same (under the status quo) for purposes of benefit time accrual while on injury on duty leave..."

As is apparent from the recitation of the Union's post-hearing argument there is no evidence, either there or in the record as to extent of any delay in determining injury on duty status, the amount of time such a determination requires, and/or the number of employees affected by any alleged delay so that I am unable to conclude that the status quo is broken and/or has caused harm. Moreover, internal comparability favors retention of the status quo.

With regard to that portion of the Union's final offer relating to payment of time earned to a deceased employee's estate[7], the Union asserts that its final offer should be adopted because some employees who have died while on the Joint Employers' payroll have not had the benefit time that they had earned paid out to their estate. The Joint Employers point out however, in support of their argument that the status quo should remain unchanged, that the Union's final offer goes far beyond benefit time and includes "all" money and benefits and that such contract language is vague and simply invites conflict. Moreover, it relies on the fact that none of the internal comparables have such language in their agreements.

The record evidence includes two such instances upon which the Union relies and, although those two instances were surely a matter of grave concern to the families of those two employees, two instances do not justify a conclusion that the status quo is broken and requires a breakthrough. Moreover, I agree with the Joint Employers that the Union's final offer goes beyond any apparent problem with the status quo and that internal comparability justifies rejection of the Union's final offers with regard to Article IV.

(I) Holidays (Article VI)

The Union proposes four revisions to Article VI in its final offer. The first is to now allow employees to cash in holiday time at separation from employment either to the employee or to his or her estate, the second is that holiday time will be accrued on a "day for a day" basis, the third is that any unused time be paid out if an employee so chooses by September 30 of each year, and the fourth is that employees will not be denied the use of any benefits while they are on "proof status." Again, the Joint Employers urge that the status quo be retained.

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[7] In its post-hearing brief the Union limited its arguments to these two portions of its final offer relating to revisions to Article IV of the parties' collective bargaining agreement.

In support of its final offer the Union in its post-hearing brief asserts only that because life expectancy is increasing bargaining unit employee "expect to work substantially longer to achieve maximum retirement benefits" and that the Union's final offer is therefore "consistent with what nearly all realize will be a longer work life."

I confess however that I fail to see the connection between that argument and changes to holiday leave except insofar as the Union's final offer provides for pay out of accrued holiday leave in some instances[8]. (For example, the provision that each year employees can choose to have their unused holiday time paid out appears to have little relation to retirement benefits.) To the extent that there is a connection the Union has again failed to provide evidence that the status quo must be revised. Moreover, the Joint Employers rely again on internal comparability in support of its final offer that the status quo remain unchanged.

In light of the foregoing I adopt the Joint Employers' final offer.

(J) Vacations

In its final offer the Union proposes that for employees who reach twenty-five year of service there be an additional vacation benefit of five days. It also proposes again that for any employee working a regularly scheduled shift in excess of eight hours "all benefit time paid out and accrued (shall be) on a day for a day basis."

At the arbitration hearing (as the Union's post-hearing brief was silent on this issue) the Union only pointed out first, that the issue is a breakthrough and second that there are not currently a "significant number of employees" with twenty-five years of service. Finally, it conceded that in light of the fact that the parties have agreed to a mandatory retirement age "...practically speaking we are not going to have 25-year emloyees..."

In light of these facts I am hard pressed to conclude that the Union has met its burden of justifying the breakthrough and its final offer on this issue is rejected.

(K) Welfare Benefits (Article VIII)

Here the Union proposes that the current language in the parties' agreement that allows the Joint Employers to require a doctor's statement to support an asserted illness when there is "sufficient reason to suspect that the (ee) did not have a valid health reason for the absence" be deleted, again seeks "day for day" basis for benefit accrual, seeks additional language that during an absence due to an injury on duty "there shall be no interruption of benefits, even during a period in which determination of status is taking place," and the inclusion of a new provision for "maintenance of benefits" such that all contractual benefits "shall be maintained throughout the life of this Agreement and benefit levels may not be decreased or altered as to represent a loss in any manner" and that "(s)hould the Employer desire to increase benefit levels, such modification shall be permissible."

In its post-hearing brief however the Union chose only to address the last element of its final offer described above. In so doing it asserts merely that in these critical economic times the concern that benefits might be reduced is real and therefore the Union ''seeks to maintain what it currently has..." The Joint Employers again urge retention of the status quo arguing that the maintenance of

[8] Thus where there is no connection between that argument and provisions of the Union's final offer, e.g., its "proof status" offer, the final offer is rejected.

benefits is superflous because all benefits in the Agreement "will be assured...for the duration of the Agreement."

While the Union's concern might be understandable, it has failed to produce record evidence that it is real. Rather, its argument and evidence is mere conjecture and speculative and does not support adoption of its final offer. I therefore decline to do so.

(L) Additional Benefits (Article IX)

With respect to Article IX the Union seeks three changes. First, it proposes that bereavement leave be applicable for the funeral of an employee's great-grandparents and his or her spouse's grandparents. Second, it proposes that any employee who attends court "for any work-related matter" be paid three rather than two hours pay and that overtime may be not be changed in order to avoid the payment of overtime. Third, that the Joint Employers "shall secure a supplemental insurance plan that will compensate employees for any delay in payment of benefits[9]." Again, the Joint Employers urge retention of the status quo.

In support of its proposal to expand bereavement leave the Union asserts only that because "people are living longer a broader definition of family is needed." While that may be the case, the Joint Employers point out that its proposal is supported by the internal comparables. Relying on that fact, I adopt the Joint Employers' final offer.

