

**INTEREST ARBITRATION  
OPINION AND AWARD**

In the matter of Interest  
Arbitration

Between

TOWN OF CICERO, ILLINOIS

And

ILLINOIS FRATERNAL ORDER  
OF POLICE LABOR COUNCIL

Case No. S-MA-06-012 (Police  
Sergeants)

Hearing Held

January 16, 2009

Cicero Community Center  
2250 South 49<sup>th</sup> Avenue  
Cicero, Illinois 60804

Appearances

For the Union:

Gary Bailey, Esq.  
Staff Attorney  
Illinois FOP Labor Council  
5600 South Wolf Road  
Western Springs, IL 60558

Arbitrator

Steven Briggs

For the Employer:

Jill O'Brien, Esq.  
Laner Muchin  
515 North State Street, Suite 2800  
Chicago, IL 60654-4688

## TABLE OF CONTENTS

BACKGROUND .....	2
RELEVANT STATUTORY PROVISIONS .....	3
THE ISSUES .....	4
THE EXTERNAL COMPARABLES .....	5
Union Position .....	5
Town Position .....	5
Discussion .....	6
WAGES .....	8
Town Position .....	8
Union Position .....	9
Discussion .....	10
LONGEVITY .....	12
The <i>Status Quo</i> .....	12
Town Position .....	13
Union Position .....	14
Discussion .....	14
EDUCATIONAL INCENTIVE .....	16
The <i>Status Quo</i> .....	16
Town Position .....	17
Union Position .....	18
Discussion .....	19

CLOTHING ALLOWANCE – UNIFORMED SERGEANTS  
AND DETECTIVES . . . . . 20

    The *Status Quo* . . . . . 20

    Union Position . . . . . 21

    Town Position . . . . . 22

    Discussion . . . . . 24

DRUG AND ALCOHOL TESTING . . . . . 26

    The *Status Quo* . . . . . 26

    Union Position . . . . . 26

    Town Position . . . . . 27

    Discussion . . . . . 31

DISCIPLINE . . . . . 33

    The Background and the *Status Quo* . . . . . 33

    Town Position . . . . . 35

    Union Position . . . . . 36

    Discussion . . . . . 37

AWARD . . . . . 42

## **BACKGROUND**

The Town of Cicero (the Town ) is a home rule governmental body which employs 16 Sergeants in its Police Department. They are represented for collective bargaining purposes by the Illinois Fraternal Order of Police Labor Council (the Union; the FOP). The Town employs three additional groups of unionized employees: (1) its 115 police Patrol Officers, also represented by the FOP; (2) its Firefighters, who are represented by the Cicero Firefighters Union, Local No. 717; and (3) its Public Works employees, who are represented by the International Union of Operating Engineers, Local No. 150.

Cicero's Police Sergeants first became unionized in approximately 1987; since that time they have successfully negotiated seven collective bargaining agreements with the Town, and have never had to make use of the interest arbitration process. While negotiations for an eighth contract have resulted in numerous tentative agreements on various issues, five economic issues and two non-economic issues remain unsettled. One of the agreed upon issues is the duration of the new contract, which will bear an effective date of January 1, 2006 and an expiration date of December 31, 2009.

The Union appealed the above outstanding issues to interest arbitration, and the parties selected Steven Briggs to serve as their sole Interest Arbitrator, waiving the tripartite arbitration panel provision of the Illinois Public Labor Relations Act. An interest arbitration hearing

was held on January 16, 2009, during which time both parties presented exhibits, witness testimony, and arguments in support of their respective positions. The parties submitted their final offers at the outset of the hearing, which was transcribed. Their timely post hearing briefs were exchanged through the Interest Arbitrator on April 14, 2009.

### **RELEVANT STATUTORY PROVISIONS**

Section 14(g) of the Illinois Public Labor Relations Act (the Act) provides in pertinent part:

As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h). The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in subsection (h).

Section 14(h) of the Act sets forth the following interest arbitration criteria:

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

- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.
- (3) The interest and welfare of the public and the financial ability of the unit of government to meet those costs.
- (4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees

performing similar services and with other employees generally:

- (a) In public employment in comparable communities.
  - (b) In private employment in comparable communities.
- (5) The average consumer prices for goods and services, commonly known as the cost of living.
  - (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
  - (7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
  - (8) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

### **THE ISSUES**

The parties have placed the following issues before the Interest Arbitrator for final and binding resolution:

- (1) Wages (economic)
- (2) Longevity (economic)
- (3) Education Incentive (economic)
- (4) Clothing Allowance (economic)

- (5) Detective Clothing Allowance (economic)
- (6) Drug and Alcohol Testing (non-economic)
- (7) Discipline (non-economic)

### **THE EXTERNAL COMPARABLES**

#### Union Position

The Union proposes the following external comparability pool:

Aurora

Berwyn

Elgin

Evanston

Joliet

Oak Lawn

Oak Park

Waukegan

#### Town Position

The Town's proposed external comparables are listed here:

Berwyn

Calumet City

North Chicago

Oak Lawn

Waukegan

Discussion

Since both parties have proposed Berwyn, Waukegan and Oak Lawn as external comparables, the Arbitrator adopts them. Table 1 has been constructed to illuminate the suitability as comparables of the remaining jurisdictions the parties have suggested for that purpose.

Table 1  
EXTERNAL COMPARABILITY DATA

Jurisdiction	Population*	Median Home Value*	Median Household Income*	E.A.V.**	Crimes Per 100,000	No. of Police Officers
Cicero	85,616	111,100	38,044	771,076,587	3,052	120
Berwyn***	54,016	132,900	43,833	801,413,358	3,170	92
Oak Lawn***	55,245	157,000	47,585	1,197,916,839	2,120	100
Waukegan***	87,901	118,200	42,335	1,467,006,918	3,398	165
Aurora (U)	142,990	198,800	56,566	n/a	3,152	289
Calum. City (T)	39,071	90,300	38,902	583,287,124	8,067	81
Elgin (U)	94,487	141,400	56,283	2,162,763,356	2,768	177
Evanston (U)	74,239	290,800	56,335	2,245,892,746	4,113	152
Joliet (U)	106,221	119,900	47,761	2,598,226,994	3,202	281
N. Chicago (T)	35,918	100,400	38,180	279,768,888	2,927	55
Oak Park (U)	52,524	231,300	59,183	1,461,989,313	3,939	124

