

IN THE MATTER OF THE INTEREST ARBITRATION

BETWEEN

EMPLOYER
THE CITY OF BLOOMINGTON
BLOOMINGTON, ILLINOIS

AND

UNION/ASSOCIATION
POLICE BENEVOLENT AND PROTECTIVE
ASSOCIATION, IND.; UNIT NO. 21

I.S.L.R.B. Case No. S-MA-89-120

FINDINGS AND AWARD

PURSUANT TO

ILLINOIS PUBLIC LAW RELATIONS ACT
as Amended Effective August 30, 1989;
Section 14 (Ill.Rev.Stat. 1985, Ch. 48, par. 1601 et set.)

RENDERED BY;

GEORGE EDWARD LARNEY
Chairman, Interest Arbitration Panel
29 South LaSalle Street
Suite 800
Chicago, Illinois 60603
(312) 444-9565

DATED: Wednesday
October 31, 1990

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IMPASSE ISSUES

1. Duration of Contract
2. Health Insurance Premium Contribution
3. Sick-Leave Buyout Plan
4. Salary Increases

FINDINGS AND AWARD

I. PRELIMINARY INFORMATION

INTEREST ARBITRATION PANEL MEMBERS

EMPLOYER DELEGATE

DAVID L. STANCZAK
Corporation Counsel
CITY OF BLOOMINGTON
109 East Olive
Post Office Box 3157
Bloomington, Illinois 61701
(309) 828-7361

UNION/ASSOCIATION DELEGATE

DANIEL J. KATZ
Detective, Police Department
and Vice President,
PB & PA, UNIT NO. 21
City Hall Building
109 East Olive
Bloomington, Illinois 61701
(309) 828-7361

NEUTRAL CHAIRMAN

GEORGE EDWARD LARNEY
Labor Arbitrator - Mediator
29 South La Salle Street
Suite 800
Chicago, Illinois 60603
(312) 444-9565

CASE PRESENTATION - APPEARANCES

EMPLOYER

BRUCE C. MACKEY
Attorney
KLEIN, THORPE AND JENKINS, LTD.
180 North La Salle Street
Suite 1600
Chicago, Illinois 60601
(312) 984-6400

UNION/ASSOCIATION

WAYNE M. KLOCKE
Attorney
HECKENKAMP, SIMHAUSER
& LABARRE, P.C.
509 South Sixth Street
Post Office Box 2378
Springfield, Illinois 62705
(217) 528-5627

AUTHORITY TO ARBITRATE

Illinois Public Labor Relations Act (IPLRA),
Effective January 2, 1989 and as amended Effective August 30, 1989;
Section 14 (Ill.Rev.Stat. 1985, Ch. 48, par. 1601 et seq.)

Title 80: Public Officials and Employees
Subtitle C: Labor Relations
Chapter IV: Illinois State Labor Relations Board/
Illinois Local Labor Relations Board
Part 1230 Impasse Resolution
Subpart B: Impasse Procedures for Protective Services Units
Sections 1230.30 through 1230.110

COURT REPORTERS

BRENDA SHERBURN, CSR, RPR
(Reported Proceedings Held March 14 and March 16, 1990)
LAURA K. OYLER, CSR
(Reported Proceedings Held March 15, 1990)

BALDWIN REPORTING SERVICES
COMPUTER ASSISTED TRANSCRIPTION
3695 South Sixth Street
Springfield, Illinois 62703
(217) 787-1241

LOCATION OF HEARING

Law & Justice Center, McLean County
Civil Defense Room
104 West Front
Bloomington, Illinois
(309) 888-5030

WITNESSES (in order of respective appearance)

FOR THE EMPLOYER

JAMES KAISER
Assistant to Finance
Director

KARL OTTOSEN
Attorney
Klein, Thorpe and Jenkins, Ltd.

MYRON (MIKE) MILLER
Chief of Police

FOR THE UNION

ALAN E. DILLINGHAM
Chairman, Economics
Department
Illinois State University

JOHN RHODA
Police Officer & Member,
Grievance Committee

JEFF SANDERS
Police Officer

MYRON (MIKE) MILLER */
Chief of Police

WALTER J. JATKOWSKI, JR.
Police Officer
City of Peoria, Ill.

SALLY RODERICK */
Personnel Director

JAMES KAISER */
Assistant to Finance
Director

ROBERT MCGOWEN
Police Officer &
President, Unit 21

KENT D. CRUTCHER
Police Officer
City of Normal, Ill.

DAVID HYPKE
Patrol Officer
City of Springfield, Ill.

DOUGLAS DEFRAIN
Manager, Employee
Development
Diamond Star Motors

*/ Called to testify as an adverse witness

WITNESSES (continued)

FOR THE EMPLOYER

FOR THE UNION

BRUCE BAUER
Police Officer & Member,
Grievance Committee

RICHARD D. BINGHAM
Professor of Public
Administration and
Urban Studies; and Senior
Research Scholar,
the Urban Center,
Cleveland State University

OTHERS IN ATTENDANCE AT HEARING

FOR THE EMPLOYER

FOR THE UNION

NONE

ERIC POERTNER
Assistant to Counsel,
Wayne Klocke

STAN HARRIS
Police Officer and
Grievance Committee Member

CHRONOLOGY OF RELEVANT EVENTS

Negotiations for a Renewed
Collective Bargaining Agreement
Commenced

February, 1989 +/

Tentative Agreement Reached
by the Parties

May 23, 1989 ++/

+/ Specifically, sometime in the last week.

++/ Between February and May 23, 1989, the parties declared impasse and, as a result, submitted to mediated talks under the auspices of two different federal mediators. In all, the parties held a total of eleven (11) separate bargaining sessions.

CHRONOLOGY OF RELEVANT EVENTS (continued)

Union Membership Voted to Reject the Tentative Agreement; Rejection Formally Communicated by Union to City	July 11, 1989 <u>**/</u>
Letter From the Illinois State Labor Relations Board (ISLRB) dated September 12, 1989, Confirming This Arbitrator's Appointment as Interest Arbitrator and Chairman, Interest Arbitration Panel In Connection With an Impasse in Collective Bargaining Between the City of Bloomington and the Policemen's Benevolent Protective Association, Unit #21; Appointment Letter Received by the Arbitrator	September 14, 1989
Letter From Union Counsel Klocke Dated September 28, 1989 Apprising Arbitrator the Parties Agreed to Waive Requirement Under the Illinois Public Labor Relations Act (IPLRA) of Commencing a Hearing in the Matter of the Interest Arbitration Within Fifteen (15) Days Following His Appointment by the ISLRB; Letter Received by the Arbitrator	October 02, 1989
Interest Arbitration Proceeding Convened	December 18, 1989
By Agreement of the Parties, the Interest Arbitration Proceeding Was Deferred In Favor of Making Another Attempt to Mediate the Impasse	December 18, 1989 December 19, 1989

**/ No explanation was given regarding the reason for the presumed delay by the Union in transmitting the information of the voting results to the City. The City claims, however, that it heard of the Tentative Agreement rejection by the Union prior to the Union's formal notification.

CHRONOLOGY OF RELEVANT EVENTS (continued)

City Council Rejected the Mediated Tentative Agreement Reached December 19, 1989, But Approved a Modification of the Mediated Tentative Agreement by a 4 to 3 Vote; This Modified Tentative Agreement Was Transmitted by the Arbitrator by Telephone to the Union	December 27, 1989
City's Modified Tentative Agreement Reduced to Written Proposal and Transmitted to the Arbitrator; Proposal Dated and Received by the Arbitrator	January 09, 1990
Resumption of Mediation; Final Attempt to Reconcile Differences Between the Parties Re: The Written Modified Tentative Agreement Proposal Submitted by the City	February 21, 1990
By Letter Dated March 6, 1990, Union Forwarded Six (6) Subpoenas For Appearance by Witnesses at the Forthcoming Scheduled Interest Arbitration Proceedings; Subpoenas Signed by the Arbitrator and Returned to Union Counsel, Klocke *+/ <u>Klocke</u> *+/	March 07, 1990
Interest Arbitration Hearings Held; Parties Were Unable to Resolve Differences on Four (4) Economic Issues	March 14, 1990 March 15, 1990 March 16, 1990

*+/
*+/ These six (6) witnesses were:

