

INTEREST ARBITRATION
ILLINOIS STATE LABOR RELATIONS BOARD
before
JOHN C. FLETCHER, CHAIRMAN AND NEUTRAL MEMBER
ROBERT J. SMITH, JR., VILLAGE APPOINTED ARBITRATOR
THOMAS P. POLACEK, UNION APPOINTED ARBITRATOR

THE METROPOLITAN ALLIANCE OF POLICE
CHAPTER 3

and

THE VILLAGE OF BOLINGBROOK
ILLINOIS

S-MA-02-130
Interest Arbitration

DECISION AND AWARD
of
THE ARBITRATION PANEL
APRIL 15, 2004

This matter came to be heard in the offices of the Village of Bolingbrook, Illinois (“the Village”) on December 5, 2003 and December 22, 2003. The Village was represented by

Seyfarth Shaw, LLP
Robert J. Smith, Jr., Esq.

Moss & Bloomberg, Ltd.
Daniel C. Shapiro, Esq.

James S. Boan, Esq.
Village Attorney

The Metropolitan Alliance of Police (“the Union”) was represented by:

Schenk, Duffy, McNamara, Phelan, Carry
and Ford, Ltd.
Thomas P. Polacek, Esq.

As required by the Illinois Public Labor Relations Act (5 ILCS § 315) (“the Act”), a transcript was made of the proceedings by a certified court reporter. Following receipt of the transcript, the parties provided the Chairman and Neutral Arbitrator (“the Chairman”) with post-hearing briefs, that were exchanged on March 20, 2004, with the record being closed on that date.

Background:

Police Officers, below the rank of sergeant have been represented by the Union since September 14, 1990. (Police Sergeants employed by the Village are also represented by the Union, but are not included within the Officers’ bargaining unit.) Officers represented by the Union make up one of four bargaining units covering Village personnel. The Service Employees International Union, Local 73 (“SEIU”) represents Public Works foremen. The American Federation of State County and Municipal Employees, Council 31, Local 2014 (“AFSCME”) represents telecommunicators, secretarial and clerical, and public works employees, below the rank of foreman. The International Association of Firefighters, Local 3005 (“IAFF”) represents sworn firefighters, engineers, inspectors, paramedics and lieutenants. Approximately 90 village employees are not represented by a labor union for collective bargaining purposes.

The parties’ most recent collective bargaining agreement (“Agreement” or “CBA”) expired on April 30, 2002. For unnamed reasons, the parties deferred

negotiation of a successor contract until July, 2002. On November 22, 2002 tentative agreement on the following six items was reached; Section 3.2 - Civil Emergency Provisions; Section 4.1 - MAP President; Section 14.5 - Discipline; Section 18-3 - Tuition; Section 19.1 - Employment Outside Department; and Section 23.1 - Termination. Impasse occurred on twelve remaining items, and arbitration was invoked under the Act. The Chairman was notified of his selection as the neutral arbitrator on April 7, 2003.

At the request of the parties, scheduling of this matter for hearing was delayed, as it appeared that further direct negotiations without intervention from “outsiders” might result in a settlement. After several months of unsuccessful effort to resolve disputed issues, the Chairman scheduled mediation, and sessions were held on November 12, 2003 and November 21, 2003. The parties were unable to reach agreement, and the matter, thereafter proceeded to final offer arbitration in accordance with the requirements of the Act. Final offers were exchanged on December 2, 2003.

The twelve open issues, as evinced by the parties final offers of record (as more fully set forth in the hearing transcripts and their post-hearing briefs) are: Section 8.1, **Group Hospital and Medical Plan**; Section 8.7, **Disability Health Insurance**; Section 8.8, **Retiree’s Health Insurance**; Section 8.9, **Officer’s Killed in the Line of Duty**; Section 9.1, **Wage Schedule**; Section 9.3, **Duty Assignment/Incentive Pay**; Section 9.4 (9.3.a in the Village’s final offer), **Senior/Master Patrol Classification**; Section 9.5 (c), **Hours Worked**; Section

11.2, Uniform Allowance; Section 14, Officer Bill of Rights; Section 16.2, Military Leave; and Section 21.1, Retroactivity.