\* - 2000 U.S. Census

\*\* - 2006

\*\*\* - Proposed by both parties

(U) - Proposed by the Union

(T) - Proposed by the Town

Sources: Union Brief; Town Brief; TX-8; TX-9; TX-14; UX-12; UX-24 - *Crime in Illinois 2007* (Illinois State Police, Illinois Uniform Crime Reporting Program); *Town of Cicero and IL FOP Labor Council, Patrol Unit* (Yaffe, 2009)

It is abundantly clear from Table 1 that the Town of Cicero is unique among the jurisdictions the parties propose as external comparables. On the population dimension alone, for example, Aurora, Calumet City and North Chicago can be rejected. Aurora is nearly double the size of Cicero; Calumet City and North Chicago are less than

half its size. Evanston and Oak Park appear to be far more affluent communities, each with a median home value more than twice that in Cicero. Likewise, both Elgin and Joliet have an equalized assessed valuation which is at least three times the comparable figure for Cicero. On balance, then, of all the communities set forth by the parties as being comparable to Cicero for interest arbitration purposes, only the three they agree upon (Berwyn, Oak Lawn and Waukegan) seem reasonably comparable across all of the demographic dimensions shown in Table 1.

Notably, in an interest arbitration award released approximately two months ago for the Town of Cicero/FOP Patrol Unit, Arbitrator Byron Yaffe concluded that none of the jurisdictions proposed by the parties were sufficiently comparable to Cicero.<sup>1</sup> He based that conclusion in part on the fact that few of the proposed comparable jurisdictions had settled on 2009 terms and conditions of employment. In the present matter, since the contract at issue will have a four-year term, with 2009 being the last year, the record contains sufficient data from 2006 through 2008 to justify using Berwyn, Oak Lawn and Waukegan as external comparables. The three-year contract before Arbitrator Yaffe ran from January, 2007 through December, 2009, so the year 2009 was statistically more significant in that case. Still, the undersigned Arbitrator will view the Berwyn/Oak Lawn/Waukegan data here with a cautionary eye, since they comprise such a small comparability pool.

---

<sup>1</sup> *Town of Cicero and Illinois FOP Labor Council*, Case S-MA-07-022 (Yaffe, 2009).

## **WAGES**

### Town Position

The Town proposes the following wage increases for all Sergeants employed as of the effective date of this Award:

<u>Effective Date</u>	<u>Percentage Increase</u>
January 1, 2006	4%
January 1, 2007	3.5%
January 1, 2008	3.5%
January 1, 2009	3.5%

In justification of its final wage offer, the Town notes that the proposed increases for the first three years of the contract are exactly the same as those received by the Police Patrol and Firefighter bargaining units. Furthermore, the Town argues, wage parity among those three groups has been maintained since 2001 --- with the exception of 2009, when its Firefighters received an extra .5% increase (total - 4%) in exchange for a Chemical Testing Policy reopener the Town sought in those negotiations.<sup>2</sup>

The Town adds that due to recent unfavorable economic conditions in the greater Chicago area and elsewhere, its non-represented

---

<sup>2</sup> In the Patrol Unit Award previously cited (see Note 1), Arbitrator Yaffe adopted the Town's 3.5% across-the-board wage offer. Thus, the Town's wage offer in these proceedings equates to the exact percentage increase received by Cicero Patrol Officers for calendar 2007, 2008 and 2009.

employees received no across-the-board salary increases for 2009.<sup>3</sup> Accordingly, the Town believes that the Union's proposed 4% increase for that year is unjustifiably high.

Finally, the Town argues, its ability to pay the increases sought by the Union here has been compromised by current economic conditions, and comparison with the external comparability pool it has proposed renders the Union's final wage offer unreasonably high.

#### Union Position

The Union's proposed wage increases for the four-year contract are displayed below:

<u>Effective Date</u>	<u>Percentage Increase</u>
January 1, 2006	4%
January 1, 2007	4%
January 1, 2008	4%
January 1, 2009	4%

The Union notes that there are not enough wage resolutions for 2009 among its external comparables to enable meaningful analysis. It also maintains that since all of the Police Sergeants in the Town of Cicero are receiving longevity pay currently (i.e., all of them have accumulated at least five years service), it makes sense to consider the wage and

---

<sup>3</sup> A few employees received merit adjustments in exchange for assuming additional responsibilities.

longevity issues together --- even though they are two separate economic issues in these proceedings. The Union claims as well that its wage and longevity offers do not cause Cicero Sergeants to move up in the rankings with their counterparts in comparable communities.

The Union adds that especially in the present economy, it is important not to lose salary ground, noting that Cicero Sergeants are in the lower half to lower third of the external comparability rankings. The Union's stated wage objective is to maintain its existing place among the comparables, and/or to make only negligible progress upward in the comparability pool wage continuum.

The Union further points out that the Town's wage offer does not achieve parity with the Firefighters, whom it has agreed to pay 4.0%, 3.5%, 3.5% and 4.0% over the term of their contract. Thus, the Union asserts, the Town was not concerned with parity then, so it should not be a meaningful factor now. Of substantially more significance at present, the Union argues, is the fact that the external comparables support adoption of its final wage offer.

### Discussion

Both parties rely on their own proposed external comparability groupings in support of their respective wage offers; however, as already noted, the Arbitrator has not embraced either of those suggested

comparability pools. Accordingly, the parties' arguments about the rejected jurisdictions are of little value in this analysis.

Table 2 has been constructed to evaluate the parties' wage offers against the accepted group of external comparables --- an admittedly small three-jurisdiction grouping endorsed by both parties.

Table 2  
PERCENTAGE WAGE INCREASE DATA  
INTERNAL AND EXTERNAL COMPARABLES

Jurisdiction	2006	2007	2008	2009
Cicero				
Town Offer	4.0%	3.5%	3.5%	3.5%
Union Offer	4.0%	4.0%	4.0%	4.0%
Police Patrol	4.0%	3.5%*	3.5%*	3.5%*
Firefighters	4.0%	3.5%	3.5%	4.0%
Public Works	n/a	3.5%	3.5%	3.5%
Berwyn Sgts.	2.75%	3.0%	3.5%	n/a
Oak Lawn Sgts.	4.0%	3.0%	3.25%	3.5%
Waukegan Sgts.	n/a	5.0**	4.0	4.0

\* - Via Interest Arbitration Award (Yaffe, 2009).

\*\* - Initial collective bargaining agreement

Sources: UX-15; *Town of Cicero and Illinois FOP Labor Council*, Case S-MA-07-022 (Yaffe, 2009); collective bargaining agreements.

