

**INTEREST ARBITRATION
OPINION AND AWARD**

In the matter of Interest
Arbitration

Between

VILLAGE OF SKOKIE

And

ILLINOIS FRATERNAL ORDER
OF POLICE LABOR COUNCIL

Case No. S-MA-08-139

Hearings Held

December 4 & 10, 2009

Skokie Village Hall
5127 Oakton Street
Skokie, IL 60077

Arbitrator

Steven Briggs

Appearances

For the Union:

Gary Bailey, Esq.
Illinois FOP Labor Council
5600 South Wolf Road
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For the Village:

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BACKGROUND

All sworn full-time peace officers¹ employed by the Village of Skokie (the Village) are represented for collective bargaining purposes by the Illinois Fraternal Order of Police Labor Council (the Union). The Village and the Union are signatory to a May 1, 2004 through April 30, 2008 collective bargaining agreement (their 7th in a continuous series since 1986), and they began negotiations for its successor on February 6, 2008. Neither was represented by Counsel during those talks. At the Union's request, Counsel for each party was present for seven additional bargaining sessions between March 5 and September 26, 2008. For the last two of those sessions the parties used the services of mediator from the Federal Mediation and Conciliation Service. Their differences on numerous issues remained, and between April 13 and November 4, 2009 the parties participated in 11 additional bargaining sessions, both on and off the record. Those discussions resulted in tentative agreement on several issues, but the parties remained unable to craft an agreement on many others.

Pursuant to the terms of the parties' negotiated Alternative Impasse Resolution Procedure they mutually appointed Steven Briggs to serve in the capacity of Interest Arbitrator and granted him the authority to decide certain terms and conditions to be included in their May 1,

¹ Excluding those in the rank of sergeant and above, any employees excluded from the definition of "peace officer" as defined in §3(k) of the Illinois Public Labor Relations Act, and all other managerial, supervisory, confidential and professional employees as defined by the Act, as amended.

2008 – April 30, 2012 successor Agreement. Interest arbitration hearings were held on December 4 and 9, 2009, during which time both parties were afforded full opportunity to present evidence and argument in support of their respective positions on the issues.

During the first hearing the parties acknowledged their mutual waiver of the tri-partite arbitration panel provision of the Illinois Public Labor Relations Act, thereby granting the Interest Arbitrator exclusive authority to decide the issues in dispute. The parties stipulated as well that their tentative agreements on all of the other issues shall be incorporated into their four-year May 1, 2008 – April 30, 2012 successor Agreement. The interest arbitration hearings were transcribed. The parties' timely post-hearing briefs were ultimately received by the Arbitrator on March 12, 2010, and, pursuant to their statutory right to do so, the parties subsequently supplemented the record with various documents reflecting changes in relevant circumstances during the period pending the outcome of these interest arbitration proceedings.²

RELEVANT STATUTORY PROVISIONS

Section 14(h) of the Illinois Public Labor Relations Act (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

² The last such submission was received by the Interest Arbitrator on June 3, 2010.

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 COMPARABLE EXTERNAL COMMUNITIES

The parties agree that the following 16 jurisdictions are comparable to Skokie for the purpose of these interest arbitration proceedings:

Arlington Heights

Des Plaines

Elk Grove Village

Elmhurst

Evanston

Glenview

Highland Park

Lincolnwood

Morton Grove

Mt. Prospect

Niles

Northbrook

Oak Park

Park Ridge

Wheeling

Wilmette

COMPARABLE INTERNAL EMPLOYEE GROUPS

The Village also has a formal collective bargaining relationship with the Skokie Firefighters Local 3033, International Association of Fire Fighters (IAFF). The Village and the IAFF have resorted to interest arbitration five times to resolve their bargaining table disputes, and all of the arbitrators who heard those cases, including the undersigned, have acknowledged the parties' own reliance on a comparison of wages, hours and working conditions between the Village's Fire Fighters and its Police Officers. To a lesser extent, the parties have also made comparisons here between the police unit and non-represented employees of the Village.

THE ISSUES

The parties have classified the following issues as either "economic" or "non-economic," and have placed them before the Interest Arbitrator for decision:³

1. Salaries (Economic)
2. Longevity Pay (Economic)
3. Equity Wage Adjustments (Economic)⁴
4. Sick Leave (Economic)
5. Emergency Leave (Economic)

³ According to the Act, for economic issues the final offer of one party or the other must be chosen in its entirety by the interest arbitrator; for non-economic issues the interest arbitrator has the latitude to make that choice, to fashion some amalgam of the two final offers, or to draft some other alternative contract provision.

⁴ The Village believes this should be considered a part of Issue No. 1 – Salaries. The Union asserts that it should be classified as a separate economic issue.

6. Health Insurance (Economic)
7. Holidays (Economic)
8. Quartermaster System (Economic)
9. Retiree Separation Benefits (Economic)
10. Pay Date (Non-Economic)
11. Drug and Alcohol Testing (Non-Economic)

During the December 4, 2009 arbitration hearing the parties placed two additional non-economic issues before the Interest Arbitrator (Grievance Definition; Entire Agreement). However, in a March 30, 2010 Declaratory Ruling Illinois Labor Relations Board General Counsel Jerald Post ruled that both of those issues are “permissive” under the Act. Accordingly, the undersigned Interest Arbitrator has no authority to decide them in these proceedings.⁵

**SALARY
(ECONOMIC)**

Village Final Offer

Effective May 1, 2008 – 3.75% across-the-board at all steps
Effective May 1, 2009 – 1% across-the-board at all steps
Effective May 1, 2010 – 2% across-the-board at all steps
Effective Nov. 1, 2010 – 1% across-the-board at all steps
Effective May 1, 2011 – 3% across-the-board at all steps
Effective Nov. 1, 2011 – possible equity adjustment based on the same formula contained in the parties’ 2004-2008 collective bargaining agreement.

⁵ The parties also entered into a pre-arbitration stipulation to that effect.

APPENDIX A
SECTION 13.1. SALARIES

Effective May 1, 2008, employees covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Hourly</u>	<u>Annual</u>
A	\$27.826	\$57,878
B	\$29.215	\$60,767
C	\$30.675	\$63,805
D	\$32.208	\$66,993
E	\$33.814	\$70,333
F	\$35.508	\$73,858
F+	\$36.397	\$75,705

Effective May 1, 2009, employees covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Hourly</u>	<u>Annual</u>
A	\$28.104	\$58,457
B	\$29.507	\$61,375
C	\$30.982	\$64,443
D	\$32.530	\$67,663
E	\$34.152	\$71,036
F	\$35.864	\$74,597
F+	\$36.760	\$76,462

Effective May 1, 2010, employees covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Hourly</u>	<u>Annual</u>
A	\$28.666	\$59,626
B	\$30.097	\$62,603
C	\$31.602	\$65,732
D	\$33.181	\$69,016
E	\$34.835	\$72,457
F	\$36.515	\$75,951
F+	\$37.496	\$77,991

Effective November 1, 2010, employees covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Hourly</u>	<u>Annual</u>
A	\$28.953	\$60,222
B	\$30.398	\$63,229
C	\$31.918	\$66,389
D	\$33.512	\$69,706
E	\$35.183	\$73,182
F	\$36.880	\$76,711
F+	\$37.870	\$78,771

Effective May 1, 2011, employees covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Hourly</u>	<u>Annual</u>
A	\$29.870	\$62,029
B	\$31.310 ⁶	\$65,126
C	\$32.875	\$68,381
D	\$34.518	\$71,797
E	\$36.220	\$75,377
F	\$37.986	\$79,012
F+	\$39.007	\$81,134

Effective November 1, 2011, there will be an equity adjustment applied to all steps, if necessary, in a percentage amount that will place the top step (F+) Skokie police officer salary in the middle of the top step salary for the comparable communities (including Skokie) which rank 6th and 7th among the communities that the parties have historically used for comparability purposes.

Employees covered by this Agreement who are still on the active payroll as of the beginning of the payroll period immediately following the execution of this Agreement shall receive a retroactive payment which shall be based on the difference between the salary they received between May 1, 2008 and the beginning of said payroll period and the salary

⁶ Incorrectly shown in Village post hearing brief at p. 18 as \$21.310. The parties' advocates agreed that the Interest Arbitrator could correct the erroneous figure and substitute the properly calculated figure (\$31.310) here.

they would have received during the same period of time based upon the foregoing salary schedule for all hours paid during this time period, provided that any employee who retired after May 1, 2008, but before execution of this Agreement shall also be eligible for retroactive pay based on hours paid after May 1, 2008.

Union Final Offer

Effective May 1, 2008, employees covered by this Agreement shall be paid on the basis of the following (3.75% wage increase):

<u>Step</u>	<u>Hourly</u>	<u>Annual</u>
A	\$27.826	\$57,878
B	\$29.215	\$60,767
C	\$30.675	\$63,805
D	\$32.208	\$66,993
E	\$33.814	\$70,333
F	\$35.508	\$73,858
F+	\$36.397	\$75,705

Effective May 1, 2009, employees covered by this Agreement shall be paid on the basis of the following (1% wage increase):

<u>Step</u>	<u>Hourly</u>	<u>Annual</u>
A	\$28.104	\$58,457
B	\$29.507	\$61,375
C	\$30.982	\$64,443
D	\$32.530	\$67,663
E	\$34.152	\$71,036
F	\$35.864	\$74,597
F+	\$36.761	\$76,463

Effective May 1, 2010 employees covered by this Agreement shall be paid on the basis of the following (3.25% wage increase):

<u>Step</u>	<u>Hourly</u>	<u>Annual</u>
A	\$29.017	\$60,356
B	\$30.466	\$63,369
C	\$31.990	\$66,539
D	\$33.588	\$69,862
E	\$35.234	\$73,346
F	\$37.029	\$77,019
F+	\$37.956	\$78,948

Effective November 1, 2010, there will be an equity adjustment applied to all steps, if necessary, in a percentage amount that will place the top step (Step F+) Skokie police officer in the middle of the top step salary for the comparable communities that the parties have historically used for comparability purposes.

