

IN THE MATTER OF ARBITRATION

BETWEEN

CITY OF HICKORY HILLS

AND

**METROPOLITAN ALLIANCE OF
POLICE HICKORY HILLS
POLICE CHAPTER #246**

ARBITRATION AWARD:

**ILLINOIS STATE LABOR
RELATIONS BOARD CASE NO.
S-MA-01-256
HICKORY HILLS POLICE DEPARTMENT**

Before Raymond E. McAlpin,

Neutral Arbitrator

APPEARANCES

For the Union:

**Thomas Polacek, Attorney
Richard Gibbs, Police Officer/ Lead Negotiator
Marc Benatis, Police Officer**

For the Employer:

**Vincent Cailkar, City Attorney
Alan Vocicka, Chief of Police**

PROCEEDINGS

The Parties were unable to reach a mutually satisfactory settlement of their negotiations covering the period May 1, 2001 through April 30, 2004 and, therefore, submitted the matter to arbitration pursuant to the Illinois Public Employee Labor Relations Act. The pre-hearing conference was held on February 12, 2002. The hearing was held in Hickory Hills, Illinois on May 15, 2002. At these hearings the Parties were afforded an opportunity to present oral and

written evidence, to examine and cross-examine witnesses, and to make such arguments as were deemed pertinent. The Parties stipulated that the matter is properly before the Arbitrator. Briefs were received on July 28, 2002.

STATUTORY CRITERIA

(h) Where there is no agreement between the Parties, or where there is an agreement but the Parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and the wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

1. The lawful authority of the Employer.
2. Stipulations of the Parties.
3. The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
4. Comparison of the wages, hours and conditions of employment of the employees involved in the Arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 1. In public employment in comparable communities.
 2. In private employment in comparable communities.
5. The average consumer prices for goods and services, commonly known as the cost of living.
6. The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical

and hospitalization benefits, the continuity and stability of employment and all other benefits received.

7. Changes in any of the foregoing circumstances during the pendency of the Arbitration proceedings.
8. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, Arbitration or otherwise between the Parties, in the public service or in private employment.
 - (I) In the case of peace officers, the arbitration decision shall be limited to wages, hours and conditions of employment and shall not include the following: (I) residency requirements; (ii) the type of equipment, other than uniforms, issued or used; (iii) manning; (iv) the total number of employees employed by the department; (v) mutual aid and assistance agreements to other units of government; and (vi) the criterion pursuant to which force, including deadly force, can be used; provided, nothing herein shall preclude an arbitration decision regarding equipment or manning levels if such decision is based on a finding that the equipment or manning considerations in a specific work assignment involve a serious risk to the safety of a peace officer beyond that which is inherent in the normal performance of police duties. Limitation of the terms of the arbitration decision pursuant to this subsection shall not be construed to limit the factors upon which the decision may be based, as set forth in subsection (h).

**GROUND RULES AND
STIPULATIONS OF THE PARTIES**

- 1. The Union will be the moving party and will proceed first and bear the burden of proof for those items it wishes to change in the current contract and which remain in dispute. The Employer will then present any evidence countering the Union position. Each side may rebut. The Employer will then move forward and bear the burden on those items it wishes to change in the current contract and which remain in dispute. The Union may then present any evidence countering the Employer's position. Each side may rebut. Each side will bear the burden of proving their respective contentions.**
- 2. The Arbitrator will sign subpoenas returnable before the Arbitrator and/or documents to produce witnesses that either side deems pertinent.**
- 3. Please note the Neutral Arbitrator's fee in interest arbitration is \$800.00 per day billable in ½ day increments. The Neutral Arbitrator does not bill any travel expenses within the Chicago Metro area nor any other fees other than in the fee statement.**
- 4. The Arbitration Panel in ISLRB Case No. S-MA 01-256 shall consist of Raymond E. McAlpin, Arbitrator. The parties stipulate to the jurisdiction of the Arbitrator to hear and decide the issues presented to it, with the exception of such reservations as may be specified in the parties' last offers of settlement.**
- 5. The hearing in said case will be convened on May 15 & 16, 2002 at Hickory Hills, Illinois. If additional days beyond the initial hearing are required for the presentation of evidence, the hearing shall continue on dates mutually agreed, and such other further dates as may be agreed upon by the parties. The requirement set forth in Section 1230.40(e)(4) of the Rules and Regulations of the Illinois State Labor Relations**

Board, that the hearing begin within fifteen (15) days of the appointment of the Panel Chairman, has been waived by the parties.

- 6. The hearing will be governed by the applicable provisions of the Illinois Public Labor Relations Act and rules and regulations promulgated hereunder.**
- 7. The hearing will be transcribed by a court reporter or reporters whose attendance is to be secured for the duration of the hearing by the City at the direction of the Arbitrator. The costs associated with the transcript will be split by the Parties.**
- 8. The parties agree that the Arbitration hearing involves "collective negotiating matters between public employers and their employees or representatives," and, therefore is not subject to the public meetings requirement of the Illinois Open Meetings Act, Ill. Rev. Stat. ch. 102, Sec. 41 et seq.**
- 9. All sessions of the hearing will be closed to all persons other than the Arbitrator; court reporter(s); representatives of the parties, including negotiating team members; witnesses; and observers who shall be limited to off-duty members of the bargaining unit represented by Chapter #246 and the Management staff of the Village of Hickory Hills (including elected officials).**
- 10. The parties agree that the following package of information shall be submitted by stipulation to the Arbitrator upon the convening of the hearing:**
 - a. The prior Agreement between Hickory Hills and Hickory Hills Police Association (Joint Exhibit 1).**
 - b. All agreed to changes in said Agreement, as initialed or signed off by the parties in the collective bargaining negotiations preceding the Arbitration hearing (Joint Exhibit 2).**

- c. Each party's last offer of settlement on or before May 8, 2002 on each of the issues including the comparables and the basis for the comparables to be considered and decided by the Arbitrator (Joint Exhibit 3). The parties will exchange last offers of settlement at least seven (7) days before the first day of the hearing, subject to the process set forth in Section 14(g) of the Illinois Public Labor Relations Act.
 - d. These Ground Rules and Stipulations of the parties (Joint Exhibit 4).
 - e. Comparables determined by each Party.
11. Post-hearing briefs shall be submitted to the Panel no later than thirty (30) calendar days from the receipt of the full transcript of the hearing by the representatives of the parties responsible for preparing the briefs. The post-marked date of mailing shall be considered to be the date of submission of a brief.

