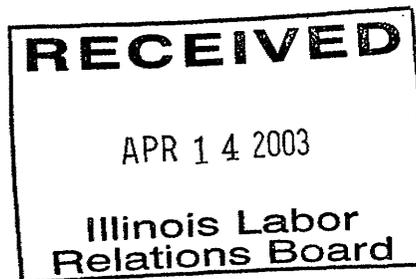


**ILRB  
#259**

**BEFORE  
JAMES R. COX  
ARBITRATOR**



**VILLAGE OF SCHAUMBURG**

**and**

**METROPOLITAN ALLIANCE OF POLICE  
CHAPTER 195**

**INTEREST ARBITRATION  
2002-2005 LABOR AGREEMENT**

**S-MA-02-102**

**DECISION AND AWARD**

The Hearing in this matter was conducted by the Arbitrator November 13, 2002 in Schaumburg, Illinois. Attorney Joe Mazzone represented the Union and the Village case was presented by their Attorney, Ted Clark. Upon receipt of the Transcript, each Counsel filed a comprehensive Post-Hearing Brief in late January 2003. This Award is issued in accordance with applicable provisions of Section 14 of the Illinois Public Labor Relations Act.

Following efforts to reach complete agreement during their 2002-2005 Collective Bargaining Negotiations, the parties brought 10 unresolved issues to Interest Arbitration. Three of these issues were stipulated to be non economic – Secondary Employment, Shift Selection and Drug and Alcohol Testing (Article 30). The parties agreed that whether of not an issue dealing with a 6/3 work schedule (Section 14.2) is an economic issue as contended by the Village would be for the Arbitrator to determine. The remaining six issues were stipulated to be economic.

**COMPARABILITY GROUPS**

The Union proposes a ten municipality group while the Village lists nine comparable communities. There are six common comparables. Both parties have selected Arlington Heights, Des Plaines, Elgin, Elk Grove Village, Hoffman Estates and Palatine. In addition to those six, the Union considers Rolling Meadows, Naperville, Bolingbrook, and Buffalo Grove to have Departments in comparable municipalities. Hanover Park, Mt. Prospect and Streamwood complete the list of similar communities selected by the Village.

**NON ECONOMIC ISSUES**

**DRUG AND ALCOHOL TESTING**

**Final Offers**

The Village proposes the addition of random drug and alcohol testing to the Contractual Substance Abuse Program. This new procedure would, effective January 1, 2003, give

Schaumburg a right to conduct random drug and alcohol testing up to four times per calendar year provided that the total number of such tests did not exceed one quarter of the total number of sworn Bargaining Unit employees. The group of employees subject to random selection for testing would include all sworn members in the Bargaining Unit. The selection process would be administered by an outside contractor.

The Union would maintain the status quo on this issue.

### **Present testing**

Existing drug and alcohol testing language permits both limited random and reasonable suspicion drug testing. The limited random testing authorized is duty related and involves tests of those *“employees who are regularly assigned to special assignments (including temporary full-time assignments) relating to narcotics and only during the period of time they are so assigned and any random testing shall be limited to testing for proscribed drugs ...”*. Testing is undertaken on dates and at times designated by the Chief and employees subject to the testing are those on duty on the date and time designated by the Chief. It is required that a Union Representative must be advised of the date, time and place for the testing as well as the names of the employees to be tested. No employee is presently subject to random testing more often than twice during any calendar year.

Reasonable Suspicion Testing was part of the initial negotiated program in 1998 while Limited Random Testing commenced as a consequence of the parties 1999 Contract Agreement.

### **Comparables**

There is little support in the comparables for Random testing. Among the nine municipalities which the Village considers comparable with Schaumburg, only two – Streamwood and Elgin – have Agreements that provide for random testing to the degree sought here. Des Plaines permits such testing during an employee’s probationary period. Palatine permits random testing in connection with a drug/alcohol rehabilitation program.

Addressing internal comparables, the Union asserts that, while the Public Works Unit does have random testing, several employees in that Unit, as a condition of maintaining their commercial driver’s licenses, are subject to such testing. MAP and the Village have added random testing to their recent Command Unit Labor Agreement as a consequence of an Arbitration Award. Both parties had final positions which provided for such testing. In those negotiations there was a significant economic adjustment for personnel in that Unit not relevant here. It was not shown to have been a quid pro quo for random drug testing.

### **AWARD**

As shown above, there are relatively few comparable municipalities currently requiring random testing for Officers not assigned to narcotics. More importantly, there is a lack of evidence of circumstances which would justify an expansion of the existing limited random drug testing program.

There is no indication that there has been any incident which brought about reasonable suspicion testing. Arbitrator Briggs noted in his February 1998 Award in the Schaumburg Firefighter Unit denying random testing that the parties had *lived under* reasonable suspicion

testing for eight years and that "neither reported in these proceedings the existence of any problems associated with it – safety related or otherwise". The same situation exists here.

While random testing is contractually required of Schaumburg Command Officers, there was no evidence of what Arbitrator Briggs may have considered which warranted the change which came about from his February 2002 Award in the Command Unit. At that time the random testing issue was submitted to him, there would have been Command personnel supervising Officers contractually subject to Limited Random Drug Testing.

For these reasons – lack of problems and comparability - the final position of the Union is adopted.

## SECONDARY EMPLOYMENT

### Final Offers

A recently revised Secondary Employment Policy became effective May 1, 2002. The Union seeks to incorporate that Policy into the Contract and add provisions that, should Schaumburg thereafter wish to make a Policy change, it would have to negotiate the terms of that change with the Chapter through a Committee comprised of six members, three from the Chapter and three from the Employer. Should the Committee be unable to reach a unanimous decision, the status quo shall remain in effect until the expiration of the Labor Agreement.

This Union proposal does not seek to alter terms in the existing policy but does have the objective of maintaining the Policy in effect for the term of the Contract so that their membership could make outside employment plans with assurance that secondary employment conditions would not be changed.

The Village proposes a Side Letter under which they would have a right to make modifications in that Policy on condition that they give prior notice of sought changes to the Schaumburg Police Department Policy Review Committee.

MAP calls my attention to Article 14.2 language where there is a mechanism similar to what they propose here which may be used for dealing with certain changes in shift schedules that are set forth in the Contract. The Village responds that there is a difference between an interim modification of mutually agreed upon contract language and a Policy revision. They suggest a more reasonable alternative would be the resolution reached dealing with In Squad Video Policy where changes may not be made "without first submitting such proposed changes to the Schaumburg Police Department Policy Review Committee."

