In the Matter of the Arbitration)
) Interest Arbitration
Between)
) ILRB Case No. S-MA-99-202
THE CITY OF HIGHWOOD, ILLINOIS)
)
and)
)
METROPOLITAN ALLIANCE OF POLICE,)
HIGHWOOD CHAPTER 105)

APPEARANCES

For the Union

Mr. John S. Rossi of Schenk, Duffy, McNamara, Phelan, Carey & Ford, Ltd., Attorney
Mr. Milan Sipic, Police Officer

For the Employer

Mr. Jac A. Cotiguala of Jac A. Cotiguala & Associates, Attorney

O P I N I O N A N D A W A R D

Introduction

Metropolitan Alliance of Police, Highwood Chapter No. 105 (hereinafter "the Union") is the certified collective bargaining representative for a unit of all full-time police officers below the rank of lieutenant employed by the City of Highwood, Illinois ("the City" or "the Employer") and excluding all other employees of the City. Certification was by the Illinois State Labor Relations Board on March 18, 1999.

Bargaining between the parties for a first contract was delayed because of certain legal issues, the nature of which was not disclosed, other than testimony that an appellate court decision issued in the summer of 2002. Negotiations for a contract began in December, 2002. A Request for Mediation Panel was filed with the Illinois Labor Relations Board by the Union on November 15, 2002.

In their negotiations the parties reached tentative agreement on some terms of employment but eventually bargained to

impasse. They jointly selected the undersigned to serve as neutral chairman of an interest arbitration panel, and on September 24, 2003, the Illinois Labor Relations Board notified the undersigned in writing of his appointment. The other members of the arbitration panel are John S. Rossi, Attorney, for the Union; and Paul P. Diambri, Attorney, for the City.

The parties agreed to extend the statutory 15 day time period for commencing the hearing, and hearing was held in Highwood, Illinois, on December 15, 2003, and January 5, 6, and February 4, 2004. Prior to the first day of hearing the City filed a motion to stay the present proceeding pending a court ruling on its suit to enjoin the proceeding on the ground that the Illinois Public Labor Relations Act, 5 ILCS 315/1 et seq. ("the Act"), was not applicable to the City because the City employs (or during the relevant time employed) less than 35 employees. See Section 20(b) of the Act, which was most recently amended effective January 1, 2004.

The undersigned denied the City's motion to stay the arbitration proceeding on the basis that the Illinois Labor Relations Board was opposing the City's injunction action. The court denied the request for an injunction for the reason, as the undersigned has been informed, that the City did not exhaust its administrative remedies. While this case was being heard by the arbitration panel, proceedings initiated by the City were pending before the Illinois Labor Relations Board seeking a ruling that the Act was not applicable to the City because it employs (or on the relevant date employed) less than 35 employees. The Union contests the City's position regarding the number of persons employed by the City.

The City has made clear that by agreeing to proceed with this arbitration it has not waived its right to contest arbitrability on the basis that the Act is not applicable to it because it employed less than 35 employees in the relevant time period. The parties filed post-hearing briefs in the case on May 5, 2004. They agreed in writing to extend the due date of the chairman's proposed opinion and award in the case to July 16, 2004, subject to the input of the other arbitration panel members after reviewing it.

Statutory Criteria

Section 14 (h) of the Act states that "the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable" and lists eight factors:

(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.

Section 14 (g) of the Act states:

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

prescribed in subsection (h).

In making his rulings on all of the open issues in this case, the arbitrator has considered all of the statutory criteria whether or not he expressly mentions them in his written findings, conclusions, and order.

Comparable Communities

Since item (4) in subsection (h) requires that a comparison be made with employees "in comparable communities" it is necessary to determine which communities are comparable to Highwood. In the present case the parties are in agreement that Fox River Grove, Lakemoor, Round Lake, and Spring Grove are comparable communities to Highwood. Neither side has proposed any other community as a comparable jurisdiction. In light of the agreement of the parties, the arbitrator finds that, for purposes of this case, the four named communities are comparable communities to Highwood. None of the comparable communities has a collective bargaining agreement covering police officers.

Discussion of Contract Terms in Dispute

WAGES

Union Final Offer

The Union's final offer on wages is as follows:

ARTICLE XV - WAGES

Section 15.1. Wage Schedule. Employees shall be compensated at a minimum in accordance with the wage schedules attached to this Agreement as Appendix A. All wages, overtime compensation and other paid benefits, shall be retroactive to May 1, 2002. Such retroactive check shall be issued within thirty (30) days of execution of this Agreement.

APPENDIX A

WAGE SCHEDULES
Retroactive to May 1, 2002

YEARS OF	5/1/2002 -	5/1/2003 -	5/1/2004 -	5/1/2005 -

SERVICE	4/30/2003	4/30/2004	4/30/2005	4/30/2006
START to completion of year	$35,000	$36,382	$37,838	$39,351
After 1 year	$36,400	$39,400	$39,500	$41,080
After 2 years	$37,586	$40,130	$40,945	$42,583
After 3 years	$39,370	$40,945	42,583	$44,286
After 4 years	$40,945	42,583	44,286	46,057
After 5 years	$42,583	44,286	$46,057	$47,900

All wages and economic benefits will be retroactive to May 1, 2002.
All covered employees shall suffer no loss in pay by the adoption of the above wage scale. All covered employees shall be immediately be moved into a step at or above their current salary.

The above described process is to ensure that no covered officer suffers a loss in pay for either of the above years even though their actual years of service may not match the years of service in the step in which they are placed to preserve their pay. Therefore, any officer hired before the effective date of this Agreement who is placed into a step that is not commensurate with his years of service, to ensure no loss in pay, will advance through the step plan on each successive year as if he had actually acquired additional seniority. For example:

	2002	2003	2004
Bessinger	None	$36,382	$39,500
Czechowski	$38,100	$39,400	$40,945
Juarez	$35,100	$39,400	$40,945
Johnson	$35,100	$39,400	$40,945
Sipic	$42,706 (est)	$44,286*	$46,057
Tamez	$40,475 (est)	$42,583*	$46,057
Turner	$38,191	$39,400	$40,945

If Union scale is adopted the above employees would be paid the above salaries.

Retroactive wages would apply to:

Bessinger	2003 (actual salary=$33,638)
Czechowski	No retro 2002 since actual salary was higher than proposed, small retro for 2003

City Final Offer

The City's final offer on wages is as follows:

ARTICLE XV - WAGES

Section 15.1. Wage Schedule. Employees shall be compensated at a minimum in accordance with the wage schedules attached to this Agreement as Appendix A.

APPENDIX A

In lieu of any retroactive pay for period prior to July 1, 2004, other compensation or other benefits the City shall pay to each covered employee, a one-time clothing and equipment allowance as follows:

If hired after July 1, 2003 $500.00
If hired before July 1, 2003 $1,000.00
No employee hired after July 1, 2004 is entitled to an allowance.

	7/01/04-6/30/05	7/01/05-6/30/06
Start to 3 months	$34,000	$35,020
3 months to 6 months	$34,500	$35,535
6 months to 12 months	$34,750	$35,792
12 months to 18 months	$35,000	$36,050
18 months to 24 months	$37,000	$38,110
24 months to 36 months	$39,000	$40,170
36 months to 48 months	$41,000	$42,230
48 months to 60 months	$42,500	$43,775
60 months to 72 months	$44,000	$45,320
72 months or more	$45,500	$46,865

All covered employees shall suffer no loss in pay by the adoption of the above wage scale.

All covered employees upon the effective date of this contract shall be placed into the step which reflects their current salary.

The above described process is to ensure that no covered officer suffers a loss in pay for either of the above years even though their actual years of service may not match the years of service in the step in which they are placed to preserve their pay. Therefore, any officer hired before the effective date of this Agreement who is placed into a step that is not commensurate with his years of service, to ensure no loss in pay, will advance through the step plan on each successive year as if he had actually acquired the required additional seniority.

The Union may inform the City in writing that a uniform amount per employee will be taken from either of the wage increases and applied to some other economic provisions of the Contract (such as employee's portion of medical insurance). That uniform amount will decrease all of the effected [sic] steps above. The Union must inform the City of any such change no later than thirty (30) days preceding the scheduled wage increase.

Lateral Hire Pay. In the event the City is able to implement a process for hiring lateral transfers (officers with experience) from other Police Departments, the starting salary negotiated with such lateral transfer shall be paid, and the officer shall be placed into the step that is commensurate with such negotiated pay and the lateral transfer will advance through the step plan on each successive year as if he had actually acquired the required additional seniority.

UNION POSITION on WAGES

Retroactivity

The Union asserts that it seeks to have Appendix A adopted retroactively. It argues that since it filed a request for mediation on November 15, 2002, it thereby preserved its right to request wages retroactive to May 1, 2002. It contends that it should not be penalized for the length of time that has elapsed from when negotiations began since, at all times, it has negotiated in good faith, requested mediation and arbitration in

a timely manner, and has sought to bring the City to the table throughout the process.

The Union asserts that the fact that the City has unilaterally awarded wage increases since 2002 does not obviate the need for retroactive wage increases. According to the Union, the City has not awarded uniform wage increases, and the Union's proposed wage scale incorporating retroactive wages is necessary to achieve uniformity among bargaining unit members.

Comparing its wage proposal with the City's, the Union states that the major difference between the two is the starting salary[1] for police officers. The City's proposal must be rejected, the Union contends, because the City has done nothing for the past three years to raise the starting salary. Its proposal, the Union notes, builds 4% increases in starting pay for each year beginning in 2002. That is a reasonable proposal, the Union argues, compared with the City proposal to grant an increase amounting to 1% for the first time in three years in 2004 from the current starting salary of 33,638. The Union views its offer on retroactivity as superior to the City's which the Union characterizes as "a one time, lump sum clothing allowance to all officers in lieu of retroactive pay, that obviously would not be added to base wages."

Comparison of Wages

The Union notes that the starting salaries for the comparable communities and Highwood for 2003 were as follows, with Highwood next to last:

Fox River Grove	$36,006
Round Lake	$34,756
Spring Grove	$34,220
Highwood	$33,000
Lakemoor	$30,160

The top-out salary of Highwood, the Union points out, is third:

[1]The parties have used the terms "wages" and "salary" interchangeably in this proceeding, and the arbitrator will follow their practice.

Round Lake	$53,310
Fox River Grove	$48,608
Highwood	$44,000
Spring Grove	$42,143
Lakemoor	$33,196

Prior Salary Increases

The Union comments that historically salary increases at Highwood have been given at the discretion of the Chief of Police based on merit. Officers Bessinger[2] and Tamez, the Union asserts, have received insignificant raises, while the rest of the officers received significant raises. Officers have been brought in at different starting salaries, the Union observes, and some have received wage increases since July 1, 2003, while others have not. The record makes clear, the Union asserts, that there has been disparate treatment of officers in the bargaining unit. In addition, the Union states, the starting salary by ordinance has not changed since 2001 and remains at $33,638.[3]

Union Rationale for its Proposal

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[2]For the names of all bargaining unit officers, the arbitrator has used the spellings found in City Group Exhibit 22, which the arbitrator believes to be the correct spellings. This has necessitated changing some of the spellings used in Appendix A of the Union's final offer.

[3]The arbitrator notes that this figure is $638 higher than the amount shown in the Kildare Police Department Confidential Survey which both parties are relying on as the source for wage figures and other data for Highwood and the comparable communities.

By its proposal, the Union asserts, it "seeks to address the inequities of the last three years by proposing a mandatory step scale with reasonable, guaranteed wage increases for every officer." Its proposed wage scale, the Union asserts, is "reasonable when compared to other communit[ies'] wages and economic benefits, and not surprisingly, costs the City very little due to the small size of the bargaining unit and the previous salary increases given."

The Union proposes a starting salary of $35,000 for 2002, representing what it calculates as a 4% increase over the $33,638 starting salary for 2001. It also proposes a five year step scale, as reproduced above, which the Union describes as consisting of "a 4% increase across the board through the termination of the contract on April 30, 2006." The Union acknowledges that its proposal would boost Highwood's starting salary to number one in the rankings among the comparable jurisdictions and states that this is "an attempt to correct the failure of the City to increase the starting salary since 2001." The new 2003 rankings, according to the Union, would be as follows:

Highwood	$36,382
Fox River Grove	$36,006
Round Lake	$34,756
Spring Grove	$34,220
Lakemoor	$30,160

The Union asserts that for top-out salary its proposal would not change the rankings for 2003 that range from $53,310 for Round Lake to $33,196 for Lakemoor, with Highwood third at $44,286.

The Union figures the cost to the City in retroactivity for each of the seven officers as follows: Bessinger: no retroactive pay for 2002; approximately $2,000 for 2003. Czechowski: none for 2002; approximately $700 for 2003. Juarez: $1,250 in retroactive pay for 2002; approximately $4,250 for 2003. Johnson: retroactive pay of approximately $1,000 in 2002; approximately $4,000 in 2003. Sipic: no retroactive pay in 2002 or 2003. Tamez: no retroactive wages for 2002; approximately $1,000 for 2003. Turner: no retroactive pay for 2002; $200 in retroactive pay for 2003.

In regard to the years 2004 and 2005, the Union asserts, it proposes a modest wage increase of 4% per year. The

Union asserts that because in 2002 and 2003 the City increased its payroll for the seven officers by an average of 10.64% or 5.31% per year its proposal, it can be argued, would reduce the City's payroll expenses.

Union's Analysis of City Proposal

The key difference between its proposal and the City's, the Union asserts, is that the City makes no significant change to its base, starting salary. As a result, the Union states, the entire wage scale is skewed downward. The Union also notes that the City's proposed yearly increases are 3% across the board. The City's proposed starting salary of $35,020 in 2005, the Union remarks, "amounts to a 4% increase over a five year period." The Union characterizes this as "not a reasonable and/or acceptable proposal." The Union also faults the City proposal because it "would keep Highwood second to last in starting salaries." The Union notes the considerable turnover in the department at Highwood and argues that "the City proposal does nothing to show officers that it is committed to improving morale, attracting committed officers, or reducing turnover." The Union asserts that an officer would have to work six years to receive top salary under the City's proposal but only five years under its final offer.

Ability to Pay

The Union argues that the City proposal and the history of past wage increases show that the City is willing and able to increase the salaries of their police officers substantially. This is shown, the Union asserts, in the following facts: police department salaries increased by over $50,000 from 2002-2003; 2% to 5% increases were given in the last 3 years; 3% increases were considered reasonable; 5% increases in salary were acceptable for promotions; and "budget increases to the operational fund and for Police Department salaries occurred throughout the last 5 years."

The Union asserts that ability to pay should not be considered by the arbitrator as a factor in this case. "Considering the fact that the bargaining unit is made up of seven officers and that a comparison of the Union and City proposal shows wage differences of no more than four thousand dollars in starting salary and three thousand dollars in top out (on a five year scale)," the Union argues, "there can be no legitimate argument that the City would need to drastically increase their revenue to cover the Union's proposed wage scale."

The Union calculates the additional cost to the City of its proposal as compared with the City's proposal as $9,000 in

2004. The Union does not consider that amount significant in a total revised budget for police salaries in 2003-2004 of $698,405.

Fiscal Year Starting and Ending Dates

The Union contends that since the City's fiscal year begins on May 1 and ends on April 30, those dates should be the beginning and ending dates of the contract. Similarly, the Union argues, wage increases should be effective on May 1 of each contract year. The City has offered no justification, it argues, for adopting a July 1 - June 30 contract year.

Lateral Hires

The Union objects to the City's proposal to be permitted to hire lateral transfers at a salary to be determined by the City. The Union asserts that this proposal was made for the first time in the City's final offer in the arbitration proceeding. It argues that "[t]he City cannot be allowed to stick new hires where ever they want in a proposed wage scale" because "it would defeat the very purpose of a wage scale, by treating new hires differently than current officers." It views the City's language as having the potential to "cause great dissension within the Union due to wage disparities that the Union would have no way of addressing." The Union asserts that the City has offered no explanation why it would need to be awarded sole control over determining lateral hire pay. The Union predicts that "[i]f the City's offer is awarded, problems with wage disparity will again emerge and cause wholesale dissension within the unit."

Miscellaneous Language

The Union contends that the arbitration panel should adopt its language that states, "All covered employees shall be immediately moved into a step at or above their current salary." The Union notes that the corresponding language in the City's final offer is "All covered employees upon the effective date of this contract shall be placed into the step which reflects their current salary." The Union asserts that the City's proposed wage scale does not reflect the officers' current salaries and argues that the lack of clarity of the City language is cured by its own language, which is clear and places the officer in a step that has the exact salary or the one above it, thereby preventing an officer from suffering loss of pay through the adoption of either the Union's or the City's pay scale.

The Union asserts that the second paragraph in Appendix

A of its final offer is also contained in Appendix A of the City's final offer and should therefore be considered as agreed to by the parties and should be adopted by the arbitrator. The Union asserts that it agrees to the language in the City's proposed Appendix A, which begins, "The Union may inform the City in writing . . . ."

CITY POSITION on WAGES

The City argues that the average starting salary of Highwood (using the City's final offer) and the four comparable communities is $33,828. The difference between Highwood and all but the one with the highest salary is less than $1,000, the City asserts. Within six months, the City stresses, it is within $6.00 of the Round Lake starting salary. "Thus," the City asserts, "Highwood is the third best paying community for police officers over the entire first continuous 12 months of employment." It states that it must balance its desire to pay its police officers a comfortable salary with the resulting burden to its taxpayers.

Regarding the top of the salary range, the City asserts, "Despite the Union's disparagement of the City's last best offer, the City's top range pay exceeds the Union's (admittedly over a two-year span)." The City asserts that its final offer exceeds the average top salary by slightly less than $1,000 and is "solidly in the middle of the 5 comparable communities."

It has presented uncontroverted evidence in testimony and budget documents, the City asserts, that its final offer is within budgetary constraints and as generous as possible without requiring the taxpayer-citizens of Highwood to pay increased taxes. Mr. Bill Lolli's testimony, the City argues, establishes that there is no reserve in the budget to pay for any increase sought by the Union and that police officers in the recent past have received larger raises than other City employees. The Union's economic demands, according to the City, would require the taxpayer-citizens to pay more taxes to maintain a balanced budget. The City argues that the Union proposal seeks to obtain the benefits enjoyed by police officers employed in the most affluent North Shore suburbs.