STIPULATIONS

1. The new contract will be dated May 1, 2001 through April 30, 2004.
2. The City will grant retroactivity to May 1, 2001 for items that would have been effective on that date.

COMPARABLE COMMUNITIES

The Parties agreed on the Village of Justice, City of Palos Hills, Village of Midlothian and Village of Lemont. The City would add to this list the Village of Worth, Village of Bridgeview and the Village of Chicago Ridge. The Union would add to this list the Village of LaGrange Park, the Village of Western Springs, the Village of Lyons, the Village of Willowbrook and the Village of Palos Heights. This Arbitrator has determined in other interest arbitration cases that comparability would include a number of factors, those being

geographic, size, tax base, hours and work duties, and labor market. The Arbitrator would note that there are a number of communities geographically proximate to Hickory Hills and of similar size which have been left off both lists. The Arbitrator has found in other cases that, where both Parties agree that a community should be put on the list of comparables or left off the list of comparables, unless there is an extremely good reason to the contrary, those decisions should be honored. And, in this case the Arbitrator can find nothing within the record of the case that would allow him to add communities that were deliberately left off both lists.

Within the Chicago area there are distinct geographic regions. Hickory Hills would be best placed in the near southwest region. The Union has proposed Willowbrook and Palos Heights, which certainly would belong in that region. They are both somewhat smaller than Hickory Hills, however, within a range that would be reasonable. Likewise, the City has proposed Worth, Bridgeview and Chicago Ridge, which share a number of the comparable factors. The Arbitrator will find that those five communities would be appropriate to include in the comparables list.

With respect to LaGrange Park, Western Springs, LaGrange and Lyons, these are in a different geographical sphere, that being the western suburban area. For that and other reasons, the Arbitrator finds that those four communities would not be comparable for use in this interest arbitration. Therefore, the Arbitrator has concluded that the nine communities listed above constitute the comparables for this interest arbitration.

ISSUES

<u>ITEMS</u>	<u>UNION POSITION</u>	<u>CITY POSITION</u>
2.1 Overtime/Work Period	6 on/3 off; 1 ½ for extra hours worked within 24 hours of taking time due. Delete FLSA work period. Payment 1 ½ rate for all hours worked due to schedule change	Status quo
2.7 Shift Switches	Shift switches in the Labor Contract	Status quo; same as general order 90-4-2
4.1 Grievance (b)(2) Authority of Arbitrator	Change the authority of the grievance arbitrator	Status quo
6.1 Wages	4.5% increase each of 3 years; delete provision on calculating years service for patrol officers hired on or before 11/1/89.	3.5% wage increase each year. Starting employees at higher rate if experienced.
6.3 Field Training Officers	Increase compensation from 1 to 2 hours for each 8 hours spent in training.	Status quo
6.7 Specialty Pay	\$600 to Master Firearms Instructor	Investigator's choice of \$100 pay per month or use of an unmarked police vehicle.
7.2 Retirement Health Insurance Option	City pay 50% of health insurance premium for retired employees	Status quo
8.1 Holidays	Add two	Status quo except switch Good Friday to Easter Sunday
8.2 Vacations	5 vacation days in the 15th year	4 vacation days in the 20th year
8.3 Sick Days	Add three; payment for sick days from 50% to 100% upon resignation or	Status quo

	retirement. Buy back of sick days from 50% to 100% of employee's current salary.	
8.4 Personal Days	Add two	Status quo
10.1 Degree Incentive	Increase various degree incentives.	Increase degree incentives by 25% across the board.

UNION POSITION

The following represents the arguments and contentions made on behalf of the Union:

While this bargaining unit has been represented in the past, this is the first contract involving the Metropolitan Alliance of Police. The Union argued that the prior representative had given up major concessions in past contract without quid pro quo's. The bargaining unit was unable to take advantage of its rights under Section 14 of the Act. The Parties have tentatively agreed to a number of issues. The remaining issues were presented for interest arbitration on 5/15/02.

With respect to the statutory criteria, the Employer has not argued that it has an inability to pay for any of the wages or other economic benefits as proposed by the Union. Likewise, there is no evidence that the lawful authority of the City is at issue.

Evidence introduced at the hearing revealed that the cost of living as measured by the consumer price index has had no substantial impact on the Parties' position, either with respect to past or proposed officer compensation. The City employees have consistently received wage increases in excess of the consumer price index. City employees have received increases from 3.5 - 4% during the terms of their contract. Therefore, the CPI has had

minimal impact on the City and its bargaining partners. The Union would argue that the Arbitrator would then utilize the following statutory criteria: welfare of the public, stipulations of the Parties, the benefits received by officers employed by comparable communities, the overall compensation for the affected police officers, and changes of circumstances.

With respect to the stipulations of the Parties, the Arbitrator has been presented with a number of tentative agreements reached through the negotiation process prior to interest arbitration (Joint Exhibit 2). The Parties have agreed on a number of comparable communities, therefore, those must be accepted by the Arbitrator for comparability studies. In addition, the Parties have made identical final offers for a number of sections. Since both Parties proposed the same language for these sections, these items should be treated as stipulations to their inclusion in the Collective Bargaining Agreement.

