STATE OF WISCONSIN

BEFORE THE ARBITRATOR

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* In the Matter of the Petition of *

* MILWAUKEE POLICE ASSOCIATION *
LOCAL NO. 21, IUPA, AFL-CIO
* *
For Final and Binding Arbitration
* Involving Non-Supervisory Law *
Enforcement Personnel in the
* Employee of *

* CITY OF MILWAUKEE (POLICE DEPARTMENT)*

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Case 346 No. 42444
MIA-1443
Decision No. 26109-A

APPEARANCES:

ON BEHALF OF THE CITY: Thomas C. Goeldner, Assistant City Attorney, and Thomas E. Hayes, Special Deputy City Attorney

ON BEHALF OF THE MPA: Kenneth J. Murray and Laurie A. Eggert, Attorneys-Adelman, Adelman and Murray, S.C.

I. BACKGROUND

On June 28, 1989, the Union filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to initiate final and binding arbitration pursuant to Sec. 111.70(4)(jm) of the Municipal Employment Relations Act, with regard to an alleged impasse existing between the Parties with respect to wages, hours and conditions of employment of nonsupervisory law enforcement personnel for the years 1989 and 1990. An informal investigation hearing was conducted by a member of the Commission's staff, on July 7, 1989. Subsequently, the Parties jointly requested that the Commission supply the Parties with a list of Arbitrators from which to select the Arbitrator. The undersigned was selected as Arbitrator and notified of his selection by the Parties approximately August 15, 1989. Later, he was formally appointed by the Commission on September 7, 1989.

A preliminary meeting was held on August 31, 1989. At that meeting, the Parties agreed to submit to the Arbitrator final offers by September 5, 1989. Such final offers were filed and entered into the record as Exhibit No. 1 (The MPA Final Offer) and Exhibit No. 2 (The City Final Offer) on the first day of formal hearing, September 25, 1989. The hearing was continued on the following days: October 9, November 1, 2, 3, December 4, 15,

1989; January 2, 3, 4, 5, 8, 17, 18, 19, 22, 23, 24, 29, 30 and 31, 1990. Post Hearing Briefs and Reply Briefs were filed and the final exchange occurred April 13, 1990.

II. ISSUES

A. Base Salary (Article 10)

1. Base Salary Increase

The City's Final Offer on Article 10, Base Salary, is as follows:

> "1. Effective Pay Period 1, 1989, a 2.0% across-the-board increase.
> 2. Effective Pay Period 19, 1989, a 2.0% across-the-board increase.
> 3. Effective Pay Period 1, 1990, a 2.0% across-the-board increase.
> 4. Effective Pay Period 18, 1990, a 2.0% across-the-board increase."

The MPA proposes the following:

> "Commencing Pay Period #1 December 25, 1988 5% across the board raise for all employees of bargaining unit.
>
> "Commencing Pay Period #1 December 24, 1989 5% across the board raise for all employees of bargaining unit."

2. Senior Police Officer

The MPA proposes the addition of a new rank and classification as follows:

> "Commencing Pay Period #1 December 25, 1988 a rank of Senior Police Officer classification shall be created, consisting of all Police Officers with fifteen (15) or more years of service to receive an additional one percent (1%) raise taking effect on said date.
>
> "Commencing Pay Period #1 December 24, 1989 an additional one percent (1%) for Senior Police Officer classification."

The City offer does not represent any change in the present classification structure.

B. Pensions (Article 19)

1. Base Benefits

Both Parties agree that the present 2.5% per year pension benefit formula for creditable service shall continue. Both

Parties also agree that the service retirement allowances shall not exceed 90% of the employees' final average salary. However, they disagree as to the effective date of this limitation. The City's effective date is July 1, 1989 and the MPA's is effective January 1, 1990. The City also formally proposes no change in the current language which requires that the employee pay the 1% of the pension contribution currently being paid to the retirement system.

2. Pension Escalator

The City proposes the following escalator:

"The City agrees to provide an pension escalator effective January 1, 1990, for Service Retirement occurring after January 1, 1990, in the following amounts: A $50/month increase after the fourth year after retirement, an additional $50/month increase after the seventh year after retirement and an additional $50/month increase after the tenth year after retirement. The City further agrees that the Pension Escalator shall be applicable to Duty Disability Retirees following their conversion to service retirement."

The MPA Escalator language reads as follows:

"Any member retiring as of 1/1/89 shall receive a 2% incremental increase on his/her retirement and such incremental increase shall be on the original certified annual retirement allowance. Such incremental increase will continue for duration of life and continue to the surviving spouse.

"Those members converting from Duty Disability to Normal retirement allowance shall be afforded same 2% incremental increase as in sub. 2.

"A member selecting deferred retirement from age 46 through 51 shall be eligible for benefits provided in sub. 2 upon reaching age 52."

3. Duty Disability Retirement Conversion

The City proposes the following:

"c. Duty Disability Retirement

"An employee who is found to be eligible for a duty disability retirement allowance based upon filing a request for retirement with the ERS Annuity and Pension Board on or after January 1, 1990, shall continue to receive such allowance during the period of his/her

next succeeding whichever of the following dates occurs first:

"(1) The date he/she attains age 52 and 25 years of credible service as a "policeman."
(2) The date he/she attains age 57."

The Union proposes no change in the status quo which provides conversion to age 57.

C. Overtime (Article 15)

1. Compensatory Time

The Parties differ as to how the employees should be able to use compensatory time. The MPA's final offer provides:

"c. Subject to the terms and conditions provided for in subsection 3.b.(2) of this Article, above, an employee shall be authorized to use earned compensatory time off in units of one (1) hour."

The City proposes:

"(2) Effective with the first day of the first pay period after the execution date of this Agreement, the following provisions shall be applicable to compensatory time off segments:

"Subject to the terms and conditions provided for in subsection 3.b.(2) of this Article, above, an employee authorized to use earned compensatory time off must use it in units of either a full eight-hour day or an hourly segment (i.e., no segment comprising a fraction of an hour). The hourly segment may include from one (1) continuous hour to seven (7) continuous hours; provided, however, that such hourly segment must either start or finish the employee's eight-hour work shift."

2. Roll Call

The Union proposes the following:

"a. Roll Call - All employees in the bargaining unit shall be entitled to receive roll call pay. Effective August 11, 1985, and for so long as employees are covered by the Fair Labor Standards Act (FLSA) during the term of this Agreement, or any agreed upon extension thereof, the 18-minute roll call period shall be reduced to a 12-minute period with all overtime earned during such 12-minute period compensated at time and one half (1 1/2X) the base salary rate. If and when employees are no longer covered by the FLSA, the roll call period

shall be increased to an 18-minute period and overtime earned as a result of roll call shall be compensated at base salary rates (1X)."

The City proposes to maintain the existing practices with respect to roll call by maintaining the status quo contract language. The language reads:

"a. Roll Call

"Existing roll-call time practices will be maintained for the term of this Agreement or any agreed-upon extension thereof. Effective August 11, 1985, and for so long as employees are covered by the Fair Labor Standards Act (FLSA) during the term of this Agreement, or any agreed upon extension thereof, the 18-minute roll-call period shall be reduced to a 12-minute period with all overtime earned during such 12-minute period compensated at time and one-half (1 1/2X) the base salary rate. If and when employees are no longer covered by the FLSA, the roll-call period shall be increased to an 18-minute period and overtime earned as a result of roll-call shall be compensated at base salary rates (1X)."

D. Health Insurances (Article 21)

The MPA proposes the following changes to the existing language:

"1. a. (3) Heart transplants shall be covered benefit. The effective date of this benefit shall be January 1, 1989.

b. Health Maintenance Organization (HMO) Plans. Employee shall have right to select coverage under an HMO Plan approved by the City in lieu of coverage provided by the Basic Plan. The minimum benefits for the HMO plan selected shall be the same as the benefits for the Basic Plan Health Ins.

"4. a. Effective upon the execution of the arbitrator's award or Jan. 1, 1990, whichever is sooner, the city will contribute an amount up to $10 per month for single enrollment and an amount up to $30 per month for family enrollment towards meeting the subscriber cost of the dental plan.

"5. Any member selecting deferred retirement shall be entitled to receive health insurance benefits based upon the retiree contribution formula after reaching the age of 52.

"PAYMENTS OF HEALTH INSURANCE:
Health Insurance Premiums shall be paid at 100% for the years 1989 and 1990 for all employees of bargaining unit."

The City's proposal is that effective January 1, 1990, employees shall contribute $15 per month for family enrollment and $7.50 per month for single enrollment in the Basic Plan, depending upon their enrollment status. Effective January 1, 1990, the City will pay up to 105% of the lowest priced HMO for single and family HMO enrollees. Effective January 1, 1990, the City agrees to contribute up to $10 per month for single enrollment and $30 per month for family enrollment in the dental plan selected by the employee. Effective January 1, 1990, heart transplants shall be a covered benefit. The City proposal is also that the major medical deductible be increased to $100 per person up to a maximum of $300 for a family on the Basic Plan. Effective January 1, 1990, employees shall be eligible for deferred retirement at age 49 after 25 years of service, at which time the City will contribute 65% towards the cost of health insurance coverage under the Basic Plan, commencing at 52 until age 65.

E. Parking (Article 63)

The MPA proposes that "parking shall be paid in full to all members of bargaining unit that work at the Police Administration Building (PAB) on city approved parking lots."

The City proposes to amend the present language on parking by increasing the now $35 per month benefit to $40 and designating it as the "regular benefit". They propose additional language providing a "special parking allowance" to those employees who car pool. To summarize, if two employees participate in a car pool, the City would pay in the aggregate $50 per month and if three or more persons participate in a car pool, the City would pay $60 per month. The City has also proposed to honor daily receipts for parking if no monthly parking lots are available under paragraphs 3 or 4.

III. CONTENTIONS AND DISCUSSION OF THE INDIVIDUAL ISSUES

A. Parking (Article 63)

1. Contentions of the MPA

Currently, the City pays $35 a month to MPA members who work at the PAB. The MPA is now proposing the City provide fully paid parking to all members of the unit who are assigned to the PAB. All other provisions of the current parking language would remain in effect.

A most critical fact in the MPA's estimation is that the only employees in the MPA bargaining unit who have any parking costs are those employees assigned to the PAB. The MPA argues that these employees should not be penalized by their assignment to that location. Current rates at MacArthur Square are $60/month and this translates into a $300 per year cost to

employees at the PAB. In addition, the employee may have to walk several blocks to the PAB. The Union submits as well, that the $300 penalty has caused a substantial morale problem in the department and discourages persons from seeking transfers to the PAB.

The Union also argues that its proposal is reasonable because (1) parking rates have increased at MacArthur Square from $50 to $60 since they agreed to the $35 reimbursement figure, (2) the City provides free parking to supervisors assigned to the PAB.

Additionally, the MPA argues that the original agreement providing $35/month parking was based on erroneous costing. In 1988, when the Parties tentatively agreed to the $35 per month parking allowance, the City estimated that the cost of the proposal was $149,000 or .23%. In fact, the actual cost of the benefit was only $56,700, or .09%. Based on these estimates, the MPA agreed to give up the $100 per month per employee auto allowance, the value of which was $160,000. The MPA raises several equity arguments based on this fact.

Last, the Union contends that the City proposal is insufficient. At a minimum, it would cost an employee who could not car pool $20/month or $240 per year. Car pooling is not always possible due to the nature of a Police Officer's job and the shifts that he or she is obligated to work. For instance, shifts change frequently, and overtime is often required.

2. Contentions of the City

As for the proposal for daily receipts, the City notes testimony from Union witnesses that they are a good idea. Beyond this, they note that in May/June of 1988 the employees agreed to pick up $15 of the $50 monthly period. In September, the monthly rate went to $60. Thus, the City's offer to increase the parking payment to $40 per month is indicative of the City offering to split the increase with the employee on a 50-50 basis. Moreover, with car pooling, there is an incentive in that employees can earn a fully-paid monthly permit.

The City asks the Arbitrator to consider two other facts. First, of all the bargaining units with a parking provision for employees who are not required to use their car on City business, only the MPA and ALEASP (the clerical unit and the police aide unit) have such parking permit provisions. The 1987-1988 ALEASP/City contract also provided for a $35 monthly fee provided by the City. Second, the direct attention to two previous interest arbitrations between the Parties where MPA parking proposals were rejected.

3. Discussion

At the outset, the Arbitrator finds the Employer's proposal for daily receipts to be reasonable on its face. Accordingly, it

is to be adopted by the Parties as part of Article 63 as it existed in the 1987-88 contract.

The other issues involve the amount of the basic allowance and the City's proposal for special incentives for car pooling. While the issue of free parking has been a subject in previous interest arbitrations between the Parties, those decisions have very little relevance here. First of all, the most recent of those decisions is over ten years old. The availability and cost of parking in the downtown area has no doubt changed dramatically in the last ten years. Second of all, both previous demands involved a request for free space at a particular place. This, for obvious reasons, was problematic. Last, the other decisions aren't relevant since there is no indication therein that it was considered the members of the Milwaukee Police Supervisors Organization (MPSO), who work at the PAB, are now entitled to free parking at MacArthur Square. This obviously sets up equity/fairness considerations that evidently were not a factor at the point in time Arbitrators Wagner and Malinowski rendered their decisions.

