

ILRB

#183

Interest Arbitration
under the
Illinois State Labor Relations Act

The City of Belvidere,
Illinois,

Employer

and

The Fraternal Order of Police,
Belvidere Lodge No. 245 and
the Illinois FOP Labor
Council,

Union

Case No. S-MA-97-84
Arbitrator's File 97-160

Herbert M. Berman,
Arbitrator

R. Theodore Clark, Jr.
Attorney for Employer

Robert Costello,
Attorney for Union

Date of Award: 12/17/98
Date of Opinion: 12/31/98

Opinion and Award

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I. Statement of the Case

The Union represents "full time sworn peace officers of the City of Belvidere in the rank of Police Officer, including Patrol Officers and Detectives" (Art. 2, §2.1 of Agreement: Joint Exhibit 1).¹

The most recent collective bargaining agreement began February 1, 1994 and ended January 31, 1997 (JX 1: Art. 24, §24.1). The parties reached impasse in negotiations for a successor agreement and invoked interest arbitration pursuant to the Illinois Public Labor Relations Act, 5 ILCS 315-1, et seq. (the "Act"). Waiving the tri-partite panel prescribed by the Act, the parties selected me as the sole interest

¹ Hereinafter, I shall cite Joint Exhibits as "JX _____," Union Exhibits as "UX _____" and "Employer Exhibits "EX _____." I shall cite the hearing transcript as "Tr. _____."

arbitrator. I conducted a hearing in Belvidere on March 12, 1998. Both parties have filed post-hearing briefs.

II. Applicable Statutory Standards

Section 14(g) of the Act provides that "[a]s to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h)." Section 14(h) sets out the factors used to evaluate economic proposals:

1. The lawful authority of the employer.
2. Stipulations of the parties.
3. The interests 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 critical factors in economic interest arbitration are contained in paragraphs 3 through 6. The "standards relied upon most frequently and given the greatest weight by interest arbitrators are: (1) comparability; (2) the cost of living; and (3) the ability to pay. The different emphases placed on those standards, as well as the other standards that are included in public sector interest arbitration statutes, generally depend upon the economic circumstances that exist in the jurisdiction at the time of the arbitration proceeding."² The "most significant standard for interest arbitration in the public sector is comparability of wages, hours and working conditions."³

III. Issues

The parties' Submission Agreement (JX 3) identified seven economic issues and one non-economic issue:

Economic Issues:

1. Salaries
2. Compensatory Time and Hours of Work

²Arvid Anderson, Loren Krause & Parker A. Denaco, "Public Sector Interest Arbitration and Fact Finding: Standards and Procedures," Tim Bornstein, Ann Gosline & Marc Greenbaum, eds., *Labor and Employment Arbitration*, 2nd ed. (New York: Matthew Bender, 1998), Vol. II, chap. 48, §48.05[1].

³ *Ibid.*, at §48.05[2].

3. Hours of Work for Detectives, DARE Officer, and the School Liaison Officer
4. Amount of Vacation
5. Pay for Working Out Of Classification
6. Compensation for Holidays
7. Term of Agreement

Although "salaries" and "compensatory time and hours of work" are identified as separate issues, the parties stipulated that I could determine whether these issues should be separated or combined (Tr. 4-5). The Union asks that these issues be combined into a single issue, the Employer that they be separated.

Non-Economic Issue:

Application of the grievance and arbitration procedure to discipline

The parties agreed to defer arbitral consideration of this issue pending resolution of the Union's unfair labor practice charge before the Illinois State Labor Relations Board (Un. Brief, 15; Emp. Brief, 2). Accordingly, I shall not resolve this issue.

IV. Background

Belvidere (hereinafter "City" or "Employer") is about 13 miles east of Rockford near Interstate 90, an east-west expressway linking Chicago and Rockford. Belvidere is the county seat of Boone County, one of eight counties the State of Illinois refers to as the "Northwest Passage" (EX 8). In the 1990 census, Belvidere's population was 15,958 (EX 6). According to the Illinois Department of Commerce & Community

Affairs, the population of Belvidere on December 10, 1997 was 17,781. Belvidere has the largest population of any city or village in Boone County. In or near Belvidere are a number of substantial employers, including Chrysler, the major employer, with 3900 employees, and seven other national and international companies employing 125 to 425 employees (EX 6).

Under intergovernmental agreements, Belvidere and Boone County share the use and cost of a public safety building and firing range (CX 7; Tr. 57-8). The City employs 24 police officers in the bargaining unit under consideration, including 17 Patrol Officers, four detectives, one DARE officer, one SRO and one officer detailed to the "state auto theft tactical unit" (Tr. 82, 106; EX 25).

V. Comparability

The Union contends that Loves Park, McHenry, Round Lake Beach and Woodstock are comparable to Belvidere. The Employer contends that Boone County, Dixon, Freeport, Loves Park, Rock Falls, Sterling and Sycamore are comparable to Belvidere.

A. The Union's Proposed Comparables

The Union has made the following comparisons (I have added the "distance-from-Belvidere" category) (Un. Brief, 4):

UNION COMPARABLES + DISTANCE FROM BELVIDERE					
	<i>Belvidere</i>	Loves Park	McHenry	Round Lake Beach	Woodstock
1990 Population	15,958	N/A	18,180	21,500	16,179
EAV	\$167,926,476	N/A	\$312,488,385	\$218,660,986	\$251,132,350
Revenues	\$ 6,997,649	N/A	\$ 8,705,370	\$ 9,252,940	\$ 9,096,039
Full-Time Employees	96	N/A	99	83	112
Total Payroll	\$ 3,581,575	N/A	\$ 4,210,374	\$ 2,901,682	\$ 4,254,925
# of Sworn Employees	29	24	35	33	27
Crimes per 100,000	751	1188	539	667	580
Distance from Belvidere*		10 miles	29 miles	40 miles	21 miles

*Distances are not expressed in highway miles but as the crow flies. Source: Internet: "How Far Is it?" (www.inco.com/cgi-bin/dist).

B. The Employer's Proposed Comparables

Supplemented by the "distance-from-Belvidere" category, the Employer has made the following comparisons (Emp. Brief, 8):

EMPLOYER COMPARABLES + DISTANCE FROM BELVIDERE							
Jurisdiction	1997 Population	Size of Police Department	FY 1997 EAV	FY 1997 Sales Tax Revenue	Per Capita Income	Median Household Income	Distance from Belvidere*
<i>Belvidere</i>	17,731	29	\$154,542,816	\$1,841,290	\$12,337	\$29,509	
Boone Cnty	35,620	16	420,492,399	587,298	14,355	35,103	Belvidere is in Boone County
Dixon	15,134	24	76,569,686	1,451,489	11,114	25,224	43 miles
Freeport	25,840	50	177,661,935	3,347,865	12,631	24,758	40 miles
Loves Park	15,457	24	166,245,760	3,096,430	13,863	31,147	10 miles
Rock Falls	9,669	15	44,923,578	918,751	9,546	21,607	55 miles
Sterling	15,142	29	98,971,017	2,613,791	12,880	25,636	54 miles
Sycamore	11,057	18	124,848,197	1,658,823	14,704	34,058	20 miles

*Distances are not expressed in highway miles but as the crow flies. Source: Internet: "How Far Is it?" (www.inco.com/cgi-bin/dist).