For 2007 and 2008, the Union's 4.0% wage proposal seems somewhat high when juxtaposed against both the internal and external comparables. The only exception to that conclusion is the Waukegan Sergeants bargaining unit, which in 2007 was a newly-recognized body for collective bargaining purposes. Moreover, the negotiations which took place for the Waukegan Sergeants' initial three-year contract (5/1/07 through 4/30/10) followed a year of unusually high cost-of-

living increases (5.82% as of 12/06).<sup>4</sup> Thus, the parties there may have been unduly influenced by that isolated economic phenomenon and their agreed-upon 5%, 4% and 4% wage increases for each of the contract's three years may reflect that influence. In any event, the 2007 and 2008 Waukegan figures shown in Table 2 stand in marked contrast to the remaining five unionized employee groups. It is also important to note that, apparently, the Town of Cicero agreed to give its Firefighters a 4% increase for 2009 in exchange for their acceptance of a Chemical Testing Policy reopener. Since the Union's final wage offer here contains no such trade-off, a simple "me too" justification for a 2009 increase of that magnitude for Cicero Police Sergeants is not persuasive --- especially since the Public Works Unit settled for 3.5% and the Police Patrol Unit received 3.5% in an interest arbitration award.

Overall, the Town's final offer on the wage issue seems to be the more reasonable. I turn now to the Longevity issue, which is inextricably linked to wages, even though the two issues are considered separately in these interest arbitration proceedings.

## **LONGEVITY**

### The Status Quo

The parties' current longevity pay provision is quoted here in its entirety on the following page:

---

<sup>4</sup> All City Average, CPI-U (Union Post Hearing Brief, p. 22).

Section 29.2. Longevity

In addition to the base rates of pay, Employees covered by this Agreement shall receive the following annual longevity pay:

YEARS OF SERVICE COMPLETED	LONGEVITY PAY INCREASE
After Five Years Service	two and one-half percent (2 ½%)
After Ten Years Service	two percent (2%)
After Fifteen Years Service	two percent (2%)
After Nineteen Years Service	two percent (2%)
After Twenty-Five Years Service	two percent (2%)

The combination of base wages and longevity pay for the period covered by the term of this Agreement is shown in Appendix D. The wages set forth herein are retroactive on all hours paid from January 1, 2001.

Town Position

The Town's final offer on the Longevity issue is to maintain the *status quo*. It notes that in proposing an alteration to it, the Union must show compelling need to change the longevity schedule. The Town notes as well that there is no reason to conclude, as the Union's offer suggests, that after ten years' service a Sergeant becomes more valuable to the Police Department.

Moreover, the Town notes, its own offer here is identical to the one made by the Town to Patrol Officers, which is also the same as that it negotiated with the Firefighters. Thus, the internal comparison factor supports adoption of the Town's offer.

The Town also points out that one of its tentative agreements with the Sergeants guarantees them at least ten percent (10%) higher wages than patrol officers at any given step. With that automatic escalator, the Sergeants do not need incremental longevity pay.

Finally, the Town argues, its final offer on this issue retains the longevity and step schedule established by the parties themselves at the bargaining table. In contrast, it notes, adoption of the Union's final offer would create a drastic departure from that *status quo*.

### Union Position

The Union has proposed a change to the current longevity schedule. Under its offer, it seeks a one-half percent (1/2%) increase at the second (ten year) step. The remainder of the longevity schedule would remain unaltered.

The Union argues that Cicero Sergeants are at or near the very bottom of the comparability pool (again, it is a pool the Arbitrator has largely rejected), and that even under its wage and longevity offers they would not move up in the rankings. The Union also stresses that the internal comparables "have no impact"<sup>5</sup> and that the external comparables support adoption of its longevity offer.

### Discussion

If, as the Union argues, Cicero Sergeants have lost salary ground among comparable communities over the past decade or so, it is important to note that such movement took place within a system of free collective bargaining. Obviously, there were trade-offs made during

---

<sup>5</sup> Union Brief, p. 21.

contract negotiations, both in Cicero and in surrounding external communities, and the chips fell where they did. Interest arbitration was not designed to redress a perceived imbalance created by such voluntary trade-offs.

On the other hand, the Arbitrator notes that Police Sergeants and Patrol Officers within a given community are very much aware of the relationship between their respective salary schedules, including their longevity pay structure --- and for good reason. Sergeants have supervisory authority over Patrol Officers, and they usually achieve that superior rank through a competitive process. In principle, then, only the best Patrol Officers are promoted to the rank of Sergeant. If Patrol Officer wages are allowed to creep upward at a faster rate than those earned by Sergeants (i.e., their first-line supervisors), negative consequences may result. For example, high performing Patrol Officers might feel little incentive to take on the additional job responsibilities associated with the rank of Sergeant. Also, if the pay differential between Sergeants and those who report to them is diminishing, Sergeants may begin to question the pay equity between the two ranks. For those reasons alone, departmental efficiency and the public interest are better served if historical pay equity is maintained between Patrol Officers and Sergeants.

Here, through a substitute for free collective bargaining, Cicero Patrol Officers recently gained salary ground on Cicero sergeants. In his

May, 2009 Interest Arbitration Award Arbitrator Byron Yaffe adopted the Patrol Officers' final offer on the longevity issue.<sup>6</sup> That offer, which is identical to the one advanced by the Union here, gave Cicero Patrol Officers an additional one-half percent (1/2%) longevity pay at the ten-year step. To maintain the pay relationship the parties themselves have established over the years, the undersigned Arbitrator has decided to adopt the Union's final offer on this issue. In contrast to the Union's argument, I believe the internal comparability factor (especially as regards the police patrol unit) is an important consideration here, and as noted, the external comparability pools suggested by both parties are of questionable value.

### **EDUCATIONAL INCENTIVE**

#### The Status Quo

The parties' current policy with regard to financial incentives for the attainment of certain college degrees appears as §28.1 (Education Incentive) of their January 1, 2001 through December 31, 2005 contract.

That provision is quoted here:

#### Section 28.1. Education Incentive:

In addition to all other forms of compensation, the sergeants shall receive an annual education incentive for degrees which have been obtained and which are related to the sergeant's duties, or which have been approved by the Town as beneficial to the Town of Cicero. The sergeants shall

---

<sup>6</sup> I have the utmost regard for Arbitrator Yaffe's judgment and expertise in the interest arbitration arena, and I wholeheartedly endorse his May, 2009 Award.

receive annual compensation in accordance with the following schedule:

- a) Associates Degree: \$750.00 p/yr.
- b) Bachelor (sic) Degree: \$1,000.00 p/yr.