The equity considerations raised by the fact the MPSO members working at PAB have free parking, are significant indeed. This is especially true since, as will be discussed elsewhere, there is great persuasive appeal to the City argument as to the importance of pattern settlements, parity, etc., in the areas of wages, pensions and insurance among the protective service bargaining units. Certainly, a pattern settlement is most important with respect to the backbone of the Labor Agreement. However, the cost of parking is not unimportant to a significant number of MPA members as its cost impact on their take-home pay is not insignificant. It is the Arbitrator's judgment that the equity considerations are significant and far outweigh the cost impact. Thus, Article 63 ought to be modified to provide for a regular parking benefit of $60/month.

The other issue had to do with car pooling incentives. The MPA argued that car pooling is unworkable given the nature of police assignments, etc. It is interesting, however, that in their offer before Arbitrator Malinowski, the Union's proposal for a parking benefit was contingent on car pooling and it was the City who suggested it was unworkable.

The fact that the Parties have argued both sides of the fence on the issue of car pooling, underscores the obvious. For some MPA members assigned to the PAB, it is not convenient to car pool and for others it is convenient. Certainly, there are intrinsic reasons to give employees incentives to car pool. First, it is not unreasonable for the City to try to save money. Second, car pooling saves employees money, is ecologically sound and saves space in the crowded downtown area.

The problem with the City's proposal is that it is somewhat punitive for the MPA member at the PBA who cannot car pool and, no doubt, there are many who can't for a variety of reasons.

The Arbitrator will therefore award the Employer the option, if it so chooses, to insert into the contract, within the framework of their proposal, affirmative incentives for a "special parking allowance benefit" of $20 over the actual cost of the monthly parking permit (not to exceed a total allowance of $80) for two-person car pools, and $45 over the actual cost of the monthly parking permit (not to exceed a total of $105) for three-person car pools.

The advantage of structuring the car pooling incentives in this way is that it doesn't penalize the MPA member working at the PAB who finds it impractical or impossible to car pool, yet it offers incentives and affords the possibility for savings to the Employer. If two employees car pool, the Employer saves $40 over the cost of providing the $60 benefit to each employee. If three employees car pool, the Employer saves $75 over the cost of providing the $60 benefit to all three employees.

The Arbitrator is aware of the Employer's concern about other employees in other bargaining units in the PAB. However, a strong case for distinction can be made for all the obvious reasons.

B. Senior Police Officer

1. Contentions of the MPA

The MPA notes that, under the additional 1% increase for the new classification, a Senior Police Officer would receive approximately $620 more than a non-senior Police Officer would in the second year of the contract. This new classification is needed in the MPA's opinion to motivate employees at the top of their pay range to their full potential. Under the present system, a Police Officer achieves top pay after four years of service. The fact an employee tops out after four years, precludes advancement in their opinion. Citing the "Buracker" report, these officers, it is argued, may not be motivated to their full potential. The recognition and compensation are both important motivators.

The MPA also notes, based on the testimony of Dr. George Kelling, that other cities have created Senior Police Officer positions to reward and recognize employees. This too, according to his testimony, is needed to make community-oriented policing successful. Under this concept, this job of Police Officer is more difficult and complex as they have more discretion and authority. More experienced officers are needed to fulfill this function, and without promotional opportunities within the Police Officer classifications, good officers will seek promotions out of the ranks of Sergeant or Detective. Kelling also stated that since the current measurement capabilities of police departments are ineffective, he would be willing to accept seniority as a surrogate measure of performance. Additionally, the MPA believes that their demand would formalize and reward what is already

happening in the Milwaukee Police Department. Already, the most difficult assignments are being given out to the most experienced employees. The MPA also contends that Senior Police Officers have a greater risk of injury; which, accordingly, would be a separate justification for the proposal.

Last, the MPA argues that the City's objections to the Senior Police Officer demand are not sufficient to defeat it. For instance, the City argues that there are already a variety of perks for Police Officers of 15 years of service. These include day shift assignments, longevity and an extra week of vacation. However, the MPA submits these are not incentives to remain as a Police Officer since these benefits follow an employee when promoted to Sergeant or Detective.

2. Contentions of the City

The City's position is that the Senior Police Officer demand is nothing more than a disguised longevity increase. The only requirement to attaining Senior Police Officer status is the completion of 14 years of service with the Milwaukee Police Department as a Police Officer. The City notes the MPA's reliance on the "Buracker" report. However, the Buracker report did not recommend movement into a higher classification merely based on longevity. An officer would move to a higher classification in one of two ways: either by competitve promotional exam or by proficiency ratings by supervisory officers.

In support of their position that the Senior Police Officer demand is merely a longevity proposal, the City notes the Union's present arguments are similar to those it made in 1973 when it initially demanded a longevity proposal and in 1987-88 when they sought an increase in longevity payments.

As for the argument that more senior officers perform more difficult tasks, the City notes that shift selection is based on seniority. Senior officers usually select day shifts where less criminal activity occurs.

3. Discussion

There is no doubt that there are some, probably many, veteran Police Officers who are a valuable asset to the Department. A veteran can offer leadership, act as a role model and be an informal mentor for younger officers. They can also be more effective and efficient. The value of these assets no doubt goes up in direct proportion with the increasing complexity of police work. It is indeed in the Employer's interest to retain such employees. Reward and recognition are vehicles to this end.

The "Buracker" report recognized the need for reward and recognition for veteran Police Officers and, to this general extent, it supports the MPA demand. However, the Buracker report did not suggest that pure seniority be the only qualifying

criteria. It suggested, generally speaking, that promotion be based on merit measured by either exam or supervisory ratings.

While it is important, as the Union argues, to motivate officers to their full potential, a seniority based classification wouldn't provide any performance motivation at all. Advancement to the classification wouldn't be based on an officer actualizing any or all of his or her potential, but merely on their ability to stick it out for 15 years. While there is reason to reward the contribution of veteran officers, the plain fact is not all officers of 15 years rank make substantial or significant contributions as distinguished from officers of lesser service.

This isn't to say long service isn't valuable or shouldn't be rewarded, but it is to say that officers are already entitled to longevity which rewards them purely on the basis of seniority. Beyond this, it is not unreasonable to balance any further distinctions in pay in the Police Officer classification on merit, particularly where the purpose is to reward proficiency and motivate to higher levels of achievement. Certainly, merit/promotional systems aren't without problems. However, given the purpose of the senior Police Officer classification, a strict seniority based system is not appropriate. In fact, in the other cities that have an "enhanced" patrol officer classification, advancement is not an automatic step increase, but involves some form of certification. The classification should not be, as the Union proposed, an automatic step increase. Nor should it be viewed as protection against a higher risk of injury since the disability program is designed for this purpose.

In summary, the major defect of the Union's proposal is that it is seniority based without regard to merit. Moreover, they haven't adequately accounted for the cost of such a proposal within the confines of a reasonable package cost. This cost would be recurring. The demand is denied.

C. "Comp" Time

1. Contentions of the MPA

The MPA believes their demand to allow comp time to be taken in one hour segments at any time -- given the permission of their commanding officer -- is reasonable. This is mainly because granting the leave is entirely within the discretion of the commanding officer. For instance, if he believes that the use on any given day is not in the best interest of the public, he has complete authority to deny the request.

The MPA also points out that this benefit has been successful for the MPSO unit since its inclusion into their contract in 1983-84. The MPA also disputes the City's contention that there are significantly different factors in approving comp time in the middle of the day for an MPSO member as opposed to an MPA member.

As for unexpected problems that can occur during the one hour comp time period, the MPA notes that unexpected problems are not any more likely in the middle of the shift than at the beginning or end. Moreover, the Department has backup mechanisms to maintain adequate levels of police response.

2. Contentions of the City

The City notes that in the 1987-88 interest arbitration, the MPA requested that compensatory overtime be taken in one-hour segments. However, Arbitrator Kerkman denied that request. In this arbitration, the Employer is willing to grant comp time in one-hour segments but, because of practicality concerns, wishes to limit it to the beginning and end of the shift. In this regard they cite testimony concerning these difficulties. If a one-man squad were planning to take a mid-shift one-hour comp time segment, the squad would be out of service on the way into the district station and be out of service during the entire time the officer was off duty. If the squad were a two-man squad, the squad would be out of service for the trip to the district station to drop the comp time officer off and for the return trip to pick up the returning comp time officer. There would be no replacement for a one-man squad when the officer was taking a comp time segment.

This is entirely distinguished from the MPSO since, unlike supervisors, Police Officers are primary or first responders to emergency calls. Supervisors can also extend their span of control to account for one supervisor being missing for an hour or two. This is not the same for Police Officers who are missing for an hour or two. The City is also concerned that such language will generate grievances.

3. Discussion

The issue presented here, unlike the most recent interest arbitration between the Parties, is not whether comp time can be taken in one-hour segments, but when these one-hour segments are scheduled.

Certainly there are impracticalities in patrol officers, particularly in less concentrated patrol areas, taking an hour off in the middle of the shift. However, the Arbitrator isn't convinced that taking one-hour off for personal reasons of significant importantance in the middle of a shift is ipso facto impractical for all employees in the bargaining unit. Not all are on patrol, not all are on patrol in remote areas and instantaneous availability is not crucial for all employees. Thus, there isn't a compelling need for a hard and fast rule against comp time during the shift.

The Union's proposal does nothing more than state the obvious. Even under the City's offer, Management could, under unusual circumstances, purely as a matter of discretion, grant a

request to allow comp time to be taken in the middle of the shift. Thus the MPA proposal isn't a radical departure from the Employer's proposal. There is a legitimate concern, however, that by inserting language -- albeit discretionary in nature -- such as proposed by the MPA into the contract, it might raise expectations on the employee's part that such requests will be routinely granted. Thus, without some qualifications, the language may become a lightning rod for grievances. It is the Arbitrator's belief that by adding language which stresses with more emphasis the discretionary nature of the benefit, the Union's proposal would be acceptable. It would go too far, as the City argues, to exclude denials of such requests from the grievance procedure. The language inserted into the contract should be as follows:

> Subject to the terms and conditions provided for in subsection 3.b.(2) of this Article, above, an employee may request to use earned compensatory time off in units of one (1) hour for purposes of significant personal importance. Such requests will be granted at the discretion of the supervisor consistent with the needs of service and shall not be denied arbitrarily or capriciously. It is understood that the needs of service are of preeminent importance in weighing such requests.

D. Roll Call

1. Contentions of the MPA

The MPA stresses that the MPA demand is that every member of the bargaining unit receive roll call pay. It does not require each employee to stand roll call since it acknowledges that the Chief retains discretion as to whether or not officers will stand a formal roll call. Currently, the practice dictates that certain members of the unit do not receive roll call pay. Such persons are assigned to LUCAD, Communications, Identification Division, Traffic Investigation, License Investigation, Data Processing, Property Control, Document Examiner, Vehicle Services, Central Records, Academy and Crime Prevention. In addition, limited duty personnel do not get roll call, regardless of the location of their assignment. The demand would give these employees roll call pay and, if directed to stand roll call, would provide information that is essential to all members of the bargaining unit. It would give them an opportunity to learn of changes in Rules and Regulations, Standard Operating Procedures, Memos and Orders, etc. Information concerning criminal activity is also essential to all members of the bargaining units since all members of the MPA are obligated to take police action whenever it is necessary. For instance, an officer who comes upon a crime in progress is obligated to take police action whether or not he has received roll call. Thus, an officer who has not stood roll call or has received only an incomplete roll call is walking into a dangerous situation without adequate preparation. It is also essential because an officer can be reassigned at anytime, whether by transfer to a district, or short-term

reassignment to the street. Thus, this creates a need to have roll call information.

It is also argued that Police Officers need roll call information in order to perform their duties properly. An example is given, officers in LUCAD and Property Control routinely deal with jewelry and other items that may have been stolen. Neither of these divisions get roll call and, as a result, do not receive descriptions of stolen jewelry which have been sent out by the Gold and Silver Unit. Such an officer is put in the position of encountering stolen goods, without having the information which would allow him to identify it. Similarly, officers in LUCAD may process persons who are wanted, without realizing that they should be held on other, perhaps more serious, charges.

The MPA argues that their demand for roll call is reasonable since officers who do not stand a formal roll call obtain roll call information on their own time. These officers do not, as it is asserted by the City, obtain this information on their breaks. First, many of the officers who do not stand formal roll call need this information before their shift begins. For example, officers in LUCAD start processing prisoners as soon as their shifts start; they cannot wait until a slow part of the day to find out which of their prisoners is dangerous. Other examples are given.

It is also reasonable to expect members to rely on the roll call board since it is often incomplete. Many examples are given. It is also unreasonable to expect Police Officers to use their "breaks", which is theoretically duty free, to perform roll call functions.