With respect to open issues—Section 2.1 Overtime/Work Period—currently officers bid for days off by seniority and rotate shifts every three months. The Union’s proposal would provide more stability allowing officers to plan better for vacations, holiday, and family functions, as well as providing a better opportunity to attend classes. The Union’s proposal would also provide compensation for officers when previously scheduled shifts are changed. Currently, officers experienced a change in schedules several times a year. These changes are made for the sole purpose of avoiding the payment of overtime, thus depriving officers of contractual benefits while disrupting previously scheduled off time. The Union’s proposal substantially reflect the Parties longstanding practice of providing additional protection from arbitrary and capricious scheduling decisions made with short notice by the Employer. These reasonable grounds support the Union’s final offer for arbitration on this issue.

Section 2.7 Shift Switches—currently police officers may switch teams for three month periods with the approval of both watch commanders and the Chief of Police. The denial of such requests can impact an officer’s attempts to attend school or to maintain other personal obligations. Such switching is generally allowed as a manner of normal practice. The expired agreement, however, does not provide specifically for the benefit. The Union simply wants to document and insure this benefit. The past practice of the Parties reveals an intention to maintain such a benefit and justifies the inclusion of the Union’s suggested 2.7.

Section 4.1(b)(2) Grievance Procedure—the Act specifically states that each Collective Bargaining Agreement must contain certain elements involving arbitration, specifically the prior Collective Bargaining Agreement limits the Arbitrator’s authority. It is well settled in law that, where the language of the contract is not clear, the Arbitrator may look outside the four corners of the Agreement for the purpose of ascertaining the intent of the Parties. The current language of the Agreement violates both the word and spirit of the Act by limiting the grievance Arbitrator’s authority to resolve interpretation issues. The Union’s proposal simply is aimed at providing covered employees with their statutorily protected rights.

Section 6.1 Wages—the Union is proposing 4.5% increase across the board for each year. The City is offering a 3.5% increase. The Union’s proposal will allow the officers to maintain the relative position among the Union’s comparable communities. Current officer wages at the top salary level are ranked relatively low. The Union’s offer will maintain the ranking of seven out of the eleven total communities for top salary throughout the term of the contract. When comparing the start and other step levels, the Union’s proposal will maintain roughly the same relative position from year to year at the corresponding seniority steps. The

City's proposal, however, would cause the Hickory Hills officers to slip in the rankings, as noted by the Union's exhibits.

In addition to the above, the Arbitrator must also take into account the unusually high amounts that Hickory Hills officers currently contribute to the cost of health insurance premiums. This is true whether a choice of HMO or PPO is utilized. Officers at top salary fall below the monthly average net income for comparable communities. The Union noted that on July 1, 2002 the City provided documentation for a change in health insurance plans which apparently resulted in a decrease in premium costs. Even so, police officers continue to contribute for health insurance an amount significantly higher than those paid by officers in comparable communities. The Union also noted that the new plan will result in negative changes in insurance benefits which include an increase in deductibles and patient co-payments. The City will achieve significant financial savings with much of the expense being passed on to the employees who are utilizing medical services. The impact of these contributions and lower benefits must be taken into account by the Arbitrator.

Finally, internal comparability supports the Union's position. Public works employees received a 4% increase and police sergeants received a step adjustment in 2001. This reflects a substantial percentage increase to sergeants' wages. Such increases reveal an intent by the City to treat police officers more poorly than other employees for the purposes of compensation.

Section 6.2 Field Training Officers—currently field training officers receive one hour of compensation at the affected officer's straight time hourly rate for each hour spent training a new officer. The Union proposed increasing this to two hours compensation. These FTOs

take on substantial additional responsibility and incur potential liability. More work time is required of an FTO, much of it undertaken while off duty and uncompensated.

FTOs must be initially certified and periodically must re-certify. FTOs must make sure that recruits are performing up to standards. FTOs spent significant time outside of their work day preparing for these duties and responsibilities.

Section 6.7 Specialty Pay—the Union proposes an inclusion of premium compensation for officers holding the position of Master Firearms Instructor and the City proposes a new specialty pay provision for officers assigned as Investigators. The Parties agreed that specialty assignments merit additional compensation. Of the 13 comparables, 9 provide compensation for officers assigned to certain specialties, including those presented by the City. The City does provide specialty compensation for certain public works employees. The Union is not adverse to the inclusion of an Investigator benefit and would certainly concede that such a specialty assignment deserves additional compensation. Master Firearms Instructors also deserve such considerations. All the comparability data does not necessarily support this proposal. The Union would refer to the testimony of Officer Gibbs regarding the additional work that is required for this certification.

Section 7.2 Retirement Health Insurance Option—the prior agreement allowed officers to convert a portion of accrued paid leave for the purposes of paying the cost of health insurance premiums following retirement. The Union proposes a new retirement health insurance benefit that would require the City payment of 50% until the officer reaches the age of 65 or becomes Medicare eligible. A review of the comparable communities supports the Union's proposal only where it seems to not provide some type of retiree health insurance

benefit.

Section 8.1 Holidays—the Union proposed two additional paid holidays. Comparable communities support the Union’s position. The average number of holidays among the comparable communities is 10.06. The Union’s proposal will place Hickory Hills squarely at the average. Even the City’s comparable communities are at an average of 9.57 holidays. Therefore, 10 holidays is closer to the average than the current 8. The public works employees receive 9.5 holidays. Non-represented employees receive 10 paid holidays. No evidence was presented by the City to justify treating police officers differently than other employees under those circumstances.

Section 8.2 Vacations—the Union proposed renewing a benefit that was negotiated away by the prior Collective Bargaining representative. The Union proposal proposes to return the benefits to members of the bargaining unit with 15 years of service. There was no showing that a quid pro quo was received by the Union for the loss of this benefit. The City offer does provide senior officers with additional vacation, however, it does not return those officers to the previous level instead allowing for additional paid leave only after 20 years, not 15.

The comparables illustrate the Union’s offer as more reasonable. The average vacation with 15 years is 173.38; with 20 years - 198.53. While the City’s proposal would approach the average benefit after 20 years, it would result in maintaining the 15 year officers at a substantially lower benefit. The Arbitrator would also note that non-represented Hickory Hills employees hired before August 14, 1986 receive 25 vacation days after completing 15 years of service.