1. David Hypke, Patrol Officer, Springfield, Ill.
2. Kent D. Crutcher, Police Officer, Normal, Ill.
3. Douglas DeFrain, Manager Employee Development, Diamond Star Motors
4. James Kaiser, Assistant to the Finance Director
5. Walter J. Jatkowski, Jr., Police Officer, Peoria, Ill.
6. Myron (Mike) Miller, Chief of Police

CHRONOLOGY OF RELEVANT EVENTS (continued)

Transcript of 498 Pages, Submitted April 05, 1990
in Three (3) Volumes, Received by
the Arbitrator:

Volume I - 196 Pages (pp. 1-196)
Covering Hearing of March 14, 1990
Reporter: Brenda Sherburn

Volume II - 109 Pages (pp. 197-305)
Covering Hearing of March 15, 1990
Reporter: Laura K. Oyler

Volume III - 193 Pages (pp. 306-498)
Covering Hearing of March 16, 1990
Reporter: Brenda Sherburn

Post-Hearing Briefs Received by the
Arbitrator:

EMPLOYER May 25, 1990
UNION May 29, 1990

Case Record Declared Officially Closed May 29, 1990
and Interchange of Post-Hearing Briefs
Effected by the Arbitrator As Of

Letter Dated June 8, 1990 From Union June 11, 1990
Counsel Klocke, Wherein Certain
Errors Were Noted in Both the Union's
and Employer's Post-Hearing Briefs,
Letter Received by the Arbitrator

Letter Dated June 13, 1990 From Union June 15, 1990
Delegate, Dan Katz, Bringing to the
Arbitrator's Attention Certain Matters
Pertaining to the Employer's Arguments
Made in Its Post-Hearing Brief and
Providing Clarification on the Health
Insurance Premium Issue; Letter Received
by the Arbitrator

Letter Dated June 19, 1990 From Union June 22, 1990
Counsel Klocke to the Arbitrator Wherein
on Behalf of the Union, Klocke Submitted
the Most Recently Negotiated Collective
Bargaining Agreement Between the City of
Rockford and Unit No. 6 of the Police
Benevolent and Protective Association
As a Means of Updating Union Exhibit 58;
Letter and Agreement Received by the
Arbitrator

CHRONOLOGY OF RELEVANT EVENTS (continued)

Letter Dated June 22, 1990 From Employer Counsel Mackey Objecting to the Union's Supplemental Submission of the 1990-91 City of Rockford Collective Bargaining Agreement; Letter Received by the Arbitrator

June 23, 1990

Letter Dated June 25, 1990 From the Arbitrator to the Parties Apprising of Decision to Accept the Union's Supplemental Submission of Evidence and Providing an Equal Opportunity to the Employer to Make Additional Submissions; Hearing Was Reopened for the Purpose of Receiving any Supplemental Submissions by the Employer Until

July 02, 1990

II. ISSUES AT IMPASSE

The parties concur there are four (4) issues at impasse and further concur that pursuant to the applicable provisions of Section 14(g) of The Illinois Public Labor Relations Act, that all four (4) issues are economic in nature.

The issues, as identified by the parties to be in dispute, are as follows:

1. Duration of Contract
2. The Level of Health Insurance Premium Contributions to be Paid by the Employer and by the Employee
3. Establishment of a Sick Leave Buyout Plan for Eligible Employees
4. The Amount of Salary Increases

III. DISCUSSION AND RULINGS ON
PRELIMINARY MATTERS

A. Treatment of Final Wage Offers

1. Union Position

The Union argues that as the wage offers made by both parties are separate and distinct economic offers for the respective years to which they apply, this Interest Arbitration Panel is not confined to selecting one wage package in its entirety over another, but rather, the Panel has the latitude to select the most fair and equitable offer for each year of the Contract, based upon the final best offer of both parties for the year in question. The Union bases its argument on the rationale that the percentage increases in wages, more accurately denoted as annual salaries, were considered and discussed on a year by year basis during the collective bargaining phase for this forthcoming renewed Agreement and therefore, the annual salary increases to be awarded in this interest arbitration should be determined by the force of their individual merits. Thus, the Union holds, the percentage increase in salary proffered for each year is a separate and distinct economic offer and, as such, it urges this Panel to decide which combination of the separate offers, pursuant to the dictates of Section 14, Sub-Section (g) of The Illinois Public Labor Relations Act (IPLRA), more nearly complies with the applicable factors prescribed in Section 14, Sub-Section (h) of IPLRA.

2. Employer Position

It is noted that the Employer does not specifically address the approach as to whether wages for each separate year should be treated as a single item, within the context of the definition of an economic issue as set forth in Section 14, Sub-Section (g) of the IPLRA or, in the alternative, that the wages specified for each year, taken together, should be considered by this Panel as befitting the definition of one economic issue. Rather, what the Employer asserts the IPLRA contemplates is that economic proposals must be judged in a total package context noting that the statute embraces the phrase in Section 14, Sub-Section (h) (6), "... overall compensation presently received by the employees, including direct wage compensation ... excused time ... and all other benefits received." The Employer asserts, based on this cited language, that the legislature contemplated situations where a particular employer might have a much larger overall compensation package

than other municipalities but might not offer a particular benefit afforded by other municipalities. The Employer contends the language of the statute is clear, to wit, that individual economic issues must not be viewed in a vacuum but instead must be judged in light of total compensation comparisons with comparable communities.

3A. Findings

Based on a comprehensive review of the parties' respective positions on this preliminary matter, the Panel does not perceive a difference in positions between the parties. Moreover, the Panel notes that each party has presented a separate annual increase in salaries for each year in their respective final offers albeit that the Employer's offer for each of three (3) years is in the same percentage amount and that the Union's offer is for each of two (2) years rather than for each of three (3) years. The Panel is persuaded that the salary increases proposed for each year should be considered as one single economic issue and that, in so finding, each position espoused by the parties relative to this preliminary matter is met and satisfied to wit: the Union's position is concurred in while at the same time, the Panel honors the Employer's position that the factor of overall compensation is considered within the context of compensation comparisons to other municipalities on a year by year basis and not confined solely to one overall comparison between collective bargaining agreements of unequal duration.

3B. Ruling

Proposed salary increases contained in the parties' respective final offers for each discrete year shall be treated as one single economic issue within the meaning of Section 14, Sub-Section (h).

B. Determination of Comparable Communities

1. Discussion

The Panel notes that under the applicable provisions of the IPLRA, most specifically Section 14, Sub-Section (g), the Panel is charged with the responsibility of adopting the last offer of settlement which, in the opinion of the Panel, more nearly complies with the applicable factors prescribed in Section 14, Sub-Section (h) of which there are eight (8) enumerated. While all the factors are significant they are

not of equal weight by virtue of the fact the issues at impasse are of a diverse and different nature. The broadest distinction as to diversity and difference in the nature among issues at impasse is made by the statute (IPLRA) itself in recognizing that some issues are economic in nature, while others are non-economic in nature. Thus, some of the factors set forth in Section 14, Sub-Section (h) must be considered of greater import as they relate to the determination of economic issues as opposed to their bearing on non-economic issues. For example, consideration of movements, up or down, in the Consumer Price Index (CPI) has greater relevance to the determination of an economic issue such as wages than it would have relevant bearing on a non-economic issue such as modifications to the parties' grievance-arbitration procedures. On the other hand, in one sense or another, all eight (8) enumerated factors bear significance to some degree on issues deemed to be economic in nature but even here the factors are not of equal weight. Of the eight (8) factors enumerated, the Panel deems Number 4 to be of most significance relative to the four (4) economic items under consideration by us. As set forth in Section 14, Sub-Section (h), Factor Number 4 reads in whole as follows:

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

* * * *

- (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.