2. Contentions of the City

The City draws attention to the fact that during the 1987-1988 interest arbitration, the MPA had demanded that "all employees shall be required to stand roll call and receive roll call overtime." In determining the issue against the MPA, Arbitrator Kerkman wrote as follows:

> "The undersigned has also considered the Association proposal that all employees be required to stand roll call and rejects that proposal. It is the opinion of the Arbitrator that it is within the prerogative of management to determine the assignment of overtime and to determine which of its employees are required to stand roll call and which are not. Certainly, if the Employer determines that employees are to stand roll call prior to the beginning of the shift, the overtime provisions of the Contract come into play and overtime must be paid. However, if the Employer exercises its management prerogative to schedule a straight shift for certain employees which the Employer determines needs not stand roll call, then, it would be

improper for the Arbitrator to second guess the Employer and dictate that all of the employees stand roll call on an overtime basis. Consequently, the proposal for mandatory roll call for all employees is rejected."

They also noted that under the Union's proposal, Police Officers who stand roll call would be working 8 hours and 12 minutes, whereas officers not standing roll call would work only 8 hours; however, both would receive 8 hours and 18 minutes of pay.

As for the necessity of all MPA members standing roll call, they maintain that it is clear from the testimony that those individuals who do not receive roll call prior to the start of their tour of duty can receive that information during their tour of duty. They also submit that it is not within the province of the Arbitrator in this proceeding to second guess the managerial decision which has been made as to who will and who will not stand roll call. Moreover, the cost of extending roll call pay to employees currently ineligible for such pay would be approximately $10,000 per bi-weekly pay period based upon 1988 rates of pay. It is clear that being paid for 8 hours and 18 minutes of pay for 8 hours of work would cost the City in excess of $250,000 per year.

3. Discussion

The proposal before this Arbitrator differs only slightly from that before Arbitrator Kerkman. The proposal required everyone to stand roll call. This proposal doesn't require everybody to stand roll call but does require everyone to be paid as if they did. This is regardless of whether they are ultimately assigned to stand roll call or not. While the proposals differ in their form, the practical effect is the same. In fact, the old proposal was probably rewritten to avoid a possible challenge that the right to assign employees to overtime is a permissive subject of bargaining.

This Arbitrator has no reason to disagree with the conclusion of Arbitrator Kerkman. For the same reasons expressed in his decision, the Union's proposal is rejected. The right to assign employees, particularly to overtime, is an inherent management right not subject to bargaining. It is not reasonable to allow the Union to achieve indirectly -- by requiring everyone to be paid for roll call -- what it can't achieve directly.

E. HEALTH INSURANCE

1. Contentions of the MPA

Deferred Retiree Health Insurance The MPA notes that currently, a Police Officer can retire at age 46 with 25 years of service. At age 52, he begins to receive his pension. Between ages 46 and 52, he is required to pay 100% of the premium if he chooses to participate in the City's health insurance program.

From age 52 to 65, the City contributes 25% of the cost and the Police Officer contributes 75%. Accumulated sick leave can never be used by an officer who retires before age 52 to increase the City's contribution. If an officer with 25 years of service waits until age 52 to retire, the City will pay a minimum of 65% of his health insurance premium. The City will increase its contribution to a maximum of 100% of the cost, depending on the Police Officers' accumulated sick leave at the time of his retirement. The MPA believes that the current system is inequitable since it penalizes employees who retire between ages 46 and 52. Their demand remedies this inequity by allowing a Police Officer who retires between ages 46 and 52, with 25 years of service, to receive a City health insurance contribution at the same rate as a Police Officer who retires at age 52 with 25 years of service. The City's offer reduces the age to 49 but still limits the contribution to 65%.

The MPA also submits that the current system is illogical and penalizes an officer who started his police career at an early age. The present system also encourages older officers, who would otherwise want to retire, to stay on the job so that their health insurance will be paid after retirement. In their estimation, there is no logical reason for treating health insurance differently than pension. A 46 year old retiree will receive the same pension benefit as a 52 year old retiree if each has 25 years of service; their health insurance benefits should also be treated the same. Their proposal would have the added advantage of reducing absenteeism since, if an early retiree knows that his accumulated sick leave can be used to pay for his health insurance premium, he is less likely to miss work.

HMO Benefits Equal to the Basic Plan Currently the City and the HMOs have a contract which provides for benefits which are "comparable" to those in the basic plan. The contract between the MPA and the City provides that the HMO benefits are to be established by the HMO. The MPA submits that their proposal would enable the employee to make sure he gets the benefits to which he is entitled.

105% of the Cheapest HMO Currently, the City pays 100% of all HMOs. The City wants to limit its contribution to 105% of the cheapest HMO. The MPA wants the current system maintained. They think it should be maintained because the City's proposal is counterproductive and bad policy. This is for several reasons: 1) it creates a disincentive to use HMOs, even though HMOs are in the City's interest; 2) and this consequently discourages utilization; 3) because an HMO has an incentive to bid low in one year it will have to raise its bids in successive years in order to recoup its losses. Since an employee pays any costs above 105% of the lowest, the employee faces the choice of switching doctors or coming up with the money to help the HMO make up for the bad year it had when it underbid its competitors.

Co-pay of Premium and Deductible Increase Currently, the City pays the total premium for the basic plan and the basic plan has a

$50 per person deductible, with a maximum of three per year. The City's proposal would make a family pay $15 per month and a single pay $7.50 per month toward the health insurance premium. Further, the City's proposal would increase the deductible from $50 to $100, with a maximum of three. There is no reason, in the MPA's opinion, to disturb the status quo with respect to the basic plan. The City's proposal should not be accepted because 1) it would increase utilization and the cost of health care; 2) the City's proposal would require a Police Officer to use after-tax dollars to pay the premium rather than pre-tax dollars costing the employee a significant amount; 3) it is unfair to shift more health insurance costs to the employee where the City expects to receive, but not share, at least $1,750,000 from the hospitals participating in the HCN and PPO programs during 1989 and 1990; 4) the City has not done what it could have to ease the burden of increased deductibles and new premiums. For instance, the City did not even bother to propose a salary reduction plan which would permit the employee to use pre-tax dollars to pay the premium and deductible.

2. Contentions of the City

Much of the City's arguments on the health issues relate to the rising cost of health insurance generally and the reasons why. Their brief, in this regard, is quite detailed and lengthy. To summarize, these rising costs make it necessary to manage the providers and the users to limit the extent of increases in health insurance. Their individual proposals were designed with these objectives in mind.

As a general matter, the City draws attention to the fact that almost all of the City's bargaining units have agreed to the same health insurance provisions as offered to the MPA. For instance, the Firefighters and MPSO have agreed to 1) the City's deferred retiree language; 2) the City's offer to pay 105% of the cheapest HMO; and 3) the increase in deduction and the employee pick-up of part of the premium; and 4) heart transplant coverage effective 1-1-90.

Co-pay of Premium and Increased Deductible Relying on its expert witness, the Employer states that the City's proposed $100 deductible is somewhat more liberal than most other plans especially since the City's deductible only applies to physician's outpatient services. Deductibles and co-pay are reasonable because under them they cause a financial participation and people tend to be more efficient about using medical care.

105% of Lowest HMO This would encourage HMO competition by providing an incentive for the HMO to bid the lowest possible cost. Additionally, the City's proposal is going to provide an incentive for employees to select the lower cost HMOs simply because employees will not have to make the contribution if that employee selects the low cost HMO. They also believe that a crucial point to remember is that, although there is a basic plan

major medical deductible change and co-payment and an HMO 105% factor, the City is still offering "free" health insurance alternatives. When one applies the "105% of the lowest HMO" factor to the City's carriers, it is clear that 2 of 4 HMO single enrollments are "free" (Compcare, WHO) and 3 of 4 HMO family enrollments are "free" (Compcare, WHO, Prime Care).

HMO Benefits Equal to the Basic Plan The City notes that presently they require their HMO providers to provide benefits substantially similar to the benefits provided under the basic plan.

3. Discussion

It is very significant that most city bargaining units, particularly the other protective services units (the MPSO and Firefighters), have voluntarily accepted the same modifications to the health insurance benefits as the City is offering the MPA. This is powerful evidence for a variety of reasons. First, the fact that so many different units have accepted these changes is indicative of a large degree of intrinsic reasonableness of the City health insurance proposal.

Second, the fact that other units, and again particularly the other protective service units, have accepted these proposals set up several equity considerations. It would be inequitable to treat different employees differently under similar circumstances. For example, why should a deferred retiree in the MPA be entitled to greater health insurance benefits than his/her supervisor. Another equity consideration relates to the impact of requiring that different health insurance benefits (within the various plans) be offered the MPA employees. With unified benefits across all employee groups, the City is able to negotiate better rates because of the strength in numbers.

The fact that most other bargaining units have accepted the City's offer, however, should not be blindly determinative. The offer should be scrutinized to see if any aspect of it is patently unreasonable or inappropriate as to the individual circumstances of this particular bargaining unit.

After reviewing the City's offer and the arguments of the Parties, the Arbitrator finds, with one limited exception, nothing unreasonable or inappropriate with the City's offer. For instance, the cost sharing aspect of the offer and the 105% limit is significantly tempered by the fact there still remains several cost free choices to the employees.

The exception relates generally to the Union's demand that the benefits of the HMO be the same as the basic plan and specifically with the evidence relating to the alleged unavailability of outpatient services under HMO plans for chemical abuse treatment. Certainly requiring that HMOs offer exactly the same or equal benefits is not reasonable since it would limit the cafeteria of benefits now offered. With some

latitude to provide comparable or substantially similar benefits, some HMOs offer benefits better than the basic plans or some other HMOs. This gives the employee the added benefit of picking an HMO whose benefits may more appropriately fit their particular circumstances.

There is merit, however, to the MPA concerns that there is no guarantee in the labor agreement as to the comparability of benefits and that the employee has no standing to challenge deficiencies. Presently the labor agreement simply says that the HMO will determine the benefits of their plan. Clearly, the HMO is the sole judge of this, coincidentally, after the fact. Even though the City, in its call for proposals, requires that HMO benefits be "substantially in accordance" with the basic plan and, even though the City no doubt does its best to accept only proposals that are substantially similar, the employee has no recourse under the current language in the event something falls through the cracks.

For instance, the evidence suggests that one of the HMO's (Good Samaritan) may not be offering inpatient services for chemical abuse treatment. Even under the test and analysis applied by the City's expert witness Mr. Brinkman, a consulting actuary in the healthcare services field, in order to be substantially the same, an HMO would have to provide both inpatient and outpatient care for substance abuse situations. Thus, there is good reason to allow a vehicle for enforcement of the "substantially similar" concept by inserting express language in the agreement.

In this regard, the Arbitrator notes that the MPSO Agreement in Article 17, Section 1.b. states, "the benefits of the HMO plans will be substantially the same as the basic plan benefits." This same language will be adopted along with the City's various proposals on health insurance.

E. DUTY DISABILITY CONVERSION

1. Contentions of the City

The City proposes to reduce the conversion age for duty disability retirees to a normal service retirement allowance from its current 57 years to age 52, with 25 years of service. In support of their proposal, the City directs attention to the testimony of actuary Greg Skalinder. He provided three rationales for the City's proposed duty disability retirement conversion demand. The first is a fairness argument in that someone who goes out on a normal service retirement should not get as good a benefit as someone who is on a duty disability retirement. Second, there is the potential for abuse since duty disability benefits are higher. The third and critical rationale is that it reduces the cost of the pension program.

They note that the savings to the City for changing duty disability conversion from age 57 to 54 for MPA members would be 0.669% and the savings to the City for changing duty disability conversion from age 54 to 52 for MPA members would be 0.295%. Adding the two percentages, the total savings for converting from age 57 to age 52 would be 0.964%. The City also draws attention to the fact that the MPSO and the Firefighters also agreed to a conversion from duty disability retirement to normal service retirement at age 52 with 25 years of service.

2. Contentions of the MPA

The MPA notes that currently an officer who is on duty disability continues on duty disability until he reaches age 57. Then, his duty disability payments end and he begins receiving his normal pension. The MPA opposes this proposal for a variety of reasons.

First of all, they believe the City's reasons for DDR conversion at 52 to be unpersuasive. Potential abuse is one of the City's rationale. However, there is no evidence in the record that abuse has ever occurred. They term Skalinder's testimony in this regard as pure speculation. The facts are that several elements in the ERS system make it difficult to abuse DDR, even if an employee were so inclined. The MPA reviews these protections in detail.

As for the cost savings involved, the MPA stresses that the savings from DDR conversion to age 52 are substantially less for Police Officers than for Firefighters. The savings generated by the Firefighters' reduction from age 57 to 54 amounted to a 2.13% offset in 1988. In comparison, the same reduction for the MPA would amount to only a savings of .57%. Nor is there any guarantee that any savings from reducing the conversion age to 52 would be applied to their benefits.

As for the "fairness argument" the MPA argues that there are several reasons why a disabled employee should get a higher pension than a normal retiree. First, a disabled person may have higher than normal costs as a result of his disability. Second, a disabled person is likely to receive a pension for a longer period of time than a normal retiree because he is injured before normal retirement. Moreover, the indexing to a current employee's salary protects the duty disabled retiree from the effects of inflation while he is on DDR. Third, a substantial duty disability pension is essential in recruiting and keeping Police Officers. It is also not unfair to recognize the sacrifice that disabled Police Officers have made for the community. Last, while the City's hope of achieving a "level playing field" is a factor to be considered, it is not, in the MPA's opinion, a significant one.

