

## BEFORE THE ARBITRATOR

In the Matter of the Final and Binding Interest Arbitration Dispute between

GREEN BAY POLICE PROTECTIVE ASSOCIATION

and

CITY OF GREEN BAY (POLICE DEPARTMENT)

WERC Case 321, No. 58805, MIA-2326  
Decision No. 29983-A

### APPEARANCES:

For the Association:

Parins Law Firm, S. C., by Mr. Thomas J. Parins, 422 Doty Street, P.O. Box 817, Green Bay, WI 54305.

For the Employer:

Mr. Jerry Hanson, Assistant City Attorney, Room 200, Green Bay City Hall, Green Bay, WI 54301, and Mr. James M. Kalny, Director of Human Resources, City/County Human Resources, 305 East Walnut Street, Green Bay, WI 54305.

### ARBITRATION AWARD

The Association has represented a bargaining unit of police officers for many years; the parties' most recent collective bargaining agreement expired on December 31, 1998. On April 21, 2000, the Association filed a petition with the Wisconsin Employment Relations Commission requesting arbitration pursuant to section 111.77 (3) of the Municipal Employment Relations Act, Wis. Stats. Efforts to mediate the dispute by a staff member of the Commission were unsuccessful, and an impasse investigation was closed by the Commission's order for binding arbitration dated Sept. 25, 2000. The undersigned Arbitrator was appointed by Commission order dated October 23, 2000. A hearing was held in this matter in Green Bay, Wisconsin on February 13, 2001. A transcript was made, both parties filed briefs and reply briefs, and the record was closed on April 23, 2001.

#### Statutory Criteria to be Considered by Arbitrator Section 111.77(6)

- (a) The lawful authority of the municipal employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet these costs.

(d) Comparisons of wages, hours and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:

1. In public employment in comparable communities.
2. In private employment in comparable communities.

(e) The average consumer prices for goods and services, commonly known as the cost of living.

(f) The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

(g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties in the public service or in private employment.

#### The Association's Final Offer

1. Wages: Across the board salary increases of  
2.75% effective January 1, 1999,  
3% effective January 1, 2000, and  
3% effective January 1, 2001.

2. An additional salary adjustment for the rank of Specialist to the bi-weekly rate of \$1850.00, with corresponding adjustments to the other ranks per section 10.2 (sic) of the contract. The bi-weekly rates for all ranks represented will be as follows on December 31, 2000:

Patrol Officer	\$1717
Advanced Patrol officer	\$1753
Specialist	\$1850
Specialist II	\$1980

#### The City's Final Offer

1. ARTICLE 7 SELECTION PROCEDURE FOR POLICE SCHOOL LIAISON PROGRAM K-9 UNIT AND ERU

Create Article 7.05 FTO PROGRAM as follows:

2. (sic) ARTICLE 7.05 FTO PROGRAM Officers performing the duties of a field training officer will be compensated at a rate of \$.80 (eighty cents) per hour for time actually spent training officers under the program. Management maintains its right to make FTO assignments from the existing pool of qualified FTO's. The officers so chosen will serve as FTO's upon assignment until the Chief or his/her designee and the officer mutually agree to the officers removal.

### 3. SCHEDULE A

Increase all hourly rates as follows:

1/1/99 2.75%

1/1/00 3%

1/1/01 3%

Amend paragraph E to read as follows:

E) The Specialists in charge of the Photo Identification and Crime Prevention Sections shall receive an amount equal to the lesser of either one percent (1%) less than the salary of the rank of Lieutenant, or four percent (4%) in addition to the salary of the rank of Specialists II, effective upon date of assignment.

### Background

Much of the argument is based on a far-reaching change in the structure of the Department which took effect at the beginning of the preceding collective bargaining agreement. The change deleted the former classification of Sergeant, and greatly enlarged opportunities for officers to move up to the Specialist II classification. This restructuring will be discussed in detail below; of immediate relevance is the change to the collective bargaining agreement for 1996-98 which resulted, in the form of the newly negotiated article 10.02:

10.02 FUTURE PAY ADJUSTMENTS. The pay schedule for Specialist I is set at the 1995 rate plus 3% for the rank of Patrol Sergeant and Detective Sergeant in the Green Bay Police Department, which ranks are being eliminated from the table organization effective with the ratification of the 1996 contract, and it is stipulated by the City that for both internal and external wage comparison purposes for future contracts the Specialist I position shall be conclusively presumed to compare with a position comparable to that of patrol and detective Sergeant in the Green Bay Police Department before their elimination, and that there continue in future contracts a similar proportional spread between the rate paid to Specialist I and that paid to top patrol officer. It is also stipulated that there continue in future contracts a similar proportional spread between the rate paid to Specialist I and Specialist II as the spread which exists in the pay schedule in this contract.