As I have noted, "Interest arbitration is a fact-finding process that often seems to rest on problematic or indeterminate 'facts'" and it is not "unusual for an arbitrator to be faced with disparate and incompatible financial and demographic data on comparability (and other issues)."⁴ It is not inappropriate for either party, within a reasonable margin of discretion, to make use of the most favorable comparisons it

⁴ Village of Justice, S-MA-96-65 (Berman 1997), at 8-9.

finds. This is effective advocacy; it is the arbitrator's job to choose among the comparisons cited.

The parties did not employ identical or like standards for purposes of comparison. The Union compared four municipalities to Belvidere on the basis of the 1990-census population; EAV (equalized assessed valuation); gross revenues; number of full-time employees; number of sworn employees; total payroll costs; and number of crimes per year per 100,000 population. The Employer compared seven municipalities and one county to Belvidere on the basis of the estimated 1997 population; the number of police department employees; the 1997 fiscal year EAV; the 1997 fiscal year sales tax revenues; estimated per capita income; and estimated median household income.

The Employer quoted *Village of Justice, supra*, at page 10, for the following proposition:

Population and proximity are probably the two most important factors used to determine comparability. Thus, the "first cut," which is generally based on those factors, eliminates cities not reasonably comparable to the subject community in terms of proximity or population.⁵

With the exception of Boone County (which I shall discuss later), the comparables proposed by the parties meet the generous $\pm 50\%$ population standard (a standard in which I have

⁵ Obviously, the factor of proximity is more important in interest arbitration for Belvidere, one of many relatively small cities or villages in Illinois, than in interest arbitration for Chicago, one of the largest cities in the United States. For the City of Chicago, for example, it might be appropriate to make comparisons to other large cities hundreds or even thousands of miles away.

acquiesced in other cases). Although east of Belvidere and arguably within the region of a growing "greater Chicago," the comparables proposed by the Union (setting aside the agreed-upon comparable of Loves Park) are closely comparable to Belvidere at most points of suggested comparison. And while McHenry's EAV is almost double that of Belvidere's, its total revenues—a more critical factor than EAV in my judgment—are only 24 percent greater than Belvidere's.

Forty miles east of Belvidere, Round Lake Beach is the farthest and easternmost comparable proposed by the Union. It is east of the Fox River, the western border of what many think of as "suburban Chicago." It is also north of Gurnee and Waukegan, perhaps the two northernmost Chicago suburbs. Round Lake Beach is not on or near an expressway or major highway. In that respect, Round Lake Beach is different from Waukegan or Gurnee, far-northern cities that developed independently of Chicago but were drawn into the metropolitan orbit by interstate highways and industrial and commercial development. Round Lake Beach, about 14 miles northwest of Waukegan and 9 miles northwest of Gurnee, is too far from Chicago and from any major highway to Chicago to be considered a Chicago suburb. Accordingly, I do not consider it inappropriate to compare Round Lake Beach to Belvidere, a community clearly outside of suburban Chicago.

Woodstock and McHenry, the remaining municipalities proposed by the Union but disputed by the Employer, are reasonably comparable to Belvidere at all points of comparison

suggested by the Union. The most populous comparable, Round Lake Beach, is 35% larger than Belvidere. McHenry's EAV is 86% more than Belvidere's, but its total revenue and total payroll—benchmarks I find more critical for purposes of comparison—are, respectively, only 24% and 18% higher than Belvidere's.⁶ As McHenry's population is 14% greater than Belvidere's, these latter differences are close enough to be considered reasonably comparable.

With the exception of Sycamore, the Employer's comparables are due west (Freeport) or southwest of Belvidere and beyond metropolitan Chicago in an area the State of Illinois calls "The Northwest Passage." Fifty-five miles southwest of Belvidere, Rock Falls is the most distant comparable proposed by the Employer. Standing alone, the distance from Belvidere to Rock Falls does not disqualify Rock Falls. However, distance coupled with the other factors cited by the Employer disqualify Rock Falls. Rock Falls' population is slightly more than half of Belvidere's. Its police department is 52% of the size of Belvidere's; its EAV 29% of Belvidere's; its sale tax revenue less than half of Belvidere's; and its per capita income, the lowest among the comparables proposed by the Employer, about three-quarters of Belvidere's. In their

⁶ In *City of Batavia*, S-MA-95-15 (Berman 1996), at 13, I noted:

While information such as per capita and household income, median home value and equalized assessed valuation are important, questions (and answers) that may be generated by examining this information [are] subsumed in one overarching question: "How much money does the municipality have available from all sources to spend on services for its residents?"

entirety these factors depict a city far smaller, poorer and more rural than Belvidere. It is at least one hour's drive from Belvidere and, unlike Belvidere, it is not near a larger city and thus part of a major metropolitan area. Although both Belvidere and Rock Falls are within "The Northwest Passage," the evidence did not demonstrate that they are part of a network of communities that "form[s] a natural labor market" and thus "constitute[s] an ideal basis for establishing...comparables" (Emp. Brief, 9).⁷ Although Sterling and Rock Falls are almost the same distance from Belvidere, Sterling is similar enough to Belvidere in other respects to be considered comparable to Belvidere. Belvidere's 1997 EAV is slightly more than half again as much as Sterling's EAV, but in other respects Belvidere seems comparable to Sterling. The other questionable comparison is Dixon, a city 43 miles from Belvidere with an EAV about half of Belvidere's. As in the case of Sterling, however, the other data submitted to me seem to provide a reasonable basis of comparison to Belvidere. The remaining municipalities suggested by the Employer are unexceptionable and more clearly comparable to Belvidere.⁸

⁷ I am uncertain of the relevance of the fact that the State of Illinois dubbed eight counties in northwestern Illinois "The Northwest Passage." I suspect that this name is part of a marketing campaign aimed at tourists.

⁸ The method of comparison employed in this case is different from the method I have used in many other cases. Generally, I have employed what may be called an "incremental" approach. In other words, I would first eliminate proposed comparables solely on the basis of proximity or population and then compare the community under review to the remaining proposed comparable communities on the basis of additional demographic

The Employer also argued that Boone County is comparable to Belvidere, noting that the population of Boone County, excluding Belvidere, is "almost exactly the same as Belvidere's" (Emp. Brief, 6, n. 4). The Employer also points out that there is "mutual cooperation between the two organizations" that "share a common public safety building and they are co-employers of the dispatchers" who dispatch both Belvidere Police Officers and Boone County Deputy Sheriffs (Emp. Brief, 10). In addition, the Employer points out, the Boone County Board, the Boone County Sheriff and the City of Belvidere are co-signatories to a collective bargaining agreement that covers Dispatchers and Deputy Sheriffs "employed in Boone County for the Sheriff's Department and/or the City of Belvidere as certified by the Illinois State Labor Relations Board" (Emp. Brief, 10, citing CX 5A).⁹

data. In this case, I have employed what may be called a "matrix" approach. In other words, I have considered population, proximity and other factors in their entirety without first eliminating any proposed comparable on the basis of one criterion only. Where, as in this case, population alone or proximity alone are *almost but not quite enough* to eliminate a proposed comparable, I consider it appropriate to consider the relevant factors all at the same time rather than sequentially.