Effective May 1, 2011, employees covered by this Agreement shall be paid on the basis of the following (3.0% wage increase):

<u>Step</u>	<u>Hourly</u>	<u>Annual</u>
A	\$29.888	\$62,166
B	\$31.380	\$65,270
C	\$32.950	\$68,535
D	\$34.596	\$71,759
E	\$36.291	\$75,546
F	\$38.140	\$79,331
F+	\$39.095	\$81,317

In the event there was an equity adjustment effective November 1, 2010, as provided above, in lieu of the salaries set forth immediately above, effective May 1, 2011, there shall be an across-the-board salary adjustment of 3.0% to the salaries that were effective November 1, 2010 as a result of said equity adjustment.

Effective November 1, 2011, there will be an equity adjustment applied to all steps, if necessary, in a percentage

amount that will place the top step (Step F+) Skokie police officer salary in the middle of the top step salary for the comparable communities (including Skokie) which rank 6th and 7th among the communities that the parties have historically used for comparability purposes.

Employees covered by this Agreement who are still on the active payroll as of the beginning of the payroll period immediately following the execution of this Agreement shall receive a retroactive payment which shall be based on the difference between the salary they received between May 1, 2008 and the beginning of said payroll period and the salary they would have received during the same period of time based upon the foregoing salary schedule for all hours paid during this time period, provided that any employee who retired after May 1, 2008, but before execution of this Agreement shall also be eligible for retroactive pay based on hours paid after May 1, 2008.

Discussion and Analysis

One Issue Or Two? The Village believes that the salary and equity adjustment questions should be treated as one economic issue here. Otherwise, it argues, the parties' final offers become artificially fractionalized (See West Des Moines Education Association, PERB Case No. 805 [Iowa PERB, 1976]; City of Elgin and PBPA [Goldstein, 2002]; Village of Niles and IBT Local 726 [Hill, 2003]; City of Moline [NathAN, 2003]; Village of Wilmette [Briggs, 2004]; and Village of Schaumburg [Briggs, 1998]).

The Union asserts that the present method of calculating mid-term wage adjustments is ambiguous, that the Village has made those calculations in self-serving ways, and that several grievances have been filed as a result. Arguing that the overall amount of a wage increase is

radically different from the question of how to calculate a mid-term adjustment, the Union proposes that those two subjects be considered as separate economic issues in these proceedings.

The calculation and timing of the mid-contract salary adjustments proposed by both parties, whether such adjustments are considered a separate issue or not, still affect the overall salary that Skokie police officers will earn over the course of the four-year Agreement under consideration here. Indeed, the Union underscored that principle in its post hearing brief as follows:

Certainly, the Arbitrator has already deduced that the mid-term wage adjustment is an essential part of the salary system of the Skokie police officers. As previously mentioned herein, for 9 of the past 14 years, there have been mid-term wage adjustments in the labor agreement and in each of the past four contracts, there have been multiple mid-term wage adjustments.⁷

To determine whether there exists a compelling need to change the current method of calculating mid-term salary adjustments, which is one of the Union's arguments in support of its position that the adjustment calculation question is so important it should be considered a separate issue here, the Arbitrator has reviewed the grievances included in the record as UX-33. I have concluded from that review that the parties' grievance procedure is doing exactly what it is supposed to do --- providing a mechanism for the parties to resolve their differences with regard to application and interpretation of mid-term salary adjustment

⁷ Union post hearing brief, p. 25.

questions. All of the grievances the Union included in its Exhibit 33 were resolved, and those resolutions were memorialized by various memoranda of understanding. The Arbitrator therefore sees no compelling need for carving the mid-term calculation method out of the salary contractual context and considering it a separate issue in these proceedings.

More generally, I do not endorse the strategic dissection of a cohesive, complex issue into its component parts for the purpose of an interest arbitration proceeding. As I put it in 2004:

Interest arbitrators in Illinois are compelled by statute to select in its entirety the final offer of one party or the other on each economic issue in dispute. It is an “all or nothing” approach which (1) underscores the risk of proceeding to interest arbitration and (2) in doing so, provides incentive (i.e., the avoidance of risk) for the parties to resolve their own interest disputes voluntarily. Fragmenting an economic issue spreads the parties’ risk across its elements, thereby minimizing the potential for losing the issue in its entirety. It also may dangle before certain interest arbitrators the temptation to construct compromise awards. Accordingly, the undersigned Arbitrator and numerous others have discouraged the “slicing and dicing” of issues for strategic purposes in interest arbitration. Consistent with the reasoning set forth in those awards, I shall consider the salary schedule increases, the Firefighter III stipend and the Union’s proposed equity adjustment as one salary issue in these proceedings.⁸

Consistent with the above-quoted passage, and in concert with what I believe to be the prevailing arbitral authority, I reject the Union’s

⁸ Village of Wilmette, Case No. S-MA-00-008 (Briggs, 2004).

argument here that the mid-term salary adjustment mechanism should be considered an issue separate from the salary issue.

The Salaries Themselves. Table 1 has been constructed to juxtapose the parties' salary offers against the wages provided to police officers in comparable jurisdictions.

TABLE 1
ANNUAL TOP POLICE SALARIES (RANKS) ACROSS COMPARABLE JURISDICTIONS⁹

Jurisdiction	5/1/08	5/1/09	5/1/10	11/1/10	5/1/11
Arlington Heights	78,184 (2)	81,116 (2)	84,158 (2)	n/a	n/a
Des Plaines*	75,663 (10)	78,500 (7)	81,444 (4)	83,480	n/a
Elk Grove Village	75,535 (11)	78,468 (8)	frozen	frozen	n/a
Elmhurst	75,878 (6)	78,534* (6)	n/a	n/a	n/a
Evanston	74,759 (7)	76,628 (5)	frozen	frozen	78,160
Glenview	78,318 (1)	81,255 (1)	84,505 (1)	n/a	n/a
Highland Park	77,716 (4)	frozen	79,660 (7)	n/a	n/a
Lincolnwood	73,320 (16)	75,886 (13)	78,163(10)	n/a	n/a
Morton Grove*	74,820 (13)	76,316 (12)	n/a	n/a	n/a
Mt. Prospect	75,725 (8)	78,376 (9)	81,119 (5)	n/c	83,958
Niles	n/a	n/a	n/a	n/a	n/a
Northbrook	77,932 (3)	80,854 (3)	83,886 (3)	n/a	n/a
Oak Park	76,242 (5)	79,101 (4)	80,885 (7)	n/a	n/a
Park Ridge	74,455 (14)	n/a	n/a	n/a	n/a
Wheeling	75,381 (12)	76,889 (10)	79,995 (6)	81,595	
Wilmette*	74,107 (15)	76,701 (11)	n/a	n/a	n/a
Average (w/o Skokie)	75,869	78,310	80,810	80,042	81,059
Village F.O.	75,705 (9)	76,462 (12)	77,991(11)	78,771	81,134
Union F.O.	75,705 (9)	76,463 (12)	78,948 (9)	**	81,317

* = Des Plaines, Glenview, Morton Grove and Wilmette adjustments effective January 1; Elmhurst 2009 raise effective 12/1/09.

** = Possible equity adjustment under either party's final offer.

Table 1 illustrates the difficulty of using external salary data to craft precise conclusions about the ranking Skokie police officers should occupy among the comparables. Those rankings change with time,

⁹ Top salary was used for this comparison, as the overwhelming majority of data the parties presented focused on the top step (Step 7) of the salary schedule. Thus, top police salary seems to be the most meaningful benchmark across the external comparables. Not shown in the Table is the Village's proposal for a possible equity adjustment effective November 1, 2011 and the Union's proposal for a 3.0% across the board increase effective that same date, contingent upon whether an equity adjustment is granted on November 1, 2010.

depending upon a host of factors, and making future salary increase decisions on a mere snapshot observation in an interest arbitration may overemphasize historical rankings and ignore future economic courses being charted by the various municipalities. Here, though, Table 1 seems to mirror an emerging trend which, given the dire condition of the U.S. economy, may be a harbinger of things to come. Consider the fact that three of the 16 comparable communities have implemented police salary freezes for 2009, 2010 and/or 2011. Those circumstances influence the relative rankings of top step Skokie police officers in the external comparability pool. That does not necessarily mean they should retain the new rankings in the future. It simply means that as of this point in time that's where they were vis-à-vis their counterparts in comparable jurisdictions. Thus, I am not convinced from the record that the historical salary rankings of Skokie top step police officers should be given much weight in these difficult fiscal times. The local labor market for police officers is adjusting to turbulent economic conditions, and reacting too quickly to each and every one of those adjustments could disturb the stability of police employment conditions in Skokie. It is therefore preferable to analyze the general trends (such as multiple jurisdiction salary freezes) and draw appropriate conclusions from them.

In terms of absolute dollars, the parties' offers are fairly close to each other.¹⁰ Thus, to favor one of them on that single dimension would

¹⁰ Note from Table 1 that by 5/1/11 they are less than \$200 apart.

give entirely too much significance to a differential of just a few dollars. Moreover, with municipalities generally “singing the blues” in the current economic downturn, the parties’ identical provisions for a 3.0% across the board increase effective May 1, 2011 seems robust indeed. In these storm-tossed economic seas, with the emergence of municipal salary freezes within the external comparability pool (Highland Park, Elk Grove Village, and Evanston) and across public sector jurisdictions generally, police officers who receive any salary increases at all from year to year are fortunate indeed.

The above conclusion is supported by recent cost-of-living data released by the Bureau of Labor Statistics. Between May 2008 and June 2010 the Consumer Price Index (CPI-W) for all U.S. cities increased only .49%. The comparable figure for the Chicago metropolitan area was - 1.23%. Against the backdrop of those figures, both parties’ final salary proposals seem quite favorable to Skokie police officers.

Turning to the internal comparability factor, it is clear from both parties’ proposals for a 3.75% May 1, 2008 increase and a 1% May 1, 2009 salary boost that they both intended, at least in part, to match the percentage increases awarded to Skokie firefighters for those dates. The Village’s unrepresented employees also received a 1% increase effective May 1, 2009. Unfortunately, and perhaps in anticipation of the outcome of these proceedings, as of this writing the Village and the IAFF have yet

to finalize a successor to their 2009-2010 contract.¹¹ Without future salary increase data for that bargaining unit, the internal comparability factor is not helpful in evaluating the parties' police salary offers beyond May, 2009.