There are a number of affirmative reasons to oppose the change in the view of the MPA. First, a disabled Police Officer may be forced into normal retirement with fewer years of service,

thereby drastically reducing the size of the regular pension on which he must sustain himself for the remainder of his life. An officer who is forced to convert to regular retirement at age 52 would lose five years of pension credit or 12.5% of his final wage and pension benefits. In addition, he would lose five years of negotiated pay raises on which his pension is based. In terms of cost, assuming 5% salary increase, a disabled officer converting at age 52 with 25 years in 1989 would receive 59% of a final salary of $30,858, or $18,045. If he were permitted to remain on DDR until age 57, he would earn 70.25% of a final salary of $39,035, or $27,422. The City's proposed change would decrease the disabled retiree's benefit by $9,377 per year, and bring him down below the target of 60-70%.

Also, the City's proposal would substantially reduce the benefits paid to a disabled officer between ages 52 and 57. An Officer on disability pension receives 75% of the current Police Officer's salary while a pensioner forced off at age 52 would receive 59%. The gap between a disabled officer's pension benefits while on normal pension and his duty disability pay gets larger each year because the duty disability continues to pay 75% of a Police Officer's current wages while the retiree's pension is frozen at 59% of his final salary, subject only to the minuscule escalator proposed by the City or the modest escalator proposed by the MPA. Last, while there are strong public policy reasons for able bodied Police Officers to retire at age 52 with 25 years of service, there are no similar public policy reasons for forcing disabled officers into normal retirement at that age.

3. Discussion

It is well established that the party seeking to modify the status quo in interest arbitration has the burden of proof. This is not an insignificant burden either.

Generally speaking, a compelling case for change can be made in a variety of ways depending on the circumstances of each case. However, two important components for making a change are broad support in the comparables and evidence of meaningful quid pro quo. In this latter respect, the Employer points to the fact that their pension escalator is worth approximately .827%, nearly making up for the .964% savings for the change in the duty disability conversion. As for comparables, they look to the agreements with the Firefighters and MPSO.

The MPA discounts significantly the effect of the MPSO and Firefighters' voluntary acceptance of the City's proposal. It is heavily outweighed, in their opinion, by other factors including the reduction in retirement benefits that an officer would experience being forced to convert to normal retirement at age 52 instead of 57. Indeed, Arbitrator Kerkman found this to be a more important consideration in denying the Employer's proposal to reduce the conversion age to 52 during the last interest arbitration.

However, it must be noted that of the other protective service units, at the time of the Kerkman award, one had agreed to an age 54 conversion and MPSO had the age 54 conversion imposed involuntarily in arbitration. Thus, before Arbitrator Kerkman, the Employer's proposal for the DDR conversion age be reduced to age 52 went beyond the internal comparables. In this case, both the MPSO and the Firefighters voluntarily agreed to move from age 54 to age 52, therefore, presently the Employer seeks no more change than in effect in the other units.

Thus, the playing field is much more uneven now (age 57 vs. age 52) than it was previously (age 57 vs. age 54). Accordingly, it is not inappropriate to conclude that the equity/consistency considerations created by the fact other protective service employees convert to normal retirement at age 52 should now be given more weight than it was by Arbitrator Kerkman. This case is also distinguished from Arbitrator Kerkman's case in that there was no quid pro quo offered. The fact there is, to some extent, a quid pro quo in the form of a credit to the package (as will be discussed later) and in the form of the escalator offered, also weighs in its favor of the change.

Is the more uneven playing field and the quid pro quo enough to outweigh the equities favoring an age 57 conversion? Those equities were well amplified in the MPA briefs. It is the judgment of this Arbitrator that the Employer's proposal is justified. Certainly, the sufferages of a disability are deserving of great sympathies. Disabled employees probably will have a need for greater income, and certainly their income is reduced when they convert to normal retirement at age 52. However, rhetorically speaking, why, all things considered equal, should disabled MPSO and Firefighter members endure significantly greater hardships, financially speaking, than disabled MPA members? Certainly, the disabled employee who is forced to convert to normal retirement at age 52 will have a pension slightly below the "Skalinder target". But again, why should the MPSO and Firefighters face their problems any differently than MPA members? The answer is, there is no reason they should. Plainly, there is no demonstration in this record that relative to other protective services that the Police Officer needs a greater disability benefit than other protective service members. The Employer's proposal is granted.

G. PENSION CAP, PENSION ESCALATOR AND BASE SALARY

1. Contentions of the MPA

Pension Escalator The MPA's demand is for a 2% escalator, compounded annually, payable on the anniversary date of retirement. The demand is retroactive to January 1, 1989, such that an employee who retired on January 1, 1989, would be eligible for a 2% increase on January 1, 1990 and an additional 2% on each successive January 1. The escalator would also apply to the surviving spouse. The amount to which a surviving spouse is eligible is calculated on the amount of pension the retiree was

receiving at the time of his death. Thus, after the retiree's death, the surviving spouse continues to receive an additional 2% on each anniversary of the employee's retirement.

To put their demand in perspective, the MPA reviews current benefits for a normal retiree. Currently, normal retirement for a Milwaukee Police Officer is age 57, regardless of years of employment, or age 52, if he has 25 years of experience. The system also provides for duty disability retirees to convert to a normal pension at age 57. The escalator would kick in the year after each of these employee's retirements. An employee's pension is calculated in the following manner: a) for all years on and after 1979, an employee is credited with 2.5% of final salary per year of employment; b) for years before 1979, an employee is credited with 2.25% per year, except that he shall receive 2.4% per year for each year after 25 years of service. The MPS contends that, for a variety of reasons, there is a need to enhance this pension in the years subsequent to an employee's retirement.

The first argument in support of their demand relates to the benefits extended to protective service employees employed by cities other than Milwaukee. These employees receive a post-retirement adjustment that depends on the performance of the fund. The fact these employees are entitled to substantial escalators based on top of similar or even better basic benefits, it is argued, is a justification for the MPA demand. They note too, that even if the MPA's escalator demand is granted, the MPA's escalator would lag significantly behind that of the State of Wisconsin.

Also, in terms of external comparables, the Union directs attention to a list of 24 cities which all have escalators. The escalators include specific percent increases per year (from 2% to 5%), cost of living adjustments, or variable increases depending on returns of investments. Many of those cities also provide for retirement at age 50 with 20 years of service, benefits which are substantially better than Milwaukee's. Also, 51 of 85 systems surveyed in a study of major state retirement systems provided for automatic annual increases which are either tied to a cost of living index or are established statutorily as a specific annual percentage increase. Four additional plans provided for post-retirement adjustments based on investment experience.

It is also the position of the MPA that the escalator is needed to prevent inflation from steadily eroding an officer's pension to the point of poverty. Assuming that inflation will be 5.6% during the period of a Police Officer's retirement, and if a Police Officer retires in 1990 at a pension of $18,570, the purchasing power of that pension would be reduced to $8,660 in 1990 dollars, 15 years later, and $1,912, 35 years later. Even if a 4% inflation rate is assumed, that $18,570 pension would be reduced to $10,723 in 15 years and to $4,894 in 35 years. The MPA escalator more fairly requires the City to share the burden

of inflation. For instance, if the City's 4% projection of long run inflation is correct, then the City and the retiree would equally share the burden of such inflation.

Next, the MPA contends that its demand is preferable because it furthers the public policy goal of having Police Officers retire earlier than other employees. Because of physical and psychological burnout, it is in the public interest to encourage officers to retire early. This is at the basis of the 52/25 retirement option. Thus, since Police Officers have been encouraged to retire at a relatively early age, they are in greater need of an escalator than are other members of the work force who normally retire at age 62 to 65. If an employee retires at age 62 or 65, his pension will erode due to inflation over a much shorter period of time than will the pension of a Police Officer who retires at age 52 or 57.

It is significant to the MPA that their members have a stronger need for an adequate escalator since they are not eligible for social security. The City speculated that some of the MPA members may be eligible for social security based on other earnings or their spouse's earnings, however, nothing in the record indicates affirmatively that a substantial number will have such eligibility. This is most significant since, without social security eligibility, there is no Medicare. Since increases in medical care have increased faster than other portions of the cost of living, the real cost of living for retirees who are not eligible for Medicare is likely to be much higher than the estimated 4% or 5.6%.

The MPA also attacks the City's $50 escalator as insufficient and "too little, too late". For instance, because of inflation, when the retiree receives his first "$600" boost after year 4, it will be worth $512.88. This effect continues over time, and if an employee retires at the age of 52 with a pension of $19,046, that pension will be worth $7,230 at age 79, only 22% of the final salary. The City's offer is also flawed since it does not protect the surviving spouse. Moreover, its flat dollar proposal is bad policy because it rewards long term and short term employees the same escalator. On a percentage basis, an officer retiring after 10 years receives a greater increase than the 25 year officer.

The MPA notes that the City, through its expert witness, took the position that the City's escalator is sufficient because an employee can adequately protect himself against the ravages of inflation by a variety of techniques. The scenario set forth by the witness is, in the MPA's words, "unrealistic and offensive". He claimed the Police Officer could 1) moonlight before or after retirement, 2) use his/her personal savings, 3) use a spouse's social security, 4) keep working.

In response to these scenarios, the MPA states: (1) Moonlighting is extremely difficult because of the hours officers keep and the impact on the family, because of the Department

limits on outside work and because retirees have difficulties finding jobs at more than minimum wage. (2) The City assumes, erroneously, that an officer has substantial savings. In fact, the witness assumed the average retiree would have between $44,000 and $88,000 in savings. However, even if a retiree had such savings, approximately 2/3 of such savings would be tied up in a home, which is not very liquid. Moreover, people must have some place to live. Additionally, the assumption of 7.7% rate of return isn't realistic and savings should not be used to meet the 60 to 70% target, but supplement it. (3) Working past age 52 isn't realistic since a Police Officer who decides to work past his normal retirement age subjects himself to a substantial increase in the risk of being permanently and totally disabled as a direct result of the performance of his duty.

In terms of cost impact, the MPA suggests that the cost savings associated with replacing expensive workers with lower-paid workers will partially offset the cost of an escalator. Under the current contract, the savings to the City would be $5,296.40 in wages plus a longevity payment of $750 for a one year savings of $6,046.40. The City would also save vacation benefits since a new Police Officer is eligible for only two weeks, whereas a 25 year officer is eligible for five weeks. Moreover, for reasons detailed in their brief, they contend the City inaccurately costed the MPA escalator. This relates to their assumption that the retirement age would decrease from 56 to 55. However, the cost of the City escalator decreases from .664% of covered compensation for an assumed retirement age of 55, to .142% of covered compensation where retirement age remains at age 56. The cost of the MPA pension escalator decreases in this same fashion. The cost of the MPA escalator is 10.942% of covered compensation where retirement is assumed to decrease to age 55. Assuming that this 10.942% factor would decrease at the same rate that the factor decreased in the City's escalator proposal, the cost of the MPA's escalator proposal (with retirement age remaining at age 56) would be 2.34% of covered compensation.

Pension Cap The MPA is willing to accept the 90% cap for those retiring after January 1, 1990 only if the Arbitrator awards the MPA's escalator demand. This would bring the cap more in line with the maximum pension allowance of 85% without social security for the State and 80% plus social security for the County. Milwaukee has a somewhat higher cap at 100%. However, the comparables both have escalators. This explains why they tie the two issues together. They are also willing to accept the 90% cap effective 1/1/90 if the 2% escalator is awarded because the escalator would offset the effect of the 90% cap.

If the MPA escalator is not granted, retirees may choose to continue working additional years in accordance with one of the Skalender survival scenarios to offset the effects of inflation. Thus, in such case, the 90% cap would be inappropriate since it would limit the ability of an employee to protect himself against inflation. As for the effective date of the cap, it is argued

that the MPA's effective date of 1/1/90 should be awarded instead of the City's effective date of 7/1/89, since the difference in the amount of savings between the two proposals is minuscule. Moreover, postponing the effective date until 1/1/90 insures that employees who would be affected by the demand had sufficient warning that their retirement benefits would be modified by this contract.

Base Wages First, the MPA contends their wage demand of 5% in 1989 and 1990 is more reasonable than the City's 2% and 2% split, since it is more consistent with the external comparables. In terms of base wages, Milwaukee was, between 1977 and 1981, the highest paid police department in the metropolitan area. There was erosion to that rank and Milwaukee returned to seventh and fourth in 1987 and 1988, respectively, after the Kerkman arbitration award was implemented. If the MPA's 5% demand is awarded, Milwaukee will return to its position of first in the state and suburbs. They predict this rank may not last long depending on the wage increase in Greenfield. If the City offer is awarded, Milwaukee would rank fourth behind Wauwatosa, Bayside and Germantown, and behind Greenfield, if it were to receive an increase as low as Milwaukee's offer. This only considers the lift under the City's offer and not actual dollars received. Milwaukee officers would receive only $31,669 in 1989 and would rank seventh in terms of actual wages received. In 1990, Milwaukee officers would receive $32,973 in their pockets; this drops them again -- how far depends on other suburban settlements in 1990. This also causes their total compensation to rank behind three or four other area cities - a similar result occurs for detectives. MPA members are also underpaid relative to other officers in other national cities.