⁹ The parties stipulated that "the City of Belvidere is not the employer of any sworn county deputies" (Tr. 58). As an agreement between UAW Local 1761 and the City of Belvidere, the Boone County Board and the Sheriff of Boone County states the latter are joint employers of Deputy Sheriffs, I do not know in what sense the City of Belvidere is not the employer of "any sworn county deputies." I assume that the City of Belvidere does not hire and fire deputies, direct their work or exercise day-to-day authority over them. Nevertheless, the City of Belvidere is party to a collective bargaining agreement that established wages, hours of work and other terms and conditions of employment for Deputies and other employees of the Boone County Sheriff Department.

In *City of Peru & Illinois FOP, S-MA-93-153* (Berman 1995), at 10-11, I declined an invitation to consider Bureau, Putnam and LaSalle Counties comparable to the City of Peru:

I do not consider Bureau, Putnam and LaSalle Counties comparable to the City of Peru. While I do not rule out the possibility that a County Sheriff's Department may (or will) be considered comparable to a municipal police department, I am generally in agreement with arbitrator Peter Feuille that—

[C]ounties are far more similar to each other as public employers than cities are to counties, ...deputy sheriffs...are more similar to other county deputy sheriffs than they are to city police, and...there is a county seat-county wage pattern that indicates that it is the norm for the county seat to generally pay more for city police than the respective county pays for deputy sheriffs. (*County of McLean/McLean County Sheriff & Illinois FOP, Lodge 176, S-MA-92-29* (Feuille 1993), at 20.)

In the case at issue, the evidence did not establish sufficient similarities between Peru and the proposed counties to overcome the premise that sheriff departments and police departments, even in overlapping areas, are generally too dissimilar to be considered comparable for intelligent wage and benefit comparisons.

With a population of 107,000, LaSalle County is 11¹/₂ times more populous than Peru. LaSalle County employs more than twice the number of police officers of Peru; its revenue is almost three times that of Peru; and its Equal Assessed Valuation (EAV) per police officer is more than seven times that of Peru. Although per capita income, median home value and median household income in Peru and LaSalle County are roughly comparable, the larger population of LaSalle County, its greater revenues and the intrinsic differences between the duties of police officers and sheriffs' deputies combine to make LaSalle County an inappropriate comparison to Peru.

Bureau County has four times the population of Peru but only 95% of Peru's revenue. In a larger area with a greater population, Bureau County has 67% of the index crimes per police officer as Peru and its EAV per police officer is more than double that of

Peru. In short, Bureau County is not as statistically dissimilar from Peru as LaSalle County, but it is not comparable to Peru.

Putnam County presents another problem. It is a sparsely populated rural county. The Putnam County Sheriff's Department employs five deputies; its index crimes per police officer are 39% of index crimes per police officer in Peru; and its EAV per police officer is 270 percent higher than Peru. There would seem to be little in common between this rural county and Peru, a regional business hub.

Despite these findings, I did not "rule out the possibility that a County Sheriff's Department may (or will) be considered comparable to a municipal police department." In my judgment, the facts presented here warrant carving out an exception to the general rule that city police officers are not comparable to a sheriff's deputies. First, both departments share the same facilities and police neighboring, indeed overlapping, territories. Second, the population and economic characteristics of Boone County and the City of Belvidere are similar. Third, both the County and the City are party to a collective bargaining agreement covering the wages, hours of work and other terms and conditions of employment for deputies employed by the Boone County Sheriff. Even though the "the City of Belvidere is not the employer of any sworn county deputies" (Tr. 58), by virtue of its joint bargaining venture with the County, the City has an obvious and continuing interest in the wages, benefits and employment conditions of deputies. Clearly, in this unusual situation, it is not wrong to suggest that Belvidere might also have a legitimate interest in the labor relations practices and

policies of Boone County. It is thus reasonable to modify the usual rule and to consider Boone County Deputies comparable to Belvidere Police Officers.

I have chosen most of the comparisons offered by the parties, providing thereby a reasonably large sample from which to draw comparisons. On the basis of the information given, I find the following units comparable to the City of Belvidere:

- | | |
|-----------------|---------------------|
| 1. Boone County | 6. Sycamore |
| 2. Dixon | 7. McHenry |
| 3. Freeport | 8. Round Lake Beach |
| 4. Loves Park | 9. Woodstock |
| 5. Sterling | |

VI. Economic Issues

A. Wages, Hours of Work and Compensatory Time

1. 1994-97 Agreement

(a) Wages

Appendix A of the 2/1/94-1/31/97 Agreement (Wages) provides as follows:

A.1 The following base wages for Police Officers, not including the parking hostess, shall be paid during the term of the Agreement:

Step	Years of Service	2/1/94-2/1/95	2/1/95-2/1/96	2/1/96-2/1/97
1	0-2 years	24,419	25,151	26,157
2	2-4 years	27,120	27,950	28,788
3	4-6 years	29,899	30,795	32,026
4	6-8 years	30,678	31,598	32,861
5	8-11 years	32,211	33,177	34,504
6	11-14 years	33,821	34,835	36,228
7	Over 14 years	————	36,577	38,040

A.2 The City Council by motion may, from time to time, in its sole discretion, provide additional pay for Employees who are assigned by the department head to special assignments. The City Council may increase, decrease, or abolish the extra pay for such assignments at any time.

COMPENSATION FOR ACTING SUPERVISORS

A.3 An Employee who is assigned to the position of an acting supervisor for ten consecutive days shall be compensated at the rate of the position assigned, commencing on the eleventh day and continuing so long as the Employee continues to be assigned to such position.

(b) Hours of Work and Compensatory Time

Article 3 (Hours of Work) of the 1994-97 Agreement provides as follows:

3.1 Workday Shift

Under normal circumstances, Patrol Division officers shall work shifts of 12 consecutive hours as follows:

- | | |
|-----------------|-----------------------|
| (1) Day Shift | 7:00 A.M. — 7:00 P.M. |
| (2) Night Shift | 7:00 P.M. — 7:00 A.M. |
| (3) Cover Shift | 3:00 P.M. — 3:00 A.M. |

3.2 Shift Rotation Schedule

Officers working Patrol Division assignments shall work 12 consecutive hour shifts on a 28-day rotation basis. See following example:

Two days on	Monday and Tuesday
Two days off	Wednesday and Thursday
Three days on	Friday, Saturday and Sunday
Two days off	Monday and Tuesday
Two days on	Wednesday and Thursday
Three days off	Friday, Saturday and Sunday.

This 14-day rotation will be repeated twice in a 28-day period. Day and night shifts will then rotate. Cover shift officers do not rotate.

3.3 Compensatory Time

It is recognized that patrol officers working a 12 hour/28-day shift rotation are scheduled to work 168 hours in the 28-day shift rotation period. To accommodate for the extra 8 hours patrol officers may work each 28-day period under this schedule, the City shall allow such officers compensatory time off, or overtime for such hours, in accordance with the following terms and conditions:

- (a) In order to receive compensatory time off under this Section 3.3, the "regular hours worked" by an officer in a 28-day period must exceed 160.