The first two (2) years after a sergeant qualifies for Educational Incentive, the sergeant shall receive a stipend in the above appropriate amount. Beginning the third (3<sup>rd</sup>)<sup>7</sup> year the Educational Incentive shall be added to the sergeant's base salary.

All educational incentive pay shall be paid in a separate check in the first pay period in December of each year of the Agreement.

### Town Position

The Town proposes that the *status quo* should remain unchanged on this issue, thereby providing no stipend pay for sergeants who have earned Masters' Degrees. It believes that doing so is justified by comparison with the relevant educational incentive programs in other communities. Moreover, the Town notes, its final offer on this issue for Sergeants exactly mirrors the one it advanced in the recent Patrol Officer interest arbitration proceedings before Arbitrator Yaffe.<sup>8</sup>

The Town also asserts that the Union provided no proof that attainment of a master's degree by a Sergeant provides any benefit to the Town and/or its residents. And while the Town freely admits it has

---

<sup>7</sup> Shown incorrectly in the Agreement as "(3)".

<sup>8</sup> Arbitrator Yaffe adopted that proposal (i.e., he maintained the *status quo*), noting that there was little external support for the Union's bid to increase the current Patrol Officer Educational Incentives and add one for the attainment of a master's degree.

agreed to provide tuition assistance to Sergeants pursuing masters' degrees, it strenuously argues that its agreement on that issue should not be considered here, as it would have a chilling effect on future negotiations between the parties.

### Union Position

The Union's final offer would alter the *status quo* to provide that Sergeants who earn Masters' Degrees would receive \$1,200 annually. As in the present Educational Incentive provision, that amount would come in the form of a stipend for the first two years after the degree is received, whereupon it would become part of the base salary each year thereafter.

The Union notes that during the parties' most recent negotiations the Town agreed to provide tuition assistance for courses towards a Master's Degree. It is therefore simply a reasonable extension of that tuition assistance benefit, the Union argues, for the Town to reward Sergeants who earn graduate degrees with a financial stipend for their achievement.

The Union also points out that its offer on this issue would cost the Town only an extra \$200 annually for each of the three Sergeants who have already earned Masters' Degrees, thereby totaling a mere \$600 per year in additional expenditures. Moreover, the Union avers, the benefit it seeks here only serves to promote a more educated police command force.

## Discussion

The Union is correct in characterizing Sergeants' attainment of Masters' Degrees as a benefit to the Cicero Police Department and to the citizens of Cicero. Indeed, that argument is hardly debatable. After all, the Town has already tacitly acknowledged the value of such educational attainment by agreeing to provide tuition assistance for it. Be that as it may, however, it does not automatically follow that Sergeants deserve a financial stipend when they complete their graduate studies by earning Masters' Degrees.

Since the Union has proposed a change to the *status quo*, the Union must show compelling reason for making that change. The Arbitrator finds no such evidence in the record. First, only three of the eight external comparables the Union itself proposed (Berwyn, Oak Lawn and Oak Park) offer such a benefit to Sergeants. That level of external support hardly constitutes justification for a change. Second, Cicero does not currently extend a Master's Degree stipend to any other employee groups. Third, a causal relationship between the provision of a financial incentive for a Master's Degree and the actual attainment of one has not been shown here. After all, three of the current fifteen Police Sergeants in Cicero (i.e., 20% of them) earned Masters' Degrees without the existence of a contractual financial incentive to do so. Finally, I note that Arbitrator Yaffe recently rejected a similar proposal from the Union in the previously cited Cicero Patrol Officer interest arbitration. Given

the inevitable comparisons which will occur between Police Sergeants and Patrol Officers in Cicero, and in view of the above-noted lack of justification for changing the *status quo* with respect to Sergeants on this issue, the Arbitrator favors adoption of the Town's final offer.

**CLOTHING ALLOWANCE –  
UNIFORMED SERGEANTS AND DETECTIVES<sup>9</sup>**

The Status Quo

Article 30 (Clothing Allowance) of the parties' current Agreement states:

Section 30.1. Uniforms.

The Town shall provide all required uniform clothing and equipment, including a bullet proof vest, at no cost to the sergeants. Effective upon ratification of this Agreement, bullet vests (sic) shall be replaced in accordance with the manufacturer's specification, but not more than once every four (4) years. If a bullet proof vest is requested and provided, it must be worn by the sergeant while on-duty. All new hires shall be required to wear their vest (sic) during the first "wear out" period (i.e., four years).

Section 30.2. Maintenance Allowance.

All uniformed sergeants covered by this Agreement shall receive an annual uniform maintenance allowance as follows:

As of 1/1/01	\$300.00 annually
As of 1/1/02	\$300.00 annually
As of 1/1/03	\$300.00 annually
As of 1/1/04	\$800.00 annually
As of 1/1/05	\$850.00 annually

---

<sup>9</sup> The Arbitrator has combined these two issues for discussion purposes, but will rule on them separately.

Said clothing/maintenance allowances shall remain the same during the term of this Agreement. As of January 1, 2004, the "quartermaster" system shall be abolished. Each detective sergeant shall receive an annual clothing/maintenance allowance of:

As of 1/1/01	\$750.00 annually
As of 1/1/02	\$750.00 annually
As of 1/1/03	\$750.00 annually
As of 1/1/04	\$900.00 annually
As of 1/1/05	\$950.00 annually

The clothing and maintenance allowances shall be paid in six month increments, on July 20<sup>th</sup>, and December 20<sup>th</sup> of each year of this Agreement.<sup>10</sup> Any change or addition to the uniform, as it is now worn by the police department, shall be paid for by the Town, and shall not be deducted from the sergeant's annual allowance.

### Union Position

The Union proposes that all uniformed Sergeants shall receive the following uniform maintenance allowances:

As of 1/1/06	\$850.00 annually
As of 1/1/07	\$900.00 annually
As of 1/1/08	\$900.00 annually
As of 1/1/09	\$950.00 annually

It proposes the following clothing/maintenance allowance schedule for Detective Sergeants:

As of 1/1/06	\$950.00 annually
As of 1/1/07	\$1,000.00 annually
As of 1/1/08	\$1,000.00 annually
As of 1/1/09	\$1,050.00 annually

---

<sup>10</sup> The Agreement incorrectly says "December 201h."