The MPA argues strenuously that Milwaukee Police Officers deserve to receive the highest base wage in the state. First, Milwaukee's crime rate is the worst in the state. For example, Milwaukee's crime rate per thousand is six times higher for violent crime and two times higher for property crime than that of Wauwatosa; yet, Wauwatosa pays its officers more than Milwaukee would pay under the City's offer. This is because of the high crime rate, because of the complexity of their job versus suburban officers, and because of their greater experience, expertise and training.

The MPA also maintains that its wage demand should be awarded to offset the effects of inflation. They note that inflation, as measured by the CPI-U for Milwaukee, has increased consistently. The trend will continue as evidenced by the Bureau of Labor Standards which estimates the 1990 inflation rate as 5.0%. They also note the testimony of Dr. Davis, who projects a 5.2% increase in 1989 and 1990. Based on 5.2% increase in the cost of living in both 1989 and 1990, a Police Officer would suffer a loss of $775 in purchasing power during the period of the contract. Under the Association proposal, the same officer would lose only $130 of purchasing power over the same period.

The MPA notes that the City contends that a more appropriate measure of cost of living increase would be the CPI without the medical care component. This attempt is inappropriate, in their opinion, for several reasons. First, their health care isn't totally free. There are charges not covered and there is the matter of deductibles. Moreover, the record does not indicate that the health care component of the CPI-U used by the City is accurate for Milwaukee.

Another reason their demand is more reasonable, it is argued further, is because of the increased complexity, difficulty, and diversity of the job. This requires an increase beyond inflation. Part of this argument is based on the economic theory espoused by Dr. Davis at the hearing. The Police Officer's job is more difficult because (1) staffing levels have been cut dramatically, (2) a Police Officer's job has gotten harder because detective duties have been assigned to them, (3) crime has increased, (4) there is more danger involved than in the past, (5) community-oriented policing requires more skills. For all these reasons, it is submitted that base wage parity and package parity don't make sense in this contract.

Turning in more detail to the City's argument on parity, the MPA suggests it is an outdated concept and should be rejected. The brief explores in great detail the history of parity issue, drawing attention to Arbitrator Kerkman's comments when he states "There may be an occasion in the future when the parity issue will not draw as heavy weight as it does in the instant matter." In summary, they urge the Arbitrator to look beyond the recent history during which parity has existed, and evaluate whether or not the jobs are truly comparable. The fact is that the City has never made its parity determination on the basis of any type of job analysis or job evaluation. Parity may have made sense in 1965, but the world and police work have changed dramatically. In this case, the MPA seeks to break parity, not only because of the inherent unfairness, but also because the jobs of Police Officer and Firefighters are no longer comparable, if they ever were. Recruitment problems also suggest parity should be broken by paying officers more.

Even if the Arbitrator feels compelled to maintain base wage parity, the Union contends the City offer is too low. This is because the Firefighters received base wage increases beyond the four 2%'s offered to the MPA. For instance, effective March 1, 1990, all EMT IIs shall be eligible for a 5% increase in base salary in all ranks if Milwaukee County agrees to pay the premium. This is clearly a 5% increase in base salary beyond the four 2%'s identified as base salary increases in the City's offer. Historically, Milwaukee County has paid such increases. Nonetheless, regardless of whether the additional 5% comes from City coffers or County coffers, it is a 5% increase in base wages for all EMT IIs. This is a significant deviation from the alleged pattern of settlement of four staggered 2% increases. There was also a $550 payment to certified EMTs. Moreover, those Firefighters who are not EMTS and are not eligible for the $550

payment in 1989 and 1990, receive an additional 2% increase on base salary. This 2% is on top of the four 2%'s set forth in base salary Article 10. Moreover -- contrary to the misleading City Exhibit 80 -- Police Officers will not earn more than Firefighters in 1989 and 1990.

Regarding the MPSO settlement, the MPA argues that the MPSO has never been a pattern setting unit. Further, the MPSO contract does not set a pattern which would support the City offer to the MPA because it is clear that MPSO got additional money beyond its four 2% increases. First, under the new MPSO contract, the City will assume the 1% annuity contribution currently being paid by the employees to the retirement system minus the amount of $1.00 per member. In effect, MPSO members receive 1% more of their salary as wages, rather than contributing such money to their retirement fund. That 1% torpedos the City's claim of base wage parity between Sergeants and Detectives. While it is true that their base wage is the same on paper, the effect is that Sergeants get more money than Detectives. Second, the City gave back to MPSO members the $550 UDA which Arbitrator Rice took away from them in their last contract. Rice maintained overall package parity with the Firefighters and AFSCME by taking away the $550 and awarding other increases to MPSO. Now that the City has returned the $550 without assigning a cost to it, the City has broken the parity that existed in the last contract. Additional Detectives will not earn $100 more than Sergeants in 1989 and $90 in 1990 if the City's offer is awarded. While it appears at first blush that a Sergeant with 15 years on the job will earn less than a Detective with 15 years on the job, those numbers do not refelct the fact that the detective will have received $1,900 less in longevity than the Sergeant received in VSAP. Moreover, the City's comparisons do not reflect the fact that Sergeants no longer contribute 1% to their pension. Thus, while Detectives' and Sergeants' base salary may read the same in the salary ordinance, a Sergeant will take home 1% more than a Detective would under the City's offer. Additionally, there are additional beneftis such as sick leave benefits.

Last, with respect to salaries, the MPA responds to the City's methods of costing the offers. First, the City has padded its cost sheet by assuming that the MPA has 1663 employees. In fact, the actual numbers are substantially less and have been decreasing year by year. As a result, they substantially overstate the dollar cost of both the MPA and the City offers. This affects the pension escalator calculations as well. This distortion magnifies the MPA demand even more. As a result, the Arbitrator should focus on the costing exhibits which express cost as a percent of wages, since these calculations do not vary according to the number of employees.

There are other inaccuracies in the City's costing exhibits. For example, the City costed the 1% annuity pickup even though it wasn't part of their final offer. The City also did not cost the savings from the MPA's giving back the sick leave incentive

program, even though the MPSO and Firefighters continue to receive that money. Additionally, the City costed the parking at .09%, based on an assumption that the demand was for all of 1990. In fact, the demand is effective on the date of implementation. Thus, since the award is not likely to be implemented until approximately 6 months into the second year of the contract, the cost should be reduced to .05%. Accordingly, it is asserted when the City package is accurately costed, the offer declines from 6.37% to 5.42%.

The MPA also maintains that the City's cost sheet for the MPSO is inaccurate. This is because the City didn't cost (1) $550.00 increase in VSAP; (2) pension changes; (3) pay step increases for 14 lieutenants. Thus, the total value of the benefits provided to the MPSO without costing them is 1.32%. When added to the City's stated cost of 6.44%, the actual total cost of the City's package with MPSO is 7.76%.

The cost sheets for the Firefighters are also inaccurate according to the MPA. They did not cost (1) pension changes; (2) 2% increase for non-EMTs; (3) the 24 hour holiday for all members of the unit. Thus, the total cost of the benefits that were not included within the City's costing sheet for the Firefighters is 1.52%. When this is added to the stated cost of 7.15%, the actual cost of the Firefighters' contract is 8.67%. This compares to the 5.52% offer to the Police. This all relates to the City's "level playing field" argument. The City tried to justify their offer on this concept. However, in reality, there are many differences. The MPA Brief details many of these.

2. Contentions of the City

Pension Escalator The City proposes a pension escalator as follows: $50 per month after completion of the fourth year after retirement, an additional $50 per month after the seventh year after retirement and an additional $50 per month after the tenth year after retirement.

As background, the City explains that the City's Employee Retirement System (ERS) is a defined benefit pension plan. Under a defined benefit plan such as ERS, the benefit is determined by a formula contained in the plan and the employee is entitled to that amount. This is contrasted with a defined contribution plan. Under a defined contribution plan, typically a contribution is made on behalf of each employee or each member of that plan. The money goes into an account in that person's name and the account is invested and the employee gets, upon retirement or death or disability, that which is determined by the amount of money in the account. Thus, in a defined contribution plan, the investment risk is borne by the employee. In a defined benefit plan, such as the ERS, the investment risk is borne by the employer.

This is important to understand in the City's estimation, since the MPA relies on a comparison to the Wisconsin Retirement System which currently is a defined benefit plan with some hybrid

features that make it act, in many respects, like a defined contribution plan. Although the plan defines the benefit, the WRS post-retirement escalator is a defined contribution concept in the sense that the employees are participating in the investment risk, and in the investment world, that escalator is not guaranteed. In many cases, the employees buy the escalator themselves through lower benefits to begin with and those are all characteristics of a defined contribution plan.

Also, as background, they discuss the 60-70% income target for retirees. They believe it is important to note that the target is 60 to 70% at retirement, and not forever after. This should be supplemented by employee savings and other sources of income. These other sources include social security pensions earned by spouses, or perhaps social security pensions earned by an officer in a part-time job. For instance, exhibits show that a significant number of MPA retirees are Medicare-eligible by virtue of themselves or their spouse's qualifications and are, thus, eligible for social security. Moreover, the 60 to 70% target is for normal retirees and was never intended or designed with the age 52 in mind. In fact, their expert witness believed that an escalator does not make any particular sense when considering the ERS pension system. Thus, the City sees its escalator as more wise.

The City contends that the basic rationale for not having escalators is that they're very expensive. The escalator proposed by the MPA would cause employees to retire earlier. Their actuaries estimated this would reduce the average age of retirement one year. This would accelarate the cost of the MPA escalator. The ERS actuary estimated, expressed as a percent of pay, that the cost of the MPA-proposed escalator, assuming 2% compounded annual increases, beginning one year after retirement using current plan provisions for duty disability conversion and a retirement assumed at age of 55 for police, would be 10.942% of pay for MPA members. This compares to the cost of the City's proposed escalator with the duty disability conversion at age 52 and an assumed retirement at age 56 for Police Officers, which would be 0.827% for MPA members. The City also notes that the MPA's demand for a $100/month escalator after 4-7-10 years of retirement was rejected by Arbitrator Kerkman. Moreover, the City's escalator clause was accepted by the Firefighters.

Pension Cap The City notes that the cost savings as a result of a 90% cap would be 0.024%. It also draws attention to the fact the MPSO accepted the 90% cap even though they didn't bargain for the escalator and the fact the Firefighters agreed to the 90% cap.

Base Wages The City notes at the outset, that one of the two cola standards the Arbitrator is directed to consider is no longer published. As for the other standard, the CPI, they concur with the MPA in their use of the CPI-U information for Milwaukee because officers on the Milwaukee Police Department are required to live in the City. The City also concurs with Dr.

Davis, the MPA expert, that for a wage increase on January 1, 1989, one would look at the CPI-U increase between Pay Period 12, which occurred in June of 1988, and the end of the year. With respect to January 1, 1990, the second year of the contract, one would take the entire increase in CPI-U from January 1 to December 31, 1989.

The City states that the cost of living for the relevant effective dates of the raises of 1/1/89 and 1/1/90 was 2.4% and 3.4%, respectively. Thus, the data shows that the City proposal more closely follows CPI changes than does the MPA proposal.

The City also examines external comparables. They assert that when the City of Milwaukee Police Officers' and Detectives' maximum step base salary is compared to their counterparts in large Wisconsin cities, in Milwaukee County suburbs, and the Milwaukee County Sheriff's Department, one sees that Milwaukee's officers are highly paid. Their rank rose from 12 in Milwaukee County in 1986 to seventh in 1987 to fourth in 1988. The data also shows that based upon the City's proposed pay increases, City of Milwaukee Police Officers would rank third in 1989 and third in 1990 in Milwaukee County. Relative to other populous Wisconsin cities and the Milwaukee County Sheriff's Department, the data shows that with the City's proposal, the City of Milwaukee Police Officers remain second in both 1989 ($183 behind Wauwatosa) and second in 1990 ($97 behind Wauwatosa). Detectives would be ranked number one under the City's offer for 1989 and 1990.

The City also maintains that it is necessary and appropriate to look at total compensation not just wages. This would include all items of financial benefit to the employee such as base wages, longevity pay, uniform allowances and other such benefits. When total compensation is considered, the typical Milwaukee Police Officer is the best paid in the state and will remain so under the Employer's proposal. The typical Police Officer has 15 years and when the benefits that all Officers receive are added up, Milwaukee comes out on top. These figures do not include things such as educational pay, because it is a selective benefit not enjoyed by all officers. They also note that even if Germantown were included in the Milwaukee County suburb comparison, the City of Milwuakee would still remain first in total direct compensation.

Accordingly, the City concludes that it is readily apparent that the City of Milwaukee has addressed the needs of its officers in its proposal and would make them the highest paid in total direct compensation from among all the comparables on the Milwaukee County suburbs and the Wisconsin city comparable exhibits. The City is also steadily moving toward Milwaukee officers ranking first on base salary alone. It is clear to them that local and state comparables support the City's proposal of four 2% across-the-board increases.