For purposes of this Section, "regular hours worked" shall include regularly scheduled hours that are actually worked by the officer and paid vacation, holidays and bereavement leave hours which the officer would have otherwise been regularly scheduled to work. "Regular hours worked" shall not include sick leave, unpaid leave hours or any hours which have already been compensated at the overtime rate.

- (b) An Employee shall have the option of accruing up to a maximum of 40 hours of compensatory time in lieu of overtime pay. All compensatory time in excess of this amount will be paid as overtime. Compensatory time not used in a calendar year shall be carried over to the next calendar year. An Employee's use of accumulated compensatory time shall be scheduled at the mutual convenience of the Employee and the Police Chief or the Chief's designee. Compensatory time requests shall not adversely affect the Department, and shall not be unreasonably denied.

2. The Parties' Proposals

(a) Union Proposal

The Union made the following proposal on wages, overtime and compensatory time:¹⁰

(i) Wages

UNION PROPOSAL				
		2/1/97	5/1/98	5/1/99
Step	Years	Yearly	Yearly	Yearly
1	1-2	\$29,102.93	\$30,121.53	\$31,175.79
2	3-4	32,030.25	33,151.31	34,311.60
3	5-6	35,632.93	36,880.08	38,170.88
4	7-8	36,561.97	37,841.64	39,166.10
5	9-11	38,390.01	39,733.66	41,124.34
6	12-14	40,308.18	41,718.96	43,179.13
7	15-17	42,324.26	43,805.60	45,338.80
8	18 plus	44,440.47	45,995.88	47,605.74

ANNUAL WAGE FIGURES SHOWN ARE BASED ON 2184 HOURS WORKED¹¹

¹⁰ The Union's wage proposal is consistent with its proposal on Issue 7 of a 3-year, 3-month agreement commencing February 1, 1997 and ending April 30, 2000.

¹¹ Although not described by the Union, the following calculation of the Step 1 salary for February 1, 1997 would seem to illustrate the method the Union used to calculate salaries: \$26,157 (current Step 1 salary) ÷ 2080 hours = \$12.57548 per hour. \$12.57548 x 1¹/₂ (overtime rate) =

(ii) **Overtime and Compensatory Time**

The Union proposes no change in subsection (b) of Section 3.3. However, it proposes to eliminate the first paragraph and subsection (a) of Section 3.3 and to substitute the following therefor:

3.3 Overtime

- (a) Regular hours of work for patrol officers shall consist of 168 hours in each 28 day shift rotation period as provided in Sections 3.1 and 3.2. Regular hours of work for officers in the detective division and DARE shall be as provided herein. All hours worked in excess of an officer's regular hours shall be compensated at one and one-half times the officer's regular hourly rate. For purposes of calculating hours worked under the Section, all compensated hours, excluding sick leave and hours compensated at time and one-half under Article 5 of the Agreement, shall be included as hours worked.

Like the Employer, the Union proposes adding an eighth step to the salary schedule (at a 5% increase). In addition, the Union proposes across-the-board wage increases of 3.5% on February 1, 1997, May 1, 1998 and May 1, 1999.

The critical Union proposal is to retain the current work schedule of a 12-hour shift and 168 hours of work in a 28-day cycle,¹² but to incorporate "what the officers are currently paid at an overtime rate into their base pay," thus "redefin[ing] their regular hours for purposes of overtime calculation" (Un. Brief, 8).

\$18.86322. \$18.86322 x 104 (hours of overtime per year) = \$1961.7748.
 \$1961.7748 + \$26,157 = \$28,118.7748. \$28,118.7748 x 1.035 (the agreed-upon 3¹/₂% increase) = \$29,102.93.

¹² In the remainder of this Opinion, I may refer to the current schedule as the "12/168 schedule."

(b) Employer Proposal

The Employer made the following offer on wages, hours of work and compensatory time:¹³

(i) Wages

EMPLOYER PROPOSAL						
STEP	YEARS OF SERVICE	CURRENT 1/31/97	2/1/97 to 4/30/98	5/1/98 to 4/30/99	5/1/99 to 4/30/00	5/1/00 to 4/30/01
1	1-2	\$26,157	\$27,072.50	\$28,020.03	\$29,003.73	\$30,015.76
2	3-4	28,788	29,795.58	30,838.43	31,917.77	33,034.89
3	5-6	32,026	33,146.91	34,307.05	35,507.80	36,750.57
4	7-8	32,861	34,011.14	35,201.52	36,433.58	37,708.76
5	9-11	34,504	35,711.64	36,961.55	38,255.20	39,594.13
6	12-14	36,228	37,495.98	38,808.34	40,166.63	41,572.46
7	15-17	38,040	39,371.40	40,749.40	42,175.63	43,651.78
8	18 & Over	39,942	41,339.97	42,786.87	44,284.41	45,834.36

- NOTES:**
- Step 8 is a new step and was not in effect on 1/31/97; the current salary shown for Step 8 as of 1/31/97 is based on 5% more than the salary for Step 7 as of 1/31/97.
 - The salary increases reflected in the foregoing table are based on a 3.5% increase effective 2/01/97, a 3.5% increase effective 5/01/98, a 3.5% increase effective 5/01/99, and a 3.5% increase effective 5/01/00.
 - The hourly rate for overtime pay purposes shall be computed by dividing 2080 into the applicable annual salary.

¹³ The Employer's wage proposal is consistent with its proposal on Issue 7 of a four-year, three-month agreement commencing February 1, 1997 and ending April 30, 2001.

(ii) **Hours of Work and Compensatory Time**

Art. 3.3 Overtime

The regular hours of work for patrol officers shall consist of 160 hours in each 28 day shift rotation period. It is recognized, however, that patrol officers working a 12 hour/28 day shift rotation are scheduled to work 168 hours in the 28 day shift rotation period as provided in Section[s] 3.1 and 3.2. To accommodate for the extra 8 hours in each 28 day period under this schedule, the City may allow patrol officers to work the extra 8 hours and provide such officers with the option of compensatory time off or pay overtime for such hours, or the City may send patrol officers home early or bring officers in late twice each 28 day cycle in two four hour blocks or once each 28 day cycle in one 8 hour block.

If the City chooses to exercise the latter option, the City will attempt to honor the officer's choice of two four hour blocks or one eight hour block and it will also consider, to the extent consistent with the staffing needs of the Department, an officer's preferences in scheduling such block(s).

Paragraphs (a) and (b) of Section 3.3 would be retained without change.

B. Discussion of Economic Issues 1 and 2: Wages, Overtime and Compensatory Time

1. The Difference Between the Parties Rests on Their Differences Respecting the Annual Work Year

Both parties have agreed on a 3.5% wage increase and the addition of an eighth step to the current seven-step salary schedule. As the Employer notes, the "difference in the hourly rates flows from the fact that under the City's offer the hourly rate is based on an annual work year of 2080 hours and the hourly rate under the Union's final offer changes the annual hours of work from 2080 to 2184 hours, with eight hours of overtime being rolled into base salary" (footnote omitted) (Emp. Brief, 27).