Additional elements of the *status quo* remain unchanged under the Union's final offer on this issue, including the abolishment of the former "quartermaster" system effective January 1, 2004. Noting that the last clothing/maintenance allowances received by Cicero Sergeants was made on January 1, 2005, the Union simply argues that the cost of purchasing new uniforms and equipment has increased since then. The Union also relies on the accepted external comparability data (Berwyn, Oak Lawn, Waukegan) as justification for the increases it seeks.

The Union notes as well that the current clothing/maintenance allowances for Sergeants are less than those received by Cicero Patrol Officers for the comparable time period. Moreover, the Union argues, its final offer on this issue maintains the existing benefit structure, as opposed to the Town's proposal, the adoption of which would radically change the current cash stipend arrangement and replace it with a quartermaster system.

#### Town Position

The Town's final offer on this issue would implement a quartermaster system, as well as a "uniform maintenance allowance" of \$150 per year per Sergeant effective January 1, 2009. As explained by Deputy Police Chief Jose Gonzales, in the past the Town has operated both with a quartermaster system and without one. Under the current method (i.e., no quartermaster system), several employees wear faded,

torn or worn out uniform shirts, pants and other equipment, he claimed. According to Gonzalez, selected Sergeants spend their uniform allowance funds early in the year, then wear worn or inappropriate uniforms in the ensuing months. Under the quartermaster system, they could request new uniforms or equipment as needed.

Without contradiction from any Union witness, Gonzalez testified that the appearance and image of sworn officers is of major concern to the Town President and Chief of Police, both of whom were not in office when negotiations took place for the current contract. Gonzalez also testified that he has personally counseled Sergeants about wearing worn and/or faded uniforms.

There currently exists a General Order which specifies the items considered part of the official uniform; thus, the Union's concern about whether certain specific items would be covered is misplaced. Moreover, the Union offered no evidence to suggest that the Town has ever changed that list unilaterally in the past.

The Town also argues that even under the quartermaster system, it would provide Sergeants with \$150 per year to cover the expenses they might incur to wash their new uniforms. It added that since those uniforms will be Scotchguarded, they will require less washing --- and therefore, less washing expense.

The Town specified as well that since neither party proposed a change to §30.1 of the current Agreement, it would still provide all

uniform clothing and equipment, including a bullet proof vest, at no cost to the Sergeants. And, the Town argues, since Sergeants have already received new uniforms that are easier to maintain and clean, it is illogical for them to retain the full amount of the uniform allowance they received when they were responsible for such costs.

The Town also believes that external comparisons are not relevant to this issue, since none of the other communities cited by the parties have provided uniforms made of the unique, new fabric currently worn by Cicero Sergeants. Moreover, the Town notes, none of those communities operate under a quartermaster system.

Finally, the Town argues that the clothing/maintenance allowance increases proposed by the Union for Detective Sergeants are excessive.

### Discussion

Of particular note here is the fact that during negotiations leading to the current Agreement the parties voluntarily abolished their former quartermaster system effective as of that contract's fourth year (i.e., January 1, 2004). Now, for the very next collective bargaining agreement, the Town seeks to reverse that pact, by imposing through the interest arbitration process the very system (or one closely comparable) it agreed to abolish. Furthermore, the Town has not demonstrated a compelling need to do so.

That is not to argue that all uniformed Cicero Sergeants have reported for work in sartorial splendor for each and every shift. But the Town has the inherent managerial authority through its higher-level Police command staff to impose progressive discipline on those Sergeants whose uniforms do not present a professional image. There is no evidence in the record to demonstrate that it has attempted to do so since the previous quartermaster system was abolished. I note as well that very few, if any, of the surrounding police jurisdictions and none of the three comparable ones (i.e., Berwyn, Oak Lawn and Waukegan) currently operate quartermaster systems for Sergeants.

Internally, it is true that Cicero Firefighters currently have a quartermaster system. It is also true that they can wash and dry their uniforms while on duty, using Town-owned facilities and supplies --- a benefit not enjoyed by Cicero Police Sergeants. I note also that owing to the aforementioned Yaffe Award, Cicero Patrol Officers have no quartermaster system, and as of 2008 they began receiving a \$950 uniform allowance. Under that same Award, plainclothes Police Officers began receiving \$1050 annual clothing allowances in 2008 and \$1100 annual clothing allowances in 2009. Given those figures, and in view of the conventional comparison between the wages/benefit packages received by Patrol Officers and Sergeants respectively, the clothing allowance figures proposed by the Union here do not seem unreasonably high.

For all of the foregoing reasons, the Arbitrator favors adoption of the Union's final offers on the Clothing Allowance and Detective Clothing Allowance issues.

## **DRUG AND ALCOHOL TESTING**

### The Status Quo

The parties' current Agreement contains an extensive 13-page provision (Article 8 – Chemical Testing) covering 16 sub-topics relating to drug and alcohol testing. To say that is “detailed” would be a gross understatement. Moreover, it was apparently a Town-wide policy when the Union voluntarily accepted it into the Sergeants' collective bargaining agreement.

### Union Position

The Union proposes that the *status quo* be retained on this issue. In marked contrast to that position, the Union argues, the Town seeks to rewrite the Agreement's Chemical Testing provision because of problems it has experienced in the Fire Department. The Town raised no chemical testing issues concerning Police Sergeants or Police Officers. One Police Commander apparently had a drug problem, but he was not covered by the terms of either labor contract, the Union notes.

The current Article 8 is one of the most comprehensive drug and alcohol testing provisions to be found in any municipal collective

bargaining agreement, the Union asserts. It was introduced into the parties' labor agreement only after extensive negotiations between the Union and a past Town of Cicero administration. Moreover, the Union points out, there have been no disputes between the parties over interpretation of the existing drug/alcohol testing language.

Over the years that Article 8 has been in the Agreement, the Union has been a willing participant in negotiations concerning its various terms. Those negotiations have been successful, resulting for example in a provision specifying what discipline shall be imposed for the first two times a Sergeant tests positive. The provision also states that Sergeants who test positive a third time shall be discharged without the possibility of mitigation or commutation. Adoption of the Town's chemical testing offer could result in Sergeants' discharge for the very first offense of testing positive for drugs or of being under the influence of alcohol. There is simply no support for such a radical change, the Union asserts.

#### Town Position

The Town argues that there is an imminent business need to change the chemical testing provision of the Sergeants' labor agreement. Relying on specific testimony from Town Attorney Holly Tomchey, it notes that she has personally handled six separate cases since 2006 wherein Town employees have violated its old Drug and Alcohol Policy. In one case, a Firefighter who reported for work under the influence of alcohol

could not be fired under that Policy; in another, a Town employee who was criminally charged for engaging in drug activity could not be fired. And in yet a third instance, a Town employee who was discharged for violating the Policy was reinstated with full back pay by a grievance arbitrator who ruled that its maximum permissible penalty was a mere 30-day suspension. That situation was reported in the local newspapers, and it created an embarrassing set of circumstances for the Town.