The Mid-Term Adjustment. Finally, it is important to recognize that the Union's proposal with regard to the mid-term salary adjustment mechanism, which the Arbitrator has decided must be considered as part of its salary offer, reflects a change to the status quo. Review of the evidence in the record on this issue does not justify that change.

Since 1995 the parties have agreed to nine mid-term salary adjustments. In fact, the Union noted in its post-hearing brief that "The parties have employed mid-term adjustments over the years to maintain the salaries of Skokie police officers at a consistent ranking, not as a last-minute life-preserver."¹² While that argument is critical of the number of times the Village's final salary offer provides for a mid-term adjustment, it underscores the fact that the way in which such adjustments have been calculated in the past has indeed resulted in salary boosts for Skokie police officers. At the same time, the Union essentially argues that since the mid-term adjustment process is not

¹¹ That contract expired on April 30, 2010.

¹² Union post-hearing brief, p. 16.

commemorated anywhere in the Agreement, there is opportunity for the Village to abuse it. But there is no evidence of such abuse in the past.¹³

Moreover, the Union's proposal on the mid-term adjustment mechanism would base the calculations on the top step salary at each of the comparable jurisdictions, whether it had been established for the relevant time period or not. Depending upon the number of jurisdictions whose top step salaries for those time periods were not yet established, the Skokie mid-term adjustment calculations under the Union's final offer could be inordinately influenced by just a few jurisdictions --- i.e., those whose top-step salaries had been established when those calculations were made. In such instances, the mid-term adjustment might not accurately identify the economic equities it was designed to estimate.

Overall, the Arbitrator favors adoption of the Village's final offer on the salary issue.

LONGEVITY PAY (ECONOMIC)

The Status Quo

Section 13.3 (Longevity Pay) of the parties 2004-2008 Agreement is quoted in its entirety on the following page:

¹³ The Union has indeed filed several grievances over the Village's mid-term adjustment calculations, but the parties successfully resolved them. Thus, those disputes do not constitute compelling reason for a change to the status quo.

Section 13.3. Longevity Pay. Employees on the active payroll with the Village in a position covered by this Agreement shall receive monthly longevity pay in accordance with the following schedule:

<u>Years of Seniority</u>	<u>Monthly Amount</u>
8 years but less than 15 years	\$58.33
15 years but less than 20 years	83.33
20 years but less than 25 years	108.33
25 years or more	133.33

Village Final Offer

The Village's proposal on this issue would leave the status quo undisturbed for the first two years of the 4-year contract. It provides the following terms for the remainder of its duration:

Effective May 1, 2010, increase the monthly longevity pay amounts in accordance with the following schedule:

<u>Years of Seniority</u>	<u>Monthly Amount</u>
8 years but less than 15 years	\$66.66
15 years but less than 20 years	91.66
20 years but less than 25 years	116.66
25 years or more	145.83

Union Final Offer

The Union's final offer would also leave the status quo of Skokie police officers' longevity pay unchanged for the first two years of the

pending four-year contract. It calls for the following increased amounts for its last two years:

<u>Years of Seniority</u>	<u>Monthly Amount</u>
8 years but less than 15 years	\$58.33
15 years but less than 20 years	100.00
20 years but less than 25 years	141.66
25 years or more	183.33

Discussion and Analysis

Adoption of the Village's final offer on this issue would raise Skokie police officers' longevity pay effective May 1, 2010 by 14.3% at the 8 to 15-year level, 9.4% at the 15 to 20-year level, 7.7% at the 20 to 25-year level, and 9.4% at the 25 years or more level. Comparable figures for the Union's final offer are 0%, 20%, 31% and 37.5 %. The May 1, 2010 increases contained in the Union's final offer seem unusually large, even considering the fact that there is no increase provided for those officers with between 8 and 15 years service. The Arbitrator is not persuaded from the record that there is justification for the Union's back-end loading of longevity dollars at the expense of disturbing the longevity step pay spread established by the parties themselves at the bargaining table.

Moreover, the current longevity schedules for Skokie police and firefighters are identical through April 30, 2010. It is therefore highly likely that if the enormous increases sought by the Union in these

proceedings are adopted, the historical parity relationship between the police and fire units will result in equal longevity pay increases being provided to Skokie's firefighters. Absent unusual circumstances, the current economy simply does not justify the adoption of double-digit increases to any element of an overall compensation package, and the record has not persuaded me that it would be appropriate to do so here.

With regard to the external comparables, the maximum longevity pay included in the Village's final offer (\$1750 annually) is greater than that provided by seven of the ten jurisdictions which pay fixed dollar amounts (Arlington Heights - \$1600; Elk Grove Village - \$850; Glenview - \$1644; Mount Prospect - \$700, Oak Park - \$1680; Park Ridge - \$1450; and Wheeling - \$600). As noted by the Union in its comprehensive post hearing brief, a variety of longevity systems are in place across the external jurisdictions, making comparison among them difficult at best. But the foregoing figures suggest that senior Skokie police officers would fare well against their counterparts in other jurisdictions under the Village's final offer.

Historically, the concept of longevity pay has been adopted by employers to reward employee length of service (an often-cited surrogate for loyalty) and to reduce the costs of turnover. In Skokie, voluntary police turnover has been non-existent since August, 2003. Obviously, then, there is no compelling organizational need for the Village to

compensate high-seniority Skokie police officers with the double digit longevity pay increases sought by the Union in these proceedings.

Finally, the current Skokie police contract contains other economic benefits which become “sweetened” by length of service. Vacation benefits grow with seniority. Retiree vacation allowance, a benefit somewhat unique to the Village of Skokie, is directly tied to length of service. And the number of emergency leave days Skokie police officers are entitled to use ranges from zero to 260, depending on years of service. The existence of those benefits lends support to the Village’s argument that high-seniority Skokie police officers are well-compensated for the loyalty their long service reflects.

The Union argues that only six of the police unit’s 88 members have accumulated sufficient service to receive longevity pay at the 25-year level, and that only nine would be paid at the 20-25 year rate. Thus, the Union points out, adoption of its final offer on this issue would not immediately require the Village to shoulder an inordinately high longevity pay increase at high seniority levels. The Arbitrator is not persuaded by that argument, though, because bargaining unit members’ seniority advances continuously and automatically. Given the lack of turnover among Skokie police officers, it is inevitable that most of them will ultimately occupy the highest tiers in the longevity pay schedule. Fiscal restraint on this issue is therefore advisable. And again, the

Arbitrator simply cannot justify the monumental longevity pay increases (20%, 31%, 37.5%) contained in the Union's final offer.

SICK LEAVE (ECONOMIC)

The Status Quo

The parties' current sick leave contract provision is quoted here:

Section 9.1 Sick Leave. Each employee shall be advanced eight (8) sick leave days as of January 1, for use during the calendar year and said days shall not be accumulative. Sick leave may be used for illness, injury, maternity, doctor's appointments, or for serious illness or injury in the employee's immediate family. Immediate family shall be defined as the employee's spouse, children, parents, mother-in-law, father-in-law, brothers, sisters and grandparents. In case of serious illness in the immediate family, up to three (3) days of sick leave may be approved by the Police Chief or his designee. An additional two (2) days may be approved by the Village Manager.

In the event an employee is unable to work due to illness, he must inform his supervisor prior to the start of the scheduled work day. Failure to inform the supervisor each day of absence, or agreed intervals in the case of an extended illness, will result in loss of pay. Employees will comply with such reporting rules as may be established by the Police Chief.

The Village retains the right to take corrective steps to deal with abuse of sick leave or if an employee has prolonged and/or frequent and regular absences which hinder the carrying out of their responsibilities. Such corrective steps may include medical consultations, informal or formal disciplinary action, including dismissal.

Sick leave, if available, must be used for the first three (3) working days of an employee's absence due to illness, sickness or injury. Emergency leave may only be used commencing with the fourth consecutive working day an employee is absent due to sickness, illness or injury.

Effective January 1, 2007, the number of sick leave days advanced to each employee for use during calendar year 2007 shall be eight (8) if the average number of sick leave days used during calendar year 2006 by bargaining unit members who were employed for the entire calendar year 2006 was 5.0 days or less. If the average number of sick leave days used during calendar 2006 by such employees was more than 5.0 days, the number of sick leave (days) advanced to each employee for use during calendar year 2007 shall be seven (7).

Effective January 1, 2008, the number of sick leave days advanced to each employee for use during calendar year 2008 shall be eight (8) if the average number of sick leave days used during the preceding calendar year by bargaining unit members who were employed for the entire calendar year 2007 was 5.0 days or less. If the number of sick leave days advanced for use during calendar year 2007 was eight (8) and the average number of sick leave days used during calendar year 2007 by such employees was more than 5.0 days, the number of sick leave (days) advanced to each employee for use during calendar year 2008 shall be seven (7). If the number of sick leave days advanced for use during calendar year 2007 was seven (7) and the average number of sick leave days used during calendar year 2007 by such employees was more than 5.0 days, the number of sick leave (days) advanced to each employee for use during calendar year 2008 shall be six (6).

Effective January 1, 2007 and January 1, 2008, bonus paid time off to be taken in calendar years 2007 and 2008, respectively, shall be awarded based on the number of sick leave days used during the preceding calendar year in accordance with the following schedule:

<u>No. of Sick Leave Days Used</u>	<u>Bonus Paid Time Off</u>
0	24 hours
1	12 hours
2	8 hours
More Than 2	0 hours

Bonus paid time off earned based on the foregoing schedule shall be scheduled at the mutual convenience of the employee and the Department. Employee requests to take such time off shall not be unreasonably denied. Unused

bonus paid time off shall be forfeited without compensation. There shall be no carryover.

On or before May 15, 2005 and bi-monthly on or before the fifteenth of the applicable month thereafter (e.g., July 15, September 15, November 15, etc.) for the duration of this Agreement, the Village will provide the Union with information concerning the total number of sick leave days used by bargaining unit members in the preceding two months.

The above language stemmed from a May 6, 2005 mediation session conducted by the undersigned for the parties' 2004-2008 contract. That mediated accord was confirmed in my July 2005 Stipulated Interest Arbitration Award. Its new sick leave system went into effect January 1, 2007, based upon the bargaining unit's sick leave experience in calendar year 2006.