2. The Issues of Salaries, Compensatory Time, Hours of Work and Contract Term Are Linked

I agree with the parties that the issues of salaries, compensatory time and hours of work are linked.¹⁴ The issue of contract duration (4 years vs. 3 years) is also linked to the other economic issues. As the Employer noted in its post-hearing brief, the proposed fourth year of the contract is "demonstrably reasonable" because of "the very low rate of increase in the Consumer Price Index and the Employment Cost Index for state and local government employees" (Emp. Brief, 64). Although all the economic issues may be linked, I am required by law to make a separate finding on each. I shall consider, however, the reciprocal effect of each of these issues.

3. The Historical Perspective

As the parties agree on an annual 3.5% across-the-board wage increase and an eight-step salary schedule, the difference between the offers lies in the different ways they would distribute overtime and compensatory time. I shall put this issue in historical perspective. Since the early 1980s, Patrol Officers have worked a 12-hour shift (Tr. 8). In a 28-day (four-week) period, a Patrol Officer may work fourteen 12-hour shifts or 3½ 12-hour shifts (42 hours) per week. Although this schedule would seem to require that Patrol

¹⁴ The Employer contended that "Economic Issues 1 [Salaries] and 2 [Compensatory Time and Hours of Work] are inextricably intertwined" (Emp. Brief, 42). The Union stated that there is an "inextricable linkage of the issues of wages, hours of work and term of the agreement" (Un. Brief, 8).

Officers work 168 hours in a 28-day period or 42 hours a week, "when the 12-hour shift was first implemented and until the last contract, the officers didn't work the extra eight hours" in excess of 160 hours per 28-day period (Tr. 8). Instead, "until two contracts ago, the officers were sent home two hours early each week as scheduled by the chief" (Tr. 9). In the contract preceding the 1994-97 contract, employees were given the choice of a single day off every 28 days (Tr. 9). In the 1994-97 contract (JX 1), employees were given the choice of working 168 hours (which included eight hours of overtime) in each 28-day cycle or taking 8 hours of compensatory time off work in lieu of overtime (Tr. 9).

Counsel for the Employer stated that 12-hour shifts were implemented in the 1980s at the request of the officers who wanted "larger chunks of time off" (Tr. 86). In the 1994 negotiations, the Employer offered the "option of pay for all overtime hours, 12 hours for holidays and...no compensatory time" (Tr. 86). The Union rejected this offer and countered with a proposal, ultimately agreed to by the Employer, that there be no change in holiday pay and that Patrol Officers be permitted to choose either comp time or overtime (Tr. 86-7). In the same negotiations, Sergeants elected to "take pay"; they "gave up any right to...compensatory time" (Tr. 87).

From 1993 through 1997, overtime costs for bargaining unit employees increased every year (Tr. 89; EX 33):

OVERTIME COSTS 1993-1997					
	1993	1994	1995	1996	1997
Overtime Costs	\$37,749.69	\$55,454.39	\$87,025.78	\$108,625.32	\$127,079.20
% Increase in Overtime Costs		46.90%	56.93%	24.82%	16.99%
# of Bargaining Unit Employees	16	17	19	20	25
% Increase in # of Bargaining Unit Employees		6.25%	11.76%	10.53%	25%

4. The Arguments

(a) The Union

The Union summarized its understanding of the dispute as follows (Un. Brief, 8-9):

The Union's offer seeks...to retain the existing work schedule for patrol officers and to incorporate what the officers are currently paid at an overtime rate into their base pay and redefine their regular hours for purposes of overtime calculation. The Union seeks to change the status quo, in this regard, only to the extent it seeks to more accurately report the officers' annual wages for purposes of pension benefits and their hourly rates of pay for purposes of overtime pay calculation....

The City seeks...to reduce their regular hours from 168 hours to 160 hours each 28-day cycle. In fact, as shown by a comparison of the City's final offer on wages for the first and second years of the Agreement with the officers' current total annual wages..., the City's proposal for a 3.5% across-the-board increase will not be sufficient to offset the loss of pay from the reduction in hours until the third year of the Agreement. The loss for the officers in the first year of the City's proposal on wages and hours of work compared to the actual wages to which the officers are entitled...

currently ranges from \$1,046.28 annually for officers at Step 1 to \$1,521.60 for officers at Step 7. The loss of pay for the second year ranges from \$98.75 annually for officers at Step 1 to \$143.60 for officers at Step 7. Only officers who reach the new Step 8 will see an increase in actual pay in the first and second years.

(b) The Employer

The Employer argues (Tr. 90):

It is because of this constantly escalating cost that the city is proposing a modification...of... Section 3.3. And that modification would give the city the discretion, which all of the other jurisdictions have, in terms of hours over 40 or over 160 in a 28-day work period to have those officers work what amounts to overtime. And if they do, to either receive pay or compensatory time or to limit those hours of work to 40 hours within a work week or 160 hours within...a 28-day work period.

Quite frankly, these overtime costs are staggering. And the city very much believes that it needs and must get...some relief in terms of the amount of overtime that it's incurring.

I know of virtually no contract that guarantees overtime. This provision which the city in good faith entered into, we didn't anticipate we'd end up incurring costs anywhere near this, and we're seeking some relief.

The Employer described its understanding of the differences between the parties as follows (Emp. Brief, 26-8):

The reason why there is such a major difference between the base salaries encompassed with the City's final offer and the Union's final offer is because the Union is seeking a fundamental change in the work year. Thus, the Union is seeking to roll into base salary the eight hours of overtime that may be worked by Patrol Officers above the 160 hours in the 28-day tour of duty....

...The net effect of the Union's final offer is to increase the cost to the City for each hour of overtime worked above 168 hours in a 28-day tour of duty, as well as the cost for each hour of paid time off. For example, under the City's final offer, an hour of overtime at Step 8 under the City's offer would cost \$29.81 and under the

Union's final offer it would cost \$30.53. At Step 8, the Union's final offer would increase the City's cost for overtime above 168 hours in a 28-day tour of duty by \$.72 and by a proportional amount at each of the other steps.

The Employer computed "hourly rates" under the proposed schedules as follows (Emp. Brief, 27):

HOURLY RATES			
Step	Hourly Rate As Of 1/31/97	Hourly Rate As of 2/1/97: City Offer	Hourly Rate As Of 2/1/97: Union Offer
1	\$12.58	\$13.02	\$13.33
2	\$13.84	14.32	\$14.67
3	\$15.40	\$15.94	\$16.32
4	\$15.80	\$16.35	\$16.74
5	\$16.59	\$17.17	\$17.58
6	\$17.42	\$18.03	\$18.46
7	\$18.29	\$18.93	\$19.38
8	\$19.20	\$19.87	\$20.35

The Employer compared the Union and Employer offers respecting Patrol Officer top salary (Emp. Brief, 29):

TOP SALARIES			
	Top Salary as of 5/1/97	Annual Hours of Work	Hourly Rate as of 5/1/97
Belvidere - City Offer	\$41,340	2080	\$19.88
Belvidere - Union Offer	\$44,440	2184	\$20.35

5. Findings

Currently, Patrol Officers may choose to use the eight hours between 160 and 168 as compensatory time if the "City and the officer...agree on mutually convenient times for...taking...comp time... (Tr. 36). Hours worked by a Patrol

Officer in excess of 160 hours in a 28-day period are paid overtime at time and one-half (Tr. 38). Under the Union proposal, counsel for the Union suggested, "current, actual yearly earnings" would be "reflected in a new hourly rate" (Tr. 38). "All 168 hours would in effect be paid time," because "we're not going to take any comp time" between 160 and 168 hours in each 28-day period (Tr. 38-9).