### Comparables

A review of comparables submitted by both parties shows that in most communities, secondary employment is subject to Department approval. These jurisdictions include Arlington Heights, Des Plaines, Elgin, Elk Grove Village, Hoffman Estates, Naperville, Palatine, Bolingbrook and Rolling Meadows. In Buffalo Grove there is a restriction that officers may not work off-duty for a business that has an alcohol association.

In Elk Grove Village, the Chief may restrict such employment *in the best interests of the Department* and off-duty employment is subject to his prior written approval. There is a requirement in Hoffman Estates that such employment be subject to written approval of the Chief with the condition that his *“approval will not be unreasonably withheld or the proposed employment will not present a conflict of interest or infringe on the employee’s ability to do his job for the Village.”*

In Mount Prospect current secondary employment restrictions *“remain in full force and effect during the course of the Agreement”*. This is the only Department among the comparables where an existing policy may not be changed during the term of a Labor Contract, one of the consequences were the MAP proposal incorporated into the Contract here.

According to the evidence, there has been input from the Union before changes in the Secondary Employment Policy have been made and the Policy has been frequently altered after discussions with the Union. Modifications were made in 1998, 2000 and November 2001. The most recent revision was May 1, 2002 when the latest Policy was developed after meetings of the Schaumburg Police Department Review Committee. There is current dissatisfaction with the latest restrictions on working security. One modification addressed working for a rent credit at an apartment complex.<sup>1</sup> There have been Policy changes in 4 of the past 5 years. This is the primary basis for the Union Proposal. With the advent of the new 6/3 schedule there may be more secondary employment.

#### AWARD

It is significant that the Department has only recently revised the Policy after Department Policy Review Committee study and, while there currently is dissatisfaction with restrictions on working security, the Union proposal would not alter those changes but would only prevent further changes in that policy during the term of the Agreement. The Schaumburg Attorney has stated that the Village did not anticipate any changes during the term of this Agreement.

There was no assertion that the Union has not had an opportunity for effective input into the Policy. They are concerned about instability and its effect on their secondary employment decisions. As they spelled it out, the Village has a *“propensity to make changes just to make changes”*.

The remedy for the Union is to use the Grievance procedure if they view application of a policy provision unreasonable. There is no support from the comparables in for a freeze in the right of the Village to make changes in any Work Rule or Policy over the term of the Agreement. The Policy has not been mutually negotiated. There is support for the Union Final Offer from just one comparable – Mt. Prospect.

There is also no support for Village proposed language in any comparable. Such language could arguably limit the right of the Union to contest changes of which they had been given notice as a matter of Contract.

There is no compelling reason to add either the Union or the Village proposed language to the Contract. The status quo shall prevail.

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<sup>1</sup>Officers must produce evidence that they are being compensated for their security work they are to perform.

## SHIFT SELECTION

### Current procedure

Shift/Beat Selection is administered pursuant to a 1996 Agreement. Since at least that time, unlike secondary employment, it has been bargained by the parties.

Seniority is a matter of special concern for bargaining unit employees. At Schaumburg there has been relatively long standing seniority application in shift selection. What may have begun as a "trial" has continued about six years although I am mindful that Section 14.3 of the Contract does state, "*The parties agree that shift and beat assignment shall be handled on a trial basis in accordance with the Side Letter attached to this Agreement.*".

Officers who have met designated expectations in the previous year participate in a first selection round and choose shifts/beats based on seniority. Those who have received "*do not meet expectations*" ratings in their annual reviews make selections from the remaining shifts/beats based on their seniority. The Shift Selection Side Letter provides for a Joint Shift Rating Review Committee that establishes criteria and procedures for rating an officer's beat performance. Criteria varies according to the nature of the beat.

The Record supports the Village assertion that there is presently an imbalance of experience from shift to shift. There is special concern that, while the afternoon shift has the unquestionably highest volume of call activity, it is primarily staffed with officers who do not have experience comparable with those on other shifts. In addition to the law enforcement value in having a mix of experience on each shift, the present situation limits opportunities for cross training and personnel development.

While the Union makes it clear that the present process has the effect of making an individual officer vulnerable to loss of his shift should his performance fail to meet expectations, the essential problem as advanced by the Village is a perceived inability to schedule experience and specialties across the various shifts in order to be efficient in meeting operational needs. The Village, however, does have some degree of residual authority with respect to both assigning Specialists and meeting the mission of the Department.

The first paragraph of the Side Letter states that shift selections will be made by seniority "*as long as there are enough specialty positions on each shift.*" It is further provided in paragraph 9 that the Chief retains "*the inherent right to reassign officers, either temporarily or otherwise, if the Police Chief determines that is needed to carry out the mission of the Department provided that this right shall not be unreasonably utilized.*" There is nothing in the record before me indicating to what extent this language has been utilized or whether there has been any difficulty in its utilization.

In 2002 on Midnights (Bureau I) there was an average of 7.17 years of service<sup>2</sup> and a median of 5 years service among the 17 Officers. Half the Officers have five or more years of service.

On Days the experience mean was 20.5 years. Only one of the 20 Officers assigned had less than 5 years experience.

On Afternoons there were 23 Officers assigned. Only 8 had 5 or more years of experience. The mean years of service or experience was 4.95 years with the median at 3 years. The median was negatively affected by the fact that there were 7 Officers with 1 year or less of experience – newer hires. There had been six Officers hired in 2000 and four in 2001.

As part of a 1999 survey taken with respect to the 6/3 schedule discussed below, 47% of Officers with less than 10 years service expressed their preference to maintain the shift selection by seniority process. The survey did not show that a significant number of junior officers were discontent with the seniority based pick process.

Irrespective of the preferences of the membership, the Village argues that the present process creates operational concerns for the Department and that they have difficulty properly training and exposing Officers to the variety of problems that occur across shifts. They also assert that the process impedes the Department's ability to assign various specialties in a balanced manner throughout the three shifts. There was, however, no specific instance cited where the Department was actually disadvantaged in connection with assignment of Specialists.

### **Positions of the parties**

The Union would maintain the present shift selection process contending that the Village had not shown any valid reason to eliminate it. The process had been instituted in 1996 when the Department went to permanent shifts at the advent of community policing. The operative Side Letter was modified in 1999 to allow more flexibility in selection of shifts for Evidence Technicians. MAP maintains that the number of Officers with at least 5 years experience on each shift is sufficient to handle policing concerns.