THE PARTIES' FINAL OFFERS

The final offers of the parties are briefly summarized below:

Group Hospital and Medical Plan

The Union's *written final offer* essentially proposes that the existing Hospital and Medical Plan be retained. As a concession to rising health care costs, however, the Union proposes that an Officer with no dependents pay \$30.00 per month for single coverage (while presently paying nothing) and an Officer with dependent coverage pay \$60.00 per month as opposed to \$45.00 he or she pays under the terms of the most recent agreement. The Union also proposes that the Village provide prescription drug card benefits whereby an Officer would pay \$5.00 per prescription for generic medications and \$10.00 per prescription for brand name medications. However, in "clarifying" its final offer during the hearing held on December 5, 2003, Counsel for the Union *agreed* that the Village-wide health insurance plan would be acceptable, except that the most that any Police Officer would contribute toward the premium would be \$30.00 for single coverage and \$60.00 for family coverage. (Tr.-28, 7ff.) Accordingly, when

the Union's final offer on this item is discussed below, the Panel is referencing the final offer as clarified during the December 5th hearing.

The Village proposes that the Police Agreement adopt the same plan for insurance coverage as provided other Village employees including those covered by a collective bargaining agreement and those who are not. Prescription co-pay provisions proposed by the Village are the same as those proposed by the Union. The proposed single employee monthly medical care premium contribution would be \$55.00 per month for the first two years of the Agreement and \$65.00 per month during the last year of the Agreement. It is proposed that Officers with one dependent would pay \$75.00 per month during the first two years of the Agreement and \$85.00 per month during the third year of the Agreement, with family coverage set at \$100.00 per month and \$110.00 per month during these periods.

The Village's proposal on Group Hospital and Medical coverage provides a matrix of plans under which Officers select coverage at premium levels, suited to individual preference, which could actually reduce the cost for an Officer below that which is proposed by the Union.

Disability Health Insurance

The Union proposes that Article 8.7 of the Agreement be modified to provide specific language pertaining to insurance benefits pursuant to the Illinois Public Safety Employee Benefits Act.

The Village proposes maintaining the *status quo*.

Retiree's Health Insurance

The Union proposes adding language to the Agreement providing for continuation of health care benefits in circumstances when retired Officers are ineligible for Medicare benefits. The Union's proposal also provides that after an Officer retires, his or her insurance benefits would remain the same as those provided for active members of the bargaining unit.

The Village contends that several aspects of the Union's proposal are non-mandatory subjects of bargaining and as such are beyond this Panel's reach in terms of a binding award. Nonetheless, the Village proposes that the *status quo* be maintained as to retiree health care benefits.

Officer's Killed in the Line of Duty

The Union proposes that the Village pay 100% of the *reasonable* funeral expenses for Officers killed in the line of duty. The Union also seeks to continue

medical and dental insurance coverage for dependents of deceased Officers, and provide any dependent children with educational benefits.

The Village has not made a proposal or counter proposal on this item, except to urge that it be rejected.

Wage Schedule

The Union proposes that wages be increased across the board by 5% per year in each of the three years of the agreement.

The Village proposes that wages be increased 4% per year in each of the three years of the agreement.

Duty Assignment - Incentive Pay

The Union proposes an increase in incentive pay for four of the eleven Officer assignments included in this group. According to the Union's proposal, Officers assigned as Evidence Technicians and to the Gang Suppression Unit would experience a specialty incentive increase of 1% (from 3% to 4%). The School Resources Officer and the Crime Prevention Officer would gain an incentive increase of 2% (from 1% to 3%). The Union additionally proposes that a Park Patrol Officer category be added with a 1% incentive, and a REACT Officer be added with a 3% incentive. The Union further proposes that the "Spanish" only provision be deleted from the bilingual eligibility in order that any bilingual Officer would receive the 3% incentive.

The Village proposes that pay incentives remain as they are in the expired CBA. The Village proposes removal of the DARE Officer classification because funding for that specialty is no longer available. The Village proposes adding the same two new specialty incentives the Union proposes (Parks Officer and RACT Officer) at the same percentage rate the Union requests.