Village Final Offer

As shown below, the Village's final offer on this issue would revise the dates contained in the current §9.1. It would also make certain language changes and add a new table which displays the sick leave schedule to become effective January 1, 2011. The Village's final offer is quoted below, with excised current language stricken through and new language italicized:¹⁴

Section 9.1 Sick Leave. Each employee shall be advanced eight (8) sick leave days ~~as of January 1,~~ for use during the calendar year and said days shall not be accumulative. Sick

¹⁴ Those methods of displaying stricken and new language will be used throughout the remainder of this Opinion.

leave may be used for illness, injury, maternity, doctor's appointments, or for serious illness or injury in the employee's immediate family. Immediate family shall be defined as the employee's spouse, children, parents, mother-in-law, father-in-law, brothers, sisters and grandparents. In case of serious illness in the immediate family, up to three (3) days of sick leave may be approved by the Police Chief or his designee. An additional two (2) days may be approved by the Village Manager.

In the event an employee is unable to work due to illness, he must inform his supervisor prior to the start of the scheduled work day. Failure to inform the supervisor each day of absence, or agreed intervals in the case of an extended illness, will result in loss of pay. Employees will comply with such reporting rules as may be established by the Police Chief.

The Village retains the right to take corrective steps to deal with abuse of sick leave or if an employee has prolonged and/or frequent and regular absences which hinder the carrying out of their responsibilities. Such corrective steps may include medical consultations, informal or formal disciplinary action, including dismissal.

Sick leave, if available, must be used for the first three (3) working days of an employee's absence due to illness, sickness or injury. Emergency leave may only be used commencing with the fourth consecutive working day an employee is absent due to sickness, illness or injury.

Effective January 1, ~~2007~~ 2009, the number of sick leave days advanced to each employee for use during calendar year ~~2007~~ 2009 shall be eight (8) if *since* the average number of sick leave days used during calendar year ~~2006~~ 2008 by bargaining unit members who were employed for the entire calendar year ~~2006~~ 2008 was 5.0 days or less. ~~If the average number of sick leave days used during calendar 2006 by such employees was more than 5.0 days, the number of sick leave (days) advanced to each employee for use during calendar year 2007 shall be seven (7).~~

Effective January 1, ~~2008~~ 2010, the number of sick leave days advanced to each employee for use during calendar year ~~2008~~ 2010 shall be eight (8) if the average number of

sick leave days used during the preceding calendar year by bargaining unit members who were employed for the entire calendar year ~~2007~~ 2009 was 5.0 days or less. If the number of sick leave days advanced for use during calendar year ~~2007~~ 2009 was eight (8) and the average number of sick leave days used during calendar year ~~2007~~ 2009 by such employees was more than 5.0 days, the number of sick leave (days) advanced to each employee for use during calendar year ~~2008~~ 2010 shall be seven (7). ~~If the number of sick leave days advanced for use during calendar year 2007 was seven (7) and the average number of sick leave days used during calendar year 2007 by such employees was more than 5.0 days, the number of sick leave (days) advanced to each employee for use during calendar year 2008 shall be six (6).~~

Effective January 1, 2011, and each January 1 thereafter, the number of sick days advanced for the calendar year shall be in accordance with the following table:

<i>NUMBER OF SICK LEAVE DAYS ADVANCED IN PRIOR CALENDAR YEAR</i>	<i>AVERAGE NUMBER OF SICK LEAVE DAYS USED IN PRIOR CALENDAR YEAR</i>	<i>NUMBER OF SICK LEAVE DAYS ADVANCED AS OF JANUARY 1</i>
8	5 or less	8
7	5 or less	8
6	5 or less	7
8	More than 5	7
7	More than 5	6
6	More than 5	6

Effective January 1, ~~2007~~ 2009 and *each* January 1 *thereafter*, ~~2008~~, bonus paid time off to be taken ~~in calendar years 2007 and 2008, respectively~~, shall be awarded based on the number of sick leave days used during the preceding calendar year in accordance with the following schedule:

<u>No. of Sick Leave Days Used</u>	<u>Bonus Paid Time Off</u>
0	24 hours
1	12 hours
2	8 hours
More Than 2	0 hours

Bonus paid time off earned based on the foregoing schedule shall be scheduled at the mutual convenience of the

employee and the Department. Employee requests to take such time off shall not be unreasonably denied. Unused bonus paid time off shall be forfeited without compensation. There shall be no carryover.; *provided, however, any employee who earned bonus time off during calendar year 2009 and who did not use all such bonus time off prior to December 31, 2009, shall have until March 31, 2011 to do so.*

~~On or before May 15, 2005 and bi-monthly on or before the fifteenth of the applicable month thereafter (e.g., July 15, September 15, November 15, January 1, and March 15 etc.) for the duration of this Agreement,~~ the Village will provide the Union with information concerning the total number of sick leave days used by bargaining unit members in the preceding two months.

Union Final Offer

The Union's final offer on Sick Leave is presented here. As noted in footnote 14 on p. 26 of this Opinion, excised portions of the current §9.1 are stricken through, and new language is italicized.

Section 9.1 Sick Leave. Each employee shall be advanced eight (8) sick leave days as of January 1, for use during the calendar year and said days shall not be accumulative. Sick leave may be used for illness, injury, maternity, doctor's appointments, or for serious illness or injury in the employee's immediate family. Immediate family shall be defined as the employee's spouse, children, parents, mother-in-law, father-in-law, brothers, sisters and grandparents. In case of serious illness in the immediate family, up to three (3) days of sick leave may be approved by the Police Chief or his designee. An additional two (2) days may be approved by the Village Manager.

In the event an employee is unable to work due to illness, he must inform his supervisor prior to the start of the scheduled work day. Failure to inform the supervisor each day of absence, or agreed intervals in the case of an extended illness, will result in loss of pay. Employees will comply with such reporting rules as may be established by the Police Chief.

The Village retains the right to take corrective steps to deal with abuse of sick leave or if an employee has prolonged and/or frequent and regular absences which hinder the carrying out of their responsibilities. Such corrective steps may include medical consultations, informal or formal disciplinary action, including dismissal.

Sick leave, if available, must be used for the first three (3) working days of an employee's absence due to illness, sickness or injury. Emergency leave may only be used commencing with the fourth consecutive working day an employee is absent due to sickness, illness or injury.

~~Effective January 1, 2007, the number of sick leave days advanced to each employee for use during calendar year 2007 shall be eight (8) if the average number of sick leave days used during calendar year 2006 by bargaining unit members who were employed for the entire calendar year 2006 was 5.0 days or less. If the average number of sick leave days used during calendar 2006 by such employees was more than 5.0 days, the number of sick leave (days) advanced to each employee for use during calendar year 2007 shall be seven (7).~~

~~Effective January 1, 2008, the number of sick leave days advanced to each employee for use during calendar year 2008 shall be eight (8) if the average number of sick leave days used during the preceding calendar year by bargaining unit members who were employed for the entire calendar year 2007 was 5.0 days or less. If the number of sick leave days advanced for use during calendar year 2007 was eight (8) and the average number of sick leave days used during calendar year 2007 by such employees was more than 5.0 days, the number of sick leave (days) advanced to each employee for use during calendar year 2008 shall be seven (7). If the number of sick leave days advanced for use during calendar year 2007 was seven (7) and the average number of sick leave days used during calendar year 2007 by such employees was more than 5.0 days, the number of sick leave (days) advanced to each employee for use during calendar year 2008 shall be six (6).~~

Effective January 1, 2010, the number of sick days advanced to an individual employee for use during calendar year 2020 shall be eight (8). The number of sick days advanced to an individual employee for use for calendar year 2011 shall be

eight (8) unless the number of sick leave days used during calendar year 2010 by the individual employee was eight (8) days; if the individual employee uses eight (8) days in 2010, that individual employee shall be advanced only seven (7) days in 2011. If the individual employee uses less than eight (8) sick days in 2010, the individual employee shall be advanced eight (8) days for use in 2011.

If an individual employee who is reduced to seven (7) annual sick days uses all seven (7) in a calendar year, the individual employee shall receive only six (6) sick days in the subsequent calendar year. No employee shall receive less than six (6) annual sick days. If an individual employee who has been reduced below eight (8) annual sick days does not use any sick days in a given calendar year, the individual employee shall be entitled to eight (8) annual sick days in the following calendar year.

Notwithstanding the provisions hereinabove, an individual employee who uses all annual sick days allotted but also uses Emergency Leave, pursuant to Section 10.1 of this Agreement during the same calendar year, the individual employee shall not lose any sick days in the following calendar year. The provisions of this sick leave section will remain in effect until the terms of a successor labor contract are settled and are legally effective.

~~Effective January 1, 2007 and January 1, 2008, bonus~~ Bonus paid time off to be taken in calendar years 2011 and beyond 2007 and 2008, respectively, shall be awarded based on the number of sick leave days used during the preceding calendar year in accordance with the following schedule:

<u>No. of Sick Leave Days Used</u>	<u>Bonus Paid Time Off</u>
0	24 hours
1	12 hours
1	16 hours
2	8 hours
More Than 2	0 hours

Bonus paid time off earned based on the foregoing schedule shall be scheduled at the mutual convenience of the employee and the Department. Employee requests to take

such time off shall not be unreasonably denied. Unused bonus paid time off shall be forfeited without compensation. There shall be no carryover.

~~On or before May 15, 2005 and bi-monthly on or before the fifteenth of the applicable month thereafter (e.g., July 15, September 15, November 15, etc.) for the duration of this Agreement, the Village will provide the Union with information concerning the total number of sick leave days used by bargaining unit members in the preceding two months.~~

Discussion and Analysis

The Union's final offer, in part at least, refocuses sick leave usage from the bargaining unit generically to individual bargaining unit members specifically. The Union asserts it was developed to address bargaining table concerns raised by the Village in 2008 that even under the mediated status quo system applied to the last two years of the 2004-2008 Agreement, while overall sick leave usage across the bargaining unit decreased, there were still individual officers using all eight of their sick days annually. The Union's final offer does indeed address the sick leave usage of individual officers. It also increases by four hours (from twelve to sixteen) the bonus paid time off earned by officers who use only one sick leave day. The Union's rationale for that increase was not addressed in its post hearing brief.