Arbitrator's Findings and Conclusions on Wages

Retroactivity

The parties have agreed that retroactivity is to be decided as a separate issue. The Union's proposal on retroactivity consists of a single sentence, "All wages and economic benefits will be retroactive to May 1, 2002." The arbitrator is prohibited by the Act and the applicable regulation from awarding a wage increase retroactive to May, 2002. Section 1230.100 The Arbitration Award, paragraph e) of the Rules and Regulations states:

> **Section 1230.100 The Arbitration Award**
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> * * *
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> e) *The commencement of a new municipal fiscal year after the initiation of arbitration procedures* (Section 14(j) of the Act) shall not render the proceeding moot. Awards of wage increases may be effective only at the start of the fiscal year beginning after the date of the award; however, if a new fiscal year began after the initiation of arbitration proceedings, an award of wage increases may be retroactive to the beginning of that fiscal year.

Section 1230.70(c) of the Rules and Regulations states, "*Arbitration procedures shall be deemed to be initiated by the filing of* a request for mediation. (Section 14(j) of the Act)." The Union filed a request for mediation on November 15, 2002, thereby initiating arbitration procedures. Even if arbitration had been completed in the same fiscal year that arbitration procedures were initiated, the arbitration panel's award of wage increases could not be effective consistent with Section 1230.100(e) until the following fiscal year commencing May 1, 2003. In this case the briefs were not filed until after the start of the May 1, 2003 - April 30, 2004 fiscal year. Section 1230.100(e) provides that even if a new fiscal year begins after the initiation of arbitration proceedings (as was the case here), "an award of wage increases may be retroactive to the beginning of <u>that</u> fiscal year." (emphasis added). "That" fiscal year in this case is the fiscal year beginning May 1, 2003.[4]

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[4]The regulation is consistent with Section 14(j) of the Act, which states in pertinent part:

> . . . Increases in rates of compensation awarded by the arbitration panel may be effective only at the start of the fiscal year next commencing after the date of the

arbitration award. If a new fiscal year has commenced either since the initiation of arbitration procedures under this Act or since any mutually agreed extension of the statutorily required period of mediation under this Act by the parties to the labor dispute causing a delay in the initiation of arbitration, the foregoing limitations shall be inapplicable, and such awarded increases may be retroactive to the commencement of the fiscal year . . . .

Since the Union final offer on retroactivity seeks a wage increase which the arbitrator does not have the statutory authority to award, the arbitrator must reject the Union proposal on retroactivity. Although the Union's offer also includes fiscal year 2003-2004, for which the arbitrator does have the power to award a retroactive wage increase, the parties did not agree that the arbitrator may split the retroactivity issue into separate years. For the arbitrator to address retroactivity solely for the 2003-2004 fiscal year and adopt the Union proposal for that year is to invite a law suit by the City, which would result in another long delay before a collective bargaining agreement could go into effect between the parties. The arbitrator rejects the Union final offer on retroactivity and adopts the City's final offer.[5]

2004-2005 and 2005-2006 Contract Years

The strongest point on the Union's side on the wage issue is that the City's starting salary is below all of the other jurisdictions but Lakemoor. However, none of the seven current full-time employees is at the starting wage. In addition, with respect to the current employees, the statutory criteria favor adoption of the City's wage schedule over that of the Union's.

Probably the most important standard relied on in deciding interest arbitration disputes is comparability, although, as discussed below, the record provides precious little information regarding that criterion in this case. To the extent that there is information in the record about wages and benefits in the four jurisdictions that, for purposes of this case, the parties are agreed are comparable to Highwood, comparability supports a 3 percent wage annual wage increase rather than a four percent increase.

The Kildeer Police Department survey is the only evidence in the record of the level of annual increases in the

[5]Although the arbitrator has rejected the Union's final offer on retroactivity on the ground that he does not have the statutory authority to grant it, the arbitrator does not mean to suggest thereby that had he ruled on the merits, he would have held for the Union on the issue for either fiscal year in question.

comparable communities. The survey shows that in Fox River Grove from 2002 to 2003 the starting salary went up from $35,128 to $36,006; and the top salary from $47,423 to $48,608. In both cases this amounted to an increase of 2?%. In Lakemoor, for the same years, the starting salary increased by slightly more than ?%, from $30,000 to $30,160. For reasons not explained in the record the top salary went down from $33,796 to $33,196.

In Round Lake, for these years, the starting salary increased by only $56, from $34,700 to $34,756, a gain of less than .2%. For reasons not explained, the top salary was lowered from $56,600 to $53,310.[6] Finally, in Spring Grove, the starting salary rose by only 2%, from $33,500 to $34,220. The top salary advanced 18% from $35,600 to $42,143. No explanation was given for the large increase. However, the number of patrol officers increased from four to six, and that may have had something to do with the size of the increase.

The record is silent regarding wage increases for 2004 with respect to any of the comparable communities. We are therefore left only with the data for increases between 2002 and 2003. The highest increase for starting salaries was 2? percent. This is also true for top salaries, except for Spring Grove, where the Kildeer survey shows an advance of 18%. However, since the starting salary increase at Spring Grove was only 2 percent, it is not likely that the 18 percent increase represented a regular increase shared by the force generally. That conclusion is also supported by the fact that the number of patrol officers went up from four to six between 2002 and 2003.

In any event, the other comparables outnumber Spring Grove three to one in terms of the size of the increase between 2002 and 2003. None of the other jurisdictions increased top salary by more than 2? percent; and among all four comparable jurisdictions the top percentage increase in starting salaries was 2? percent. To the extent therefore that there is evidence in the record about percentage increases in wages in the comparable jurisdictions, the evidence supports a 3 percent rather than a 4 percent wage increase. Nevertheless because there are no wage data in the record for the comparable jurisdictions for 2004 the arbitrator cannot give any significant weight to comparability in deciding the wage issue. The size of

[6]A possible explanation, of course, is that the top salaried patrol officer retired. This, however, is only speculation.

wage increases between 2002 and 2003 is not necessarily indicative of what the wage gains were in 2004. In the absence of specific information the prudent course is to give little if any weight to the comparability criterion.

The critical considerations regarding wages in this arbitrator's opinion are that the City's final offer will provide all existing patrol officers a wage increase during the 2004-05 contract year in excess of the increase in the cost of living; or, in the alternative, will bring them to a wage rate that is higher than the rate of pay that, based on their years of service, they would be entitled to under the wage scale proposed by the Union for 2004-05.

The U.S. Department of Labor Bureau of Labor Statistics Consumer Price Index - All Urban Consumers Not Seasonally Adjusted increased by 2.3 percent for all of 2003.[7] So far for 2004 through the month of May, the last month for which figures are available, the Consumer Price Index - All Urban Consumers, Seasonally Adjusted has increased by 2.1 percent.

The following table will show the officers who will receive wage increases in 2004-05 above the increase in the cost of living since their last increase:

Name	Current Salary	Date Scheduled Increase	New Salary & % Increase
Bessinger	$34,138	July 1, 2004	$35,000 - 2.5%
		Jan. 7, 2005	$37,000 - 5.7%
Johnson	$35,841	July 1, 2004	$37,000 - 3.2%
		Sept. 30, 2004	$39,000 - 5.4%
Juarez	$35,841	July 1, 2004	$37,000 - 3.2%
		Aug. 26, 2004	$39,000 - 5.4%

[7]By using a particular index, the arbitrator does not imply that that particular index most closely reflects the increase in the cost of living for the Highwood area. The arbitrator is of the opinion, however, that any such index used is reasonably accurate for that purpose.

If we carry the analysis into 2005, these three officers are still likely to be ahead of the inflation rate under the City's final offer. Officer Bessinger was hired on July 7, 2003, at a salary of $33,638. Under the City's offer, on his second anniversary, July 7, 2005, he would be entitled to a salary of $40,170. This represents an increase in salary of 19.4 percent from his date of hire. Based on actual experience from July 7, 2003[8], and the current state of the economy it is highly unlikely that the cost of living will increase anywhere near 19.4 percent during the two year period from Bessinger's date of hire until July 7, 2005.

Officer Johnson was hired on September 30, 2002, at a salary of $33,638. His third anniversary will fall on September 30, 2005, at which time, under the City's final offer, he would be paid a salary of $42,230. This represents an increase of 25.5 percent over a three year period. Between Oct, 2002, and May, 2004, the Consumer Price Index - All Urban Consumers, Not Seasonally Adjusted increased by 4.3 percent. Based on the present state of the economy it is extremely improbable that the cost of living will increase even approaching 21 percent between May, 2004, and September, 2005, a period of only 16 months. What was said of Officer Johnson would also be true of Officer Juarez, who was hired approximately a month before Officer Johnson at the same starting salary and received similar salary increases.

The four remaining patrol officers would all receive a higher salary under the City final offer than the salary they would be entitled to under the Union salary schedule for an officer with their years of service.[9] The following table will

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[8]Between July, 2003, and May, 2004, the Consumer Price Index -All Urban Consumers, Not Seasonally adjusted increased by 2.8 percent.

[9]The arbitrator is <u>not</u> stating that the officers would receive more under the City's final offer than the Union's. The opposite is true. However, because both the Union and the City offer require that no employee suffer a loss of pay by the adoption of

make this clear with regard to contract year 2004-05.

Name & Current Salary	Years of Service	Salary Based on Years of Service - Union Offer	Actual Salary with No Loss of Pay City Offer
Czechowski $41,490	two	$40,945	$42,500
Sipic $45,527	two	$40,945	$45,527
Tamez $41,513	18 mos	$39,500	$42,500
Turner $41,872	two	$39,500	$42,500

For contract year 2005-2006, the three officers making $42,500 the previous year would go up to $45,320 under the City final offer. This is a significantly higher amount than the $44,286 salary that a patrol officer with three years of service would be entitled to under the Union's final offer. Officer Sipic would go up to $46,865.

In addition, for all four employees the amount of salary increase from date of hire to the beginning of contract year 2005 will have exceeded the cost of living increase for that period based on the increase to date plus any reasonable expectation of the increase between now and July 1, 2005. For example between January 12, 2002, the date of hire of Officers Czechowski and Turner, and May, 2004, the cost of living increased by 6.7%. As of July 1, 2005, each one's salary will have increased by 34.7 percent under the City's offer.

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the party's wage scale, all four officers will receive a higher salary than their years of service entitle them to.

The cost of living increased by 4.5% between December 12, 2002, when Officer Tamez was hired, and May, 2004, the last month for which figures are available. It is not likely that between May, 2004, and July, 2005, the cost of living will increase by more than 7 percent, which would have to happen for it to exceed the 11.9 percent salary increase that Officer Tamez will have received between his date of hire and July, 2005, under the City's final offer. From Officer Sipic's date of hire in March, 2002, until May, 2004, the cost of living increased by 5.76 percent. His salary will have increased by 12.9 percent from date of hire until July, 2005, under the City's final offer.

Presumably the wage schedule proposed by the Union is a fair one for Highwood. It represents across the board 4 percent wage increases beginning on May 1, 2002, through May 1, 2005. Based on their dates of hire, and because of the provision in both parties' offers that employees will suffer no loss by adoption of the pay scale, four of the seven patrol officers currently on the police force will be earning a higher salary under the City's offer than they would under the Union's wage scale based strictly on their years of service. The remaining three officers will be receiving salary increases under the City's offer far in excess of the increase in the cost of living for the applicable periods involved. Even the four employees will be receiving salary increases commensurate with increases in the cost of living measured from their dates of hire. Under these circumstances the arbitrator finds that the City's final offer is a fair one with respect to wages and that it more closely satisfies the statutory criteria than the Union's. The arbitrator concludes that the City's final offer with regard to wages should be adopted.[10]

The arbitrator has applied the statutory criteria taking in to account the actual workforce rather than a wage

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[10]The arbitrator adds this important caveat. The arbitrator has adopted the City final offer on wages on the understanding that the language "All covered employees upon the effective date of this contract shall be placed into the step which reflects their current salary" must be interpreted consistent with the arbitrator's interpretation of the City's offer as discussed in the text of his opinion. The arbitrator has interpreted that language when read together with the provision in City Appendix A ensuring no loss of pay in advancing through the step plan as having the same meaning as the corresponding sentence in Union's Appendix A, namely, "All covered employees shall be immediately be moved into a step at or above their current salary."

scale viewed in the abstract. The wage scale could pose a problem for the City in terms of hiring new patrol officers because the starting salary of $34,000 is low compared with the comparable jurisdictions. Thus the City's starting salary for 2004 is less than the starting salary for 2003 in all but one of the comparable jurisdictions. Presumably the City wants to hire the best people, and a top notch candidate may command a higher salary than the City's starting wage scale provides.

However, the low starting wage may not present that great a problem for the City for the following reason. Both parties have the following identical language as the first sentence of their wage offer:

> Employees shall be compensated at a minimum in accordance with the wage schedules attached to this Agreement as Appendix A. (emphasis added)

The language manifests the intention of both sides that the wage scale figures are minimum salaries for officers with the stated years of service. It seems to this arbitrator that given the language in both parties' final offers, the Union would have a difficult time in prevailing in arbitration should it challenge an action of the City in hiring someone above the starting figure appearing in the wage scale. See, for example, Coffeyville Flour Mill, Inc., 100 LA 561 (Thomas C. Hendrix, 1992) and CIT Mental Health Services, Inc., 89 LA 442, 444 (Harry Graham, 1987).

Lateral Hire Pay

The City final offer includes a clause stating that if it is able to hire an experienced officer from another police department, the starting salary negotiated with the officer shall be paid and that officer shall be placed on the step of the wage commensurate with the negotiated rate and advance through the steps as if he had acquired the required additional seniority. The Union strongly opposes such a provision on the grounds that it was offered for the first time in the arbitration hearing and that, if implemented, it would cause dissension among the ranks.

The arbitrator believes that the Union's argument that the City should not be permitted to introduce a new proposal for the first time in the interest arbitration hearing is a valid one. Ideally parties should negotiate all terms of their agreement. Where they are unable to do so, interest arbitration should be the culmination of the negotiation process after impasse is reached. It is to each party's advantage to know the other side's view on a particular proposal because there are often ramifications to contract language that the proposing party

never even thought of. In addition skipping the negotiation step prevents the other party from suggesting an acceptable quid pro quo that might advance the negotiation process. With its lateral hire pay proposal the City has bypassed the collective bargaining process. This arbitrator will not encourage such a tactic.

In addition, there is some truth to the Union's contention that starting a new officer above the starting rate could cause discord among the unit to the extent that some officers may view this as discriminatory treatment, especially if they were also lateral hires and had to start at the beginning salary. Ideally it should not disturb any other employee if someone is hired above the starting salary based on that person's experience as a police officer. Unfortunately, however, hiring above the wage scale can cause resentment among other employees and create dissension on the force.

The arbitrator rejects the City's lateral hire pay proposal. The arbitrator, however, has already commented on the significance of the words "at a minimum" in the first sentence of Section 15.1. Nevertheless the arbitrator cautions that the City would be well advised to discuss the matter with the Union before acting if it decides that it wants to hire an experienced officer to avoid the cost of academy training or for whatever benefits or advantages the City believes it can gain by hiring someone with outside experience. Despite its strong objections voiced in this proceeding to lateral hiring above scale, the Union should remember that there is clear precedent on the present force for hiring an experienced officer above starting scale.

Option to Reallocate Wage Increase

The parties stipulated at the hearing to include the following language from the City's final offer in the parties' collective bargaining agreement:

> The Union may inform the City in writing that a uniform amount per employee will be taken from either of the wage increases and applied to some other economic provisions of the Contract (such as employee's portion of medical insurance). That uniform amount will decrease all of the effected [sic (should be "affected")] steps above. The Union must inform the City of any such change no later than thirty (30) days preceding the scheduled wage increase.

The arbitrator adopts the foregoing language as part of Appendix A.

Effective Date of Wage Increases

The Union contends that since the City's fiscal year begins on May 1 and ends on April 30, those dates should be the beginning and ending dates of the contract. There is, however, no statutory requirement that a contract year in a collective bargaining agreement must be identical with the employer's fiscal year. Nor has the union provided comparative data from the comparable communities to show that their annual wage increases are coterminous with the start of their fiscal year.

A more significant consideration in the arbitrator's opinion is the fact that historically in Highwood annual wage increases have been given to all City employees, including police officers, on July 1. Adopting a May 1 date for police officers while all other employees receive raises on July 1 will complicate the City's budgeting process. In addition, it will create favored treatment for police officers, which could cause resentment among other employees. It seems sensible to the arbitrator to follow the historical practice and treat all City employees the same so far as the effective date of annual wage increases. That requires adoption of the City's proposal for a July 1 effective date for annual wage increases.

INSURANCE COVERAGE

Union Final Offer

The Union's final offer on Insurance provides as follows:

> ARTICLE XI - INSURANCE
>
> Section 11.1. Coverage. The medical, hospitalization and dental insurance programs that are currently in effect shall be continued except that no co-pay toward premium cost is to be required from any covered employee for either single, dependant or family coverage.
>
> Section 11.3. Life Insurance. Effective the first full month following ratification of this Agreement by both parties, the City shall provide term life insurance in the amount equal to the officer's current annual salary. Term life insurance coverage commences the first day of the calendar month following the employee's completion of thirty (30) days of service as a police officer. The City reserves the right to

change carrier or self-insure this term life insurance benefit.

City Final Offer

The City's final offer on insurance is as follows:

ARTICLE XI - INSURANCE

Section 11.1. Coverage. The medical, life, hospitalization and dental insurance programs that are currently in effect shall be continued in accordance with City policy and may be changed at the discretion of the City, however, it will not be less than coverage given to regular City employees.

Currently the City has group coverage under Blue Cross with the premiums to be paid depending upon the coverage selected as listed in Appendix B.

Section 11.2. Terms of Insurance Policies to Govern. The extent of coverage under the insurance plan documents (including HMO or PPO plans) referred to in this Agreement shall be governed by the terms and conditions set forth in those policies. Any questions or disputes concerning such insurance documents, or benefits under them, shall be resolved in accordance with the terms and conditions set forth in the policies and shall not be subject to the grievance and arbitration procedures set forth in this Agreement. The failure of any insurance carrier(s) or organization(s) to provide any benefit for which it has contracted or is obligated shall result in no liability to the City, nor shall such failure be considered a breach by the City of any obligation under this Agreement. However, nothing in this Agreement shall be construed to relieve any insurance carrier(s) or organization(s) from any liability it may have to the City, City employee or beneficiary of any City employee.

Section 11.3. Life Insurance. Any officer who participates in the City's medical plan shall be provided by the City life insurance equal to $15,000.