Senior - Master Patrolman Classification

The Union proposes that two new designations be established within the Villages Police Department, Senior Patrolman and Master Patrolman. Under the Union's proposal eligibility for these designations is based on length of service (8 years and 15 years) and advanced training. It is proposed that Senior Patrolmen would be paid 2% over top base salary and Master Patrolmen be paid at 3% over top base salary.

The Village's final offer also includes a Master Patrolman classification at 3% over base salary for Officers with fifteen years of full-time service who have attained 300 hours of advanced training.

Hours Worked

The parties' existing agreement established a 12-hour shift schedule on a trial basis. These trial periods have lapsed according to provisions therein, and the Department continues to assign employees to 12-hour shifts. **The Union**

proposes that outdated language referring to “trial periods” be eliminated, and make 12-hour shifts a permanent part of the Agreement .

The Village’s post-hearing brief contains no response to the Union’s final offer with respect to 12-hour shifts. However, the Chairman asked Village’s Counsel during the hearing; “9.5 Agreed to?”, and he responded, “Yes”. (Tr.-58, 12, 13).

Uniform Allowance

The Union’s final offer proposes that the existing uniform allowance be increased by \$100.00 per year the first year of the Agreement and an additional \$100.00 more per year during the second and succeeding years of the Agreement.

The Village proposes the *status quo*.

Officer Bill of Rights

This is a non economic item. **The Village** proposes modifying the Agreement to incorporate references to the Uniform Peace Officers Disciplinary Act.

The Union seeks to maintain the *status quo*.

Military Leave

The Union makes a “housekeeping” proposal on military leave.

Retroactivity

The Union proposes that the entire contract be retroactive to May 1, 2002.

The Village makes no proposal on retroactivity. However, Counsel for the Village indicated during the hearing that, “[t]he parties are not in dispute regarding the retroactivity of the *wage* issue.” (Tr.-177, 22; Tr.-178, 1)

STATUTORY CRITERIA FOR AN AWARD

The Act at § 315/14 sets forth eight criteria for an award of an Arbitration Panel in matters of public safety employment. While this Panel is obligated to consider all the criteria, each does not carry the same weight. In fact and practice some, depending upon the parties’ stipulations and prevailing circumstances, may be afforded no weight whatsoever. Statutory criteria set forth in the Act will not be copied into the instant award in their entirety at this point, as those appropriate to resolution of pertinent issues will be discussed in the narrative below. Moreover, the Panel will not visit in any great depth arbitral “precedent”

cited by the parties in support of their contentions, except to note that all have been examined with due care.

As is typical in cases such as this, some of the cited arbitral “precedent” was persuasive and some was not. This decision, the Panel must point out, is fact driven. In our opinion, it should, and will, follow the law, rather than another panel’s effort to expedite resolution of matters having no immediate bearing on this case. On most open issues here, the Panel concludes, the parties were relatively close together, and so finds it perplexing that a settlement could not be reached prior to arbitration. The closeness of the parties on the open issues, raises, perhaps never to be answered, questions on what the expectations of each actually were.

Nonetheless, so there is no misunderstanding as to the Chairman’s views on one facet of this matter, cited decisions which express the opinion that interest arbitration is foreclosed from awarding substantially different results than those which the parties would likely have obtained during direct negotiations, are, with all due respect to the panels in those case, considered to be plainly wrong. On at least two prior occasions, *Village of Lombard and Lombard Policeman’s Benevolent and Protective Association*, S-MA-89-153, and *Village of Downers Grove and Downers Grove Professional Firefighters Association*, SMA-94-246, it was observed by the Chairman that:

The Panel has examined all of the items and authorities directed to our attention by both parties, and considered carefully

their articulation, concerning the proper role of impasse interest arbitration within the posture in which this dispute is being considered. We have noted with considerable interest comments in other arbitrations concerning among other things, catch-up demands, substitutes for arms length bargaining, what may or may not have developed if a strike or strike threat occurred or were available, the role of fact-finding, the continuation of historical relationships, the notion that interest arbitration must not yield a substantially different result than that which could be obtained by the parties through bargaining, etc. We question, though, if such considerations are truly appropriate under the Statute from which we draw our authority. (Underlining added.)