The Village Final Offer is to delete the existing Side Letter and replace it with a Supplemental Agreement which would allow the director of Police and/or his designee to make shift determinations after receipt of written shift assignment preferences. His determination would be *"based upon the operational needs of the Department and in doing so will try to appropriately balance the relative experience of the patrol officers and evidence technicians assigned to each shift insofar as it is determined that operational need of the Department, provided that such determinations shall not be arbitrary or capricious"*.

### **Comparables**

The Union points out that the Police Command Unit allows Sergeants to pick by seniority and that other employees covered by Collective Bargaining Agreements such as those in the Fire Department and Public Works also select shifts by seniority. Furthermore seniority as a basis for shift selection is in effect in all Union comparables except Des Plaines where officers rotate 12-hour shifts.

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<sup>2</sup> In 1999 the most junior Officer on the day watch had 17 years service. Currently the most junior Officer has 13 years of service.

There are some seniority pick modifications, such as in Bolingbrook where, while it is not in the Contract, the evidence is that the Department can make an adjustment if too many rookies are on the same shift, in Buffalo Grove where certain slots are reserved for Evidence Technicians and Field Training Officers and in Elgin where the seniority pick is limited to Officers with five or more years of service. In Hoffman Estates, three officers per shift rotate but senior Officers can select the rotation shifts.

In the Schaumburg Firefighter Unit, the Shift/Station Selection Side Letter gives the Chief the right to assign "*candidate(probationary) Firefighter/Paramedics*" before other Firefighter/Paramedics and Firefighters bid.<sup>3</sup>

### THE AWARD

The Village, as a threshold issue, asserts that the Union's offer on shift assignments is not a mandatory subject of bargaining. However, I find that shift assignments are a mandatory subject of bargaining.

Unlike the facts in the Illinois State Labor Relations Board Ruling in Village of Evergreen Park, 12 PERI 2036 (July 22, 1996), seniority is not the exclusive criteria in making shift assignments here. The mutually agreed upon Side Letter language allows the Chief to make a temporary or permanent reassignment of Officers should he determine such an assignment is necessary to carry out the mission of the Department.<sup>4</sup> The present language also gives the Village an opportunity to assign Officers in Specialist Classifications depending upon operational needs. They have made such assignments.

The current selection process has been in effect without substantial change for almost seven years and, recognizing that both internal and external Comparability Groups predominately have shift selection by seniority, I find no reason to adopt the Village position which would delete the side letter language and replace the seniority selection process. It is apparent, however, that there should be some modification in Side Letter language. Such a modification would address the expressed concerns without changing the seniority system.

The Department should have the right, if they choose, to assign probationary Officers- those with less than twelve months service - to a maximum of one slot on each shift. They may rotate personnel with such limited service in a slot over the year. They may elect to use this procedure on one or more shifts but, in each case, there shall be only one such junior Officer assigned to a shift. In this manner, there will be an opportunity to expose those with limited experience to a variety of assignments.<sup>5</sup>

The following language should accordingly be incorporated into the Side Letter.

*Irrespective of the above shift selection procedure, prior to the time for the annual shift selection, the Director of Police or his Designee may, at his discretion, set aside no more than*

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<sup>3</sup> This Side Letter on this subject expressly states that it should not be used in any arbitration proceedings by either of the parties to that Agreement

<sup>4</sup> There is no evidence that language has ever been utilized.

<sup>5</sup> Low seniority Officers may be required to select a shift they would not otherwise choose. This would get at least two newer hires off afternoons should the Department elect. It is a very limited change.

*one position on each shift to which he may select and assign an Officer during the selection year. The assignment(s) shall be on a temporary or rotational basis for periods not to exceed that selection year and be made with Officers who have less than twelve months service at the time of their assignment.*

Except for this modification, the present Side Letter language shall remain in effect during the Contract term. I will retain jurisdiction for thirty days with respect to this issue should any clarification of this new language be required.

### **WORK DAY AND WORK WEEK – THE 6/3 WORK SCHEDULE ISSUE**

This issue is non economic.

#### **Final Offers**

The Village's final offer on this issue is to maintain the status quo. The Union proposes new language.

#### **The 6/3 Schedule**

Work week language in Section 14.2 currently provides. *"an employee's normal work week shall consist of five 8-hour days in the 7-day period, Sunday through Saturday."* The Union would modify the Section by adding: *"The parties agree that a 6/3 work schedule shall be implemented as soon as is practicable"* and deleting *"An employees normal work week shall consist of five eight hour days in the seven day period, Sunday through Saturday"*.

Since at least February 1999 MAP and Schaumburg have jointly studied alternative work schedules for the Patrol Division. The 6/3 Schedule before me was submitted to the membership in 1999 for consideration – 8 ½ hour work days, 6 days on, 3 off, repeating and with 15 hours of training during the work year.

Following Alternate Work Schedule Committee review, an April 15, 1999 report from the then Captain of the Patrol Division concluded that there would be benefits for both Village and Bargaining Unit should such a schedule be implemented. His recommendation was to adopt the 6/3 schedule. Following that recommendation, the parties discussed various quid pro quo alternatives which would have been a vehicle for instituting the 6/3 schedule. Agreement was never reached.

Employees who would work the 6/3 schedule as proposed would receive an additional 15 days off per year (245 days) since their workday would be 30 minutes longer than present and there would be two training days – percentage wise a substantial increase in usable free time. As the Union Brief acknowledges, the number of regular hours worked in the year would not change. While the number of hours worked may vary depending on whether an Officer started the year on a day off, the average number of hours worked under the new schedule would not be substantially different. The Captain suggested that there be an appropriate time between deployments, so that personnel would be scheduled to work the same number of days with the same number of days off each year.<sup>6</sup>

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<sup>6</sup> As noted in the Captain's report, there may be a necessity for dividing days off in the case of the fourth squad on Bureau III.

Currently three of the comparable municipalities identified by the parties have work schedules with a three day off feature. Buffalo Grove, which previously had a 6/3 schedule with an 8-1/2 hour work day, has a 5/3 schedule with a 9-hour day. Arlington Heights and Rolling Meadows have 6/3 Schedules. From the list of Village comparables, Streamwood has a 6/3 schedule.

There are several policing advantages to the 6/3 schedule. There will be more street hours per day with greater uniformity and less disruption in coverage. With longer scheduled shifts, an Officer would be able to be on the street on the hour and remain there through the hour. The 15 minutes before and after the hour would be better utilized, there would be a reduction of overlap problems as well as anticipated reduction in overtime which, as recognized by the Captain's 1999 report, frequently results from late assignments and post shift work.<sup>7</sup>

The Village is concerned about staffing shortages which may flow from the reduction of shifts worked per year and the fact that there may be adverse overtime consequences – a very serious matter of concern. They urge the Arbitrator to act with a conservative perspective since the overtime offsets envisioned by the Captain and stressed by the Union may be illusory. Schaumburg has detailed their already high overtime costs.