The Union's final offer also contains a very significant change to the status quo --- a change that is not justified by the evidence in the record. It provides that officers who use less than eight sick leave days

in 2010 shall receive eight sick leave days for 2011. Under that language, every officer in the bargaining unit could use seven sick leave days in 2010 (the equivalent of a seven sick leave day average) and still qualify for eight sick leave days in 2011. That outcome reflects a quantum leap from the five-day or less average used in the current §9.1 to determine whether officers in the bargaining unit qualify for eight sick leave days in a subsequent year.

To be sure, the Union's focus on the individual officer is a creative approach to reducing the number of officers who use their entire annual allotment of sick time, and it includes a reasonable provision excluding from sick leave reduction in a given year those officers who also used emergency leave the previous year. Presumably, that exclusion is designed to protect those officers who suffered from chronic illnesses that required emergency leave in addition to sick leave. Still, the Arbitrator is troubled by the potential outcome identified in the foregoing paragraph --- an outcome that might take place under the Union's final offer.

Both parties agree that the revised sick leave provision implemented for the last two years of the 2004-2008 Agreement was effective in reducing overall sick leave usage. The data in Table 2 on the following page illustrate its resounding success:

TABLE 2
Sick Leave Usage Under Status Quo (2006-2008)
Compared to Previous Sick Leave Usage (2001-2005)

Year	Eligible Officers	Total Sick Leave Used	Average Sick Leave Used Per Officer
2001	75	469	6.25
2002	77	481.5	6.25
2003	80	476	5.95
2004	81	483	5.96
2005	79	448	5.67
2006	81	356	4.40
2007	77	363	4.71
2008	81	363	4.48
2009 (1 st 9 mos.)	88	354.5	4.03

Under the current system, certain Skokie police officers may still be fraudulently burning up eight sick leave days per year, but there may not be enough of them to bring average usage in a given year above five hours. As noted, the Union's final offer would address that flaw. But even under the status quo the Village has the right to discipline officers who use sick leave fraudulently. Thus, the need for the Union's proposed remedy to such sick leave abuse --- to the extent it might exist --- does not appear to be compelling.¹⁵

While the Village proudly asserts that it continued to implement the sick leave status quo during 2009, the Union argues that doing so was not required. The Union argues as well that when officers were using their sick leave in 2009 they were not aware of how that usage might affect their 2010 sick leave allocation. The Arbitrator does not find that argument to be very persuasive. Whether or not Skokie police officers' current sick leave usage might have an impact on their sick

¹⁵ The Arbitrator found no conclusive evidence in the record to prove that any particular Skokie police officer has been fraudulently using sick leave.

leave allocation the following year, their primary decision criterion about whether to call in “sick” or not should be whether they are too sick to work. It should not be a strategic decision made solely to influence the amount of sick leave they might be allocated the following year.

The data in Table 2 suggest that on average, Skokie police officers do not need even five sick days per year. After all, average sick leave usage was less than that from 2006 through the first nine months of 2009. And for the first nine months of 2009 it was the lowest it had been in nine years. The Union noted in a March 5, 2010 submission to the Arbitrator (with a copy to Village Counsel) that on the basis of overall police officer sick leave usage for all of 2009 (apparently over 5.0 days on the average) the Village had decided to reduce 2010 sick leave allocation to seven days. The Union also noted in that submission that it had filed a grievance and an unfair labor practice over that Village decision. But as clearly illustrated in Table 2, in terms of their average sick leave usage, Skokie police officers have not needed an eight day annual sick leave allocation in the past nine years. And I note that the Village’s offer provides officers who earned bonus time in 2009 and who have not yet used all of it will have until March 31, 2011 to do so. I therefore do not view the retroactive nature of the Village’s final offer on this issue as a fatal flaw, and I trust that the aforementioned grievance and unfair labor practice will be equitably resolved by those designated to adjudicate them.

I am duty-bound by statute to select for this economic issue the final offer of one party or the other in its entirety. As noted, the basic elements of the status quo have proven to be effective in reducing overall sick leave usage. Since the Village's final offer more closely resembles that status quo than does the Union's, it is adopted.

**EMERGENCY LEAVE
(ECONOMIC)**

The Status Quo

The parties' 2004-2008 Agreement contains five provisions concerning emergency leave (§10.1 through §10.5). Section 10.1 is the only clause at issue in these proceedings. It is quoted here:

Section 10.1 Definition and Method of Accrual. Commencing the first day for illness involving in-patient hospitalization or out-patient surgery and fourth day for illness involving home confinement, employees shall be placed on paid emergency leave status provided they have sufficient accrual in accordance with the following schedule based on years of seniority:

<u>Years of Seniority</u>	<u>Emergency Leave Days Earned</u>
Less than one year	0
1 – 2 years	10
3 years	20
4 years	30
5 years	40
6 years	50
7 years	65

8 years	80
9 years	95
10 years	110
11 – 16 years	150
17 – 20 years	200
Over 20 years	260

Emergency leave may also be used for off the job injury or disability or quarantine due to a contagious disease. Emergency leave may not be arbitrarily and unreasonably denied. Emergency leave shall not be granted for personal reasons, or for routinely scheduled medical, dental or optical appointments. Such absences may be charged to compensatory time.

Union Final Offer

The Union proposes no changes to the status quo on this issue.

Village Final Offer

The Village proposes in its final offer that the current §10.1 Emergency Leave provision be modified to prohibit the use of emergency leave for the first day of out-patient surgery. It would revise the initial sentence of that provision as follows:

Section 10.1 Definition and Method of Accrual. Commencing the first day for illness involving in-patient hospitalization ~~or out-patient surgery~~, *second day for out-patient surgery that requires an absence of more than one day*, and fourth day for illness involving home confinement, employees shall be placed on paid emergency leave status provided they have sufficient accrual in accordance with the following schedule based on years of seniority:

Discussion and Analysis

The Village acknowledged in its post hearing brief that this issue “advanced to interest arbitration to address a relatively minor complaint.”¹⁶ That complaint, which the Village raised in negotiations, arises when “occasionally” a bargaining unit employee will use emergency leave for something as simple as the removal of an ingrown toenail --- something that would not require the employee to miss more than a day of work. The Village also argues that when police officers need out-patient surgery that does not require them to miss more than one day of work, they can always schedule such procedures for non-work days, so that they do not need any leave at all.

For at least three reasons, the Arbitrator finds the Union’s final offer on this issue to be the more reasonable. First, it retains the status quo --- a provision which the parties have administered with no apparent problems in the past. Second, the Village has shown no compelling reason to alter that status quo. Indeed, the Village itself acknowledged that on a scale of importance, this issue is quite low. And third, there is an undeniable trend in the medical/surgical and medical insurance community to perform more and more types of surgery on an out-patient basis. Against that backdrop, the impact of the Village’s emergency leave proposal might well prove to be much more significant than what

¹⁶ Village post-hearing brief, p. 60.

currently may be limited to the “occasional ingrown toenail.” I therefore favor adoption of the Union’s proposal on this issue.

**HOLIDAYS
(ECONOMIC)**

The Status Quo

Article 12 (Holidays) of the parties’ 2004-2008 Agreement is quoted here:

In lieu of holidays, and commencing with the 2005-2006 fiscal year, employees covered by this Agreement shall receive seven (7) days off per fiscal year; provided that for the transition period between January 1, 2005 and April 30, 2006, two (2) additional holidays will be provided, with the understanding that all nine (9) holidays are to be used by April 30, 2006. Said days accrue when the actual holiday designated below occurs. The seven holidays are as follows:

- | | | |
|----------------------|-----------------|------------------|
| New Year’s Day | President’s Day | Memorial Day |
| July 4 th | Labor Day | Thanksgiving Day |
| Christmas Day | | |

Holidays will be prorated for new hires and for separations (including retirements) based on the actual date of the hire/separation in relation to the actual holiday. Thus, if an employee uses a day off under this Section before the day accrues and then separates from Village service for any reason, the employee shall be obligated to repay the Village for the day(s), the amount of which may be deducted from the employee’s paycheck. (E.g., if an employee takes seven days off between January 1 and December 20, and resigns effective December 20, the employee would owe the Village one day’s pay, since the employee’s seventh day off would not accrue until Christmas Day occurs. Similarly, if a new employee is hired on July 5, such employee will only accrue three (3) days for use during the calendar year.)

Days off accrued under this section are to be scheduled based on the employee's request and with the approval of the Police Chief or his designee. In order to be eligible to receive pay for any of the up to seven (7) scheduled days off, the employee must work his full scheduled day before and after the scheduled day off unless proof of sickness or excusable absence is established to the satisfaction of the Police Chief. Unused days off shall be forfeited without compensation; there shall be no carryover from one fiscal year to the next.

When an employee is called in from his regularly scheduled day off to work on the actual day of the holiday, the employee shall be paid time and one-half his regular straight-time hourly rate of pay for all hours worked on said holiday outside of the employee's regularly scheduled hours of work.

Village Final Offer

The Village proposes that the status quo be maintained on this economic issue.

Union Final Offer

The Union's final offer would delete from the first paragraph of Article 12 certain seemingly outdated language, as follows:

~~In lieu of holidays, and commencing with the 2005-2006 fiscal year, employees covered by this Agreement shall receive seven (7) days off per fiscal year; provided that for the transition period between January 1, 2005 and April 30, 2006, two (2) additional holidays will be provided, with the understanding that all nine (9) holidays are to be used by April 30, 2006. Said days accrue when the actual holiday designated below occurs. The seven holidays are as follows:~~

The Union's final offer would also change the last paragraph of Article 12 to read:

Effective May 1, 2010, employees who are scheduled to work and do in fact work July 4th and Labor Day, shall receive payment at the overtime rate for all hours worked. Effective May 1, 2011, employees who are scheduled to work and do in fact work Memorial Day, July 4th, Labor Day, Thanksgiving Day and New Year's Day, shall receive payment at the overtime rate for all hours worked. For purposes of this section, these holidays shall be referred to as "premium holidays." When an employee is called in from his regularly scheduled day off to work on the actual day of the holiday, the employee shall be paid time and one-half his regular straight-time hourly rate of pay for all hours worked on said holiday outside of the employee's regularly scheduled hours of work. When an employee is called in from his regularly scheduled day off to work on the actual day of a premium holiday, the employee shall be paid two and one-half (sic) his regular straight-time hourly rate of pay for all hours worked on said premium holiday outside of the employee's regularly scheduled hours of work.