The difference between the parties respecting scheduling, overtime pay and compensatory time may be summarized as follows:

Current Agreement

Patrol Officers on a 12-hour, 28-day shift rotation are scheduled to work 168 hours every 28 days. For all hours worked between 160 and 168 during a 28-day shift rotation, a Patrol Officer may elect to work overtime or take compensatory time off work.

Union Proposal

Patrol Officers shall be scheduled for 168 hours in each 28-day shift rotation and paid overtime for the eight hours worked between 160 and 168. The comp-time option is eliminated and permits, as the Union notes, a more accurate reporting of "the officers' annual wages for purposes of pension benefits and their hourly rates of pay for purposes of overtime pay calculation" (Un. Brief, 8).

Employer Proposal

Patrol Officers' regular work hours in each 28-day shift rotation shall be 160 hours instead of 168 hours. At its discretion (but subject to certain restrictions), the City may require a Patrol Officer to work overtime or take comp time off work.

Resolution of this dispute does not rest primarily on the usually significant consideration of comparability. Indeed, the Union did not even draw comparisons between

Belvidere and municipalities it considered comparable to Belvidere with respect to the two critical issues: (1) the distribution of overtime as opposed to comp time during a 28-day cycle; and (2) the setting of a "normal work period" during a 28-day cycle. The Union produced, but did not analyze, collective bargaining agreements covering police officers employed by Round Lake Beach, Woodstock, McHenry and Loves Park, four of the nine communities I consider comparable to Belvidere. The City produced collective bargaining agreements covering, among other employees, police officers employed by Dixon, Freeport, Loves Park, Sterling, Sycamore and Boone County. The Employer also made comparisons between salaries of Belvidere Patrol Officers and police officers in municipalities it considered comparable to Belvidere at various years of service (EXs 27 & 28). The Employer notes that none of the "City's comparables...provide[s] for what amounts to 'guaranteed overtime'" (Emp. Brief, 44).

The comp-time and overtime provisions of the comparable jurisdictions for which information was made available shows the following:

OVERTIME AND COMPENSATORY TIME			
Juris-diction	Regular Work Period	Overtime Pay	Compensatory Time
Boone County	Work day: 12 consecutive hours in 24-hour period; work period: 28 days	1 ^{1/2} in excess of 80 hours in a 14-day period	None provided
Dixon	Workday: 8 hours	1 ^{1/2} in excess of 8 hours per day or 40 hours per week	At option of employee, comp time in lieu of overtime up to 40 hours per year; at end of fiscal year, accumulated comp time paid at straight time rate
Freeport	Normal Work Period: 171 hours per 28-day period; Normal workday: 12.25 hours with 45" paid lunch	1 ^{1/2} beyond 85.50 hours in a 14-day period	At option of employee, comp time in lieu of overtime up to 48 hours
Loves Park	12 hours in 24-hour period	1 ^{1/2} for hours worked in excess of 80 in a 2-week cycle	None provided
McHenry	Normal Work Period: 28 days; Normal Workday: 8.25 hours including 30" paid lunch	1 ^{1/2} for hours worked in excess of 171 days in 28-day period	At option of employee, comp time in lieu of overtime of up to 8.25 hours per year
Round Lake Beach	8 hours per day	1 ^{1/2} after 40 hours per week; call-in paid at 1 ^{1/2} for 2 hours	In lieu of overtime at option of employee
Sterling	Normal Work Period: Not more than 165 hours in 28 days	1 ^{1/2} in excess of 165 hours in 28-day period	In lieu of overtime and at option of employee, comp time not to exceed 72 hours
Sycamore	Not defined	Guaranteed 2 hours at 1 ^{1/2} if called back, but guaranteed only 1 hr at 1 ^{1/2} if shift extended	At employee's option, comp time in lieu of overtime up to 120 hours per year, which may be carried over from year to year
Woodstock	Workweek: "Current Schedule"; Workday: 8 hours	1 ^{1/2} after 8 hours per day	At employee's option, 1 ^{1/2} for each hour worked in lieu of paid overtime; 100-hour limit on accumulation of comp time

Because of the variety of plans developed by unions and employers in comparable jurisdictions, it is difficult, if not impossible, to make meaningful comparisons between the proposals offered by the parties and the overtime and comp time provisions provided in comparable jurisdictions. There is no like-to-like comparison. And while the sum of six apples and six oranges may be expressed (in "common denominator" terms) as twelve pieces of fruit, no reasonable common denominator is available to compare the various overtime and comp-time pay provisions in this case. The comparability standard being virtually useless, I must rely on other standards set forth in Section 14(h) of the Act.

Both proposals provide for a 3¹/₂% wage increase and an additional 5% step. The Union argues that the City "seeks to roll back the clock on the actual wages earned by officers in that it seeks to reduce their regular hours from 168 hours to 160 hours each 28-day cycle" (Un. Brief, 8-9). As a result, the Union states, "the City's proposal for a 3.5% across-the-board increase will not be sufficient to offset the loss of pay from the reduction in hours until the third year of the Agreement" (Un. Brief, 9). The Employer notes that the difference in hourly rates reflected in the parties' offers "flows from the fact that under the City's offer the hourly rate is based on an annual work year of 2080 hours and the hourly rate under the Union's final offer changes the annual hours of work from 2080 to 2184 hours, with eight hours of overtime being rolled into base salary [footnote omitted].

The net effect of the Union's final offer is to increase the cost to the City for each hour of overtime worked above 168 hours in a 28-day tour of duty, as well as the cost for each hour of paid time off" (Emp. Brief, 27-8).

This dispute stems primarily from the difficulty of conforming a 12/168 schedule to the overtime requirements of the Fair Labor Standards Act. Both proposals change the current practice and each represents a different solution to the same problem: The Union proposal mandates overtime and eliminates comp time for the eight hours between 160 and 168; the Employer proposal would generally allow management to determine if these eight hours are overtime or comp time.

On balance, the "interests and welfare of the public," coupled with data on the cost of living, compel adoption of the Employer's proposals on Economic Issues 1 and 2—Salaries and Compensatory Time/Hours of Work. In 1997, the cost of living for "all urban consumers" in "Chicago-Gary-Lake County, IL, IN, WI" increased 1.9% and the cost of living for urban consumers in the United States during the same period increased 1.7% (CXs 12 & 13). The low rate of recent cost-of-living increases, coupled with the steady increase in overtime costs over the last five years (although the rate of increase slowed down in 1997), warrant adoption of the Employer's proposals on salaries, overtime and compensatory time. Given the more than competitive hourly rates proposed by the Employer and a proposed wage increase substantially in excess of the moderate cost-of-living increases in recent

years, the need to hold down spiraling overtime costs tips the balance in favor of the Employer's proposals.