It becomes necessary therefore, since the parties have proposed and relied on different communities as being comparable to Bloomington, save one in common, specifically, Champaign, for this Panel to consider the parties' respective arguments in support of using one set of comparable

communities over the other. The comparable communities advanced by the parties respectively are as follows:

<u>EMPLOYER</u>	<u>UNION</u>
Alton	Aurora
Belleville	Champaign
Champaign	Elgin
Danville	Peoria
DeKalb	Rockford
Galesburg	Springfield
Granite City	Waukegan
Kankakee	
Moline	
Normal	
Pekin	
Quincy	
Rock Island	
Urbana	

2. Union Position

The Union, advancing the premise that no single variable such as population or geographical proximity is sufficient to establish comparability among communities, advocates the methodology of "Agglomerative Hierarchical Cluster Analysis" (AHCA), so named by its developer, Professor, Richard D. Bingham described as a construct that systematically and empirically identifies comparable communities. 1/ The Union asserts that A.H.C.A. is the only reliable scientific evidence admitted into the record to establish the legitimacy of either party's proposed comparables. The

1/ The "Agglomerative Hierarchical Cluster Analysis" is described in detail in an article titled, "Municipal Labor Negotiations: Identifying Comparable Cities," co-authored by Professor Richard D. Bingham and Professor, Claire L. Felbinger which appeared in the Journal of Collective Negotiations, Volume 18(3), pages 193-206, 1989 (Un. Ex. 12). The Panel deems it unnecessary to describe the details of the A.H.C.A. methodology since Bingham's article was placed into the evidentiary record and he testified as an expert witness regarding the methodology. Thus, the article and Bingham's testimony are a matter of public record. Suffice it to say, the Panel has very closely scrutinized the methodology in order to make critical findings regarding the validity of its applicability in determining comparable communities.

Union contends that the A.H.C.A. establishes that, after an extensive factor analysis of data is performed using 33 commonly-used variables identified in the article, "Municipal Labor Negotiations: Identifying Comparable Cities," (Un. Ex. 12), co-authored by Bingham and testified to by him (see fn. 1), the seven (7) comparable cities it advocates are more like the City of Bloomington than any of the twelve (12) cities advocated by the Employer as being comparable with the exception of Champaign. As further support for the inclusion of Elgin and Aurora as comparable cities, the Union cites the Interest Arbitration case of City of Springfield and International Association of Firefighters Local No. 37, wherein Arbitrator Herbert M. Berman held that "Joliet, Elgin and Aurora are sufficiently comparable to Springfield and to the other admittedly comparable cities to be considered in determining which proposal to adopt."

In addition to the seven (7) cities it advocates as being most comparable to the City of Bloomington, the Union submits that the wages, hours, and conditions of employment of the Illinois State Police should also be considered by the Panel as comparable, based on the rationale that the work performed by the Illinois State Police is comparable to that performed by the bargaining unit patrol officers. Further, the Union notes that it has not been unusual for Bloomington patrol officers to be assigned on temporary detail with the Illinois State Police, specifically citing as examples, assignments performed by Patrol Officers Jeff Sanders and Bruce Bauer, both of whom testified in these arbitral proceedings. In further support of its position, the Union notes that the Illinois State Police maintain quarters geographically located near many of the communities it contends are comparable.

The Union submits that while the communities it has identified as comparable to Bloomington should be accepted by the Panel for purposes of making the necessary comparisons, the Employer's list of comparables should be rejected on grounds they are arbitrarily based on only one variable alone, that of population and too, that the population variable is unsupported by any rational scientific methodology. In addition, the Union asserts the comparable communities advocated by the Employer compare Bloomington with communities in the population range of 30,000 to 60,000 and that this range is arbitrary and capricious since, with the exception of Champaign, Bloomington has the largest population at 48,000 +. The Union submits that to assert communities are comparable based on population alone, common sense and basic mathematic principles dictate the communities would have to be close to the calculated median population as possible. The Union argues, however, that even if the Employer had taken the time to calculate a fair and reasonable range of population,

its Agglomerative Hierarchical Factor Analysis approach using 32 variables in addition to the variable of population to determine which communities are most like Bloomington for comparative purposes is far superior than an approach which utilizes only the one variable of population. The Union further submits the Employer's list of comparable communities is inconsistent, since it excludes communities located in the Chicago Metropolitan area because of presumably peculiar economic characteristics of the Chicago labor market yet includes the communities of Alton and Belleville which are similarly situated to the St. Louis Metropolitan area. The Union contends that if communities are to be excluded on grounds they are part of the Chicago Metropolitan area then logic would dictate the same exclusion for communities on grounds they are part of the St. Louis Metropolitan area.

Finally, in recognition that the Agglomerative Hierarchical Factor Analysis approaches comparability as a function of demographics, the Union offers as an additional factor for comparative purposes, crime statistics, specifically crimes classified and known as major crimes which include; murder, aggravated assault, burglary, robbery, and arson. 2/ The

2/ The source of the statistical information used by the Union is a document known as the Unified Crime Reports compiled by the Federal Bureau of Investigation (FBI) at the United States Department of Justice and printed and sold by the Superintendent of Documents, U.S. Government Printing Office (Un. Ex. 74). The Uniform Crime Reporting (UCR) Programs is a Cooperative statistical effort of approximately 16,000 city, county, and state law enforcement agencies voluntarily reporting data on crimes brought to their attention. According to the 1987 report, while the Program's primary objective is to generate a reliable set of criminal statistics for use in law enforcement administration, operation, and management, its data have over the years become one of the leading social indicators in the country. The report further notes that while the American public consults UCR for information on fluctuations in the level of crime, criminologists, sociologists, legislators, municipal planners, the press, and other students of criminal justice use the statistics for varied research and planning purposes. The report apprises that population is but one of many factors that contribute to the variance in the volume and type of crime from place to place and notes that even though the factor of population is used in computing crime rates, all communities are affected to some degree by seasonal or transient populations.

Union submits that when the ratio of incidents is compared among the comparable communities it has advocated, it is evident that with respect to the number of crimes per capita, Bloomington ranks similarly with these communities. The Union maintains that from the perspective of the Bloomington patrol officers, it is this comparability factor which affects them the most.

3. Employer Position

The Employer acknowledges that in developing its list of comparable communities, it used but two factors, specifically population and geographic location. In support of the use of these two factors, the Employer asserts that population is almost always central in the determinative process of identifying comparable communities and that this is best evidenced by remarks made by Union Counsel in his opening statement when he admitted that generally, "the smaller the community, the poorer the pay and benefits." The Employer implies, in light of the Union's remark that the Union has attempted to gerrymander its comparable communities as evidenced by the fact that of the Union's proposed comparable communities, Bloomington has the smallest population. On the other hand, the Employer avers it has not attempted to gerrymander its comparable communities arguing that all fourteen (14) of the communities it advocates as comparable to Bloomington all have populations ranging between 30,000 and 60,000, a range which yields a fair and equitable treatment of Bloomington with a population of approximately 48,000 for comparative purposes. The Employer submits the fairness of its list of comparable communities is further evidenced by its even-handed exclusion of municipalities of the same population range in and around the Chicago area and, its exclusion of East St. Louis, again a community falling within the same population range, because East St. Louis is so poor that it is simply not comparable to Bloomington. The City asserts that in advocating a large list of communities as comparable, fourteen in all, and all within a relatively small population range, that such a sampling assures that medians and averages will not be skewed or distorted such as seemingly results from the smaller number of communities advocated by the Union where the population range is far wider, noting that three (3) of the Union's comparable communities are Rockford, Peoria, and Springfield, respectively the second, third, and fourth largest communities in the State of Illinois, all having populations of more than double that of Bloomington. The Employer submits, however, that even though the record evidence in this case supports the general rule that the smaller the community, the poorer the pay and benefits, the

record evidence also demonstrates that even when compared with far larger communities, the overall compensation afforded to Bloomington police officers is still above the median compensation in those communities.