Even utilizing the City’s list of comparables, the Union’s proposal for vacation benefits

is the more reasonable of the two offers. Two of the three municipalities with similar vacation benefits are contested comparables. This supports the Union's argument that the City has chosen comparable communities solely on the basis of low wage and benefit levels.

Section 8.3 Sick Days—the Union has proposed a number of modifications to the existing sick days section. With a change noted for the City of Justice, the City's own comparable communities average 16.4 sick days per year. The data shows that the Union is attempting only to achieve reasonable paid leave benefits through the bargaining process. The Union's comparables support the Union's offer and would leave the officers with a somewhat less than an average total amount of annual sick leave.

Section 8.4 Personal Days—currently Hickory Hills police officers do not receive paid personal leave. The City wants to maintain the status quo. The Union's proposal would provide covered officers with two paid days per year to be granted when reasonable. This is supported by the comparables wherein other officers receive an average of 1.5 personal days per year in addition to other types of paid leave. The City's position is not even supported by its own choice of comparable communities, most of which grant 2 or 3 personal days per year.

Section 10.2 Degree Incentive—both Parties have proposed to increase the existing degree incentive benefit for covered officers. The Arbitrator must determine which Party proposes the most reasonable increase to the benefit. The Union concedes that both Parties have made reasonable proposals with regard to the improvement and increase in the existing benefit.

When viewed in light of the statutory factors, the Union believes that its positions are more reasonable and rational when compared with other municipalities of similar size, nature,

geography and economics. The Union has justified its choice of comparable communities. The City's choices are inappropriate and subjective choosing only communities that support its position. The data regarding comparable communities and the overall compensation supports the Union's offer. The Union asked the Arbitrator to issue an opinion and award adopting the Union's final offers as set forth herein and for such other relief as the Arbitrator deems appropriate.

CITY POSITION

The following represents the arguments and contentions made on behalf of the City:

The Arbitrator in this matter is required to select one of the final offers on economic issues. On non-economic issues the Act encourages the Parties to reach their own conclusion and, where they do not, the Arbitrator has considerable latitude in fashioning a decision that would be what the Arbitrator considers the Parties should have reached during the traditional Collective Bargaining process. Interest arbitration is essentially a conservative process. It is not the function of the Arbitrator to embark upon new ground and create some innovative procedural or benefit scheme which is unrelated to the Parties' particular bargaining history. The award must flow from the Collective Bargaining process and the criteria established in the Act.

In this case the Union seeks to make substantial changes in the language and benefits of the Collective Bargaining Agreement. It is a well held principle in interest arbitration that the Party wishing to make such changes bears the burden of proof to show that those changes are appropriate. That Party must demonstrate that the old system or procedure has not worked, the existing system or procedure has created operational hardships for the employer

or equitable or due process problems for the Union, and, finally, that the Party seeking to maintain the status quo has resisted attempts at the bargaining table to address these problems. These are threshold questions for the Arbitrator to examine prior to considering the statutory criteria. The Parties should not be able to avoid the hard issues at the bargaining table in the hope that the Arbitrator will obtain for them what they could never negotiate themselves. The Parties should be encouraged to reach these types of agreements themselves. Those results would be better for the Parties than those imposed by an outsider.

In this case the Union has simply used the shotgun approach asking for many increased benefits in the hope that no arbitrator would decide every issue in favor of one Party. In this case there is no evidence to support any of the proposals of the Union, especially in light of the threshold criteria and arbitral standards specified. In most of the requested changes the City proposal is for a status quo. The onus is on the Union to present evidence that change is warranted. Simply wanting a change is not a reason. The tactic that is being used by the Union is to overwhelm the Arbitrator with proposals, most of which have no support in the comparables with the mission of winning some of the proposals based on a compromise decision. It is the burden of the Union to support its proposals with evidence, and the Arbitrator should deny every Union proposal where there is no such support.

With respect to the comparables there is no history as to which are the appropriate comparables. The Arbitrator should consider geographic proximity, population, equalized assessed valuation, property tax revenue, sales tax revenue, number of employees, number of department employees, medium family income, community of interest, and average home values. The 7 comparable communities proposed by the City are truly comparable and share

similar characteristics with Hickory Hills. There is no need to add any of the communities proposed by the Union as 7 comparables are more than sufficient to obtain an accurate indication of the labor market. All of the City's comparables pass the criteria indicated above where the Union's do not.

Those comparables identified by both the Union and the City should be accepted by the Arbitrator. The Union has proposed 5 communities which are north of the corridor identified by the City. The Union ignored the basic division of the Chicago area into distinct geographic regions. The communities proposed by the Union belong to the west central municipal conference, whereas those proposed by the City belong to the southwest municipal conference, which includes Hickory Hills. The police department of Hickory Hills has no interaction with communities north of the corridor, where there is much interaction with those proposed by the City. The other communities proposed by the Union do not share the criteria noted above.

With respect to the issues above, overtime/work period, the Union has presented a breakthrough issue to completely change the method of scheduling patrol officers. The current method has been in place ever since the first Collective Bargaining Agreement. The Union proposal would result in employees having 121.66 scheduled days off per year which would be an additional 14.66 days than the current Collective Bargaining Agreement. Such a breakthrough request should be supported by overwhelming evidence. Yet, the Union has introduced not one shred of evidence to support its proposed schedule change. Normal scheduling for all employees of the City is approximately 2080 hours per year. The Union wants its employees to be scheduled for 1946 hours per year. The reason for the request is for the Union members to have 4 days off. The City would note that outside comparables are not

supportive of the reduced scheduling. In addition, there are overwhelming arguments in opposition thereto. The City would be required to hire additional patrol officers. The City is currently at its maximum budgeted number of employees. There are no patrol officer slots available to be filled. Not only would the City have to pay Union employees the same wage for working 13.7% fewer hours, but also it would be forced to pay 2 additional patrol officers to maintain the same coverage.