### The Association's Position

The Association contends that the underlying issue is whether the rank of Specialist I should be compensated at the level of a Sergeant in comparable Wisconsin

municipalities and at the level of a Lieutenant in the City's Fire Department, or at the level of a top patrol officer in comparable cities. The Association asserts that Article 10.02 of the most recent collective bargaining agreement particularly ties into a mutual expectation of pay parity between the former police rank of Sergeant and the continuing rank of Lieutenant in the Fire Department, and dictates that Specialist I be paid at the new level of the Fire Department Lieutenants. The Association contends that its offer is lower than what would be necessary to keep Specialist I's at parity with Fire Department Lieutenants, while the City's offer will push the applicable wages farther behind the average of police sergeants in comparable cities.

The Association contends that the pattern and practice of contract settlements with the Firefighters as well as the police have recognized the principle of parity between specific ranks, to the point where the City created the position of Advanced Patrol Officer within the Police Department so that the police officers would have a rank that paid the same as the rank of Engineer in the Fire Department. The Association argues that the Firefighters had fallen behind the police in the 1996-98 contracts, when the new classification and promotional structure for the police was agreed on. But in responding to the Firefighters' demands for parity, the Association argues, the City actually went beyond parity. The Association's proposal is intended to catch up.

The Association argues that when in the 1996-98 collective bargaining negotiations the City proposed a structural change, the Association was concerned that the City would subsequently seek to abandon the historical relationship between Specialist I and II positions and the old ranks of police Sergeant and Lieutenant as well as the rank of Lieutenant in the Fire Department, and would claim that these positions are nothing more than top patrol officer positions. The Association drafted Article 10.02 accordingly, and the City's only reservation was that it would not tie any Specialist's pay directly to police Lieutenant's pay. The result became Article 10.02 and another clause, Schedule A, Paragraph E, which created a formula setting the pay of the most responsible Specialist position slightly below that of Lieutenant.

In terms of the specific statutory criteria, the Association contends that there is no issue as to the lawful authority of the employer in this matter, and that the critical stipulation of the parties is the continuation of Article 10.02. The Association argues that the percentage increases it seeks are the same as the City's proposal, while the separate "boost" at the end of year 2000 is within the City's financial ability because the City has demonstrated that not only the Firefighters, but also other unions, received economic benefits in their settlements in addition to the across the board percentage increases, with the Fire Department increases actually being larger than the Association seeks here. The Association argues that the City's contention that it will recoup some of the costs of the Fire Department settlement by elimination of positions in the communication center applies also to this Association, because that is a joint facility and the police positions in the communication center will also be eliminated when the communication center joins with the County. With respect to internal comparables, the Association contends that the only comparable in evidence is the Green Bay Fire Department, which favors the Association's proposal.

As to external comparables, the Association contends that Green Bay is the third-largest city in the state, and according to the sole witness testifying as to comparability, the Association has always tailored its proposals with respect to the five largest cities in Wisconsin. Even using the eight largest cities as the Association has in its Exhibits, Exhibit 11 shows that Green Bay is the lowest paid of all in year 2000 for Sergeants or equivalent, and below average for 2001 even with the “boost”. The Association objects to weight being given to City’s Exhibit 26 because it implies that the Specialist I position can be compared to patrol officer positions, and objects to weight being given to City’s Exhibit 38 because this document compares Sergeants in Green Bay with lesser positions in the comparable cities. The Association also argues that many of the comparable cities have very substantial forms of compensation which do not appear in the hourly rates the City has used as its baseline for comparisons, pointing particularly to large longevity and educational pay amounts paid by Madison as well as certain other cities.

The Association acknowledges that the cost of living factor is exceeded by its offer, but notes that this is also true for other settlements reached by the City with other unions. As to overall compensation, the Association contends that the City’s Exhibits 20 and 21 do not show comparability of benefits overall, because the comparison covers only holidays and vacations. The Association contends that this, as well as the “changes during the pendency” criterion, is an insignificant factor here. Of much greater weight, the Association argues, is the “other factors” criterion, which here bears heavily upon the City’s obligation to uphold a provision continued from the previous Agreement, namely Article 10.02.

With respect to the two proposals for increases originated by the City, the Association contends that neither the FTO premium pay proposal nor the Crime Prevention Specialist pay should be given significant weight. The Association argues that under the City’s proposal, the City would have full discretion as to which officers would be paid the premium for FTO pay, a role which the Association feels should be open to bids, and that the City has offered no evidence as to why this proposal is needed. As to the Crime Prevention Specialist, the Association contends that no evidence was introduced to support this proposal and that it was never discussed at the bargaining table.

#### *Reply Brief*

The Association contends that contrary to the City’s argument, Article 10.02 is not ambiguous and clearly requires the City to use the same comparables for Specialist I that it would use the previous rank of Sergeant. It also plainly requires that the proportional spread be maintained between Specialist I and both top patrol officer and Specialist II. The Association asserts that the City knew that this section would have the effect of preserving a specific internal comparability between Police Sergeant and Fire Lieutenant, and contends that the only reason the Association’s discussion during negotiations did not focus on this section was that it did not come into play until October of 2000, when the Firefighters settled their collective bargaining agreement, after impasse had been declared in the police negotiations. The Association notes that throughout negotiations, it did stress comparability between Specialist I and sergeants in comparable communities, another aspect of the same clause.