As additional evidence the Union has provided a gerrymandered list of comparable communities, the Employer notes that prior to commencement of these arbitral proceedings, the parties, pursuant to mutual agreement, exchanged their respective lists of comparable communities. The Employer notes that during these arbitral proceedings, the Union altered its list whereas the City maintained its list unchanged. The Employer explains that initially the Union advocated Normal and Urbana as comparable communities but that the Union's expert witness, Richard D. Bingham, made no reference in his testimony regarding the Agglomerative Hierarchical Factor Analysis methodology to Urbana and testified that Normal was not comparable to Bloomington notwithstanding the Union's submission of its Exhibit 10, a monograph published by the Pantagraph, a daily newspaper, titled, "Progress '90" which refers to Bloomington and Normal as twin cities. The Employer further notes that while the Union deleted Urbana and Normal from its initial list of comparable communities, it added Waukegan to the list even though at the hearing the Union stated for the record it was offering no evidence on Waukegan. 3/

The Employer takes issue with both the applicability of the Agglomerative Hierarchical Factor Analysis methodology advanced by Richard D. Bingham and Bingham's status as an expert witness. With respect to the latter, the Employer notes that, in his testimony, Bingham admitted he had no expertise in labor relations statistics and no knowledge as to the relationship of population size to salaries and compensation. As to the former, the Employer notes as a first criticism of the methodology, the data used by Bingham was nearly ten (10) years old as it was predicated on information derived from the 1980 Census. The Employer notes that implicit in the methodology employed by Bingham is the premise that the work performed by employees in comparable communities is similar yet, the Employer submits that the evidence rejects this premise. As a most obvious

3/ The Arbitrator takes notice of the fact that, even though the Union advocated Waukegan to be a comparable community and elected not to submit any evidence with respect to Waukegan at the hearing, although it did advance information on Waukegan as part of argument in its post-hearing brief, it was the Employer that submitted into evidence the 1988-91 Collective Bargaining Agreement between Waukegan and Lodge 5 of the Fraternal Order of Police (City Ex. 32).

example, the Employer cites the testimony of Union witness, Police Officer, David Hypke, from the City of Springfield, shown by the Agglomerative Hierarchical Factor Analysis approach to be the municipality to be more like Bloomington than any other Illinois community, wherein Hypke testified one Springfield officer had killed three individuals in separate incidents in the line of duty whereas, the evidence establishes, the City maintains, that no officer in the City of Bloomington has fired a weapon in the line of duty in recent years. The Employer further argues the inapplicability of Bingham's methodology to the objectives advanced by The Illinois Public Labor Relations Act asserting the statute did not contemplate the use of this census based analysis by labor arbitrators in their assessment of comparables. In fact, the Employer notes, no arbitrator anywhere has adopted Bingham's approach to developing comparables and that, to date, two arbitrators in the State of Illinois have rejected the approach. In one of these two cases, to wit, City of Springfield and Policemen's Benevolent and Protective Association, Union No. 5 (ISLRB Case No. S-MA-89-74 [1990]), Arbitrator Edwin H. Benn upon review of Bingham's methodology, questioned both its validity and applicability to interest arbitrations. As a result, Benn found that Aurora and Elgin, two of the comparable communities advocated by the Union here, in the instant case, were "too closely contiguous to the Chicago Metropolitan area and hence, too intertwined with that economy to be reliable comparables for a downstate community such as Springfield." 4/

4/ The second case, involving the City of DeKalb and Illinois Professional Firefighters Association decided by Arbitrator Elliott H. Goldstein, ironically prompted Bingham to author his article, "Municipal Labor Negotiations: Identifying Comparable Cities" as a response to Goldstein's rejection of the methodology. Bingham derided Goldstein for being arbitrary in his finding that the five comparable communities advocated by the Union did not seem to be comparable in terms of employment markets since they were geographically dispersed. Bingham noted that curiously, Goldstein, in also rejecting the City's arguments, agreed that other clusters seemed quite reasonable -- especially those surrounding his home. Bingham stated that apparently the single criterion on which Goldstein based comparables was geographic proximity, as he determined that DeKalb was more similar to Chicago suburbs than the City's downstate communities even though he noted that DeKalb seemed to be an island, comparable to none. Bingham, in defense of the methodology stated the following:

(Footnote 4/ continued on next page)

The Employer submits that any comparison which lumps Bloomington with the second, third and fourth largest municipalities in the State and also with Chicago area municipalities is totally inconsistent with comparability determinations made by arbitrators anywhere. The Employer states that while there is no way that an ideal list of comparables can be developed for purposes of an interest arbitration, given the issues before the Panel and given the geographic location and the size of the City of Bloomington, it is submitted that the City's list of comparable communities should be adopted by the Panel in resolving the issues in dispute.

4. Findings

Although the Employer finds reprehensible, the Union's reneging on its identification of those communities it advocated as comparable to Bloomington in its initial list exchanged immediately prior to commencement of these arbitral proceedings, the Panel does not deem the Union's action to constitute bad faith as there was never a mutual agreement that the communities identified on these initial lists could not be changed at any time during the course of these arbitral proceedings, with the exception, of course, at the point when the hearing was concluded. Therefore, while the Employer might have been disconcerted and frustrated by the Union's deletion of two cities from its initial listing and the addition of one community to the list, the Panel finds nothing improper procedurally with the Union's conduct in this respect. As to the Employer's allegation the Union, by making these deletions and one addition, attempted to gerrymander its list of comparables, the Panel simply notes that given the parties' respective objectives in an interest arbitration, specifically to deem those communities that best support what they are seeking to

Footnote 4/ continued from previous page

"This article presented a method to systematically address one of the least precise notions in interest arbitration -- determination of comparable cities. In light of the lack of legislative direction on how this determination is made, it seems reasonable to advocate the use of data rather than rely on the whim of individual arbitrators regardless of the finding. In this case the ruling was in favor of the union.

achieve as comparable, they are engaging in the act of gerrymandering irrespective of when, that is, at what point in time during the arbitral proceedings, this act occurs. For the Employer, the act occurred prior to commencement of the hearing when it selected the fourteen (14) communities it deemed comparable on the basis that these communities best supported its last best final offer. If it had acted otherwise, the Panel could consider such conduct as irrational. For the Union, the act occurred during the course of the hearing when it sought to make alterations in its initial listing as a means of strengthening its case. In the absence of a mutual agreement barring either party from amending its initial listing of comparable communities, the Panel accepts the parties' respective lists as they stood at the close of the hearing.

While the Panel is obligated under the IPLRA to select one party's last, best final offer on an item by item basis, it is not obligated to have to select one party's set of comparables to the total exclusion of the other party's set of comparables. As the final arbiter of which final offer shall prevail, the Panel does have the discretionary authority to determine, based on the record evidence and arguments proffered, what combination of comparables yields the most objective results. Unlike interest arbitrators in the two other cases cited by the Employer, this Panel is persuaded that the Agglomerative Hierarchical Factor Analysis methodology does have some degree of merit with regard to applicability in determining a number of similar or like characteristics between communities within a state. The Panel must concur in the Union's position that if population has been used as a central and dominant indicator in ascertaining and identifying comparable communities, then adding other factors to population which have scientifically been determined to have relevance in determining similar or like characteristics between communities can only serve to strengthen the process of ascertaining and identifying comparable communities. Noting that population is a figure dependent on census data, the Panel must reject the Employer's criticism that somehow the results of the Agglomerative Hierarchical Factor Analysis approach submitted here in support of the Union's comparables are outdated. While there is no doubt that more recent data would be preferable, census data is known to be, among professionals who use the data, generally reliable. Even though demographics of communities change over time, more often than not, these changes are not dramatic. For example, population figures are collected every ten (10) years and in a decade, a community can undergo shifts in population either upward or downward, but unless there were some substantial triggering events within a community such as a natural disaster or a wholesale economic downturn within a given geographical region, relative population among communities will generally remain the same. This same

analogy also is applicable to other census data, in particular to the other 32 factors utilized by Bingham in his Agglomerative Hierarchical Factor Analysis methodology. Thus, the Panel accepts the data used by Bingham as being both valid, that is, it measures what it proposes to measure, and reliable, that is, it measures what it purports to measure consistently. In this sense, the Panel is prepared to lend credence to the general approach used by Bingham in attempting to ascertain and identify similar and like characteristics among and between communities, perceiving the approach as an enhancement of just applying one census factor, that of population, to make these determinations. Thus, we reject the criticism of this methodology advanced by one previous Panel, that it is mechanistic in its approach and therefore not contemplated by the controlling State statute. If anything is mechanistic, it is the blind and blanket application of population figures in assessing the comparability of communities. For example, no one would disagree with the analysis that two communities of exactly the same size and located in close geographical proximity to one another could be wholly dissimilar in a number of ways if both communities each had homogeneous populations but the inhabitants composing these homogeneous populations were quite different as to race and religion. For example, both communities have a population each of 25,000 persons but one community is entirely black and the other community is entirely white. Admittedly, the example given is extreme but it does illustrate the point. The opposite scenario is also the case, where two communities would be the same size in population, but have relatively the same population mix and, irrespective of geographical proximity be very similar to one another. However, a determination regarding their similarity could not be made on the basis of measuring their population only. Thus, other factors in addition to mere population must be considered and analyzed in order to make a determination as to whether communities are alike or different.