For instance, explore the notion that impasse arbitration had ought not award either party a better deal than that which it could have expected to achieve through negotiations at the bargaining table. Without a crystal ball, who can tell with any degree of certainty what the expectations of either party were. Going in, both sides know that the final option available, if impasse occurs, is last best offer arbitration. The bargaining table, in most negotiating environments, is not the final available stop. Mediation, fact-finding, emergency boards, arbitration, strike, lockout, blue flu, discharge, bankruptcy, discontinuance of the enterprise, decertification, as well as legislative lobbying and court action, may also be viable pursuits for negotiating objectives.

Moreover, and importantly, under the IPLRA, impasse arbitration, with its last best offer approach, is an essential ingredient of the labor relations process for Illinois security employees, peace officers and firefighters. The Act is designed to substitute self help and other traumatic alternatives, resources available in some other environment, (and also the threat of self help which may hang as a sword over the negotiating table), with a less disruptive procedure to produce a settlement. The concept that arbitrators should do no more than the parties would do themselves is patently circuitous since in fact the parties were not able through negotiations to do it themselves. Last best offer arbitration, under the Statute, is the self help alternative available to either party and must be viewed as an extension of the collective bargaining process.

With that said, the Panel will now look at the criteria appropriate to the decision in this particular matter. The first criterion considered has generally

become known as “External Comparability” or “Comparable Communities”. The Union here says that this criterion, if not the most important, is certainly one of the most important factors for this Panel to weigh. The Village also agrees that external comparability is a *very* critical element. The Union proposes that twelve communities be selected as comparable communities. While the Village proposes that fourteen communities be selected. Each parties’ list names six common communities. The Union characterizes these six communities as a *de facto* stipulation. Both the Union and the Village fault the methodologies utilized by the other in selecting the dissimilar communities on their lists.

With great care, the Panel has studied the data and arguments of the parties as to why their lists of comparable communities should be adopted as appropriate for purposes of the external comparable criterion in this case. In reality, manipulation of the data between the six *de facto* communities (to use the Union’s terminology), between the twelve Union selected communities, between the fourteen Village selected communities, or even between all twenty communities comprising both lists combined, demonstrates only modest differences. Moreover, manipulation of the same data between these four lists (or sub-lists) simply does not show one party’s final offer on any of the open items as the clear winner when other criterion are weighed, i.e., stipulations and/or internal comparability, etc.

Importantly, though, while both parties selection criteria are patently self-serving, neither party appears to have based its “comparables” selections on

“undisciplined methodology”. Accordingly, for the most part, the Panel considers the six *de facto* communities the basic “External Comparables”, except in instances where the list of one of the parties is referenced to make a point.

These six *de facto* communities, combined with the Internal Comparables (the second most important criterion in this matter) and the parties stipulations will be the bedrock of the Panel’s award. It is apparent that other criteria, such as ability to pay and lawful authority have been largely ignored by the Village and the Union in their direct negotiations and during subsequent mediation. Moreover, little *valid* mention of these additional criteria was made in either of the parties’ post-hearing briefs.

The Village, however, did stress that published cost of living data “strongly supports acceptance of its final salary offer” (V.br., p. 23-25) and provided the Panel with data in support of this argument. (V.Ex.-34) This argument and data will not be visited in this decision for three reasons. First, both parties’ final offers on wage increases for the term of the agreement, on their face appear to exceed USDL published indices on cost of living changes. Second, as discussed in more detail below, the Village’s 4% wage offer, *vis-à-vis*, the Union’s 5% wage offer is awarded, but this award was not, *per se*, dependent upon changes in cost of living indices. And, third, the Panel is concerned that the key indicators used by the Department of Labor to develop its cost of living indices may be outdated, and perhaps an inappropriate measure in today’s economy. (See, the *Chicago Tribune*, Sunday March 28, 2004, *Prices rising despite low inflation rate, where*

the lead paragraph in this front page article read: "At the same time the federal government is reporting inflation at rock-bottom levels, the cost of medical care, tuition and housing have shot up. From gasoline to coffee to gold, commodity prices are soaring to heights not seen in years.")