Discussion and Analysis

The Union believes there is sufficient justification for its proposed change to the status quo on this issue because, it asserts, "the overwhelming number of external comparable communities pay officers extra wages for working a holiday."¹⁷ And, the Union argues, its final offer would begin its extra holiday pay payouts gradually, for just two holidays in 2010 and three more in 2011, thereby leaving Skokie police officers still behind the eight comparable communities who provide premium pay for working any holiday. The Union notes as well that municipal employers are moving toward decreasing staffing levels on holidays, and that the Village of Skokie can limit its exposure to the

¹⁷ Union post-hearing brief, p. 50.

holiday premium pay proposed here by simply not scheduling so many officers to work on premium holidays.

The Village asserts that the Union has not met its heavy burden of proof for securing the premium pay breakthrough it seeks in these interest arbitration proceedings. Moreover, the Village notes, the Union has offered no quid pro quo in exchange for holiday premium pay, and it has never bargained the holiday issue to impasse and taken it to interest arbitration. The Village acknowledges that most police officers in the comparable jurisdictions receive some sort of premium pay for holidays, but argues that the negotiated status quo in the Skokie police unit (i.e., no premium pay for working holidays) has been in existence for a number of years, and that the parties have maintained it within the context of free collective bargaining. Thus, the Village claims, it would be inappropriate for the Arbitrator to disturb that status quo by adopting the Union's final offer.

Holiday premium pay is but one of many economic benefits enjoyed by police officers in comparable external jurisdictions. Various forms of paid time off are another. Table 3 on the following page has been constructed to compare those benefits in an effort to determine whether the Union's breakthrough proposal is justified. The Table does indeed demonstrate that currently, Skokie police officers lag behind their external counterparts in terms of premium pay for working a holiday. On the other hand, it also reveals that police officers in Skokie generally

enjoy more paid time off than do police officers in comparable external jurisdictions. That differential is particularly large at the 20-year and 25-year seniority levels.

TABLE 3
Holiday Premium Pay and Paid Time
Off Across Comparable Jurisdictions

COMMUNITY	HOLIDAY PREMIUM?	MAXIMUM RATE	PTO Days @ Five Years	PTO Days @ Ten Years	PTO Days @ 15 Years	PTO Days @ 20 Years	PTO Days @ 25 Years
Arlington H.	Yes	1 ½	22	27	32	34	37
Des Plaines	Yes	2 ½	16	19	23	27	30
Elk Grove V.	Yes	2 ½	19	22	24	27	29
Elmhurst	Yes	3	13	18	23	28	28
Evanston	No	n/a	25	28	33	33	38
Glenview	Yes	1 ½	25	32	35	36	39
Highland Pk	Yes	1 ½	28	28	33	33	38
Lincolnwood	Yes	1 ½	22	27	32	37	37
Morton Grv	Yes	1 ½	16	22	28	28	33
Mt. Prospect	Yes	2	18	23	26	29	29
Niles	Yes	3	12	17	22	22	27
Northbrook	Yes	1 ½	27	30	37	39	39
Oak Park	Yes	2 ½	23	28	33	38	38
Park Ridge	Yes	1 ½	n/a	n/a	n/a	n/a	n/a
SKOKIE	No	n/a	21	26	31	36	41
Wheeling	Yes	1 ½	19	24	29	34	34
Wilmette	Yes	1 ½	22	27	31	31	35
Avg. w/o Sk	----	----	20.46	24.8	29.4	31.73	32.06

Taken at their face value, the data in Table 3 provide some support for the Union’s proposal on this issue. I note, however, that holiday premium pay has not been a significant issue during the parties’ previous contract negotiations. Perhaps the Union recognized within the context of give and take bargaining that overall, Skokie police officers’ benefit package was competitive with those received by their external counterparts. I also note an absence of evidence to suggest that the Village has been unwilling to bargain over this issue. I am therefore reluctant to award the Union in interest arbitration something that it may not have exhaustively pursued at the bargaining table. After all,

these proceedings were meant to be a last resort --- a mechanism to provide final and binding resolution to issues the parties have not been able to resolve themselves by bargaining to impasse over them. Here, I am just not convinced from the record that the parties have had sufficient discussions about this issue to explore the many possible tradeoffs they might make to resolve it between themselves.

I recognize that the Union's final offer on holiday premium pay does in one respect implement a gradual approach to officers' qualification for it (i.e., it starts with two "premium holidays" effective May 1, 2010 and progresses to five as of May 1, 2011), but its provision for 2 ½ times regular pay for being called in to work a premium holiday outside of officers' regularly scheduled hours of work seems like a somewhat excessive measure. That is especially true given the fact that only four of the external comparables provide premium pay equal to or greater than that rate.

Finally, the Arbitrator notes that Skokie firefighters do not receive any premium pay for working on holidays that fall within their regular work schedules. And as with Skokie police officers currently, the firefighters are paid at 1 ½ times their regular rate if they are called back to work on holidays. Thus, adoption of the Union's final offer would disturb the parity that currently exists between Skokie's police officers and firefighters on this issue.

On balance, since the Village's final offer on this issue would retain the status quo, and for all of the reasons noted in the foregoing paragraphs, the Arbitrator favors its adoption.

HEALTH INSURANCE (ECONOMIC)

The Status Quo

The last sentence of Agreement Section 14.1 (Comprehensive Medical/Dental Program) states the following:

The employee shall pay 12% (13% effective May 1, 2007 as long as the Village's unrepresented employees are also paying at least 13% toward the cost of such premium as of May 1, 2007) of the premium or cost for single or family coverage, whichever is applicable, for the plan selected and said amount shall be deducted from the employee's paycheck.

Village Final Offer

The Village's proposed changes to the status quo are reflected in the following amended paragraph:

The employee shall pay 12% (~~13% effective May 1, 2007 as long as the Village's unrepresented employees are also paying at least 13% toward the cost of such premium as of May 1, 2007~~) of the premium or cost for single or family coverage, whichever is applicable, for the plan selected and said amount shall be deducted from the employee's paycheck. ; *effective on or after May 1, 2010, the Village has the right to increase said percentage up to 13.5% of the premium or cost for single or family coverage, whichever is applicable, for the plan selected.*

Union Final Offer

The Union's proposal would also change only the last sentence of the current §14.1. Its final offer is quoted here:

The employee shall pay 12% (13% effective May 1, *2010 2007*, as long as the Village's unrepresented employees are also paying at least 13% toward the cost of such premium as of May 1, *2010 2007*) of the premium or cost for single or family coverage, whichever is applicable, for the plan selected and said amount shall be deducted from the employee's paycheck.

Discussion and Analysis

The Arbitrator is quite aware of the problems besieging both private and public sector employers who provide health insurance benefits to their employees. Insurance providers are attempting to keep premiums down by scaling back coverage, while simultaneously, health care providers are increasing what they charge for many services. These factors create real and sometimes immediate obstacles for employers attempting to maintain the coverage and costs associated with the health insurance plans they provide to their employees. And anyone familiar with municipal health insurance financing in Illinois recognizes the widespread employer movement to increase employee premium contribution rates, co-pays, deductibles, etc.

I also recognize the organizational prudence associated with employers like the Village of Skokie offering comparable (or even identical) benefit packages across multiple employee groups. It is evident

from the status quo in Skokie that its police officers have been concerned in the past about the health insurance contributions made by the Village's non-represented employees, and that they have underscored that concern with contract language confirming their willingness to accept employee contribution increases "as long as the Village's unrepresented employees" are paying at the higher rate too. The Village agreed to that provision in §14.1 of the 2004-2008 Agreement. Under that language it had the opportunity to raise the insurance premium contribution rates for both its non-represented employees and its police officers effective May 1, 2010. The Village did not exercise that option.

Here, while it expresses strong interest in maintaining parity across its three employee groups (police officers, firefighters, and non-represented employees), the Village did not include in its final offer any assurance to Skokie police officers that they won't be the only ones subject to having their health insurance premium contribution rates increased "on or after May 1, 2010." In fact, adoption of the Village's final offer would significantly change the status quo by isolating police officers as the only Village employees who might be affected by such an increase. Put another way, embracing the Village's final offer on this issue would allow it to raise the police officer health insurance contribution rate with no corresponding increase to non-represented employee health insurance contribution rates. I find insufficient justification in the record for doing so.

The Village's final offer on this issue also departs from the status quo in another meaningful way. While the parties' 2004-2008 language required the Village to declare an employee contribution increase by May 1, 2007 or lose the contractual right exercise that option, its final offer here would allow the Village to declare an increase from 12% to 13.5% "on or after May 1, 2010" --- unlike the window of opportunity in the previous contract, this one is open-ended. Of course, since May 1, 2010 is history as of this writing, it would not have been efficacious for the Village to use that date in its final offer --- as the Union did. Still, had the Village raised its non-represented employees' premium contribution rate by May 1, 2010, as it had the unilateral right to do, even under the Union's final offer it could raise the police officer premium contribution rate effective that date (retroactively) as well. So long as the non-represented employee contribution rate remains unchanged, and/or the Village's contribution rate increase proposal to police officers is not connected to an identical contribution rate increase for the non-represented employee group, the employer's "Village-wide parity" argument rings somewhat hollow. Contributing to that conclusion is the fact that Skokie firefighters currently pay 13% of the cost of their health insurance, and as noted, here the Village is proposing that the police officers pay ½% more than that. While that differential is admittedly small, it is not the same as that paid by Skokie firefighters.

For all of the foregoing reasons, the Arbitrator favors adoption of the Union's final offer on this issue.

QUARTERMASTER SYSTEM (ECONOMIC)

The Status Quo

Section 17.8 (Quartermaster System) of the parties' 2004-2008 collective bargaining agreement is quoted here:

Section 17.8. Quartermaster System. The amount which each employee is allotted under the Villatge's quartermaster system shall be \$675 per fiscal year (pro rata if employed less than a year) for the purchase of uniforms and related equipment shall continue for the term of this Agreement; provided, however, an employee may be reimbursed up to \$100 out of said allowance for uniform maintenance or repair where the employee submits receipts documenting the cost of such uniform maintenance or repair.