Union Position on Insurance

Health Insurance

The Union describes its health insurance proposal as intended "to eliminate its contribution to health insurance premium cost in an effort to improve its entire benefit package so that it is commensurate with the comparable communities." Highwood wages, the Union states, "are relatively low in starting salary, and mediocre in top out salary." Highwood's police officers, the Union asserts, have the highest contribution for both single and family coverage among all of the comparables. The Union views the employee contributions for insurance as, in effect, deductions from their wages and, the Union argues, "have a huge impact on wages especially in light of comparable contributions."

The Union contends that "the status quo must change." However, it states, the City proposes to make things worse by retaining discretion to change insurance benefits and contribution amounts whenever it sees fit. The Union calls such an offer "unacceptable" because it deprives the patrol officers of the "security in knowing what their monthly contributions to health insurance will be, so that they may adequately budget their income from month to month."

The Union argues that because "officer wages and benefits are at the median, insurance contribution must cease, especially considering the overwhelming evidence suggesting that the comparables are exacting significantly lesser contributions from their employees." The City's offer, the Union asserts, will make "an already mediocre wage package" even worse and would make the police officers vulnerable to even higher insurance contributions without receiving improved wages or other economic benefits in return. The City's health insurance proposal is not reasonable, the Union contends, and should be rejected.

Life Insurance

The Union considers the City offer on life insurance to be "woefully inadequate" and objects to the condition that only officers covered by the medical plan will be insured. The Union asserts that life insurance coverage is relatively inexpensive and that a group plan should not be hard to find. The Union argues that its offer that insurance be based on salary is very reasonable, considering that top salaries do not reach $50,000. The Union notes that the only information in the record regarding comparable jurisdictions is for Fox River Grove. The Union interprets the document provided by the Village of Fox River Grove as providing officers with "an option of receiving $35,000 of free life insurance . . . or . . . a full year's salary through IMRF." The Union estimates the cost to the City of its life insurance proposal as comparable to the cost to Fox River

Grove. It views its proposal as "a modest, inexpensive proposal."

City Position on Insurance

Health Insurance

The City concedes that for employee only coverage its final offer requiring an employee contribution of 20 percent of the premium cost provides the highest employee contribution for single coverage among all of the comparable jurisdictions. The City argues that nevertheless this "is not out of line . . . and is more generous than most private employers." In addition, the City asserts, "the ever escalating cost of medical insurance is requiring many previously 100% paid employers plans (both public and private) to require employee contribution." The City notes that it also requires a 20 percent contribution for single coverage from all other Highwood employees. It expresses concern that the contractual contribution required of employees will be locked in for the duration of the collective bargaining agreement "whereas for all other comparable communities if medical insurance continues on its meteoric rise, they can seek immediate relief by requiring employee contributions because their employees are at will."

With regard to dependent insurance coverage the City asserts that the 50% contribution required of employees is the same as for two other comparable communities, Round Lake and Spring Grove. The Union argues that taxpayer needs should be taken into account and that the arbitrator should accept the City's final offer on all medical insurance.

Life Insurance

The City asserts that its offer of $15,000 in life insurance benefits represents an increase of $5,000 in coverage. There is no proof, the City argues, that the comparable municipalities provide life insurance equal to an officer's annual salary as proposed by the Union. The Union, the City states, ignores the cost of insurance in that amount. "The taxpayer-citizens of Highwood," the City asserts, "should not be required to pay for a benefit which no one knows the cost of."

Arbitrator's Findings and Conclusions on Insurance

Health Insurance

In its final offer on health insurance the City is unwilling to commit itself to continue the current benefits or, in fact, any benefit at all. The only restriction it places on itself is that it will not provide police officers with less coverage than it provides to other City employees. However, since the City can change the coverage for other City employees at will, its health insurance offer is largely illusory or, at best, subject to its sole discretion both as to what is covered and whether to continue coverage. The arbitrator finds the City proposal on health insurance to be outside the mainstream, and he does not adopt it.

Although the Union proposal treats coverage and employee contribution in the same sentence, the parties are in agreement that the arbitrator may bifurcate these issues (Tr. 703, 767). The arbitrator finds the Union's proposal the more reasonable of the two to the extent that it provides for the continuation of the medical, hospitalization, and dental insurance program currently in effect. A party that wishes to change existing terms of employment should have the burden of justifying the need for a change. The City has not provided any cogent reason why the existing level of benefits should not be continued. The arbitrator adopts the Union proposal on health insurance excluding language in its proposal relating to premium cost. The approved language shall read as follows:

> Section 11.1. Coverage. The medical, hospitalization and dental insurance programs that are currently in effect shall be continued.

So far as contribution toward premium cost for single coverage is concerned, the 20 percent share required of bargaining unit employees by the City's final offer is high when compared with employees' contribution for single coverage in the comparable jurisdictions. Three of the four other comparable municipalities pay 100 percent of the premium for single coverage, and the remaining one, 92 percent. The external comparability criterion therefore strongly favors the Union proposal.

There is merit to the City argument that the trend is to require employee contribution even for single coverage. The arbitrator's experience in hearing interest arbitration cases bears this out. Nevertheless 20 percent is still a high figure for single coverage contribution. In addition, the prevailing practice among comparable jurisdictions is a more important criterion that the general trend.

I have also taken into consideration the other statutory criteria. Meeting the additional cost involved should not impose a significant financial burden on the City. To the extent that a dollar saved by an employee in health insurance costs is equivalent to an additional dollar in salary, the payment of this health insurance cost by the City will be equivalent to raising the City's low starting salary and improving the amount of the wage increase of current employees. This should be in the interest and welfare of the public in helping the City to attract high quality applicants and retain its current staff. In this connection it is noted that the City is one officer short of its full complement of patrol officers. Nor will the City's picking up of the full cost of individual health insurance coverage result in the overall compensation of Highwood's patrol officers being out of line with that found in comparable jurisdictions.

With respect to employee plus spouse and dependent coverage, the City's final offer of 50 percent employee contribution is identical to the contribution in two of the other four comparable jurisdictions, Round Lake and Spring Grove. Although Lakemoor pays 100 percent of such coverage, Highwood's combined wage and health insurance benefit is substantially superior to Lakemoor's. In addition, the trend is definitely for employees to contribute a significant portion of the premium for family coverage. The arbitrator finds that the statutory criteria favor the City's proposal with regard to employee health insurance contribution for other than single coverage.

Life Insurance

The City's proposal of $15,000 life insurance coverage represents a 50 percent increase in coverage over the current amount. The Union seeks coverage for employees in the amount of their respective annual salaries, but has presented data from only one of the comparable jurisdictions. As the party that seeks to increase the existing life insurance benefit even more than the City's offer, the Union has the burden of producing evidence to show that the statutory criteria justify such an increase. It has produced information concerning only one of the four other comparable jurisdictions. That jurisdiction, Fox River Grove, has life insurance coverage below what the Union is requesting for Highwood but higher than the amount of the City's final offer. The record is entirely silent as to the amount of life insurance coverage in the other three comparable communities. There is no basis in the record for finding that any of these three jurisdictions provides a life insurance benefit in excess of $15,000. The arbitrator finds that the

evidence does not support the adoption of the Union's final offer on life insurance coverage.

The Union objects to the provision in the City offer requiring that an officer participate in the City's medical plan in order to receive life insurance coverage. That could be a valid objection if there were any officer who was not a participant in the medical plan and was thereby denied life insurance coverage. The arbitrator, however, has required the City to provide single coverage at its own cost to every bargaining unit employee. This means that every bargaining unit officer will be able to receive individual medical and life insurance coverages without cost to himself or herself.[11]

The arbitrator is aware that there are negotiated police officer agreements that provide for life insurance coverage in the amount of an officer's annual salary. These are usually negotiated contracts where there have been reciprocal quid pro quos for various benefits. Nothing in this opinion should preclude the Union from negotiating higher life insurance coverage in a future contract. The arbitrator believes, however, that in order to award such an economic benefit in this contract the arbitrator should have a record showing that comparable jurisdictions award a similar benefit. As noted, in the present case the one jurisdiction for which the Union has provided data does not even provide the life insurance coverage proposed by the Union.

PREAMBLE

Union Final Offer

The Union's final offer on the preamble of the collective bargaining agreement states as follows:

PREAMBLE

[11]To the extent that any bargaining unit employee would otherwise not choose to be covered by the City's medical plan except that such coverage is a condition of receiving a life insurance policy, tying life insurance to medical insurance coverage may be shortsighted on the City's part.

THIS AGREEMENT, entered into by the City of Highwood, Illinois (hereinafter referred to as the "City" or the "Employer") and the METROPOLITAN ALLIANCE OF POLICE, Highwood Chapter #150 (hereinafter referred to as the "Chapter") is in recognition of the Chapter's status as the representative of certain of the City's full-time sworn peace officers and has as its intent to set forth the parties' entire agreement with respect to the rates of pay, hours of employment, fringe benefits, and other conditions of employment that will be in effect during the term of this Agreement for employees covered by this Agreement; to prevent interruptions of work and interference with the operations of the City; to encourage and improve efficiency and productivity; to maintain the highest standards of personal integrity and conduct at all times; and to provide procedures for the prompt and peaceful adjustment of grievances as provided herein.

THEREFORE, in consideration of the mutual promises and agreements contained in this Agreement, the City and the Chapter do mutually promise and agree as follows:

City Final Offer

The City's final offer regarding the wording of the preamble of the collective bargaining agreement is as follows:

PREAMBLE

THIS AGREEMENT, entered into by the City of Highwood, Illinois (hereinafter referred to as the "City" or the "Employer") and the METROPOLITAN ALLIANCE OF POLICE, Highwood Chapter #150 (hereinafter referred to as the "Chapter") is in recognition of the Chapter's status as the certified representative of certain of the City's full-time sworn peace officers by the Illinois Labor Relations Board. It is the intent of the parties' entire agreement with respect to the rates of pay, hours of employment, fringe benefits, and other conditions of employment that will be in effect during the term of this Agreement for employees covered by this Agreement; to prevent interruptions of work and interference with the operations of the City; to encourage and improve efficiency and productivity; to

> maintain the highest standards of personal integrity and conduct at all times; and to provide procedures for the prompt and peaceful adjustment of grievances as provided herein.

Union Position on Preamble

The Union asserts that it does not know why the City refuses to accept its proposed language for the preamble. The Union states, "Particularly troublesome for the City is the Union's referral in the Preamble to the Board's certification of the Union as the representative of certain Department employees."

City Position on Preamble

The City states that although both parties' proposals appear quite similar, it prefers its own version "because it is shorter and avoids the last sentence contained in the Union version which does not add any substantive matter to the collective bargaining agreement." On the other hand, the City asserts, "the Union's version does add issues that could be used to frustrate the application of the Agreement."

Findings and Conclusions on Preamble

> It is not clear to this arbitrator why the Union states that the City finds troublesome the Union's referral in the preamble to the Board's certification of the Union as the representative of certain Department employees. The City proposal expressly includes such a reference and, in fact, adds the word "certified" before the word "representative" where the Union has only "representative".

Nor has the City made clear what its objection is to the Union version. The City says that its version is shorter,

but that is only true if the last sentence of the Union version is counted. Without the last sentence, the Union's version is four words less than the City's: 147 as compared with 151. Apparently it is the last sentence that the City objects to because, it states, it "does not add any substantive matter to the collective bargaining agreement." However, contradictorily (unless the City is referring to some part other than the last sentence), the City asserts, "In fact, the Union's version does add issues that could be used to frustrate the application of the Agreement."

The arbitrator is put in the position where he has to guess what the City's true objection is to the Union's version of the preamble. The City's version seems to imply that there are other agreements between the parties besides what is included in the collective bargaining agreement. Thus the City has divided into two sentences what the Union expressed in one sentence. The Union's version states that the Agreement is in recognition of the Chapter's status as representative of certain sworn police officers and goes on to state a series of intents: 1) to set forth the entire agreement; 2) to prevent interruptions and interference; 3) to encourage and improve efficiency and productivity; 4) to maintain the highest standards; and 5) to provide a grievance procedure.

By contrast, the City version does not state that one intent of the Agreement is to set forth the entire agreement of the parties. Instead it indicates the existence of two agreements: a) the "entire agreement" and (b) "the Agreement." It then goes on to list items 2) through 5) above as the intent of the "entire agreement . . . that will be in effect during the term of this Agreement . . . ." Nowhere does the City's version of the preamble state an intent to set forth the entire agreement of the parties. This would allow either party at some later time to claim that there are certain practices or oral agreements between the parties that must be honored.

The arbitrator believes that the City's version of the preamble is inconsistent with the City's own proposal in Article XX, which begins, "This Agreement constitutes the complete and entire Agreement between the parties . . . ." For this reason the arbitrator adopts the first paragraph of the Union's version of the preamble. However, the arbitrator would add the word "certified" before "representative," as appears in the City version.

The second paragraph of the Union version of the preamble consists of a single sentence, "THEREFORE, in consideration of the mutual promises and agreements contained in

this Agreement, the City and the Chapter do mutually promise and agree as follows:" It is not clear if it is that sentence that the City refers to when it says that "the Union's version does add issues that could be used to frustrate the application of the Agreement." Without clarification from the City, however, of what issues are added by the language or how the sentence could frustrate application of the Agreement, the arbitrator has no basis for rejecting the language. The language, or words similar to it, is commonly found in collective bargaining agreements and serves the legal purpose of acknowledgment by both sides that each side has received consideration for its own promises and agreements. The arbitrator adopts the last sentence of the Union proposal as part of the preamble to the Agreement.

RECOGNITION CLAUSE

Union Final Offer

The Union proposes the following clause as Article 1, Section 1.1 of the Agreement:

ARTICLE I - RECOGNITION

Section 1.1. Recognition. The City recognizes the Chapter as the sole and exclusive collective bargaining representative for all full-time sworn patrol officers below the rank of Lieutenant, employed by the City (hereinafter referred to as "officers" or "employees"), but excluding all sworn peace officers in the rank of Lieutenant or above, any employees excluded from the definition of "peace officer" as defined in Section 3(k) of the Illinois Public Labor Relations Act, and all other supervisory, managerial and confidential employees as defined by the Act, as amended, and all other employees of the Department and City.

Unless the context clearly indicates otherwise, the terms "police officer," "officer," and "employee" shall refer exclusively to members of the above-described bargaining unit.

City Final Offer

The City's proposal for Article 1, Section 1.1 is as follows:

Section 1.1. Recognition. Pursuant to an

> election and certification by the Illinois Labor Relations Board on March 18, 1999, the Employer recognized the Chapter as the exclusive bargaining agent for the purpose of establishing wages, hours, and other conditions of employment for all sworn full-time officers and probationary officers within the Police Department of the City of Highwood, below the rank of sergeant, as certified, as described herein above. None of the provisions of this Agreement shall be construed to require either the Employer or the Chapter to violate any Federal or State Laws. In the event any provisions hereof or hereinafter stated shall conflict with any such law, such provision shall be modified to the extent necessary to conform to said laws.
>
> Unless the context indicates otherwise, the terms "police officer," "officer," and "employee" shall refer exclusively to members of the above-described bargaining unit.

Union Position on Recognition Clause

The basis for its proposal, the Union states, is the Certificate of Representation issued by the then Illinois State Labor Relations Board.[12] It asserts that it does not know the reason why the City objects to its proposal. The proposal is reasonable, the Union argues, and should be adopted by the arbitrator.

City Position on Recognition Clause

The City states that it prefers its version because it is the unit petitioned for by the Union. It asserts that at all relevant times it has not had a position of sergeant or any other rank between officer and lieutenant. According to the City, "the ILRB on its own without the request of either party used the terminology used in the Union's definition." The City objects that the "ILRB's unrequested action determines issues which are currently not present without the benefit of reviewing the reasons for an issue." The City requests that the arbitrator reject the Union's proposal and adopt its own.

Findings and Conclusions on Recognition Clause

[12]The successor Board is called Illinois Labor Relations Board.

The Illinois State Labor Relations Board issued a certification of representative to the Union on March 18, 1999, for a unit that included "All full-time police officers below the rank of lieutenant employed by the City of Highwood." Excluded from the unit were "All other employees of the City of Highwood." The arbitrator does not believe that it would be appropriate for him to adopt a recognition clause describing the unit as all full-time officers "below the rank of sergeant" where the Board has certified a unit "below the rank of lieutenant."

If the City believed the Board erred in the description of the unit, it should have objected at the time the certification issued. Perhaps it is not too late to seek a unit clarification from the Board. The arbitrator does not think that he should be the one, however, to change the description of the certification.

With regard to the language the City has added about the violation of federal or state law or conflict with any such law, the arbitrator does not think that such language is appropriate for a recognition clause. For the reasons stated the arbitrator adopts the Union's proposal for Section 1.1, Recognition, of Article I.

PROBATIONARY PERIOD

Union Final Offer

The Union's final offer on probationary period states as follows:

> ARTICLE III - PROBATIONARY PERIOD
>
> Section 3.1. Probationary Period. The probationary period shall be eighteen (18) months in duration from the date of employment, or such other shorter period of time as may be established from time to time by the City for some or all new employees. During the probationary period, an officer is subject to discipline, including discharge, without cause and with no recourse to the grievance procedure or any other forum.
>
> While probationary employees shall have no seniority, upon successful completion of their probationary period, their seniority shall date back to their last date of employment. Except as provided in

this Section, probationary employees shall be covered by the other applicable provisions of this Agreement.

City Final Offer

The City's final offer regarding probationary period is as follows:

ARTICLE III - PROBATIONARY PERIOD

Section 3.1. Probationary Period. The probationary period is determined by the Commission. During the probationary period, an officer is subject to discipline, including discharge, without cause and with no recourse to the grievance procedure or any other forum.

While probationary employees shall have no seniority, upon successful completion of their probationary period, their seniority shall date back to their last date of hire as a sworn full time officer. Except as provided in this Article, probationary employees shall be covered by the other applicable provisions of this Agreement.

Union Position on Probationary Period

The Union asserts that it "is asking for the memorialization of the status quo, and it is the City's burden to show that the status quo should be changed." It wishes "to contractualize the status quo," the Union states, "to provide security for its employees." The Union argues that leaving the term of probation to the discretion of the Highwood Fire and Police Commission poses a danger to the Union because the Commission can then control when Union members become fully protected by the collective bargaining agreement. The Union contends that no evidence was put forth why the City proposal is necessary and reasonable.

City Position on Probationary Period

The City asserts that it prefers its version because the Fire and Police Commission has the statutory authority to decide the duration of the probationary period, and the evidence shows that the Commission is an autonomous, independent body that is not controlled by anyone and takes its responsibilities

seriously. The City also objects to the Union's proposal because under it an officer who successfully completes probation will have his or her seniority date back to the employee's last date of employment instead of last date of hire as a full-time sworn officer. The City contends that someone with longer City service newly employed in the police department should not have greater seniority than a police officer with more police department service.