The Association contends that to accept the City's proposal would have the effect of changing the internal comparable of Police Sergeant/Specialist I from Fire Lieutenant to Fire Engineer, because the City's final offer clearly sets the bi-weekly wage for Specialist I equal to Fire Lieutenant with twelve years of experience for the first two years of the contract, but for the third year, sets that wage equal to what the City pays to the rank of Fire Engineer in that year. The Association contends that it provided a quid pro quo in 1996 for Article 10.02, in the form of concessions in conjunction with the departmental reorganization the City then sought, and that the City should be held to its contractual obligation; thus, the Association argues, it is irrelevant that the City has given arguments why a Specialist I does not do the same work as a sergeant in some of the comparable communities. The Association notes that City Exhibit 31 described the job of a Green Bay Uniform Patrol Sergeant as a first-line supervisor, contending that only quite subtle differences separate the sergeants characteristically found on one side or the other of the "legally supervisory" dividing line for bargaining unit status under MERA. The Association argues that in the many WERC cases concerning sergeants' status, the records of those proceedings show job functions for sergeants statewide quite similar to those specified for Green Bay Sergeant in City Exhibit 31. In any event, external comparables are not the most important factor to be considered here, because there is a well-established internal comparable. The internal comparable, the Association calculates, is receiving an effective percentage increase for 2001 of 8.44 %, which added to the 2.75 % and 3% of the prior two years, creates a total increase of 14.19% compared to the Association's proposal of approximately 12.2 %. Meanwhile, no substitute quid pro quo has been offered by the City for this substantial change in comparability, as no other City union was held to the straight 2.75%, 3% and 3% increase offered here and as the Association does not want the two other economic items the City offers.

Finally, the Association argues that the City has miscalculated City's Exhibit 12 as well as the difference between the Association's offer and the City's offer, which the Association costs at just under half the \$348,000 given on page 7 of the City's brief.

#### The City's Position

The City contends that several of the statutory criteria are not relevant or not addressed by the parties, and that the remaining factors all support the City's offer. With respect to cost of living, the City anticipates an aggregate CPI increase of 8.30%, which is exceeded by both the City's offer and the Association's, while the City's is closer. As to total compensation, the City costs its own package offer at 11.11% and the Association's at 14.35% over the life of the contract, while it costs the difference at \$348,000, all of it accounted for in the third year. The City argues that the 2001 average settlement in police non-supervisory units is 3.03% and that no other police non-supervisory unit in a comparable community has received more than a 4% wage increase in 2001, while the Association's proposal is valued at approximately 6% in that year. The City argues that the Association has more than the average number of holidays compared to the City's list of comparables and by far the most favorable vacation package, while insurance increases over the three years of this contract exceed 60%, much greater than all that one of the comparables. The City also points to overtime compensation as an area in which Green Bay police officers earn

approximately 65% more than the average of other communities in the City's list of comparables (largely because of the effect of the Green Bay Packers home games.) These, the City argues, are elements of a strong total compensation package which is favorable to the City's proposal.

With respect to ability to pay and "other factors", the City notes that it was forced into a 27.6% insurance cost increase in 2001 as the result of a last-minute withdrawal on offer from another insurance company, resulting in strain to stay within the State's expenditure restraint program. The Association's proposal for this year would make meeting the ceiling difficult, particularly if this rate was applied to other units.

With respect to internal comparability, the City first notes that all other bargaining units that have settled have received across the board wage increases of 2.75% in 1999, 3% in 2000, and 3% in 2001. The City stresses that it expects comparability between the firefighters and police officers, but maintains that in practice this comparability has never been dollar for dollar, and that there are cost items which are not shared by both contracts. The City expressly states that there has been "parity" between the Fire Lieutenant and police Sergeant/Specialist, as well as between Patrol Officers and Firefighters, and Advanced Patrol Officer and Fire Department Engineer ranks. The changes made to the police contract in 1996, however, were significant, and impacted comparability. A strict longevity provision replaced a former system of testing for filling limited numbers of vacancies, which eliminated old career paths and disrupted comparability between ranks. The police bargaining unit therefore saw a significant increase in the number of its members who could reach the top wage rate of Specialist II: from 1995 to 2000, the number of people at the Inspector/Specialist II level changed from 14 to 30, while the number at Specialist I remained relatively constant, changing only from 38 to 36. Thus more police officers are getting paid more. The City contends that the Firefighters sought to maintain parity with this structure, but could not eliminate the corresponding rank titles because of the structural differences in the Departments. The City and Firefighters agreed that the Fire Lieutenant position was generally achieved after approximately 18 years of service, and structured their bargaining so as to match Fire Department salaries with Police Department salaries based on approximately equal length of service, since this was now the controlling criteria in the Police Department. Contrary to the Association's assertion, this restored parity, it did not disrupt it. The Association's offer would add another 3.5% to all positions in 2001 and would therefore disrupt parity.