Panels in previous interest arbitrations have rejected the Agglomerative Hierarchical Factor Analysis methodology on grounds of geographical proximity of communities to each other and the absence of any factor measuring labor market influences as a result of a community's geographical proximity to a dominant metropolitan area. This Panel holds the view that, with respect to the first ground for rejection, that is, geographical proximity of communities to each other, more precisely, that if communities happen to be located a great distance from each other they cannot be highly similar, is simply spurious. We are all aware by now, based on solid scientific evidence, that the Earth's solar system is one of perhaps billions of solar systems, and that it is widely held by scientists that there exists millions of planets similar to Earth capable of housing life

forms of higher intelligence such as human beings. Certainly, if this is the case, there should be little doubt in anyone's mind that communities located a hundred or more miles apart from each other can be highly similar to one another based on a number of variables/factors. With respect to the second ground for rejection, that is, the absence of any factor in the Agglomerative methodology measuring labor market influences as a result of a community's being physically situated in close proximity to a metropolitan area, the Panel holds this criticism in some esteem. Generally, labor economists concur that metropolitan areas do tend to impact the labor markets of satellite communities. Further, this Board is quite aware that included in such impact is an influence on the overall level of prevailing wages and salaries. Thus, the Panel acknowledges the weakness of the Agglomerative methodology in this respect.

However, setting aside the aforementioned weakness, and applying the Agglomerative methodology to the Union's list of identified comparable communities, it becomes apparent that although Springfield is said by the Union to be most like Bloomington than any other city in Illinois, the fact is, the strength of the similarity must be considered. If the Panel has the correct understanding of the schematic diagram depicting the Agglomeration of Illinois Cities (Un. Ex. 14), the earlier in the 61 steps the Agglomeration occurs, the more alike the two cities will be. The Panel notes that Springfield did not agglomerate with Bloomington until the 26th step up from the 61st step, the starting point in reading the schematic. In other words, Agglomeration between Springfield and Bloomington did not occur until there was a 42 percent movement up on the schematic suggesting less strength in the similarities between these communities than if they had agglomerated earlier, for example at 25 percent movement up on the schematic. It is further noted that Bloomington does not agglomerate with the Cities of Rockford, Peoria, Elgin, Waukegan and Aurora until the 20th step or 67 percent up on the schematic from the starting point, again suggesting that although these communities are similar they are not strongly similar. It is also noted that at this same step, Bloomington agglomerates with cities, the Employer proposes as being comparable, specifically, Danville and Kankakee. Interestingly enough, the Panel notes that Champaign, the City both the Union and the Employer proposed as being a comparable community, did not agglomerate with Bloomington until the 7th step on the schematic or until there was an upward movement of 88 percent. At this same point in the progression, other cities the Employer proposed as comparable also agglomerated with Bloomington, namely Urbana, Normal, and DeKalb.

Based on the foregoing discussion, the Panel concludes that, while there is merit in applying the Agglomerative Hierarchical Factor Analysis methodology in attempting to ascertain the comparability of communities, and while it is certainly superior to using only two factors of population and geographical proximity, the approach argues in favor of inclusion of a number of communities proposed by the Employer. Since Champaign was the common community advanced by both parties as being a comparable one, the Panel is persuaded to combine the list of comparable communities proposed by both parties that are shown by the schematic (Un. Ex. 14) to have agglomerated between the 61st step up through the 7th step. That list is as follows: 5/

Aurora	Elgin	Rockford
Champaign	Kankakee	Springfield
Danville	Normal	Urbana
DeKalb	Peoria	Waukegan

5/ The Employer's other eight (8) advocated comparable communities, to wit: Alton, Belleville, Galesburg, Granite City, Moline, Pekin, Quincy, and Rock Island were not considered because it is unclear from Union Exhibit 14 at what step these communities agglomerated with Bloomington. All that can be assumed by the Panel is that all the communities comprising the schematic are all joined at Step 1. At Step 1, no conclusions can be made regarding any community's similarity relative to any other community on the schematic. Additionally, because of labor market considerations previously discussed, the Panel would have eliminated the communities of Granite City and perhaps Belleville because of the influence of the St. Louis Metropolitan area, it would have also eliminated Moline and Rock Island because of the influence of Davenport, Iowa and because Quincy is so close to the Iowa border, it would have eliminated this community from consideration as well. The Panel views Alton and Pekin as questionable for inclusion based on labor market considerations given their proximity to the St. Louis Metropolitan area and the Peoria area respectively. The Panel is persuaded that the remaining community of Galesburg appears to have been a viable candidate for inclusion.

The Panel notes that of the twelve (12) communities comprising the final list of comparables, six (6), Aurora, DeKalb, Elgin, Kankakee, Rockford, and Waukegan, lie geographically to the Northeast of Bloomington, three (3) communities, Champaign, Danville, and Urbana lie to the Southeast of Bloomington, and of the remaining three (3) communities, Peoria lies to the Northwest, Springfield lies to the Southwest, and Normal is contiguous with Bloomington.

The Panel rejects inclusion of the Illinois State Police as a comparable, finding that in addition to being a statewide organization, there are such unique characteristics about the organization as to make it distinct from all other community based police entities. We also reject, in our consideration of comparables, the private sector Collective Bargaining Agreement (Un. Ex. 53) between Diamond-Star Motors Corporation and Local 2488 of the United Automobile Workers, even though Diamond-Star Motors is a major employer in the community of Bloomington, on grounds that the functions performed by the production and maintenance employees covered by the Agreement are so highly dissimilar from the functions performed by police officers. We are persuaded that dominant private sector employers in a community such as Diamond-Star affect public sector employment most directly by providing employment alternatives to those comprising the community's workforce and, to the extent private employers are successful in attracting the talent of the local market labor force away from public sector employment, that is the extent to which the public sector is compelled to respond internally to such considerations as raising the level of compensation and improving working conditions in order to remain competitive in the labor market. Thus, to include as a comparison, the economic benefits negotiated by Diamond-Star and the Auto Workers to the economic benefits sought by the Union here, would, in effect, be double-weighting the impact of the economic benefits negotiated in this private sector relationship.

Having determined the list of comparable communities, the Panel now considers the merits of the identified impasse issues.

IV. IMPASSE ISSUES

A. Duration of Contract

1. Parties' Last, Best Final Offers

a. UNION

2-year contract

b. EMPLOYER

3-year contract

2. Findings

An analysis of the existing collective bargaining agreements in effect for the twelve (12) identified comparable communities reveals the following in terms of the duration of their labor contracts:

DURATION OF AGREEMENTS
CURRENTLY IN EFFECT

COMPARABLE COMMUNITY	DURATION			OTHER	DATES OF DURATION
	1 YR	2 YRS	3 YRS		
Aurora		X			July 1, 1988-June 30, 1990
Champaign		X			July 1, 1988-June 30, 1990
Danville */				X	January 1, 1988-April 30, 1990
DeKalb		X			January 1, 1988-December 31, 1989
Elgin			X		January 3, 1988-December 29, 1990
Kankakee			X		May 1, 1988-April 30, 1991
Normal		X			April 1, 1989-March 31, 1991
Peoria		X			January 1, 1989-December 31, 1990
Rockford		X			January 1, 1990-December 31, 1991
Springfield		X			March 1, 1987-February 28, 1989
Urbana			X		July 1, 1987-June 30, 1990
Waukegan **/				X	August 1, 1988-March 31, 1991

*/ Contract is for 28 months duration

**/ Contract is for 31 months duration

While it is evident that a majority of the Contracts above are for two (2) years duration, the majority is not overwhelming, the Panel noting that five (5) of the Contracts are for longer than two (2) years. Even though the Panel holds the view there exist a number of positive reasons which would recommend deciding in favor of a three (3) year Contract, not the least of which is the passage of time that has elapsed attributed to the interest arbitration phase so that upon the rendering of this Decision awarding a two (2) year Contract, the parties will be back to the negotiating table in a matter of just several months, the Panel is nevertheless disposed toward accepting the Union's final offer based on the following points, to wit: (1) The parties' prior collective bargaining agreement was a two year Contract; (2) As shown by the table, the last labor Contract for Springfield, the community held here to be most like Bloomington, was for two years in duration; (3) As shown by the table, the last labor Contract for Champaign, the community held by both parties to be comparable, was for two years duration; and (4) Given recent economic and political developments that have occurred in the Country, most significantly the budget passed by Congress increasing taxes and the Gulf crisis respectively, uncertainties abound as a result and therefore, neither party should be compelled to enter into a longer term agreement than is typical for this industry, meaning local police work as reflected by the twelve (12) comparable communities.