C. Economic Issue 7: Term of the Agreement

The Employer proposes a four year, three month contract—February 1, 1997-April 30, 2001. The Union proposes a three year, three month contract—February 1, 1997-April 30, 2000.

I realize that a 3+-year agreement would terminate less than two years from the date of this Award and that bargaining on a new contract would begin almost before the ink is dry on the current document. Nevertheless, I adopt the Union's proposal of a three-year agreement. Because of NLRB contract-bar rules, a term not exceeding three years is standard in most industries. More importantly, should the new salary, overtime and comp time provisions prove to be impractical or unfair, the parties should have an opportunity to return to the bargaining table within a reasonable period of time and work out a better system.

D. Economic Issue 3: Hours of Work for Detectives, DARE Officer, and School Liaison Officer

Section 3.4 of the 1994-97 Agreement reads as follows:

3.4 Detective Schedules

Officers working Detective Division assignments shall work shifts of 8 consecutive hours Monday through Friday. The Chief of Police may modify the work shifts of officers assigned to the Detective Division, in accordance with the following terms and conditions:

- (a) 48 hours' notice shall be given in the event of a reassignment expected to last less than two weeks.

- (b) Two weeks' notice shall be given in the event of a reassignment expected to last two weeks or more.
- (c) Reassignments under this Section 3.4 shall be limited to a maximum of 90 calendar days.
- (d) The Council expressly acknowledges that an officer may voluntarily accept a reassignment on less notice than would otherwise be required above.
- (e) The Chief shall attempt to make reassignments on a volunteer basis first, before assigning officers to such shifts.

The Employer proposes no change in Section 3.4.

The Union proposes to substitute the following for the current Section 3.4:

3.4 Detective Schedules

Regular hours for officers working Detective Division and DARE assignments shall be 170 hours in each 28 day shift rotation period. Such officers shall work shifts of 8¹/₂ consecutive hours Monday through Friday. The Chief of Police may modify the work shifts of officers assigned to the Detective Division, in accordance with the following terms and conditions:

- (a) Forty-eight hours' notice shall be given in the event of a reassignment expected to last less than two weeks.
- (b) Two weeks' notice shall be given in the event of a reassignment expected to last two weeks or more.
- (c) Reassignments under this Section 3.4 shall be limited to a maximum of 90 calendar days.
- (d) The Council expressly acknowledges that an officer may voluntarily accept reassignment on less notice than would otherwise be required above.
- (e) The Chief shall attempt to make reassignments on a volunteer basis first, before assigning officers to such shifts.

Hoping "to bring about internal parity for the detective and DARE officers, similar to the parity the City gave to the school liaison officer," the Union proposes that the Employer

"simply roll the hours into their base pay for pension benefit comparability" with the Patrol Officers (Un. Brief, 12).

The Employer notes that the City's four Detectives and one DARE Officer are currently on an 8-hour a day/40-hour a week schedule and that the Union's offer, if adopted, would place them on a 12/168 schedule "and increase their annual hours of work from 2080 to 2184 hours" (Emp. Brief, 49). As a consequence, the City argues, Detectives and the DARE Officer "would be paid on the basis of the Union's proposed salary schedule," requiring the City "to schedule 8 hours of overtime for every 28 days for every detective and DARE officer, regardless of any need or justification for such overtime" (Emp. Brief, 49). The Employer illustrates what it characterizes as the "gargantuan increase" that would result (Emp. Brief, 49):

Employee	Salary as of 1/30/97	Salary as of 2/1/97	Amount/% of Increase
Parker, Al (Det.)	\$38,040	\$42,324	\$4,284/11.26%
Berry, Leon (Det.)	\$36,228	\$40,308	\$4,080/11.26%
Ernest, Dave (Det.)	\$34,504	\$38,390	\$3,886/11.26%
Baclet, Mitch (DARE)	\$26,157	\$29,103	\$2,946/11.26%
Smaha, Dan (Det.)	\$26,157	\$29,103	\$2,946/11.26%

As I have rejected the Union's proposal to fold 104 hours of guaranteed overtime into Patrol Officers' salary, there would seem to be little, if any, reason to place the Detectives and the DARE Officer on the Patrol Officers' 12/168 schedule. No evidence on comparability was presented to

justify increases that would more than quintuple recent cost of living increases.

I adopt the Employer's final proposal on hours of work for Detectives and the DARE Officer.

E. Economic Issue 4: Amount of Vacation

The Employer proposes no change in the provisions of Section 6.1 (Eligibility and Amount of Vacation). The Union proposes the following changes in Section 6.1 (additions in **bold print**; deletions ~~struck through~~):

6.1 Eligibility and Amount of Vacation

Full-time Employees shall be entitled to paid vacation in accordance with the schedules set forth hereafter. The Benefit shall be payable on May 1 of the year following the attained service anniversary. One-twelfth of the benefit shall be prorated for each consecutive month worked between the Employee's anniversary and May 1, or upon separation from employment.

<u>Years of Continuous Service*</u>	<u>Length of Vacation</u>
1 year, but less than 3 years	40 60 working hours
3 years, but less than 7 years	80 84 working hours
7 years, but less than 15 years	120 132 working hours
15 years and over	160 168 working hours

*"Years of Continuous Service" commence on the Employee's date of hire.

The Union wishes "to bring vacation benefits in line with the work week so that the benefits more nearly fit with what is commonplace in both private and public employment, vacation benefits that equate to week(s) [in] long blocks" (Un. Brief, 13). The Union argues that "[i]n terms of comparability, [its] proposal is clearly within a range of reasonableness" (Un. Brief, 13). The Union noted that Round Lake

Beach, Woodstock, McHenry, Freeport and Sycamore "will maintain higher vacation benefit caps compared to the Union's offer and will, to varying degrees, maintain better overall benefits on a year-to-year basis" (Un. Brief, 13).

The Employer argues—

[W]hat the Union is attempting to do...is convert overtime hours into the defined annual work year by increasing the annual hours of work from 2,080 to 2,184 hours. What the Union is seeking to do is add additional hours of paid vacation at three years, seven years and 15 years by adding hours that may be worked as overtime into the amount of vacation that employees are eligible to receive. Since the Union's advanced reason for increasing the amount of vacation is fatally flawed, it should be rejected by the Arbitrator on that ground alone. (Emp. Brief, 52.)

The following vacation benefits are provided in Belvidere and comparable jurisdictions:

AMOUNT OF VACATION			
	AFTER 3 YEARS	AFTER 7 YEARS	AFTER 15 YEARS*
BELVIDERE	80 hours	120 hours	160 hours
Boone County	80 hours	120 hours	120 hours
Dixon	80 hours	88 hours	152 hours
Freeport	84 hours	84 hours	168 hours
Loves Park	80 hours	80 hours	160 hours
Sterling	96 hours	128 hours	160 hours
Sycamore	96 hours	96 hours	192 hours
McHenry	10 shifts**	10 shifts	20 shifts + 1 additional shift for each year of service between 20 and 25 years
Round Lake Beach	80 hours	120 hours	160 hours + 8 hours for each year of service between 16 and 20 years
Woodstock	12 working days (96 hours)	15 working days (120 hours)	20 working days (160 hours) for 15-19 years of service; 25 working days (200 hours) for 20 years of service

*The 3-year, 7-year and 15-year eligibility points correspond to the Belvidere schedule but not necessarily to the schedules of comparable employers. **For "shift employees," a shift is 8.25 hours, including a paid 30-minute lunch; for non-shift employees, a shift is 8 hours.