### AWARD

Considering the merits of the procedure, I find that the 6/3 schedule should be adopted. The language in the Unions Final Offer shall be incorporated into the Agreement.

### THE ECONOMIC ISSUES

#### WORK ON THE SEVENTH DAY – SECTION 14.4

##### Final Offers.

Section 14.4 addresses work on the seventh day:

*“Prescheduled overtime (i.e., overtime which the Employee has voluntarily signed up for) and training which occurs on the seventh day in the Employee's seven-day work week (the employee's Sunday) shall be compensated in accordance with the provisions of Section 14.3 above. The Employer will make every reasonable effort to avoid assigning mandatory training on the seventh day in the Employee's seven-day work week unless the training is required by law, cannot be reasonably made available at another time, or is voluntarily consented to and/or requested by the Employee.”*

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<sup>7</sup> According to the evidence, there is one day per week under the current schedule when only two squads are working third shift. This working short condition makes staffing vulnerable to conditions causing overtime assignments. According to the Report, under the 6/3 schedule such vulnerability would be reduced.

The Union seeks to modify the first sentence of that paragraph to read:

*"Prescheduled overtime (i.e., overtime which the Employee is voluntarily signed up for) and training which occurs on the last day in the Employee's work week (i.e., the Employee's Sunday) shall be compensated at double the Officer's regular hourly rate of pay...."*

The Village states in their Post Hearing Brief that their Final Offer is to maintain the status quo with respect to Section 14.4.

### Comparables

According to the Village of Schaumburg Personnel Manual language applicable to certain non bargaining unit personnel, where Sunday or a Village observed Holiday is not part of an employee's regular work week schedule and, if the full-time employee is approved to work a Sunday shift, he/she will be compensated at two times the base rate of all hours worked. On such Holidays he will be paid at two times base rate plus holiday pay. The Union maintains that their seventh day is equivalent to these employee's Sunday.

While I understand the Union contention, the essential difficulty with their demand is that there is no evidence of any double time compensation for seventh day work among the comparables or in any Police Department of which I am aware. There is no showing that they are disadvantaged or that any Village pays such compensation.

No external Comparables requires payment of double time on the seventh day. Most contain typical standard time and one half overtime language. Arlington Heights pays time-and-a-half for hours worked in excess of 80 in a two-week period. Des Plaines and Elgin pay overtime at time-and-a-half for hours worked in excess of 41.25 hours in a work week. Hanover Park pays overtime at time-and-a-half for work in excess of 40 hours in a work week. In these jurisdictions employees are not paid overtime on the seventh day as such regardless of whether they work voluntarily.

Elk Grove Village overtime is at the time-and-a-half rate for hours worked on an off-duty day and Hoffman Estates, Mount Prospect, Palatine and Streamwood treat work on the seventh day as overtime with a time and half rate. In none of these towns is there a double time premium for seventh day work.

The current situation is slightly more favorable for Schaumburg Officers than in other comparables in that, in Schaumburg, if an Officer is ordered to work or required to make a Court appearance on the seventh day, he is paid at double time for all hours worked on that day under the final paragraph of Section 14.4.

### AWARD

The present language has been a part of Collective Bargaining Agreements covering this Unit since 1990. The sought benefit is not provided Command Unit personnel. There was no showing that there is any significant amount of seventh day unscheduled work voluntarily performed in this Unit which would justify a change irrespective of policies elsewhere..

I recognize that there is a disparity between seventh day compensation for members of this bargaining unit and some Schaumburg employees (Community Service Officers, Department

Telecommunication personnel and other Village of Schaumburg full time employees). In view of the widespread practice evidenced in the comparables for Patrol and Command Officers, the policy for non represented Village employees has little impact on my determination. None of the comparable contracts provide for double time pay for work on the seventh day.

The Status Quo shall be maintained.

## HOLIDAY COMPENSATION – Section 22.2

### Final Offers

The Village's final offer would retain Section 22.2 without change. The Union, however, seeks to increase compensation for those holidays which fall on an employee's regularly scheduled work day. In such circumstances they seek that Holiday compensation be increased from 12 to 16 hours of pay or compensatory time in addition to contractual provided compensation for hours worked on the holiday.

### Comparables

The Union cites a provision in the Village of Schaumburg Personnel Manual applicable to non bargaining unit personnel. That language reads that *"holiday pay consists of two times the base rate plus regular holiday pay"*. As in the case of pay on the Sunday pay policy discussed above, this double time equivalent is provided only when the holidays are not part of these employees regular work schedule. Here the application of 22.2 which the Union seeks to modify involves situations where the regularly scheduled work day coincides with the Holiday.

CSO Holiday compensation is relevant. CSOs employed by the Police Department are among non represented Schaumburg personnel who receive double time plus straight time when they work holidays. However, as in the case of the Seventh Day, which respect to compensation for working a scheduled work day upon which a holiday falls, there is no external Village comparable which supports the Union double time demand. The significance of the single classification of CSO pay practice is diminished.

In Arlington Heights, there is alternate time off but no additional Holiday pay. Des Plaines provides four hours extra pay if an employee works on any of their 10-1/2 holidays. Elgin provides eight hours pay for each of 11 holidays, whether worked or not, and an additional four hours if an employee worked on New Year's, Independence or Christmas Day. In the case of Elk Grove Village, employees who work New Year's, Thanksgiving and Christmas Day get an additional 12 hours for each holiday worked. There is an additional four hours pay or comp time for work on a regularly scheduled shift on either Thanksgiving or Christmas. In Hanover Park, an additional 12 hours compensation is paid as a lump sum annually regardless of the number of holidays worked. There is no indication how many Officers work holidays in that municipality.

Mount Prospect provides an additional 12 hours of pay for work on any of eight designated holidays with an additional eight hours if the holiday falls on a scheduled day off. In Palatine, there is an additional eight hours paid for a maximum of five of the ten holidays, if the employee elects not to take the day off and the Village agrees that he should work. Streamwood provides an additional 12 hours of pay if an employee works any of the ten holidays and eight hours if any of the holidays fall on his regularly scheduled day off.

While Holiday Pay is calculated on a different basis in the Schaumburg Command Contract, there is no provision for 16 hours pay there.