As noted above, the Party requesting such breakthrough changes bears the burden of persuasion and must demonstrate a compelling reason to deviate from the current contractual terms. Such proof was not offered by the Union. There was no showing a need for such change or financial difficulties with the status quo. There was no showing by the Union of unreasonableness by the City in using the traditional work schedule. The status quo must be maintained in light of the principle that the Union should not be able to achieve through interest arbitration a benefit it could not achieve through negotiation with the agreement with the City. There is no way that the City would ever agree to reduce the patrol officer's schedule by 14 days per year and keep the wage schedule the same.

With respect to shift switches, the Union is asking for unlimited switching of shifts which would place patrol officers in charge of determining shift scheduling. The Union proposes no limit except that they would not be unreasonably denied. The ultimate result would be that grievance arbitrators would determine how shifts should be staffed by police officers in the City. The City's ability to insure a proper mix of experience on each shift would be severely compromised which would approach the concept that this would not be a mandatory subject of bargaining. The practical result of this proposal would be that the City

would be required to pay overtime that it would otherwise not be required to pay. Only one of the comparables proposed by the Union contains a similar provision. The justification by the Union does not contain anything that would have to do with the operational needs of the police department. There was no evidence that the City ever unjustifiably denied a shift change. Yet, the Union presents a radical proposal to change the status quo. The City's proposal was to incorporate the current language from general order 90-4.2 into the Collective Bargaining Agreement. The Union's proposal would have significant changes in that general order as it would be placed into the Collective Bargaining Agreement. The Union proposal is simply not fair and would reek havoc when scheduling and employee morale.

With respect to the authority of the Arbitrator, the Union has requested another language change that has been in existence for many years between the Parties. The Union has not supplied any support or any reason in the record for this request. The current language is legal and not prohibited by the Act. The Parties have the right to contract for the parameters of the arbitration process. The Union has not shown that the language is unworkable or that any hardship has resulted to them from this language. The current language is typical which limits the authority of the Arbitrator with respect to transactions outside the Collective Bargaining Agreement unless reduced to writing. The Union has not established any need for a change, therefore, the status quo is most appropriate.

With respect to wages, the Union has not presented any evidence that would justify its large wage increase proposal in light of the comparables and the consumer price index. The interest and welfare of the public are best served by the City's final offer. This unit has enjoyed wage increases in excess of the consumer price index and in excess of the increases

enjoyed by the citizens of the community. Since 1998 the police have received wage increases of not less than 3.5% per year. Assuming that the general population has experienced an average salary increase driven by the CPI, the police have enjoyed 6.5% more than average citizens during that period. The Union has not made a claim of increased productivity or changed circumstances which somehow supports increases larger than the City proposal. The City has an interest in obtaining the most benefit to the public it can out of each and every tax dollar it spends. Wage increases of 4.5% in this economy are unheard of.

External comparability—the wage increase proposed by the City would maintain the ranking of Hickory Hills with respect to the comparables. Its proposal would maintain Hickory Hills as the leader in wages. The City proposal will not have the effect of pushing its officers toward the middle of the pack but will maintain their rank. The City proposal will maintain the Hickory Hills ranking of the highest paid from the 2nd through 19th year of service. The police in Hickory Hills reach maximum compensation faster than any other police department. The Union has not demonstrated that Hickory Hills police salaries would deteriorate under the City’s proposal. The City has not failed to offer competitive rates nor has it been unable to attract and retain qualified police officers. The Union proposal would widen the gap between the City and other comparables. Even so, it is the City’s position that it does not have the obligation to maintain its wage leadership.

The Union’s wage proposal does not even have support in the Union’s comparables. The City’s proposal maintains the police substantially above the average and one of the wage leaders. The fact is that the Hickory Hills police have been the wage leaders for many years regardless of which comparables were used.

The internal comparables support the City's position. The police command personnel received wage increases of 3.5% for fiscal 5/01/01 to 4/30/02. The sergeants did receive a \$2,000 step adjustment because the gap in pay from the highest paid patrol officer to the lowest paid sergeant was insufficient. The Union proposal would have the effect of again narrowing the gap and would be counter productive. The City would note that the proposal for the first fiscal year of the Collective Bargaining Agreement is also internally comparable with the radio communications operators under their Collective Bargaining Agreement. The wage increase paid to the Department of Public Works is 4%, however, that was for a 4-year Collective Bargaining Agreement. The salary increase for police command personnel for the 2nd fiscal year was 3%. The City's proposal exceeds that already given its command personnel. The increases given other employees within the city favor the selection of the City's wage proposal. The Union's proposal substantially exceeds any wage increase granted to City employees.

Regarding the consumer price index, there are two arbitral approaches - one is to look prospectively and one is to look retroactively. The normal approach is to judge the final offers on the basis of increases in the CPI during the last years of the Parties' most recent Collective Bargaining Agreement. Under this approach, the final offer of the City is the one that is favored.

The City has proposed paragraphs B and C which define how years of service are calculated and allow the City to start a certified police officer at a higher rate than the first year of service. The City would argue that this is more beneficial to the patrol officers. The City has also proposed to allow it to place new officers who meet certain criteria at higher

steps. This would be an advantage to the City and to the Union. There are no negative effects on other Union members as years of service for other benefits would be based on the actual amount of time employed. The wage proposal of the City is supported by every arbitral consideration. There are insufficient comparables for the 2nd and 3rd years of the wage proposal but certainly a 4.5% increase is above the increases granted by virtually every municipality.

With respect to field training officers, the Union is proposing 100% increase in the compensation for a field training officer without any support. The City agrees that the FTO is an important position, but the additional current compensation is appropriate. The majority of the Union comparables do not have any additional pay for the FTO, and of the four that do, three of them have compensation which is less than paid by the City.