Findings and Conclusions on Probationary Period

There is merit to both sides' proposals. The arbitrator agrees that the contract should state a definite length for the probationary period. The overwhelming majority of collective bargaining agreements for police officers that this arbitrator is familiar with contain a definite figure for the probationary period. The current probationary period in Highwood is 18 months. There was nothing in the testimony of Commission Chairman Judy Edwards to indicate that 18 months is inadequate for judging whether a new police officer should be retained as a permanent employee. She explained why 12 months was deemed to be insufficient, but her testimony does not support a finding that the probationary period should be longer than 18 months.

On the other hand, there are good reasons to provide for exceptional circumstances where it may be deemed in everyone's interest to shorten the probationary period or to lengthen it. For example, in a particular case it may be decided that because of an officer's prior experience, it is not necessary to have a full 18 months of probation. Shortening it should be at the discretion of the Fire and Police Commission.

There may also be occasions where a police officer is on the borderline between being acceptable and unacceptable. If forced to make a decision, the Chief may decide not to take a chance and to dismiss the officer. In such a case it would be in the officer's best interest to extend the probationary period to give the Chief additional time to make up his mind and the officer further opportunity to prove his or her qualifications. To protect against indiscriminate lengthening of the probationary period, however, increasing the probationary period should be permitted only by mutual agreement of the City and the Union.

Many probationary clauses also contain a provision that time absent from duty in excess of 30 calendar days annually shall not apply towards satisfaction of the probationary period. The arbitrator will include such a term in the probationary article awarded for the parties' Agreement.

The parties are in agreement that probationary period is a noneconomic item. Therefore the arbitrator is not limited to the final offer of one of the parties. The following language found to be appropriate by the arbitrator makes reference to Section 2.3 to avoid any argument that the Fire and Police Commission may unilaterally increase the probationary period for all officers should it see fit to do so. The arbitrator finds that the language on probationary period should state as follows:

ARTICLE III - PROBATIONARY PERIOD

Section 3.1. Probationary Period. Notwithstanding Section 2.3 of this Agreement, the probationary period shall be eighteen (18) months in duration from the date of employment as a full-time sworn police officer. The Highwood Fire and Police Commission may establish a shorter probationary period for any new employee or for new employees generally. The probationary period of any officer may be extended for good cause by the City, with the agreement of the Chapter, for a period not to exceed six months. Time absent from duty in excess of 30 days annually shall not count towards satisfaction of the probationary period. During the probationary period an officer is subject to discipline, including discharge, without cause and with no recourse to the grievance procedure or any other forum.

While probationary employees shall have no seniority, upon successful completion of their probationary period, their seniority shall date back to their date of employment as a full-time sworn police officer immediately prior to the start of their probationary period. Except as provided in this Article, probationary employees shall be covered by the other applicable provisions of this Agreement.

GRIEVANCE PROCEDURE

Union Final Offer

The Union proposes the following procedure for presenting and processing a grievance:

Section 6.2. Procedure. The parties acknowledge that it is usually most desirable for an employee and

his immediate supervisor to resolve problems through free and informal communications. If, however, the informal process does not resolve the matter, the grievance will be processed as follows:

Step 1: Any employee who has a grievance shall submit the grievance in writing to the employee's immediate supervisor. The grievance shall contain a full statement of all relevant facts, the provision or provisions of this Agreement which are alleged to have been violated, and the relief requested. To be timely, the grievance must be presented no later than seven (7) calendar days after the act, event or commencement of the condition which is the basis of the grievance or seven (7) calendar days after the employee, through the use of reasonable diligence, should have had knowledge of the act, event or commencement of the condition which is the basis of the grievance. The supervisor shall respond to the grievance in writing within seven (7) calendar days.

Step 2: If the grievance is not satisfactorily settled in Step 1, it may be appealed in writing to the Chief, or the Chief's designee, within seven (7) calendar days after a decision was rendered by the immediate supervisor in Step 1. Within seven (7) calendar days after presentation of the written grievance to the Chief, the Chief or the Chief's designee shall provide a written response.

Step 3: If the grievance is not settled at Step 2, the written grievance shall be presented by the employee or by the Chapter representative to the Mayor or the Mayor's designee, no later than seven (7) calendar days after the date of the response of the Chief, or the Chief's designee. The Mayor, or the Mayor's designee, may meet with the employee and/or the Chapter representative in an effort to resolve the grievance within seven (7) calendar days after the Mayor, or the Mayor's designee, receives the grievance. The Mayor, or the Mayor's designee, shall reply to the grievance within seven (7) calendar days

after the date of the meeting, or, if there is no meeting, within ten (10) calendar days after the written grievance was received by the Mayor, or the Mayor's designee.

City Final Offer

The City's proposal regarding the procedure for presenting and processing grievances is as follows:

Section 6.2. Procedure. The parties acknowledge that it is usually most desirable for an employee and his immediate supervisor to resolve problems through free and informal communications. If, however, the informal process does not resolve the matter, the grievance will be processed as follows:

Step 1: Any employee who has a grievance shall submit the grievance in writing to the employee's immediate supervisor. The grievance shall contain a full statement of all relevant facts, the provision or provisions of this Agreement which are alleged to have been violated, and the relief requested. To be timely, the grievance must be presented no later than seven (7) calendar days after the act, event or commencement of the condition which is the basis of the grievance. The grievance may be timely filed within seven (7) calendar days after the employee, through the use of reasonable diligence, should have had knowledge of the act, event or commencement of the condition which is the basis of the grievance. In this circumstance, the employee must prove the filing is timely and no damages will be granted for a time period prior to the date the grievance is filed. No grievance will be considered timely filed unless it is filed within ninety (90) days of the act, event or commencement of the condition which is the basis of the grievance. The Chief or the Chief's designee shall respond to the grievance in writing within seven (7) calendar days.

Step 2 If the grievance is not settled at Step 1, the written grievance shall be presented by

> the employee or by the Chapter representative to the Mayor or the Mayor's designee, no later than seven (7) calendar days after the date of the response of the Chief, or the Chief's designee. The Mayor, or the Mayor's designee, may meet with the employee and/or the Chapter representative in an effort to resolve the grievance within seven (7) calendar days after the Mayor, or the Mayor's designee, receives the grievance. The Mayor, or the Mayor's designee, shall reply to the grievance within seven (7) calendar days after the date of the meeting, or, if there is no meeting, within ten (10) calendar days after the written grievance was received by the Mayor, or the Mayor's designee.

Union Position on Grievance Procedure

The Union finds the City's proposal objectionable for the following reasons. The City proposal involves an immediate supervisor and the Chief at the first step, but the City does not explain how the two are to interact at step 1. Nor, the Union asserts, does the City proposal explain how long the immediate supervisor has to review the grievance or even if he is to review it at all. In addition, the Union objects that the City places unnecessary requirements on the grievant by demanding that the grievant prove that the grievance is timely before it will agree even to consider the grievance. Timeliness and due diligence, the Union argues, are defenses to a grievance and should be decided by the arbitrator. In contrast to the City proposal, the Union argues, its own offer sets out a clearly defined process, explaining the duties and obligations of both parties at each step.

City Position on Grievance Procedure

The City contends that for a small bargaining unit like the present one, with less than ten officers, a three step grievance process is unnecessary and wasteful of the time and limited resources of the department. In addition, the City asserts, the Chief of Police prefers to be personally involved in the grievance process at an early stage. The 90 day limitation period for any grievance is appropriate, the City contends, because an employee should be aware of the cause of any grievance within that time period. Such a limitation period is also necessary, the City argues, because "the possibility of unknown

and unquantifiable exposure for a contractual violation . . . is an anathema to a budgetary system . . . ."

Findings and Conclusions on Grievance Procedure

The arbitrator agrees with the City position that a two step grievance procedure, not including the arbitration step, is sufficient for a bargaining unit the size of Highwood's police officer unit. It also makes sense where such a small unit is concerned that the Chief would want to participate in the process at the earliest step. The Union's proposal, if adopted, could result in a situation where an immediate supervisor settles a grievance on terms that the Chief would not find acceptable. The City and the Chief would nevertheless have to accept the settlement under the Union's proposal.

On the other hand there is merit to the Union's objection that the City's proposal is very vague about the interaction of the immediate supervisor and the Chief at step 1 or even what the role of the supervisor is. Nor is the meaning clear of the language that "the employee must prove the filing is timely" where the grievance is filed more than seven calendar days after the event giving rise to the grievance. Must the employee prove it to the management official hearing the grievance or to the arbitrator if the grievance goes to arbitration?

If the City is correct in its position that in every case an employee should be aware of an event giving rise to a grievance within 90 days, then presumably an arbitrator would find a grievance not arbitrable if filed more than 90 days after the event. The arbitrator believes that, with one addition, the language of the Union proposal gives the City sufficient protection by requiring reasonable diligence on the employee's part if the grievance is filed more than seven days after the event that is the basis of the grievance. The addition would be a provision that even where a grievance filed more than seven days after the event giving rise to the grievance is found to be arbitrable, no monetary remedy may be awarded effective prior to the date of the grievance.

The arbitrator finds that the clause setting forth the procedure to be followed in processing a grievance should read as follows:

> Section 6.2. Procedure. The parties acknowledge that it is usually most desirable for an employee and his immediate supervisor to resolve problems through

free and informal communications. If, however, the informal process does not resolve the matter, the grievance will be processed as follows:

Step 1: Any employee who has a grievance shall submit the grievance in writing to the Chief, or the Chief's designee. The grievance shall contain a full statement of all relevant facts, the provision or provisions of this Agreement which are alleged to have been violated, and the relief requested. To be timely, the grievance must be presented no later than seven (7) calendar days after the act, event, or commencement of the condition which is the basis of the grievance or seven (7) calendar days after the employee, through the use of reasonable diligence, should have had knowledge of the act, event or commencement of the condition which is the basis of the grievance. The Chief, or the Chief's designee, shall respond to the grievance in writing within seven (7) calendar days. Where a grievance filed more than seven days after the event giving rise to the grievance is found to be arbitrable, no monetary remedy may be awarded effective prior to the date of the grievance.

Step 2: If the grievance is not settled at Step 1, the written grievance shall be presented by the employee or by the Chapter representative to the Mayor or the Mayor's designee, no later than seven (7) calendar days after the date of the response of the Chief, or the Chief's designee. The Mayor, or the Mayor's designee, may meet with the employee and/or the Chapter representative in an effort to resolve the grievance within seven (7) calendar days after the Mayor, or the Mayor's designee, receives the grievance. The Mayor, or the Mayor's designee, shall reply to the grievance within seven (7) calendar days after the date of the meeting, or, if there is no meeting, within ten (10) calendar days after the written grievance was received by the Mayor, or the Mayor's designee.

ARBITRATION PROVISION

According to the City's brief the Union is in agreement with the City's proposal for Section 6.3 Arbitration. Consistent with the City's representation is the fact that the Union has not addressed Section 6.3 in its brief. The arbitrator calls the parties' attention, however, to the fact that the following sentence in the City's proposal for Section 6.3 appears to have some words missing:

> If the request to arbitrate upon an arbitrator to hear the grievance, they shall request the Federal Mediation and Conciliation Service to submit a panel of seven (7) proposed arbitrators.

Probably what was intended was something like the following:

> If the parties are unable to agree upon an arbitrator to hear the grievance, they shall request the Federal Mediation and Conciliation Service to submit a panel of seven (7) proposed arbitrators.

The first sentence of Section 6.3 should also probably be corrected by deleting the following words from the second line of that sentence: "its written notice of the appeal". The sentence would then read as follows:

> A grievance not settled in Step 2 may be appealed by the Chapter to arbitration by serving on the City, not later than fifteen (15) calendar days after the date of the reply of the Mayor, or the Mayor's designee, a written request to arbitrate, setting forth specifically the issue or issues to be arbitrated.

SECTION 6.5. TIME LIMITS

Section 6.5 appears to have been TA'd. However, the first sentence of that section in its present form does not read right. Probably something of the following order was intended:

> If a decision is not rendered by the City within the time limits provided for in this grievance procedure, the grievance shall be deemed denied, and the aggrieved employee or the Chapter may immediately appeal the grievance to the next step or to arbitration as provided above.

SECTION 8.2 - WORKDAY and SHIFT

Union Final Offer

The Union's final offer on Section 8.2, Workday and Shift, provides as follows:

ARTICLE VIII - HOURS OF WORK AND OVERTIME

Section 8.2. Workday and Shift. Except as provided elsewhere in this Agreement, the normal workday of covered officers shall be eight and one-half (8.5) hours. Covered officers will work a four and two schedule, specifically, four consecutive days on followed by two consecutive days off. Shift selection will be based on seniority. Each officer will be allowed to pick his shift and submit his choice of shift for the following year by December 1.

City Final Offer

The City final offer on Section 8.2 states as follows:

ARTICLE VIII - HOURS OF WORK AND OVERTIME

Section 8.2. Workday and Shift. Currently the City has scheduled the normal workday of covered officers to be eight and one-half (8.5) hours. Further, covered officers are currently scheduled to work a four and two schedule, specifically, four consecutive days on duty, followed by two consecutive days off. The City shall attempt to maintain such workday and schedule, however the City reserves the right to change the workday and schedule rotation.

Shift selection will be generally based on seniority. Each officer will be allowed to submit his choice of shift for the following year by December 1 or such other date as directed by the Chief of Police. Notwithstanding selection of shift by seniority, the City shall have the right to deny such shift selection as to one duty slot per shift. Such duty slot may be filled at the City's discretion with an officer that does not have the greatest seniority where the City determined that other scheduling criteria are more critical. Such determination may be based on minority, ethnic, gender, language, or other criteria determined appropriate by the City.

Union Position on Workday and Shift

The Union objects to the City's retention of the right to change shift length in its discretion and to fill one duty slot per shift without following seniority. The Union argues that the current system is working well and that no evidence has been introduced to show why flexibility is necessary. "Since the City has failed to meet their burden," the Union contends, "their proposal should be rejected in favor of the Union's language."

City Position on Workday and Shift

The City asserts that the reason for its proposal is to ensure that its most experienced and senior officers do not work only days with the least experienced on nights. Its version, the City states, also allows its shifts to be diversified with regard to such characteristics as race and national origin and talents such as bilingualism. The power to change the schedule, the City argues, can also affect the budget because of additional overtime. As nonunion jurisdictions, the City asserts, the comparable municipalities are able to change the workday or shift schedule as they deem advisable.

Findings and Conclusions on Workday and Shift

The Union asserts that it wants to continue the status quo with regard to shift scheduling. The fact is, however, that the Highwood police officers have not always had the same work schedule. The current Chief of Police, in 2001, inaugurated the present arrangement of four days on and two days off. The arbitrator's experience has been that in the great majority of police contracts management retains the right to determine the schedule for the hours and shifts to be worked each day. It is also a normal management function to be able to change shift assignments in accordance with operational needs.

For the foregoing reasons the arbitrator will not adopt the Union's proposal on Section 8.2. The arbitrator believes that the officers' interests are adequately protected by the City's commitment to attempt to maintain the present workday and schedule. With regard to shift selection it is reasonable to give the City the discretion to depart from strict seniority for one duty slot per shift. The desirability of having an adequate mix of seasoned and new officers and other operational considerations make it reasonable to allow departure from strict seniority with regard to shift assignments. The arbitrator

believes the City proposal to be well within the norm of what is found generally in collective bargaining agreements covering police officers. That proposal will be adopted.

SECTION 8.3 - OVERTIME PAY AND SCHEDULING

Union Final Offer

The Union final offer on Section 8.3, Overtime Pay and Scheduling, is as follows:

> Section 8.3. Overtime Pay and Scheduling. Hours worked beyond the covered officers regular schedule will be paid on the basis of one and one-half (1-?) times the employee's regular straight-time hourly rate of pay. For the purposes of overtime compensation, "hours worked" shall include sick time, vacation time, holiday time, compensatory time and all other authorized paid leave time.
>
> When an overtime assignment becomes available, assignment of overtime will be done by seniority, and offered to all covered employees first. If no full-time officer volunteers to work the overtime assignment, the Chief or his assignee, shall order out an officer by reverse seniority, unless the assignment is to be filled by a part-time officer. No officer can refuse to work an overtime assignment when ordered to do so, unless extenuating circumstances prevented him/her from coming to work.

City Final Offer

The City proposal on Section 8.3, Overtime Pay and Scheduling, is as follows:

> Section 8.3. Overtime and Scheduling. Overtime shall be calculated in accordance with the Fair Labor Standards Act. The City currently has a 28-day tour of duty work period, which is used in calculating overtime; however the City reserves the right to use other work periods permitted by the Fair Labor Standards Act. Such tour of duty implemented by the City from time to time is hereinafter referred to as "Tour of Duty".
>
> Covered officers may be offered overtime or open

shift assignment, the Chief or his designee reserves the right to fill the assignment by a part-time officer. Further, no officer can refuse to work an overtime assignment when ordered to do so. Work time which extends beyond the end of shift is not a *per se* overtime assignment.

Union Position on Overtime Pay and Scheduling

The Union asserts that the two things it seeks by its proposal are that benefit time be included in the overtime calculation and that overtime be offered to unit members first, by seniority. Benefit time should be included in the overtime calculation, the Union argues, because otherwise an officer is penalized for using benefit time, thereby defeating its purpose. A possible compromise, according to the Union, would have been an offer to include benefit time except for sick time, but, it observes, the Employer did not do so.

The Union notes that part-time officers can be used to fill overtime slots and receive overtime pay at time and a half after 40 hours. The full-time officers, the Union asserts, want to be treated the same way, except that they are willing to work the full 171 hours in a 28 day work period before they are given the choice to receive pay or compensatory time. In exchange for not receiving overtime until having worked 171 hours, the Union states, the officers are requesting that all overtime opportunities be offered to them first. This would not increase City costs significantly, the Union argues, because the City is already incurring increased costs for part-time officers to cover current needs of the department. Increased overtime costs can also be avoided, the Union asserts, by increasing the full-time staff.

Overtime is currently offered by seniority, the Union states, and it expresses puzzlement why the City does not want to commit itself to continuing the status quo. The Union notes that the City proposal is silent on how overtime is to be assigned to full-time officers. Its proposal, the Union argues, is the more reasonable and should be adopted. The Union views the City proposal as "extreme."

City Position on Overtime Pay and Scheduling

The City argues that it has presented uncontroverted evidence in testimony and budget documents that its final offer

is within budgetary constraints and is as generous as possible without requiring the taxpayer-citizens of Highwood to pay increased taxes. The uncontroverted testimony of Mr. Bill Lolli, the City's financial consultant, the City argues, establishes that there is no reserve in the budget to pay for any increase sought by the Union.