Presently in the Schaumburg Patrol Unit, there is an additional 12 hours pay when an employee works any of the 12 holidays with eight hours pay or comp time if any of the holidays fall on the employee's regularly scheduled day off. A Village Exhibit shows annual holiday pay for a Schaumburg Officer to average \$3,791.00 based on 129.3 paid holiday hours. The pay and the number of holiday hours compensated is the highest among comparables with the average Schaumburg Officer receiving \$2298.00 more Holiday Pay than the average Officer working for the comparables.

### **AWARD**

Under the current schedule, 88 of 106 bargaining unit employees are regularly scheduled to work on a holiday. This number should decrease with the new 6/3 schedule.

There are obvious differences between working a Holiday which would otherwise be a scheduled day off and on a Holiday which falls on a regularly scheduled work day. In the former case, the employee's work schedule is changed and he loses a work free day. In such cases the Officer may be paid double time under 22.2(c).

The Union seeks to increase holiday pay from 12 to 16 hours in cases where the regularly scheduled work day coincides with the established holiday. There is no support for that level of compensation from any of the external comparables cited by the Union and Schaumburg. While the Union relies upon the fact that Police Department CSOs are paid double time under the Personnel Policy, such an application of the policy is of little significance here based upon the limited number in that classification. Furthermore, I have no knowledge of comparative benefits those personnel receive.

Section 22.2 shall be retained without change.

### **USE OF VPDS**

#### **Final Offers**

Section 24.1 provides for accrual of vacation time. The number of days which may be accrued are dependent upon years of service. This Section concludes with the statement, "*In scheduling vacations, employees may add up to an additional six days of earned compensatory time to their vacation picks. Employees may also use five days of earned vacation each year as personal days in accordance with the provision of Section 22.3.*"

In Section 22.3, Officers are granted two personal days each fiscal year. One of the two personal days may be carried over.

Schaumburg would maintain the present Vacation Time Accrual schedule but would revise the second sentence (underlined above) in the scheduling paragraph to read:

*"Employees may also use five days of earned vacation each year as personal days in accordance with the provision of Section 22.3 of this Agreement; effective for calendar year 2003 only three days of earned vacation may be used as personal days; effective for calendar year 2004 only one day of earned vacation may be used as a personal day; effective for calendar year 2005 no earned vacation may be used as personal days".*

The Union final position is to maintain the status quo.

Both parties use the term "VPD" to refer to those five days of earned vacation which may be used as personal days. In accordance with current procedures, an Officer may declare up to five earned vacation days as personal days and take them any time during the year. While time due/comp time requests may be denied under certain circumstances and while the language of Article 24.1 states that VPDs may be used in accordance with the provisions of 22.3, according to the evidence, requests to take VPDs are not being rejected if another Officer can be found to swap, even when there is an overtime consequence. The reason for the Village's effort to phase out VPDs is the overtime cost effect of using VPDs which they estimate to be, Unit wide, \$60,000 annually.

### Comparatives

Hanover Park allows three personal leave days which may not be accrued. Palatine allows only two personal leave days neither of which may be accrued. Mount Prospect allows six personal days earned at four hours per month and up to 72 hours may be accrued. Des Plaines has two personal days after 10 years of service with additional days for higher seniority Officers.

There are no provisions for personal leave days in Arlington Heights, Elgin, Elk Grove Village (they have four floating holidays), Hoffman Estates or Rolling Meadows.

It is significant that, as of May 1, 2002, not one Village comparable had any provision for use of vacation days as personal days. Only four municipalities provided employees with two or more personal leave days each year. In Schaumburg an employee could use as many as 7 or 8 personnel days<sup>8</sup> if he carried over the single personal day permitted. According to the evidence, in 2001 one Officer did use eight Personal days.

### Overtime

The Village submitted a study of Vacation Personal Day use by a sample or survey group of Patrol Officers from fiscal year 1997 through fiscal year 2001. The average number of hours used per Officer was about 22 each year except for 2001 when, for an unexplained reason, the average number dropped to 12 hours. The average of 12 hours, about 1 ½ VPD per Officer, involved a study of 64 Officers that period.

The Maximum allowable hours for VPDs each year is 40. In 2001 20 Officers did not use any VPDs but 6 of the 64 in the sample group used the maximum 40 and five used more. I assume that this study included both straight Personal Days and VPDs. The Union correctly points out that the evidence does not indicate to what extent overtime was the consequence of such use.

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<sup>8</sup> I recognize that such use would involve 5 less vacation days – lower vacation costs.

While there is evidence that vacation coverage is also a significant overtime factor – the group of 64 Officers worked an average of almost 48 hours covering vacations during the May 01 April 02 period - it is clear that there is likely to be substantial overtime due to the nature of reasons which results in unplanned use of VPDs. The difficulty is determining the extent of the problem from available records.

There was insufficient evidence in this Record as to the number of VPDs which involved overtime. For example, we see that average vacation personal day use by the 64 Patrol Officers in the 2002 survey (May 01 to April 02) was 12 hours - a decline from 20 hours the 00 to 01 period. Average Overtime hours attributed to Officers in that same group for personal day coverage was 14.86 hours in the 01–02 period against 18.63 hours in the prior period. Then the exhibits show 768 total hours of VPDs used in 01-02 and, during that same period, 951 total hours of earned overtime based on personal day coverage.

Overtime is a serious problem at Schaumburg. Overall overtime for the Village for all 138 Officers in the Department reached \$2,482,056 during the most recently completed budget year. 106 of those Officers are in this Bargaining Unit.

### AWARD

From a comparability standpoint, especially when the number of Personal Days and the option to swap vacation time for five additional Personal Days are compared, Patrol Officers in this Schaumburg unit are substantially ahead of their peers. However, the problem for the Village here is not the number of VPD's but the overtime consequences. Neither party proposed any modifications in personal day use within the language of Section 22.3.

There are documentation problems. While actual overtime worked by this Bargaining Unit was not shown, the greater problem was that the extent to which VPDs caused overtime was not ascertainable. There was no showing of how many VPDS are worked and how many of those worked cause overtime.

There is insufficient evidence of VPD costs to justify a total elimination of the benefit over the term of the Agreement. There is nothing in the Record to show any attempts to regulate Personal Day use using the controls already set forth in Section 22.3. Due to the lack of evidence as to the extent to which VPD use has resulted in overtime cost, the Village position is not adopted in these negotiations.

I find the final offer of MAP to be the most reasonable. The status quo shall be retained.