The City contends that the Association never cited Article 10.02 of the contract during the negotiations in support of its arguments, and that in the 1996 audio tape submitted as evidence of prior discussions on this issue, the Chief is clearly recorded as disagreeing that there exists comparability between the positions of Fire Lieutenant and police Sergeant. The Chief also testified in contrasting terms to Attorney Parins as to the intent of Article 10.02, stating that this language was intended to maintain a proportional internal structure between the police ranks, while a Specialist I was to be compared with other external positions which performed the same duties the Sergeant did in 1995. Any ambiguities, the City argues, should be interpreted against the Association, which drafted the clause in question. In turn, contrary to the implication of Association negotiator Parins' testimony, the comparison between Fire Lieutenants and

Police Specialists has never been dollar for dollar, and under the City's offer, the Fire Lieutenants will not make up the "parity" dollars they have lost over the past five years. The City argues that the concept of parity clearly implies that the Firefighters would seek, following the police Association's success in obtaining higher movement for more employees, to obtain a settlement that put them in an equivalent economic category at equivalent length of service.

With respect to external comparables, the City notes that the parties agree to use Madison, Kenosha, Racine, Appleton, Waukesha and West Allis, but that the City does not use Milwaukee because it is six times the size of Green Bay, while it adds Oshkosh, Eau Claire, Janesville, La Crosse, Sheboygan and Wauwatosa. The City argues that using as comparables cities between half the size and twice the size of Green Bay is logical, while even using the Association's criterion of all cities with a population in excess of 60,000, Oshkosh and Eau Claire should have been included, based on recent population figures. In any event, the City also argues that none of the comparables used by the Association show any relative placement over time, and that the Association's evidence does nothing to demonstrate that any of the positions they chose — many of which are non-represented positions — exercise the same responsibility as a Sergeant or Detective Sergeant in Green Bay at the time those positions were eliminated. Since the Chief's testimony was unopposed to the effect that comparability was supposed to be based on a Sergeant *as that position was used in Green Bay*, i.e. a sergeant with no supervisory responsibility, sergeant positions in Milwaukee, Kenosha and Racine, at least, are clearly different in nature. City Exhibits 38 (a), (b), (e), and (f) show that the Green Bay Sergeant position in 1996 was approximately 7.27% above the average of all other ranked positions listed in other Departments, while in 2001 under the City's offer the equivalent Specialist position is 8.89% above the average. Meanwhile, in ranking terms, under the City's offer the Specialist position improves from tenth among its comparables to ninth. In both measures the Association's proposal would propel the Specialist position upward, by five places and by 3.5%. The City argues there has been no change in the duties of the Specialist position that would justify this.

### *Reply Brief*

The City takes issue with the Association's characterization of compliance with Article 10.02 as the "underlying" issue. The City argues that the real issue is which offer is more reasonable under all of the factors required by Section 111.77 (6), Wis. Stats. The City also contends that the Association as well as the City recognized that the Green Bay Sergeants did not perform supervisory duties, unlike sergeants in some other Departments, and that the specific language of Article 10.02 reflects this by referring to "a position comparable to that of patrol and detective sergeant *in the Green Bay Police Department*". The City notes that Chief Lewis testified that for the most part, in 1995 the Green Bay Sergeants were actually detectives working cases, and argues that the Association has offered no evidence of which sergeants in comparable communities it compared to in the past. The City answers the Association's contention that the City is attempting to re-create Specialist I as a "top patrol" rank by noting that under its proposal Specialist I's improve their relative economic status compared to all other ranked positions in nonsupervisory units in comparable communities. By contrast, the City claims, the Association seeks essentially to upgrade the old Sergeant position so as



to compare it with truly supervisory sergeants in other communities which have them. And as to the significance of the audio tape, the City contends that this tape is the only documented time when the Association raised the issue of parity between the Police Sergeant and Fire Lieutenant positions, and on this occasion the Chief is heard pointing out that these ranks are not equal. Thus there is nothing to show that the City ever agreed to maintenance of any form of “strict parity” between the Police Sergeant and Fire Lieutenant positions.

The City notes that the testimony in the record as to the discussion of “parity” in the Fire negotiations reveals that the Firefighters believed that parity was being restored by the result of these negotiations. The City contends that the adoption of the closest practicable equivalent to the 6/12/18 police structure by the Fire Department does represent a restoration, not a disruption, of parity. The City argues that under this structure, at start and six-year levels, firefighters and police officers maintain the same comparability they have for years. There would also be comparability at 18 years, and at 12 years, some firefighters would make less than a police officer with 12 years service while others would make more. The City contends that in relative status, the police officers are not behind as a result of the City’s proposal here. Furthermore, the Association fails to recognize that there will be no loss of positions by the police unit as a result of changes in the communication center, because the positions moved out of the communication center will be maintained in the Police Department, simply used elsewhere. There is therefore no comparable savings to the reduction of five lieutenants and a captain<sup>1</sup> from the table of organization for the Fire Department by elimination of those positions in the communication center.