The City asserts that whether overtime is paid in money or in compensatory time off is currently within the discretion of the City and that the City proposes that it remain so for budgetary reasons. Regarding the Union proposal to have the taking of compensatory time solely vested in the officers, the City argues that the Union has failed to show that any comparable community provides that request. "The taxpayer-citizens of Highwood," the City asserts, "should have their interests prevail on this issue."

Findings and Conclusions on Overtime Pay and Scheduling

The Union's offer would not only require the City to pay cash wages instead of compensatory overtime but would also prevent the City from using part-time employees at straight-time wages instead of police officers at overtime rates. In addition, the Union proposal requires all paid time, including sick leave, to be counted as hours worked for overtime purposes. The arbitrator is aware that there are many collective bargaining agreements for police officers that require cash payment, instead of compensatory time, for overtime hours. This is also true of counting paid leave as hours worked when figuring overtime hours worked.

In many, if not most cases, however, where the collective bargaining agreement has such provisions, the comparable jurisdictions provide similar benefits. In this case the Union is asking the arbitrator to award very significant changes with regard to compensation, overtime scheduling, and the use of part-time employees without making a record in how these issues are addressed in comparable communities. The fact that the other jurisdictions do not have collective bargaining agreements is not a good enough reason for dispensing with the data.

The only comparative information provided in the record on the overtime issue is that Spring Grove and Fox River Grove provide no overtime pay and that Round Lake and Lakemoor provide some at time and a half. There is no further clarification of the situation at Lakemoor and Round Lake. Nor is there comparative data on the issue of counting paid leave as time

worked for overtime computation. The record is also completely silent about how the other communities handle part-time officers or whether or not they even employ part-time officers.

The changes sought by the Union through its proposal for Section 8.3 can have a significant impact on the City's budget. A party that seeks such significant changes in the status quo as the Union does with its proposal on overtime and scheduling has a burden to present something more than an argument that it would be reasonable to grant the changes it is proposing. These are issues that are normally negotiated in collective bargaining where they can be handled in a comprehensive fashion with give and take on both sides. Here the arbitrator is confronted with a proposal that he must accept in its entirety or reject. The inadequacy of the record in this case does not permit the arbitrator to accept the Union proposal in its entirety.

The arbitrator will adopt the City proposal on Section 8.3. The arbitrator notes that the comma in the first sentence of the second paragraph should probably be a period. With a comma, the language is confusing.

SECTION 8.7 - COMPENSATORY TIME

Union Offer

The arbitrator is taking this provision out of order because it is closely related to the subject matter of Section 8.3.

Union Offer

The Union final proposal on Section 8.7, Compensatory Time, states as follows:

> Section 8.7. Compensatory Time. An employee shall have the option of accruing up to a maximum of four hundred-eighty (480) hours of compensatory time in lieu of overtime pay. The use of acquired compensatory time is subject to the approval of the Chief of Police. Requests to use compensatory time shall not be unreasonably denied. Accrued compensatory time shall, if practicable, be used within the same fiscal year in which it has been accrued. No more than two hundred forty (240) hours shall be carried over to the next calendar year. Any unused compensatory time that an employee has at time of separation from City employment

(including retirement) shall be paid off at the employee's straight-time hourly rate of pay as of the employee's last day of employment. Whenever an employee has reached the maximum of four hundred eighty (480) hours of compensatory time, he/she shall be paid overtime at the applicable rate specified in this Article for all overtime hours worked.

City Final Offer

The City final offer on Section 8.7, Compensatory Time, is as follows:

> Section 8.7. Compensatory Time. In accordance with the Fair Labor Standards Act, at the City's option, it may pay the covered officer, or accumulate compensatory time hours up to the maximum permitted under the Fair Labor Standards Act (currently four hundred-eighty hours). In the event hours are accumulated as compensatory time the hours and pay the employee at his then current rate. Further, any covered officer may request payment for any accumulated compensatory time, which may be paid at the City's option at the covered officer's then current rate.

The Union Position on Compensatory Time

The Union requests that officers be allowed to choose whether to receive overtime pay or compensatory time for all hours worked in excess of their work schedule. The Union argues that since under both sides's proposals an officer cannot refuse assigned overtime when ordered to do it, the officer must be awarded the right to receive pay in the manner he or she sees fit. Officers, the Union urges, should have some control over the overtime process and requesting that they make the decision on pay is not too much to ask. This is especially important, the Union asserts, because there is a history of denial of requests to use compensatory time.

Further, the Union contends, Chief Wernick's memorandum dated August 29, 2003, on the subject Compensatory Time Pay Outs indicates that the City already has agreed to cash out overtime. Nor, according to the Union, does the evidence suggest that the officers will completely reject payment in compensatory time. There is therefore no basis in the Union's view for the belief that if officers are allowed to choose, the City will end up with increased overtime cost.

The Union argues that the City offer should also be rejected because it contains language that does not make sense. The second sense, according to the Union, is supposed to explain how compensatory time is awarded, accumulated, and recorded, but the sentence itself is nonsensical and will invite grievances regarding its interpretation.

Finally, the Union argues that the practice in the comparable jurisdictions supports its proposal. The Kildeer Salary Survey, the Union asserts, shows that Round Lake, Lakemoor, Fox River Grove, and Spring Grove all pay overtime compensation with pay and compensatory time. Highwood, the Union contends, is the only community that does not.

The City's Position on Compensatory Time

The City asserts that the only differences between its and the Union's proposals on compensatory time are in the maximum amount of compensatory time an individual can carry over from year to year and in the ability of the City to cash out compensatory time at its discretion. Its version should be accepted, the City argues, because it allows the City flexibility in its budget.

Findings and Conclusions on Compensatory Time

There is a discrepancy between the City's table comparing benefits between Highwood and the other comparable jurisdictions (City Group Exhibit 22) and the Kildeer survey (Union Exhibit 13). For the category "Pay or Comp Time" the Kildeer survey shows that the four comparable jurisdictions all give either pay or comp time but that Highwood provides only comp time. The City table of comparison, however, equates Highwood with the other four communities in giving either pay or comp time.

In a sense, however, it is inaccurate to say that Highwood gives pay or comp time to the extent that Highwood retains the power to deny any pay and to insist that all overtime be taken in comp time. To the degree that the Kildeer survey makes a distinction between Highwood and the other jurisdictions it may be on the basis that with the other jurisdictions the discretion lies with the employee rather than the employer whether the comp time will be taken in cash or time off. If that in fact is the case, then the criterion of comparability clearly favors the Union final offer on comp time. However, the record is not clear what "Pay or Comp Time" on the Kildeer survey means.

The Kildeer survey and the City table are both in agreement that two of the jurisdictions, Lakemoor and Round Lake, provide for some payment of overtime at time and a half. Based on his experience in interest arbitration with other parties the arbitrator is aware that many jurisdictions pay cash for all overtime worked or else give the employee the choice whether to take overtime in cash or in time off. On the whole, the criterion of comparability appears to favor the Union proposal.

According to the testimony of the Chief of Police, he attempts to honor all requests for cash in lieu of time off (Tr. 720). In addition, when an officer takes comp time, the City may have to replace that officer with a part-time worker, who will be paid cash, or another police officer on overtime. That officer may also eventually cash out his overtime. Thus the City is already incurring substantial cash costs for overtime payment or for wage payments to part-time officers filling in for full-time officers off work on compensatory time. On the whole, therefore, it does not seem that the financial impact on the City of adoption of the Union's offer will be significant.

The arbitrator will adopt the Union proposal on compensatory time. It should be noted that this does not contradict the arbitrator's finding with regard to Section 8.3. Section 8.3 is concerned with the calculation of overtime but not its payment.

SECTION 8.4 - COURT TIME

Union Final Offer

The Union proposal on Section 8.4, Court Time, is as follows:

> Section 8.4. Court Time. Effective upon ratification of this Agreement by both parties, an employee who is required to make court appearances or remain on-call for court appearances, on behalf of the City during the employee's off-duty hours will receive pay for all hours worked at the rate of one and one-half (1-?) times the employee's regular hourly rate-with a minimum guarantee of two (2) hours.

City Final Offer

The Union offer on Section 8.4, Court Time, provides:

Section 8.4. Court Time. Effective upon ratification of this Agreement by both parties, an employee who is required to make court appearances or remain on-call for court appearances, on behalf of the City during the employee's off-duty hours will receive pay for all hours worked with a minimum guarantee of three hours.

Union Position on Court Time

The Union states that the difference between its and the City's proposal is negligible. "Both proposals," the Union states, "seek to pay the officers the same amount of overtime." The difference between their offers, the Union asserts, "is that the Union proposal seeks to define off-duty court appearances as overtime." According to the Union, since off-duty court appearances are outside the normal work schedule, officers should get paid time and a half for this work. There is no evidence, the Union asserts, that the current practice includes the three hours' court credit toward the overtime calculation. Its proposal in the Union's view simplifies matters by not including court time in the overtime calculation and treating such off-duty appearances as simple overtime. Its proposal is not unreasonable and makes common sense, the Union argues, and therefore should be adopted.

City Position on Court Time

Its proposal should be adopted, the City contends, because Highwood already provides for more than all other comparables by guaranteeing a minimum of three hours' court time as opposed to two hours by the other jurisdictions. The Union's proposal of always requiring payment at time and a half, the City argues, is inappropriate and an undue burden on the taxpayers.

Findings and Conclusions on Court Time

The City correctly points out that its three hour minimum court time payment is higher than all of the other comparables, who pay a minimum of two hours. There is no evidence that any of the other comparable jurisdictions treats court time as guaranteed overtime. The City's offer will be adopted.

SECTION 8.5 - CALL-BACK PAY

Union Final Offer

The Union final offer on Section 8.5, Call-Back Pay, is as follows:

> Section 8.5. Call-Back Pay. A call-back is defined as an official order or assignment of work which does not continuously precede or follow an officer's scheduled working hours and involves the officer returning to work after the officer has worked a shift, or answering a page placed by the Department concerning official business while the officer is off-duty. A call-back shall be compensated at one and one-half (1-?) times an employee's regular straight-time hourly rate of pay for all hours worked on call-back, with a two (2) hour minimum.

City Final Offer

The City proposal provides:

> Section 8.5. Call-Back Pay. A call-back is defined as an official order or assignment of work which does not continuously precede or follow an officer's scheduled working hours and involves the officer returning to work after the officer has worked a shift, or answering a page placed by the Department concerning official business while the officer is off-duty.

Union Position on Call-Back Pay

Highwood, the Union asserts, is the only community among the comparables that does not provide this benefit to its officers. It is fair and reasonable, the Union contends, that an officer should be paid time and a half for work outside the normal work schedule.

City Position on Call-Back Pay

The City opposes a minimum guarantee for call-backs to work and contends that they should be paid at "the then appropriate rate rather than the Union's mandatory payment at time and one half."

Findings and Conclusions on Call-Back Pay

All of the comparable jurisdictions provide a two hour minimum for call-backs. The arbitrator adopts the Union's proposal.

SECTION 8.8 - SHIFT MAXIMUM and TURN-AROUND

Union Final Offer

The Union final offer on Section 8.8, Shift Maximum and Turn-around, is as follows:

> Section 8.8. Shift Maximum and Turn-around. No covered employee shall be scheduled to work without allowing for twelve (12) hours off between the completion of one shift and the start of their next regular shift, nor will they be scheduled to work more than four (4) consecutive days in any six (6) day period.

City Final Offer

The City proposal for Section 8.8, Shift Maximum and Turn-around, states as follows:

> Section 8.8. Shift Maximum and Turn-around. Under normal operating conditions no covered employee shall be required to work more than sixteen (16) consecutive hours including the normal tour of duty and other police-related details. Except the following do not count in the sixteen hour maximum:
>
> A. Voluntary overtime or other agreement to work (such as shift trades);
> B. The Chief or his designee may suspend application of this provision during emergency or exigent circumstances.

Union Position on Shift Maximum and Turn-around

The Union contends that its proposal should be adopted for reasons of safety. It acknowledges that the City proposal represents the status quo. The Union argues that the City has the flexibility of holding officers over their normal 8.5 hour shift due to an emergency even under the Union proposal because

the management rights clause allows the City to suspend operation of the Agreement if a civil emergency occurs. The Union asserts that the City offered no evidence why a maximum of 16 hours is necessary.

City Position on Shift Maximum and Turn-around

It prefers its proposal, the City asserts, because, as Chief Wernick's testimony confirms, an officer can safely work a 16 hour shift. Continuous work of this length has, on occasion, been required, according to the City, in emergency situations which are by their very nature unpredictable. It should be allowed this flexibility, the City contends.

Findings and Conclusions on Shift Maximum and Turn-around

The Union has produced no comparative data supporting its proposal for a mandatory 12 hour hiatus between shifts or for barring more than four consecutive days of work in any six day period. It has presented no evidence of a situation where safety has been compromised by the current scheduling practice. Nor does the Union offer provide for emergencies of a lesser degree than an officially declared civil emergency. The City offer will be adopted.

SECTION 8.10 - MEAL TIMES

Union Final Offer

The Union offer on Section 8.10, Meal Times, states as follows:

> Section 8.10. Meal times. All covered employees will be entitled to a 30 minute, paid meal break during their shift. In addition they will also get two (2) fifteen (15) minute breaks during their regular shift to be used at their discretion. If any of these breaks are interrupted either by management order or request, or to perform obligatory police duties, the affected officer shall be allowed to take the allotted break at some other point during his or her shift.

City Final Offer

> Section 8.10. Meal times. All covered employees will be entitled to a 30 minute, paid meal break during

their shift. There shall be no additional pay if the meal is interrupted because of exigent circumstances.

Union Position on Meal Times

The Union contends that its offer does no more than to preserve the status quo since in practice officers are permitted to take the breaks it seeks to formalize in the contract.

City Position on Meal Times

The City asserts that it prefers its proposal "because officers can and do combine their 'walk-and-talk' time with visiting businesses, using restrooms and having refreshments." It argues that the City version "prevents claims for additional pay if a meal period is interrupted which is the source of much litigation in the wage and hour area for police officers."

Findings and Conclusions on Meal Times

The Union has presented no information regarding the practice with respect to breaks in the comparable jurisdictions. The arbitrator is not aware based on his own experience in interest arbitration proceedings that provision for making up interrupted breaks is common in police contracts. The arbitrator believes that this issue is best left to negotiations between the parties. This is especially true here where the Union has presented no evidence that taking breaks has been a problem for Highwood officers. The arbitrator will adopt the City offer.

SECTION 9.1 - VACATION ELIGIBILITY and ALLOWANCES

Union Final Offer

The Union final offer on Section 9.1, Eligibility and Allowances, with regard to vacations is as follows:

ARTICLE IX - VACATIONS

Section 9.1. Eligibility and Allowances. All employees shall be eligible to use paid vacation after completion of their probationary period. Employees shall start to earn vacation time as of their date of hire. Vacation time shall be earned each pay period in

which the employee is on the active payroll, based on the following schedule:

Length of Continuous Active Service	Days Earned Per Year
1 to 3 years	10 days
3 years to 8 years	15 days
Over 8 years	20 days

Vacation time may be carried over from one year to the next if approved in writing by the City Administrator or designee. All requests for carryover will not be unreasonably denied.

City Final Offer

The City final offer for Section 9.1, Eligibility and Allowances, regarding vacations provides as follows:

ARTICLE IX - VACATIONS

Section 9.1. Eligibility and Allowances. All employees shall be eligible to use paid vacation after completion of one year of service. Employees shall start to earn vacation time as of their date of hire. Vacation time shall be earned each pay period in which the employee is on the active payroll, based on the following schedule:

Length of Continuous Active Service	Days Earned Per Year
1 to 5 years	10 days
5 years to 10 years	12 days
10 years to 15 years	15 days
15 years to 20 years	17 days
Over 20 years	20 days

Vacation time may be carried over from one year to the next if approved in writing by the Chief or his designee. All requests for carryover will not be

unreasonably denied.

Union Position on Vacation Eligibility and Allowances

In an effort to improve the economic package so that it is in line with the economic benefits of the comparables, the Union asserts, it seeks to shorten the time period for accumulating vacation time off. It is not seeking to increase the maximum benefit of 20 days, the Union notes. The status quo which the City seeks to preserve, the Union contends, is insufficient when measured against the comparable communities.

For example, the Union points out, every comparable community allows 20 days of vacation after 10 years, but Highwood would have its officers wait 20 years. The Union notes that because of turnover no one in the bargaining unit would be entitled to more than 15 days of vacation under its proposal for the term of the contract. It contends that its proposal would have no real effect on the City's costs because there are only seven bargaining unit officers and most would receive only two weeks of vacation. The Union contends that the City's vacation allowance schedule contributes to the high turnover of officers in the department.

City Position on Vacation Eligibility and Allowances

The City asserts that its offer is 6.6 years above the average and that the Union's, is 5.4 years below the average. It states that it is interested in encouraging and rewarding employees who stay in the department. In addition, in support of its proposal, the City notes that it is the same as what is provided to all other City employees.

Findings and Conclusions on Vacation Eligibility and Allowances

Many interest arbitrators view their role as an extension of negotiations, as an effort to determine what the parties as reasonable negotiators would or should have agreed to. In this arbitrator's opinion adoption of the Union's offer on vacation allowance would be inconsistent with that role. It is not common in labor negotiations for an employer with a vacation benefit of 20 days of vacation after 20 years and 15 days, after 10 years to agree to improve its benefit in one fell swoop to 20 days after 8 years and 15 days after 3 years. This is especially true where, as here, the demand made of the employer is significantly more generous than similar employers are providing.

The Union proposal seeks to move too far too fast.

As indicated, the vacation benefit in the comparable jurisdictions does not justify acceptance of the Union proposal. The other jurisdictions all provide 20 days of vacation after 10 years, and three of them, 15 days of vacation after 5 years. The remaining comparable community allows 15 days after 7 years. The Union is thus demanding a significantly better vacation allowance than any of the comparable jurisdictions.

The arbitrator agrees that improvement is warranted in the City vacation benefit when compared with what is provided in the comparable jurisdictions. However, since the arbitrator is not empowered to modify the Union proposal on vacation allowance and he finds it inappropriate for the reasons stated, the arbitrator is unable to adopt the Union offer. The City's final offer will be adopted.