AWARD

The six items tentatively agreed to by the parties on November 22, 2002, namely: Section 3.2 - **Civil Emergency Provisions**; Section 4.1 - **MAP President**; Section 14.5 - **Discipline**; Section 18-3 - **Tuition**; Section 19.1 - **Employment Outside Department**; and Section 23.1 - **Termination**; are adopted by the Panel and are incorporated herein by reference.

The following is the Panel's decision on each open issue:

Group Hospital and Medical Plan

The Panel finds that the Union's proposal on Section 8.1, Group Hospital and Medical Plan, as clarified in the exchange between counsel during the hearing (Tr.-27), more nearly comports with the statutory criteria, and it is awarded. The Union's proposal, (as clarified) accepts the Village-wide Plan, but limits Police Officer contributions to something less than that required of other Village employees. Single Police Officers who, under the terms of the expired CBA were not required to make a premium contribution, will under the new CBA

pay \$30.00 per month, and Officers with dependents will experience an increase of 33% in monthly contributions from \$45.00 to \$60.00.

As justification for urging the Panel to adopt its proposal, the Village submitted several exhibits demonstrating dramatic increases in Hospitalization Insurance Costs over the last 17 years. One Village exhibit (V.Ex.-35) demonstrates that in 1986 the total Village Hospitalization cost was \$283,000. That cost, according to the Village's exhibit, rose to \$3,881,644, in 2003, an increase slightly below 1400%. In discussing the exhibit, the Village noted that Officers in the MAP bargaining unit have paid nothing for single coverage for the last 17 years and only \$45.00 per month for family coverage during this same period. (Tr.-199, 18ff.)

While not disputing the cost figures cited by the Village in its exhibit, and recognizing fully that medical expenses have risen dramatically in the past two decades, the Panel finds exhibit V.Ex.-35 unconvincing for a variety of reasons. First, no population data accompanies the exhibit. This omission prompts the obvious immediate question; "How many individuals were covered in 1986?" If the Village, like other Chicago suburban communities, has hired more people over the years, increased total health care cost would naturally increase dramatically.

Secondly, the data in this exhibit, with the explanation in the record, treats Village Police Officers as being represented by the Union during the entire

seventeen year period. While this may have been unintentional, it must be noted that Officers were not represented by MAP until 1990. Consequently, that date should, in ordinary circumstances, be the first appropriate date for measuring increases in medical costs associated with collective bargaining. Actually, an even later starting date may be the more appropriate cut-off point. On April 30, 2000, the Village and the Union entered into a CBA which provided that participation for Officers would “continue” under the Village Plan at no cost to single Officers and \$45.00 for family coverage. The negotiations leading up to this agreement, it is presumed, took into account the “history” of this matter, particularly the dramatic rise in costs which occurred during the term of the previous CBA. The history with respect to this matter was therefore effectively “settled” by the parties’ agreement at that time. The April 30, 2000 negotiations and agreement, accordingly, established a new starting point for future *quid pro quos* and cost comparisons on health care, given the fact that there is no evidence the parties had an understanding that issues predating the agreement could be revisited in future negotiations. It, therefore, is not unreasonable to conclude that the parties’ agreement laid to rest the history on this item once they reached a bargain on the matter and future changes should be initiated from that point forward.

According to exhibit V.Ex.-35, the Village’s Total Medical Costs increased approximately 40% since April 30, 2000. The Union proposes to increase family coverage by 33% and have single Officers pay two-thirds of that amount. This is

more closely comparable to the percentage of increase in the Village's total medical costs during the term of the previous Agreement. The Village on the other hand, proposes to increase employee contributions by a far greater percentage than the 40% increase actually experienced during the term of the previous Agreement.

Disability Health Insurance

The Panel finds that the Village's proposal to maintain the *status quo* with respect to Section 8.7, Disability Health Insurance more nearly comports to the statutory criteria, and it is awarded. The Union argues that its proposal to revise Section 8.7 was merely intended to supplement existing benefits with a specific reference to statutory benefits. The Union has not submitted compelling evidence to support such a conclusion. Absent persuasive data, the Panel is therefore unwilling to award the Union's proposal.