Important to the Employer's case are comparisons of their package as proposed to the MPA and that agreed to by the

Firefighters and MPSO. They analyze those settlements in detail. To summarize, the MPSO also agreed to the City's split 2%/2% in each year as well as the pension changes, including the Employer agreeing to pick up the employee's share (1%) of the pension contribution as well as all the health insurance changes. Also, effective calendar year 1989, MPSO members would receive $950 for the calendar year, and an employee who commenced normal service retirement during the calendar year will receive an additional $350 supplement to the $950 paid for the calendar year immediately preceding the calendar year in which the employee retired. This will result in a total payment of $1300 in the calendar year immediately preceding retirement. All employees in the Sergeants' pay range would receive an amount equal to $10 in addition to the $950 in the second year of the contract.

The Firefighters' contract, which runs from March 1, 1989 to March 1, 1991, also contains an across-the-board wage increase - a 2% increase for all members of the bargaining unit, except Motor Pump Operators, effective Pay Period 5, 1989. Motor Pump Operators would have 60 days from execution of the contract to become Heavy Equipment Operators. When an MPO would become an HEO, that individual would receive the 2% increase in base pay, prospectively. Effective Pay Period 23, 1989, would be the effective date for another 2% increase. The effective dates for the next 2% increases would be Pay Period 5, 1990 and Pay Period 23, 1990. Pay Period 5 corresponds with the March 1 commencement date of the agreements. The Firefighters also agreed to the Employer's pension and health care proposals. Local 215 members would also be allowed to pick an additional vacation day during November of 1990 to be taken after March 1, 1991, in the next contract period. Additionally, Local 215 members who have attained state certification as an EMT and held such status from March 1, 1989 through and including February 28, 1991, will receive a lump sum non-pensionable payment of $550 after March 1, 1990. Thereafter, the payment would be paid on an annualized basis, with proration. Effective March 1, 1990, all EMT-IIs will be eligible for a 5% premium on their base pay for the performance of emergency medical services. The EMT-II rating is a paramedic certification. The premium would not be pensionable nor used for any other benefit calculation. The 5% premium is contingent upon payment by Milwaukee County. Furthermore, all non-EMTs who did not receive the final 2% increment in the 1987-1989 Local 215 contract would receive an additional 2% in the instant contract.

The City believes it is important to consider the Firefighters' and MPSO contracts because, in their opinion, the concepts of base pay parity and internal comparables of voluntary settlements should carry heavy weight in interest arbitration proceedings. The City contends that there has been a history of parity or equality in its contracts with the protective service employees in the Police and Fire Departments. Since 1981, through four contract periods, there has existed maximum step base pay parity between the following police/fire ranks: Police

Officer/Firefighter; Sergeant/Fire Lieutenant; Lieutenant/Fire Captain; Captain/Battalion Chief; and Deputy Inspector/Deputy Chief. Moreover, as a result of the 1987-1988 interest arbitration, a maximum step base pay parity was established between the following Police/Firefighter ranks: Sergeant, Detective/Fire Lieutenant. They emphasized that this internal base salary relationship between fire and police employees is a most significant factor for the Arbitrator's consideration and was for Arbitrator Kerkman.

The City suggests that in the instant proceeding, the MPA not only attempts to break base pay parity between Police Officers and Firefighters, but they also seek to break a newly-established parity that they fought for in the last interest arbitration between Detectives and Sergeants/Fire Lieutenants. The City cites a number of arbitration awards supporting the notion of parity and supporting the value of internal settlements. Based on these, the City argues that a pattern of consistent increases agreed to by various bargaining units is a collective consensus that all statutory criteria have been met relative to the economic circumstances of the City of Milwaukee. They view the internal pattern as more important than any single statutory criteria. Another important factor in viewing internal comparables is maintaining labor peace.

The City does not believe that the MPA has justified its attempt to seek more than the internal protective service patterns. For instance, the City has established through its exhibits, that the City of Milwaukee Police Officers receive the highest total direct compensation in not only Milwaukee County, but in comparison to cities statewide. Labor peace is also a factor in internal patterns and the City submits that should the MPA prevail in this arbitration case, irreparable harm would be done to the collective bargaining process in the City of Milwaukee. In asserting this position, the City is not suggesting that the police settlement must always follow the terms of the fire settlement. On the contrary, the same principle would have applied if the Police settled first--they would not be topped.

As for package parity, the City states that it has had to give back certain items to other units to be on a "level playing field" and to maintain parity. For instance, the City was successful in arbitration in 1987-88 in being relieved of the obligation to pay $550 per year for unanticipated duty pay to the MPSO, but not with the MPA. This negotiation period the City gave back this $550 amount to the MPSO in the form of a VSAP change. While the City requested unanticipated duty pay back from both units, the City went one for two in 1987-1988. Rather than fight to achieve an even playing field, it was the City's decision to give back the $550 per year to the MPSO--thereby equalizing direct compensation between Detectives and Sergeants. The MPSO was offered an opportunity to have an identical escalator to that which has been proposed to the MPA and the MPSO

chose, rather than the escalator to have the $550 VSAP benefit made pensionable.

The City's cost for its contract with the MPSO for the two-year period is 6.44%. The difference between the City's offer to the MPA and the City's contract with the MPSO is .07% in favor of the MPSO. This difference is largely explained by the lower cost of the MPSO making VSAP pensionable. With respect to the Firefighter contract, the vacation day was not costed against this contract because the day was not going to be available until 1991 after the expiration of the current agreement. The City's contract with Local 215 for the two-year period is 7.15%. The difference between the City's offer to the MPA and the City's contract with Local 215 is 0.78%. The difference in savings between a Firefighter duty disability retirement reduction from 54 years to 52 years and an MPA duty disability retirement reduction from 57 years to 52 years accounts for 0.72% of this 0.78% difference. More specifically, when one compares the MPA to Local 215, the MPA duty disability conversion saved the City a lot more money than the conversion with the Firefighters, which therefore reduced the overall total package cost for the MPA.

3. Discussion

Pension Escalator and Pension Cap

There can be no serious debate that a pension escalator is needed to protect pensions from the ravages of inflation. The plain economics establish this. The fact that nearly half of the cities surveyed as part of a comprehensive independent study, and the fact the WRS provide some sort of pension escalator for their protective service employees, underline the economic facts. More importantly, the fact the Employer has made an escalator proposal clearly ends the debate as to whether an escalator is needed.

The proper focus of the arguments is which of the two proposals more adequately or appropriately addresses the need for an escalator.

Basically, the City has argued that the need for an escalator is minimal. They relied greatly on Mr. Skalinder's testimony in this regard. He discussed the availability of social security by working two jobs, personal savings, working after retirement. Basically, he pushed the idea that a retiree must be as self sufficient and as non-reliant on their pension as possible. The MPA found his scenarios offensive. On the other hand, the MPA seemed to place the entire burden of retirement at the Employer's door step.

The Arbitrator didn't find the basic scenarios of Mr. Skalinder offensive. Certainly, the facts are that many employees do acknowledge the need to supplement their pensions and many employees take measures to do so. There is no doubt some employees do work second jobs and qualify for social security, or have spouses who qualify. There is no doubt

employees do save and count on home equity in their retirement. The fact is, many employees do work past age 52 and some may get jobs after retirement.

However, while these are all facts, there was a certain degree of overkill in Mr. Skalinder's testimony that set a "scrooge"-like tone. The impression bled through his testimony that he believed Police Officers should not have kids, put their spouse to work, work two jobs, save all their disposable income, whistle while they work well past early retirement age, consider their pension a gift and get a job wearing a funny hat at a burger joint the day after they retire from the force. Perhaps in the ideal economic retirement model, the fully rational human being would behave this way. Also, in the ideal model, we would live in bliss until we just happen to spend our last dollar on the day we just happen to die.

Yet, most of us rarely operate that way and most of us, even actuaries, aren't smart enought to know exactly how much money we will need and when. Nonetheless, we all try, throughout our careers, to do our best to be good at the balancing act of living/enjoying life now and preparing for the unknown surprises life will present us around the golden corner. Certainly, some of us are better at this endeavor than others. Thus, while the Skalinder ideal model isn't realistic, neither is the notion that employees don't or shouldn't be prepared to help finance their retirements or protect their pensions from inflation.

As the Employer's offer demonstrates, it isn't unreasonable for the Employer to help revive the purchasing power of a pension along the way. In an absolute sense, the Employer probably isn't shouldering enough of the inflation insurance burden at the rate of $50/month after four, seven and ten years. Most escalators provide more. However, the Arbitrator is not prepared and will not--with one minor exception outlined below--require the Employer to do more based on the unique circumstances of this case.

The Employer's offer, while probably inadequate in an absolute financial sense, is appropriate in the relative context of collective bargaining. While many external comparables have higher escalators, we don't know whether they were through legislative fiat or collective bargaining. If they were collective bargained, were these higher benefits negotiated immediately or gradually over a period of time? Moreover, what concessions or quid pro quos were bargained?

In this case, the Union is asking for a healthy escalator without ever having had one and they are asking for it in the context of their offer which, in all other respects, exceeds all the internal comparables. Additionally, there is no apparent quid pro quo for this significantly higher escalator. In terms of cost, it is difficult to peg the cost exactly because of acuarial assumptions. Yet it isn't a blind leap of faith to state that its costs are signficant and signifcant enough, if

adopted, to put the MPA package far above and beyond the other internal settlements to such a degree that it would create a significant inequity. Certainly, the savings of hiring new employees doesn't touch the dramatic impact of the MPA escalator. Additionally, the fact that the Firefighters accepted the Employer's escalator and that the MPSO accepted a roughly equivalent pension enhancement, also creates a consistency consideration in terms of not only package cost, but in terms of substantive treatment. It is reasonable to treat everyone similarily.

The Employer's proposal is more prudent since it establishes the concept of an escalator and is consistent internally. Its cost for this contract is not insignificant at approximately .8%. The Employer proposal represents a foot in the door and obviously, the escalator is subject to enhancement in future bargaining in terms of amount, timing and/or frequency of adjustment. Thus, the impact of enhancements, which could be significant, can be spread over time and balanced along with other future economic needs. In this sense, the Employer's escalator proposal is more appropriate in context of collective bargaining. Their proposal on the pension cap and its effective date should also be accepted as it is supported by the internal comparables.

However, while the Arbitrator finds the $50/month proposal at 4-7-9 years appropriate for all the reasons expressed above, there is one aspect of the Employer offer which is hard to swallow. The intrinsic equities of this consideration are compelling enough in the Arbitrator's opinion to break--so to speak--the internal pattern. This relates to the fact that the Employer's escalator doesn't apply after the death of the member to his/her surviving spouse who may be entitled to a spousal pension. Clearly, under the City's proposal, if the member dies before retiring or before earning an escalator, the escalator does not apply. A surviving spouse is in just as much need, if not greater need, to have her/his survivor pension protected against inflation, as they would be before their mate's death.

Under the Employer's proposal, a surviving spouse would only be entitled to escalator benefits if the member earned them before death. If the member earned a $50 escalator before death, the spouse is entitled to 50% of that member's pension including the $50. There is no justifiable reason that thereafter the spouse shouldn't be entitled to their <u>proportionate</u> share of escalator benefits. In this regard, the MPA proposal is superior since it included a surviving spouse feature.

As for the cost of this, the costs are difficult for the Arbitrator to calculate. However, intuitively, it doesn't seem that the cost could be significant. This is particularly true since actuarily, an officer who retires at 57, has a good chance to earn the escalators and the liklihood of an officer who retires at 52 getting all three adjustments is even higher. Thus, there would be limited circumstances where the spouse would be in a

position to pick up the escalator. These would be where the officer might die prior to retirement or within the first ten years of retirement. The tragedy of such rare circumstances, along with the intrinsic need for an escalator, is compelling enough to require the City to include the beneifts of its escalator to surviving spouses.

Base Wage Increase

There is much discussion in the record about parity. There is discussion not only about whether it exists, but if it does, what significance should be attached to it. The City asserts there is and has been a parity relationship between Police Officers and Firefighters and Detectives and Sergeants. There are other parity relationships asserted which don't necessarily have a direct bearing on this case.

Does parity exist between the base rate wage of Firefighters and Police Officers and Detectives and Sergeants? There can be no serious dispute that it does. Prior to the Kerkman award, parity existed for three contract periods between Police Officers and Firefighters. He found there was a parity relationship and extended it during the last contract period. As for parity between Detectives and Sergeants, Arbitrator Kerkman, based on the proposal and parity arguments of the MPA, returned these positions to a prior parity relationship.

What is the significance of this parity relationship? It is very significant. Where such an historical parity relationship exists between two employee groups, particularly Police and Firefighters, arbitrators have commonly opted for the final offer which upholds that parity relationship. They have most often held that the party seeking to break the parity relationship faces a heavy burden.

There are a variety of circumstances when a parity relationship should be broken. However, the primary reason relates to external wage relationships. In this Arbitrator's opinion, the internal parity relationship should be upheld unless adherence to that settlement would result in an unacceptable level of compensation for the bargaining unit relative to the external comparables. What constitutes an unacceptable level of compensation relative to the external comparables depends on the circumstances of each case. There shouldn't be any significant erosion, and given its historical position among the comparables, the unit should reasonably fit within the comparables.