With respect to specialty pay, the City has made a proposal for Investigators and the Union has made a proposal for Master Firearms Instructors. The City objects to the Union's division of specialty pay into two separate sections. The Union's proposal to split specialty pay is no different than a proposal to split wage increases into three different sections. No Arbitrator should allow the Union to split specialty pay issues. The proposed stipend for the position of Master Firearms Instructor has no basis in the actual operation of the Hickory Hills Police Department. This certification that comes from an outside agency and to provide additional compensation for those who simply hold the MFI certification without being appointed Range Officer makes no sense. The pay proposed has no support in any of the comparables. The Union's own comparables show that only one municipality pays additional for Range Officers' duties. Therefore, this Union proposal should be rejected by the

Arbitrator.

With respect to retirement health insurance, the City noted that it currently does not make any contribution to retirement health insurance. This proposal again does not have any support within the comparables. Even the majority of Union comparables does not provide for Employer-paid health insurance. Because this is an entirely new benefit, the Union has the responsibility to demonstrate reasons to institute the change. The Union has provided no such reasons. The cost of this benefit would be astronomical and a burden on City finances. The Union has not offered any justification to support a change, nor has it offered any quid pro quo. Since interest arbitration is a conservative mechanism of dispute resolution, this proposal should be denied.

With respect to holidays, the City has provided reasons to change the Friday before Easter holiday to Easter Sunday. It would make it easier to staff on that holiday. The Union has requested a 25% increase in the number of holidays from eight to ten. The effect on the City is the same no matter which holiday is chosen. Police officers receive an extra twelve hours of pay for each designated holiday worked and eight hours of pay for each designated holiday not worked. The comparables of the City show that three departments do receive ten holidays. The rest of them receive less. The City would deviate from the average by one holiday. There is no evidence that the employees should receive more holidays than the average, nor is any quid pro quo provided. Since eight holidays are the status quo, the City must prevail. The City would never agree to ten holidays in negotiations. The City would note that some of the comparables proposed by the Union include floating holidays in excess of eight holidays. That is simply another day off similar to a personal day and provides much less cost

to the City than the Union's proposal. As long as the City's proposal is clearly within the zone of reasonableness, the Arbitrator should favor the status quo.

With respect to vacations, both sides have made vacation proposals. The internal comparability shows that the police unit would enjoy a greater vacation benefit than others employed by the City. The City would note that this unit did have higher vacation benefits but gave that up as a quid pro quo for other increased benefits in past negotiations. The City's comparables show that this unit would receive more vacation benefits except for the 15th through the 19th year and above average benefits in the 2nd through the 7th year and the 10th through the 14th year. The Union's proposal would result in its members receiving greater than average vacation benefits during the 15th through 30th year. The City proposal provides employees with benefits better than most comparables. Therefore, the City proposal should prevail.

With respect to sick days, the Union has again proposed a 25% increase. Not one of the Union's comparables has 15 sick days. The Union comparables average 12 sick days, which is the same as the City's proposal. There is no support for the Union request of 15 sick days. The City's proposal is also supported by internal comparability. All City employees have 12 sick days per year. The Union has not met its burden of supporting its proposal. The Union proposal would also increase the payment for unused sick days from 50% to 100% upon resignation, retirement or buy-back of sick days. Sick days are not an alternate means of compensation but a benefit to be used when an employee or family member is sick. None of the comparables proposed by the Union have as generous a buy-back proposal as that which is requested by the Union. That alone should be sufficient to deny the change in sick days.

With respect to personal days, the Union is proposing two personal days up from zero in the old contract. The City would note that employees may use a specific number of sick days as personal days. There is no overwhelming support even among the Union comparables for this proposal, even when combined with sick days. The Union comparables have a benefit less than, or the same as, the City. The Union has not cited any problems or hardships among the employees. The City would never agree to a new benefit not included within sick days. Therefore, the Arbitrator cannot embark upon new ground by implementing the Union's proposal.

With respect to degree incentive, both sides have proposed increases for degree incentives. Again, the Union has requested an increase without presenting any evidence to support or provide a reason for the increase. The Union's comparables show only one other employer offering a degree incentive, and in that case it is less than the proposal of the City. The Union is asking for a substantial increase in the benefit that is not even enjoyed by a substantial number of City employees in other bargaining units. The City would never agree to such a substantial percentage increase in this benefit, let alone rolling the amount of this benefit into the base wage.

The Union has submitted multiple proposals which would have its employees working substantially fewer days at a much higher pay rate. The Union is not entitled to any change in the status quo regardless of how many proposals it makes. If the Union submits ten bad proposals, then all ten must be rejected. The City has not proposed taking away benefits from employees where those benefits are higher than other departments and has shown good faith throughout the Collective Bargaining process. Interest arbitration is a conservative process

and must not yield results different from that which could be obtained through negotiations. The Union wants to ignore the realities of the American economy where unemployment is on the rise and the economy is deteriorating. The City's proposals are more realistic and supported by the comparables, and all of them at least maintain the status quo that the Union employees are the highest paid police department with respect to the comparables.

DISCUSSION AND OPINION

The role of an Arbitrator in interest arbitration is substantially different from that in a grievance arbitration. Interest arbitration is a substitute for a test of economic power between the Parties. The Illinois legislature determined that it would be in the best interest of the citizens of the State of Illinois to substitute compulsory interest arbitration for a potential strike involving security officers. In an interest arbitration, the Arbitrator must determine not what the Parties would have agreed to, but what they should have agreed to, and, therefore, it falls to the Arbitrator to determine what is fair and equitable in this circumstance. The statute provides that the Arbitrator must pick in each area of disagreement the last best offer of one side over the other. The Arbitrator must find for each open issue which side has the most equitable position. We use the term "most equitable" because in some, if not all, of last best offer interest arbitrations, equity does not lie exclusively with one side or the other. The Arbitrator is precluded from fashioning a remedy of his choosing. He must by statute choose that which he finds most equitable under all of the circumstances of the case. The Arbitrator must base his decision on the combination of 8 factors contained within the Illinois revised statute (and reproduced above). It is these factors that will drive the Arbitrator's decision in this matter.