SECTION 9.3 - SCHEDULING or PROCEDURE TO REQUEST VACATION TIME

Union Final Offer

The Union proposal for Section 9.3 is as follows:

> Section 9.3. Scheduling. Vacation hours accrued at the end of each pay period are available for use by the covered employee. After satisfactory completion of the probationary period, new officers may schedule vacation accrued during the probationary period.
>
> Vacations shall be scheduled one time per year by shift during November prior to the calendar year for which vacations are being selected. Each officers [sic] will submit a written request for either the officer's full vacation (i.e., one block of consecutive days) or for two or more segments (i.e., two equal blocks of consecutive days). All vacation picks shall be made by seniority. Should an officer opt to split his/her annual vacation into segments, said officer must indicate which segment is his/her "first split" choice. When all full and first split vacation requests have been determined, second split segments will be determined for all officers opting to split their vacation.
>
> It is expressly understood that the final right to

designate vacation periods and the maximum number of employee(s) who may be on vacation at any one time is exclusively reserved by the City in order to insure the orderly performance of the police services provided by the City.

City Final Offer

The City's proposal for Section 9.3 is as follows:

> Section 9.3. Procedure to Request Vacation Time. Employees wishing to schedule vacation time shall file an application in writing requesting said vacation in accordance with General Order 9.8. Such application shall be filed, a reasonable time in advance, but in no event less than ten (10) days in advance of the proposed vacation. The application must be approved/disapproved by the Chief of Police. In scheduling vacation for employees within the department, priority will be given to employees with the greatest length of service.

Union Position on Section 9.3

There is virtually no difference between the intent of the City and the Union proposals, the Union asserts. Its proposal, according to the Union, "is more specific and detailed in its procedure, especially in regard to splitting vacation into segments and how this should fairly be administered amongst all members so that everyone has a fair chance to receive their request." It is also, the Union states, "more clear in how seniority shall control selection." Because of "its detail and clarity," the Union argues, "the Union's language is more reasonable, and does not significantly differ from the City's proposal. Therefore," the Union continues, "it should be accepted."

City Position on Section 9.3

The City argues that its version is preferable "because it allows the City to retain flexibility in vacation scheduling and is currently being used in the Highwood Police Department."

Findings and Conclusions Regarding Section 9.3

It seems to the arbitrator that the City's proposal is more advantageous to the police officers than the Union's. The Union offer provides that "Vacations shall be scheduled one time per year by shift during November prior to the calendar year for which vacations are being selected." Officers who wish to take their vacation in segments must do so in "equal blocks of consecutive days" and by November 1.

According to Chief Wernick's testimony, under the status quo, continued by the City proposal, employees who wish to take a vacation in a segment of less than one week can delay submitting their vacation request (Tr. 728).[13] This would be helpful to officers who, for example, are not able to say in 2004 precisely when they might want to take off three consecutive days in 2005 for a short holiday with a spouse or family. The arbitrator cannot see any clear advantage of the Union proposal. Nor has the Union pointed out any problems that officers have encountered in planning their vacations that the Union offer would solve. The arbitrator will adopt the City proposal on Section 9.3.

HOLIDAYS, PERSONAL DAYS, SICK DAYS

Holidays

Union Final Offer

The Union proposal for Section 10.1, Holiday, is as follows:

> Section 10.1. Holiday. Each covered employee will receive the following holidays off with full pay:
>
> | | |
> |---|---|
> | New Year's Day | Memorial Day |
> | Independence Day | Labor Day |
> | Thanksgiving Day | Thanksgiving Friday |

[13]The Deputy Chief of Police's memo dated 1 December 2003, which is in the record as a Union exhibit, supports the Chief of Police's testimony that requests for vacation leave of three days or less need not be submitted by December 31.

Christmas Eve New Year's Eve
Christmas Day

City Final Offer

The City proposal for Section 10.1, Police Personnel Holiday Provisions, states as follows:

> Section 10.1. Police Personnel Holiday Provisions. Full-time police personnel who are required to work on the following designated holidays:
>
> New years Day
> Memorial Day
> Independence Day
> Labor Day
> Thanksgiving Day (fourth Thursday of November)
> Friday after Thanksgiving
> Christmas Day
>
> will (at the option of the City) receive either equivalent time off, or additional compensation (See 10.3). If equivalent time off is selected by the City, the employees shall request the equivalent time off to be scheduled within the calendar year. The scheduling of such equivalent time off shall be approved/disapproved by the Chief of Police. The procedure for scheduling and taking the equivalent time off shall be established by the Chief of Police.
>
> No equivalent time off or personal days may be accumulated from one calendar year to another unless the employee demonstrates extraordinary need to do so, and a written request to do so is submitted by the employee to the Chief of Police within the calendar year and approved by him. Approval may be denied by the Chief of Police in his sole and absolute discretion. If denied, no compensation shall be paid for the employee's failure to schedule personal days or equivalent time off for holidays during the calendar year.

Union Position on Section 10.1

The Union asserts that the City proposal to remain at seven holidays would make Highwood last in the rankings among the comparable jurisdictions for holiday benefits. Raising the number of holidays to nine, the Union states, "would keep Highwood in the middle of the rankings among the comparables."

The additional language in the City proposal "is extraneous," the Union asserts, "since the majority of the subject matter is also contained in City Section 10.3," which the Union has accepted. Its proposal is much more reasonable, the Union contends, "especially in light of the current wage structure and the rest of the data on comparable economic benefits."

City Position on Section 10.1

The City contends that its proposal is preferable "because they are the holidays currently recognized for all employees by the City." In addition, the City argues, its proposal gives employees more flexibility in that any holiday worked would be banked with the opportunity to take it at a later date. The City contends that holidays, personal days, and sick days should be considered together. When this is done, the City notes, its total of 21 days is second only to Fox River Grove at 23 and superior to Lakemoor and Round Lake at 16, and Spring Grove at 17.

Findings and Conclusions on Section 10.1

The arbitrator's findings and conclusions on Section 10.1 will be set forth below in the discussion of sick leave.

SECTION 10.4 - PERSONAL DAYS

Union Final Offer

The Union final offer on personal days is as follows:

> Section 10.4. Personal Days. Each officer shall be given three (3) personal days per year upon execution of the contract, to be scheduled at the direction of the officer. The officer is to give at least twenty-four (24) hours notice to the Chief of Police before the personal day is to be used. Personal days must be used by December 31 of each year or they will be forfeited.

City Final Offer

The City proposal on personal days states:

> Section 10.4. Personal Days. Full-time sworn

police personnel, shall receive two "personal days". The procedure for scheduling and taking personal days shall be established by the Chief of Police.

Union Position on Personal Days

The Union defends its request to increase personal days from two to three on the basis of "the overall economic benefit package of the comparables . . . ." Its scheduling provision is superior to the City's, the Union contends, because the City's offer permits the Chief of Police in his unfettered discretion to deny an officer's requested personal day off. This, the Union argues, has the potential for significant abuse. The Union envisions a situation where officers "have to fight to use their own benefits" without the ability of reimbursement for unused personal days. Its proposal for personal days, the Union argues, permits this benefit to be used for the purpose for which it was intended: "reasons that occur at short notice necessitating time off."

City Position on Personal Days

Its offer of two days of personal leave is in line with the comparable jurisdictions, the City contends, because no comparable jurisdiction provides employees three personal days. Regarding the Union provision for 24 hours' notice as compared with the present practice of five days' notice, the City argues that this would create many scheduling difficulties.

Findings and Conclusions Regarding Personal Days

The arbitrator's findings and conclusions on personal days will be set forth below in the discussion of sick leave.

SECTION 12.1 - SICK LEAVE

Union Final Offer

The Union proposal on Section 12.1, Sick Leave, states:

Section 12.1. Sick Leave. Each employee shall accrue paid sick leave at the rate of eight and-one-

half (8.5) hours for each full month that an employee is on the active payroll.

Sick leave with pay may be used for:

a. The bona fide illness or disability of the employee (including any pregnancy related disability).

b. An illness in the employees's immediate family that requires the employee's presence. Immediate family for this purpose is defined as spouse, child, step child, parent, or in-law residing in the same residence with the employee.

c. Medical appointments for the employee or the employee's child, but only if the Police Chief or designee has approved the request in writing on a Leave Request Card. If at all possible, medical appointments should be scheduled during non-working hours.

In a case of very serious or prolonged illness or for family leave, an employee who uses all accumulated sick leave shall use all accumulated vacation and holiday leave for sick leave purposes before being removed from full-pay status. The time on leave for a prolonged personal illness may not exceed six months, unless an exception is made by the City Administrator. Upon exhaustion of the above benefits, the employee will have the privilege to apply for disability pension benefits. Covered employees are allowed to accumulate up to two hundred and four (204) hours of sick leave upon which the Employee can then demand that City pay the Employee 50 percent of each sick leave hour accrued beyond two hundred and four. This buyback provision for accumulated sick leave will be based on the employee[']s hourly rate of pay when the hour to be cashed in was earned.

City Final Offer

The City final proposal on Section 12.1, Sick Leave, states:

Section 12.1. Sick Leave

a. Employees covered by this contract will be

credited with one (1) work day of earned sick leave for each completed month of employment (maximum of twelve [12] days per calendar year).

b. Sick leave days may be accumulated, from year to year without a maximum. Provided further, however, that if an employee accumulates more than 24 days of sick leave, the City may, at its option redeem said sick days in excess of 24 days at fifty per cent (50%) of the employee's established hourly rate. Employees shall not otherwise receive compensation for sick leave days, upon separation or otherwise.

c. Sick leave days/hours are to be used solely for legitimate medical requirements due to illness or injury of the employee, and shall not be used as personal days, vacation days, holidays, or otherwise. The Chief of Police and/or the Mayor, or his designee may require a physician's verification as to the necessity of use of sick leave by an employee. Improper use of sick leave in violation of this contract and its intended use shall be grounds for discipline, including separation.

Union Position on Sick Leave

The Union notes that the City sick leave proposal allows sick leave only for the employee's own illness and not an immediate family member. The Union contends that covering immediate family members also, as its proposal does, is well within the objective of a sick leave benefit. Not to allow use for an immediate family member, the Union asserts, is unfair and counterproductive.

Sick leave buy-back is a benefit for the City, the Union argues, because Highwood is small and, when an officer calls in sick, it must scramble to find a replacement officer to patrol the streets. "Sick leave buyback," the Union asserts, "allows officers to refrain from 'use it or lose it' thinking and to come to work." Retaining the control to deny buy-back, the Union contends, as the City proposal does, destroys the incentive to refrain from using accrued sick leave. The Union views the City offer as "shortsighted and counterproductive." It notes that both Fox River Grove and Round Lake offer buy-back.

The Union argues that its proposal to allow an officer

with a serious, prolonged illness to use all accrued time before being put on unpaid leave of absence is reasonable.

City Position on Sick Leave

The City asserts that it prefers its proposal because it provides for accrual of one full day of sick leave each month and allows accumulation of up to 204 hours. It notes that its proposal also contains a buy-back provision. The City contends that "[t]he Union fails to show that the comparable communities have such terms for their employees" and that "the Union attempts to include concepts from the Family Medical Leave Act and illness of others into this section." The City faults the Union for ignoring "the costs involved in their request" and failing to provide an "analysis for the additional costs." The taxpayers of Highwood should not be required to pay for this unknown cost, the City maintains.

Findings and Conclusions on Holidays, Personal Days, and Sick Leave

The number of holidays offered by the City is below that of any of the comparable jurisdictions. Nor is the overall compensation provided by the City so significantly superior to the other jurisdictions as to render unimportant the fact that the City's combined nine holiday and personal days are at least two below the 11-12 offered by three of the four other jurisdictions.[14] Overall compensation, as Section 14(h)(6) of the Act provides, includes "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." For example, the City is not a leader with regard to vacations and medical and hospitalization insurance to name two items of compensation that have been discussed previously. One cannot fairly say that the City's overall compensation package makes up for its below-standard number of combined holidays and personal days.

There is some merit, however, to the City's argument that when sick leave is added to holiday pay and personal days, Highwood stands up rather well in comparison with the other

[14]The Kildeer survey and City Group Exhibit 22 both show the following combined holidays and personal days for the comparable jurisdictions: Fox Rive Grove, 11 (10 + 1); Lakemoor, 11 (9 + 2); Round Lake, 8 (8 + 0); Spring Grove, 12 (8 + 4).

communities. Its combined 21 days is second only to Fox River Grove at 23 and significantly better than the 16 days for Lakemoor and Round Lake and 17 days for Spring Grove.

There is a problem, however, with comparing the sick leave benefit offered by the City with a personal day or a holiday. Sick leave is limited strictly to injury or illness of the employee while an unworked holiday or a personal day can be taken almost any day of the year if reasonable notice is given by the employee. The Union proposal on sick leave, however, makes such a comparison much more appropriate. By broadening the sick leave benefit to include illness (that requires the employee's presence) of an immediate family member who lives in the same residence the sick leave benefit more nearly approximates a personal day benefit.

The arbitrator will accept the City's argument to combine the three leave benefits in making the comparison, but only with the coverage provided in the Union proposal. The arbitrator is aware that many labor contracts for police officers include in the coverage of the sick leave benefit close family members who live in the same household. The scope of the coverage in the Union proposal therefore cannot be considered unusual.

The buy-back provision in the Union offer on sick leave is also found in the City proposal, except that the City provision is largely illusory in the sense that it is entirely in the City's discretion whether to actually buy back the excess hours. In both proposals the employee is eligible for his accrued sick leave to be bought back by the City when it exceeds 24 days or 204 hours. The Union correctly points out that to the extent that the buy-back feature is optional with the City it tends to lose its efficacy as an inducement for employees to avoid making use of sick leave.

The arbitrator finds reasonable the provision requiring an employee to make use of accumulated vacation and holiday leave to cover a serious or prolonged illness or for family leave after the employee's sick leave is exhausted. There is nothing in the contract of which the arbitrator is aware that prohibits the use of accumulated vacation or holiday leave for either of these purposes.

The arbitrator specifically notes that the language that states that "the employee will have the privilege to apply for disability pension benefits" in no way implies that the employee is or is not eligible for or entitled to disability or pension benefits. That determination is not within the scope of this proceeding and is to be made in the normal course by the

appropriate person or persons who make such determinations.

The arbitrator has considered the City's argument about costs. Since the City no doubt presently buys back excess sick leave accumulation in many if not in all cases, the mandatory buy-back provision should not increase costs to the City by much if at all. Nor should the expansion of the sick leave benefit to cover immediate family members who live in the same residence impact the budget to any significant degree.

The Union's final offer on Section 12.1, Sick Leave, will be adopted. The City's final offers on Section 10.1, Police Personnel Holiday Provisions, and Section 10.4, Personal Days, will be adopted.

SECTION 10.2 - BUYBACK of UNUSED HOLIDAY HOURS

Union Final Offer

The Union's final offer on Section 10.2, Buyback of Unused Holiday Hours, states as follows:

> Section 10.2. Buyback of Unused Holiday Hours. Up to seventy-six hours of unused holiday hours from the previous calendar year may be paid, at an employee's request, prior to November 1 of the following year at the straight-time hourly rate at which the employee originally earned the holiday hours. Any unused holiday hours from the previous calendar year that are not converted into pay as provided herein or scheduled as time off during the following calendar year shall be forfeited.

City Final Offer

The City proposal on Section 10.2, Buyback Holiday Pay, reads:

> Section 10.2. Buyback Holiday Pay. Officers scheduled to work on a holiday shall do so. Holiday pay shall be paid as set forth above. Further provided that any employee taking an unexcused absence on the day before or after a holiday shall not be paid for that holiday. An unexcused absence shall include, but not be limited to, the following: AWOL, any vacation day or personal day that has not been previously approved. The Chief of Police may, at his discretion, require an officer using paid sick leave on the day

> before or after a holiday to provide written proof of illness, if the officer has used paid sick leave in conjunction with a holiday previously within the term of this Agreement. The Chief of Police must notify an affected officer that he/she is to provide said notice prior to the use of the sick day.

Findings and Conclusions on Section 10.2

As both the Union and the City have recognized in their briefs, they have addressed different issues in their respective versions of Section 10.2. The status quo at the City as reflected in Ordinance No. 2003-0-36, City Exhibit No. 1, with regard to holidays worked is that officers receive payment for the holiday or equivalent time off at the option of the City. The Union apparently agrees to this arrangement by accepting the City's final proposal for Section 10.3, Scheduling, which states:

> Section 10.3. Scheduling. An officer who is required to work on the above Holidays at the Chief's discretion will receive either two (2) times the regular rate of pay for each hour worked or a floating holiday to be scheduled on a day of their choice with approval by the Chief.

As explained in its brief, the purpose of Section 10.2, as proposed by the Union, is to cover the situation where if a "floating holiday is not approved or used, that the officer be paid for the accrual of such holiday benefit." Citing transcript pages 103 and 729, the Union asserts that "[t]here is evidence from both parties that this is the status quo." However, the Union witness was unsure of how holidays are handled. Chief Wernick for the City testified that the holidays can be banked for the next year, and, if an officer leaves the City's employ before using all of the banked holidays, the officer is paid at the time of leaving for the unused holidays.

There is no evidence that the City has ever followed the procedure proposed by the Union in its Section 10.2. Nor is there any evidence that the present arrangement has prevented any employee from taking a floating holiday when he or she wanted it. Officer Sipic testified that he personally has never lost a holiday and that he is unaware of anyone who has lost one (Tr. 580). The Union's proposed Section 10.2 will not be adopted.

The Union correctly points out that the City's Section 10.2 is misnamed as "Buyback Holiday Pay." The provision, however, was present in the original document used by the parties

as the basis of their negotiations and which was introduced into evidence as City Exhibit 16. It had the same section number in that document, Section 10.2, but was called "Entitlement to Holiday Pay," a more appropriate name.

The Union, in its final offer, has expressly rejected the City proposal on "Entitlement to Holiday Pay." The City proposal represents a change in the status quo. The City presented no evidence of abuse of the holiday provision by Highwood officers. No witness testified why it was believed such a provision was necessary. In this arbitrator's opinion it is not a common provision found in police labor contracts. The arbitrator will not adopt the City offer that was originally called "Entitlement to Holiday Pay."

SECTION 12.2 - NOTIFICATION of SICK LEAVE USE

Union Final Offer

The Union offer on Section 12.2, Notification of Sick Leave Use, states:

> Section 12.2. Notification of Sick Leave Use. In the event an employee is unable to work due to illness, the employee must inform his/her supervisor prior to the start of the scheduled work day. Failure to inform the supervisor each day of absence, or agreed intervals in the case of an extended illness, will result in loss of pay. Employees will comply with such reporting rules as may be established by the Police Chief.