Retiree's Health Insurance

The Panel finds that the Village's proposal to maintain the *status quo* on Section 8.8, Retiree's Health Insurance more nearly comports with statutory criteria, and it is awarded. Certain items in the Union's proposal are not, according to the General Counsel of the ISLRB (S-DR-04-001 (2004)), subjects of mandatory bargaining. Consequently, this Panel accepts as correct the Village's contention that awarding these items is beyond the scope of our authority. With regard to arguably bargainable matters within the Union proposal on this item, the Panel concludes that the Union has failed to supply sufficient internal or external comparability data in support thereof.

Accordingly, to award any feature of the Union's proposal as to this matter would be tantamount to fashioning a benefit without substantive foundation. As noted earlier, this Panel views impasse arbitration under the ISLRB as an extension of collective bargaining, and while the Panel does not embrace as correct notions that "interest arbitration must not yield a substantially different result than that which could be obtained by the parties through [collective] bargaining" to obtain a break-through, which the Union's proposal here most certainly is, the Panel does conclude that the advocate of the break-through must justify its legitimacy with compelling argument. In other words, it is not sufficient to merely assert that "it's a good idea whose time has come" or that the Union's proposal would allegedly provide "security and peace of mind to current Officers" which is the sum and substance of the Union's arguments here. Likewise, it is

not sufficient to argue that the benefit sought by the Union is affordable and therefore of little significance to the employer. In the absence of a reasonable *quid pro quo* offering to “purchase” the benefit, or of data indicating that it is justified under the statutory criteria controlling this process, the Panel cannot effect an award favorable to the Union on this item.

Officer’s Killed in the Line of Duty

The Panel finds that the Union’s proposal to seek a new provision, Section 8.9, Officers Killed in the Line of Duty does not comport with the statutory criteria, and it is not awarded. The Union acknowledges that there are no external comparables to support its proposal here. The Panel is not unaware of “the innately dangerous nature of police work and the limited application of the [Union’s] proposal,” as argued by the Union. Nonetheless the Panel is unable to conclude that it should be included as part of the award on that basis alone. The Panel’s comments on our license to “innovate” proposals as noted in the discussion of retiree health insurance benefits are, by reference, repeated here.

Wage Schedule

The Panel finds that the Village’s proposal on Section 9.1 and Appendix A Wage Schedule more nearly comports with statutory criteria, and is awarded. The Union’s arguments seeking adoption of its proposal on this matter were multi faceted. First among them was a contention that a greater increase in “across the board” wages then those afforded other Village employees (both unionized

and unorganized) was required because under its final offer employee contributions for Group Hospital and Medical Insurance would be increased. Inasmuch as the Panel awarded the Union's proposal with respect to health care costs for working Officers the Union's "justification" for a 5% instead of a 4% wage increase is partially negated because employee contributions for health care will now be substantially less than those sought by the Village.

The Union also argued that its proposal for an annual 5% increase was appropriate, *vis-à-vis*, the Village's 4% offer, because Village Firefighters received "hidden" increases when their work-weeks were reduced by 1.3 hours. As a result, noted the Union, actual hourly rates for firefighters increased and compensation for paid vacation time and overtime increased as well. Furthermore, the Union argued, in addition to a reduced work week, members of the Firefighters Unit received an adjustment in their specialty pay which "effectively provided an overwhelming majority of that bargaining unit *actual* annual wage increases of 5.5% in the 2002-2003 year of the contract, not 4.0%." As indicated below, inasmuch as the Panel is awarding the Union's proposal with respect to Duty Assignments/Incentive Pay, and also its proposal on Senior/Master Patrolmen, its evidence and argument as to interdepartmental disparity (i.e., internal comparability) between Police Officers and Firefighters is not supportable.

The Union argues that its evidence demonstrates that only 49% of the Officers in the Unit hold a specialty designation, while 97% of the members of the

Firefighters Unit receive additional specialty compensation. The awarding of the Union's proposal on Duty Assignments/Incentive Pay and the establishment of a new classification for Senior/Master Patrolmen, should, the Panel concludes, significantly narrow or totally eliminate any differences between these percentages.