Although the Cicero Firefighters rejected an identical Chemical Testing proposal from the Town at the bargaining table, they agreed to a reopener provision which can be implemented after the remaining Town bargaining units have finalized their contracts concerning this issue.

The Town basically seeks a “zero tolerance” policy against the use and/or misuse of drugs and alcohol. Since January, 2008, such a policy has been in place for all unrepresented Town employees --- including members of management. Pursuant to that policy, employees are subject to immediate termination for even the first offense --- with no exceptions. The Town notes, though, that under its proposal in these proceedings, discharge would not be automatic for the first offense. Rather, it is among one of several penalties that a grievance arbitrator may impose for violation of the Chemical Testing provisions. That fact alone illustrates the additional protections for Cicero Police Sergeants that the Town has not even offered to its unrepresented employees.

The Town believes that the internal comparability factor supports adoption of its proposal. It notes that Operating Engineers Local 150 agreed to a zero tolerance policy for Public Works Department employees. And as noted, the Town's non-represented employees are already covered by the policy, and the Firefighters' Union has agreed to a contract reopener on this issue. That reopener has been activated, and the resulting negotiations are underway.

The Town notes in addition that its Chemical Testing proposal would retain the negotiated *status quo* with regard to all of the following elements:

- The types of conduct prohibited;
- The circumstances under which alcohol and drug testing is permitted;
- The reasonable suspicion testing standards;
- The random testing features;
- The circumstances under which a Sergeant can be tested following an on-duty shooting and/or fatality;
- The five different types of testing permitted (urine, breath, blood, hair follicle, saliva);
- The procedures and circumstances under which a confirmatory retest will occur following an initial positive test result;
- The types of conduct that constitute a refusal to submit to a test;
- The consequences of a violation of a criminal drug statute;

- The employee's right to counsel relative to a request to submit to a test;
- The Sergeant's right to seek voluntary assistance for a drug/alcohol problem prior to a policy violation; and, most importantly,
- The Union's right to "grieve the testing, the basis for the test, the administration of the test, the accuracy of the test, the results of the test and/or other alleged violation of the Agreement.

The Town also believes that the remaining new provisions of its final offer are inherently reasonable, especially when considering the following protections its adoption will preserve for Cicero Sergeants:

- Voluntary Request for Assistance. The Town shall take no adverse action against a Sergeant who voluntarily seeks treatment or counseling prior to being notified of his/her selection for drug and/or alcohol testing, provided that Sergeant has not tested positive on a previous drug and/or alcohol test administered by the Town. The Town shall assist a Sergeant seeking assistance by making available means by which referrals and/or a lawyer may be obtained (Employee Assistance Program).
- Right to Counsel. Any Sergeant who is ordered to submit to testing shall have the right to contact a Council representative and/or a lawyer at the time such order is given. Under no circumstance will the testing of the Sergeant be delayed more than an hour from the time that the order to test was given in order to allow the Sergeant an opportunity to contact and consult with a Council representative and/or lawyer prior to testing.
- Right to Grieve. The Council and/or a Sergeant, with or without the Council, shall have the right to file a grievance concerning any testing permitted by this Agreement, contesting the basis for the testing, the administration of the test, the accuracy of the test, the results of the test, and/or other alleged violations of this Agreement.

## Discussion

The Arbitrator acknowledges the current Town administration's legitimate desire to implement a "zero tolerance" drug/alcohol policy across all of its employee groups. The zeal with which the Town is pursuing that objective is reflected in the Chemical Testing reopener it secured in the current Cicero Firefighters' contract. As the Town noted in its position on wages here, it agreed to pay Cicero Firefighters an extra ½% wage increase for 2009 in exchange for the Chemical Testing reopener. In the present matter, though, adoption of the Town's final offer to its Police Sergeants would not be accompanied by a similar financial sweetener. Put another way, the Town paid its Firefighters an additional ½% wage increase for 2009 just for the opportunity to discuss the Chemical Testing issue once more at the bargaining table. In contrast, there is no evidence that it offered the Police Sergeants a comparable *quid pro quo* for acceptance of the Chemical Testing changes it seeks.

More significantly, the Chemical Testing provisions in the current Sergeants' Agreement are the result of detailed, intense negotiations between the Union and the Town. There is no evidence in the record to suggest that those provisions have been ineffective. No Police Sergeants have been accused of violating them, and no grievances have been filed over their interpretation or application. While the Town may have been embarrassed by drug and/or alcohol-related incidents involving other

employee groups, no such incidents involving Police Sergeants were cited in these proceedings.

Moreover, there is insufficient support among the internal comparables for adoption of the Town's Chemical Testing final offer here.<sup>11</sup> The Town's non-represented employees have no choice in the matter. As at-will employees, they must embrace any reasonable policy the Town chooses to implement. Cicero's Firefighters rejected the Town's "zero tolerance" Chemical Testing proposal at the bargaining table. And in his May, 2009 Interest Arbitration Award Byron Yaffe rejected the Town's Chemical Testing proposal, primarily because "no factual deficiencies or problems have been manifested in the bargaining unit affected by the proposal."<sup>12</sup> Indeed, the only represented employee group in Cicero to accept the "zero tolerance" policy voluntarily was the Public Works Unit, represented by Operating Engineers Local 150. The negotiations leading to that acceptance were for an initial contract, so there was no negotiated *status quo* in place. In stark contrast to that circumstance, the Town in these proceedings seeks to make drastic changes to a detailed and lengthy Chemical Testing provision hammered out by the parties during the collective bargaining process. Undoubtedly, both of them made difficult compromises on its various elements. Given

---

<sup>11</sup> There is some evidence of support for the Town's final offer on this issue among the three external comparables accepted by the Arbitrator. But since no drug and/or alcohol problems have arisen from the Cicero Police Sergeants group, I do not find that evidence sufficient to justify even partial adjustment of their negotiated Chemical Testing provision.