Prior to analyzing each open issue, the Arbitrator would like to briefly mention the concept of status quo in interest arbitration. When one side or another wishes to deviate from the status quo of the collective bargaining agreement, the proponent of that change must fully justify its position, provide strong reasons, and a proven need. It is an extra burden of proof placed on those who wish to significantly change the collective bargaining relationship. In the absence of such showing, the party desiring the change must show that there is a quid pro quo or that other groups comparable to the group in question were able to achieve this provision without the quid pro quo. In addition to the above, the Party requesting change must prove that there is a need for the change and that the proposed language meets the identified need without posing an undue hardship on the other Party or has provided a quid pro quo, as noted above. In addition to the statutory criteria, it is this concept of status quo that will also guide this Arbitrator when analyzing the respective positions.

The City noted that the Arbitrator has more latitude when dealing with “non-economic” proposals. The Arbitrator has found over the years that the line between economic and non-economic is very blurred. An effective argument can be made that most of these “non-economic” proposals can and do have economic consequences. In addition, interest arbitration is set up to encourage voluntary settlement. This Arbitrator has concluded that in the absence of the most extraordinary circumstances it is the Parties that should determine their respective proposals either of which would then be included in the Agreement.

Prior to the analysis of the various items in dispute in this case, the Arbitrator would note for the record that it is clear from the Union’s proposal that the bargaining unit has felt that over the years it has not been properly represented. This undoubtedly caused it to change

representatives for these negotiations. The Arbitrator would, however, say to the bargaining unit that interest arbitration is an essentially conservative process. The Arbitrator is bound by the criteria placed upon him by the State of Illinois and the Parties respective positions.

The criteria for change, as noted in the above paragraphs, are difficult to achieve. Quantum leaps in interest arbitration are, therefore, difficult to attain. The Collective Bargaining/Interest Arbitration process in the public sector is generally one of small steps over a period of time to achieve an overall goal except under the most extraordinary circumstances.

Finally, before the analysis the Arbitrator would like to discuss the cost of living criterion. This is difficult to apply in this Collective Bargaining context. The weight placed on cost of living varies with the state of the economy and the rate of inflation. Generally, in times of high inflation public sector employees lag the private sector in their economic achievement. Likewise, in periods of time such as we are currently experiencing public sector employees generally do somewhat better not only with respect to the cost of living rate, but also vis-a-vis the private sector. In addition, the movement in the consumer price index is generally not a true measure of an individual family's cost of living due to the rather rigid nature of the market basket upon which cost of living changes are measured. Therefore, this Arbitrator has joined other arbitrators in finding that cost of living considerations are best measured by the external comparables and wage increases and wage rates among those external comparables. In any event, both sides have agreed that the wage increases for this bargaining unit would exceed the cost of living percentage increases no matter what source.

SECTION 2.1 OVERTIME/WORK PERIOD

As with many of the items in this matter, it is the Union that is proposing a deviation

from the status quo. There is no showing in the record that this proposal has met any of the criteria for changes in the status quo particularly with respect to the comparables. The Arbitrator would note, however, that as part of the Union's proposal there is some concern about what they consider to be arbitrary and capricious scheduling decisions made with short notice. There is insufficient showing that the Employer has abused its discretion. It may have been beneficial to this bargaining unit had it concentrated on that part of its proposal rather than trying to make a breakthrough change which has little support in the record of this case. However, given the status of the respective positions, the Arbitrator finds that the status quo will be maintained with respect to this item.

SECTION 2.7 SHIFT SWITCHES

Again, as with the above, the Arbitrator finds that the bargaining unit has taken legitimate concerns a step too far in terms of its proposal. The Arbitrator cannot understand why the bargaining unit would want what is essentially a mutually beneficial practice not to continue. The Arbitrator would also understand why the City would be very concerned about expanding this right as proposed by the bargaining unit. Therefore, the Arbitrator will order the Parties to include general order #90-4-2 in the Collective Bargaining Agreement. This will allow the Parties to work on this provision in subsequent Collective Bargaining negotiations while maintaining the status quo.

SECTION 4.1 (b)(2) GRIEVANCE PROCEDURE AUTHORITY OF ARBITRATOR

With respect to this proposal, the Arbitrator finds that the current language in the contract pretty much restricts a grievance arbitrator from fashioning an appropriate award particularly when considering language which may be unclear or ambiguous. It is a generally

held principle in arbitration that parol evidence may be considered by grievance arbitrators under those circumstances. Certainly where the language is clear and unambiguous, the Arbitrator's authority is very much restricted to that language despite his/her personal feelings. To blanketly deny the Arbitrator the ability to consider such parol evidence in the face of ambiguous language does not have a place in a modern Collective Bargaining Agreement. In a case such as this, the Arbitrator finds that the moving Party does not specifically have to show a hardship but can rely on the potential for hardship during the term of this three-year agreement. The Arbitrator finds that it is the Union's proposal that most closely meets the criteria contained within the Act.

SECTION 6.1 WAGES

In the public sector arena the Parties are very much a part in their respective wage proposals. This Arbitrator over the years, particularly with respect to units that generally have longevity or step increases, has focused on the maximum or top range of pay. It is very difficult to make comparisons when the step and/or longevity increases are all over the place.

With respect to the first year of the contract including all nine comparables, the City is proposing a top rate of \$53,268. The Union is proposing a top rate of \$53,783. The average is \$52,315. It is easy to see that both proposals are well above the average for the comparables.

This Arbitrator has always looked at actual dollars paid where possible rather than % increases particularly in the external comparables.

For the second year of the contract, the comparables for which we have data has shrunk to five, not what we would like to see, however, enough to be instructive. The average for the five communities which have settled contracts for that period is \$54,334. The Union

has proposed a top rate of \$56,203. The City has proposed a top rate of \$55,133. Again, the City's proposal and the Union's proposal are well above the average.

For the third year of the contract, there is simply not enough data to be instructive. Given the information that we have in this matter, the external comparables do somewhat favor the Employer.