3. Award

The Contract shall be two (2) years in duration, effective May 1, 1989 through April 30, 1991.

B. Health Insurance Premium Contributions

1. Parties' Last, Best Final Offers

a. UNION

Effective May 1, 1989:

a. The level of benefits shall remain substantially the same.

b. The City agrees to pay 100% of the employee premium.

c. The City agrees that the rate charged for dependent coverage shall not be increased above that in effect on April 30, 1989.

d. The City agrees that, if the employee selects HMO coverage for himself/herself, or for himself/herself and his/her dependents, then the City shall instead contribute an amount equivalent to that which it would pay for the employee's premiums, plus the amount it would pay for the dependent premiums, if applicable, toward the HMO coverage.

Effective May 1, 1990:

a. The level of benefits shall remain substantially the same.

b. The City agrees to pay 100% of the employee premium.

c. The City agrees to pay 50% of the premium for dependent coverage.

d. The City agrees that, if the employee selects HMO coverage for himself/herself, or for himself/herself and his/her dependents, then the City shall instead contribute an amount equivalent to that which it would pay for the employee's premiums, plus the amount it would pay for the dependent premiums, if applicable, toward the HMO coverage.

b. EMPLOYER

* * * *

3. Section 13.2. Group Health Insurance.
Officers covered by this Agreement will be entitled to make an election as to group health benefits for the duration of this Agreement as provided in this Section:

(a) On or before July 10, 1987, officers wishing to do so, may elect to participate in Carle Care HMO. The City will pay to or on behalf of any officer participating in Carle Care HMO an amount per month representing 100% of the premium for the officer's insurance, not to exceed \$133.50, and on behalf of any officer with dependents, an additional \$20.00 per month toward dependent coverage. Effective May 1, 1989, the City will pay a total of \$40.00 per month toward dependent coverage. In the event that the City increases its contribution toward dependent coverage or for HMO for other employee group during the term of this Agreement, the City agrees to increase the above dollar figures in the same amount.

(b) Any officer not electing to participate in Carle Clinic HMO, will remain covered under the City's group health insurance plan with premium, benefits as previously provided, unless the officer elected to participate in any optional changes to the current group health plan. The City will pay 100% of the premium for the officer's coverage and an additional \$20.00 per month toward the premium for dependent coverage. Effective May 1, 1989, the City's contribution toward dependent coverage shall be a total of \$40.00 per month. In the event that the City increases its contribution toward dependent coverage or for HMO during the term of this Agreement, the City agrees to increase the above dollar figures in the same amount.

(c) Any officer electing to participate in Carle Care HMO is responsible for coordinating benefits between the terminated City group health plan and Carle Care. Neither the City nor its group health insurance plan are thereafter responsible for payment of any health care services rendered to or on behalf of any officer or dependent or for providing health care services beyond what is stated in the City's group health plan, the City's only obligation being the payments described in subsection (a) above.

2. Findings

At issue here is the Union's seeking a change in the method of payment by the Employer relative to its contribution share for health insurance premiums for both single and dependent coverage and too, the level of contributions paid by the Employer for dependent coverage. With respect to the former, the Employer has in the past paid a flat dollar amount for single coverage but that flat dollar amount has, in fact, corresponded to one-hundred percent (100%) of the cost of the monthly health insurance premium. Thus, the Panel finds no distinction between the parties' respective proposals as it pertains to the level of contribution the Employer is to pay for single health insurance coverage -- that is, its contribution is to be one-hundred percent (100%), and references to a flat dollar amount have been dropped. With respect to the latter, that is dependent coverage which presently is a benefit that has been selected by 26 of the total of 87 officers in the bargaining unit (representing 30 percent of the bargaining unit), the Union is seeking and the Employer is resisting a change in a stated flat dollar amount in favor of moving to a percentage

share to be paid by the Employer for its contribution to the health insurance premiums. Specifically, the Employer offers to increase its monthly contribution from \$20.00 to \$40.00 whereas the Union seeks to have the Employer contribute fifty percent (50%) to the payment of dependent health insurance premiums.

In arguing against the Union proposal, the Employer asserts the following as set forth in its post-hearing brief:

It cannot be emphasized enough that the Union is seeking in this arbitration to obtain a breakthrough in collective bargaining which should be properly resolved at the bargaining table. Placing a dollar limitation on the amount of money employees may be required to pay toward dependent coverage or placing a percentage cap on the amount of money that those employees can be required to pay is not only totally different from the past practice of the parties in bargaining, it is totally different from what any of the other five bargaining units in the City has agreed to in negotiations. Granting the Union's insurance request would be, therefore, awarding the Union a benefit which it could not obtain in collective bargaining. In fact, the Union's demand for "management caps" did not surface until after the Union had rejected the tentative agreement. Not only is the Union's proposal costly, it will undoubtedly destroy the existing parity in insurance benefits in the City. There is little question that other bargaining units will demand the same treatment. Firefighters, for example, have the same legal option available to police, namely, if they are not able to reach agreement at the bargaining table, they may seek impasse arbitration. If the Union here were to obtain its demand for reverse caps in arbitration, there can be little question that the firefighters would seek the same benefit in negotiations; and if they did not obtain that benefit, they would argue to an arbitrator that the firefighters deserve the same benefit awarded to the police officers.

The Union asserts, however, that among the comparable communities, a 50% Employer contribution to the premium cost of dependent health insurance coverage reflects the status quo.

An analysis of the existing collective bargaining agreements in effect for the twelve (12) identified comparable communities reveals the following in terms of the level of Employer contributions toward the payment of health insurance premiums for dependent coverage.

LEVEL OF EMPLOYER CONTRIBUTION
TOWARD PAYMENT OF HEALTH
INSURANCE PREMIUMS FOR
DEPENDENT COVERAGE

COMPARABLE COMMUNITY	TYPE OF CONTRIBUTION		AMOUNT OF CONTRIBUTION	SOURCE
	FLAT DOLLAR	PERCENTAGE		
Aurora <u>*/</u>	X	X	100%	\$12, p. 12
Champaign		X	50%	\$18, p. 73
Danville		X	100%	\$11, p. 18
DeKalb		X	100%	\$14, p. 11
Elgin <u>**/</u>		X	100%	\$13, p. 10
Kankakee <u>+/</u>			Less than 100%	\$23, p. 37
Normal		X	39%	\$ 9, p. 9
Peoria		X	100%	\$33, p. 33
Rockford <u>++/</u>		X	Less than 100%	\$10, pp. 13&14
Springfield		X	100%	\$25, p. 57
Urbana <u>*+/</u>	-	-	-	\$16. pp. 19&20
Waukegan <u>*+/</u>	X	X	Up to 100%	\$22, p. 52

*/ For officers hired after May 1, 1986, said officers are required to pay \$15.00 per month for dependent coverage not to exceed \$30.00 per month during the term of the Agreement (Un. Ex. 73).

**/ City provides its own fully paid basic comprehensive major medical insurance plan. Officers electing the option of an HMO must pay any difference between the cost of the City's plan and the cost of the HMO.

+/ As of May 1, 1988, employees contribute \$30.00 per month toward the premium cost of dependent coverage and this contribution share increases to \$45.00 per month as of May 1, 1989.

++ Employee is required to pay a monthly contribution of \$10.00 toward the premium cost of dependent health insurance cost.

*+/ Not ascertainable from the Contract language whether dependent coverage is provided.

+*/ City will either pay 100% of the premium cost for dependent coverage or up to \$187.78 per month whichever is less.