With respect to the City’s proposal of two additional economic items, the City finds the Association’s position on FTO pay hard to understand, since FTO duties are being performed already, and at the Chief’s discretion as to appointments, but without pay. Meanwhile, the Crime Prevention Specialist position does carry some supervisory responsibility, which justifies additional pay, while the Association has made no argument as to why positions that exercise additional responsibility should be paid the same as those that do not.

Under “other factors”, the City argues that contrary to the Association’s argument as to the timing of the Fire Department settlement, the Fire Department settlement was approved in mid-August, 2000, while the final offers in this matter were not certified until Sept. 25, 2000. The City argues that the Association did not avail itself of the opportunity to make its Article 10.02 argument to the City on a timely basis, and thus did not obtain the explanation from the City, as to the 6/12/18 structure in the Fire Department, which might have foreshortened this dispute.

#### Discussion

I will first assess the parties’ positions in general terms, and then in order of the specific statutory criteria.

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<sup>1</sup> Mistakenly described in the brief as five captains.

*External Comparables:*

I find that for purposes of the present case it makes no difference which of the parties' proposed external comparable cities is adopted, where they differ. The record demonstrates no loss in the relative ranking of the former Sergeant classification over the past several years in relation to either set of proposed comparables (see below), while the pattern of wage settlements in all of the proposed comparable cities is close enough that the Association's third-year wage proposal is clearly above the pattern, regardless of which list is adopted. Indeed, the Association all but concedes as much, pinning its argument on the internal comparable of the Fire Department.

*FTO pay and Crime Prevention Specialist pay:*

Although the Association turned down the City's FTO pay proposal at the bargaining table, primarily because the Association hoped for a seniority-based bidding system for field training officer assignments but also because it felt that the proposed amount was too small, the Association's principal witness conceded that the Chief was already assigning field training officers at management's discretion under current practice, and without any compensation at all.<sup>2</sup> Neither party introduced any evidence comparing the City's proposed FTO pay to any other Police Department, but there appears to be nothing inherently unreasonable about the proposal. I therefore view it as a minor weight in favor of the City's overall economic package. The Association more reasonably objects to the Crime Prevention Specialist pay proposal on the grounds that the City never raised it at the bargaining table and introduced it first in a written tentative final offer, late in the bargaining. The City contends in its brief that the reason for this proposal was that this position carried supervisory responsibility similar to the Specialist in charge of the Photo Identification Section, but there is no testimony to this effect in the record. Because no evidence has been offered to demonstrate that it is a needed or reasonable expenditure of funds, I count this proposal a minor weight against the City's offer.

*Wages:*

This, of course, is the key element. Furthermore, the argument clearly turns on the meaning and application of Article 10.02 of the Agreement, as well as on other comparisons to the Fire Department unit, because it is clear (see below) that no other element among the statutory factors supports the Association's claim to an approximately 6.5 percent wage package for the third year of the contract.

Article 10.02 clearly demands a close reading, because the Association strenuously argues that its real meaning is to "peg" the Specialist I position to the Fire Department's Lieutenant position, and in turn to peg two other Police Department positions proportionately to the Specialist I position. If substantiated, this would be a very strong weight in favor of the Association's offer. On close examination, however, I find that the language of this provision falls short of that degree of specificity. On its face, Article 10.02 merely binds the City to compare the Specialist

I position with “a position comparable to that of patrol and detective Sergeant in the Green Bay Police Department before their elimination.” While the Association offered testimony to the effect that both parties understood that the historical significance of that comparison was primarily to the Lieutenant in the Fire Department, the audio tape submitted as supporting evidence is weaker substantiation than the Association would have it, recording the Chief as having demurred on that point in 1996. And it is quite clear that the Association, in 1996, was concerned about possible erosion of status of the Specialists. As the Association then drafted the language which was adopted as Article 10.02, it is inconceivable that the Association did not take the opportunity to press for the strongest standard of comparison it thought it could get. I must therefore construe the notably vague language quoted above as being, in fact, the strongest the Association could obtain. The language requires comparison to any and all positions, internal and external to the City of Green Bay, that are “comparable to that of patrol and detective Sergeant in the Green Bay Police Department before their elimination” — not only, or even necessarily primarily, the position of Lieutenant in the Fire Department.