Each employee assigned to the Investigations Division or the Crime Prevention/Community Relations Unit shall be allotted \$900 (pro rata if employed less than a year). To be reimbursed such employee must submit receipts documenting the cost of the clothes.

The Village will provide employees who are assigned to the Tactical Intervention Unit on or after the date this Agreement is ratified by both parties with the basic set required uniform items with no charge to the employee's uniform allotment (i.e., 2 pair of pants, 2 blouses, 4 t-shirts, 1 pair of boots, 1 duty rig, 1 baseball-type hat, and 1 field jacket with liner). Employees assigned to the Tactical Intervention Unit shall return any Village provided uniforms if they leave the Village's employ or if they are no longer assigned to the Tactical Intervention Unit. The Village will replace basic uniform items for employees assigned to the Tactical Intervention Unit as they become worn out or damaged, provided that the employee must turn in worn out/damaged uniform items to his TIU commander and receive approval

from him to replace the item or items in question. It is understood that equipment items may be appropriately repaired rather than replaced if it is reasonable to repair the item. Unless an employee does not turn in worn out/damaged uniform and equipment items, the employee shall not be required to use his uniform allotment to replace said items.

The village will reimburse an employee for a total amount up to Two Hundred Dollars (\$200.00) per fiscal year for lost or damaged personal property, such as prescription glasses or time pieces, provided: a) such personal item was not covered by the quartermaster system or uniform allowance; b) the loss or damage occurred in the line of duty; and c) restitution was not obtained through the court system or other means (including insurance). The amount of any reimbursement provided in this paragraph will be deducted from the employee's annual uniform allowance.

Village Final Offer

The Village proposes that effective May 1, 2010 the \$675 per fiscal year quartermaster allowance for police officers be increased to \$700, and that the \$900 allotment for employees assigned to the Investigations Division or the Crime Prevention/Community Relations Unit be increased to \$925.

Union Final Offer

Effective May 1, 2010, the Union's final offer increases the \$675 per fiscal year quartermaster allowance for police officers to \$725, and then to \$750 effective May 1, 2011. It provides no other changes to §17.8 except to add the following language as its new last paragraph:

Notwithstanding these provisions, should the Village make any changes to the mandatory uniform and/or equipment requirements during the term of the Agreement, the Village shall purchase such items for all employees without any deductions from the employees' annual uniform allotments.

Discussion and Analysis

Table 4 has been constructed to display uniform allowance and quartermaster system data across the comparable communities:

TABLE 4
UNIFORM ALLOWANCES (IN DOLLARS)
ACROSS COMPARABLE JURISDICTIONS

Jurisdiction	2008	2009	2010	2011*
Arlington Heights	500	550	600	n/a
Des Plaines	725	775	775	775
Elk Grove Village	600	600	600	n/a
Elmhurst	Quartermaster	Quartermaster	Quartermaster	Quartermaster
Evanston	825	n/a	n/a	n/a
Glenview	750	750	750	n/a
Highland Park	QM; 700 Dets.	QM; 700 Dets.	Qm; 700 Dets	n/a
Lincolnwood	600	600	600	n/a
Morton Grove	750	750	750	n/a
Mt. Prospect	550	600	600	650
Niles	Quartermaster	n/a	n/a	n/a
Northbrook**	QM plus*	QM plus*	QM plus*	QM plus*
Oak Park	800	n/a	n/a	n/a
Park Ridge	750	750	750	
Skokie	675	675		
Wheeling	595	595	595	595
Wilmette	600	600	n/a	n/a
Average (W/O Skokie)	670	657 (775)***	669 (764)***	Insuff. Data
Village F.O.	675	675	700	
Union F.O.	675	675	725	

* - Some entries cover only part of the year, depending upon Agreement expiration dates.

** - Initial Quartermaster Issue, plus subsequent annual uniform replacement allowance equal to 50% of May cost of initial uniform issue.

*** - The average most likely dropped because Oak Park, which provided an \$800 uniform allowance for 2008, has not yet settled upon a figure for 2009. Also, the 2009 figure for Evanston does not appear in the record assembled for this case; for 2008 it was \$825. Assuming those amounts remained unchanged for 2009, the 2009 comparables average w/o Skokie would be \$775; for 2010 it would be \$764.

Sources: VX-49, UX-43, labor agreements.

The parties' offers for the police officer annual uniform allowance beginning in 2010 are only \$25 apart --- a minimal amount. But assuming for the moment that both Evanston and Oak Park do not reduce their 2009 allocations,¹⁸ both parties' final offers would fall behind the comparables' average for 2010. Thus, the Union's final offer seems preferable on that element of this issue.

The Village's final offer is somewhat troubling on another of its facets. It includes a May 1, 2010 uniform allowance increase of \$25 (from \$900 to \$925) for employees assigned to the Investigations Division or the Crime Prevention/Community Relations Unit. But the record reveals that the parties had already reached a tentative agreement on that aspect of the Quartermaster System issue --- that is, to retain the status quo at \$900 (UX-1, Tab 11). In view of the departure the Village's final offer makes from the parties' own tentative agreement on this issue --- however small that departure --- the Arbitrator believes that adoption of the Village offer might set a dangerous precedent. Unless both parties agree to amend their tentative agreement on an issue, that tentative agreement should not be disturbed in interest arbitration.

The Skokie Police Department Quartermaster System provides its officers with an initial issue of required uniform and equipment items. Thereafter, as those items need replacement, officers tap into their annual allowance for that purpose. Against that backdrop, if the Village

¹⁸ Such reductions are highly unlikely, given the fact that none of the external jurisdictions have ever reduced uniform allowances for any year displayed in Table 4.

were to make changes to the mandatory uniform/equipment list and require that officers obtain the new items, it seems reasonable for the Village to absorb the cost of those newly required items. Indeed, that is one generally accepted purpose of a Quartermaster System. Once the new items need replacement, officers would then, as they do now, use their annual uniform allowance to do so. Accordingly, the Arbitrator has concluded that the last paragraph of the Union's final offer on this issue is quite reasonable.

For all of the foregoing reasons, the Arbitrator favors adoption of the Union's final offer on the Quartermaster System issue.

RETIREE SEPARATION BENEFITS (ECONOMIC)

The Status Quo

Section 17.14 of the parties' 2004-2008 is quoted in pertinent part here:

Retiree Separation Benefits. The following provisions shall govern retiree separation benefits:

1. The official date of retirement will be the day after the last day that the employee was paid.
2. Except as provided in 3.B below, the accrual of vacation, sick leave and holidays will all cease at the end of the last day actually worked.
3. An employee who is retiring shall have one of the following two options:
 - A. An option to receive a severance payout for accrued but unused vacation in a lump sum on

the last paycheck issued following the last day worked. If this option is selected, the amount of the severance payout will be based on the accrued but unused vacation as of the last day actually worked.

OR

B. The option to receive a severance payout for accrued but unused vacation over subsequent consecutive payroll period(s). If an employee selects this option, the retirement date becomes the next day after the last day of the run out. During the run out, an employee shall be eligible to continue to accrue vacation benefits, receive paid holidays (pro-rated), and receive any salary increases that become effective during the period of the run out.

4. An employee with at least twenty (20) or more years of continuous full-time service at time of retirement and who notifies the Police Chief in writing at least ten (10) days in advance of the last date of work prior to retirement shall be entitled during his last year of employment to an extra 8-hour shift of vacation for each full year of employment. This extra vacation time must be taken off in the twelve (12) month period prior to retirement, and is intended to allow the employee additional time to adjust and prepare for retirement. Any unused RVA at the time of the employee's retirement will be paid out with any other accrued, but unused vacation. There shall be no accrual of any benefits while using RVA.

...

Union Final Offer

The Union proposes no changes to the status quo on this issue.

Village Final Offer

The Village's final offer on the Retiree Separation Benefits issue would eliminate the current option for officers to run out their earned vacation time just prior to retirement, while they are still considered employees. Under the offer, such employees would instead receive a lump sum payout for their earned vacation after their last day worked.

Here is the Village's final offer:

Section 17.4. Retiree Separation Benefits. The following provisions shall govern retiree separation benefits:

1. The official date of retirement will be the day after the last day that the employee was paid.
2. The accrual of vacation, sick leave and holidays will all cease at the end of the last day actually worked.
3. An employee who is retiring shall receive a severance payout for accrued but unused vacation in a lump sum on the last paycheck issued following the last day worked. The amount of the severance payout will be based on the accrued but unused vacation as of the last day actually worked.
4. An employee with at least twenty (20) or more years of continuous full-time service at time of retirement and who notifies the Police Chief in writing at least ten (10) days in advance of the last date of work prior to retirement shall be entitled to an extra 8-hour shift of vacation for each full year of employment. At the time of the employee's retirement it will be paid out with any other accrued, but unused vacation.

Discussion and Analysis

The Village notes that none of the externally comparable communities have a retiree separation benefit resembling that currently

enjoyed by Skokie police officers. And under its offer, the Village emphasizes, the number of additional 8-hour vacation days received by 20+ year retiring officers will not change. Rather, the Village asserts, its final offer simply requires a lump sum payout at retirement rather than allowing officers to remain on the payroll for the number of 8-hour vacation days they are entitled to receive under §17.14.4.

The Village also pledges to the Union that if its offer is accepted, it would honor the bargaining unit's wishes and either give them the option as a group to take the lump sum in cash or to provide that it will be placed in the Village's Retirement Health Savings Plan --- similar to what the Village agreed to do with the firefighter's bargaining unit.

The Union objects to changing the status quo on this issue, largely because employees who choose to run out their vacation time just prior to retirement continue to be considered employees (i.e., not retirees) for that limited period and are therefore still eligible for health insurance at the employee premium rate.

The external comparability data in this case clearly confirm that the pre-retirement vacation run-out option is unique to Skokie police officers. But that fact falls well short of convincing the Arbitrator that it should be taken away from them in these interest arbitration proceedings. After all, the current §17.14 language was crafted by the parties themselves within the context of their bargaining table talks. Those discussions took place in an atmosphere of give-and-take

compromise, a partial result of which was the vacation run-out option. Here, the Village essentially seeks surgical removal of that benefit without regard to any of the other issues and compromises the parties undoubtedly considered when they agreed to it in the first place.