It is abundantly clear to the Panel that the benefit sought here by the Union is overwhelmingly a standard one in the industry, meaning local police work, notwithstanding the fact that it is not a standard one for the City of Bloomington and, in this respect, would be, as characterized by the Employer a "breakthrough." The Panel finds the Employer's argument in the main, to be perplexing. Specifically, the Employer invokes a lament quite commonly asserted in grievance arbitration that the Union is seeking to obtain something it could not achieve at the bargaining table. While this asserted argument has substantial validity as it pertains to grievance or rights arbitration where the third party neutral is generally prohibited in his/her authority to add to or in any way modify the terms of the collective bargaining agreement he/she is construing, the argument has absolutely no validity in interest arbitration where the role of the arbitration panel is to select what it determines to be the last offer of settlement that more nearly complies with the applicable factors prescribed in Section 14(h) of the IPLRA as earlier addressed by this Panel elsewhere above. It is, by very reason of the parties' failure to resolve the issue during negotiations, that this matter comes now before the Panel for determination. If the Employer was so concerned the Union would attempt to achieve a so-called breakthrough in these interest arbitral proceedings, then it was incumbent on the Employer to make a greater effort to resolve the matter during negotiations or during mediation. One thing is for certain, and that is, that no breakthrough can ever be achieved if the benefits scrutinized from the comparables identified did not support the benefit being sought. The companion argument asserted by the Employer that somehow this benefit should be denied because the Union did not seek what it refers to as "management caps" during negotiations for the tentative agreement must be rejected on the grounds that a failed ratification vote by either party is part of the collective bargaining process and that when a tentative agreement is voted down, it is proper to return to negotiations with modified demands in an effort to consummate a new agreement that will be voted upon favorably by the parties' constituent members. No better example of this was recently offered than that of the failed budget summit and the actions of the legislative and executive branches of government that followed in order to obtain a budget that would be accepted and approved by both houses of Congress and signed by the President. Note, the Panel did not say an acceptable agreement but rather an agreement that could garner the acceptance and approval of the majority of each constituent group. The argument asserted by the Employer that no other bargaining unit it has agreements with has the

health insurance benefit being sought here must be dismissed by the Panel as simply not relevant as the comparables indicate it is a typical benefit provided in the industry. There is no doubt on the part of the Panel that once this benefit is conferred on the Union the other bargaining units will seek to obtain it, but this cannot be held as a persuasive argument since, if the Employer resists yielding this benefit to the other bargaining units and an interest arbitration occurs as a result, it will be incumbent on these other bargaining units to demonstrate that the benefit more nearly complies with the applicable factors prescribed in Section 14(h) of the IPLRA with respect to its industry, more accurately its line of work. The argument invoked by the Employer regarding the cost to the City of providing this benefit must be dismissed by us because the Employer indicated at the outset of these proceedings that it was not asserting a defense of inability to pay.

3. Award

The Panel finds that, with respect to the issue of health insurance premium contributions as here discussed and analyzed above, the Union's offer more nearly complies with the applicable factors prescribed in subsection 14(h) of the IPLRA. Accordingly, we rule to award the Union's offer on health insurance for both years of the Agreement.

C. Sick-Leave Buyout Plan

1. Parties' Last, Best Final Offers

a. UNION

Effective May 1, 1989:

Increase maximum accumulation from 720 to 960 hours.

Effective May 1, 1990:

a. Officers who retire or leave the employment of the City under honorable circumstances, with 20 or more years of service as a sworn police officer, shall be paid at their final hourly rate for all accumulated unused sick leave according to the following schedule:

HOURS

Less than 400	0
400-499.....	50%
500-599.....	55%
600-699.....	60%
700-799.....	65%
800+.....	70%

b. The sick leave accumulations shall be based upon the accumulation by reason of the agreement effective on or about May 1, 1986, plus sick leave accumulated since that date, minus sick leave used since that date; these accumulations, as of March 1, 1990, are shown on the attached City records and are the same as would be available for use in the case of illness.

b. EMPLOYER

Section 10.3. Sick Leave. Effective May 1, 1986, all police patrol officers shall have a base of sick leave established by the City Nurse. The base days that a patrol officer is eligible for shall be determined by deducting the number of sick days taken during the 1985-86 fiscal year from thirty (30) and then adding to that number two (2) days for every year of service that a patrol officer has worked. The number of days that a patrol officer has left as of April 30, 1986 shall serve as his/her base. Any sick leave taken in excess of five (5) consecutive days shall not be counted in determining a patrol officer's base for sick leave.

Effective May 1, 1989, there shall be added to that base one (1) sick day each month to a maximum of one hundred twenty (120) sick days, which shall be paid at full pay during the time of illness. This benefit shall run concurrently with the fiscal year and will be accrued by new employees at a rate of two point five (2.5) days each month for his/her first twelve (12) months of employment, after which it shall accrue at a rate of one (1) day each month up to a maximum of one hundred twenty (120) days. At the time of retirement, all unused sick leave accumulated pursuant to the preceding paragraph shall constitute creditable service under Section 3-110 of the Illinois Pension Code (Ill.Rev.Stat., ch. 108½, §3-110) for purposes of determining the amount of retirement pension to which an employee is entitled.

Because the Board of Trustees of the Police Pension Fund of the City of Bloomington has refused to recognize such a period of sick leave as creditable service, the City agrees to pay a retiring officer with at least twenty (20) years of creditable service, in lieu of the pension he would have

received from the Pension Board during the period for which creditable service is claimed under this Section, an amount of money computed as follows:

(1) (rate of payment): the percentage of the officer's final salary for his or her years of creditable service as recognized by the Pension Board under Article 3 of the Illinois Pension Code: times

(2) (duration of payment): the number of hours of the officer's sick leave accumulated beginning May 1, 1986. For purposes of calculating an officer's hours of accumulated sick leave, officers whose accumulated sick leave was at the old maximum of ninety (90) days shall be considered to have accumulated one (1) day of sick leave for each month that he would have accumulated more sick leave but for the old maximum.

In the event the Illinois General Assembly amends the Pension Code to allow an officer's accumulated sick leave to be treated as creditable service, the payment provision of this Section shall become null and void as applied to all officers who retire after the effective date of the law and the parties thereafter will comply with the contract as it existed on April 30, 1989.

2. Findings

The Panel notes that all the arguments asserted by the Employer against the granting of the Union's offer on Health Insurance are reasserted here against the granting of the Union's offer on the benefit known to the parties as the Sick-Leave Buyout Plan. Since we believe our stated positions on these arguments are clear, the Panel does not believe we have to restate them here in detail. The Panel does not concur in the Employer's view the Union engaged in something other than good faith collective bargaining when, after the Union failed to ratify the tentative agreement, it came back to the bargaining table with this so-called new demand. In fact, reviewing the bargaining history of these latest negotiations leading up to this interest arbitration, the Panel notes that the Sick-Leave Buyout concept was inspired by the events and circumstances surrounding the early retirement of Officer Jim Van Hook and thus, did not materialize out of thin air. The Panel finds it unnecessary to recount all the details of the Van Hook situation since it is well known to the parties and is currently in litigation. In essence though, Van Hook was permitted by the City under the "early out" provision contained in Article IX, Section 9.3 of the 1987-89 Collective Bargaining Agreement (Jt. Ex. 1) to leave active duty effective May 16, 1988, apply his unused sick leave so that for purposes of his pension, he was considered as having 28 years of

creditable service. Had he not been permitted by the City to apply his unused sick leave, Van Hook would have had to stay on active duty until sometime in September of 1988. Upon retirement in May, however, the Board of Trustees of the Police Pension Fund of the City of Bloomington took the position that it would either credit Van Hook with less than 28 years service by accepting the May 16th retirement date but refusing to credit his unused sick leave to bring his service to 28 years or it would credit Van Hook with 28 years service in September of 1988, when chronologically he would have obtained the 28 years of service. Much to the City's credit, it simultaneously instituted actions to obtain a legal ruling sanctioning the negotiated early out provision and paid Van Hook his monthly pension based on 28 years of service for the remaining half of May and for the months of June, July, August, and into September. In addition, the City paid contributions into the Pension Fund for the period between May and September on behalf of Van Hook as if Van Hook had remained on active duty during this time.