The City has properly objected that the Association’s proposed comparables to the Specialist I position include positions with greater, and in some cases specifically supervisory, responsibility in other departments, such as Milwaukee, Racine and Kenosha. I disagree with the Association’s assertions that these positions are only incrementally different from the role of a Green Bay police Sergeant before elimination of that position, because Wisconsin law, in providing for a bright line division between bargaining units which may represent supervisors in law enforcement and those which may not, has clearly created an obstacle to comparison across that divide, and also because of Chief Lewis’ un rebutted testimony to the effect that prior to 1996, the core of the Sergeant/Specialist I classification consisted of 22 detectives.

Table 1 shows there is nothing particularly insufficient or unusually low about this unit’s past settlements, or the first two years of the current proposals, which would imply a need to catch up compared to external comparables. While the Association has vigorously argued that its compensation package is low in educational pay and longevity compared to other police departments, the City has also argued with energy that the Association is unusually well-off in holidays and vacations, and especially rich in overtime earnings. It is impossible to draw a balance between these various varieties of compensation based on this record, but it is unnecessary to do so, because there is no evidence that the City has either gained substantially upon other police departments, or slipped behind them. Table 1 shows the cumulative raises over five years for the five police departments for which the 1996 and 2001 contracts are exhibits in the record:

Table 1: Relative wage increases, 1996-2001

City	Highest Class	1996 rate (or 1995-96), at top step if shown directly on salary schedule, otherwise base rate, as shown in contracts (City Ex. 39)	2001 rate at same step (from Assoc. Ex. 3-8 or City Ex. 39)	Increase, as % (1996-2001 except as noted)	Average increase per year since 1996
Appleton	Senior Sergeant	20.84 hr	23.94	14.9	2.98

Kenosha	Detective, 5/2 work schedule	3314 mo, using highest step ("B")	3889 mo (step "B") [4208 mo using step "E", which appears to have been added since 1996]	14.8 [27.0]	2.96 [5.40]
Madison	Sergeant	1511 bi-wk	1731	14.6	2.92
Waukesha	Detective, 24 mos	1713 bi-wk	1987 (2000 rate)	16.0	4.0
West Allis	Detective Sergeant	22.64 hr	25.99 (2000 rate)	14.8	3.7
<b>AVERAGE</b>					<b>3.31%</b>
Green Bay	Inspector/Specialist II	22.34	25.34 (2000 rate)	13.4 (over 4 years)	<b>3.36</b>
"	"	"	26.11 (City 2001 offer)	16.9	3.38
"	"	"	26.99 (Assoc. 2001 offer)	20.81	4.16
"	Sergeant/Specialist I	20.87	23.67 (2000 rate)	13.4 (over 4 years)	<b>3.35</b>
"	"	"	24.39 (City 2001 offer)	16.9	3.37
"	"	"	25.22 (Assoc. 2001 offer)	20.8	4.17

Taken together, the average yearly increase for the highest classification at the same experience step, in the five cities above (excluding Green Bay) for which the original data is available is 3.31%. One city, Kenosha, shows a sharper increase if additional experience steps apparently added to the wage schedule since 1996 are included. The average increase from 1996 to 2000 for Sergeant/Specialist I is 3.35% and for Inspector/Specialist II is 3.36%. There is accordingly no evidence that the "slippage" feared by the Association for these classifications has occurred compared to external comparables at the same step. The Association has, as noted above, contended that much of the compensation in comparable police departments is not in the base wage. But the apparently improved step structure in Kenosha is the only evidence in the record of the structure of compensation in comparable departments changing significantly in the past five years. Since City's (more conclusionary) Exhibits 38 through 38 (d) are consistent with the comparison above, and since the Association has not shown any change over time to the contrary other than in Kenosha, I conclude that the record overall demonstrates that the Specialist I and II classifications have not lost ground compared to the highest-rated positions in other police departments.

The City's proposal for 2001 would continue that pattern almost unchanged.<sup>3</sup> But the Association's offer would give the entire unit a higher average wage increase over this five-year period than any other comparable for which the data is available, except possibly Kenosha, which cannot be costed accurately on this record. Giving full weight to Article 10.02, it demands "conclusive" comparability of Specialist I and impliedly Specialist II to high-rated jobs in other departments, but it does not require the City to exceed them.

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<sup>3</sup> There is a small anomaly in the third digit of the 2001 figures, apparently because of rounding errors when monthly and biweekly salaries are converted to hourly rates; logically, the City's 3% 2001 offer should reduce the average slightly, but here it does not. The distortion, however, is minor.