Earlier, the Panel noted with regard to external comparables, that the six *de facto* communities would be considered the primary basis for evaluating the parties' proposals. According to this evidence, awarding Village Police Officers an annual 4% increase will keep them at the top of the list of *de facto* communities for **2002 Officer Pay @ 9 Years** (V.Ex.-16); **2002 Patrol Officer Top Base Pay** (V.Ex.-19); **2002 Patrol Officer Top Base Pay with Maximum Longevity** (V.Ex.-20); and **2003 Patrol Officer Base Pay @ 9 Years** (V.Ex.-22); **2003 Top Base Pay** (V.Ex. -25). A 4% increase would place Bolingbrook Officers second, but only by \$4.00 per year, in **2003, Patrol Officer Pay @ 9 years including longevity** (V.Ex,23); second only to Oak Park (which provides a 15% longevity increase after 20 years) in **2003 Top Pay including maximum longevity** (V.Ex.-25). The 2004 pay scale data places Bolingbrook Officers at either first or second in the same categories. (V.Ex.-28, 29, & 30.) Moreover, when wage rates are examined against all twenty communities comprising the total of both parties lists, the results described immediately above are not dramatically distorted.

The Village's evidence as to wages persuades the Panel that a 4% increase in wages for each of the three years of the agreement will place Village Police Officers at or near the top of the *de facto* comparable communities list. Both parties' applicable exhibits also persuade the Panel that when all suggested comparable communities are considered, a 4% wage increase does not materially worsen Bolingbrook Police Officer's relative wage standing in the "labor market" in which it functions.

Duty Assignment - Incentive Pay

The Panel finds that the Union's proposal on Section 9.3, Duty Assignments/Incentive Pay more nearly comports with statutory criteria, and it is awarded. The Panel finds that while increases in Duty Assignment/Incentive Pay contained in the Union's proposal would place Officers at or near the top of comparable communities for this placement, that was not the primary factor for the Panel's decision. The instant increases proposed by the Union along with its proposal on Senior/Master Patrolman Compensation (discussed in more detail below), are required to satisfy deficits in internal comparability between Police Officers and Firefighters as a result of the "*hidden*" increases provided Firefighters in their latest contract. Two items in the Village's recent negotiations with the Firefighters contributed to this internal comparability "deficit" – the reduction in the work week and the additional pay incentive provided Firefighter/Paramedics. The record establishes that Firefighters must be cross-trained as a Paramedics. The resulting specialty incentive for this classification

provides most of the firefighter bargaining unit with an effective 5.5% increase in the 2002 - 2003 year of their agreement, as compared to the "basic" 4% increase the Panel is awarding Police Officers in this matter.

The Village argues that it has eliminated the DARE program because funding for the program has ceased. It also objects to the Union's elimination of the word "Spanish" from the bilingual specialty, pointing out that awarding the Union's proposal would result in having to pay bilingual Officers the specialty incentive even when their second language is not necessary for police work within the Village. The Panel is not overly concerned with the Village's contentions with respect to the DARE program, because, obviously if no Officer is assigned, payment of the specialty incentive is not required.

The elimination of "Spanish" from the bilingual specialty is, however, a concern for the Panel. The Village's position on this point is entirely reasonable, as bilingual Officers may well speak a language which is *never* used in Bolingbrook Police work. The Panel, most certainly, is not suggesting that bilingual specialty incentives should be paid in these circumstances. Were it within our power to do so, the Panel would insert "Spanish" back into the bilingual specialty proposed by the Union. However, under our license in this matter the Panel must select either the Union's final offer or the Village's final offer on each particular issue. We understand that we are without authority to amend the final offer of either party, even in this particular situation.

Accordingly, even with the potential impact the deletion of “Spanish” may have on specialty designations, the Panel adopts the Union’s final offer, as movement toward parity with Firefighters is warranted by evidence as to internal comparability. Adopting the Village’s proposal on this matter, the Panel finds, would be less than that required by appropriate internal comparability standards.

Senior/Master Patrolman Classification

The Panel finds that the Union’s proposal on Section 9.4, Senior/Master Patrolman Compensation more nearly comports with statutory criteria, and it is awarded. Both parties recognize that the main difference between the Union’s proposal and the Village’s proposal is the intermediate classification of Senior Patrolman. Accordingly, the data for this classification was carefully examined by the Panel. The evidence in this record shows that in the first year of the agreement only two officers who are not already receiving a specialty incentive will be eligible for Senior Patrolman incentives. In the second and third years of the contract one additional officer will be impacted. In a best case scenario adoption of the Union’s proposal, *vis-à-vis*, the Village’s proposal will have little cost impact.