### SPECIALIST COMPENSATION

#### Final Offers

Article 28 provides for Specialist Compensation. Three identified Specialist Positions currently receive supplemental compensation: Detective, \$1,600 annually; Evidence Technician, \$900 annually; and Field Training Officer, \$1,200 annually<sup>9</sup>. This supplemental compensation is

<sup>9</sup> The Field Training Supplement was raised from \$100.00 to \$1200.00 in 1996 negotiations.

paid in recognition of the additional duties and responsibilities Officers working in these specialties exercise. Their assignments are generally for monthly periods and may be modified at the Chief's discretion.

The Village's final offer on this issue is to maintain the status quo.

The Union seeks that special compensation to Detectives be doubled to \$3,200 annually and that any assignment outside of Patrol excluding Detectives receive a \$1,600 annual supplement. There are 11 Detectives.<sup>10</sup>

### Comparables

The substantial increase sought for Detectives does not find support in the comparables. The only Union comparable which supports their Detective supplemental pay position is Bolingbrook. With one exception, Village comparables also do not show a Detective in other communities receiving more than the \$1,600 annually specialty compensation they presently receive at Schaumburg<sup>11</sup>. In Des Plaines the annual premium is 6.9% of base pay.

While Elk Grove Village pays Detective a premium of \$600 annually in the form of a clothing allowance, Officers at Schaumburg are already paid \$300.00 more for clothes. In Hanover Park there are disbursements of \$900 for Specialty Pay and in Hoffman Estates \$1,250. Mount Prospect provides an \$800 supplement for this classification.

Detectives that work for the Des Plaines and Bolingbrook Departments are given a percentage increase in their salary which, unlike a lump sum payment, has roll up effects on overtime compensation and other benefits.

Sergeants and Lieutenant in the Command Unit who supervise Detectives receive the same \$1600.00 supplement despite their higher salaries. The Union asserts that all in that unit who have assignments outside of Patrol receive a \$1,600 Supplement and that this concept should be extended to those the Patrol Unit not presently receiving any supplement. There is no support in any Patrol Officer comparable for such a benefit.

### Other considerations

MAP argues that Schaumburg Detectives have historically had their assignments recognized with relatively high compensation but that, in recent years, the differential between their Supplement and Patrol pay has not been maintained. Specialty Pay for Detectives has been a feature of the compensation package at the Schaumburg Police Department since 1972 when the starting salary was \$9,200 with top pay for Patrol Officers at \$12,000. Their stipend was increased to \$1,600 and has remained unchanged since 1982. It currently approximates 3% of top salary.

The Union points out that the present Detective stipend is not equitable from either the perspective of job responsibility or their relationship with Patrol Officer compensation levels. MAP maintains that there have been increases in workload over the years and that the number of investigations has increased approximately 24%. They remind the Arbitrator that that Detectives are *on call* one week out of six and subject to disciplinary action if they fail to respond. When on

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<sup>10</sup> No change in these negotiations was sought for the Evidence Technicians (currently \$900.00 annually) or the Field Training Officer (\$1200.00 annually).

<sup>11</sup> It is not shown whether such payment is prorated by the months of service during the year.

such on call status, there are obvious restrictions on a Detective's lifestyle. They must make special arrangements in order to be able to respond properly.

MAP also asserts that Detectives should receive pay recognition because certain benefits are inferior to those received by Officers elsewhere. They cite comparable holiday pay in several Units contending that, whatever the comparables on Specialty pay may show, Schaumburg Detectives are relatively disadvantaged compared to those working in other towns for a holiday pay standpoint. For example, they reveal that Detectives on the Arlington Heights force may work holidays, earning eight hours of straight pay along with eight hours comp time. Of course, the entire package must be considered including the fact that in Arlington Heights there is no extra compensation paid Detectives.

### AWARD

The Arbitrator, in making a determination on economic items under the Statute, must chose either the Union or the Village final position. He may not modify either Final Offer or determine a middle ground or award part of the sought change. Recognizing this restriction and the comparability evidence, there is no basis in the Record for doubling the supplemental compensation presently paid Schaumburg Detectives. This would constitute a compensation increase approximating 2.5 % in addition to the wage increase provided herein.

Article 28 shall be continued without change.

### LONGEVITY

Longevity is provided Officers according to scheduled annual payments upon completion of 5, 10, 15, 20 and 25 years, respectively. The payments range from \$450 upon completion of five years' service to \$1,500 after 25 years' service. Longevity is paid in addition to normal wages irrespective of the salary step of the employee. Such payments are made the first payroll period of December each year.

The Village proposes a new paragraph be added to Appendix which would phase out longevity payments:

*"No employee employed in a Bargaining Unit position after the issuance of Arbitrator Cox's Interest Arbitration Award will be eligible to receive longevity pay. Any Bargaining Unit employees who were employed as of the date of Arbitrator Cox's Interest Arbitration Award shall continue to be eligible to receive longevity pay in accordance with schedules set forth in the first paragraph of this Section."*

The Union seeks to retain the current longevity pay provision.

### Comparables

In July 2000 the Village amended its general compensation policy. All employees not covered by a Collective Bargaining Agreement who were hired after May 1, 2000 were made ineligible for longevity pay. The phase out has not been limited to non-bargaining unit personnel.

The Labor Contract with the Public works Advisory Committee contains language which tracks with the new Village longevity Policy. Thereafter, the Schaumburg Fire Command

Association agreed to the same phase-out for their bargaining unit although under that Contract, the effective date of the cut off was set as the effective date of the Agreement, May 1, 2001.

The Police Command Contract of 2001-2004 did not result in a phase out agreement. Arbitrator Briggs Award contains a clause that employees in that unit shall be subject to whatever longevity pay conditions come out of the Patrol Officers Contract before this Arbitrator. The wording is that *"for the 2002 – 2003 and 2003 – 2004 fiscal years, longevity pay, if any, shall be equal to the longevity pay, if any, received by the nonsupervisory Police Officers represented by the Chapter and such benefits, if any, shall be subject to the same terms and conditions and the same effective dates."*

The Union focus is on the fact that longevity rate and been a contractual benefit since 1986 and has not been modified. Longevity, as a percentage of compensation has become of diminishing significance<sup>12</sup> and constitutes no greater than three percent of salary even after twenty years of service and much smaller percentages in the earlier years. It is a long time part of the benefit package. Most comparables provide longevity to their Patrol Officers.

Among Union external comparables, nine Departments have longevity pay ranging from \$450 to \$2,458 after 20 years of service. Elgin is the only comparable shown to not have a longevity pay benefit. However, three jurisdictions, Mt. Prospect, Elk Grove Village and Hoffman Estates have maximum benefits of \$700.00 or less.