City Final Offer

The City proposal on Section 12.2, Notification of Sick Leave Use, provides:

> Section 12.2. Notification of Sick Leave Use. In the event an employee is unable to work due to illness, the employee must inform his/her supervisor at least two (2) hours prior to the start of the scheduled work day. Failure to inform the supervisor each day of absence, or agreed intervals in the case of an extended illness, will result in loss of pay and may result in discipline.

Union Position on Notification of Sick Leave Use

The Union challenges the two hour minimum notice requirement for taking off work due to illness. It asserts that no evidence was presented showing why a two hour minimum is necessary or that the comparable jurisdictions have a similar requirement. It acknowledges that the status quo provides for a two hour notice requirement. It notes, however, that Departmental General Order 9.4 provides that "[s]upervisory personnel reporting sick for duty will report . . . at least fifteen minutes prior to the beginning of their tour of duty." No rational was offered, the Union asserts, why patrol officers are treated differently. "The Union's offer is more reasonable," the Union argues, "since it seeks to adopt the status quo offered to supervisory personnel by submitting flexible, open language which still leaves that authority with the Chief to create the reporting rules."

City Position on Notification of Sick Leave Use

The City contends that its proposal is preferable "because it allows time for the City to find another employee to take the shift of the officer" reporting off and thereby prevent an uncovered shift.

Findings and Conclusions on Notification of Sick Leave Use

The two hour notification requirement for reporting off ill is a common requirement in many collective bargaining agreements. It is reasonable to have such a requirement because it often takes time to find a replacement for an absent employee. In addition, an officer being asked to stay over to cover for an absent colleague is entitled to sufficient notice to change plans because of having to work later. This is also true of an officer being called at home to come in early or on a day off.

The Union asserts that no rationale was offered why patrol officers are treated differently from supervisors with regard to notice of absence. Since it is the Union that is making the argument, it would have been appropriate for the Union, during cross-examination, to ask Chief Wernick, the author of General Order 9.4, why he made different notification rules for patrol officers and for supervisors. No such question was asked.

The City offer on Section 12.2 will be adopted.

SECTION 12.4 - CONVERSION of UNUSED SICK LEAVE at RETIREMENT

Union Final Offer

The Union proposal on Section 12.4 is as follows:

> Section 12.4. Conversion of Unused Sick Leave at Retirement. Upon retirement or resignation, the employee will be entitled to cash in any unused accumulated sick time and receive 50 percent of its value. The value of accumulated sick time is to be calculated by multiplying the total number of hours accumulated by the officer's base rate of pay at resignation or retirement.

City Final Offer

The City has no proposal regarding the conversion of unused sick leave at retirement. It opposes the Union proposal.

Union Position on Conversion of Unused Sick Leave at Retirement

The Union asserts that this proposal merely repeats its proposal on sick leave buy-back. The Union deems it inconsistent for the City to have a buy-back program for accumulated sick leave above 24 days but to refuse to pay anything for unused sick leave at the time of separation. The City's position, the Union argues, negates all incentive to accumulate sick leave, to the detriment of the City. Its proposal, the Union contends, "closely resembles the status quo" and therefore should be adopted.

City Position on Conversion of Unused Sick Leave at Retirement

The City argues that "[t]he public has been upset over the last several years about the perceived abuses in the state government system caused by these buyback of sick time provisions at retirement." According to the City, "Many public bodies have eliminated or greatly curtailed this type of benefit in light of the public's sentiments." Its proposal in Section 12.1 b to buy back all but 24 days, the City asserts, "provides the appropriate benefits to the officers without over burdening the taxpayers."

Findings and Conclusions on Conversion of Unused Sick Leave at

Retirement

The provision for buy-out of sick leave on retirement or resignation is a provision that may have no applicability during the term of this, the parties' first, Agreement, given the relatively short-term employment of the seven officers on the present force. All but one were hired in 2002, and the latter, in 2000. Nor is the record at all clear what the situation is at the comparable jurisdictions.[15] Buy-back provisions on retirement or separation take various forms when they are allowed. The amount of money involved can also be significant. The arbitrator is of the opinion that this is a benefit that should be negotiated between the parties. The proposal will not be adopted.

SECTION 13.2 - FUNERAL or BEREAVEMENT LEAVE

Union Final Offer

The Union final offer on Section 13.2, Funeral Leave, states as follows:

> Section 13.2. Funeral Leave. In the event of a death of a member of the immediate family of an employee or his/her spouse, the employee will be granted up to three (3) days off with pay per funeral. For this purpose, immediate family consists of the employee's/spouse's mother, father, sister, brother,

[15]Regarding its proposal for Section 12.1, the Union states in its brief that both Fox River Grove and Round Lake offer buy-back. The brief asserts that Fox River Grove pays 50% in cash after accrual of 60 days. The Union has no information about Round Lake. It is not known whether Fox River Grove pays any money for unused sick leave at time of retirement or separation. Nor is there any information on this question for Round Lake. Apparently the other two comparable jurisdictions have no buy-back provision of any kind.

child, grandchild, grandparents, stepmother, stepfather, stepsister, stepbrother and stepchild.

City Final Offer

Section 13.2. Bereavement Leave.

a. Full-time employees shall be permitted bereavement leave of three work days off, without loss of pay and without deduction from any other leave benefit (i.e. three days time off are allowed per event) in the event of a death in the employee's immediate family.

b. "Immediate family" under this section is defined as the employee's spouse, child, parent, brother, sister.

c. If more than three calendar days of bereavement leave are needed, with the approval of the Mayor, or his designee, additional bereavement leave may be granted. These additional bereavement days shall be deducted from compensatory time off, accrued leave, sick, vacation, or leave of absence.

Union Position on Section 13.2

The Union contends that the City is unreasonable in refusing to allow funeral leave for a grandparent, grandchild, stepparent, stepbrother, stepsister, or stepchild. Many families, the Union asserts, include extended families in their own household. The Union acknowledges that it has no evidence of the practice in comparable jurisdictions. Nevertheless, the Union asserts, its proposal is fair and should be adopted.

City Position on Section 13.2

Its version is preferable, the City contends, because "it provides the same benefits to all of its employees and allows for additional days off, if needed." The City objects to expanding the coverage without "showing that the comparable communities provide the additional death coverage." For these reasons, the City argues, its proposal should be accepted.

Findings and Conclusions on Section 13.2

The arbitrator agrees that one can make a strong argument that it is unreasonable not to allow funeral leave for a grandparent, grandchild, stepfather, stepmother, stepbrother, stepsister, or stepchild. That is also probably true of a father-in-law and a mother-in-law. It is not necessarily unreasonable, however, not to allow up to three days of paid leave to attend the funeral of a spouse's grandparent or a spouse's stepbrother or a spouse's stepsister.[16] The Union seeks the widest possible coverage in one step to replace the current coverage, which is extremely narrow. However, the Union has provided no comparative data to support its request. The fact that there is no collective bargaining agreement in those municipalities does not mean that they do not have a funeral leave policy for their employees.

The Union is asking the City to provide a substantially more generous funeral leave provision for police officers than is available to all other City employees, but it has provided no information of the prevailing practice in the similar jurisdictions in support of its request.

Where a party seeks a change in the status quo but is not willing to progress by incremental steps, seeking instead the greatest possible advance in a single move, that party must be prepared to make a persuasive record in support of its position. Based on the record in this proceeding the arbitrator will not adopt the very broad Union proposal. The City proposal, which continues the status quo and is applicable to all other City employees, will be adopted.

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[16]The arbitrator is aware of collective bargaining agreements that do not include these relations. He is also aware of other agreements that do include them. One cannot say that one approach is necessarily more reasonable than the other. In such a situation it is important for the party that wishes to change the status quo to show that the statutory criteria favor a particular approach.

SECTION 15.2 - MANDATORY FIELD TRAINING OFFICER TERM

Union Final Offer

The Union has no offer on this provision. It opposes the City proposal.

City Final Offer

The City final offer on Section 15.2, Mandatory Field Training Officer Compensation, provides:

> Section 15.2. Mandatory FTO Term. The Field Training Officer position is filled by the Chief of Police in his sole discretion, however, the officer may decline the appointment. The selection is not a grievable issue under Article VI of this contract.
>
> Every officer who is appointed by the Chief of Police to a Field Training Officer position must remain in that position and perform the necessary duties for a minimum of two (2) years after appointment. A written request to no longer act as a Field Training Officer must be submitted to the Chief of Police at least six (6) months in advance and will not be acted on in any event until a replacement is fully trained and qualified to fill the position. The Chief of Police may relieve a Field Training Officer of the position at anytime and without any notice.

Union Position on Mandatory FTO Term

The Union notes that the City proposal seeks to change the status quo since there is currently no mandatory term of service as FTO. According to the Union, FTO is a volunteer position, and an incumbent can ask to be removed from the position at any time. The Union views the City proposal as unfair and counterproductive. It states that if the proposal were adopted, it is likely that officers would not volunteer for the position knowing that they may have to serve for more than two years in a situation where the department does not have a replacement. "The status quo," the Union asserts, "strikes a fair balance between encouraging FTO volunteers and allowing an officer to step out if the position is not suitable for him or her."

City Position on Mandatory FTO Term

Chief Wernick testified that because the City spends time and money in training a Field Training Officer ("FTO") it has proposed a requirement that the FTO remain in the position for a minimum of two years. In addition, Chief Wernick stated, he wants six months' written notice from an FTO who desires to get out of the program. Even then the Chief of Police would not relieve the FTO of his responsibilities until a replacement was fully trained, even though this meant retaining the FTO in the position for more than two years. This length of time is necessary, according to Chief Wernick, so that he can get another officer into the field training program who will be available to train new officers. It would be very difficult for the department, Chief Wernick testified, to have a new recruit come out of the training academy and not have somebody available to begin the field training program with the new officer.

Findings and Conclusions on Mandatory FTO Term

The City proposal is not one that commends itself as a matter of common sense as so obviously correct as to justify ignoring the normal rule that the party who wants to change the status quo should have the burden of showing that the statutory criteria support the change. One drawback of the City proposal is that the two year minimum commitment may discourage otherwise qualified officers, and even perhaps the best qualified persons, from volunteering for the position because of the unwillingness to commit themselves to an undertaking never previously attempted and that they are uncertain that they will enjoy. These same people might well volunteer for the assignment and like it if they were permitted to give it a fair chance without having to make a binding commitment from the beginning.

The arbitrator believes that a more effective way of meeting the City's needs without subjecting its employees to an involuntary long-term assignment would be to carefully screen all applicants, explaining the importance to the department of a two year commitment, without making the requirement mandatory. With a good interview process, in which the FTO program is explained and the aptitudes of the applicants are carefully evaluated, the City should be able to get good people to volunteer for the FTO position who will be willing to give a long-term nonbinding commitment so long as they know that if the job turns out to be different from what they expected, or some unexpected exigency arises that makes their continuation in the program difficult, they will be able to get out.

If the City management would think about it, they would

realize that what they are proposing is really inconsistent with Chief Wernick's comment, "I wouldn't want to force somebody to be a field training officer because what result or what effect would that have on a new recruit to have somebody training them that didn't want to do it? I don't think it would be very positive." (Tr. 738). What is the difference if the individual is being forced to take the job against his wishes or if he is being forced to remain in the position longer than he wants to stay?

In any event the City has presented no evidence either that any of the comparable jurisdictions has a mandatory FTO term or that a binding commitment to remain in the position is required of police officers by police departments generally. The City proposal on mandatory FTO term will not be adopted.

SECTION 16.3 - REIMBURSEMENT for EXPENSES

Union Final Offer

The Union proposal for Section 16.3, Reimbursement for Expenses, is as follows:

> Section 16.3. Reimbursement for Expenses. When an employee has to utilize his/her personal vehicle on City business or training, the Employee shall be reimbursed at the IRS standard mileage rate for the shorter of the distance between the employee's residence and the destination or between the police station and the destination. Employees shall receive twenty dollars ($20.00) for meal expenses for single day training. When employees are required to be out of town overnight for training or City business, they shall be reimbursed for all reasonable meal and lodging expenses that have been approved by the City in advance.
>
> In order for an employee to be eligible for the above reimbursements, including meals, mileage and lodging, the employee shall provide the City with written receipts for meals and lodging and an expense report for the mileage.
>
> Furthermore, officers assigned to the detective unit or to a position which demands that officers dress in plain-clothes, the Employer shall pay such officer upon the beginning of his assignment, two hundred dollars ($200) for the purchase of clothing, and such payment shall be made each year thereafter for as long

as such officer remains in such position with a plain clothes requirement.

City Final Offer

The City proposal for Section 16.3, Reimbursement for Expenses, states:

> Section 16.3. Reimbursement for Expenses. When an employee has to utilize his/her personal vehicle on City business or training, the Employee shall be reimbursed in accordance with City policy. Employees shall receive meal expenses for single day training in accordance with City policy. When employees are required to be out of town overnight for training or City business, they shall be reimbursed for all reasonable meal and lodging expenses that have been approved by the City in advance.
>
> In order for an employee to be eligible for the above reimbursements, including meals, mileage and lodging, the employee shall provide the City with written receipts for meals and lodging and an expense report for the mileage.

Union Position on Reimbursement for Expenses

What separates its offer and the City's in Section 16.3, the Union asserts, is the Union's request of an annual clothing allowance of $200 for plainclothes officers and $20 a day for meals for officers who are required to attend day-long training. The external comparables, the Union states, show two towns that pay a daily per diem and two towns that do not. Fox River Grove and Spring Grove, according to the Union, pay $40 and $50 per day respectively while it is seeking $20. The Union asserts that no comparable information exists in regard to plainclothes uniform allowance. "Department officers should not have to pay for their own meals while on Department training," the Union argues, "nor should they have to buy [their] own uniforms when assigned to a plainclothes detail."

City Position on Reimbursement for Expenses

The City takes the position that "training days are the same as tour of duty days and the City does not reimburse its officers for lunches or dinners at those times . . . ." The City

notes Chief Wernick's testimony that the comparable municipalities do not pay a meal expense or per diem allowance for training days. Chief Wernick also testified that he never heard of any department in Lake County or anywhere else that paid a meal allowance for a training day.

Findings and Conclusions on Reimbursement for Expenses

The Union seems to be mistaken when, in support of its request of $20 reimbursement of meal expenses for single day training, it asserts that "[t]he external comparables show two towns that pay a daily per diem," namely, Fox River Grove, $40, and Spring Grove, $50. At page 16 of the 2003 Kildeer survey the respective $40 and $50 figures for Fox River Grove and Spring Grove are found in the column headed "Per Diem for Out of Town Travel." There is no evidence in the record that any of the comparable communities pays a meal allowance for training that does not involve out of town travel. Chief Wernick, as noted, testified that he never heard of any department paying that benefit.

On the other hand, the City's position on reimbursement for meals for training days is a complete puzzle to the arbitrator. The City's own proposal includes the following sentence: "Employees shall receive meal expenses for single day training in accordance with City policy." In light of that provision, what does the City mean when it states in its brief that "training days are the same as tour of duty days and the City does not reimburse its officers for lunches or dinners at those times so reimbursement for training days would not be appropriate."?

What is determinative of the arbitrator's decision in this case is the request for a $200 clothing allowance for plainclothes officers. The Union acknowledges that it has presented no comparative data to justify this payment. It argues, however, that "since there is only one detective in the current unit, the Union's proposal would only cost the City $200.00 per year."

The Union proposal, as worded, however, does not apply only to detectives. The payment is required to officers assigned to the detective unit "or to a position which demands that officers dress in plain-clothes. . . ." From General Order 9.5, page 15, Section III, PLAINCLOTHES STANDARDS, it appears that one need not necessarily be a detective to get a plainclothes assignment. Thus the General Order lists "undercover work, gang crimes units, narcotic units" as typical assignments requiring

civilian dress. It is not clear that only a detective can receive such an assignment.

The Union should have produced comparative data supporting its request for a clothing allowance for detectives or anyone else who works in plain clothes. See, for example, City of Renton, 7l LA 271 (Carlton J. Snow, Chairman, 1978), an interest arbitration case involving police officers. There the union relied on logic or reasonableness in support of its proposal for a particular monetary benefit. In denying the request the arbitrator stated (71 LA at 277):

> . . . Arguably, logic supports such a differential for patrol officers, but the arbitration panel has a statutory duty to look at the way "logic" has manifested itself in the collective bargaining experience of comparable cities. . . .

Reimbursement for expenses is an economic issue. The Union has not shown that the statutory criteria support the award of a clothing allowance for officers who work in plain clothes, a benefit not currently available to the bargaining unit. The arbitrator will adopt the City proposal on Section 16.3.

SECTION 17.5 - TRAINING REIMBURSEMENT

Union Final Offer

The Union final offer on Section 17.5, Training Reimbursement, is as follows:

> Section 17.5. Training Reimbursement. If an employee leave the employment of the Village for reasons other than a disability pension within the first two years of beginning employment with the Village, then the employee shall reimburse the Village for the full cost of training. All uniforms and equipment issued are to be returned to the Village. The employee's obligation to reimburse the Village will begin upon enrollment in the course or training program and the employee will be deemed to have agreed to such reimbursement and to have such reimbursement withheld from his or her final paycheck. The Union shall not be liable for any costs associated with collecting the reimbursement from the employee. The employee shall reimburse the Village 100% of such cost if the employee leave the Village within one year from his or her start date. The employee will reimburse the Village 50% of

> such cost if the employee leave[s] the Village after one year of employment but less than two years from the date of hire. After two years, the employee shall not be required to reimburse the Village for any training expense. This section shall only apply to an employee hired after January 1, 2004.

City Final Offer

The City calls its proposal for Section 17.5 "Payback of Training Expenses," which provides as follows:

> Section 17.5. Payback of Training Expenses. The City has the right in its sole discretion to require new police officers to execute a written agreement regarding pay back of expenses upon early departure from department.
>
> The union acknowledges that the City has adopted a requirement that new public safety officers (Police and firefighters) execute a payback agreement if they leave early and that the City has the discretion to require it and modify the payback provisions. The union does to have the ability to contest this policy and to the extent an entity does find the union has such ability the union hereby waives its ability to contest.

Union Position on Section 17.5

The Union views the City proposal as too broad and objects to the City's attempt to remove it from any say on the question. The Union argues that its proposal is a compromise that benefits both sides. The City proposal in the Union's view will have the effect of driving away applicants by saddling them with huge costs if they leave the department within three years.

The Union asserts that it "recognizes that officers cannot use the City as a training ground and then leave." Nevertheless the Union finds a pay-back obligation extending for three years "too severe." "Officers," the Union declares, "should not be held from accepting better opportunities, especially if the City is unwilling to match its comparables in economic benefits." The Union deems its offer a "middle ground in providing protection for the City, and allowing officers to better themselves and their families, if a more lucrative opportunity presents itself." The Union notes that, according to the testimony, some of the training costs to the City are offset

by State reimbursement amounting to more than $400 per week over a six week period. The Union argues that its offer is fair and that it should be accepted.