The Employer claims that a sick-leave buyout plan is a novel benefit that none of its other bargaining units have and therefore, it is not for the Panel to confer such a novel benefit as the Panel's role under the statute is basically conservative in nature serving as an extension to the bargaining process rather than a substitute for it. The Panel holds the view that while the other bargaining units the City has contracts with are all within the public sector, the fact is, they are not in the same industry as the Police and therefore, there will be benefits negotiated and applicable to one bargaining unit that are not shared by one or more of the other bargaining units simply because they reflect and, appropriately so, unique differences in the work and services performed by each bargaining unit. If this were not so, there would be no need for separate union jurisdictions and Eugene Debs' vision of one big union would quickly become reality. Again, for any union to obtain a benefit in an interest arbitration, it must demonstrate to the Interest Arbitration Panel that the benefit it seeks more nearly complies with the applicable factors prescribed in subsection 14(h) of the IPLRA. Predominant among these factors is a showing by the Union that sick-leave buyout plans exist as a benefit in the communities identified as comparable and that the plans are similar in orientation. Again, the argument asserted by the Employer in opposition of the Panel granting the Union's offer with respect to this benefit based on the cost of the plan is not evaluated by the Panel as being a critical one since the Employer has not asserted a defense of an inability to pay. However, the level of monetary benefit associated with the plan proposed by the Union will be considered relative to the level of monetary benefits associated with plans existing in the comparable communities.

The Union asserts that, of all the comparable communities being considered by the Panel, only Aurora and Rockford do not provide some type of payment for unused sick leave. Additionally, the Union submits, none of the comparable communities have sought to convert sick leave into creditable service for early retirement.

An analysis of the existing collective bargaining agreements in effect for the twelve (12) identified comparable communities reveals the following with respect to other buyout plans:

SICK LEAVE BUYOUT PLANS
CURRENTLY IN EFFECT

COMPARABLE COMMUNITY	MAXIMUM ACCUMULATION	TRIGGERING EVENT FOR PAY	BUYOUT PLAN IN FORCE	MAXIMUM MONETARY PAYMENT YEARS OF SERVICE		
				20 YRS	25	30
Aurora	180 days	N.A.	N.A.	N.A.	N.A.	N.A.
Champaign	1192 hours	Resignation Retirement	< 500 hrs - (50%) 500-599 - (55%) 600-699 - (60%) 700-799 - (65%) >800 hrs - (70%)	\$12,441	\$12,441	\$12,441
Danville	60 days	Retirement	1/3	\$ 2,348	\$ 2,348	\$ 2,348
DeKalb */	90 days	Retirement Resignation	5-6 yrs (25%) 10-11 yrs (50%) 15-16 yrs (75%) Over 20 yrs (100%)			

(continued on next page)

*/ The Contract specifies a percentage for every year of service beginning with less than one (1) year at a rate of zero percent (0%) increasing by five percent (5%) increments for every year of service up to twenty (20) years and over.

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COMPARABLE COMMUNITY	MAXIMUM ACCUMULATION	TRIGGERING EVENT FOR PAY	BUYOUT PLAN IN FORCE	MAXIMUM MONETARY PAYMENT YEARS OF SERVICE		
				20 YRS	25	30
Elgin	110 days	Retirement Resignation	Maximum of 20 days	\$ 2,611	\$ 2,611	\$ 2,611
Kankakee	120 days	Retirement Resignation	100%			
Normal	960 hours	Retirement	\$7.00 per 8 hours	\$ 1,680	\$ 2,100	\$ 2,520
Peoria	960 hours	Retirement Resignation	1-25 days (20%) 26-50 days (40%) 51-75 days (60%) 76 days & over (80%)	\$13,883	\$13,883	\$13,883
Rockford	N.A.	N.A.	N.A.			
Springfield	None	Retirement Resignation	5/12 of hourly rate for first 90 days; 100% over 90 days	\$22,982	\$26,222	\$33,713
Urbana **/	None	Retirement Resignation	10%	\$ 2,682 \$ 2,759	\$ 3,362 \$ 3,459	\$ 4,042 \$ 4,159
Waukegan	90 days	Termination except for cause	50%			

**/ The lower maximum monetary payment for officers with 20, 25, and 30 years of service are applicable to those without college degrees and the higher payment is applicable to those without college degrees.

The evidence contained in the table above is found by the Panel to be corroborative of the Union's position that sick leave buyout plans are fairly common in the industry (i.e. local police work) and that seemingly there are as many variations with respect to the benefits that derive from such plans as there are number of plans in existence. In comparing the plan offered here by the Union, the Panel does not find it to be outside the range of variations of the other plans in the comparable communities whereas, the Employer's offered plan deviates from the scheme of these other existing plans by attempting to convert unused sick leave to a pension benefit. While the Panel is fully cognizant that the heart of this impasse lies in the City's objection to buying back hours of sick leave that officers did not earn but were "given" as a result of a negotiated agreement to commence a sick leave scheme providing for accumulation of sick leave time, nevertheless the Panel views this conversion not as a "gift" but as a means of making the officers whole for past years in which sick leave time did not accumulate. Moreover, we find a flaw in the Employer's logic on this point noting that if an officer had need to utilize his/her sick leave for being off work due to illness or injury, to the point that he/she dipped into the sick leave base that was granted by the conversion formula in May of 1986, those hours would be paid for at the applicable rate, hours for which, according to the City, were not part of his/her sick leave earned. The Panel is at a loss to reconcile the objection Employer raises regarding having to pay for the base hours at retirement when it stands ready to pay for these hours, even though not earned if an officer had to take off work as a result of illness or injury. Further, the Panel views certain aspects of the Union's plan as offsetting the primary objection raised by the Employer, to wit: the buyout plan is not applicable to any officer leaving City employment under honorable circumstances with less than twenty (20) years service and too, there is no benefit forthcoming to a retiring officer who has less than 400 hours of accumulated sick leave. Under all the circumstances at hand, the Panel is compelled to conclude that the Union's offer more nearly complies with the applicable factors prescribed in Subsection 14(h) of the IPLRA.

3. Award

As the Panel finds the Union's offer on sick leave buyout to more nearly comply with the applicable factors prescribed in Subsection 14(h) of the IPLRA than the plan offered by the Employer, the Panel rules to award the Union's plan.

D. Salary Increases

1. Parties' Last, Best Final Offer

a. UNION

Effective May 1, 1989:

4.5% increase of April 30, 1989, annual base salaries of Probationary Patrol Officer, Patrol Officer-1 year, Patrol Officer-2 years, and Patrol Officer-3 years (Base); remainder of existing longevity levels are calculated from "3 year base," as adjusted by this paragraph.

Effective May 1, 1990:

5.0% increase of the adjusted May 1, 1989 annual base salaries of Probationary Patrol Officer, Patrol Officer-1 year, Patrol Officer-2 years, and Patrol Officer-3 years (Base); remainder of existing longevity levels are calculated from "3 year base," as adjusted by this paragraph.

b. EMPLOYER

1. Wages: 4 1/4% May 1, 1989;
4 1/4% May 1, 1990; ***

2. Findings

With respect to this issue, the Panel is persuaded that the factor most significant for its consideration is the overall compensation presently received by the employees as well as the overall compensation that will be received by the employees as a result of the benefits awarded in this Decision. It is with respect to this issue that the costs borne by the Employer in funding the benefits paid to bargaining unit members must be taken into consideration when comparing the relative level of salaries of bargaining unit members to the level of salaries paid to officers in comparable communities. Based on a review of the massive amount of data submitted by both parties in support of their respective offers and noting that the parties are only one percent (1%) apart in their positions over the two (2) years in question, the Panel, in concurring with the Employer's view that the median salaries for Bloomington Officers more than favorably compare with the salaries of officers in the

other twelve (12) communities, and taking into consideration the economic impact on the City of the benefits awarded by this Decision, the Panel rules to accept the Employer's wage offer for both years in question.

3. Award

The Panel finds that with respect to the issue of salaries, the percentage increases offered by the Employer, under all the prevailing circumstances, more nearly complies with the applicable factors prescribed in Subsection 14(h) of the IPLRA.

V. SUMMARY OF AWARD

Based on the preceding findings and determinations, the Panel rules as follows:

A. Duration of Contract

Union's offer

B. Health Insurance Premium Contribution

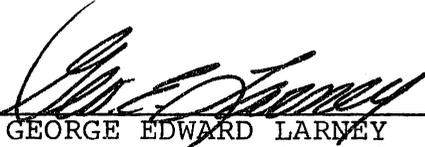
Union's offer

C. Sick Leave Buyout Plan

Union's offer

D. Salary Increases

Employer's offer



GEORGE EDWARD LARNEY

Chairman, Interest Arbitration Panel

CONCURRING

CONCURRING

DISSENTING

DISSENTING

DAVID L. STANCZAK
Employer Delegate

DAN J. KATZ
Union Delegate

October 31, 1990

Suite 800
29 South LaSalle Street
Chicago, IL 60603
(312) 444-9565