Moreover, the Village concedes that the agreement it reached with the Skokie firefighters' unit on this issue is slightly different than what its final offer to the police unit would provide. As mentioned, the Village has pledged that if its offer is adopted here, it will engage in further discussion with the police Union regarding that difference. While that pledge is admirable, it suggests to the Arbitrator that the parties have not really completed their negotiations on this issue.

For the foregoing reasons it appears to the Arbitrator that the parties need to discuss this issue further in negotiations between themselves. I therefore favor retention of the status quo for the time being and will adopt the Union's final offer.

**PAY DATE
(NON-ECONOMIC)**

Village Final Offer

The Village proposes that the following new language be added as §13.5 to Article XIII (SALARIES AND OTHER COMPENSATION) of the parties' 2004-2008 Agreement:

Section 13.5. Pay Date. Effective on or after January 1, 2010, the Village may change its payroll policy and practice to move the pay date to Friday of the week following completion

of the payroll period. If the Village changes such policy, it will be implemented over five payroll periods, i.e., the pay date will be moved forward one weekday for five consecutive pay periods.

Union Final Offer

The Union believes the current payroll schedule is adequate, and proposes no change to it. It also notes that it would be pleased to discuss this issue with the Village in a negotiations context, and asserts that to date, in depth bargaining on this issue has not taken place.

Discussion and Analysis

It is axiomatic in interest arbitration that the party wishing to make a change to the status quo must present compelling need to do so. Without such evidence, many Illinois interest arbitrators (including the undersigned) have taken the position that they should “leave well enough alone” and let the parties’ deal with the matter when they next meet at the bargaining table. I am inclined to take that position here, especially since the Village’s final offer is worded in such a way that it seems it may or may not wish to implement a pay date change. That is, the offer does not propose that such a change be implemented on a date certain; rather, it seeks for the Village the authority to change it “on or after January 1, 2010” if it sees fit to do so. That proposed language falls well short of convincing the Arbitrator that there is compelling need to alter the status quo with regard to the issuance of Skokie police officers’ pay.

The Village reasonably argues that a 5-day time lag in issuing pay would likely eliminate certain accounting difficulties associated with the current payroll system. The Union argues with the force of equal reason that implementation of the system the Village seeks the authority to adopt could force Skokie police officers to loan the Village money for five days every pay period --- with no interest. The parties here have shown by the number of tentative agreements they reached on their own that they can construct effective compromises on tough issues, and that they often recognize the legitimacy of each other's positions. Surely, they can do the same on the pay date issue, and the Arbitrator urges them to reinstitute negotiations on this issue.

Accordingly, I am unwilling to endorse the Village's final pay date offer, and am favorably disposed to the Union's desire not to change the status quo on this issue through interest arbitration.

DRUG AND ALCOHOL TESTING (NON-ECONOMIC)

The Status Quo

Section 17.6 of the parties' 2004-2008 Agreement is quoted in its entirety here:

Section 17.6. Drug Testing. In order to help provide a safe work environment and to protect the public by insuring that police officers have the physical stamina and emotional stability to perform their assigned duties, the Village may require employees to submit to a urinalysis test and/or other appropriate test up to four times per year per employee at a time and place designated by the Village. At the time of any

urinalysis test, the employee may request that a blood sample be taken at the same time so that a blood test can be performed if the employee tests positive in the urinalysis test. If an employee tests positive in any such random test, the results shall not be sent to the Village, but rather the employee shall be advised confidentially to seek assistance through the Village's Employee Assistance Program (EAP). If the same employee tests positive a second time, the test results shall be submitted to the Police Chief for appropriate action. Drug testing may be required where there is cause for such testing. Unlawful use of drugs shall be cause for discipline, including discharge.

The Village shall indemnify and hold harmless the Council and their representatives and agents from and against any and all claims, demands, actions, complaints, suits or other forms of liability (monetary or otherwise) that arise out of or by reason of any action taken by the Village to implement the provisions of this Section.

Village Final Offer

The Village's proposed amendments to §17.6 (Drug Testing) are illustrated here:

Section 17.6. Drug and Alcohol Testing. In order to help provide a safe work environment and to protect the public by insuring that police officers have the physical stamina and emotional stability to perform their assigned duties, the Village may require employees to submit to a urinalysis test and/or other appropriate test up to four times per year per employee at a time and place designated by the Village. ~~At the time of any urinalysis test, the employee may request that a blood sample be taken at the same time so that a blood test can be performed if the employee tests positive in the urinalysis test. If an employee tests positive in any such random test, the results shall not be sent to the Village, but rather the employee shall be advised confidentially to seek assistance through the Village's Employee Assistance Program (EAP). If the same employee tests positive a second time, the test results shall be submitted to the Police Chief for appropriate action. Drug testing may be required where there is cause for such testing. Unlawful use of drugs shall~~

~~be cause for discipline, including discharge.~~ Drug and alcohol testing may also be required post-accident where (1) it results in a fatality; (2) there is bodily injury to anyone that requires treatment at a medical facility; (3) any vehicle has be (sic) towed away from the scene of the accident; or (4) the employee receives a citation. In addition, drug and alcohol testing may be required when there is reasonable suspicion for such testing.

The results of any positive tests shall be made available to the Village on a confidential "need to know" basis. If an employee tests positive for the use of a proscribed drug (i.e., an illegal drug, contraband), the Village can take such action as the Village in its discretion deems appropriate. The first time an employee tests positive for substance abuse involving something other than a proscribed drug, the employee shall be required to enter and successfully complete the Village's Employee Assistance Program (EAP) during which time the employee may be required to submit to random testing with the understanding that if the employee again tests positive the Village can take such action as the Village in its discretion deems appropriate. Notwithstanding the foregoing, the Village retains the right to take such action as the Village in its discretion deems appropriate if an employee consumes alcohol while on duty.

The illegal use, sale or possession of proscribed drugs at any time while employed by the Village, abuse of prescribed drugs, as well as being under the influence of alcohol or the consumption of alcohol while on duty, shall be cause for discipline including termination.

The Village may adopt implementation policies and procedures that are consistent with the foregoing.

The Village shall indemnify and hold harmless the Council and their representatives and agents from and against any and all claims, demands, actions, complaints, suits or other forms of liability (monetary or otherwise) that arise out of or by reason of any action taken by the Village to implement the provisions of this Section.

Union Final Offer

Likewise, the Union's final offer contains many changes to §17.6.

They are set forth here:

Section 17.6. Drug And Alcohol Testing. In order to help provide a safe work environment and to protect the public by insuring that police officers have the physical stamina and emotional stability to perform their assigned duties, the Village may require employees to submit to a urinalysis test and/or other appropriate test up to four times per year per employee at a time and place designated by the Village. At the time of any urinalysis test, the employee may request that a blood sample be taken at the same time so that a blood test can be performed if the employee tests positive in the urinalysis test. ~~If an employee tests positive in any such random test, the results shall not be sent to the Village, but rather the employee shall be advised confidentially to seek assistance through the Village's Employee Assistance Program (EAP). If the same employee tests positive a second time, the test results shall be submitted to the Police Chief for appropriate action. Drug testing may be required where there is cause for such testing. Unlawful use of drugs shall be cause for discipline, including discharge.~~

In addition, drug and alcohol testing may be required where there is reasonable suspicion for such testing or where the employee is involved in a motor vehicle accident where the following is present:

- 1. A fatality occurs;*
- 2. The employee receives a citation;*
- 3. An injury occurs requiring treatment at a medical facility; or*
- 4. The police vehicle is towed from the scene.*

The Village will require two supervisors to observe and to confirm the behavior of the employee prior to the order to undergo "reasonable suspicion testing." The Village will also provide the employee tested a written statement within forty-eight (48) hours setting forth the reasons the order was given.

The results of any positive tests shall be made available to the Village on a confidential “need to know” basis. The first time an employee tests positive for substance abuse involving something other than a proscribed drug, the employee shall be required to enter and successfully complete the Village’s Employee Assistance Program (“EAP”) during which time the employee may be required to submit to random testing with the understanding that if the employee again tests positive the Village can take such disciplinary action as the Village in its discretion deems appropriate. Notwithstanding the foregoing, the Village regains the right to take such action as the Village deems appropriate if an employee consumes alcohol while on duty.

The Village shall indemnify and hold harmless the Council and their representatives and agents from and against any and all claims, demands, actions, complaints, suits or other forms of liability (monetary or otherwise) that arise out of or by reason of any action taken by the Village to implement the provisions of this Section.

Discussion And Analysis

It is obvious from the parties’ final offers that their negotiations on this issue thus far have been productive. Indeed, both offers depart from the status quo in some similar and significant ways. For example, both provide for “reasonable suspicion” and post-accident testing. Both include language with regard to alcohol testing. Both discuss the dissemination of positive test results to the Village on a “need to know” basis. And both give the Village broad authority to “take such action as (it) deems appropriate” if an employee consumes alcohol while on duty. Indeed, the remaining differences between the parties’ positions on this issue are really not so significant.

Given the parties' success thus far in moving toward total accord on this issue, and in view of the paucity of evidence as to whether the status quo has caused problems which compel revision to it through interest arbitration, the Arbitrator remands the Drug And Alcohol Testing issue back to the parties for further bargaining table discussions.

AWARD

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

1. Salaries – the final offer of the Village is adopted.
2. Longevity Pay – the final offer of the Village is adopted.
3. Sick Leave – the final offer of the Village is adopted.
4. Emergency Leave – the final offer of the Union is adopted.
5. Holidays – the final offer of the Village is adopted.
6. Health Insurance – the final offer of the Union is adopted.
7. Quartermaster System – the final offer of the Union is adopted.
8. Retiree Separation Benefits – the final offer of the Union is adopted.
9. Pay Date – the final offer of the Union is adopted.
10. Drug Testing – remanded to the parties for further bargaining.
11. Grievance Definition – the Arbitrator has no authority to decide this issue.
12. Entire Agreement – the Arbitrator has no authority to decide this issue.

The foregoing decisions shall be incorporated into the parties' May 1, 2008 – April 30, 2012 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 issue no. 10 (Drug Testing) for a period of ninety (90) calendar days from the date below. Either party may invoke that jurisdiction if the parties' further negotiations do not result in complete settlement of the drug testing issue by November 20, 2010.

Signed by me at Hanover, Illinois this 24th day of August, 2010.

Steven Briggs