With regard to court time, the Union asserts that an increase in court time pay is necessary because "bid shifts and schedules are being routinely adjusted" to the detriment of bargaining unit employees. The Joint Employers on the other hand urge retention of the status quo. In doing so they assert that even if the Union is correct as to the nature of the problem, its proposed language does nothing other than increase the cost of court time and to the extent that it prevents the Joint Employers from changing schedules it might create a situation where an fatigued employee works his or her regular shift after having appeared in court earlier that day.

I decline to assess the possible impact of the Union's final offer as the Joint Employers urge me to do. Rather, the Union's assertions that "bid shifts and schedules are being routinely adjusted" simply does not rise to the level of an adequate record to conclude that the status quo is broken and that change is required.

Thus, I adopt the Joint Employers final offer[10].

(M) Leaves of Absence (Article X)

Here the Union proposes that insertion of new language in Article X that only those employees who are on a leave of absence in excess of ninety days will not earn sick pay or vacation credits. However, it chose not to address the issue in its post-hearing brief and asserted only at the hearing that "...we want some period of time before members start losing benefit accural" and that their final offer on this issue "...goes to what we have talked about...for purposes of injury on duty..." The Joint

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[9] The Union also repeats its insistence on "day for a day" accrual and, for the reasons cited *supra* I reject that portion of the final offer.

[10] Because the Union did not address the supplemental insurance proposal in its post-hearing brief I decline to do so.

Employers on the other hand urge retention of the status quo and rely on internal comparability in support of its final offer.

In light of the compelling evidence on internal comparability I find that the Joint Employers' final offer must be adopted.

(N) Training and Education (Article XIII)

The Union proposes in its final offer that new language be added to the parties' agreement that employees shall be allowed to qualify on as many as two approved auxiliary weapons and that the Joint Employers compensate such employees for ammunition during their transition to semi-automatic weapons. The Joint Employers urge retention of the status quo.

In support of its final offer the Union in its post-hearing brief merely asserts that because the Joint Employers require officers to quality with a weapon "the bullets should be provided by the employer as a condition of employment." The Joint Employers support the status quo because the parties' current agreement is silent on these issues, because in its view the Union has failed to provide any evidence "suggesting the existence even of a problem or disagreement..." on the issue, and because internal comparability warrants retention of the status quo.

In light of the evidence of internal comparability I adopt the Joint Employers' final offer.

(O) Miscellaneous (Article XIV)

With its final offer relating to Article XIV the Union proposes four revisions. The first is to strike the parties' current language allowing the Joint Employers to subcontract "where circumstances warrant" and that requires them to provide ninety day's notice of any such subcontracting, to discuss such with the Union and to "work with the Union in making every reasonable effort to place adversely affected employees into other bargaining unit positions." To replace that language the Union proposes a ban on subcontracting bargaining unit work. The second element of the Union's final offer is to change the contractual reference to the Credit Union to include the Union's local union affiliation. The third is to include a new provision that "employees shall be paid for all time spent in the service of the employer including pay for all time during "Fitness for Duty" examinations." Finally, it proposes new language that the Joint Employers "shall supply, at no cost to the employee, all required equipment including bullet proof and shank proof vests, OC spray or current variant, as well as all other equipment outside of the basic uniform."

On the issue of subcontracting the Union has merely asserted that "our members what to keep their work" and that "in this economic time it is no longer fanciful" to seek a subcontracting ban. Be that as it may, the Joint Employers have pointed out that the existing subcontracting language has been in the parties' agreements since at least 1988 and that the Union has provided no record evidence to support its proposed change.

I agree with the Joint Employers and find that the Union's concern, while understandable, is not supported by the record.

With regard to the Union's proposed change to reflect its local affiliation in relation to contractual references to the credit union, the parties are in agreement with respect to that change.

On the issue of pay while an employee is undergoing a fitness for duty examination the Union justifies its final offer by pointing out that such determinations can often require an extended period of

time and thus because the Joint Employers have no "sense of exigency" they should pay employees during that period. The Joint Employers argue that the status quo should be maintained because the Union's final offer may actually motivate a supervisor to decline to remove a troubled employee from service in order to avoid payment.

Again, I see no need to entertain such dire possible results of the Union's final offer. Rather, the Union has simply failed to establish a record that would justify the revision (e.g.s, How many times has this happened? How many employees were affected? What was the period of asserted delay in making fitness for duty examinations?)

On the issue of equipment the Union supports its final offer simply by asserting that there is federal grant money available to enable the Joint Employers to provide vests (although it makes no point with regard to OC spray or current variants or "other equipment outside of the basic uniform"). The Joint Employers on the other hand argue that such a requirement is not viable because it is vague, consideration of the issue is prohibited by Section 14(i) of the Illinois Public Labor Relations Act and is not supported by internal comparability.

In light of the internal comparables on this issue and the fact that availability of whatever federal funds might be available now cannot be counted on in the future, I adopt the Joint Employers' final offer.

AWARD

In light of the foregoing I find that all of the Joint Employer's final offers on all issues are adopted but for its final offer regarding secondary employment, that the Union's final offer on Credit Union be adopted, and that the parties' tentative agreements are adopted as well.

DATED: November 6, 2012

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J. Stuart Garbutt (For the Employers) **Kevin Camden (For the Union)**

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Robert Perkovich. Neutral Chairman