The Village also argues that costs for providing a Senior Patrolman incentive will skew dramatically if Officers opt out of their Duty Assignment Incentives and instead elect to work in the less demanding classification of Senior Patrolman. The Panel acknowledges that this could occur, but our

experience suggests that in the real world *most* Police Officers take pride in specialties they have mastered, and are likely to continue to work that specialty. Nonetheless, if the Village's fears materialize, the Panel recommends that this matter be visited anew in the next round of negotiations, shortly after this award is implemented.

Hours Worked

The Union's proposal on Section 9.5.(c), Hours Worked is adopted by the Panel. This matter was resolved in the parties direct negotiations. Twelve hour shift schedules were implemented on a trial basis in the previous Agreement. Subsequent to expiration of the trial periods established in that Agreement, the parties continued twelve hour shift scheduling without negative impact.

Uniform Allowance

The Panel finds that the Union's proposal on Section 11.2 Uniform Allowance more nearly comports with statutory criteria, and is awarded. The Village opposes any increase in uniform allowances, for two main reasons. First, it argues that the Union failed to submit evidence justifying the proposal, and second, the uniform allowance currently being provided is significantly above that which other communities pay on average.

The Union's evidence on this issue consists of a current catalog of uniforms and equipment (Un.Ex.-3), and copies of purchase orders issued by the

Village for uniforms and replacements (Un.Ex.-1, Tab-11). This evidence indicates, *inter alia*, that the cost of many uniform items has increased between 10% and 20% over the past four years. Village Purchase Order 88593 was “cut” in 1999 for a new officer issue. Village Purchase Order was “cut” in 2003 for the same purpose. Comparison of the two indicates that on the 1990 PO, a Jacket cost \$240.00 while on the 2003 PO, this same jacket cost 17% more, or \$280.00. Long sleeved shirts in 1999 were billed at \$30.50 and in 2003 at \$34.95, an increase of 15%. Short sleeved shirts increased during this period by 16%. Trousers increased by 10%, and Turtle Neck sweaters increased by 23%.

Officer Bill of Rights

The Village’s proposal on Section 14.1 Officers Bill of Rights is adopted by the Panel. The significant change proposed by the Village is that reference to the Uniform Peace Officers Disciplinary Act, 50 ILCS 725/1 *et seq.* be made, with an additional provision that an Officer will have a reasonable time to consult with an attorney. The data in this record indicates that a majority of cited communities specifically reference the Police Officers Disciplinary Act in their contracts. Moreover, it is the Panel’s view that this change will result in administrative convenience without negative impact upon Officer’s rights.

Military Leave

The Union’s proposal on Military Leave is adopted. It is merely a housekeeping matter.

Retroactivity

The Union's proposal on retroactivity is adopted by the Panel. In effect, the annual 4% wage increases will be applicable as of the scheduled starting date, as will changes in Section 9.3 Duty/Assignment Incentive Pay (except that no retroactive payment is due as a result of dropping the word "Spanish" from the bilingual incentive and Officers prospectively assigned to Park Patrol and REACT Officer will not receive retroactive pay), Section 9.4 Senior/Master Patrolman Compensation, and Section 11.2 Uniform Allowance. Had these items been timely resolved, Police Officers would have enjoyed these benefits concurrent with others established under the new Agreement. Increases in employee contributions for Group Hospital and Medical Plan are also retroactive to the date the Village implemented its *revised* Village-wide Hospitalization-Medical Plan, and the Village is privileged to deduct these fees from any back pay awarded. The prescription drug card benefit provided in the Union's proposal for Section 8.1 will become effective at the start of the final year of the Agreement, as the Panel is certain that a retroactive application of this provision would be, for all intents and purposes, administratively impossible.

(April 15, 2004)

JOHN C. FLETCHER, CHAIRMAN AND NEUTRAL MEMBER

(_____)

ROBERT J. SMITH, JR., VILLAGE APPOINTED ARBITRATOR

(_____)
THOMAS P. POLACEK, UNION APPOINTED ARBITRATOR