As the Village makes clear, if longevity were abolished through the proposed phase out method there will be no adverse effect on current bargaining unit members. Even without that benefit, total compensation currently paid Schaumburg Patrol Officers after four years would remain in the top rank among all Village Comparable jurisdictions.

### AWARD

In making my determination, I note that, except for the Fire Command and Public Works Unit, there are no represented internal comparables which would offset the substantial evidence from the external Departments that, in those comparables, longevity is part of the benefit package.

It is my understanding the issue in Firefighter negotiations is being submitted to an Arbitrator. Had that Unit adopted the phase out as did Firefighter Command, the outcome here may have been different in view of the historic salary parity between the two rank and file units discussed below. While the real effect on labor costs comes prospectively under the Village phase out proposal, elimination of this negotiated cost would be a significant long term advantage to the Village in its impact on future wage and benefit costs.

Longevity is a feature of the compensation package that has been in the Agreement for more than 15 years. Although longevity provides little retention value, it does reward the Officer with longer service and experience after the fifth year when, in Schaumburg, he reaches the top of the salary schedule.

The Union final Offer is adopted. Longevity shall remain without change.

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<sup>12</sup> The Union stress on the value of longevity to the Village as a recruitment incentive has little merit from a human resources perspective.

## SALARY

### Final Positions

The final position of the Union on wages would provide a 4.5% increase effective May 1, 2002 with 4% increases the second and third years.

The Village proposes a 3.5% increase the first year. The Parties are significantly apart on the first year increase which, of course, has cumulative effects thereafter.

### The inequity adjustment factor.

MAP seeks to attain the level of increase the first year this Agreement that was negotiated for the second year of the Police Command Unit. They do not seek the same 3%, 3.5% and 4% salary pattern negotiated there.

There is no dispute that the Award of Arbitrator Steve Briggs, in addition to providing for a 3.5% second year salary increase for the Police Command Unit, granted an additional second year increase for that Unit in the form of an inequity adjustment. As Arbitrator Briggs explained, *"in order to address the salary spread between rank and file police officers and command officers as evidenced by external comparability data, effective May 2, 2002, there will be a 1% equity adjustment to the salary at all steps.*

A similar inequity adjustment became part of the Fire Command Unit Contract. As in the Police Command Contract, the adjustment became effective May 1, 2002, the second year of that Agreement, but the expressed reason there was to *"restore the Captains and Chiefs to the same parity relationship they previously had Vis a Vis the comparable police ranks in the Schaumburg Police Department."*

The language in the Police Command Contract expresses the Arbitrator's salary spread purpose for the adjustment as quoted above. The adjustment was incorporated into the Agreement in such a manner that shows that the parties considered it distinct from the general salary increase. Agreed upon salary rate increases in both Command Contracts were less than the final offer the Village has proposed for the Unit here. Those Agreements each contain increases of 3% effective May 1, 2001, 3.5% May 1, 2002 and 4% May 1, 2003.

Schaumburg Firefighter Contract negotiations have not been completed. However, the Village and the Firefighter Union have tentatively agreed upon salary increases of 3.5%, 4% and 4% each year. In their wage structure, there is no provision for any inequity adjustment that is in the Fire and Police Command Contracts. While there are four issues awaiting Arbitration, I am advised that none involve salary increases or any inequity adjustment.

### Should there be an adjustment equivalent?

While the purpose of the inequity adjustment expressed by Arbitrator Briggs is not disputed here, the Union suggests that there was another reason for that increase.

MAP calls my attention to the fact that, as of May 2001, spreads between top salaries of Patrol Officers and those of Sergeants in Arlington Heights (a spread of 26.33%), Elk Grove Village (23.16%), Elgin (23.10%), Mt. Prospect (20.34%), Hoffman Estates (20.00% and, DesPlaines (19.55%) were greater than Schaumburg's 18.45%. Only Wheaton (18.26%) and Palatine (16.65%) were shown to have narrower differentials than Schaumburg. These facts support the rationale for the adjustment.

Finding the differential between top Patrol salary in the highest paying Department (Mt. Prospect) and the lowest paying Department (Elk Grove Village) to be less than half the differential that existed between the salary of the top paid Sergeants (Arlington Heights) and the lowest paid Department (Wheaton), the Union argues that, irrespective of any differential narrowing, the real reason for the 1% adjustment was to bring up Sergeants pay to the level of their counterparts in comparable communities, especially the top paying Department where Schaumburg Sergeants were substantially behind. MAP argues that Schaumburg ranked second in top patrolman pay, third in top sergeant pay<sup>13</sup> and seventh in differential ranking. MAP asserts here that there should be similar adjustment and that limiting the application of the inequity adjustment to the Police Command unit would adversely affect the relative ranking of the Patrol Unit and "*will likely cause the need for an equity adjustment in the future.*"

While there is no evidence of recent settlements in comparable Police Departments which would affect the relative rank, the Union asserts that, without the first year increase sought by MAP, Patrol Officers will not be able to maintain their present status.

### **Bargaining history**

I have examined prior bargaining history for both the Firefighters and Patrol Units at Schaumburg. It is significant that salary increases in these two Units have been identical since 1986 and even more remarkable that the top step in these two Units have been the same throughout 16 years.

From an internal equity standpoint, there has been historic parity at the top step between Police Officers and Firefighters. Firefighters have the same Step progression as Patrolmen in this Bargaining Unit.

Top step percentage increases in both Units have been 3% each of the last three years. Except for a 7.64% increase in the final year of the previous contract, before the second and third year agreement on wages the parties reached here, there had not been a 4% increase since fiscal 1993/1994.

### **Financial considerations**

There is no ability to pay issue here. Schaumburg is the 13<sup>th</sup> largest Illinois municipality population wise and, among larger towns on the list of comparables, has fewer residents only than Arlington Heights, Elgin and Naperville.<sup>14</sup> The large shopping center within the Village is a revenue producing asset not found in other comparables. Of all comparables, Schaumburg has the highest sales tax revenue - by far. Annual sales tax revenue is \$139,698,926 compared to Naperville's \$86,411,317. Arlington Heights is the only other municipality with as much as a third of Schaumburg's sales tax revenue. In terms of the number of sworn police personnel

<sup>13</sup> They were a very distant second dollar wise.

<sup>14</sup> Naperville is only on the Union's comparability list.

assigned to patrol (106), Schaumburg ranks third behind Naperville and Elgin. Comparative Crime statistics were not relied upon by either party.