With respect to the internal comparables notwithstanding the step increase for the sergeants, the internal comparables do favor the Employer's position.

With respect to the interest and welfare of the public, it is certainly in the interest and welfare of the public to keep the tax rates as low as possible in keeping with providing appropriate services to the public. On the other hand, it is to the interest and welfare of the public to have a police force which feels that it has appropriate wages and benefits particularly as compared to other like police departments. The Arbitrator finds there is nothing within this particular criterion that would clearly favor either side's position.

With respect to the consumer price index, this item has been discussed above. There is nothing within this criterion that would be determinative in this matter.

With respect to the insurance contribution, the Arbitrator has always felt that this should be a separate item. The Arbitrator would note that recently these contributions have gone down with a change in carrier, although the Union argued that this is offset by additional co-payments. The Arbitrator is charged with looking at the overall compensation of the officers with respect to comparables. When doing so, the Arbitrator finds that, even including the higher insurance contribution rates, the overall compensation factor does not particularly favor either side's position. The Arbitrator would suggest to the bargaining unit that, if it feels

that at the end of this contract its monthly insurance contribution is inappropriate, it make that a separate proposal to the City.

With respect to 6.1 (b) and (c), this is part of the City's wage proposal and, therefore, will be accepted as such. The Arbitrator finds that, with respect to the criteria, it is the City's wage proposal that most closely meets the criteria as provided in the Act.

SECTION 6.2 FIELD TRAINING OFFICERS

The Union has proposed an additional hour of pay for time spent as a Field Training Officer. The Employer argued that there is no support in the comparables, and that FTO is a voluntary position. Even though the City is essentially correct, that there is not a lot of support in the comparables, the Union has made a number of arguments which have convinced this Arbitrator that it has made an effective case for this proposal. The interest Arbitrator is charged with not only trying to determine what the Parties would have agreed to, but also what they should have agreed to, and this is one area where the Union's arguments have more than persuaded this Arbitrator that its proposal is appropriate. Therefore, the Arbitrator will find that the Union proposal should be included in the new Collective Bargaining Agreement.

SECTION 6.7 SPECIALTY PAY

The Employer has proposed that Investigators would receive \$100 pay per month for use of an unmarked police vehicle. The Union is not opposed to this proposal and, therefore, it will be included in the Collective Bargaining Agreement.

The Union has also proposed specialty pay for Master Firearms Instructors. The Union's proposal would pay additional compensation merely for holding the certifications.

There is nothing in the comparables that would support the Union's position. Unlike the Field Training Officer, there are no arguments in the Union's case that would allow this Arbitrator to conclude that this is an item that the Parties should have agreed to.

SECTION 7.2 RETIREMENT HEALTH INSURANCE OPTION

The Union has proposed that the City pay 50% of the cost of the health insurance premium for retired officers until they reach age 65. Currently, there is no such provision in the Collective Bargaining Agreement. Since police officers tend to retire at an earlier age, this would be a particularly expensive item for the City. A review of the comparables shows that there is no overwhelming support for this proposal, nor has the bargaining unit been able to meet any of the other criteria for change in the status quo. Therefore, this proposal will not be part of the new Collective Bargaining Agreement.

SECTION 8.1 HOLIDAYS

The Union has proposed the addition of two new paid holidays. There is some support within the comparables for this proposal. The City argued that this is merely a way of boosting overall compensation, and there is significant merit to this argument. While the Arbitrator is going to deny the Union's proposal in this section, he will take its arguments into account when we get to the personal days proposal. There is nothing in the record that would allow the Arbitrator to change the Good Friday holiday. City convenience is not enough to effect a change.

SECTION 8.2 VACATIONS

The Union has proposed to return the bargaining unit to the vacation level that this bargaining unit enjoyed up and until five or six years ago. The testimony and record in this

case is somewhat spotty as to how this occurred. The Arbitrator notes that the City has proposed a significant increase in vacation. A view of the comparables shows a mixed bag. The City is ahead of the curve for some years and behind the curve for other years. Overall, given the internal and external comparables, the Employer finds that it is the City's position that most closely follows the criteria in the Act.

SECTION 8.3 SICK DAYS

The Union has proposed to increase sick days from 12 to 15 annually and a number of other changes in the sick leave provisions. Excluding Justice, which the Arbitrator finds is an anomaly, the comparables do not favor the Union's position. There is nothing within the record that would allow this Arbitrator to conclude that this and the other sick leave proposals were items that should have been agreed to as is required under the status quo concept. Therefore, the Employer's position will be part of the new Collective Bargaining Agreement.

SECTION 8.4 PERSONAL DAYS

The Arbitrator had determined not to accept the Union's position with respect to holidays based somewhat on the Employer's contention that this was merely a way of raising wages. When combining this request with the holiday proposal and other sick leave proposals, the Arbitrator finds that there is persuasive support for the Union's position within the comparables when combined with Holidays. The Union's proposal allows the bargaining unit to have time off similar to the comparables without causing the pay problems that the City argued in the holiday section. Therefore, the Union's position with respect to personal days will be included in the new Collective Bargaining Agreement.

SECTION 10.1 DEGREE INCENTIVE

The City has proposed a 25% increase in the degree incentives. The Union has proposed somewhat higher incentives. The Arbitrator finds that the City's position is the more appropriate based on the comparables and is more reasonable based on the criteria in the Act. Therefore, it will be the City's proposal that will be included in the new Collective Bargaining Agreement.

AWARD

Under the authority vested in the Arbitrator under the Illinois Public Employees labor Relations Act, the Arbitrator selects the last best offers item by item as noted above.

The Arbitrator directs that those provisions noted above along with the predecessor agreement, as modified by the tentative agreements previously agreed to, will constitute the Collective Bargaining Agreement from May 1, 2001 through April 30, 2004.

Dated at Chicago, Illinois this 9th of September, 2002.

Raymond E. McAlpin, Arbitrator