City Position on Section 17.5

The City asserts that it had a reimbursement of training expenses policy for new police hires before the Union represented Highwood employees. It requires new officers to sign the reimbursement agreement, the City states, prior to their taking the police officers oath of office. Notice of this requirement is given when the position is advertised, the City notes, and appears on the application form. "Thus," the City declares, "a police candidate executes the reimbursement for training agreement with prior knowledge of it and before he actually becomes an employee." In the City's view the Union has no legal standing to intrude in this matter since it involves a transaction between the City and an individual who is not yet represented by the Union.

The City explains that it instituted the reimbursement policy because it lost many new recruits who left the force at the time of, or shortly after, completion of training. Highwood, the City points out, was therefore paying for the training of police recruits so that other municipalities could enjoy the fruits of the training. The pay-back agreement, it asserts, "has eliminated this needless loss." It proposal, the City argues, is in the best interests of the City and its police department and should be accepted by the arbitrator.

Findings and Conclusions Regarding Reimbursement of Training Costs

The arbitrator agrees with the fairness of a pay-back requirement. The City should not be put in the position of financing the training of police officers so that they can go to work for another municipality. The arbitrator believes, however, that the City has overreached in the language it has proposed. Since the parties are in agreement that Section 17.5 is an economic issue in dispute, the arbitrator is left with no reasonable alternative but to accept the Union provision, which is reasonable.

First it should be noted that the arbitrator does not agree with the City's argument that because the reimbursement agreement is signed by a candidate or an applicant before beginning employment the Union has no legal standing to "intrude

into [the] area." The reimbursement agreement may be signed before an individual begins employment but the effects of the agreement carry over into the period of employment and affect terms and conditions of employment.

Thus one of the terms and conditions of employment for a new employee is that the City will provide academy training at its expense to the employee. Requiring the employee to pay back training expenses is no different in concept than requiring the employee to pay back wages. The employee is being required to give back something he received by virtue of being an employee. The Union as the representative of employees has a real interest in such matters. The arbitrator therefore rejects the City's argument that the Union has no legal right to "intrude" in this matter.

Where the City has overreached is in failing to put any limitations on what it may require of employees in terms of pay-back and requiring the Union to agree that it "does not have the ability to contest this policy . . . ." The City is asking the Union to give it carte blanche with regards to reimbursement, and that is not a reasonable request. There is nothing, for example, to prevent the City from deciding to increase the period that an employee must work before he or she is relieved of the pay-back obligation to four years. This plainly is possible because of the language that states that "the City has the discretion to . . . modify the payback provisions."

Even the existing contract that employees are required to sign as a condition of being hired contains at least one provision of questionable legality. Section Four (B)(1) states that "Trainee shall reimburse the City for its unascertained Hiring Costs in the sum of Seven Thousand Five Hundred Dollars, as specified in Section Two above. . . ." The provision of questionable legality is found in the next paragraph, Section Four (B)(2):

> (2) However, if Trainee leaves his employ as a police officer with the City and gives less than fourteen (14) days advance notice in writing to the City, such notice shall be deemed Short Notice. In that event, the parties agree that the unascertained Hiring Costs reimbursable hereunder shall be in the sum of Fifteen Thousand Dollars ($15,000.00), rather than the sum specified in subsection 4(B)(1) above.

In the arbitrator's opinion a strong argument can be made that the foregoing clause crosses the line of what is permissible to contracting parties in bargaining over their remedial rights in

the event of a breach of contract.

As noted in Farnsworth, Contracts (1982), ?12.18 Liquidated Damages, Penalties, and Other Agreed Remedies, p. 895, "The most important restriction [on the parties' right to bargain over remedy for breach of the contract] is the one denying them the power to stipulate in their contract a sum of money payable as damages that is so large as to be characterized as a 'penalty.'" It is difficult to perceive how the City's "unascertained Hiring Costs" for recruitment, testing, etc. with respect to a newly hired police officer will be doubled if the officer quits with less than 14 days' notice. It is a nasty thing for an officer to leave without sufficient notice, but that is not a reason for including a provision that amounts to a penalty in a reimbursement agreement.

The current agreement also is objectionable because it does not place a figure on what the "actual costs" and the "training costs" are that the employee is required to pay back in addition to the unascertained hiring costs. Section 4 (B)(4)(1), in addition to requiring reimbursement of $7,500 for unascertained hiring costs, states, "Trainee shall also reimburse the City for its ascertainable Hiring Costs, as well as its Training Costs, in connection with Trainee."

The only definition of "ascertainable Hiring Costs" is found in Section Two of the individual agreement in the following sentence, "Such sum [$7,500], together with all other actual costs incurred by the City to recruit, test, select, examine, qualify, and hire Trainee (*i.e.* medical exam, psychological exam, polygraph, etc.) which costs are capable of being specifically ascertained, may hereafter, for purposes of this Agreement, be called 'Hiring Costs'."

What does the "etc." represent? The reimbursement agreement is clueless. Even more of a puzzle is the meaning of "Training Costs." For example, does it include the employee's salary for the six weeks he attended the training academy? An employee is entitled to know with reasonable certainly what financial burden he is undertaking in signing a reimbursement agreement. The agreement in current use, City Exhibit 13, fails to provide that information.

The Union proposal may not be the optimum language the arbitrator would select if asked to draft a fair and reasonable reimbursement agreement in the first instance. However, it is a reasonable provision that does not contain the objections noted in the City's proposal and accompanying Exhibit 13. The

arbitrator will adopt the Union final offer on Section 17.5.

SECTION 17.7 - FITNESS FOR DUTY and OTHER TESTING

Union Final Offer

The Union objects to the City proposal for Section 17.7 and has no proposal of its own on the subject.

City Final Offer

> Section 17.7. Fitness for Duty and Other Testing. The Fire and Police Commission and the City reserve the right to administer a "Fitness for Duty" test and other appropriate testing for duty and for promotion.

Union Position on Section 17.7

The Union notes that currently there are no fitness for duty requirements. Nor, the Union points out, does the City offer propose such requirements. The Union has the right to bargain over the subject, the Union contends, and is not required to permit the Board to administer unilaterally whatever fitness for duty testing it decides. The status quo should be adopted, the Union argues, and the City's proposal rejected.

City Position on Section 17.7

The City asserts that it prefers its proposal because it makes clear that fitness for duty testing is within the purview of the Fire and Police Commission and the City. The City notes Chief Wernick's testimony that he would send an officer for an examination if he thought that the officer had some problem that required a fitness for duty examination. Therefore, the City argues, its "proposal merely puts the status quo in writing and therefore should be accepted."

Findings and Conclusions on Section 17.7

From the respective positions of the parties it is apparent that they have a difference of opinion as to what unilateral rights the City and the Fire and Police Commission have with regard to testing for duty and promotion. In the absence of a specific proposal for testing with regard either to duty or promotion (as opposed to a proposal reserving the right

to administer a test in the indefinite future) the arbitrator is of the opinion that it would be best to leave this subject for future negotiation. The City proposal for Section 17.7 will not be adopted.

SECTION 18.4 - PURGE OF PERSONNEL FILES

Union Final Offer

The Union proposal on Section 18.4, Purge of Personnel Files, states as follows:

> Section 18.4. Purge of Personnel Files. Any files, maintained by the Employer containing disciplinary material and/or information relating to an employee covered by this agreement, shall be destroyed three (3) years after the date of the incident or the date upon which the violation is discovered, whichever is longer, unless the investigation relates to a matter which has been subject to either civil or criminal court litigation prior to the expiration of the three year period. In such instances, files normally will be destroyed three years after the date of the final court adjudication, unless a pattern of sustained infractions exists. Any record of summary punishment may be used for a period of time not to exceed two years and shall thereafter not be used to support or as evidence of adverse employment action.

City Final Offer

The City final offer on purging of personnel files provides:

> Section 18.4. Purge of Personnel Files. Any documents maintained by the Employer containing disciplinary material and/or information relating to an employee covered by this Agreement, shall be handled as follows:
>
> A. Memos regarding oral reprimands will be removed from the employee's personnel file after six (6) months from date of issuance;
> B. Written reprimands will be removed from the employee's personnel file after twelve (12) months from date of issuance;
> C. Any notice of suspension will be permanently maintained in the employee's personnel file.

As to items A. and B. above, such documents, when removed from the employee's personnel file, shall be retained in a separate file, to be used by the City, solely for:

A. Evaluation of probationary officers;
B. Production pursuant to subpoena, discovery, or production in either civil or criminal court litigation, or other applicable administrative proceedings.

Further, in order to implement the tenets of progressive discipline (i.e., a pattern of sustained or repeated infractions), any records of discipline and/or summary punishment (other than suspension, for which there shall be no limitation) may be retained and used for a period of time not to exceed seven (7) years, and shall thereafter not be used to support, or as evidence of adverse employment action by the City. All records will be forwarded to the Chief of Police for disposition.

Union Position on Purging Disciplinary Documents

The Union argues that by requiring the elapse of seven years to purge any discipline the City has basically canceled out the offer to purge. Its own proposal, the Union asserts, is a compromise. A three year waiting period except for situations resulting in civil or criminal litigation, the Union contends, gives the City the needed protection. This, the Union states, is balanced by a two year use requirement to protect the officer from adverse employment action based on old violations. The two year use requirement does not mean that the City cannot seek to impose serious discipline against the officer, the Union asserts, since the progressive discipline language gives it the ability to do so. The only limitation on the City, the Union explains, is that the City would be prohibited from using incidents more than two years old to bolster its case for a lengthy suspension or discharge. Its offer, the Union contends, gives protection to the officers while permitting the City to retain power to implement serious discipline. The City officer, by contrast, the Union asserts, gives officers no protection and the City complete power to use whatever it wants against the officer even if it happened seven years ago. This, the Union contends, is not reasonable.

City Position on Purging Disciplinary Documents

It is important to have a record of prior discipline, the City contends, in order properly to administer discipline. "Furthermore," the City asserts, "purging of governmental records has had a negative connotation since at least Watergate." The City argues that it is necessary to retain personnel documents even if they are removed from the officer's personnel file in the event of litigation against the City concerning the employee. The City sees the Union proposal as an "intrusion on the prerogative of management." For these reasons, the City contends, its version should be accepted.

Findings and Conclusions on Purging Disciplinary Documents

The Union would apply a uniform three year period for expunging a record of discipline from an employee's personnel file, regardless of whether the penalty involved was an oral reprimand, a written reprimand, or a suspension. Under the present departmental General Order dealing with disciplinary records, GO 4.2, "Notice of Suspension will be permanently maintained in the member's Departmental personnel file."

Maintaining documentation of a suspension in a police officer's file for more than three years is not an unusual provision. Based on his experience as an interest arbitrator, the arbitrator is aware of other police departments that retain records of a suspension for more than three years. It therefore cannot be said that it is unreasonable on its face to keep records of serious discipline such as a suspension in an officer's file for more than three years. As the party that wishes to purge all discipline after three years, thereby changing the status quo, the Union has the burden of showing that the comparable jurisdictions follow a practice similar to its proposal or, at least, that what it is requesting is a common practice in police departments. It has done neither. The City final offer on purging of disciplinary records more closely conforms to the present practice. The arbitrator will adopt the City's proposal for Section 18.4.

SECTION 21.1 - TERMINATION DATE OF CONTRACT

Since July 1 has been adopted as the effective date of the wage increases, the termination date of the contract will be June 30, 2006, the City's final offer, rather than April 30, 2006, the Union's final offer.

A W A R D a n d O R D E R

1. The City's final offer on Retroactivity is adopted for the parties' collective bargaining agreement effective from date of execution through June 30, 2006 ("the Agreement").

2. The City's final offer on Section 15.1, Wage Schedule, is adopted for the Agreement.

3. All of the City's final offer language in Appendix A is adopted for the Agreement except for the last paragraph with the heading "Lateral Hire Pay."

4. The City's final offer on Lateral Hire Pay in Appendix A is not adopted for the Agreement.

5. The City's final offer to make wage increases effective on July 1 of each contract year is adopted for the Agreement.

6. The following language is adopted for Section 11.1 of the Agreement:

> Section 11.1. Coverage. The medical, hospitalization and dental insurance programs that are currently in effect shall be continued.

7. The Union final offer requiring the City to pay the entire cost of employee only Health Insurance coverage is adopted for the Agreement.

8. The City final offer regarding payment of the employee's portion of the premium for other than employee only Health Insurance coverage is adopted for the Agreement.

9. The City final offer on Life Insurance is adopted for the Agreement.

10. The Union's final offer on the Preamble is adopted for the Agreement, with the addition of the word "certified" before the word "representative."

11. The Union's final offer on Section 1.1, Recognition, is adopted for the Agreement.

12. The following language is adopted for Section

3.1, Probationary Period, for the Agreement:

Section 3.1. Probationary Period. Notwithstanding Section 2.3 of this Agreement, the probationary period shall be eighteen (18) months in duration from the date of employment as a full-time sworn police officer. The Highwood Fire and Police Commission may establish a shorter probationary period for any new employee or for new employees generally. The probationary period of any officer may be extended for good cause by the City, with the agreement of the Chapter, for a period not to exceed six months. Time absent from duty in excess of 30 days annually shall not count towards satisfaction of the probationary period. During the probationary period an officer is subject to discipline, including discharge, without cause and with no recourse to the grievance procedure or any other forum.

While probationary employees shall have no seniority, upon successful completion of their probationary period, their seniority shall date back to their date of employment as a full-time sworn police officer immediately prior to the start of their probationary period. Except as provided in this Article, probationary employees shall be covered by the other applicable provisions of this Agreement.

13. The following language is adopted on Section 6.2, Procedure, for the Agreement:

Section 6.2. Procedure. The parties acknowledge that it is usually most desirable for an employee and his immediate supervisor to resolve problems through free and informal communications. If, however, the informal process does not resolve the matter, the grievance will be processed as follows:

Step 1: Any employee who has a grievance shall submit the grievance in writing to the Chief, or the Chief's designee. The grievance shall contain a full statement of all relevant facts, the provision or provisions of this Agreement which are alleged to have been violated, and the relief requested. To be timely, the grievance must be presented no later than seven (7) calendar days after the act, event, or commencement of the condition which is the basis of the grievance or seven

(7) calendar days after the employee, through the use of reasonable diligence, should have had knowledge of the act, event or commencement of the condition which is the basis of the grievance. The Chief, or the Chief's designee, shall respond to the grievance in writing within seven (7) calendar days. Where a grievance filed more than seven days after the event giving rise to the grievance is found to be arbitrable, no monetary remedy may be awarded effective prior to the date of the grievance.

Step 2: If the grievance is not settled at Step 1, the written grievance shall be presented by the employee or by the Chapter representative to the Mayor, or the Mayor's designee, no later than seven (7) calendar days after the date of the response of the Chief, or the Chief's designee. The Mayor, or the Mayor's designee, may meet with the employee and/or the Chapter representative in an effort to resolve the grievance within seven (7) calendar days after the Mayor, or the Mayor's designee, receives the grievance. The Mayor, or the Mayor's designee, shall reply to the grievance within seven (7) calendar days after the date of the meeting, or, if there is no meeting, within ten (10) calendar days after the written grievance was received by the Mayor, or the Mayor's designee.

14. The arbitration provision, Section 6.3, shall be corrected as provided in the text of the accompanying opinion.

15. Section 6.5, Time Limits, shall be corrected in a manner consistent with the arbitrator's comment in the text of the accompanying opinion.

16. The City final offer on Section 8.2, Workday and Shift, is adopted for the Agreement.

17. The City final offer on Section 8.3, Overtime Pay and Scheduling, is adopted for the Agreement.

18. The Union final offer on Section 8.7, Compensatory Time, is adopted for the Agreement.

19. The City final offer on Section 8.4, Court Time, is adopted for the Agreement.

20. The Union final offer on Section 8.5, Call-Back Pay, is adopted for the Agreement.

21. The City final offer on Section 8.8, Shift Maximum and Turn-around, is adopted for the Agreement.

22. The City final offer on Section 8.10, Meal Times, is adopted for the Agreement.

23. The City final offer on Section 9.1, Eligibility and Allowances, is adopted for the Agreement.

24. The City final offer on Section 9.3, Procedure to Request Vacation Time, is adopted for the Agreement.

25. The City final offer on Section 10.1, Police Personnel Holiday Provisions, is adopted for the Agreement.

26. The City final offer on Section 10.4, Personal Days, is adopted for the Agreement.

27. The Union final offer on Section 12.1, Sick Leave, is adopted for the Agreement.

28. The Union final offer for Section 10.2, Buyback of Unused Holiday Hours, is not adopted for the Agreement.

29. The City final offer for Section 10.2, Buyback Holiday Pay, formerly called Entitlement to Holiday Pay, is not adopted for the Agreement.

30. The City final offer on Section 12.2, Notification of Sick Leave Use, is adopted for the Agreement.

31. The Union final offer for Section 12.4, Conversion of Unused Sick Leave at Retirement, is not adopted for the Agreement.

32. The City final offer for Section 13.2, Bereavement Leave, is adopted for the Agreement.

33. The City final offer on Section 15.2,

Mandatory FTO Term, is not adopted for the Agreement.

34. The City final offer on Section 16.3, Reimbursement for Expenses, is adopted for the Agreement.

35. The Union final offer on Section 17.5, Training Reimbursement, is adopted for the Agreement.

36. The City final offer on Section 17.7, Fitness for Duty and Other Testing, is not adopted for the Agreement.

37. The City final offer on Section 18.4, Purge of Personnel Files, is adopted for the Agreement.

38. The City final offer on Section 21.1, Termination Date of Contract, is adopted for the Agreement.

39. The Agreement shall include all previously agreed to TA's.

40. The Agreement shall include all provisions concerning which the final offers exchanged by the

parties were identical, or virtually identical, as a result of which those issues were removed from the arbitration.

Respectfully submitted,

Sinclair Kossoff
Chairman, Arbitration Panel

Paul Diambri
City Appointee, Arbitration Panel
Concurring as to Issues Decided
in accordance with City Final Offer
Dissenting as to Issues Decided in
accordance with Union Final Offer

John S. Rossi
Union Appointee, Arbitration Panel
Concurring as to Issues Decided in
accordance with Union Final Offer
Dissenting as to Issues Decided in
accordance with City Final Offer

Chicago, Illinois
July 16, 2004