<sup>12</sup> *Town of Cicero and Illinois FOP Labor Council*, Case S-MA-07-022 (Yaffe, 2009), at page 12.

those origins, the Arbitrator is unwilling to adopt the Town's sweeping final offer on this issue, or even to cherry-pick individual elements of the parties' negotiated Chemical Testing provision and alter or eliminate them.<sup>13</sup>

## **DISCIPLINE**

### The Background and the *Status Quo*

In 2006 Cicero Police Officer Roberto Garcia received a two-day suspension, which was grieved. The parties were unable to resolve the matter themselves, and it was placed before Arbitrator Thomas F. Gibbons.<sup>14</sup> The Town raised an arbitrability argument, claiming that the suspension had not been grievable in the first place, and that Officer Garcia's complaint could only be heard and decided by the Town of Cicero Fire and Police Commission (the Commission). Arbitrator Gibbons agreed, and ruled that under the Patrol Officers' contract suspensions of five days or less fell under the exclusive jurisdiction of the Commission. He noted also that discipline more severe than a five-day suspension could be heard either by the Commission or by an arbitrator, depending upon the disciplined employee's preference.

---

<sup>13</sup> Since Chemical Testing is considered by both parties to be a non-economic issue, the Arbitrator has the authority to adopt some revision of their final offers or even to write and implement some amalgam of the two.

<sup>14</sup> *Town of Cicero v. Illinois Fraternal Order of Police Labor Council* (Gibbons, 2007), p. 2, entered into the record here as UX-19. In its post hearing brief at p. 31, the Union incorrectly stated that Officer Garcia had been issued a "3-day suspension."

As Article 11 (Discipline) of the Cicero Police Patrol Agreement was identical to Article 11 (Discipline) of the Cicero Police Sergeants' Agreement, the Sergeants became interested in clarifying their own options with regard to appealing suspensions of five days or less. Relevant portions of the current Cicero Sergeants' contract, excerpted from Article 11 (Discipline) are quoted here:

ARTICLE 11 – DISCIPLINE

2. **Suspension of Less Than Five Days.** If the Superintendent decides to impose a suspension without pay of five (5) days or less, the Superintendent, or such designee, shall notify the affected sergeant and notify the Cicero Board of Fire and Police Commission (sic) in writing of such suspension.

4. **Initiate Discipline Seeking Suspension Of More Than Five (5) Days or Demotion.** If the Superintendent decides to initiate discipline of a sergeant seeking a suspension without pay of more than five (5) calendar days or a demotion, the Superintendent, or such designee, shall serve written notice of the charges and disciplinary penalty or proposed disciplinary penalty upon the sergeant involved. Within five (5) days or the service of the charges, the sergeant must decide whether to proceed before the Cicero Board of Fire and Police Commission (sic) or before an arbitrator, and must complete and serve the Election Form, attached as Appendix B on the Town. Such hearing shall proceed as provided in Paragraph C below.

During their negotiations concerning the contract at issue here, the parties exchanged numerous proposals with regard to the proper forum for resolving disputes over suspensions of various lengths. Those negotiations did not resolve their differences on the matter, so they have

each proposed multiple changes to the language of the current Article 11. Those proposed changes are not limited to the above-quoted paragraphs. Essentially, though, the parties' fundamental disagreement on this issue is whether Sergeants should have the option of choosing the forum to be used for resolving disputes involving suspensions of five days or less (i.e., the Commission or arbitration).

### Town Position

The Town believes that its offer on this issue maintains the *status quo* since it mirrors Arbitrator Gibbons' conclusions and specifies that only discharges and suspensions greater than five days in length may be heard by an arbitrator. The Town asserts as well that the Union has presented no compelling evidence to change that *status quo*.

More specifically, the Town asserts, the Union has not shown that (a) a Sergeant was subject to bias or prejudice by having an appeal heard by the Commission in lieu of an arbitrator; (b) a Sergeant's disciplinary penalty was increased by the Commission on appeal; (c) a Commissioner has been less than neutral in hearing a Sergeant's disciplinary appeal; (d) the Commission applied an improper burden of proof in deciding a Sergeant's disciplinary appeal; and/or (e) the exemption of suspensions equal to or less than five days from the grievance and arbitration process has in any way harmed a currently employed Cicero Sergeant.

The Town also argues that adoption of its offer potentially increases the number of times that a Sergeant can use arbitration to appeal disciplinary suspensions of five days or less. That is, it has proposed that only the first five suspension days of those received by a Sergeant in a rolling 18-month period would be exempt from arbitration.

Finally, the Town notes, its offer provides a cost containment mechanism which would benefit both parties. That provision is quoted in its entirety here:

G. Cost Containment Measures

Except in termination cases, notwithstanding anything previously contained herein, the parties agree to participate in expedited arbitration proceedings including any and/or all of the following options as determined by the Employer after providing advance notice to the Council: (a) waiver of a court reporter; (b) limitation(s) on number of witnesses to be presented by each party; (c) limitation(s) on number of days of hearing permitted; (d) waiver of post-hearing briefs and allowance of bench ruling(s) by arbitrator in lieu of written decision; (e) limitation on number of pages allowed in post hearing brief submissions; and, (f) selection of local arbitrators to reduce travel expenses.

Union Position

In the Union's own words, its final offer on this issue proposes the following changes to Article 11:

. . . (1) clarify that suspensions of five days or less are subject to the employee's choice of forums; (2) in discharge arbitration cases, the Town President cannot discharge the grievant prior to the hearing; (3) in discharge arbitration cases, if the Town President fails to issue a response within seven days after the meeting with the grievant, the grievant will be deemed suspended with pay pending the arbitration

hearing; (4) in discharge Commission cases, the Commission cannot discharge the Sergeant prior to a full hearing; (5) clarify the disciplinary arbitration procedures and protocol to mirror the grievance arbitration procedures and protocol in Article 10; and (6) allow the arbitrator to decide whether to assess offsets against any back pay award.<sup>15</sup>

The Union notes that certain changes proposed by both parties are identical, emphasizing as well that their only differences focus on (1) the proper forum for appealing suspensions of five days or less; (2) dealing with the Town President's response in discharge cases; (3) offsets to back pay awards; and (4) cost saving measures.

### Discussion

At the outset, it should be noted here that Arbitrator Gibbons' 2007 Award involving Cicero Police Officer Garcia does indeed support the Town's position that the *status quo* for Sergeants under Article 11 precludes them from selecting between an arbitrator or the Commission for final resolution of the shorter-term suspensions at issue in these proceedings.<sup>16</sup> Still, it is clear from the record that both parties' offers on this issue contain drastic changes to the negotiated *status quo*.

The current Article 11 contains nearly four full pages of specific provisions which were crafted by the parties themselves at the bargaining table. In concert with conventional interest arbitration thought, I am

---

<sup>15</sup> Quoted from Union post hearing brief, p. 32.