Meanwhile, the Association has argued that there are additional economic benefits to other settled unions within the City, beyond the base wage increase common to all, but has not established evidence sufficient to show that these are particularly significant in size — except for the new wage structure in the Fire Department. It is clear that the new wage structure in the Fire Department creates a substantial additional cost for the City. The City explains its willingness to agree to this structure essentially on two grounds, its desire to have the firefighters' agreement in reducing positions in the table of organization, and the Firefighters' Association's claim for parity with the Police Department. The City costed the progression changes in the Fire Department at \$207,000 a year and the savings from elimination of positions in the dispatch center at \$300,000 per year.<sup>4</sup>

The parties dispute the actual cost of the Association's proposed wage improvements (beyond the base wage increase, which is not in dispute), but I find that the City's calculations are the more carefully and thoroughly performed; the Association's calculation in its brief of a total of \$173,839.90 not only fails to cost in the "roll-up" costs for FICA, etc., but also omits the cost of the base Patrol Officers' "boost" — which is of the same size as for the other ranks, even though the Association's argument is grounded on Article 10.02 and that clause demands proportional wage increases only for "top" (presumably Advanced) patrol, Specialist I, and Specialist II rates. I therefore accept the City's estimated cost of approximately \$349,000 for this proposal.<sup>5</sup>

While the City in its brief represents that police positions lost in the communications center will be deployed elsewhere, I cannot find reference to this in the testimony. Yet it is clear from Firefighters' Association President John Rogers' testimony that the Fire Department is giving up five lieutenants' positions and one captain's position in that change — obviously, highly valued promotional positions. I note, moreover, that Chief Lewis' testimony was un rebutted to the effect that the City's proposal to change the structure of the Police Department's classifications for the 1996-98 collective bargaining agreement was based on the savings anticipated by eliminating approximately 25 percent of the management/supervisory positions at that time as part of the same restructuring. The City's broad contention that the Fire Department is now merely catching up to the Police Department is not proven by this similarity, but the evidence shows that it is a similar structural change that

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<sup>4</sup> Association's Exhibit 2.

<sup>5</sup> City Exhibits 7 (a) and (b). I note, however, that these do not appear to offset the total difference by the approximately \$23,000 aggregate cost, over three years, of the City's FTO and Crime Prevention Specialist pay proposals. I arrive at this figure by subtracting from the City's calculation in its Exhibit 2 the approximate value of the pay increment ascribed to the Specialist in charge of the Photo Identification Section, since that individual was already earning that rate. The net difference between the parties' proposals is therefore approximately \$326,000.)

now essentially funds the Firefighters' 2001 wage increase. The record does not establish that the change in the communications center will generate matching savings that would imply any sort of quid pro quo for the 2001 raise the Association seeks.

Against this, the Association relies primarily on the clear evidence that the 2001 effective increase for the Fire Department reaches the percentage level sought by the Association, and even goes beyond it. The remaining question is therefore whether the new wage structure in the Fire Department restores the essentials of parity, as the City would have it, or breaks parity, buttressing the Association's argument.

To the extent that the argument turns on position titles, the Association has a point: City Exhibit 35 shows that in every year from its beginning (1986) through 1995, the Police Sergeant and Fire Lieutenant positions carried identical wages. Thereafter, the police position of Specialist I was ahead of the Fire Lieutenant by approximately \$37 in each pay period for 1996, 1997 and 1998 — and because the schedule improvement for the Fire Department does not occur until the third year of the current round, the difference is preserved for the first two years of the current contracts. But for 2001, the introduction of the new pay schedule in the Fire Department would make a Lieutenant with 18 years of service equal to the City's proposal for the Police Department for Specialist II, while the improvement in the Engineer's category places an Engineer with twelve years' service at the same pay rate the City proposes for Specialist I. While the City avers that some Engineers at 12 years would make less than a Specialist I, I cannot find evidence of this in the record. Instead it appears that Engineers with less than 12 years would make less than a Specialist I, just as fire Lieutenants with less than 18 years would make less than a Specialist II. (See Table 2.)

Table 2: *Biweekly rates*

Fire Dept. Position	Jan 1, 1999	Jan 1, 2000	Jan 1, 2001	Police Position	City's Offer, 1/1/2001	Association's Offer, 1/1/2001
Private	\$1,613	\$1,662	\$1,711	Patrol	\$1,710	\$1,769
Private (after 6 years)	\$1,613	\$1,662	\$1,758	Advanced Patrol	\$1,746	\$1,806
Engineer (less than 12 years service)	\$1,657	\$1,707	\$1,822			
Engineer (after 12 years service)	\$1,657	\$1,707	\$1,843	Specialist I	\$1,843	\$1,905
Lieutenant (less than 18 years service)	\$1,738	\$1,790	\$1,941			
Lieutenant (after 18 years service)	\$1,738	\$1,790	\$1,973	Specialist II	\$1,973	\$2,039
Captain	\$1,927	\$1,984	\$2,044			
Mechanic	\$16.84 hr.	\$17.35 hr.	\$17.87 hr.			
Senior Mechanic	\$17.62 hr.	\$18.15 hr.	\$18.69 hr.			