The Employer presented evidence on the following groups: (1) Milwaukee County suburbs (including Milwaukee County Sheriffs), (2) the fourteen most populous cities in the state (including Milwaukee County Sheriffs). The MPA presented wage evidence on (1) a group including the 100 most populous cities in the County, (2) a group of suburban cities including those in Milwaukee County which include, for example, Germantown, Menomonee Falls, Hartland, Brookfield, Elm Grove, Waukesha, etc.,

and a "state" group which included many suburban communities and some of the larger cities.

The Arbitrator believes it is appropriate to look at the following groups. (1) All the Milwaukee suburbs and the County Sheriff's Department, not just those in Milwaukee County, (2) the City's group of the fourteen most populous cities in the state, and (3) a national group of similarly sized cities. These groups were picked for the following reasons. The suburban city comparisons shouldn't be limited just to Milwaukee County since the metropolitan area is much larger, since the City is contiguous to other suburbs in counties other than Milwaukee, and since Arbitrator Kerkman used a version of these comparisons. The group of the most populous cities in the state is relevant because of assertions that Milwaukee Police ought to be the highest paid in the state.

A smaller group than the top 100 cities nationwide is needed to be more manageable and more meaningful. Comparisons of cities with far more people (i.e., New York, Los Angeles, etc.) and cities with far less (i.e., Amarillo and Lubbock) aren't very useful. In this regard, the Arbitrator believes an appropriate group (working off Union Exhibit 19, p.3) is the nine cities above and nine cities below Milwaukee in population. This avoids cities with a million or more in population. It presents a group with a population in the range of 466,550 to 914,350. (These cities, in population order, are San Antonio, Phoenix, Baltimore, San Francisco, Indianapolis, San Jose, Memphis, Washington, D.C., Jacksonlle, Boston, Columbus, New Orleans, Cleveland, Denver, El Paso, Seattle, Nashville, and Austin.)

Based on the evidence of record, the average top patrolman's salary in this national group in 1989 was $32,964. The salaries ranged from $40,934 in San Jose to a low of $26,806 in Memphis. The 1989 yearly salary under the MPA proposal would be $32,404 or $560 or 1.7% less than the national average for similar sized cities. The 1989 year salary under the Employer's proposal would be $32,105 or $859 or 2.6% less. This weighs in favor of the MPA offer.

The state comparisons include Wauwatosa, West Allis, Waukesha, Milwaukee County Sheriff, Racine, Janesville, Kenosha, Green Bay, Oshkosh, Appleton, Madison, Eau Claire, Sheboygan, Fondulac, and LaCrosse. Based on 1989 rates for a top patrolman, Milwaukee would rate number one under the MPA offer of $32,404. Wauwatosa would be number two at $32,288. Under the City's 1989 offer of $32,105, on a wage-only basis, Milwaukee would rank number two behind Wauwatosa. West Allis would be third at $31,683. The range of the salaries in the 14 most populous cities is $25,521 to $32,288. The average is $29,122. Thus, the Union's proposal is $3,282 or 11.2% greater than the average. The Employer's is $2,983 or 10.29% greater than the average.

Based on known 1990 settlements, Wauwatosa would still rank number one in terms of wages only when compared to the Employer

offer of $33,402 in the state group. However, the margin would be cut to $97 in 1990 compared to the 1989 margin of $183. The MPA offer would be number one at $34,024, which is $525.20 or 1.5% more than Wauwatosa.

On a total compensation basis for the 15-year employee including longevity, uniform, and other payments, such as unanticipated duty pay, Milwaukee Police Officers would rank number one in the state group under either offer, based on 1989 rates. Total compensation under the City offer would be $33,375 and under the MPA offer would be $33,674. Racine is number 2 at $33,160. The range begins at $27,352. The average is $30,104.

There is 1989 salary data available in the record for a broad cross section of suburban communities. The 1990 data and total compensation data is more limited. [1]

Looking at 1989 salary only data, it is noted that the MPA offer would rank number one slightly ahead of Germantown at $32,378. In 1988, Milwaukee ranked number five among this same group. Under the Employer's offer, Milwaukee Police Officers would rank number four behind Germantown, Bayside and Wauwatosa. They would be $273 or .84% behind Germantown. The average salary in 1989 in this group was $31,382.

In 1990, comparisons are more difficult since the evidence only reflects nine 1990 settlements among the broad group noted above. These are Glendale, Wauwatosa, Milwaukee County, Shorewood, Fox Point, River Hills, Brown Deer, and West Allis. The Employer's proposal of $33,402 would be number three on a salary only comparison behind Glendale and Wauwatosa at $33,709 and $33,500 each. The MPA offer would rank number one at $34,024.

The 1989 total compensation data for the suburban communities shows Milwaukee would be number one under either proposal. As noted, the total compensation would be $33,375 under the Employer's 1989 offer and would be $33,674 under the MPA. The next highest suburban department, in terms of total compensation, would be Wauwatosa at $33,005. Therefore, under the Employer proposal, the Milwaukee officer would be paid, on a total compensation basis, $370 more or 1.1% more than officers in Wauwatosa. A similar result occurs in 1990. Based on the more limited comparisons under the City's proposal, total compensation

1. 1989 calculations include the following cities: Germantown, Bayside*, Wauwatosa*, Glendale*, Oak Creek*, West Allis*, Shorewood*, Mequon, Greendale*, Fox Point*, Hartland, Waukesha, Whitefish Bay*, River Falls*, Brookfield, Hales Corners*, Milwaukee County Sheriff*, Franklin*, Muskego, Brown Deer*, Cedarburg, New Berlin, Menomonee Falls, Janesville, Elm Grove, St. Francis*, Grafton and South Milwaukee. Only those cities with asterisks, along with West Milwaukee, if settled, are included in 1990 and total compensation comparisons.

would be $34,672 or $433 (1.2% more than the number two department.

What do all these external comparisons mean? They are necessary to determine if adherence to the parity concept would result in an inappropriate or unacceptable level of compensation relative to other Police Officers in the external comparables. Of course, to answer this question, some judgment must be made as to what is the appropriate relative level of compensation for the Milwaukee Police Officer.

In some cases, a bargaining unit may have historically been paid at or near the average of the comparables. Thus, if adherence to the parity concept wouldn't result in any erosion and maintain the salary at or near the average, there would be no reason to break the internal patterns. However, the Milwaukee officer isn't average. Plainly, there isn't another police job in the State of Wisconsin like it. For instance, they face more crime and danger than other officers throughout the state. Simply, they have a tougher job than any of the comparables.

Just as there can be no serious dispute about the applicability of the parity concept in this case, there can be no serious dispute that the Milwaukee Police Officer deserves to be number one in suburban and state-wide rankings. The MPA believes this, and the City stated in its brief that it agreed the Milwaukee Police Officer ought to be number one. It is noted too, that Arbitrator Kerkman stated a number one ranking was justified and this Arbitrator agrees. The evidence in this record mandates such a conclusion.

This Arbitrator also believes that base wages cannot be singled out as a measuring stick as to where the Milwaukee Police Officer fits in the compensation spectrum of statewide and suburban comparables. Total compensation must be considered and given significant weight.

On a salary basis, adherence to the Firefighters and MPSO percentage settlement would have the Milwaukee Police Officer rank number four in 1989, $273 behind the leader and number four in 1990, $307 behind the leader. This weighs in favor of breaking the pattern. However, viewed from the broader perspective of total compensation, the observation of parity would not clearly result in an inappropriate level of compensation for the typical Milwaukee Police Officer. Milwaukee would be at the top of the heap, top of the class, numero uno. It is quite appropriate to look at total compensation and give it great weight since a significant portion of a Milwaukee officer's compensation comes from sources other than his/her base wage. There is a healthy longevity and unanticipated duty allowance. This totals, for the typical officer with 15 years service, $500 and $550, respectively.

This isn't to suggest the long struggle to regain the former number one ranking is over.[2] The data as to a number one ranking in total compensation in 1989 isn't overwhelming. They won by a nose. Moreover, because few comparables had settled for 1990, the number one total compensation ranking is quite tenuous. Additionally, the salary-only compensation can't be ignored in the near future since the total compensation figures are for 15-year veterans. While this is appropriate at this juncture since most officers are at or beyond this level, it must be remembered the wage rate and other compensation for less veteran officers will become more important as this older group retires and new members must be recruited.[3] It is difficult to tell for sure, in view of the dearth of 1990 settlements, but some work probably remains to be done on the base rate to solidify the overall number one ranking. It would not necessarily be unreasonable to do so in the future by advancing the salary-only rank further.

The extent that the Milwaukee officer may fall a little further behind on wages after 1990 settlements, and the fact that the split increases actually means less money in their pockets, is mitigated by the fact the deep hole from which they are climbing was dug over several years. Therefore, it isn't unreasonable to expect catch-up to take several years. It is also mitigated by the fact the detectives enjoy a healthy positive differential relative to detectives in the state and suburbs. Relative to the statewide comparables, Detectives are paid $1346 per year more than the number two ranked department and in the Milwaukee County suburbs, they are paid $890 more than next highest paid Detective. There is some slippage in 1990, however, in the suburbs. But, the positive differential increases in 1990 in the statewide comparables.

Two additional aspects of the evidence should also be noted. First, the Employer's offer won't leave the Milwaukee Police Officer dramatically out of step with the average officer in cities nationwide. It must be remembered in this regard that the average included several very highly paid departments on the east and west coasts which tend to be aberrant relative to cities in the central portion of the country. Second, the Employer's offer isn't obviously inconcistent with the cost-of-living. In fact, it tends to support the City offer. Moreover, it is often held that the local settlement pattern is representative of the appropriate weight to be given to the cost of living. In this regard, it is also significant that the Employer's wage offer is the same as agreed to by the Firefighters and MPSO.

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2. In 1977 to 1981, Milkwaukee was no. 1. In 1982 no. 2, in 1983 no. 3. In 1984, they dropped dramatically, 18th in 1985. They started to climb out of this hole in 1986 ringing in at no. 5.

3. The Arbitrator doesn't believe there is presently a general recruitment problem.

Package Parity

As discussed above, it is clear that the Employer's wage rate offer represents parity with the Firefighters and MPSO, and primarily for that reason, it is reasonable and will be accepted. However, it doesn't necessarily follow that because there is wage or salary parity in their offer that there is package parity. These are two separate questions. The fact is, there are serious questions presented as to whether the Employer's final offer represents package "parity". Obviously, in order to make such an assessment, the costing disputes concerning the Employer's final offer and the Firefighters and MPSO settlements must be resolved.

Before looking at costing, the Arbitrator should state his reluctance to even use the term "package parity". Parity, in a strict sense, means equality. In terms of the basic wage rate, it is quite easy to achieve equality/parity and thus, appropriate to speak in these terms relative to wage rates within a final offer. However, parity/equality is more difficult to apply with the same exactitude to a package. This is for several reasons. First of all, as much as some would like to think otherwise, costing complex labor agreements isn't an exact science. Assumptions have to be made because of certain unknowns and incomplete data. Input data sometimes isn't always precise and sometimes inaccurate. Moreover, the work force is in a dynamic state of flux.

The second reason absolute package equality isn't practical is it isn't necessarily good labor relations. It is good labor relations to have settlement packages be consistent as much as reasonably possible between groups. However, it isn't good labor relations to try to stick every employee group into exactly the same size pigeon hole. In other words, it isn't appropriate to require every package to be the same down to the last dime or the last tenth of a percent. Employee groups vary greatly in their duties, responsibilities, work environments, and therefore, they vary in their needs.

The point is, that when comparing a final offer, it shouldn't be compared to internal settlements on the basis of "package parity", but on the basis of fitting into the "package pattern". By thinking in terms of the "pattern", there is, while seeking as much consistency as possible, a tolerable degree of latitude to accommodate for individual differences between units. For example, the MPSO, instead of opting for the Employer's pension escalator, preferred a slightly different pension enhancement. If the objective is the same and the cost is a hair above or below the other settlements, this should be acceptable. Accordingly, the "pattern" should be a range which results from a variety of internal settlements. The Arbitrator will resist stating in mathematical terms how large a range or how much of a variance is tolerable between settlements. This would be contrary to the very concept of a "package pattern" as distinguished from "package parity". It is sufficient to say consistency ought to be the goal as much as reasonably possible,

depending on the unique facts and circumstances of each individual case.

Does the Employer's final offer fall within the pattern of internal package settlements? First, the challenges to the costing of the Firefighters and MPSO settlements must be analyzed. For example, with respect to the MPSO settlement, the MPA contends it was improper not to cost VSAP, lieutenants' step increases and pension changes. On the contrary, the City believed it wasn't proper to cost the VSAP and pension changes since they were granted as a result of evening out the playing field after Arbitrator Kerkman's award.