<sup>16</sup> As noted earlier, the contract language interpreted by Arbitrator Gibbons in the Garcia case (i.e., Article 11 of the January 1, 2004 – December 31, 2006 Patrol Agreement) is exactly the same as that appearing as Article 11 in the current Sergeants' Agreement.

reluctant to disturb any of those provisions unless persuaded that there are compelling reasons to do so. I am convinced from the record that such reasons exist.

In rendering his May, 2009 Interest Arbitration Award for the Cicero Police Patrol Unit, Arbitrator Yaffe was faced with essentially the same arguments as those raised by the parties here. The negotiated *status quo* in the dispute he resolved consisted of exactly the same contract language with regard to discipline as that displayed in Article 11 of the current Sergeants' contract. Arbitrator Yaffe concluded there was a compelling need to change the *status quo* for the Patrol Unit. He decided on the basis of the "internal and external comparables" that suspensions of five days or less should be subject to arbitration. He decided as well that the Superintendent must respond in writing to a grievance within ten days, that a meeting with the grievant during that time would be required, and that if neither a written response nor a meeting with the grievant were provided, the grievance would be "deemed ripe for arbitration, at the Union's request, immediately thereafter."<sup>17</sup> Arbitrator Yaffe rejected the Town's "cost containment" proposal, and he left the question of back pay offsets to the discretion of the grievance arbitrators selected on an *ad hoc* basis by the parties.

Like Yaffe, I find the Town's proposed Cost Saving clause to be objectionable. For grievance arbitration proceedings it grants the Town

---

<sup>17</sup> Yaffe, *op. cit.*, Note 1, p. 14.

unilateral authority to decide whether to use court reporters, how many witnesses will be allowed, how many hearing days will be permitted, whether post hearing briefs will be filed, whether arbitrators will be allowed to issue bench rulings, and other “cost containment” considerations. All of those issues should be decided either by arbitral discretion or by agreement between the parties. Granting one party the unilateral authority to dictate them creates for that party an inappropriate opportunity to manipulate the arbitration process for self-serving purposes.

The parties’ positions on other aspects of the current Article 11 are more vexing. I do not want to disturb the parties’ own negotiated *status quo*, nor do I wish to sanction the use of interest arbitration --- an artificial substitute for the bargaining process --- to create new discipline provisions the parties may not yet have discussed between themselves. On the other hand, I believe the parties would be better served by employing the same discipline dispute resolution mechanism for the Police Sergeants’ unit as it currently has in place for the Patrol Officers’ unit. The soundness of that parity principle has already been discussed in this Opinion.

I note as well that disciplined Cicero Firefighters have the right under §22.4 of their contract to choose between arbitration and the Commission for ultimate resolution of disciplinary grievances. Thus, the Police Sergeants appear to be unique among Cicero’s unionized

protective service groups as they do not have the contractual right to arbitrate suspensions of five days or less. I find no legitimate reason to exclude them alone from exercising that choice.

Furthermore, unlike the arbitrator selection process, the Union has no say in the appointment of persons to the Cicero Fire and Police Commission, who under the Illinois Fire and Police Commission Act (65 ILCS 5/10-2.1-1) receive such appoints from the Mayor of Cicero. That fact alone could create an uneven playing field, leaving open the possibility that the Commission could be stacked with persons unsympathetic to the legitimate rights of disciplined Cicero Police Sergeants.

Another important consideration here is the fact that Board of Fire and Police Commission hearings are open to the public. Arbitration hearings are not, and according to one well-respected Illinois arbitrator: "... only the parties and their witnesses may attend unless the parties agree otherwise."<sup>18</sup> Giving Sergeants the option of choosing either arbitration or the Commission for final resolution of grievances over suspensions of five days or less might therefore save both the accused Sergeants and the Town the embarrassment of having such disputes aired publicly.

For all of the foregoing reasons, I will adopt the Union's position with regard to Sergeants suspended for five days or less having a choice

---

<sup>18</sup> *Village of Shorewood and Illinois Fraternal Order of Police Labor Council*, Case No. S-MA-07-100 (Wolff, 2008), UX-19.

of arbitration or the Commission for final resolution of disciplinary grievances filed in such cases (Article 11, §B.2.). Consistent with the aforementioned Yaffe Award, I also support the Union's proposal that individual grievance arbitrators should have the discretion to decide whether income offsets should be applied to their backpay awards, and what those offsets should be. As noted, the Town's "Cost Containment" provision is rejected. The Union's proposals with regard to preventing the discharge of a Sergeant prior to an arbitration hearing are not adopted, as there may be legitimate circumstances where keeping such a person on the payroll for such a long period of time would not be justified. The Union's proposal with regard to the Town President's response to a grievance (Article 11, §B.5.b.i) seems justified, for it provides meaningful incentive to ensure that such responses are timely. The Union's proposal concerning Article 11, §C.1.b. (arbitrator's authority, subpoena power, etc.) is also reasonable, and it is adopted, as are the Union's proposals for Article 11, §B (title), §B.5.a., §C. (title), §C.1.g., §C.1.i., §D. (title), §D.1., and §F. (title).

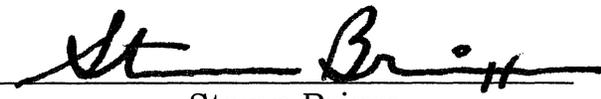
## **AWARD**

After careful study of the record in its entirety, and in full consideration of the applicable statutory criteria, whether specifically discussed herein or not, the Arbitrator has decided as follows:

1. Wages – the final offer of the Town is adopted.
2. Longevity – the final offer of the Union is adopted.
3. Education Incentive – the final offer of the Town is adopted.
4. Clothing Allowance – the final offer of the Union is adopted.
5. Detective Clothing Allowance – the final offer of the Union is adopted.
6. Drug and Alcohol Testing – the final offer of the Union is adopted.
7. Discipline – the final offer of the Union is adopted for the most part, consistent with the conclusions set forth in pages 37 through 41 of this Opinion and Award.

The substance of the above decisions shall be incorporated into the parties' January 1, 2006 – December 31, 2009 collective bargaining agreement, along with matters already agreed to by the parties themselves, and with provisions from the predecessor Agreement which remain unchanged. The Arbitrator retains jurisdiction with regard to item no. 7 (Discipline) for ninety (90) calendar days from the date below to hear and decide any dispute which may arise between the parties over its interpretation and/or application.

Signed by me at Hanover, Illinois this 13<sup>th</sup> day of July, 2009.

  
Steven Briggs