I can think of no sound reason to conform vacation schedules to the "guaranteed overtime" proposal I have rejected. In any event, as the Employer noted, current vacation benefits in Belvidere are comparable to those found in comparable jurisdictions—less than some and greater than others at discrete points of the schedule.

I adopt the Employer's proposal on vacation benefits.

F. Economic Issue 5: Pay for Working Out of Classification

The Employer proposes no change in Appendix A, Section A.3 of the 1994-97 Agreement, Compensation for Acting Supervisors.

The Union proposes the following changes (additions in **bold print**; deletions ~~struck through~~):

An employee who is assigned to the position of acting supervisor ~~for ten consecutive days~~ shall be compensated at the rate [of pay] of the position assigned, ~~commencing on the eleventh day~~ **for all actual hours working in such capacity** and continuing so long as the Employee continues to be assigned to such position.

The Union argued (Un. Brief, 14):

The Union submitted uncontested and uncontroverted testimony, by way of stipulation, showing that employees have been disciplined as supervisors when acting as officer-in-charge for periods of less than 10 days. Internal comparability therefore supports the Union's offer.

At the hearing, the Union noted that a Patrol Officer acting as a supervisor "was given significantly more severe punishment" when reprimanded along with two other officers "because he was the acting supervisor" (Tr. 27). Thus, the Union maintained, "We believe if he's going to have the

responsibility he should get the pay" (Tr. 27-8). Pointing out that in the "last round of negotiations the parties agreed to reduce the eligibility period from 30 days to 10 days," the Employer argues that "such a significant change from what the parties agreed to in the last round of negotiations is simply not justified in one fell swoop..." (Emp. Brief, 54-5).

The party proposing a contract change has the burden of persuasion. In the example cited, the evidence did not show whether the acting supervisor was disciplined more severely than other Patrol Officers involved in the same incident only because he was an acting supervisor or because he was, in fact, more culpable than the other officers. Even if I assume that the acting supervisor was disciplined more severely only because he was the ranking officer, it is difficult to conclude that this single instance warrants a major change in the contract. No evidence was adduced to show that officers have generally been exploited in this respect or that the acting supervisor clause has been abused.

I adopt the Employer's offer.

G. Economic Issue 6: Holiday Compensation

The Employer proposes no change in Article 7.3, Compensation for Holidays.

The Union proposes the following changes (additions in **bold print**; deletions ~~struck through~~):

7.3 Compensation for Holidays

Employees shall receive ~~eight~~ **12** hours off in lieu of each recognized holiday. If a holiday falls

within an Employee's regularly scheduled vacation period, the Employee will receive one additional day off.

The "Union seeks to obtain for the employees the same holiday benefits" provided to sergeants (Un. Brief, 14). The Union argues that the "record does not contain any evidence suggesting a purpose for giving the sergeants a greater holiday benefit than that given the employees" (Un. Brief, 14). The Union also argues--

The City contends that the Union agreed to the lesser benefit during negotiations of the now expiring Agreement in exchange for the right to maintain a compensatory time bank. However, it is clear that the City gave the sergeants the extra benefit after the Union executed the Agreement. The Union did not agree to cede internal comparability on holiday benefits. (Un. Brief, 14.)

The Employer notes that the 88 hours of paid time off provided by Belvidere is "within the range" of four of the seven jurisdictions it considers comparable to Belvidere that provide paid time off for holidays (Emp. Brief, 57). The Union proposal, the Employer points out, would result in 132 hours of paid time off or substantially more than provided in any comparable jurisdiction (Emp. Brief, 57-8).

Citing decisions by arbitrators Edwin Benn and Elliott Goldstein, the Employer also argues that comparisons to supervisory employees are inappropriate (Emp. Brief, 60). Finally, the Employer argues, in the recent negotiations, the Union rejected an offer, which the sergeants accepted, to "be paid for all overtime hours and receive 12 hours for holidays if compensatory time were eliminated" (Emp. Brief, 60). The

Union "opted to not give up compensatory time" (Emp. Brief, 61).

The comparable jurisdictions that provide paid time off for holidays compare to Belvidere as follows:

PAID TIME OFF FOR HOLIDAYS	
JURISDICTION	HOURS OF PAID TIME OFF FOR HOLIDAYS
BELVIDERE	88
BELVIDERE IF UNION PROPOSAL IS ADOPTED	132
Boone County	92
Freeport	96
Loves Park	112
McHenry	70.125
Round Lake Beach	88
Sycamore	64*
Woodstock	72
Average Excluding Belvidere	85

*It is assumed that each day is eight hours.

If adopted, the Union proposal would increase the level of this benefit far beyond the average of the comparable jurisdictions that provide the same benefit and would place Belvidere at a point almost 18 percent higher than Loves Park, the closest comparable jurisdiction. It has not been demonstrated that parity with Belvidere's non-unit sergeants is sufficient cause to increase this benefit by fifty percent in one step. The evidence did not demonstrate that in the past the parties had sought to establish parity between Patrol Officers and Sergeants with respect to this and other benefits. With no history of parity between ranking and non-ranking police officers, the argument that Patrol Officers should receive the same benefits as Sergeants is un-persuasive. The Union did not propose parity between Sergeants

and Patrol Officers in other respects, and it offered no rationale for parity in this one respect.

VII. Conclusion

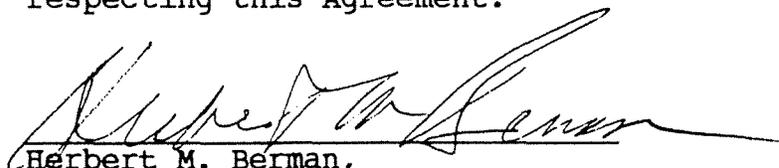
The Union's economic proposals were clearly inspired by one critical concern. The Union hoped "to retain the existing work schedule for Patrol Officers and to incorporate what the officers are currently paid at an overtime rate into their base pay and redefine their regular hours for purposes of overtime calculation" (Un. Brief, 8). Having rejected this approach, I would seem to have little choice but to reject the other "linked" and "intertwined" proposals made by the Union. Consistent with Section 14(h)(6) of the Act, I have also taken into consideration 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."

Award

I adopt the the Employer's final offer on Economic Issues 1 (Salaries); 2 (Compensatory Time and Hours of Work); 3 (Hours of Work for Detectives, DARE Officer, and the School Liaison Officer); 4 (Amount of Vacation); 5 (Pay for Working Out Of Classification); and 6 (Compensation for Holidays). I adopt the Union's final offer on Economic Issue 7 (Term of Agreement).

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I adopt and incorporate herein all contract provisions tentatively agreed to by the parties in their negotiations respecting this Agreement.


Herbert M. Berman,
Arbitrator

December 31, 1998