The Arbitrator understands the Employer's argument about evening the playing field and not being continually whipsawed. Truly there would be continual leapfrogging if this were the simple case. The Arbitrator can accept this argument for not costing the minor pension changes. However, with respect to VSAP, it is critical that there was in effect a credit taken in the costing of the last MPSO package for the removal of the $550 off duty pay by Arbitrator Rice. Therefore, it is not unreasonable to cost its reinstitution for comparison purposes when assessing the real value of the MPSO settlement for this contract term. Moreover, the MPSO settlement cost, including the increased VSAP, was reported to the common council. Therefore, in the eyes of the public, the MPSO settlement is 7.65%. As far as the lieutenants' step increases, this is one of those little quirks unique to the MPSO, and its impact 7/100 of a percent (.07) isn't horribly significant. Thus, the Arbitrator accepts that the cost of the MPSO contract is 7.65%.

The MPA voiced several concerns about costing of the Firefighters' contract. One area which was not costed was the pension changes. As noted above, it was reasonable not to cost those. Another item which was not costed was the new holiday to be granted Firefighters in the next contract period. The Arbitrator doesn't fault the City for not costing this item as part of this year's Firefighters' settlement. However, his fear is that it will be lost or forgotten in the next round of bargaining because the Arbitrator doesn't know if the City or Firefighters plan to cost it as part of the next contract. There may even be a dispute as to this. Regardless, if it is costed or not, the MPA will be entitled to the reasonably equivalent value. For example, if the value of the next Firefighter settlement is 5% without costing the holiday for Firefighters and the holiday is costed at .5%, the MPA would be entitled to a package valued at roughly 5.5%.

The other disputed costing item in the Firefighter contract was the 2% increase for non-EMTs. This relates to the fact that in the 1987-89 contract, the last 2% of a 3-2 split in the final year was contingent on Firefighters obtaining EMT status. It was bargained as part of the successor agreement that those who did not obtain EMT status would not after all suffer the penalty and thus they got an additional 2% so they would be on an even keel

with the other EMTs for the application of the general wage increases.

The Arbitrator agrees with the MPA that the 2% non-EMT adjustment should be costed as part of the Firefighter contract. He does not view this adjustment any different than the reclassifications for I.D. Techs and Document Examiners agreed to by these Parties. These reclassifications were costed by the City as part of their offer and the MPA's offer. The extra 2% for non-EMT's was removed by voluntary agreement and then reinstated by voluntary agreement. It is a direct product of direct negotiations and should be costed like any other enhancement in the labor agreement.

While the Arbitrator agrees that the 2% non-EMT adjustment ought to be costed, he disagrees with the MPA estimate of the cost. This adjustment should be costed like any other reclassification on a one time basis. This would be a one time cost of $121,605, which equates to approximately a .3% factor. Accordingly, the Arbitrator finds that the Firefighter contract cost is 7.45% (the original 7.15 estimate of the City plus .3 for 2% non-EMT adjustment).

The costing of the City offer must be estimated as well. First, the Arbitrator agrees, to a certain extent, with the MPA concerning the initial costing of the 1% annuity pick-up which was not part of the Employer's formal final offer. The offers should first be costed as presented and then if the MPA package needs filling out, the 1% pick-up, among other methods, can be considered. Therefore, the City's costing of their offer at 6.37% must be reduced by .85% (6.37 - .85 = 5.52%).

The other challenge to the City's costing related to the costing of the sick leave incentive savings. However, the record isn't amplified well enough to make a solid finding on this savings. In any event, the impact, which the MPA estimates at .06%, is not large enough to have a material effect on the determination of this dispute. Moreover, this savings will be roughly offset by the spousal changes awarded in the pension escalator.

Accordingly, the Arbitrator finds the cost of the Firefighters package to be 7.45% and the cost of the Employer's final offer as presented -- which the Arbitrator has accepted in principal, except for parking and a limited change in the pension escalator -- to be 5.52%. When the cost of the MPA parking demand is added (which is in the neighborhood of .09 depending on the date of implementation), the value of the package awarded thus far to the MPA is 5.61%.[4] The MPSO package with VSAP was 7.65%. The MPA package, as it stands, is 1.84% less than the Firefighters and 2.04% less than the MPSO with VSAP being costed.

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4. The Arbitrator hasn't reduced the value of the parking benefit based on a later implementation since he believes utilization will most likely increase at the $60 level.

In comparing these packages, particularly the Firefighters, the City argued one had to take into account the difference in the DDR conversion savings -- which was greater for the MPA than the Firefighters. Moreover, the City argues that when this was added to the 1% annuity pick-up, the packages would be virtually identical. Thus, in reality, while the City costed in the DDR savings credit, they ultimately suggest the savings should be ignored.

The MPA spent considerable time in their Brief arguing against the City's notion of discounting the DDR savings. The Arbitrator agrees with the MPA. While the DDR conversion savings ought to be accounted for, it is improper to take it into account against the MPA. It must be remembered that when the Firefighters sold the conversion of DDR from age 57 to age 54 in the previous contract, the savings was 2.13%. In exchange for this, they got a 3/2 - 3/2 percent wage increase on their wage rate which put, according to Arbitrator Kerkman's figures, $439 more in their pockets than the MPA. This occurred because, in order to maintain base wage rate parity, but equalize the packages -- and because DDR was not sold by the MPA -- Arbitrator Kerkman delayed the implementation of the MPA raises. The effect -- while maintaining base wage rate parity and the package pattern -- was to put fewer dollars during the term in the pockets of the MPA members.

Now, this Arbitrator is saying that since both the Firefighters and the MPSO have sold DDR to age 52, it is unreasonable and untenable for the MPA to remain at age 57. Thus, the MPA is now being forced to sell the DDR conversion, however, they shouldn't get any less credit, relatively speaking, for their savings as did the Firefighters in 1987-88. If full credit wasn't given, there would be, in effect, no quid pro quo for having been forced to make this concession.

Since the Firefighters got more money in 1987-88 in their pockets, based on the same package as the MPA when they reduced DDR conversion, the reverse ought to hold true for the MPA in this contract. The MPA ought to get full credit for their savings and they ought to get a similar package. Obviously, this Arbitrator can't delay the implementation of the Firefighters' contract, but he can advance the implementation of the MPA raise -- while maintaining wage rate parity -- to more closely approximate the Firefighter package value. The effect of this would be to put more in the MPA pockets in the year their DDR (age 57 to 54) was sold, just as the Firefighters got when they sold theirs. Thus, advancing the implementation of the raises under the City's proposal will be one tool considered to even out the obvious inequity in the packages between Firefighters and MPA.

It should also be noted that contrary to the assertions of the City, the DDR conversion for the MPA did not save the City more than the Firefighters. The total savings for the MPA for converting from age 57 to 52 is .82. (Age 57 to 54 = .57/age 54 to 52 = .25.) The savings for converting from age 54 to 52 for

Firefighters was only .10%. However, according to the Kerkman Award, the Firefighters' value of the age 57 to 54 was 2.13%. Therefore, the entire Firefighter conversion saved the City 2.23% and therefore, the entire MPA conversion saved considerably less. The Arbitrator will not fall prey to the notion that the MPA should also get 2.23% credit. The difference in savings is evidently indigenous to the duty disability experience of the individual units. However, it is untenable to hold that the MPA should not get full and fair credit for the actual savings of their particular conversion.

As noted, the cost of the package awarded thus far to the MPA is 5.61%, 1.84% less than the Firefighter package of 7.45%. The MPSO settlement, whose weight as a comparable is somewhat less than the Firefighters, is 7.65% with the additional VSAP. Clearly, the playing field is not even. Adjustments must be made.

The fact there was a tentative agreement between the Parties, which was not ratified, is not enough to prevent a balancing of the packages. Certainly, the tentative agreement can't be ignored, but it cannot, under these circumstances, be preeminent either, because of the chilling effect such a ruling would have on bargaining. The tentative agreement was considered as a reflection on the basic reasonableness of the City's offer. However, the much more significant, and in fact the driving force in this case, was that the basic components (other than overall package value) of the City's offer were wholly consistent with the Firefighters and MPSO settlements. While the basic components were consistent between units, and while there was a tentative agreement when all is said and done, the package disparity is too large to ignore.

There are two areas where it is most practical and appropriate, in the Arbitrator's opinion, to make adjustments. These are in the implementation dates of the 2% and 2% increases in the last year of the contract and the 1% pension pick-up, which was one of the parts of the "uneven" playing field highlighted in the MPA's Brief. The Employer's proposal is to have the first 2% increase effective pay period 1 in 1990 and the second 2% effective pay period 18, a little less than three quarters of the way through the year. This would raise the wage rate 4.0%, but the average Officer would get less than 4% in his or her pocket during the year. A 4% increase implemented at the beginning of the year would yield $1,284. However, under the City's split increase, the yield would be approximately 2.63% or $847. By advancing the implementation of the second 2% to be effective pay period number 8, the increase would be approximately 3.42% or .79% higher than under the Employer offer. The employee would receive approximately $1098 in actual pay increases during the year. This change means a gross amount to the employee of roughly $251 in their pocket more than under the more spread out increase under the City's offer. When roll ups, driven by this greater receipt of cash are considered, it is the

finding of the Arbitrator that this advanced implementation very closely represents a 1% increase in the package value.

Granting the 1% annuity pick-up, the package cost would rise according to the City's figures .85%. Thus, a total adjustment between advancing the 2% pay increase 11 pay periods from number 19 to number 8, and awarding the pension pick-up would be 1.85%. Adding this to the rest of the package (5.61%), the total would be 7.46%. This is within the range of the Firefighters and MPSO pattern of 7.45% and 7.65%.

The justification for this overall, is found in the fact it maintains base rate parity, and maintains an even playing field in basic pension benefits, while keeping the packages relatively close in value. These are compelling considerations. Without advancing the implementation date of the last increase and awarding the 1% annuity pick-up in the second year, the MPA package would be too far out of step and there would be too much inequity. Certainly, the Police Officer will receive more money in his pocket than the Firefighter in the last year of the contract as a result of the advanced implementation. However, as noted, this is the flip side - the mirror image of what happened in the last contract. The Firefighters gave up DDR conversion from age 57 to 54 and received, relative to MPA, advanced implementation of their common percentage adjustment resulting in more money earned. The MPA is now getting parallel credit for the movement of their conversion age from 57 to 54.

As for the 1% pension pick-up minus $1.00, the expressed reluctance for acceptance of this was the concern it would diminish employee's rights and participation in the ERS. It shall not be so construed. An adequate guarantee of this is expressed in the MPSO language (Article 15 Section 7) and this language is adopted as part of the MPA contract.

IV. AWARD

A. Parking (Article 63) The Employer's proposal on daily receipts shall be made part of Article 63. Article 63 will be modified to provide for a regular parking benefit of $60 per month. The Employer, at its option, may provide a special parking allowance in accordance with their final offer (Article 63 3.b at p.40 and 41 of City Exb. No. 2) of $20 over the actual cost of a monthly parking permit (the benefit shall not exceed a total of $80) for two per car pools and $45 over the actual cost of a monthly parking permit (the benefit shall not exceed a total of $105). The new parking benefit will be effective as soon as is practicable after the issuance of this Award.

B. Senior Police Officer The MPA's proposal for a Senior Police Officer classification is denied.

C. Compensatory Time The following language is to be inserted into the appropriate point in Article 15:

Subject to the terms and conditions provided for in subsection 3.b.(2) of this Article, above, an employee may request to use earned compensatory time off in units of one (1) hour for purposes of significant personal importance. Such requests will be granted at the discretion of the supervisor consistent with the needs of service and shall not be denied arbitrarily or capriciously. It is understood that the needs of service are of preeminent importance in weighing such requests.

D. Roll Call The MPA proposal for a modification to the roll practice is denied. The status quo language will be retained.

E. Health Insurance The Employer's proposals on health insurance are accepted and modified only to the following extent: The last sentence of their proposal (Article 21, Section 1.b. at p. 22 of the City Exb. No. 2) which states, "The benefits for the HMO plan selected shall be as established by the provider of that HMO plan" is deleted. The following language shall be substituted, "The benefits of the HMO plan will be substantially the same as the basic plan benefits."

F. Duty Disability Conversion The City's proposal on duty disability conversion is accepted.

G. Pensions The City's proposal for a pension escalator is accepted with one modification. The escalator must apply to the surviving spouse, consistent with the discussion of this topic on page 36-37 of the Award. The other aspects of the Employer's proposal are accepted as to continuation of the 2.5% formula, the 90% cap and its effective date, etc. Also, in order to equalize the total package cost, the Employer is ordered to pick up the 1% employee share of the pension contribution minus one dollar, effective January 1, 1990. Additionally, language will be inserted into the contract identical to language found in Article 15, Section 7 of the MPSO agreement, guaranteeing that this will not diminish the rights of employees as defined in Chapter 36 (ERS) of the City charter.

H. Wages There shall be an across-the-board increase in base salaries as follows: two percent (2%) effective pay period 1, 1989; two percent (2%) effective pay period 19, 1989; two percent (2%) effective pay period 1, 1990; and two percent (2%) effective pay period 8, 1990.

I. The stipulations of the Parties arrived at before, during and subsequent to the hearings are also to be included in the new agreement.

Gil Vernon, Arbitrator

Dated this 22nd day of May, 1990.