Because of the fundamental change to the Police Department structure in the 1996-98 contract, however, I conclude that in terms of the actual wages earned by actual people,

a strong reliance on comparison between titles has become somewhat misleading. The language of Article 32 negotiated as part of that restructuring states flatly that promotion to Advanced Police Officer occurs based on completion of six years of service as a Police Officer; promotion to Specialist I occurs (from 1997 onwards) following twelve years of service; and promotion to Specialist II occurs (from 1998 onwards) following 18 years' service. No other criterion is imposed and no specific job function must be filled to attain these positions. Not only does this inevitably mean that the titles have less significance than they did previously, but it opened the door to the substantial increase in actual earnings which resulted when experienced police officers were no longer capped as to the number who could achieve the Specialist II classification and pay rate. The consequence has been, as the City argues, at least a doubling of the number of people who reach the top non-supervisory rate in the Department, together with the possibility that a yet larger number may be able to do so, (depending on the demographics of the Department, but not on any mandated limitation on who is allowed to move up.)

Significantly, there is no evidence that this liberality now extends to the Fire Department. There, the inherent structure of the fire station and fire company still show up in limitations to who can achieve what rank; a Fire Lieutenant commands a fire company; an Engineer drives; and so forth. Thus to the extent that the police Association has an argument to the effect that certain *classifications* within the Fire Department have now moved up compared to the City's offer here, the City's retort, that the larger number of police officers can actually achieve the higher wages compared to the limited numbers who can achieve the top rates in the Fire Department, also has merit.

It is significant that the Association failed to rebut testimony by the management witnesses to the effect that the 6-, 12- and 18-year marks have a basis in reality in the Fire Department, to the effect that they correspond roughly to the point at which most employees would first reach the rank in question. And what happens to actual people is more significant than what happens to titles. I conclude that the wage and promotion experience of typical officers has now diverged in both departments from what their titles would formerly have implied, because of the structural changes in both departments. I further conclude, based on the balance between all of these factors, that while the comparison is imperfect, the City's negotiations with the Fire Department have done much more to restore a sense of rough parity between employees with typical service in the two Departments than to disturb it. Though in 2001 the comparison between Police Department and Fire Department titles does change under the City's offer in a way contrary to the Association's historical expectations, the increased emphasis on actual length of service means that typical police officers with a given length of service remain at least as well off as typical firefighters with equivalent service, and even retain an advantage because they can move up in unlimited numbers. Since Article 10.02, as previously discussed, falls short of implying the specific and exclusive focus on tying the Specialist I *classification* to the Fire Lieutenant *classification* which the Association has urged, and since no other factor internal or external to the City of Green Bay supports the Association's 6½ percent proposal for 2001 in preference to the City's 3 percent proposal, I conclude that the balance of all factors strongly supports the City's wage package.

### *The Statute's Weighing:*

In terms of the specific statutory provisions governing the definition of reasonableness, the lawful authority of the municipal employer is not at issue. The stipulations of the parties and the interests and welfare of the public and financial ability of the City favor the City's proposal, because the stipulations include the effect of very substantial health insurance increases which form a significant part of the total costs of the package, while the Association's third year wage proposal is unjustified. External public sector comparables favor the City, because the Association has not been able to show any loss in relative advantage by the Specialist positions (or any others), in terms of Article 10.02 or otherwise, while the Association's third year economic proposal is approximately double the settlement pattern. Neither party attempted private sector comparisons. Internal comparables likewise favor the City, because the City has established in this record that its settlement in the Fire Department does far more to restore general parity with the Police Department than to disturb it, while other internal comparisons are both less relevant and provide no support for the cost of the Association's third year proposal. Similarly, the cost of living factor favors the City's proposal, as both proposals exceed the cost of living while the City's is significantly closer. And the overall compensation factor also favors the City's proposal, again because overall compensation of the Police Department's represented employees does not appear to have changed adversely compared to external or internal comparables, while the percentage of employees who are able to attain the Department's highest non-supervisory classification and best earnings has recently improved significantly. Finally, the "changes during the pendency" and "other factors" do not significantly impact this case, except to the extent that they overlap with criteria already discussed.

### Summary

The core of the Association's argument for an unusually large increase in 2001 was that this was necessary to maintain parity with the Fire Department, but a close examination of "who is actually earning how much for what work" compels the overall conclusion that the Fire Department's settlement, with the minor exception of wages for the small number of Lieutenants who have less than eighteen years of service and the small number of Engineers who have less than twelve years of service, essentially restores an equitable relationship with Police Department earnings, rather than securing an advantage which the police Association is entitled to try to match. Since the two minor economic items proposed by the City balance out, with the FTO pay issue favoring the City by a small degree and the Crime Prevention Specialist pay militating against the City's proposal to an equally minor degree, and since all other factors support the City's 3 percent wage offer for 2001 in preference to the Association's effective 6.5 percent, the City's offer best matches the statute's standards overall.

For the foregoing reasons, and based on the record as a whole, it is my decision and

### AWARD

That the final offer of the City of Green Bay shall be included in the 1999-2001 collective bargaining agreement.



Dated at Madison, Wisconsin this 4<sup>th</sup> day of June, 2001.

By \_\_\_\_\_  
Christopher Honeyman, Arbitrator