### Comparatives

Among the comparables, starting salaries do not compare favorably. Although they are relatively low, increases for new hires are accelerated compared to other groups and progress through the salary schedule is rapid. With respect to starting salary, Schaumburg has one of the lowest starting salaries among either party's comparables

Schaumburg Patrol Officers reach top rate after four years' service - a shorter period than in comparable municipalities. For example, as contrasted with four years for Schaumburg Patrol Officers to reach the base salary top step, it takes 4.5 years in Arlington Heights; 5 years in Des Plaines; 4.5 years in Elgin; 6 years in Palatine, Mount Prospect, Elk Grove Village and Streamwood; 7 years in Hoffman Estates; and 8 years in Hanover Park. The relative top step compensation rank must be evaluated with this consideration in mind.

The top rate of the salary range for Schaumburg Patrol Officers places them toward the highest rank among comparables and, as of May 2002, they will be \$412.00 behind the highest top step of Patrol Officers in those Departments. Considering the Units relative position after four years, we find the Village paying better salaries than any other comparable Department. With the 2002 increases, the Schaumburg Patrol Officer will be paid \$7,765 more than the fifth year of service average salary in all referenced Departments. The top step in the Police Officer salary in effect on May 1, 2002, under the Village comparables, would put Schaumburg Patrolmen at the fifth rank among this group, exceeded by Palatine, Hoffman Estates, Mount Prospect, and Des Plaines is at the top with a \$61,404 salary.<sup>15</sup> It will take Officers in remaining Departments some time to make up this differential.

The Schaumburg Officer begins receiving this top rate, on the average, about two years sooner than elsewhere. When holiday pay and longevity are added to the top step of base salaries in effect as January 1, 2002, Schaumburg compensation is shown to be higher at the fifth year than in any comparable with a total compensation of \$66,275.

Considering the salaries in effect with the increase proposed by the Village, the Police Officer top salary without longevity ranking has Schaumburg ranking fifth among Village comparables at \$60,984 - \$322 behind the top rated Mount Prospect salary of \$61,306. With longevity, Schaumburg would be at the second rank (\$61,434) after Mr. Prospect (\$61,706). With longevity, as of the eighth year, Schaumburg remains second at \$61,434. In 2001, the average wage of all Schaumburg Police Officers hired before January 2001 was \$69,507.

Under the Union 4.5 % proposal, starting salaries would rise from \$38,796 to \$40,541 the first Contract year. Should the Village final offer be adopted, there would be an increase to \$40,154. The difference between the two proposals is \$387.00.

The present Schaumburg top salary of \$58,922 would increase under the Union proposal to \$61,573 and, under the Village final offer, to \$60,984.

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<sup>15</sup> There is a very slight difference in calculation of the top step base salary which is of no consequence here. The Village calculates that salary to be \$60,984. The Union assesses that offer at \$60,689.

By 2004, the top salary, calculated in accordance with the Village proposal, would become \$65,960 and the starting salary \$43,430.

The Union states that presently Schaumburg ranks second in top patrolman pay and third in top sergeant pay. They dispute the contention that the one percent increase was necessary to maintain the differential and maintain that while the adjustment did catch up the sergeants with comparable communities, unless Patrol Officers also get the differential, they will lower their ranking among the Villages comparables especially with respect to starting pay. They assert that to maintain their ranking, Patrol Officers should get the 4.5% first year increase.

### **Recruitment Considerations**

The Union states that a substantial increase would facilitate recruitment. The Village asserts that there would be no value in increasing the starting salary in order to attract new candidates. They already have limited turnover<sup>16</sup> and no difficulty recruiting officers based upon the existing pay schedule. During a recent hiring period, 125 individuals applied, 83 took the written test and 63 passed. There are currently 20 on the primary eligibility list with 63 on a secondary role. A number of Bargaining Unit members moved to the Village from other police departments.

### **AWARD**

The parties are in agreement that the first year wage increase shall become effective May 1, 2002.

While I have considered the Union proposal and especially its effect on starting rates, I cannot ignore the long history of parity between Schaumburg Firefighters and Patrol Officer Unit salaries and, with that perspective, the fact that the Firefighters have resolved their wage issue with the same settlement proposed here by the Village is very meaningful.

The Firefighter Command Unit, like the Police Command Officers, did received the 1% inequity adjustment but it is not part of the Firefighter Unit economic package. I note that, in both Command Contracts, the increase was specifically identified as an inequity adjustment in a separate contract provision and was not factored into the salary schedule.

I note that, over term, the average percentage salary increase of 3.8% in the Command Contracts including the inequity adjustment compares with an average 3.5% increase here. The general salary increases were lower there than proposed here. There was no evidence that any other Department, even those with lower overall compensation packages who pay Patrol Officers less than Schaumburg, received a higher salary increases than proposed here. There is additional support for Village position when the total compensation package is compared with salary and benefits provided Officers in other Departments.

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<sup>16</sup> Turnover over the last ten years has averaged slightly less than .9%, - less than one officer per year, a remarkable figure considering that none of these Officers left because of retirement.

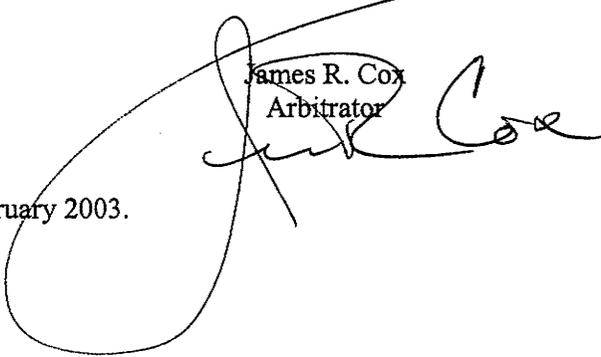
Considering the special significance of internal comparables as well as recognizing the general level of increases in this year of moderation in the cost of living, I find the Village Final Offer to be most reasonable.

The Final Position of the Village is adopted on this issue. Wages will be increased 3.5% May 1, 2002, 4% May 1, 2003 and 4% May 1, 2004.

**AWARD SUMMARY**

Having considered the evidence in accordance with applicable provisions of statutory criteria I have made the Awards set forth above on each issue. The parties' May 1, 2002 – April 30, 2005 Collective Bargaining Agreement shall be modified to incorporate these determinations as well as all other matters previously agreed upon by the parties.

James R. Cox  
Arbitrator



Issued this 8<sup>th</sup> of February 2003.